

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

4

SENATE BILL 716
House Committee Substitute Favorable 6/30/10
House Committee Substitute #2 Favorable 7/1/10
Fourth Edition Engrossed 7/6/10

Short Title: 2010 Ethics and Government Reform Changes.

(Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE LIMITS ON THE TRADING OF INFLUENCE OR POSITION FOR GAIN BY PROHIBITING CAMPAIGN CONTRIBUTIONS BY CERTAIN CONTRACTORS AND CLARIFYING CRIMINAL STATUTES ON SELF DEALING; TO CREATE THE PUBLIC FUNDING OF COUNCIL OF STATE ELECTIONS COMMISSION; TO INCREASE THE PUNISHMENT FOR MAKING CAMPAIGN CONTRIBUTIONS IN THE NAME OF ANOTHER; TO INCREASE ACCESSIBILITY TO INFORMATION RELATED TO CANDIDATE CAMPAIGN COMMITTEES AND TO INFORMATION RELATED TO STATE CONTRACTS AND GRANTS; TO STRENGTHEN PUBLIC CONFIDENCE IN GOVERNMENT BY CHANGING THE REVOLVING DOOR PERIOD AND APPLICABILITY; TO CODIFY CERTAIN POSITIONS IN STATE GOVERNMENT AS A PUBLIC SERVANT UNDER THE STATE GOVERNMENT ETHICS ACT; TO STRENGTHEN TRANSPARENCY OF GOVERNMENT THROUGH ADDITIONAL DISCLOSURES BY PUBLIC SERVANTS, INCLUDING CAMPAIGN CONTRIBUTIONS PRIOR TO APPOINTMENT; TO INCREASE ACCOUNTABILITY OF PUBLIC SERVANTS, APPOINTEES OF THE GOVERNOR, AND STATE EMPLOYEES BY PERMITTING THE GOVERNOR TO ADOPT MINIMUM STANDARDS OF ETHICAL CONDUCT; TO CLARIFY THE INDIRECT GIFT BAN AND CLARIFY REPORTING BY LOBBYIST PRINCIPALS; TO STRENGTHEN TRANSPARENCY OF GOVERNMENT THROUGH INCREASING AND CLARIFYING ACCESSIBILITY TO LEGISLATIVE RECORDS AND OTHER PUBLIC RECORDS; TO MAKE TECHNICAL CHANGES TO THE ETHICS LAW; AND TO EXPEDITE REVIEW OF PRELIMINARY INVESTIGATIONS OF ALLEGATIONS OF WRONGDOING UNDER CHAPTERS 120 AND 138A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-278.13D. Prohibition on contributions by certain contractors.

(a) No contractor that has entered into a contract in excess of fifty thousand dollars (\$50,000) with an office associated with a relevant political campaign shall make, from the date of the request for proposals through the term of that contract, a contribution greater than one thousand dollars (\$1,000) per calendar year to the relevant political campaign.



1 **(b) No relevant political campaign shall knowingly accept a contribution greater than**
2 **one thousand dollars (\$1,000) per calendar year from a contractor that has entered into a**
3 **contract in excess of fifty thousand dollars (\$50,000) with the office associated with a relevant**
4 **political campaign from the date of the request for proposals through the term of that contract.**

5 **(c) Cure. – No violation of this section shall occur if either of the following apply:**

6 **(1) A contractor requests in writing a return of a contribution within 60 days of**
7 **making the contribution. The relevant political campaign shall return that**
8 **contribution within 10 business days upon receipt of the written request.**

9 **(2) A relevant political campaign discovers a contribution in violation of this**
10 **section within 10 business days of receipt and returns that contribution**
11 **within 10 business days of discovery.**

12 **(d) Definitions. – For purposes of this section, the following definitions shall apply:**

13 **(1) Contractor. – An officer, director, or partner of a person, or any political**
14 **committee of which the person is the parent entity as provided in**
15 **G.S. 163-278.19.**

16 **(2) Office. – One of the principal offices or departments listed in G.S. 143A-11.**

17 **(3) Relevant political campaign. – A political committee controlled by a**
18 **candidate for, or officer holding, the office with the authority to award the**
19 **contract, a candidate for the office with authority to award the contract, or**
20 **the officer holding the office with authority to award the contract.**

21 **(e) Penalty. – A violation of this section is a Class 2 misdemeanor."**

22 **SECTION 1.(b)** This section becomes effective December 1, 2010, and applies to
23 contributions made on or after that date.

24 **SECTION 2.(a)** There is established the Public Funding of Council of State
25 Elections Commission, which shall consist of the following members:

26 (1) Five members appointed by the Speaker of the House of Representatives, to
27 include:

28 a. Two members of the House of Representatives, of whom no more
29 than one shall be of the same political party as the Speaker of the
30 House of Representatives.

31 b. An individual in business recommended by the North Carolina
32 Chamber.

33 c. An individual representing groups opposing public financing of
34 elections.

35 d. An individual who has received public financing for a campaign.

36 (2) Five members appointed by the President Pro Tempore of the Senate, to
37 include:

38 a. Two members of the Senate, of whom no more than one shall be of
39 the same political party as the President Pro Tempore of the Senate.

40 b. An individual in business recommended by a business association
41 other than the North Carolina Chamber.

42 c. An individual representing groups advocating and supporting public
43 financing of elections.

44 d. An individual representing the North Carolina State Bar.

45 **SECTION 2.(b)** The Commission shall study issues related to the continuation of
46 public funding for Council of State elections, including:

47 (1) The existing program, funding sources for existing programs, and the
48 financial needs of the existing program;

49 (2) Whether to expand the program to the remainder of the Council of State, and
50 the financial needs to accomplish that expansion;

- 1 (3) Potential funding mechanisms to fund the needs of the existing program and
2 the expansion; and
3 (4) Any other matter pertinent to public financing of campaigns for elected
4 office, including issues raised by the First Amendment and all legal
5 precedents related to those issues.

6 **SECTION 2.(c)** The Commission shall report the results of its study and its
7 recommendations to the 2011 General Assembly no later than March 1, 2011.

8 **SECTION 3.(a)** G.S. 126-14 reads as rewritten:

9 **"§ 126-14. Promise or threat to obtain political contribution or support.**

10 (a) It is unlawful for a State employee or a person appointed to State office, other than
11 elective office or office on a board, commission, committee, or council whose function is
12 advisory only, whether or not subject to the Personnel Act, to coerce:

- 13 (1) a State employee subject to the Personnel Act,
14 (2) a probationary State employee,
15 (3) a temporary State employee, or
16 (4) an applicant for a position subject to the Personnel Act

17 to support or contribute to a political candidate, political committee as defined in
18 G.S. 163-278.6, or political party or to change the party designation of ~~his~~ the individual's voter
19 registration by threatening that change in employment status or discipline or preferential
20 personnel treatment will occur with regard to ~~a person~~ an individual listed in subdivisions (1)
21 ~~through (4)~~ through (4) of this subsection.

22 (a1) It is unlawful for an individual as defined in G.S. 138A-3(30)a. to coerce a person as
23 described in G.S. 138A-32(d)(1), (2), or (3) to support or contribute to a political candidate, a
24 political committee as defined in G.S. 163-278.6, or a political party by threatening discipline
25 or promising preferential treatment with regard to that person's business with the individual's
26 State office or that person's activities regulated by the individual's State office.

27 (b) Any person violating this section shall be guilty of a Class 2 misdemeanor.

28 (c) A State employee subject to the Personnel Act, probationary State employee, or
29 temporary State employee who without probable cause falsely accuses a State employee or a
30 person appointed to State office of violating this section shall be subject to discipline or change
31 in employment status in accordance with the provisions of G.S. 126-35, 126-37, and 126-38
32 and may, as otherwise provided by law, be subject to criminal penalties for perjury or civil
33 liability for libel, slander, or malicious prosecution."

34 **SECTION 3.(b)** This section becomes effective December 1, 2010, and applies to
35 offenses committed on or after that date.

36 **SECTION 4.(a)** G.S. 14-234(a) reads as rewritten:

37 **"§ 14-234. Public officers or employees benefiting from public contracts; exceptions.**

- 38 (a) (1) No public officer or employee who is involved in making or administering a
39 contract on behalf of a public agency may derive a direct benefit from the
40 contract except as provided in this section, or as otherwise allowed by law.
41 (2) A public officer or employee who will derive a direct benefit from a contract
42 with the public agency he or she serves, but who is not involved in making
43 or administering the contract, shall not attempt to influence any other person
44 who is involved in making or administering the contract.
45 (3) No public officer or employee may solicit or receive any gift, ~~favor,~~ reward,
46 service, or promise of ~~reward~~ reward, including a promise of future
47 employment, in exchange for recommending, influencing, or attempting to
48 influence the award of a contract by the public agency he or she serves."

49 **SECTION 4.(b)** This section becomes effective December 1, 2010, and applies to
50 offenses committed on or after that date.

51 **SECTION 5.(a)** G.S. 120C-304(b) reads as rewritten:

1 "(b) No public servant or former public servant as defined in G.S. 138A-3(30)a. may
2 register as a lobbyist under this Chapter while in office or within six months after leaving
3 office."

4 **SECTION 5.(b)** G.S. 120C-304(c) reads as rewritten:

5 "(c) No public servant or former public servant as defined in G.S. 138A-3(30)c. may
6 register as a lobbyist under this Chapter within six months after separation from employment as
7 a public servant. No other employee of any State agency may register as a lobbyist under this
8 Chapter to lobby the State agency that previously employed the former employee within six
9 months after voluntary separation or separation for cause from that State agency."

10 **SECTION 5.(c)** G.S. 120C-200 is amended by adding a new subsection to read:

11 "(f) In addition to the information required for registration under subsection (b) of this
12 section, former employees of a State agency who register as a lobbyist within six months after
13 voluntary separation or separation for cause from employment with a State agency shall also
14 indicate which State agency with which the former employee was employed."

15 **SECTION 5.(d)** Article 5 of Chapter 120C of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 120C-502. Local government liaison equivalents.**

18 (a) Each employee of a governmental unit whose principal duties, in practice or as set
19 forth in that individual's job description, include lobbying for legislative action shall register
20 under G.S. 120C-200 and file reports under G.S. 120C-402.

21 (b) G.S. 120C-303 shall apply to an individual under subsection (a) of this section.

22 (c) For purposes of publication of the registry under G.S. 120C-220, the Secretary of
23 State shall treat individuals registered under this section as liaison personnel.

24 **SECTION 5.(e)** This section becomes effective October 1, 2010, and applies to
25 individuals leaving office or employment on or after that date.

26 **SECTION 6.(a)** G.S. 163-278.27 reads as rewritten:

27 **"§ 163-278.27. Criminal penalties; duty to report and prosecute.**

28 (a) Any individual, candidate, political committee, referendum committee, treasurer,
29 person or media who intentionally violates the applicable provisions of G.S. 163-278.7,
30 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.13, 163-278.13B,
31 163-278.14, 163-278.16, 163-278.16B, 163-278.17, 163-278.18, 163-278.19, 163-278.20,
32 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D, 163-278.40E, or
33 163-278.40J is guilty of a Class 2 misdemeanor. The statute of limitations as stated in G.S. 15-1
34 shall run from the day the last report is due to be filed with the appropriate board of elections
35 for the election cycle for which the violation occurred.

36 (a1) A violation of G.S. 163-278.32 by making a certification knowing the information
37 to be untrue is a Class I felony.

38 (a2) A person or individual who intentionally violates G.S. 163-278.14(a) or
39 G.S. 163-278.19(a) and the unlawful contributions total more than ten thousand dollars
40 (\$10,000) per election is guilty of a Class I felony.

41 (b) Whenever the Board has knowledge of or has reason to believe there has been a
42 violation of any section of this Article, it shall report that fact, together with accompanying
43 details, to the following prosecuting authorities:

44 (1) In the case of a candidate for nomination or election to the State Senate or
45 State House of Representatives: report to the district attorney of the
46 prosecutorial district in which the candidate for nomination or election
47 resides;

48 (2) In the case of a candidate for nomination or election to the office of
49 Governor, Lieutenant Governor, Secretary of State, State Auditor, State
50 Treasurer, State Superintendent of Public Instruction, State Attorney
51 General, State Commissioner of Agriculture, State Commissioner of Labor,

1 State Commissioner of Insurance, and all other State elective offices, Justice
2 of the Supreme Court, Judge of the Court of Appeals, judge of a superior
3 court, judge of a district court, and district attorney of the superior court:
4 report to the district attorney of the prosecutorial district in which Wake
5 County is located;

6 (3) In the case of an individual other than a candidate, including, without
7 limitation, violations by members of political committees, referendum
8 committees or treasurers: report to the district attorney of the prosecutorial
9 district in which the individual resides; and

10 (4) In the case of a person or any group of individuals: report to the district
11 attorney or district attorneys ~~of~~of the prosecutorial district or districts in
12 which any of the officers, directors, agents, employees or members of the
13 person or group reside.

14 (c) Upon receipt of such a report from the Board, the appropriate district attorney shall
15 prosecute the individual or persons alleged to have violated a section or sections of this Article.

16 (d) As a condition of probation, a sentencing judge may order that the costs incurred by
17 the State Board of Elections in investigating and aiding the prosecution of a case be paid to the
18 State Board of Elections by the defendant on such terms and conditions as set by the judge."

19 **SECTION 6.(b)** G.S. 163-278.14(a) reads as rewritten:

20 "(a) No individual, political committee, or other entity shall make any contribution
21 anonymously or in the name of another. No candidate, political committee, referendum
22 committee, political party, or treasurer shall knowingly accept any contribution made by any
23 individual or person in the name of another individual or person or made anonymously. If a
24 candidate, political committee, referendum committee, political party, or treasurer receives
25 anonymous contributions or contributions determined to have been made in the name of
26 another, he shall pay the money over to the Board, by check, and all such moneys received by
27 the Board shall be deposited in the Civil Penalty and Forfeiture Fund of the State of North
28 Carolina. This subsection shall not apply to any contribution by an individual with the lawful
29 authority to act on behalf of another individual, whether through power of attorney, trustee, or
30 other lawful authority. If the lawful authority is pursuant to Chapter 35A of the General
31 Statutes, no contribution may be made by the guardian of the estate for the minor or
32 incompetent person."

33 **SECTION 6.(c)** This section becomes effective December 1, 2010, and applies to
34 offenses committed on or after that date.

35 **SECTION 6.5.** G.S. 150B-38(a) is amended by adding a new subdivision to read:

36 "(6) The State Board of Elections in the administration of any investigation or
37 audit under the provisions of Article 22A of Chapter 163 of the General
38 Statutes."

39 **SECTION 7.** In order to foster and facilitate transparency of information relating
40 to political campaigns, the State Board of Elections shall create an easily searchable database to
41 provide any member of the public with access to the database to search by geographic location,
42 occupation, employer, contributor, or contributee, within an election cycle and over a period of
43 time as specified by the searcher of any report filed by a political committee or referendum
44 committee under Article 22A of Chapter 163 of the General Statutes with the State Board of
45 Elections.

46 **SECTION 8.** Article 2 of Chapter 143C of the General Statutes is amended by
47 adding new sections to read:

48 "**§ 143C-2-5. Grants and contracts database.**

49 (a) The Director of the Budget shall require the Office of State Budget and
50 Management, with the support of Information Technology Services, to build and maintain a

1 database and Web site for providing a single, searchable Web site on State spending for grants
2 and contracts to be known as NC OpenBook.

3 (b) Each head of a principal department listed in G.S. 143B-6 shall conduct a review
4 monthly of all State contracts and grants administered by that principal department.

5 (c) All State institutions, departments, bureaus, agencies, or commissions subject to the
6 authority of the Director of the Budget that maintain a Web site shall be required to include an
7 access link to the NC OpenBook Web site on the home page of the agency Web site. Each
8 agency shall also prominently display a search engine on the agency Web site home page to
9 allow for ease of searching for information, including contracts and grants, on the agency's
10 Web site.

11 **"§ 143C-2-6. Contents of database and Web site.**

12 (a) The Office of State Controller, the Department of Administration, and Information
13 Technology Services shall provide the Office of State Budget and Management with the
14 statewide information on State contracts necessary for the development and maintenance of the
15 database and Web site required by this Article, with the information updated at least monthly.

16 (b) The Office of State Budget and Management shall work with the Office of the State
17 Auditor and the Grant Information Center to incorporate data on grants into the database and
18 Web site required by this Article. All State institutions, departments, bureaus, agencies, or
19 commissions subject to the authority of the Governor shall make necessary changes to existing
20 reporting processes for contracts and grants to ensure the goals of this Article are met.

21 (c) All State contracts and grants awarded in amounts in excess of ten thousand dollars
22 (\$10,000) shall be included in the database and Web site required by this Article. The following
23 information shall be provided for each contract or grant:

24 (1) The name of the entity receiving the award.

25 (2) The amount of the award or estimated award.

26 (3) Information on the award, including type of transaction, funding agency, and
27 duration of the contract or grant.

28 (4) The location of the entity receiving the award.

29 (5) Background information on the entity receiving the award.

30 (6) Time lines for anticipated completion of the work required.

31 (7) Expected outcomes of the contract or grant and specific deliverables
32 required.

33 (8) Contact information for the responsible State government officer or
34 administrator of the contract or grant."

35 **SECTION 9.** G.S. 138A-3(30) reads as rewritten:

36 "(30) Public servants. – All of the following:

- 37 a. Constitutional officers of the State and individuals elected or
38 appointed as constitutional officers of the State prior to taking office.
- 39 b. Employees of the Office of the Governor.
- 40 c. Heads of all principal State departments, as set forth in G.S. 143B-6,
41 who are appointed by the Governor.
- 42 d. The chief deputy and chief administrative assistant of each individual
43 designated under sub-subdivision a. or c. of this subdivision.
- 44 e. Confidential assistants and secretaries as defined in G.S. 126-5(c)(2),
45 to individuals designated under sub-subdivision a., c., or d. of this
46 subdivision.
- 47 f. Employees in exempt positions designated in accordance with
48 G.S. 126-5(d)(1), (2), or (2a) and confidential secretaries to these
49 individuals.

- 1 g. Any other employees or appointees in the principal State departments
2 as may be designated by the Governor to the extent that the
3 designation does not conflict with the State Personnel Act.
- 4 h. Judicial employees.
- 5 i. All voting members of boards, including ex officio members,
6 permanent designees of any voting member, and members serving by
7 executive, legislative, or judicial branch appointment.
- 8 j. For The University of North Carolina, the voting members of the
9 Board of Governors of The University of North Carolina, the
10 president, the vice-presidents, and the chancellors, the
11 vice-chancellors, and voting members of the boards of trustees of the
12 constituent institutions.
- 13 k. For the Community College System, the voting members of the State
14 Board of Community Colleges, the President and the chief financial
15 officer of the Community College System, the president, chief
16 financial officer, and chief administrative officer of each community
17 college, and voting members of the boards of trustees of each
18 community college.
- 19 l. Members of the ~~Commission~~-Commission, the executive director,
20 and the assistant executive director of the Commission.
- 21 m. Individuals under contract with the State working in or against a
22 position included under this subdivision.
- 23 n. The director of the Office of State Personnel.
- 24 o. The State Controller.
- 25 p. The chief information officer, deputy chief information officers,
26 chief financial officers, and general counsel of the Office of
27 Information Technology.
- 28 q. The director of the State Museum of Art.
- 29 r. The executive director of the Agency for Public Telecommunication.
- 30 s. The Commissioner of Motor Vehicles.
- 31 t. The Commissioner of Banks and the chief deputy commissioners of
32 the Banking Commission.
- 33 u. The executive director of the North Carolina Housing Finance
34 Agency.
- 35 v. The executive director, chief financial officer, and chief operating
36 officer of the North Carolina Turnpike Authority."

37 **SECTION 10.** G.S. 143B-478 is amended by adding a new subsection to read:

38 "(f) The Commission shall be treated as a board for purposes of Chapter 138A of the
39 General Statutes."

40 **SECTION 11.** G.S. 138A-22 is amended by adding a new subsection to read:

41 "(d1) In addition to subsections (a) and (d) of this section, a covered person holding
42 elected office or a former covered person who held elected office subject to this Article shall
43 file a statement of economic interest in all of the following instances, as specified:

- 44 (1) Filed on or before April 15 of the year following the year a covered person
45 does not file a notice of candidacy or petition for election, or does not
46 receive a certificate of election, to the position making that individual a
47 covered person, with all information provided in the statement of economic
48 interest current as of the last day of December of the preceding year.
- 49 (2) Filed on or before April 15 of the year following the year the covered person
50 resigns from the position making that individual a covered person, with all

1 information provided in the statement of economic interest current as of the
2 last day in the position."

3 **SECTION 12.(a)** G.S. 138A-24(a) reads as rewritten:

4 **"§ 138A-24. Contents of statement.**

5 (a) Any statement of economic interest filed under this Article shall be on a form
6 prescribed by the ~~Commission and sworn to by the filing person.~~ Commission. Answers must
7 be provided to all questions. The form shall include the following information about the filing
8 person and the filing person's immediate family:

9 (1) Except as otherwise provided in this subdivision, the name, current mailing
10 address, occupation, employer, and business of the filing person. Any
11 individual holding or seeking elected office for which residence is a
12 qualification for office shall include a home address. A judicial officer may
13 use a current mailing address instead of the home address on the form
14 required in this subsection. ~~The judicial officer filing person~~ may also use
15 the initials instead of the name of any unemancipated child of the ~~judicial~~
16 ~~officer filing person~~ who also resides in the household of the ~~judicial~~
17 ~~officer filing person~~. If the ~~judicial officer filing person~~ provides the initials
18 of an unemancipated child, the ~~judicial officer filing person~~ shall
19 concurrently provide the name of the unemancipated child to the
20 Commission. The name of an unemancipated child provided by the ~~judicial~~
21 ~~officer filing person~~ to the Commission shall not be a public record under
22 Chapter 132 of the General Statutes and is privileged and confidential.

23 (2) A list of each asset and liability included in this subdivision of whatever
24 nature (including legal, equitable, or beneficial interest) with a value of at
25 least ten thousand dollars (\$10,000) owned by the filing person and the filing
26 person's immediate family, except assets or liabilities held in a blind trust.
27 This list shall include the following:

- 28 a. All real estate located in the State owned wholly or in part by the
29 filing person or the filing person's immediate family, including
30 descriptions adequate to determine the location by city and county of
31 each parcel.
- 32 b. Real estate that is currently leased or rented to or from the State.
- 33 c. Personal property sold to or bought from the State within the
34 preceding two years.
- 35 d. Personal property currently leased or rented to or from the State.
- 36 e. The name of each publicly owned company. For purposes of this
37 sub-subdivision, the term "publicly owned company" shall not
38 include a widely held investment fund, including a mutual fund,
39 regulated investment company, or pension or deferred compensation
40 plan, if all of the following apply:
- 41 1. The filing person or a member of the filing person's
42 immediate family neither exercises nor has the ability to
43 exercise control over the financial interests held by the fund.
- 44 2. The fund is publicly traded, or the fund's assets are widely
45 diversified.
- 46 f. The name of each nonpublicly owned company or business entity,
47 including interests in sole proprietorships, partnerships, limited
48 partnerships, joint ventures, limited liability companies, limited
49 liability partnerships, and closely held corporations.
- 50 g. For each company or business entity listed under sub-subdivision f.
51 of this subdivision, if known, a list of any other companies or

- 1 business entities in which the company or business entity owns
2 securities or equity interests exceeding a value of ten thousand
3 dollars (\$10,000).
- 4 ~~h. A list of all nonpublicly owned businesses of which the filing person
5 and the filing person's immediate family is an officer, employee,
6 director, partner, owner, or member or manager of a limited liability
7 company.~~
- 8 i. For any company or business entity listed under sub-subdivisions f.,
9 g., and h. of this subdivision, if known, any company or business
10 entity that has any material business dealings, contracts, or other
11 involvement with the State, or is regulated by the State, including a
12 brief description of the business activity.
- 13 j. For a vested trust created, established, or controlled by the filing
14 person of which the filing person or the members of the filing
15 person's immediate family are the beneficiaries, excluding a blind
16 trust, the name and address of the trustee, a description of the trust,
17 and the filing person's relationship to the trust.
- 18 k. A list of all liabilities, excluding indebtedness on the filing person's
19 primary personal residence, by type of creditor and debtor.
- 20 l. Repealed by Session Laws 2007-348, s. 34. See Editor's note for
21 effective date.
- 22 m. A list of all stock options in a company or business not otherwise
23 disclosed on this statement.
- 24 (3) The name of each source (not specific amounts) of income of more than five
25 thousand dollars (\$5,000) received during the previous year by business or
26 industry type, if that source is not listed under subdivision (2) of this
27 subsection. Income shall include salary, wages, professional fees, honoraria,
28 interest, dividends, rental income, and business income from any source
29 other than capital gains, federal government retirement, military retirement,
30 or social security income.
- 31 (4) If the filing person is a practicing attorney, an indication of whether the
32 filing person, or the law firm with which the filing person is affiliated,
33 earned legal fees during the past year in excess of ten thousand dollars
34 (\$10,000) from any of the following categories of legal representation:
- 35 a. Administrative law.
36 b. Admiralty law.
37 c. Corporate law.
38 d. Criminal law.
39 e. Decedents' estates law.
40 f. Environmental law.
41 g. Insurance law.
42 h. Labor law.
43 i. Local government law.
44 j. Negligence or other tort litigation law.
45 k. Real property law.
46 l. Securities law.
47 m. Taxation law.
48 n. Utilities regulation law.
- 49 (5) Except for a filing person in compliance under subdivision (4) of this
50 subsection, if the filing person is a licensed professional or provides
51 consulting services, either individually or as a member of a professional

- 1 association, a list of categories of business and the nature of services
2 rendered, for which payment for services were charged or paid during the
3 past year in excess of ten thousand dollars (\$10,000).
- 4 (6) An indication of whether the filing person, the filing person's employer, a
5 member of the filing person's immediate family, or the immediate family
6 member's employer is licensed or regulated by, or has a business relationship
7 with, the board or employing entity with which the filing person is or will be
8 associated. This subdivision does not apply to a legislator, a judicial officer,
9 or that legislator's or judicial officer's immediate family.
- 10 (7) A list of societies, organizations, or advocacy groups, pertaining to subject
11 matter areas over which the public servant's agency or board may have
12 jurisdiction, in which the public servant or a member of the public servant's
13 immediate family is a director, officer, or governing board member. This
14 subdivision does not apply to a legislator, a judicial officer, or that
15 legislator's or judicial officer's immediate family.
- 16 (8) A list of all things with a total value of over two hundred dollars (\$200.00)
17 per calendar quarter given and received without valuable consideration and
18 under circumstances that a reasonable person would conclude that the thing
19 was given for the purpose of lobbying, if such things were given by a person
20 not required to report under Chapter 120C of the General Statutes, excluding
21 things given by a member of the filing person's extended family. The list
22 shall include only those things received during the 12 months preceding the
23 reporting period under subsection (d) of this section, and shall include the
24 source of those things. The list required by this subdivision shall not apply to
25 things of monetary value received by the filing person prior to the time the
26 filing person filed or was nominated as a candidate for office, as described in
27 G.S. 138A-22, or was appointed or employed as a covered person.
- 28 (9) A list of any felony convictions of the filing person, excluding any felony
29 convictions for which a pardon of innocence or order of expungement has
30 been granted.
- 31 (10) Any other information that the filing person believes may assist the
32 Commission in advising the filing person with regards to compliance with
33 this Chapter.
- 34 (11) A list of any nonprofit corporation or organization with which associated
35 during the preceding calendar year, including a list of which of those
36 nonprofit corporations or organizations with which associated do business
37 with the State or receive State funds and a brief description of the nature of
38 the business, if known or with which due diligence could reasonably be
39 known.
- 40 (12) A statement of whether the filing person or the filing person's immediate
41 family is or has been a lobbyist or lobbyist principal registered under
42 Chapter 120C of the General Statutes within the preceding 12 months.
- 43 (13) A list of all contributions as defined in G.S. 163-278.6(6) with a cumulative
44 total of more than one thousand dollars (\$1,000) made by the filing person
45 only, during the preceding calendar year, to the candidate campaign
46 committee of the covered person as defined in G.S. 138A-3(30)a. who is
47 recommending appointment in writing, or to the candidate campaign
48 committee of the legislator who is recommending appointment to the board
49 pursuant to G.S. 120-121(c).
- 50 (14) A list of contributions as defined in G.S. 163-278.6(6) resulting from the
51 fundraising with a cumulative total of more than one thousand dollars

1 (\$1,000) during the preceding calendar year by the filing person only that are
 2 accepted by the candidate campaign committee for the covered person as
 3 defined in G.S. 138A-3(30)a. who is recommending appointment in writing,
 4 or are accepted by the candidate campaign committee for a legislator who is
 5 recommending appointment to the board pursuant to G.S. 120-121(c). For
 6 purposes of this subdivision, "fundraising" shall mean the actual delivery of
 7 a contribution or any activity that results in the belief and self-disclosure by
 8 the filing person that the filing person is responsible for a contribution being
 9 made. This subdivision applies only to the following filing persons:

- 10 a. Public servants, or a prospective appointee, as defined in
 11 G.S. 138A-3(30)c.
 12 b. Judicial officers that serve on, or a prospective appointee to, the
 13 Supreme Court, the Court of Appeals, or the superior court.
 14 c. Covered persons serving on, or a prospective appointee to, the
 15 following State boards:
 16 1. Alcoholic Beverage Control Commission.
 17 2. Coastal Resources Commission.
 18 3. State Board of Community Colleges.
 19 4. State Board of Education.
 20 5. State Board of Elections.
 21 6. Employment Security Commission.
 22 7. Environmental Management Commission.
 23 8. Industrial Commission.
 24 9. State Personnel Commission.
 25 10. Rules Review Commission.
 26 11. Board of Transportation.
 27 12. Utilities Commission.
 28 13. Wildlife Resources Commission.

29 (15) The name of each business with which associated that the filing person or a
 30 member of the filing person's immediate family is an employee, director,
 31 officer, partner, proprietor, or member or manager."

32 **SECTION 12.(b)** G.S. 138A-24(c) reads as rewritten:

33 "(c) Each statement of economic interest shall contain ~~sworn~~ a certification by the filing
 34 person that the filing person has read the statement and that, to the best of the filing person's
 35 knowledge and belief, the statement is true, correct, and complete. The filing person's ~~sworn~~
 36 certification also shall provide that the filing person has not transferred, and will not transfer,
 37 any asset, interest, or other property ~~for the purpose of concealing~~ with the intent to conceal
 38 from disclosure while retaining an equitable interest therein."

39 **SECTION 12.(c)** G.S. 138A-24(a)(2)i. is recodified as G.S. 138A-24(a)(16).

40 **SECTION 12.(d)** G.S. 138A-24(a)(16), as enacted by Section 12(c) of this act,
 41 reads as rewritten:

42 "(16) For any company or business entity listed under subdivision (15) of this
 43 subsection and sub-subdivisions f., g., and h.f. and g. of subdivision (2) of
 44 this subdivision, subsection, if known, any company or business entity that
 45 has any material business ~~dealings, contracts, dealings or other involvement~~
 46 business contracts with the State, or is regulated by the State, including a
 47 brief description of the business activity."

48 **SECTION 12.(e)** This section becomes effective January 1, 2011, and applies to
 49 statements of economic interest filed on or after that date.

50 **SECTION 13.** G.S. 138A-41 reads as rewritten:

51 **"§ 138A-41. Other ethics standards.**

1 (a) Nothing in this Chapter shall prevent the Supreme Court, the Committee, the
2 Legislative Services Commission, constitutional officers of the State, heads of principal
3 departments, the Board of Governors of The University of North Carolina, the State Board of
4 Community Colleges, or other boards from adopting additional or supplemental ethics
5 standards applicable to that public agency's operations.

6 (b) The Governor, as a constitutional officer of the State, shall have the authority to
7 adopt additional and supplemental ethics standards applicable to any appointee of the Governor
8 to any State board, commission, council, committee, task force, authority, or similar public
9 body, however denominated, created by statute or executive order, whether advisory or
10 non-advisory in authority. If the Governor adopts such ethics standards, the standards shall be
11 published in the North Carolina Register and made available to each appointee subject to the
12 ethics standards.

13 (c) The Governor, as a constitutional officer of the State, shall have the authority to
14 adopt minimum ethics standards applicable to any employee of a State agency. If the Governor
15 adopts such standards, the ethics standards shall be published in the North Carolina Register."

16 **SECTION 14.(a)** G.S. 120C-303(a) reads as rewritten:

17 "(a) Except as provided in subsection (b) of this section, no lobbyist or lobbyist principal
18 may do any of the following:

- 19 (1) Knowingly give a gift to a designated individual.
- 20 (2) Knowingly give a gift with the intent that a designated individual be ~~the~~an
21 ultimate recipient."

22 **SECTION 14.(b)** G.S. 138A-32(c) reads as rewritten:

23 "(c) No public servant, legislator, or legislative employee shall knowingly accept a gift
24 from a lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes. No
25 legislator or legislative employee shall knowingly accept a gift from liaison personnel
26 designated under Chapter 120C of the General Statutes. No public servant, legislator, or
27 legislative employee shall accept a gift knowing all of the following:

- 28 (1) The gift was obtained indirectly from a lobbyist, lobbyist principal, or
29 liaison personnel registered under Chapter 120C of the General Statutes.
- 30 (2) The lobbyist, lobbyist principal, or liaison personnel registered under
31 Chapter 120C of the General Statutes intended for ~~the~~an ultimate recipient
32 of the gift to be a public servant, legislator, or legislative employee as
33 provided in G.S. 120C-303."

34 **SECTION 14.(c)** G.S. 138A-32(d1) reads as rewritten:

35 "(d1) No public servant shall accept a gift knowing all of the following:

- 36 (1) The gift was obtained indirectly from a person described under subdivisions
37 (d)(1), (2), ~~and~~or (3) of this section.
- 38 (2) The person described under subdivisions (d)(1), (2), ~~and~~or (3) of this section
39 intended for ~~the~~an ultimate recipient of the gift to be a public servant."

40 **SECTION 14.(d)** This section becomes effective December 1, 2010, and applies to
41 offenses committed on or after that date.

42 **SECTION 15.** G.S. 120C-101(c) reads as rewritten:

43 "(c) In adopting rules under this Chapter, the Commission is exempt from the
44 requirements of Article 2A of Chapter 150B of the General Statutes, except that the
45 Commission shall comply with G.S. 150B-21.2(d). At least 30 business days prior to adopting a
46 rule, the Commission shall:

- 47 (1) Publish the proposed rules in the North Carolina Register.
- 48 (2) Submit the rule and a notice of public hearing to the Codifier of Rules, and
49 the Codifier of Rules shall publish the proposed rule and the notice of public
50 hearing on the Internet to be posted within five business days.

- 1 (3) Notify those on the mailing list maintained in accordance with
 2 G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a
 3 rule and of the public hearing.
 4 (4) Accept written comments on the proposed rule for at least 15 business days
 5 prior to adoption of the rule.
 6 (5) Hold at least one public hearing on the proposed rule no less than five days
 7 after the rule and notice have been published.

8 A rule adopted under this subsection becomes effective the first day of the month following the
 9 month the final rule is submitted to the Codifier of Rules for entry into the North Carolina
 10 Administrative Code, and applies prospectively. A rule adopted by the Commission that
 11 does not comply with the procedural requirements of this subsection shall be null, void, and
 12 without effect. For purposes of this subsection, a rule is any Commission regulation, standard,
 13 or statement of general applicability that interprets an enactment by the General Assembly or
 14 Congress, or a regulation adopted by a federal agency, or that describes the procedure or
 15 practice requirements of the Commission."

16 **SECTION 16.(a)** G.S. 120C-100(a)(9) reads as rewritten:

17 "(9) Lobby or Lobbying. – Any of the following:

- 18 a. Influencing or attempting to influence legislative or executive action,
 19 or both, through direct communication or activities with a designated
 20 individual or that designated individual's immediate family.
 21 b. Developing goodwill through communications or activities,
 22 including the building of relationships, with a designated individual
 23 or that designated individual's immediate family with the intention of
 24 influencing current or future legislative or executive action, or both.

25 The term-terms "lobby" or "lobbying" does-do not include communications
 26 or activities as part of a business, civic, religious, fraternal, personal, or
 27 commercial relationship which is not connected to legislative or executive
 28 action, or both."

29 **SECTION 16.(b)** G.S. 120C-100(a)(10) reads as rewritten:

30 "(10) Lobbyist. – An individual who engages in lobbying for payment and meets
 31 any of the following criteria:

- 32 a. Repealed by Session Laws 2007-348, s. 8(a), effective October 10,
 33 2007.
 34 b. Represents another person or governmental unit, but is not directly
 35 employed by that person or governmental ~~unit, and receives payment~~
 36 ~~for services. unit.~~ ~~For the purposes of this sub-subdivision, the term~~
 37 ~~"payment for services" shall not include reimbursement of actual~~
 38 ~~travel and subsistence.~~
 39 c. ~~Contracts for economic consideration-~~ payment for the purpose of
 40 lobbying.
 41 d. Is employed by a person and a significant part of that employee's
 42 duties include lobbying. In no case shall an employee be considered a
 43 lobbyist if in no 30-day period less than five percent (5%) of that
 44 employee's actual duties include engaging in lobbying as defined in
 45 subdivision (9)a. of this section or if in no 30-day period less than
 46 five percent (5%) of that employee's actual duties include engaging
 47 in lobbying as defined in subdivision (9)b. of this section.

48 The term "lobbyist" shall not include individuals who are specifically
 49 exempted from this Chapter by G.S. 120C-700 or registered as liaison
 50 personnel under Article 5 of this Chapter."

51 **SECTION 16.(c)** G.S. 120C-100(a)(11) reads as rewritten:

1 "(11) Lobbyist principal and principal. – The person or governmental unit on
2 whose behalf the lobbyist ~~lobbies~~ lobbies and who makes payment for the
3 lobbying. In the case where a lobbyist is ~~compensated~~ paid by a law firm,
4 consulting firm, or other entity retained by a person or governmental unit for
5 lobbying, the principal is the person or governmental unit whose interests the
6 lobbyist represents in lobbying. In the case of a lobbyist employed or
7 retained by an association or other organization, the lobbyist principal is the
8 association or other organization, not the individual members of the
9 association or other organization.

10 The term "lobbyist principal" shall not include those designating
11 registered liaison personnel under Article 5 of this Chapter."

12 **SECTION 16.(d)** G.S. 120C-100(a)(11k) reads as rewritten:

13 "~~(11k) Payment for services.~~ Payment. – Any money, thing of value, or economic
14 benefit ~~paid~~ conveyed to a the lobbyist for ~~the purpose of lobbying~~ lobbying,
15 other than reimbursement of actual travel, administrative expenses, or
16 subsistence."

17 **SECTION 16.(e)** G.S. 120C-100(a)(13) reads as rewritten:

18 "~~(13) Solicitation of others. – A solicitation of members of the public to~~
19 ~~communicate directly with or contact one or more designated individuals for~~
20 ~~the purpose of influencing or attempting to influence or attempt to influence~~
21 legislative or executive action to further the solicitor's position on that
22 legislative or executive action, when that request is made by any of the
23 following methods:

- 24 a. A broadcast, cable, or satellite transmission.
- 25 b. An e-mail communication or a Web site posting.
- 26 c. A communication delivered by print media as defined in
27 G.S. 163-278.38Z.
- 28 d. A letter or other written communication delivered by mail or by
29 comparable delivery service.
- 30 e. Telephone.
- 31 f. A communication at a conference, meeting, or similar event.

32 The term "solicitation of others" does not include communications
33 made by a person or by the person's agent to that person's stockholders,
34 employees, board members, officers, members, subscribers, or other
35 recipients who have affirmatively assented to receive the person's regular
36 publications or notices."

37 **SECTION 16.(f)** G.S. 120C-300 reads as rewritten:

38 "**§ 120C-300. Contingency fees prohibited.**

39 (a) No individual shall act as a lobbyist ~~for~~ and receive payment for ~~services~~ lobbying
40 that is dependent upon the result or outcome of any legislative or executive action.

41 (b) This section shall not apply to an individual doing business with the State who is
42 engaged in sales with respect to that business with the State whose regular remuneration
43 agreement includes commissions based on those sales. For purposes of this subsection, the term
44 "regular remuneration" means any money, thing of value, or economic benefit conferred on or
45 received by the individual in return for services rendered or to be rendered by that individual or
46 another.

47 (c) Any payment ~~for services~~ to a lobbyist in violation of this section is subject to
48 forfeiture and shall be paid into the Civil Penalty and Forfeiture Fund."

49 **SECTION 16.(g)** G.S. 120C-305 reads as rewritten:

50 "**§ 120C-305. Prohibition on the use of cash or credit of the lobbyist.**

1 No lobbyist or another acting on the lobbyist's behalf shall ~~permit~~ lobby by permitting a
2 designated individual, or that designated individual's immediate family member, to use the cash
3 or credit of the lobbyist ~~for the purpose of lobbying~~ unless the lobbyist is in attendance at the
4 time of the reportable expenditure. G.S. 120C-303 applies to this section."

5 **SECTION 16.(h)** G.S. 120C-400(a) reads as rewritten:

6 **"§ 120C-400. Reporting of reportable expenditures.**

7 (a) For purposes of this Chapter, all reportable expenditures made for ~~the purpose of~~
8 lobbying shall be reported, including the following:

- 9 (1) Reportable expenditures benefiting or made on behalf of a designated
10 individual in the regular course of that designated individual's employment.
- 11 (1a) Reportable expenditures benefiting or made on behalf of a designated
12 individual's immediate family member in the regular course of that
13 immediate family member's employment.
- 14 (2) Contractual arrangements or direct business relationships between a lobbyist
15 or lobbyist principal and a designated individual, or that designated
16 individual's immediate family member, in effect during the reporting period
17 or the previous 12 months.
- 18 (3) Reportable expenditures reimbursed to a lobbyist in the ordinary course of
19 business by the lobbyist principal or other employer."

20 **SECTION 16.(i)** G.S. 120C-402(b) reads as rewritten:

21 "(b) The report shall include all of the following for the reporting period:

- 22 (1) All reportable expenditures made for ~~the purpose of~~ lobbying.
- 23 (2) Solicitation of others when such solicitation involves an aggregate cost of
24 more than three thousand dollars (\$3,000).
- 25 (3) Reportable expenditures reimbursed by the lobbyist principal, or another
26 person or governmental unit on the lobbyist principal's behalf.
- 27 (4) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9),
28 138A-32(e)(11), 138A-32(e)(12), and all gifts given under
29 G.S. 138A-32(e)(10) with a value of more than ten dollars (\$10.00)."

30 **SECTION 16.(k)** G.S. 120C-403 reads as rewritten:

31 **"§ 120C-403. Lobbyist principal's reports.**

32 (a) Each lobbyist principal shall file quarterly reports under oath with the Secretary of
33 State with respect to each lobbyist principal.

34 (b) The report shall be filed whether or not reportable expenditures are made, shall be
35 due ~~10-15~~ business days after the end of the reporting period, and shall include all of the
36 following for the reporting period:

- 37 (1) All reportable expenditures made for ~~the purpose of~~ lobbying.
- 38 (2) Solicitation of others when such solicitation involves an aggregate cost of
39 more than three thousand dollars (\$3,000).
- 40 (3) Recodified as G.S. 120C-403(d).
- 41 (4) With respect to each lobbyist registered under G.S. 120C-206, reportable
42 expenditures reimbursed or paid to lobbyists for lobbying that are not
43 reported on the lobbyist's report, with an itemized description of those
44 reportable expenditures.
- 45 (5) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9),
46 138A-32(e)(11), 138A-32(e)(12), and all gifts given under
47 G.S. 138A-32(e)(10) with a value of more than two hundred dollars
48 (\$200.00).
- 49 (6) With respect to each lobbyist registered under G.S. 120C-206, the name of
50 each person or governmental unit not otherwise registered as a lobbyist
51 principal for whom the lobbyist principal directs the lobbyist to lobby,

1 whether for pay or not. If the lobbyist principal is an association or other
2 organization, the lobbyist principal shall not be required to report under this
3 subdivision any individual member of the association or other organization
4 for which the lobbyist is directed to lobby by that lobbyist principal.

5 (c) In addition to the reports required by this section, each lobbyist principal incurring
6 reportable expenditures in any month while the General Assembly is in session with respect to
7 lobbying legislators and legislative employees shall file a monthly reportable expenditure
8 report. The monthly reportable expenditure report shall contain information required by this
9 section with respect to all lobbying of legislators and legislative employees, and is due within
10 10 business days after the end of the month. The information on the monthly report shall also
11 be included in each quarterly report required by subsection (a) of this section.

12 (d) In addition to the reports required by this section, each lobbyist principal shall
13 annually, in the last report for the registration period under G.S. 120C-200(d), report the
14 cumulative combined total of all payments for lobbying and other activities described in
15 subdivision (2) of subsection (e) of this section made during the registration period, as
16 applicable:

17 (1) If a lobbyist represents the lobbyist principal, but is not directly employed by
18 that lobbyist principal, the portion of the payment that is for lobbying and to
19 whom it was paid.

20 (2) If a lobbyist is under contract with the lobbyist principal for lobbying, the
21 portion of the contract that is reasonably allocated for lobbying.

22 (3) If a lobbyist is a full-time employee of the principal, or is paid by means of
23 an annual fee or retainer, the principal shall estimate and report the portion
24 of the salary, fee, or retainer salary that is reasonably allocated for lobbying.

25 (e) For purposes of subsection (d) of this section, the following shall apply:

26 (1) A lobbyist principal may rely upon a statement by the lobbyist estimating the
27 portion of the salary or other payment that is reasonably allocated for
28 lobbying.

29 (2) In addition to reporting any payment to a lobbyist for lobbying under
30 subsection (d) of this section, a lobbyist principal shall report, cumulatively
31 for the year, any payment to a lobbyist for any of the following
32 communications and activities that were used to lobby within the registration
33 period under G.S. 120C-200(d):

34 a. Research.

35 b. Drafting of written communications.

36 c. Monitoring of proposed or pending legislative action or executive
37 action, including time spent preparing communications with the
38 lobbyist principal to relate information on proposed or pending
39 legislative action or executive action.

40 d. Time spent advising and rendering opinions to the lobbyist principal
41 as to the construction and effect of proposed or pending legislative
42 action or executive action.

43 (3) A lobbyist principal is required to report any payment to a lobbyist for any
44 of the following:

45 a. Direct lobbying communications or direct lobbying activities with a
46 designated individual or that designated individual's immediate
47 family.

48 b. Communications or activities to develop goodwill, including the
49 building of relationships, with a designated individual or that
50 designated individual's immediate family member."

51 **SECTION 16.(I)** G.S. 120C-404(b)(1) reads as rewritten:

1 "(1) All reportable expenditures made for ~~the purpose of~~ lobbying during the
2 reporting period."

3 **SECTION 16.(m)** G.S. 120C-501(e) reads as rewritten:

4 "(e) The Board of Governors of the University of North Carolina and its constituent
5 institutions, or the liaison personnel designated by that board or the constituent institutions,
6 shall not give, for ~~the purpose of~~ lobbying, athletic tickets to any designated individual, except
7 for those who are described in G.S. 138A-3(30)j. or those who are students and receive tickets
8 on the same basis as other students."

9 **SECTION 16.(n)** G.S. 120C-800(a) reads as rewritten:

10 "(a) If a designated individual accepts a reportable expenditure made for ~~the purpose of~~
11 lobbying with a total value of over two hundred dollars (\$200.00) per calendar quarter from a
12 person or group of persons acting together, exempted or not otherwise covered by this Chapter,
13 the person, or group of persons, making the reportable expenditure shall report the date, a
14 description of the reportable expenditure, the name and address of the person, or group of
15 persons, making the reportable expenditure, the name of the designated individual accepting the
16 reportable expenditure, and the estimated fair market value, or face value if shown, of the
17 reportable expenditure."

18 **SECTION 16.(o)** G.S. 138A-3(1) reads as rewritten:

19 "(1) Blind trust. – A trust established by or for the benefit of a covered person or
20 a member of the covered person's immediate family for ~~the purpose of~~
21 divestiture of all control and knowledge of assets. A trust qualifies as a blind
22 trust under this subdivision if the covered person or a member of the covered
23 person's immediate family has no knowledge of the holdings and sources of
24 income of the trust, the trustee of the trust is independent of and not
25 associated with or employed by the covered person or a member of the
26 covered person's immediate family and is not a member of the covered
27 person's extended family, and the trustee has sole discretion as to the
28 management of the trust assets."

29 **SECTION 16.(p)** G.S. 138A-3(15) reads as rewritten:

30 "(15) Gift. – Anything of monetary value given or received without valuable
31 consideration by or from a lobbyist, lobbyist principal, liaison personnel, or
32 a person described under G.S. 138A-32(d)(1), (2), or (3). The following shall
33 not be considered gifts under this subdivision:

- 34 a. Anything for which fair market value, or face value if shown, is paid
35 by the covered person or legislative employee.
- 36 b. Commercially available loans made on terms not more favorable
37 than generally available to the general public in the normal course of
38 business if not made for ~~the purpose of~~ lobbying.
- 39 c. Contractual arrangements or commercial relationships or
40 arrangements made in the normal course of business if not made for
41 ~~the purpose of~~ lobbying.
- 42 d. Academic or athletic scholarships based on the same criteria as
43 applied to the public.
- 44 e. Campaign contributions properly received and reported as required
45 under Article 22A of Chapter 163 of the General Statutes.
- 46 f. Expressions of condolence related to a death of an individual, sent
47 within a reasonable time of the death, if the expression is one of the
48 following:
- 49 1. A sympathy card, letter, or note.
 - 50 2. Flowers.
 - 51 3. Food or beverages for immediate consumption.

- 1 4. Donations to a religious organization, charity, the State or a
2 political subdivision of the State, not to exceed a total of two
3 hundred dollars (\$200.00) per death per donor."

4 **SECTION 16.(q)** G.S. 138A-13(f) reads as rewritten:

5 "(f) This section shall apply to judicial officers only for ~~the purpose of~~ advice related to
6 Article 3 of this Chapter."

7 **SECTION 16.(r)** G.S. 138A-24(a)(8) reads as rewritten:

8 "(8) A list of all things with a total value of over two hundred dollars (\$200.00)
9 per calendar quarter given and received without valuable consideration and
10 under circumstances that a reasonable person would conclude that the thing
11 was given for ~~the purpose of~~ lobbying, if such things were given by a person
12 not required to report under Chapter 120C of the General Statutes, excluding
13 things given by a member of the filing person's extended family. The list
14 shall include only those things received during the 12 months preceding the
15 reporting period under subsection (d) of this section, and shall include the
16 source of those things. The list required by this subdivision shall not apply to
17 things of monetary value received by the filing person prior to the time the
18 filing person filed or was nominated as a candidate for office, as described in
19 G.S. 138A-22, or was appointed or employed as a covered person."

20 **SECTION 16.(s)** G.S. 138A-32(e)(10) reads as rewritten:

21 "(10) Gifts given or received as part of a business, civic, religious, fraternal,
22 personal, or commercial relationship provided all of the following conditions
23 are met:

- 24 a. The relationship is not related to the public servant's, legislator's, or
25 legislative employee's public service or position.
26 b. The gift is made under circumstances that a reasonable person would
27 conclude that the gift was not given ~~for the purpose of lobbying~~.
28 to lobby."

29 **SECTION 16.(t)** This section is effective January 1, 2011, and applies to offenses
30 committed on or after that date, and reports filed on or after that date.

31 **SECTION 17.(a)** G.S. 126-23 reads as rewritten:

32 **"§ 126-23. Certain records to be kept by State agencies open to inspection.**

33 (a) Each department, agency, institution, commission and bureau of the State shall
34 maintain a record of each of its employees, showing the following information with respect to
35 each such employee:

36 (1) ~~name,~~Name.

37 (2) ~~age,~~Age.

38 (3) ~~date~~Date of original employment or appointment to ~~the State~~ service,service.

39 (4) ~~the~~The terms of any contract by which the employee is employed whether
40 written or oral, past and current, to the extent that the agency has the written
41 contract or a record of the oral contract in its ~~possession,~~possession.

42 (5) ~~current position,~~Current position.

43 (6) ~~title,~~Title.

44 (7) ~~current salary,~~Current salary.

45 (8) ~~date~~Date and amount of ~~most recent~~ each increase or decrease in
46 salary,salary with that department, agency, institution, commission, or
47 bureau.

48 (9) ~~date~~Date of ~~most recent~~ each promotion, demotion, transfer, suspension,
49 separation, or other change in position ~~classification,~~classification with that
50 department, agency, institution, commission, or bureau.

1 (10) Date and general description of the reasons for each promotion with that
2 department, agency, institution, commission, or bureau.

3 (11) Date and category of position classification change with that department,
4 agency, institution, commission, or bureau due to a criminal conviction in
5 each of the following categories:

6 a. Demotion.

7 b. Transfer.

8 c. Suspension.

9 d. Separation.

10 e. Other change in position classification.

11 (12) ~~and the~~ The office or station to which the employee is currently assigned.

12 (b) For the purposes of this section, the term "salary" includes pay, benefits, incentives,
13 bonuses, and deferred and all other forms of compensation paid by the employing entity.

14 (c) Subject only to rules and regulations for the safekeeping of the records, adopted by
15 the State Personnel Commission, every person having custody of such records shall permit
16 them to be inspected and examined and copies thereof made by any person during regular
17 business hours. Any person who is denied access to any such record for the purpose of
18 inspecting, examining or copying the same shall have a right to compel compliance with the
19 provisions of this section by application to a court of competent jurisdiction for a writ of
20 mandamus or other appropriate relief."

21 **SECTION 17.(b)** G.S. 115C-320 reads as rewritten:

22 "**§ 115C-320. Certain records open to inspection.**

23 (a) Each local board of education shall maintain a record of each of its employees,
24 showing the following information with respect to each employee:

25 (1) ~~name,~~ Name.

26 (2) ~~age,~~ Age.

27 (3) ~~date~~ Date of original employment or ~~appointment,~~ appointment.

28 (4) ~~the~~ The terms of any contract by which the employee is employed whether
29 written or oral, past and current, to the extent that the board has the written
30 contract or a record of the oral contract in its ~~possession,~~ possession.

31 (5) ~~current position,~~ Current position.

32 (6) ~~title,~~ Title.

33 (7) ~~current salary,~~ Current salary.

34 (8) ~~date~~ Date and amount of ~~most recent~~ each increase or decrease in ~~salary,~~
35 salary with that local board of education.

36 (9) ~~date~~ Date of ~~most recent~~ each promotion, demotion, transfer, suspension,
37 separation, or other change in position ~~classification,~~ classification with
38 that local board of education.

39 (10) Date and general description of the reasons for each promotion with that
40 local board of education.

41 (11) Date and category of position classification change with that local board of
42 education due to a criminal conviction in each of the following categories:

43 a. Demotion.

44 b. Transfer.

45 c. Suspension.

46 d. Separation.

47 e. Other change in position classification.

48 (12) ~~the~~ The office or station to which the employee is currently assigned.

49 (b) For the purposes of this section, the term "salary" includes pay, benefits, incentives,
50 bonuses, and deferred and all other forms of compensation paid by the employing entity.

(c) Subject only to rules and regulations for the safekeeping of records adopted by the local board of education, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. The name of a participant in the Address Confidentiality Program established pursuant to Chapter 15C of the General Statutes shall not be open to inspection and shall be redacted from any record released pursuant to this section. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief."

SECTION 17.(c) G.S. 115D-28 reads as rewritten:

"§ 115D-28. **Certain records open to inspection.**

(a) Each board of trustees shall maintain a record of each of its employees, showing the following information with respect to each employee:

(1) ~~name,~~ Name.

(2) ~~age,~~ Age.

(3) ~~date~~ Date of original employment or ~~appointment,~~ appointment.

(4) ~~the~~ The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its ~~possession,~~ possession.

(5) ~~current position,~~ Current position.

(6) ~~title,~~ Title.

(7) ~~current salary,~~ Current salary.

(8) ~~date~~ Date and amount of ~~most recent~~ each increase or decrease in ~~salary,~~ salary with that community college.

(9) ~~date~~ Date of ~~most recent~~ each promotion, demotion, transfer, suspension, separation, or other change in position ~~classification,~~ and classification with that community college.

(10) Date and general description of the reasons for each promotion with that community college.

(11) Date and category of position classification change with that community college due to a criminal conviction in each of the following categories:

a. Demotion.

b. Transfer.

c. Suspension.

d. Separation.

e. Other change in position classification.

(12) ~~the~~ The office or station to which the employee is currently assigned.

(b) For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(c) Subject only to rules and regulations for the safekeeping of records adopted by the board of trustees, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief."

SECTION 17.(d) G.S. 122C-158(b) reads as rewritten:

"(b) The following information with respect to each employee is a matter of public record:

(1) ~~name;~~ Name.

(2) ~~age;~~ Age.

- 1 (3) ~~date~~Date of original employment or appointment to the area
2 ~~authority;~~authority.
- 3 (4) ~~the~~The terms of any contract by which the employee is employed whether
4 written or oral, past and current, to the extent that the agency has the written
5 contract or a record of the oral contract in its ~~possession;~~possession.
- 6 (5) ~~current position~~Current position.
- 7 (6) ~~title;~~Title.
- 8 (7) ~~current salary;~~Current salary.
- 9 (8) ~~date~~Date and amount of ~~most recent~~each increase or decrease in ~~salary;~~
10 salary with that area authority.
- 11 (9) ~~date~~Date of ~~the most recent~~each promotion, demotion, transfer, suspension,
12 separation, or other change in position ~~classification;~~ and classification with
13 that area authority.
- 14 (10) Date and general description of the reasons for each promotion with that area
15 authority.
- 16 (11) Date and category of position classification change with that area authority
17 due to a criminal conviction in each of the following categories:
- 18 a. Demotion.
- 19 b. Transfer.
- 20 c. Suspension.
- 21 d. Separation.
- 22 e. Other change in position classification.
- 23 (12) ~~the~~The office to which the employee is currently assigned.
- 24 (b1) For the purposes of this subsection, the term "salary" includes pay, benefits,
25 incentives, bonuses, and deferred and all other forms of compensation paid by the employing
26 entity.
- 27 (b2) The area authority shall determine in what form and by whom this information will
28 be maintained. Any person may have access to this information for the purpose of inspection,
29 examination, and copying during regular business hours, subject only to rules for the
30 safekeeping of public records as the area authority may have adopted. Any person denied
31 access to this information may apply to the appropriate division of the General Court of Justice
32 for an order compelling disclosure, and the court shall have jurisdiction to issue these orders."
- 33 **SECTION 17.(e)** G.S. 153A-98(b) reads as rewritten:
- 34 "(b) The following information with respect to each county employee is a matter of
35 public record:
- 36 (1) ~~name;~~Name.
- 37 (2) ~~age;~~Age.
- 38 (3) ~~date~~Date of original employment or appointment to the county
39 ~~service;~~service.
- 40 (4) ~~the~~The terms of any contract by which the employee is employed whether
41 written or oral, past and current, to the extent that the county has the written
42 contract or a record of the oral contract in its ~~possession;~~possession.
- 43 (5) ~~current position~~Current position.
- 44 (6) ~~title;~~Title.
- 45 (7) ~~current salary;~~Current salary.
- 46 (8) ~~date~~Date and amount of ~~the most recent~~each increase or decrease in ~~salary;~~
47 salary with that county.
- 48 (9) ~~date~~Date of ~~the most recent~~ each promotion, demotion, transfer, suspension,
49 separation or other change in position ~~classification;~~ and classification with
50 that county.

1 (10) Date and general description of the reasons for each promotion with that
2 county.

3 (11) Date and category of position classification change with that county due to a
4 criminal conviction in each of the following categories:

5 a. Demotion.

6 b. Transfer.

7 c. Suspension.

8 d. Separation.

9 e. Other change in position classification.

10 (12) ~~the~~The office to which the employee is currently assigned.

11 (b1) For the purposes of this subsection, the term "salary" includes pay, benefits,
12 incentives, bonuses, and deferred and all other forms of compensation paid by the employing
13 entity.

14 (b2) The board of county commissioners shall determine in what form and by whom this
15 information will be maintained. Any person may have access to this information for the
16 purpose of inspection, examination, and copying, during regular business hours, subject only to
17 such rules and regulations for the safekeeping of public records as the board of commissioners
18 may have adopted. Any person denied access to this information may apply to the appropriate
19 division of the General Court of Justice for an order compelling disclosure, and the court shall
20 have jurisdiction to issue such orders."

21 **SECTION 17.(f)** G.S. 160A-168(b) reads as rewritten:

22 "(b) The following information with respect to each city employee is a matter of public
23 record:

24 (1) ~~name;~~Name.

25 (2) ~~age;~~Age.

26 (3) ~~date~~Date of original employment or appointment to the ~~service;~~service.

27 (4) ~~the~~The terms of any contract by which the employee is employed whether
28 written or oral, past and current, to the extent that the city has the written
29 contract or a record of the oral contract in its ~~possession;~~possession.

30 (5) ~~current position~~Current position.

31 (6) ~~title;~~Title.

32 (7) ~~current salary;~~Current salary.

33 (8) ~~date~~Date and amount of ~~the most recent~~each increase or decrease in ~~salary;~~
34 salary with that municipality.

35 (9) ~~date~~Date of ~~the most recent~~each promotion, demotion, transfer, suspension,
36 separation, or other change in position ~~classification;~~ and classification with
37 that municipality.

38 (10) Date and general description of the reasons for each promotion with that
39 municipality.

40 (11) Date and category of position classification change with that municipality
41 due to a criminal conviction in each of the following categories:

42 a. Demotion.

43 b. Transfer.

44 c. Suspension.

45 d. Separation.

46 e. Other change in position classification.

47 (12) ~~the~~The office to which the employee is currently assigned.

48 (b1) For the purposes of this subsection, the term "salary" includes pay, benefits,
49 incentives, bonuses, and deferred and all other forms of compensation paid by the employing
50 entity.

1 **(b2)** The city council shall determine in what form and by whom this information will be
 2 maintained. Any person may have access to this information for the purpose of inspection,
 3 examination, and copying, during regular business hours, subject only to such rules and
 4 regulations for the safekeeping of public records as the city council may have adopted. Any
 5 person denied access to this information may apply to the appropriate division of the General
 6 Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to
 7 issue such orders."

8 **SECTION 17.(g)** G.S. 162A-6.1(b) reads as rewritten:

9 **"(b)** The following information with respect to each authority employee is a matter of
 10 public record:

11 (1) ~~name;~~ Name.

12 (2) ~~age;~~ Age.

13 (3) ~~date~~ Date of original employment or appointment to the ~~service;~~ service.

14 (4) ~~the~~ The terms of any contract by which the employee is employed whether
 15 written or oral, past and current, to the extent that the authority has the
 16 written contract or a record of the oral contract in its ~~possession;~~ possession.

17 (5) ~~current position~~ Current position.

18 (6) ~~title;~~ Title.

19 (7) ~~current salary;~~ Current salary.

20 (8) ~~date~~ Date and amount of ~~the most recent~~ each increase or decrease in ~~salary;~~
 21 salary with that authority.

22 (9) ~~date~~ Date of ~~the most recent~~ each promotion, demotion, transfer, suspension,
 23 separation, or other change in position ~~classification;~~ and classification with
 24 that authority.

25 (10) Date and general description of the reasons for each promotion with that
 26 authority.

27 (11) Date and category of position classification change with that authority due to
 28 a criminal conviction in each of the following categories:

29 a. Demotion.

30 b. Transfer.

31 c. Suspension.

32 d. Separation.

33 e. Other change in position classification.

34 (12) ~~the~~ The office to which the employee is currently assigned.

35 **(b1)** For the purposes of this subsection, the term "salary" includes pay, benefits,
 36 incentives, bonuses, and deferred and all other forms of compensation paid by the employing
 37 entity.

38 **(b2)** The authority shall determine in what form and by whom this information will be
 39 maintained. Any person may have access to this information for the purpose of inspection,
 40 examination, and copying, during regular business hours, subject only to such rules and
 41 regulations for the safekeeping of public records as the authority may have adopted. Any
 42 person denied access to this information may apply to the appropriate division of the General
 43 Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to
 44 issue such orders."

45 **SECTION 17.(h)** This section becomes effective October 1, 2010.

46 **SECTION 18.(a)** G.S. 120C-600 is amended by adding a new subsection to read:

47 **"(d)** The Secretary shall publish annual statistics on complaints received and systematic
 48 reviews conducted under this section, including the number of systematic reviews, the number
 49 of complaints, the number of apparent violations of this Chapter referred to a district attorney,
 50 the number of complaints dismissed, and the number and age of complaints pending. Subject to
 51 the provisions of Chapter 132 of the General Statutes, the levy of all civil fines, including the

1 amount of the fine and the identity of the person or governmental unit against whom it was
2 levied, shall be a public record as defined in G.S. 132-1(a)."

3 **SECTION 18.(b)** G.S. 120C-601 is amended by adding a new subsection to read:

4 "(d) The Commission shall publish annual statistics on complaints, including the number
5 of complaints, the number of apparent violations of this Chapter referred to a district attorney,
6 the number of dismissals, and the number and age of complaints pending."

7 **SECTION 19.(a)** Article 5 of Chapter 7A of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 7A-38.3E. Mediation of public records disputes.**

10 (a) Voluntary Mediation. – The parties to a public records dispute under Chapter 132 of
11 the General Statutes may agree at anytime prior to filing a civil action under Chapter 132 of the
12 General Statutes to mediation of the dispute under the provisions of this section. Mediation of a
13 public records dispute shall be initiated by filing a request for mediation with the clerk of
14 superior court in a county in which the action may be brought.

15 (b) Mandatory Mediation. – Subsequent to filing a civil action under Chapter 132 of the
16 General Statutes, a person shall initiate mediation pursuant to this section. Such mediation shall
17 be initiated no later than 30 days from the filing of responsive pleadings with the clerk in the
18 county where the action is filed.

19 (c) Initiation of Mediation. – The Administrative Office of the Courts shall prescribe a
20 request for mediation form. The party filing the request for mediation shall mail a copy of the
21 request by certified mail, return receipt requested, to each party to the dispute. The clerk shall
22 provide each party with a list of mediators certified by the Dispute Resolution Commission. If
23 the parties agree in writing to the selection of a mediator from that list, the clerk shall appoint
24 that mediator selected by the parties. If the parties do not agree on the selection of a mediator,
25 the party filing the request for mediation shall bring the matter to the attention of the clerk, and
26 a mediator shall be appointed by the senior resident superior court judge. The clerk shall notify
27 the mediator and the parties of the appointment of the mediator.

28 (d) Mediation Procedure. – Except as otherwise expressly provided in this section,
29 mediation under this section shall be conducted in accordance with the provisions for mediated
30 settlement of civil cases in G.S. 7A-38.1 and G.S. 7A-38.2 and rules and standards adopted
31 pursuant to those sections. The Supreme Court may adopt additional rules and standards to
32 implement this section, including an exemption from the provisions of G.S. 7A-38.1 for cases
33 in which mediation was attempted under this section.

34 (e) Waiver of Mediation. – The parties to the dispute may waive the mediation required
35 by this section by informing the mediator of the parties' waiver in writing. No costs shall be
36 assessed to any party if all parties waive mediation prior to the occurrence of an initial
37 mediation meeting.

38 (f) Certification That Mediation Concluded. – Immediately upon a waiver of mediation
39 under subsection (e) of this section or upon the conclusion of mediation, the mediator shall
40 prepare a certification stating the date on which the mediation was concluded and the general
41 results of the mediation, including, as applicable, that the parties waived the mediation, that an
42 agreement was reached, that mediation was attempted but an agreement was not reached, or
43 that one or more parties, to be specified in the certification, failed or refused without good
44 cause to attend one or more mediation meetings or otherwise participate in the mediation. The
45 mediator shall file the original of the certification with the clerk and provide a copy to each
46 party.

47 (g) Time Periods Tolloed. – Time periods relating to the filing of a claim or the taking of
48 other action with respect to a public records dispute, including any applicable statutes of
49 limitations, shall be tolled upon the filing of a request for mediation under this section, until 30
50 days after the date on which the mediation is concluded as set forth in the mediator's

1 certification, or if the mediator fails to set forth such date, until 30 days after the filing of the
2 certification under subsection (f) of this section.

3 (h) Nothing in this section shall prevent a party seeking production of public records
4 from seeking injunctive or other relief, including production of public records prior to any
5 scheduled mediation."

6 **SECTION 19.(b)** G.S. 7A-38.2(a) reads as rewritten:

7 "(a) The Supreme Court may adopt standards of conduct for mediators and other neutrals
8 who are certified or otherwise qualified pursuant to G.S. 7A-38.1, 7A-38.3, 7A-38.3B,
9 7A-38.3D, 7A-38.3E, and 7A-38.4A, or who participate in proceedings conducted pursuant to
10 those sections. The standards may also regulate mediator and other neutral training programs.
11 The Supreme Court may adopt procedures for the enforcement of those standards."

12 **SECTION 19.(c)** G.S. 132-9 reads as rewritten:

13 **"§ 132-9. Access to records.**

14 (a) Any person who is denied access to public records for purposes of inspection and
15 examination, or who is denied copies of public records, may apply to the appropriate division
16 of the General Court of Justice for an order compelling disclosure or copying, and the court
17 shall have jurisdiction to issue such ~~orders.~~ orders if the person has complied with
18 G.S. 7A-38.3E. Actions brought pursuant to this section shall be set down for immediate
19 hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and
20 appellate courts.

21 (b) In an action to compel disclosure of public records which have been withheld
22 pursuant to the provisions of G.S. 132-6 concerning public records relating to the proposed
23 expansion or location of particular businesses and industrial projects, the burden shall be on the
24 custodian withholding the records to show that disclosure would frustrate the purpose of
25 attracting that particular business or industrial project.

26 (c) In any action brought pursuant to this section in which a party successfully compels
27 the disclosure of public records, the court shall allow ~~the prevailing a party seeking disclosure~~
28 of public records who substantially prevails to recover its reasonable attorneys' fees if attributed
29 to those public records, ~~unless the court finds the agency acted with substantial justification in~~
30 ~~denying access to the public records or the court finds circumstances that would make the~~
31 ~~award of attorneys' fees unjust records.~~ The court may not assess attorneys' fees against the
32 governmental body or governmental unit if the court finds that the governmental body or
33 governmental unit acted in reasonable reliance on any of the following:

34 (1) A judgment or an order of a court applicable to the governmental unit or
35 governmental body.

36 (2) The published opinion of an appellate court, an order of the North Carolina
37 Business Court, or a final order of the Trial Division of the General Court of
38 Justice.

39 (3) A written opinion, decision, or letter of the Attorney General.

40 Any attorneys' fees assessed against a public agency under this section shall be charged
41 against the operating expenses of the agency; provided, however, that the court may order that
42 all or any portion of any attorneys' fees so assessed be paid personally by any public employee
43 or public official found by the court to have knowingly or intentionally committed, caused,
44 permitted, suborned, or participated in a violation of this Article. No order against any public
45 employee or public official shall issue in any case where the public employee or public official
46 seeks the advice of an attorney and such advice is followed.

47 (d) If the court determines that an action brought pursuant to this section was filed in
48 bad faith or was frivolous, the court shall assess a reasonable attorney's fee against the person
49 or persons instituting the action and award it to the public agency as part of the costs.

50 (e) Notwithstanding subsection (c) of this section, the court may not assess attorneys'
51 fees against a public hospital created under Article 2 of Chapter 131E of the General Statutes if

1 the court finds that the action was brought by or on behalf of a competing health care provider
2 for obtaining information to be used to gain a competitive advantage."

3 **SECTION 19.(d)** This section becomes effective October 1, 2010, and applies to
4 actions filed on or after that date.

5 **SECTION 20.(a)** G.S. 138A-14(b) reads as rewritten:

6 "(b) The Commission shall ~~make~~offer basic ethics education and awareness
7 presentations to all public servants and their immediate staffs, upon their election, appointment,
8 or employment, and shall offer periodic refresher presentations as the Commission deems
9 appropriate. Every public servant shall participate in an ethics presentation approved by the
10 Commission within six months of the public servant's election, reelection, appointment, or
11 employment, and shall attend refresher ethics education presentations at least every two years
12 thereafter in a manner as the Commission deems appropriate."

13 **SECTION 20.(b)** G.S. 138A-24(c2) is recodified as G.S. 138A-22(c2).

14 **SECTION 20.(c)** The catch line to G.S. 138A-37 of the General Statutes reads as
15 rewritten:

16 "**§ 138A-37. Legislator participation in ~~official~~ legislative actions."**

17 **SECTION 20.(d)** G.S. 138A-38(a)(6) and (7) read as rewritten:

18 "**§ 138A-38. Permitted participation exception.**

19 (a) Notwithstanding G.S. 138A-36 and G.S. 138A-37, a covered person may participate
20 in an official action or legislative action under any of the following circumstances except as
21 specifically limited:

22 ...

23 (6) When a public or legislative body records in its minutes that it cannot obtain
24 a quorum in order to take the official or legislative action because the
25 covered person is disqualified from acting under ~~G.S. 130-36~~, G.S. 138A-36,
26 G.S. 138A-37, or this section, the covered person may be counted for
27 purposes of a quorum, but shall otherwise abstain from taking any further
28 action.

29 (7) When a public servant notifies the Commission in writing that the public
30 ~~servant~~ ~~judicial employee~~, ~~servant~~, or someone whom the public servant
31 appoints to act in the public servant's stead, or both, are the only individuals
32 having legal authority to take an official action, and the public servant
33 discloses in writing the circumstances and nature of the conflict of interest."

34 **SECTION 20.(e)** G.S. 120-104(c) reads as rewritten:

35 "(c) A legislator who acts in reliance on a formal advisory opinion issued by the
36 Committee under this section shall be entitled to the immunity granted under ~~G.S. 138A-13(b)~~.
37 G.S. 138A-13(b1)."

38 **SECTION 20.(f)** G.S. 120C-800(b) reads as rewritten:

39 "(b) If the person making the reportable expenditure in subsection (a) of this section is
40 outside North Carolina, and the designated individual accepting the reportable expenditure is
41 also outside North Carolina at the time the designated individual accepts the reportable
42 expenditure, then the designated individual accepting the reportable expenditure shall be
43 responsible for filing the report or reporting the information in the designated individual's
44 statement of economic interest in accordance with ~~G.S. 138A-24(a)(2)~~. G.S. 138A-24(a)(8)."

45 **SECTION 21.(a)** G.S. 138A-12(b)(2) reads as rewritten:

46 "(2) For legislators, the application ~~of~~ or alleged violations of Part 1 of Article 14
47 of Chapter 120 of the General Statutes."

48 **SECTION 21.(b)** G.S. 138A-12(c)(1) reads as rewritten:

49 "(1) A sworn complaint filed under this Chapter shall state the name, address,
50 and telephone number of the individual filing the complaint, the name and
51 job title or appointive position of the covered person or legislative employee

1 against whom the complaint is filed, and a concise statement of the nature of
2 the complaint and specific facts indicating that a violation of this Chapter or
3 Chapter 120 of the General Statutes or G.S. 126-14 or the criminal law in the
4 performance of that individual's official duties has occurred, the date the
5 alleged violation occurred, and either (i) that the contents of the complaint
6 are within the knowledge of the individual verifying the complaint, or (ii)
7 the basis upon which the individual verifying the complaint believes the
8 allegations to be true."

9 **SECTION 21.(c)** G.S. 138A-12(c)(5) reads as rewritten:

10 "(5) The Commission shall send a copy of the complaint to the covered person or
11 legislative employee who is the subject of the complaint and the employing
12 entity, within ~~30~~10 business days of the filing."

13 **SECTION 21.(d)** G.S. 138A-12(d) reads as rewritten:

14 "(d) Conduct of Inquiry of Complaints by the Commission. – The Commission shall
15 conduct an inquiry into all complaints properly before the Commission in a timely manner. The
16 Commission shall initiate an inquiry into a complaint within ~~60~~10 business days of the filing of
17 the complaint. The Commission is authorized to initiate inquiries upon request of any member
18 of the Commission if there is reason to believe that a covered person or legislative employee
19 has or may have violated this Chapter. Commission-initiated complaint inquiries under this
20 section shall be initiated within two years of the date the Commission knew of the conduct
21 upon which the complaint is based, except when the conduct is material to the continuing
22 conduct of the duties in office. In determining whether there is reason to believe that a violation
23 has or may have occurred, a member of the Commission may take general notice of available
24 information even if not formally provided to the Commission in the form of a complaint. The
25 Commission may utilize the services of a hired investigator when conducting inquiries."

26 **SECTION 21.(e)** G.S. 138A-12(f) reads as rewritten:

27 "(f) Dismissal of Complaint After Preliminary Inquiry. – The Commission shall
28 conclude the preliminary inquiry within 20 business days. The Commission shall dismiss the
29 complaint, ~~If the Commission determines~~ at the end of its preliminary ~~inquiry~~ inquiry, the
30 Commission determines that any of the following apply:

31 ~~(i)~~(1) ~~the~~The individual who is the subject of the complaint is not a covered person
32 or legislative employee subject to the Commission's jurisdiction and
33 authority under this ~~Chapter, Chapter.~~ Chapter. ~~or~~

34 ~~(ii)~~(2) ~~the~~The complaint does not allege facts sufficient to constitute a violation
35 within the jurisdiction of the Commission under subsection (b) of this
36 section, ~~the Commission shall dismiss the complaint.~~section.

37 (3) The complaint is determined to be frivolous or brought in bad faith."

38 **SECTION 21.(f)** G.S. 120-103.1(c) reads as rewritten:

39 "(c) Investigation of Complaints. – The Committee shall investigate all complaints
40 properly before the Committee in a timely manner. Within ~~60~~10 business days of receiving a
41 complaint or a referral of a complaint to the Committee, the Committee shall do at least one of
42 the following:

43 (1) Dismiss the complaint.

44 (2) Initiate a preliminary investigation of the complaint.

45 (3) Refer the complaint for further investigation and a hearing in accordance
46 with subsection (i) of this section.

47 (4) Make recommendations to the house in which the legislator who is the
48 subject of the complaint is a member without further investigation, if the
49 referral is from the State Ethics Commission."

50 **SECTION 21.(g)** G.S. 120-103.1(c1) reads as rewritten:

1 "(c1) Preliminary Investigation. – The Committee may initiate a preliminary investigation
2 if it determines that the complaint alleges facts sufficient to constitute a violation of matters
3 over which the Committee has jurisdiction as set forth in subsection (a) of this section. In
4 determining whether there is reason to believe that a violation has or may have occurred, a
5 member of the Committee may take general notice of available information even if not
6 formally provided to the Committee in the form of a complaint. The Committee may utilize the
7 services of a hired investigator when conducting investigations. The Committee shall provide
8 written notification of the initiation of an investigation under this section to the legislator who
9 is the subject of the complaint within 10 days of the date of the Committee's decision to initiate
10 an investigation. The Commission shall conclude the preliminary inquiry within 20 business
11 days."

12 **SECTION 21.(h)** G.S. 138A-12(c)(3) reads as rewritten:

13 "(3) The Commission may decline to accept, refer, or conduct an inquiry into any
14 complaint that does not meet all of the requirements set forth in subdivision
15 (1) of this subsection, or the Commission may, in its sole discretion, request
16 additional information to be provided by the complainant within a specified
17 period of time of no less than ~~seven~~five business days."

18 **SECTION 22.(a)** The introductory language in Section 1 of S.L. 2009-129 reads as
19 rewritten:

20 "**SECTION 1.** ~~G.S. 120-29(2)~~G.S. 120-129(2) reads as rewritten:"

21 **SECTION 22.(b)** Article 17 of Chapter 120 of the General Statutes, as amended by
22 Section 22(a) of this act, reads as rewritten:

23 "Article 17.

24 "Confidentiality of Legislative Communications.

25 "**§ 120-129. Definitions.**

26 As used in this Article:

27 (1) "Document" means all records, papers, letters, maps, books, photographs,
28 films, sound recordings, magnetic or other tapes, electronic data-processing
29 records, artifacts, or other documentary material regardless of physical form
30 or characteristics.

31 (1a) "Legislative commission" means any commission or committee which the
32 Legislative Services Commission is directed or authorized to staff by law or
33 resolution and which it does, in fact, staff.

34 (2) "Legislative employee" means employees and officers of the General
35 Assembly, consultants and counsel to members and committees of either
36 house of the General Assembly or of legislative commissions who are paid
37 by State funds, students at an accredited law school while in an externship
38 program at the General Assembly approved by the Legislative Services
39 Commission, and employees of the School of Government at the University
40 of North Carolina at Chapel Hill; but does not mean legislators and members
41 of the Council of State.

42 (3) "Legislator" means a member-elect, member-designate, or member of the
43 North Carolina Senate or House of Representatives.

44 "**§ 120-130. Drafting and information requests to legislative ~~employees~~employees;**
45 **documents.**

46 (a) A drafting request made to a legislative employee from a legislator is confidential.
47 Neither the identity of the legislator making the request nor, except to the extent necessary to
48 answer the request, the existence of the request may be revealed to any person who is not a
49 legislative employee without the consent of the legislator.

50 (b) An information request made to a legislative employee from a legislator is
51 confidential. Neither the identity of the legislator making the request nor, except to the extent

1 necessary to answer the request, the existence of the request may be revealed to any person
2 who is not a legislative employee without the consent of the legislator. Notwithstanding the
3 preceding sentences of this subsection, the periodic publication by the Fiscal Research Division
4 of the Legislative Services Office of a list of information requests is not prohibited, if the
5 identity of the legislator making the request is not revealed.

6 (c) ~~Any Documents submitted to a legislator by another person or any supporting~~
7 ~~documents submitted or caused to be submitted~~ to a legislative employee by a legislator in
8 connection with a drafting or information request are confidential. A document that is a public
9 record shall continue to be treated as a public record, notwithstanding its inclusion as a
10 supporting document to a drafting or information request. Except to the extent necessary to
11 answer the request, neither the document nor copies of it, nor the identity of the person, firm, or
12 association producing it, may be provided to any person who is not a legislative employee
13 without the consent of the legislator.

14 (d) Drafting requests, or information requests or requests, and supporting documents
15 submitted under subsection (c) of this section are not "public records" as defined by G.S. 132-1.
16 A document that is a public record shall continue to be treated as a public record,
17 notwithstanding its inclusion as a supporting document to a drafting or information request.
18 **"§ 120-131. Documents produced by legislative employees.**

19 (a) Documents prepared by legislative employees upon the request of legislators are
20 confidential. Except as provided in subsection (b) of this section, the existence of the document
21 may not be revealed nor may a copy of the document be provided to any person who is not a
22 legislative employee without the consent of the legislator.

23 (b) A document prepared by a legislative employee upon the request of a legislator
24 becomes available to the public when the document is a:

- 25 (1) Bill or resolution and it has been introduced;
- 26 (2) Proposed amendment or committee substitute for a bill or resolution and it
27 has been offered at a committee meeting or on the floor of a house;
- 28 (3) Proposed conference committee report and it has been offered at a joint
29 meeting of the conference committees; or
- 30 (4) Bill, resolution, memorandum, written analysis, letter, or other document
31 resulting from a drafting or information request and it has been distributed at
32 a legislative commission or standing committee or subcommittee meeting
33 not held in executive session, closed session, or on the floor of a house.

34 (b1) A document prepared by a legislative employee upon the request of any legislator,
35 that pursuant to this Article does not become available to the public, is not a "public record," as
36 defined by G.S. 132-1.

37 (c) This section does not prohibit the dissemination of information or language
38 contained in any document which has been prepared by a legislative employee in response to a
39 substantially similar request from another legislator, provided that the identity of the requesting
40 legislator and the fact that ~~he~~ the legislator had made such a request not be divulged.

41 **"§ 120-131.1. Requests from legislative employees for assistance in the preparation of**
42 **fiscal notes and evaluation reports.**

43 (a) A request, including any ~~accompanying supporting~~ documents, made to an agency
44 employee by a legislative employee of the Fiscal Research Division for assistance in the
45 preparation of a fiscal note is confidential. An agency employee who receives such a request or
46 who learns of such a request made to another agency employee ~~of his or her agency~~ shall reveal
47 the existence of the request only to other agency employees of the agency to the extent that it is
48 necessary to respond to the request, and to the agency employee's supervisor and to the Office
49 of State Budget and Management. All documents prepared by the agency employee in response
50 to the request of the Fiscal Research Division are also confidential and shall be kept
51 confidential in the same manner as the original request, except that documents submitted to the

1 Fiscal Research Division in response to the request cease to be confidential under this section
2 when the Fiscal Research Division releases a fiscal note based on the documents.

3 (a1) A request, and any ~~accompanying~~ supporting documents, made to an agency
4 employee by a legislative employee of the Program Evaluation Division for assistance in the
5 preparation of an evaluation report is confidential. The request and any ~~accompanying~~
6 supporting documents are not "public records" as defined by G.S. 132-1. An agency employee
7 who receives a request under this subsection or who learns of such a request made to another
8 agency employee ~~of his or her agency~~ may reveal the existence of the request to other agency
9 employees to the extent that it is necessary to respond to the request and to the agency
10 employee's supervisor. All documents prepared by the agency employee in response to the
11 request of a legislative employee of the Program Evaluation Division are confidential, shall be
12 kept confidential in the same manner as the original request, and are not "public records" as
13 defined in G.S. 132-1.

14 (a2) A request, and any supporting documents, made to an agency employee by a
15 legislative employee pursuant to G.S. 120-130 or G.S. 120-131 is confidential. An agency
16 employee who receives a request or who learns of a request made to another agency employee
17 under this subsection shall reveal the existence of the request only to other agency employees
18 to the extent that it is necessary to respond to the request. An agency employee may reveal the
19 request to an agency supervisor. All documents prepared by the agency employee in response
20 to the request of a legislative employee under this subsection are also confidential and shall be
21 kept confidential in the same manner as the original request. The request, any supporting
22 documents to the request, and any documents prepared by the agency employee in response to a
23 request under this subsection are not "public records" as defined by G.S. 132-1.

24 (a3) Requests and documents confidential under this section shall bear an indication on
25 the face of the request or document that the request or document is confidential and not a public
26 record pursuant to this section.

27 (b) As used in this section, "agency employee" means an employee or officer of every
28 agency of North Carolina government or its subdivisions, including every public office, public
29 officer or official (State or local, elected or appointed), institution, board, commission, bureau,
30 council, department, authority, or other unit of government of the State or of any county, unit,
31 special district, or other political subdivision of government.

32 (c) ~~Violation of this section may be grounds for disciplinary action.~~ shall be subject to
33 penalties as set forth in G.S. 120-134.

34 **"§ 120-132. Testimony by legislative employees.**

35 (a) Except as provided in subsections (b) and (c) of this section, ~~No~~ no present or
36 former legislative ~~employees~~ employee may be required to disclose any information that the
37 individual, while employed or retained by the State, may have acquired:

- 38 (1) In a standing, select, or conference committee or subcommittee of either
39 house of the General Assembly or a legislative commission;
- 40 (2) On the floor of either house of the General Assembly, ~~or~~ in any office of a
41 ~~legislator;~~ legislator, or at any other location of the State legislative buildings
42 and grounds as defined in G.S. 120-32.1(d);
- 43 (3) As a result of communications that are confidential under G.S. 120-130 and
44 G.S. 120-131.

45 (b) A present or former legislative (b) employee may disclose information acquired under
46 subsection (a) of this section that would be reflected in the official public record or was
47 otherwise publicly disseminated.

48 (c) ~~Notwithstanding the provisions of the preceding sentence, Subject to G.S. 120-9,~~
49 G.S. 120-133, and the common law of legislative privilege and legislative immunity, the
50 presiding judge of a court of competent jurisdiction may compel that disclosure, disclosure of

1 information acquired under subsection (a) of this section if in his-the judge's opinion, the same
2 disclosure is necessary to a proper administration of justice.

3 **"§ 120-133. Redistricting communications.**

4 Notwithstanding any other provision of law, all drafting and information requests to
5 legislative employees and documents prepared by legislative employees for legislators
6 concerning redistricting the North Carolina General Assembly or the Congressional Districts
7 are no longer confidential and become public records upon the act establishing the relevant
8 district plan becoming law. Present and former legislative employees may be required to
9 disclose information otherwise protected by G.S. 120-132 concerning redistricting the North
10 Carolina General Assembly or the Congressional Districts upon the act establishing the relevant
11 district plan becoming law.

12 **"§ 120-134. Penalty.**

13 Violation of any provision of this Article shall be grounds for disciplinary action in the case
14 of current legislative, executive, or judicial branch employees, for referral to the academic
15 institution for appropriate discipline in the case of law student externs, and for removal from
16 office in the case of public officers. Violation of any provisions of this Article by a legislative
17 employee who is a law student extern at the time of the violation shall be referred to the
18 academic institution for appropriate discipline, and the Legislative Services Commission may
19 terminate the externship. No criminal penalty shall attach for any violation of this Article.

20 **"§ 120-135. Sharing confidential information amongst legislative employees.**

21 A legislative employee hired by, supervised by, or assigned to a member shall be treated as
22 the member for purposes of legislative confidentiality."

23 **SECTION 22.(c)** Effective December 1, 2010, G.S. 120-134, as amended by
24 Section 22(b) of this act, reads as rewritten:

25 **"§ 120-134. Penalty.**

26 Violation of any provision of this Article shall be grounds for disciplinary action in the case
27 of current legislative, executive or judicial branch employees, and for removal from office in
28 the case of public officers. Violation of any provisions of this Article by a legislative employee
29 who is a law student extern at the time of the violation shall be referred to the academic
30 institution for appropriate discipline, and the Legislative Services Commission may terminate
31 the externship. Any other person who willfully violates any provision of this Article shall be
32 guilty of a Class 3 misdemeanor. No other criminal penalty shall attach for any violation of this
33 Article."

34 **SECTION 22.(d)** Section 22(c) of this section becomes effective December 1,
35 2010, and applies to offenses committed on or after that date. The remainder of this section
36 becomes effective October 1, 2010.

37 **SECTION 22.5.** Notwithstanding Page J-8, Item 29, of the Joint Conference
38 Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, of
39 the funds appropriated to the State Ethics Commission, the sum of one hundred eighty-one
40 thousand sixty-one dollars (\$181,061) in recurring funds and two hundred seventeen thousand
41 eight hundred fifty dollars (\$217,850) in nonrecurring funds shall be used for one Attorney II
42 position and one Paralegal III position and operating expenses to develop an online system for
43 the filing of statements of economic interest, an online education program, all information
44 technology related to online education and online filing of statements of economic interest, and
45 legal research tools.

46 **SECTION 23.** Except as otherwise provided, this act is effective when it becomes
47 law.