

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 710
PROPOSED COMMITTEE SUBSTITUTE H710-PCS70241-STf-59

Short Title: Bd. of Ethics, Lobbying, and Campaign Finance.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO COMBINE THE FUNCTIONS OF THE STATE ETHICS COMMISSION, THE LOBBYING SECTION OF THE SECRETARY OF STATE, AND THE CAMPAIGN FINANCE DIVISION OF THE STATE BOARD OF ELECTIONS INTO AN AGENCY TO BE KNOWN AS THE STATE BOARD OF ETHICS, LOBBYING, AND CAMPAIGN FINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 163A.

"State Board of Ethics, Lobbying, and Campaign Finance.

"SUBCHAPTER 1. GENERAL PROVISIONS.

"Article 1.

"Board of Ethics, Lobbying, and Campaign Finance.

"§ 163A-1. State Board of Ethics, Lobbying, and Campaign Finance; appointment; term of office; vacancies; oath of office.

(a) The State Board of Ethics, Lobbying, and Campaign Finance is established (hereinafter in this Chapter referred to as "State Board"). The State Board shall consist of six registered voters whose terms of office shall begin on January 1, 2012, and shall continue for four years and until their successors are appointed and qualified. Not more than three members of the State Board shall be members of the same political party. Two members of different political parties shall be appointed by the Governor. Two members of different political parties shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. Two members of different political parties shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be as provided by G.S. 120-121.

(b) Members shall be removed from the State Board only for misfeasance, malfeasance, or nonfeasance. Members appointed by the Governor may be removed by the Governor but only for such reasons. Except as provided in G.S. 163A-2, members appointed by the General Assembly may be removed by the General Assembly.

(c) Any vacancy occurring in the State Board in an appointment made by the Governor shall be filled by the Governor, and the person so appointed shall fill the unexpired term. Any vacancy occurring in the Board in an appointment made by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be filled in accordance



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1 with G.S. 120-122 for the remainder of the unfulfilled term. Any vacancy occurring in the State
2 Board in an appointment made by the General Assembly upon the recommendation of the
3 President Pro Tempore of the Senate shall be filled in accordance with G.S. 120-122 for the
4 remainder of the unfulfilled term.

5 (d) At the first meeting held after new appointments are made, the members of the State
6 Board shall take the following oath:

7 "I, _____, do solemnly swear (or affirm) that I will support the
8 Constitution of the United States; that I will be faithful and bear true allegiance to
9 the State of North Carolina and to the constitutional powers and authorities which
10 are or may be established for the government thereof; that I will endeavor to
11 support, maintain, and defend the Constitution of said State, and that I will well and
12 truly execute the duties of the office of member of the State Board of Ethics,
13 Lobbying, and Campaign Finance according to the best of my knowledge and
14 ability, according to law, so help me, God."

15 (e) After taking the prescribed oath, the State Board shall organize by electing one of its
16 members chair, one of its members vice-chair, and another secretary.

17 (f) No person shall be eligible to serve as a member of the State Board who holds any
18 elective or appointive office under the government of the United States or of the State of North
19 Carolina or any political subdivision thereof. No person who holds any office in a political
20 party or organization, or who is a candidate for nomination or election to any office, or who is a
21 campaign manager or treasurer of any candidate in a primary or election shall be eligible to
22 serve as a member of the State Board. In addition, no person while serving on the Board shall:

23 (1) Make a reportable contribution to a candidate for a public office over which
24 the State Board would have jurisdiction or authority.

25 (2) Register as a lobbyist under Article 5 of this Chapter.

26 (3) Make written or oral statements intended for general distribution or
27 dissemination to the public at large supporting or opposing the nomination
28 or election of one or more clearly identified candidates for public office.

29 (4) Make written or oral statements intended for general distribution or
30 dissemination to the public at large supporting or opposing the passage of
31 one or more clearly identified referendum or ballot issue proposals.

32 (5) Solicit contributions for a candidate, political committee, or referendum
33 committee.

34 (g) Nothing in this section shall prohibit individual expressions of opinion, support, or
35 opposition not intended for general public distribution or participation in a political party
36 convention as a delegate.

37 **§ 163A-2. Meetings of State Board; quorum; minutes.**

38 (a) Call of Meeting. – The State Board shall meet monthly and at the call of the chair
39 whenever necessary to discharge the duties and functions imposed by law. The chair shall call a
40 meeting of the State Board upon the written application or applications of any three members
41 thereof. If there is no chair, or if the chair does not call a meeting within three days after
42 receiving a written request or requests from three members, any three members of the State
43 Board shall have power to call a meeting of the State Board, and any duties imposed or powers
44 conferred on the State Board by the General Statutes may be performed or exercised at that
45 meeting.

46 (b) Place of Meeting. – The State Board shall meet in its offices in the City of Raleigh
47 or at another place in Raleigh to be designated by the chair. Four members of the State Board
48 shall have power to require the State Board to meet in a place other than Raleigh for any
49 purpose.

50 (c) Quorum. – A majority of the members constitutes a quorum for the transaction of
51 business by the State Board. If any member of the State Board fails to attend a meeting, and by

1 reason thereof there is no quorum, the members present shall adjourn from day to day for not
2 more than three days, by the end of which time, if there is no quorum, the Governor may
3 remove any members who fail to attend for nonfeasance, and vacancies shall be filled as
4 provided by G.S. 163A-1.

5 (d) Minutes. – The State Board shall keep minutes recording all proceedings and
6 findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in
7 the office of the State Board in Raleigh.

8 **"§ 163A-3. Compensation.**

9 The members of the State Board shall be compensated for their traveling and other
10 expenses necessary and incidental to the discharge of their duties in accordance with the
11 provisions of Chapter 138 of the General Statutes.

12 **"§ 163A-4. Powers of the State Board.**

13 (a) The State Board shall have all powers and duties over the following:

14 (1) Lobbying and ethics.

15 (2) Campaign finance regulation.

16 (b) From time to time, the State Board, in conjunction with the State Board of
17 Elections, shall publish and furnish to the county and municipal boards of elections and other
18 election officials a sufficient number of indexed copies of all lobbying, ethics, campaign
19 finance, and election laws and rules and regulations then in force.

20 (c) All complaints or inquiries regarding laws enforced by the State Board directed to
21 the county and municipal boards of elections and elections officials shall be referred to the
22 State Board, and the county and municipal boards of elections and elections officials shall have
23 no authority to act on such complaints and inquiries.

24 (d) The State Board shall investigate when necessary or advisable the administration of
25 the laws subject to its enforcement in accordance with this Chapter.

26 (e) The State Board shall make recommendations to the Governor and the General
27 Assembly relative to the conduct and administration of the laws it enforces as it may deem
28 advisable.

29 (f) Notwithstanding any other provision of law, in order to obtain judicial review of any
30 decision of the State Board rendered in the performance of its duties or in the exercise of its
31 powers under this Chapter, the person seeking review must file in the Superior Court of Wake
32 County.

33 (g) The State Board may employ an executive director.

34 **"§ 163A-5: Reserved for future codification purposes.**

35 **"§ 163A-6. Power of chair.**

36 In the performance of the duties enumerated in this Chapter, the chair of the State Board,
37 upon the recommendation of staff and with the consent of at least two other members of the
38 State Board, shall have power to administer oaths, issue subpoenas, summon witnesses, and
39 compel the production of papers, books, records, and other evidence. In the absence of the chair
40 or upon the chair's refusal to act, any three members of the State Board may issue subpoenas,
41 summon witnesses, and compel the production of papers, books, records, and other evidence. In
42 the absence of the chair or upon the chair's refusal to act, any member of the State Board may
43 administer oaths.

44 **"§ 163A-7. Power of State Board to maintain order.**

45 The State Board shall possess full power and authority to maintain order and to enforce
46 obedience to its lawful commands during its sessions and shall be constituted an inferior court
47 for that purpose. If any person shall refuse to obey the lawful commands of the State Board or
48 its chair, or by disorderly conduct in its hearing or presence shall interrupt or disturb its
49 proceedings, it may, by an order in writing signed by its chair and attested by its secretary,
50 commit the person so offending to the jail of the county for a period not exceeding 30 days.
51 Such order shall be executed by any sheriff to whom the same shall be delivered, or if a sheriff

1 shall not be present, or shall refuse to act, by any other person who shall be deputed by the
2 State Board in writing, and the keeper of the jail shall receive the person so committed and
3 safely keep that person for such time as shall be mentioned in the commitment; provided, that
4 any person committed under the provisions of this section shall have the right to post a two
5 hundred dollar (\$200.00) bond with the clerk of the superior court and appeal to the superior
6 court for a trial on the merits of the commitment.

7 **"§ 163A-8. Assistance in litigation.**

8 The Attorney General shall provide the State Board with legal assistance in execution of its
9 authority under this section or, in the Attorney General's discretion, recommend that private
10 counsel be employed. If the Attorney General recommends employment of private counsel, the
11 State Board may employ counsel with the approval of the Governor.

12 **"§ 163A-9. Directors of Campaign Finance, Ethics, and Lobbying.**

13 There are created the positions of Director of Campaign Finance, Director of Ethics, and
14 Director of Lobbying, who each shall perform all duties imposed upon that director by law and
15 such duties as might be assigned to that director by the State Board. The directors are subject to
16 the State Personnel Act.

17 **"§ 163A-10. State Board an independent agency.**

18 The State Board shall be and remain an independent regulatory and quasi-judicial agency
19 and shall not be placed within any principal administrative department. The State Board shall
20 exercise its statutory powers, duties, functions, authority and shall have all powers and duties
21 conferred upon the heads of principal departments under G.S. 143B-10.

22 **"§ 163A-11. Sharing of information.**

23 (a) The State Board shall cooperate and share information with the State Board of
24 Elections, Judicial Standards Commission, and the Legislative Ethics Committee as requested
25 by those bodies.

26 (b) The State Board shall certify to the appropriate board of elections compliance with
27 Subchapter IV of this Chapter by each individual receiving a certificate of election under
28 Article 15A of Chapter 163 of the General Statutes.

29 (c) The State Board shall redact identifying information from any formal advice
30 provided under this Chapter and publish the redacted formal advice as provided in this
31 Chapter."

32 **"SUBCHAPTER II. ETHICS AND LOBBYING.**

33 **"Article 2.**

34 **"Definitions; General Provisions.**

35 **"§ 163A-200. Definitions.**

36 The following definitions apply in this Subchapter:

- 37 (1) Blind trust. – A trust established by or for the benefit of a covered person or
38 a member of the covered person's immediate family for divestiture of all
39 control and knowledge of assets. A trust qualifies as a blind trust under this
40 subdivision if the covered person or a member of the covered person's
41 immediate family has no knowledge of the holdings and sources of income
42 of the trust, the trustee of the trust is independent of and not associated with
43 or employed by the covered person or a member of the covered person's
44 immediate family and is not a member of the covered person's extended
45 family, and the trustee has sole discretion as to the management of the trust
46 assets.
- 47 (2) Board. – Any State board, council, committee, task force, authority, or
48 similar public body, however denominated, created by statute or executive
49 order, as determined and designated by the State Board, except for those
50 public bodies that have only advisory authority.
- 51 (3) Business. – Any of the following organized for profit:

- 1 a. Association.
2 b. Business trust.
3 c. Corporation.
4 d. Enterprise.
5 e. Joint venture.
6 f. Organization.
7 g. Partnership.
8 h. Proprietorship.
9 i. Vested trust.
10 j. Every other business interest, including ownership or use of land for
11 income.
12 (4) Business with which associated. – A business in which the covered person or
13 filing person, or any member of that covered person's or filing person's
14 immediate family, does any of the following:
15 a. Is an employee.
16 b. Holds a position as a director, officer, partner, proprietor, or member
17 or manager of a limited liability company, irrespective of the amount
18 of compensation received or the amount of the interest owned.
19 c. Owns a legal, equitable, or beneficial interest of ten thousand dollars
20 (\$10,000) or more in the business or five percent (5%) of the
21 business, whichever is less, other than as a trustee on a deed of trust.
22 d. Is a lobbyist registered under this Chapter.
23 For purposes of this subdivision, the term "business" shall not
24 include a widely held investment fund, including a mutual fund,
25 regulated investment company, or pension or deferred compensation
26 plan, if all of the following apply:
27 1. The covered person, filing person, or a member of the
28 covered person's or filing person's immediate family neither
29 exercises nor has the ability to exercise control over the
30 financial interests held by the fund.
31 2. The fund is publicly traded or the fund's assets are widely
32 diversified.
33 (5) Committee. – The Legislative Ethics Committee, as created in Part 3 of
34 Article 14 of Chapter 120 of the General Statutes.
35 (6) Compensation. – Any money, thing of value, or economic benefit conferred
36 on or received by any covered person or filing person in return for services
37 rendered or to be rendered by that covered person or filing person or another.
38 This term does not include campaign contributions properly received and
39 reported as required by this Chapter.
40 (7) Confidential information. – Information defined as confidential by the law.
41 (8) Constitutional officers of the State. – Officers whose offices are established
42 by Article III of the North Carolina Constitution.
43 (9) Contract. – Any agreement, including sales and conveyances of real and
44 personal property and agreements for the performance of services.
45 (10) Covered person. – A legislator, public servant, or judicial officer, as
46 identified by the State Board under G.S. 163A-208.
47 (11) Designated individual. – A legislator, legislative employee, or public
48 servant.
49 (12) Employing entity. – For public servants, any of the following bodies of State
50 government of which the public servant is an employee or a member or over
51 which the public servant exercises supervision: agencies, authorities, boards,

1 State Boards, committees, councils, departments, offices, institutions and
2 their subdivisions, and constitutional offices of the State. For legislators, it is
3 the house of which the legislator is a member. For legislative employees, it
4 is the authority that hired the individual. For judicial employees, it is the
5 Chief Justice.

6 (13) Executive action. – The preparation, research, drafting, development,
7 consideration, modification, amendment, adoption, approval, tabling,
8 postponement, defeat, or rejection of a policy, guideline, request for
9 proposal, procedure, regulation, or rule by a public servant purporting to act
10 in an official capacity. This term does not include any of the following:

11 a. Present, prior, or possible proceedings of a contested case hearing
12 under Chapter 150B of the General Statutes of a judicial nature or of
13 a quasi-judicial nature.

14 b. A public servant's communication with a person, or another person
15 on that person's behalf, with respect to any of the following:

16 1. Applying for a permit, license, determination of eligibility, or
17 certification.

18 2. Making an inquiry about or asserting a benefit, claim, right,
19 obligation, duty, entitlement, payment, or penalty.

20 3. Making an inquiry about or responding to a request for
21 proposal made under Chapter 143 of the General Statutes.

22 4. Rate making.

23 c. Internal administrative functions, including those functions exempted
24 from the definition of "rule" in G.S. 150B-2(8a).

25 d. Ministerial functions.

26 e. A public servant's communication with a person or another person on
27 that person's behalf with respect to public comments made at an open
28 meeting, or submitted as written comment, on a proposed executive
29 action in response to a request for public comment, provided the
30 identity of the person on whose behalf the comments are made is
31 disclosed as part of the public participation and no reportable
32 expenditure is made.

33 (14) Extended family. – Spouse, lineal descendant, lineal ascendant, sibling,
34 spouse's lineal descendant, spouse's lineal ascendant, spouse's sibling, and
35 the spouse of any of these individuals.

36 (15) Filing person. – An individual required to file a statement of economic
37 interest under this Subchapter.

38 (16) Financial benefit. – A direct pecuniary gain or loss to the legislator, the
39 public servant, or a person with which the legislator or public servant is
40 associated, or a direct pecuniary loss to a business competitor of the
41 legislator, the public servant, or a person with which the legislator or public
42 servant is associated.

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

47 a. Anything for which fair market value, or face value if shown, is paid
48 by the covered person or legislative employee.

49 b. Commercially available loans made on terms not more favorable
50 than generally available to the general public in the normal course of
51 business if not made for lobbying.

- 1 c. Contractual arrangements or commercial relationships or
2 arrangements made in the normal course of business if not made for
3 lobbying.
- 4 d. Academic or athletic scholarships based on the same criteria as
5 applied to the public.
- 6 e. Any campaign contribution properly reported as required under this
7 Chapter.
- 8 f. Expressions of condolence related to a death of an individual, sent
9 within a reasonable time of the death, if the expression is one of the
10 following:
- 11 1. A sympathy card, letter, or note.
- 12 2. Flowers.
- 13 3. Food or beverages for immediate consumption.
- 14 4. Donations to a religious organization, charity, the State, or a
15 political subdivision of the State, not to exceed a total of two
16 hundred dollars (\$200.00) per death per donor.
- 17 (18) Governmental unit. – A political subdivision of the State, and any other
18 entity or organization created by a political subdivision of the State.
- 19 (19) Honorarium. – Payment for services for which fees are not legally or
20 traditionally required.
- 21 (20) Immediate family. – An unemancipated child of the covered person residing
22 in the household and the covered person's spouse, if not legally separated. A
23 member of a covered person's extended family shall also be considered a
24 member of the immediate family if actually residing in the covered person's
25 household.
- 26 (21) In session. – One of the following:
- 27 a. The General Assembly is in extra session from the date the General
28 Assembly convenes until the General Assembly:
- 29 1. Adjourns sine die.
- 30 2. Recesses or adjourns for more than 10 days.
- 31 b. The General Assembly is in regular session from the date set by law
32 or resolution that the General Assembly convenes until the General
33 Assembly:
- 34 1. Adjourns sine die.
- 35 2. Recesses or adjourns for more than 10 days.
- 36 (22) Judicial employee. – The director and assistant director of the
37 Administrative Office of the Courts and any other individual, designated by
38 the Chief Justice, employed in the Judicial Department whose annual
39 compensation from the State is sixty thousand dollars (\$60,000) or more.
- 40 (23) Judicial officer. – Justice or judge of the General Court of Justice, district
41 attorney, clerk of court, or any individual elected or appointed to any of
42 these positions prior to taking office.
- 43 (24) Legislative action. – The preparation, research, drafting, introduction,
44 consideration, modification, amendment, approval, passage, enactment,
45 tabling, postponement, defeat, or rejection of a bill, resolution, amendment,
46 motion, report, nomination, appointment, or other matter, whether or not the
47 matter is identified by an official title, general title, or other specific
48 reference, by a legislator or legislative employee acting or purporting to act
49 in an official capacity. It also includes the consideration of any bill by the
50 Governor for the Governor's approval or veto under Section 22(1) of Article
51 II of the North Carolina Constitution or for the Governor to allow the bill to

1 become law under Section 22(7) of Article II of the North Carolina
2 Constitution.

3 (25) Legislative employee. – Employees and officers of the General Assembly,
4 consultants and counsel to committees of either house of the General
5 Assembly or of legislative State Boards, who are paid by State funds, and
6 students at an accredited law school while in an externship program at the
7 General Assembly approved by the Legislative Services State Board, but not
8 including legislators, members of the Council of State, nonsupervisory
9 employees of the Administrative Division's Facility Maintenance and Food
10 Services staff, or pages.

11 (26) Legislator. – A member or presiding officer of the General Assembly, or an
12 individual elected or appointed a member or presiding officer of the General
13 Assembly before taking office.

14 (27) Liaison personnel. – Any State employee, counsel employed under
15 G.S. 147-17, or officer whose principal duties, in practice or as set forth in
16 that individual's job description, include lobbying legislators or legislative
17 employees.

18 (28) Lobby or Lobbying. – Any of the following:

19 a. Influencing or attempting to influence legislative or executive action,
20 or both, through direct communication or activities with a designated
21 individual or that designated individual's immediate family.

22 b. Developing goodwill through communications or activities,
23 including the building of relationships, with a designated individual
24 or that designated individual's immediate family with the intention of
25 influencing current or future legislative or executive action, or both.

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

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

32 a. Represents another person or governmental unit but is not directly
33 employed by that person or governmental unit.

34 b. Contracts for payment for lobbying.

35 c. Is employed by a person and a significant part of that employee's
36 duties include lobbying. In no case shall an employee be considered a
37 lobbyist if in no 30-day period less than five percent (5%) of that
38 employee's actual duties include engaging in lobbying as defined in
39 subdivision (28)a. of this section or if in no 30-day period less than
40 five percent (5%) of that employee's actual duties include engaging
41 in lobbying as defined in subdivision (28)b. of this section.

42 The term "lobbyist" shall not include individuals who are specifically
43 exempted from this Subchapter under Part 5 of Article 5 of this Chapter or
44 registered as liaison personnel under Part 4 of Article 5 of this Chapter.

45 (30) Lobbyist principal and principal. – The person or governmental unit on
46 whose behalf the lobbyist lobbies and who makes payment for the lobbying.
47 In the case where a lobbyist is paid by a law firm, consulting firm, or other
48 entity retained by a person or governmental unit for lobbying, the principal
49 is the person or governmental unit whose interests the lobbyist represents in
50 lobbying. In the case of a lobbyist employed or retained by an association or
51 other organization, the lobbyist principal is the association or other

1 organization, not the individual members of the association or other
2 organization.

3 The term "lobbyist principal" shall not include those designating
4 registered liaison personnel under Part 4 of Article 5 of this Chapter.

5 (31) Nonprofit corporation or organization with which associated. – Any
6 not-for-profit corporation, organization, or association, incorporated or
7 otherwise, that is organized or operating in the State primarily for religious,
8 charitable, scientific, literary, public health and safety, or educational
9 purposes and of which the covered person, filing person, or any member of
10 the covered person's or filing person's immediate family is a director, officer,
11 governing board member, employee, lobbyist registered under this
12 Subchapter, or independent contractor. Nonprofit corporation or
13 organization with which associated shall not include any board, entity, or
14 other organization created by this State or by any political subdivision of this
15 State.

16 (32) Official action. – Any decision, including administration, approval,
17 disapproval, preparation, recommendation, the rendering of advice, and
18 investigation, made or contemplated in any proceeding, application,
19 submission, request for a ruling or other determination, contract, claim,
20 controversy, investigation, charge, or rule making.

21 (33) Participate. – To take part in, influence, or attempt to influence, including
22 acting through an agent or proxy.

23 (34) Payment. – Any money, thing of value, or economic benefit conveyed to the
24 lobbyist for lobbying, other than reimbursement of actual travel,
25 administrative expenses, or subsistence.

26 (35) Permanent designee. – An individual designated by a public servant to serve
27 and vote in the absence of the public servant on a regular basis on a board on
28 which the public servant serves.

29 (36) Person. – Any individual, firm, partnership, committee, association,
30 corporation, business, or any other organization or group of persons acting
31 together. The term "person" does not include the State, a political
32 subdivision of the State, a board, or any other entity or organization created
33 by the State or a political subdivision of the State.

34 (37) Person with which the legislator is associated. – Any of the following:

35 a. A member of the legislator's extended family.

36 b. A client of the legislator.

37 c. A business with which the legislator or a member of the legislator's
38 immediate family is associated.

39 d. A nonprofit corporation or association with which the legislator or a
40 member of the legislator's immediate family is associated.

41 e. The State, a political subdivision of the State, a board, or any other
42 entity or organization created by the State or a political subdivision
43 of the State that employs the legislator or a member of the legislator's
44 immediate family.

45 (38) Person with which the public servant is associated. – Any of the following:

46 a. A member of the public servant's extended family.

47 b. A client of the public servant.

48 c. A business with which the public servant or a member of the public
49 servant's immediate family is associated.

50 d. A nonprofit corporation or association with which the public servant
51 or a member of the public servant's immediate family is associated.

- 1 e. The State, a political subdivision of the State, a board, or any other
2 entity or organization created by the State or a political subdivision
3 of the State that employs the public servant or a member of the
4 public servant's immediate family.
- 5 (39) Political party. – Either of the two largest political parties in the State based
6 on statewide voter registration at the applicable time.
- 7 (40) Public servants. – All of the following:
- 8 a. Constitutional officers of the State and individuals elected or
9 appointed as constitutional officers of the State prior to taking office.
- 10 b. Employees of the Office of the Governor.
- 11 c. Heads of all principal State departments, as set forth in G.S. 143B-6,
12 who are appointed by the Governor.
- 13 d. The chief deputy and chief administrative assistant of each individual
14 designated under sub-subdivision a. or c. of this subdivision.
- 15 e. Confidential assistants and secretaries as defined in G.S. 126-5(c)(2)
16 to individuals designated under sub-subdivision a., c., or d. of this
17 subdivision.
- 18 f. Employees in exempt positions designated in accordance with
19 G.S. 126-5(d)(1), (2), or (2a) and confidential secretaries to these
20 individuals.
- 21 g. Any other employees or appointees in the principal State departments
22 as may be designated by the Governor to the extent that the
23 designation does not conflict with the State Personnel Act.
- 24 h. Judicial employees.
- 25 i. All voting members of boards, including ex officio members,
26 permanent designees of any voting member, and members serving by
27 executive, legislative, or judicial branch appointment.
- 28 j. For The University of North Carolina, the voting members of the
29 Board of Governors of The University of North Carolina, the
30 president, the vice presidents, the chancellors, the vice-chancellors,
31 and voting members of the boards of trustees of the constituent
32 institutions.
- 33 k. For the North Carolina Community College System, the voting
34 members of the State Board of Community Colleges, the president
35 and the chief financial officer of the North Carolina Community
36 College System, the president, chief financial officer, and chief
37 administrative officer of each community college, and voting
38 members of the boards of trustees of each community college.
- 39 l. Members of the State Board, the executive director, and the assistant
40 executive directors of the State Board.
- 41 m. Individuals under contract with the State working in or against a
42 position included under this subdivision.
- 43 n. The director of the Office of State Personnel.
- 44 o. The State Controller.
- 45 p. The chief information officer, deputy chief information officers,
46 chief financial officers, and general counsel of the Office of
47 Information Technology Services.
- 48 q. The director of the North Carolina Museum of Art.
- 49 r. The executive director of the Agency for Public
50 Telecommunications.
- 51 s. The Commissioner of Motor Vehicles.

- 1 t. The Commissioner of Banks and the Chief Deputy Commissioner of
2 Banks.
- 3 u. The executive director of the North Carolina Housing Finance
4 Agency.
- 5 v. The executive director, chief financial officer, and chief operating
6 officer of the North Carolina Turnpike Authority.
- 7 (41) Reportable expenditure. – Any of the following that directly or indirectly is
8 made to, at the request of, for the benefit of, or on the behalf of a designated
9 individual or that individual's immediate family member:
- 10 a. Any advance, contribution, conveyance, deposit, distribution,
11 payment, gift, retainer, fee, salary, honorarium, reimbursement, loan,
12 pledge, or thing of value greater than ten dollars (\$10.00) per
13 designated individual per single calendar day.
- 14 b. A contract, agreement, promise, or other obligation, whether or not
15 legally enforceable.
- 16 (42) State agency. – An agency in the executive branch of the government of this
17 State, including the Governor's Office, a board, a department, a division, and
18 any other unit of government in the executive branch.
- 19 (43) State Board. – The State Board of Ethics, Lobbying, and Campaign Finance
20 as established by this Chapter.
- 21 (44) Solicitation of others. – A solicitation of members of the public to
22 communicate directly with or contact one or more designated individuals to
23 influence or attempt to influence legislative or executive action to further the
24 solicitor's position on that legislative or executive action, when that request
25 is made by any of the following methods:
- 26 a. A broadcast, cable, or satellite transmission.
- 27 b. An e-mail communication or a Web site posting.
- 28 c. A communication delivered by print media as defined in
29 G.S. 163-278.38Z.
- 30 d. A letter or other written communication delivered by mail or by
31 comparable delivery service.
- 32 e. Telephone.
- 33 f. A communication at a conference, meeting, or similar event.
- 34 The term "solicitation of others" does not include communications made
35 by a person or by the person's agent to that person's stockholders,
36 employees, board members, officers, members, subscribers, or other
37 recipients who have affirmatively assented to receive the person's regular
38 publications or notices.
- 39 (45) Vested trust. – A trust, annuity, or other funds held by a trustee or other third
40 party for the benefit of the covered person or a member of the covered
41 person's immediate family, except a blind trust. A vested trust shall not
42 include a widely held investment fund, including a mutual fund, regulated
43 investment company, or pension or deferred compensation plan, if:
- 44 a. The covered person or a member of the covered person's immediate
45 family neither exercises nor has the ability to exercise control over
46 the financial interests held by the fund; and
- 47 b. The fund is publicly traded or the fund's assets are widely diversified.

48 **"§ 163A-201. Application to the Lieutenant Governor.**

49 For purposes of this Subchapter, the Lieutenant Governor shall be considered a legislator
50 when carrying out the Lieutenant Governor's duties under Section 13 of Article II of the North
51 Carolina Constitution and a public servant for all other purposes.

1 **"§ 163A-202. Application to candidates to certain offices.**

2 For purposes of this Subchapter, the term "legislator" and the term "public servant" shall
3 include an individual having filed a notice of candidacy or otherwise qualified to have that
4 individual's name on the ballot for such office under this Chapter.

5 **"§ 163A-203. Education programs.**

6 (a) The State Board shall develop and implement an ethics and lobbying education and
7 awareness program designed to instill in all covered persons and legislative employees a keen
8 and continuing awareness of their ethical obligations and a sensitivity to situations that might
9 result in real or potential conflicts of interest.

10 (b) The State Board shall offer basic ethics and lobbying education and awareness
11 presentations to all public servants upon their election, appointment, or employment and shall
12 offer periodic refresher presentations as the State Board deems appropriate. Every public
13 servant shall participate in an ethics and lobbying presentation approved by the State Board
14 within six months of the public servant's election, reelection, appointment, or employment and
15 shall attend refresher ethics education presentations at least every two years thereafter in a
16 manner as the State Board deems appropriate. This subsection shall not apply to judicial
17 officers.

18 (c) A public servant appointed to a board determined and designated as nonadvisory
19 under G.S. 163A-208(a)(3) shall attend an ethics and lobbying presentation approved by the
20 Board within six months of notification of the designation by the State Board and at least every
21 two years thereafter in a manner as the State Board deems appropriate.

22 (d) The State Board, jointly with the Legislative Ethics Committee, shall make basic
23 ethics and lobbying education and awareness presentations to all legislators and legislative
24 employees upon their election, reelection, appointment, or employment and shall offer periodic
25 refresher presentations as the State Board and the Committee deem appropriate. Every
26 legislator shall participate in an ethics and lobbying presentation approved by the State Board
27 and Committee within two months of either the convening of the General Assembly to which
28 the legislator is elected or within two months of the legislator's appointment, whichever is later.
29 Every legislative employee shall participate in an ethics and lobbying presentation approved by
30 the State Board and Committee within three months of employment and shall attend refresher
31 ethics education presentations at least every two years thereafter in a manner as the State Board
32 and Committee deem appropriate.

33 (e) The State Board shall develop and implement a lobbying education and awareness
34 program designed to instill in lobbyists and lobbyists' principals a keen and continuing
35 awareness of their obligations and sensitivity to situations that might result in real or potential
36 violation of this Subchapter or other related laws. The State Board shall make lobbying
37 education and awareness programs available to lobbyists and lobbyists' principals.

38 (f) Upon request, the State Board shall assist each State agency in developing in-house
39 ethics and lobbying education programs and procedures necessary or desirable to meet the State
40 agency's particular needs for ethics education, conflict identification, and conflict avoidance.

41 (g) Each State agency head shall designate an ethics liaison who shall maintain active
42 communication with the State Board on all State agency ethics and lobbying issues. The ethics
43 liaison shall attend ethics and lobbying education and awareness programs as provided under
44 this section. The ethics liaison shall continuously assess and advise the State Board of any
45 issues or conduct which might reasonably be expected to result in a conflict of interest and seek
46 advice and rulings from the State Board as to their appropriate resolution.

47 (h) The State Board shall publish a newsletter containing summaries of the State
48 Board's opinions, policies, procedures, and interpretive bulletins with respect to ethics and
49 lobbying as issued from time to time. The newsletter shall be distributed to all covered persons
50 and legislative employees. Publication under this subsection may be done electronically.

1 (i) The State Board shall assemble and maintain a collection of relevant State laws,
2 rules, and regulations and set forth ethical standards applicable to covered persons and lobbying
3 laws and regulations. This collection shall be made available electronically as resource
4 material.

5 **"§ 163A-204. Requests for advice.**

6 (a) At the written request of any public servant or legislative employee, any individual
7 who is responsible for the supervision or appointment of a public servant or legislative
8 employee, legal counsel for any public servant or legislative employee, any ethics liaison under
9 G.S. 163A-203, or any member of the State Board, the State Board shall render advice on
10 specific questions involving the meaning and application of Articles 3 and 4 of this Chapter and
11 the public servant's or legislative employee's compliance therewith. This subsection shall apply
12 to judicial officers only for advice related to Article 3 of this Chapter.

13 (b) At the request of a legislator, the State Board shall render recommended advice on
14 specific questions involving the meaning and application of this Subchapter and Part 1 of
15 Article 14 of Chapter 120 of the General Statutes and the legislator's compliance therewith.
16 Any recommended formal advisory opinion issued to a legislator under this subsection shall
17 immediately be delivered to the chairs of the Committee, together with a copy of the request.
18 Except for the Lieutenant Governor, the immunity granted under this section shall not apply
19 after the time the Committee modifies or overturns the advisory opinion of the State Board in
20 accordance with G.S. 120-104.

21 (c) At the written request of any person, State agency, or governmental unit affected by
22 Article 5 of this Subchapter, the State Board shall render advice on specific questions involving
23 the meaning and application of Article 5 of this Subchapter and that person's, State agency's, or
24 governmental unit's compliance therewith.

25 (d) On its own motion, the State Board may render advisory opinions on specific
26 questions involving the meaning and application of this Subchapter.

27 (e) All written requests for advice and advice rendered in response to those requests
28 shall relate prospectively to real or reasonably anticipated fact settings or circumstances.

29 (f) A request for a formal advisory opinion under subsections (a), (b), and (c) of this
30 section shall be in writing, electronic or otherwise. The State Board shall issue formal advisory
31 opinions having prospective application only. Any individual, person, or governmental unit
32 who relies upon the advice provided on a specific matter addressed by the requested formal
33 advisory opinion shall be immune from all of the following:

34 (1) Investigation by the State Board, except for an inquiry under
35 G.S. 163A-206(b)(3).

36 (2) Any adverse action by the employing entity.

37 (g) At the request of the State Auditor, the State Board shall render advisory opinions
38 on specific questions involving the meaning and application of this Subchapter, Article 14 of
39 Chapter 120 of the General Statutes, and an affected person's compliance therewith. The
40 request shall be in writing, electronic or otherwise, and relate to real fact settings and
41 circumstances. Except when the question involves a question governed by subsection (b) of this
42 section, the State Board shall issue an advisory opinion under this subsection within 60 days of
43 the receipt of all information deemed necessary by the State Board to render an opinion. If the
44 question involves a question governed by subsection (b) of this section, the State Board shall
45 comply with the provisions of that section prior to responding to the State Auditor by
46 delivering the recommended advisory opinion to the Committee within 60 days of the receipt of
47 all information deemed necessary by the State Board to render an opinion. The Committee shall
48 act on the opinion within 30 days of receipt, and the Committee shall deliver the opinion to the
49 State Auditor. If the Committee fails to act on a recommended advisory opinion under this
50 subsection with 30 days of receipt, the State Board shall deliver its recommended advisory
51 opinion to the State Auditor. Notwithstanding subsection (k) of this section, the State Auditor

1 may release only those portions of the advisory opinion necessary to comply with the
2 requirements of G.S. 147-64.6(c)(1).

3 (h) Staff to the State Board may issue advice, but not formal or recommended formal
4 advisory opinions, under procedures adopted by the State Board.

5 (i) The State Board shall publish its formal advisory opinions within 30 days of
6 issuance. These formal advisory opinions shall be edited for publication purposes as necessary
7 to protect the identities of the individuals requesting formal advisory opinions. When the State
8 Board issues a recommended formal advisory opinion to a legislator under subsection (b) of
9 this section, the State Board shall publish only the edited formal advisory opinion of the
10 Committee within 30 days of receipt of the edited opinion from the Committee.

11 (j) Except as provided under subsections (g), (i), and (k) of this section, a request for
12 advice, any advice provided by State Board staff, any formal or recommended formal advisory
13 opinions, any supporting documents submitted or caused to be submitted to the State Board or
14 State Board staff, and any documents prepared or collected by the State Board or State Board
15 staff in connection with a request for advice are confidential. The identity of the individual
16 making the request for advice, the existence of the request, and any information related to the
17 request may not be revealed without the consent of the requestor. An individual who requests
18 advice or receives advice, including a formal or recommended formal advisory opinion, may
19 authorize the release of the request, the advice, or any supporting documents to any other
20 person, the State, or any governmental unit.

21 For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice,
22 any advice, and any documents related to requests for advice are not "public records" as
23 defined in G.S. 132-1.

24 (k) Staff to the State Board may share with staff to the Committee all information and
25 documents related to requests for advice made by legislators under this section. The
26 information and documents in the possession of staff to the Committee are confidential and are
27 not public records.

28 (l) Requests for advice may be withdrawn by the requestor at any time prior to the
29 issuance of the advice.

30 **"§ 163A-209 through §163A-249: Reserved for future codification purposes.**

31 **"§ 163A-250. Enforcement.**

32 In addition to any other remedy, penalty, or crime in this Subchapter:

33 (1) Violation of Articles 3 and 4 of this Chapter by any covered person or
34 legislative employee is grounds for disciplinary action. Except as
35 specifically provided in this Chapter and for perjury under G.S. 163A-206
36 and G.S. 138A-24, no criminal penalty shall attach for any violation of
37 Articles 3 and 4 of this Chapter.

38 (2) The willful failure of any public servant serving on a board to comply with
39 Articles 3 and 4 of this Chapter is misfeasance, malfeasance, or nonfeasance.
40 In the event of misfeasance, malfeasance, or nonfeasance, the offending
41 public servant serving on a board is subject to removal from the board of
42 which the public servant is a member. For appointees of the Governor and
43 members of the Council of State, the appointing authority may remove the
44 offending public servant. For appointees of the Speaker of the House of
45 Representatives, the Speaker of the House of Representatives may remove
46 the offending public servant. For appointees of the General Assembly made
47 upon the recommendation of the Speaker of the House of Representatives,
48 the Governor at the recommendation of the Speaker of the House of
49 Representatives may remove the offending public servant. For appointees of
50 the President Pro Tempore of the Senate, the President Pro Tempore of the
51 Senate may remove the offending public servant. For appointees of the

1 General Assembly made upon the recommendation of the President Pro
2 Tempore of the Senate, the Governor at the recommendation of the President
3 Pro Tempore of the Senate may remove the offending public servant. For
4 public servants elected to a board by either the Senate or the House of
5 Representatives, the electing house of the General Assembly shall exercise
6 the discretion of whether to remove the offending public servant. For all
7 other appointees, the State Board shall exercise the discretion of whether to
8 remove the offending public servant.

9 (3) The willful failure of any public servant serving as a State employee to
10 comply with Articles 3 and 4 of this Chapter is a violation of a written work
11 order, thereby permitting disciplinary action as allowed by the law, including
12 termination from employment. For employees of State departments headed
13 by a member of the Council of State, the appropriate member of the Council
14 of State shall make all final decisions on the manner in which the offending
15 public servant shall be disciplined. For public servants who are judicial
16 employees, the Chief Justice shall make all final decisions on the matter in
17 which the offending judicial employee shall be disciplined. For legislative
18 employees, the Legislative Services Commission shall make or refer to the
19 hiring authority all final decisions on the matter in which the offending
20 legislative employee shall be disciplined. For public servants appointed or
21 elected for The University of North Carolina or the North Carolina
22 Community College System, the appointing or electing authority shall make
23 all final decisions on the matter in which the offending public servant shall
24 be disciplined. For any other public servant serving as a State employee, the
25 Governor shall make all final decisions on the manner in which the
26 offending public servant shall be disciplined.

27 (4) The willful failure of any constitutional officer of the State to comply with
28 Articles 3 and 4 of this Subchapter is malfeasance in office for purposes of
29 G.S. 123-5.

30 (5) The willful failure of a legislator, other than the Lieutenant Governor, to
31 comply with Articles 3 and 4 of this Chapter is grounds for sanctions under
32 G.S. 120-103.1.

33 (6) The State Board may seek to enjoin violations of G.S. 138A-34.

34 (7) Whoever willfully violates any provision of Part 1 or 2 of Article 5 of this
35 Chapter shall be guilty of a Class 1 misdemeanor, except as provided in that
36 Article. In addition, no lobbyist who is convicted of a violation of the
37 provisions of those Parts shall in any way act as a lobbyist for a period of
38 two years from the date of conviction.

39 (8) In addition to the criminal penalties set forth in this section, the State Board
40 may levy civil fines for a violation of any provision of Part 1, 3, or 6 of
41 Article 5 of this Chapter up to five thousand dollars (\$5,000) per violation.

42 (9) Complaints of violations of this Subchapter involving the State Board or any
43 member or employee of the State Board shall be referred to the Attorney
44 General for investigation. The Attorney General shall, upon receipt of a
45 complaint, make an appropriate investigation thereof, and the Attorney
46 General shall forward a copy of the investigation to the district attorney of
47 the prosecutorial district as defined in G.S. 7A-60 of which Wake County is
48 a part, who shall prosecute any person or governmental unit who violates
49 any provision of this Subchapter.

1 **SECTION 13.** Article 7 of Chapter 120C of the General Statutes is recodified as
2 Part 5 of Article 5 of Chapter 163A of the General Statutes. The Revisor of Statutes shall
3 change the term "this Chapter" to "this Article" wherever it appears in G.S. 120C-700, as
4 recodified by this section.

5 **SECTION 14.** Article 8 of Chapter 120C of the General Statutes is recodified as
6 Part 6 of Article 5 of Chapter 163A of the General Statutes. The Revisor of Statutes shall
7 change the term "this Chapter" to "this Article" wherever it appears in G.S. 120C-800, as
8 recodified by this section.

9 **SECTION 15.** Article 22A of Chapter 163 of the General Statutes is recodified as
10 Article 45 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the
11 term "this Chapter" to "this Subchapter" wherever it appears in Article 22A of Chapter 163 of
12 the General Statutes. The Revisor of Statutes shall change the term "Article 22 of this Chapter"
13 to "Article 22 of Chapter 163 of the General Statutes" wherever it appears in G.S. 163-278.19,
14 as recodified by this section. The Revisor of Statutes shall change the term "Article 22D of this
15 Chapter" to "Article 47 of this Chapter" wherever it appears in G.S. 163-278.13, as recodified
16 by this section. The Revisor of Statutes shall change the term "Article 22J of this Chapter" to
17 "Article 50 of this Chapter" wherever it appears in G.S. 163-278.13, as recodified by this
18 section. The Revisor of Statutes shall change the term "Article 22M of Chapter 163 of the
19 General Statutes" to "Article 51 of this Chapter" wherever it appears in G.S. 163-278.16B, as
20 recodified by this section.

21 **SECTION 16.** Article 22B of Chapter 163 of the General Statutes is recodified as
22 Article 46 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the
23 term "Article 22A of this Chapter" to "Article 45 of this Chapter" wherever it appears in Article
24 22B of the General Statutes, as recodified by this section.

25 **SECTION 17.** Article 22D of Chapter 163 of the General Statutes is recodified as
26 Article 47 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the
27 term "Article 22A of this Chapter" to "Article 45 of this Chapter" wherever it appears in
28 G.S. 163-278.64, as recodified by this section. The Revisor of Statutes shall change the term
29 "Article 25 of this Chapter" to "Article 25 of Chapter 163 of the General Statutes" wherever it
30 appears in G.S. 163-278.64, as recodified by this section.

31 **SECTION 18.** Article 22G of Chapter 163 of the General Statutes is recodified as
32 Article 48 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the
33 term "Article 22A of this Chapter" to "Article 45 of this Chapter" wherever it appears in Article
34 22G of Chapter 163 of the General Statutes, as recodified by this section.

35 **SECTION 19.** Article 22H of Chapter 163 of the General Statutes is recodified as
36 Article 49 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the
37 term "Article 22A of this Chapter" to "Article 45 of this Chapter" wherever it appears in Article
38 22H of Chapter 163 of the General Statutes, as recodified by this section.

39 **SECTION 20.** Article 22J of Chapter 163 of the General Statutes is recodified as
40 Article 50 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the
41 term "Article 22A of this Chapter" to "Article 45 of this Chapter" wherever it appears in
42 G.S. 163-278.98, as recodified by this section.

43 **SECTION 21.** Article 22M of Chapter 163 of the General Statutes is recodified as
44 Article 51 of Chapter 163A of the General Statutes.

45 **SECTION 22.** G.S. 150B-1(c)(16) is repealed.

46 **SECTION 23.** The Revisor of Statutes shall change the terms "Chapter 120C of the
47 General Statutes" to "this Subchapter" wherever it appears in Chapter 138A of the General
48 Statutes.

49 **SECTION 24.** The Revisor of Statutes shall change the terms "Chapter 138A of
50 the General Statutes" to "this Subchapter" wherever it appears in Chapter 120C of the General
51 Statutes.

1 **SECTION 25.** The Revisor of Statutes shall change the cite "G.S. 138A-3" to
2 "G.S. 163A-200" wherever it appears in the General Statutes.

3 **SECTION 26.** The Revisor of Statutes shall change the terms "Commission,"
4 "Secretary of State," and "Secretary" to "State Board" wherever it appears in Chapter 163A of
5 the General Statutes, as enacted by this act.

6 **SECTION 27.** The Revisor of Statutes, in recodifying any statute or Article as
7 instructed in this act, shall also renumber and change internal cross-references in those statutes
8 and Articles accordingly.

9 **SECTION 28.** The following statutes are amended by deleting "State Ethics
10 Commission" and substituting "State Board of Ethics, Lobbying, and Campaign Finance":

- 11 (1) G.S. 115D-2.1.
- 12 (2) G.S. 116-7.
- 13 (3) G.S. 120-102.
- 14 (4) G.S. 120-103.1.
- 15 (5) G.S. 120-104.
- 16 (6) G.S. 120C-100(a).
- 17 (7) G.S. 143-47.7.
- 18 (8) G.S. 143B-350.
- 19 (9) G.S. 143B-417.
- 20 (10) G.S. 147-64.6.

21 **SECTION 29.** G.S. 105-159.1 reads as rewritten:

22 "(b) Amounts designated under subsection (a) shall be credited to the North Carolina
23 Political Parties Financing Fund on a quarterly basis. Interest earned by the Fund shall be
24 credited to the Fund and shall be allocated among the political parties on the same basis as the
25 principal of the Fund. The State Board of ~~Elections, Ethics, Lobbying, and Campaign Finance~~
26 which administers the Fund, shall make a quarterly report to each State party chairman stating
27 the amount of funds allocated to each party for that quarter, the cumulative total of funds
28 allocated to each party to date for the year, and an estimate of the probable total amount to be
29 collected and allocated to each party for that calendar year."

30 **SECTION 30.** G.S. 105-159.2(b) reads as rewritten:

31 "(b) Returns. – Individual income tax returns must give an individual an opportunity to
32 agree to the allocation of three dollars (\$3.00) of the individual's tax liability to the North
33 Carolina Public Campaign Fund. The Department must make it clear to the taxpayer that the
34 dollars will support a nonpartisan court system, that the dollars will go to the Fund if the
35 taxpayer marks an agreement, and that allocation of the dollars neither increases nor decreases
36 the individual's tax liability. The following statement must be used to meet this requirement:
37 "Mark 'Yes' if you want to designate \$3 of taxes to this special Fund for voter education
38 materials and for candidates who accept spending limits. Marking 'Yes' does not change your
39 tax or refund." The Department must consult with the State Board of ~~Elections, Ethics,~~
40 Lobbying, and Campaign Finance to ensure that the information given to taxpayers complies
41 with the intent of this section.

42 The Department must inform the entities it approves to reproduce the return that they must
43 comply with the requirements of this section and that a return may not reflect an agreement or
44 objection unless the individual completing the return decided to agree or object after being
45 presented with the statement required by subsection (b) of this section and, as available
46 background information or instructions, the information required by subsection (c) of this
47 section. No software package used in preparing North Carolina income tax returns may default
48 to an agreement or objection. A paid preparer of tax returns may not mark an agreement or
49 objection for a taxpayer without the taxpayer's consent."

50 **SECTION 31.** G.S. 120-70.141 reads as rewritten:

51 "**§ 120-70.141. Purpose and powers of Committee.**

1 (a) The Joint Legislative Elections Oversight Committee shall examine, on a continuing
2 basis, election administration and campaign finance regulation in North Carolina, in order to
3 make ongoing recommendations to the General Assembly on ways to improve elections
4 administration and campaign finance regulation. In this examination, the Committee shall do
5 the following:

6 (1) Study the budgets, programs, and policies of the State Board of Elections
7 and the county boards of elections to determine ways in which the General
8 Assembly may improve election ~~administration and campaign finance~~
9 ~~regulation-administration.~~

10 (1a) Study the budgets, programs, and policies of the State Board of Ethics,
11 Lobbying, and Campaign Finance and the county boards of elections to
12 determine ways in which the General Assembly may improve campaign
13 finance regulation.

14 (2) Examine election statutes and court decisions to determine any legislative
15 changes that are needed to improve election administration and campaign
16 finance regulation.

17 (3) Study other states' initiatives in election administration and campaign
18 finance regulation to provide an ongoing commentary to the General
19 Assembly on these initiatives and to make recommendations for
20 implementing similar initiatives in North Carolina; and

21 (4) Study any other election matters that the Committee considers necessary to
22 fulfill its mandate.

23 (b) The Committee may make interim reports to the General Assembly on matters for
24 which it may report to a regular session of the General Assembly. A report to the General
25 Assembly may contain any legislation needed to implement a recommendation of the
26 Committee."

27 **SECTION 32.** G.S. 143B-417(1) is amended by adding a new sub-subdivision to
28 read:

29 "ee. The State Board of Ethics, Lobbying, and Campaign Finance."

30 **SECTION 33.** G.S. 147-64.6B(b) reads as rewritten:

31 "(b) The Auditor shall investigate reports of allegations of improper governmental
32 activities of State agencies and State employees within the scope of authority set forth in
33 G.S. 147-64.6, including misappropriation, mismanagement, or waste of State resources, fraud,
34 violations of State or federal law, rule or regulation by State agencies or State employees
35 administering State or federal programs, and substantial and specific danger to the public health
36 and safety. When the allegation involves issues of substantial and specific danger to the public
37 health and safety, the Auditor shall notify the appropriate State agency immediately. When the
38 Auditor believes that an allegation of improper governmental activity is outside the authority
39 set forth in G.S. 147-64.6, the Auditor shall refer the allegation to the appropriate State agency
40 responsible for the enforcement or administration of the matter for investigation. When the
41 Auditor believes that an allegation of improper governmental activity involves matters set forth
42 in subdivisions (1), (2), or (3) of this subsection, those matters shall be referred as follows:

43 (1) Allegations of criminal misconduct to either the State Bureau of
44 Investigation or the District Attorney for the county where the alleged
45 misconduct occurred.

46 (2) Allegations of violations of ~~Chapter 138A, Chapter 120C, Chapter 163A~~ and
47 Article 14 of Chapter 120 of the General Statutes to the State ~~Ethics~~
48 ~~Commission-Board of Ethics, Lobbying, and Campaign Finance.~~

49 (3) Allegations of violations of Chapter 163 of the General Statutes to the State
50 Board of Elections."

51 **SECTION 34.** G.S. 150B-1(d)(16) is repealed.

1 **SECTION 35.** G.S. 150B-38(a)(6) reads as rewritten:

2 "(6) The State Board of ~~Elections~~ Ethics, Lobbying, and Campaign Finance in
3 the administration of any investigation or audit under the provisions of
4 Article 22A of Chapter 163 of the General Statutes."

5 **SECTION 36.** Any previous assignment of duties of a quasi-legislative or
6 quasi-judicial nature by the Governor or General Assembly to the agencies or functions
7 transferred by this act shall have continued validity with the transfer under this act. Except as
8 otherwise specifically provided in this act, each enumerated commission, board, or other
9 function of State government transferred to the State Board created in this act is a continuation
10 of the former entity for purposes of succession to all the rights, powers, duties, and obligations
11 of the former. Where the former entities are referred to by law, contract, or other document in
12 their former name, the State Board created in this act is charged with exercising the functions
13 of the former named entity.

14 **SECTION 37.** No action or proceeding pending on January 1, 2012, brought by or
15 against the State Board of Elections regarding campaign finance, State Ethics Commission, or
16 the Secretary of State regarding the lobbyist registration and lobbying enforcement of the
17 Secretary of State shall be affected by any provision of this act, but the same may be prosecuted
18 or defended in the name of the State Board created in this act. In these actions and proceedings,
19 the State Board or its Executive Director, as appropriate, shall be substituted as a party upon
20 proper application to the courts or other administrative or quasi-judicial bodies.

21 Any business or other matter undertaken or commanded by any State program or
22 office or contract transferred by this act to the State Board pertaining to or connected with the
23 functions, powers, obligations, and duties set forth herein, which is pending on January 1, 2012,
24 may be conducted and completed by the State Board in the same manner and under the same
25 terms and conditions and with the same effect as if conducted and completed by the original
26 program, office, or commissioners or directors thereof.

27 **SECTION 38.** The consolidation provided for under this act shall not affect any
28 ongoing investigation or audit. Any ongoing hearing or other proceeding before the State
29 Ethics Commission or State Board of Elections related to campaign finance shall be transferred
30 to the State Board, as created by this act. Prosecutions for offenses or violations committed
31 before January 1, 2012, are not abated or affected by this act, and the statutes that would be
32 applicable but for this act remain applicable to those prosecutions.

33 **SECTION 39.** Any rule, policy, procedure, or other guidance document not subject
34 to Chapter 150B of the General Statutes adopted by the State Ethics Commission, Secretary of
35 State related to lobbying, or State Board of Elections related to campaign finance shall remain
36 in effect until the State Board amends or repeals that rule, policy, procedure, or other guidance
37 document. The list of covered boards adopted by the State Ethics Commission under
38 G.S. 138A-10(a)(3) shall continue in effect until amended or repealed by the State Board.

39 **SECTION 40.** Any evaluation of a statement of economic interest issued by the
40 State Ethics Commission pursuant to Article 3 of Chapter 138A of the General Statutes in 2011
41 shall remain in effect amended or repealed by the State Board.

42 **SECTION 41.** The authority, powers, duties and functions, records, personnel,
43 property, and unexpended balances of appropriations, allocations, or other funds, including the
44 functions of budgeting and purchasing, of the State Ethics Commission are transferred to the
45 State Board, as created in Section 1 of this act. The authority, powers, duties and functions,
46 records, personnel, property, and unexpended balances of appropriations, allocations, or other
47 funds, including the functions of budgeting and purchasing, of the State Board of Elections
48 related to campaign finance are transferred to the State Board as created in Section 1 of this act.
49 The authority, powers, duties and functions, records, personnel, property, and unexpended
50 balances of appropriations, allocations, or other funds, including the functions of budgeting and
51 purchasing, of the lobbying registration and lobbying enforcement functions of the Secretary of

1 State are transferred to the State Board, as created in Section 1 of this act. The Director of the
2 Budget shall resolve any disputes arising out of this transfer.

3 **SECTION 42.** Within six months of its initial appointment, the State Board shall
4 adopt rules consistent with this act regarding its investigations and hearings. In the absence of
5 such rules, the State Board shall conduct its investigations and hearings to ensure fairness to the
6 parties and enforcement of the law consistent with this act.

7 **SECTION 43.** Until such time as the State Board appoints an Executive Director,
8 the director under G.S. 163A-9 with the most State service shall be acting Executive Director.

9 **SECTION 44.** The State Ethics Commission is transferred to the State Board of
10 Ethics, Lobbying, and Campaign Finance, and the transfer shall have all the elements of a Type
11 I transfer under G.S. 143A-6.

12 **SECTION 45.** The campaign finance functions of the State Board of Elections,
13 including the staff assigned to those functions on June 1, 2011, are transferred to the State
14 Board of Ethics, Lobbying, and Campaign Finance, and the transfers shall have all the elements
15 of a Type I transfer under G.S. 143A-6. Specifically, the following positions shall be
16 transferred: Deputy Director of Campaign Finance (Position 60088200), Administrative
17 Assistant II (Position 60088206), Administrative Assistant II (Position 60088204), Elections
18 Specialist II (Position 60088201), Governmental Accounts Auditor (Position 60088252),
19 Governmental Accounts Auditor (Position 65005659), Governmental Accounts Auditor II
20 (Position 65005661), Governmental Accounts Auditor II (Position 65005663), Administrative
21 Officer III (Position 60088209), Elections Specialist III (Position 60088257), Elections
22 Specialist III (Position 60088256), and Program Auditor (Position 60088205).

23 **SECTION 46.** The lobbying registration and lobbying enforcement functions of
24 the Secretary of State are transferred to the State Board of Ethics, Lobbying, and Campaign
25 Finance, and the transfers shall have all the elements of a Type I transfer under G.S. 143A-46.
26 Specifically, the following positions shall be transferred: Lobbying Compliance (Position
27 600008800) and Lobbying Investigator (Position 60008806).

28 **SECTION 47.** The State Board of Ethics, Lobbying, and Campaign Finance, as
29 constituted and authorized by this act shall be appointed begin work on or before October 1,
30 2011. Any actions taken by the State Board prior to January 1, 2012, shall not become
31 effective until January 1, 2012 or a later date specified by the State Board, and must be ratified
32 and affirmed by the State Board after January 1, 2012. From appointment until January 1,
33 2012, the person to be the Executive Director, as designated by Section 43 of this act, shall
34 serve as staff to the State Board in addition to all other duties held in that person's current
35 position.

36 **SECTION 47.5.** In making appointments to the State Board of Ethics, Lobbying,
37 and Campaign Finance, the Speaker of the House of Representatives and the Senate President
38 Pro Tempore shall select from a list of three names submitted by the minority leader in making
39 one appointment to the State Board. In making appointments to the State Board, the Governor
40 shall select from a list of three names submitted by the executive committee of the opposite
41 political party in making one appointment to the State Board.

42 **SECTION 48.** The State Board shall report to the Joint Legislative Elections
43 Oversight Committee and the Legislative Ethics Committee on or before April 1, 2012, and
44 again on or before March 1, 2013, as to recommendations for statutory changes necessary to
45 further implement this consolidation.

46 **SECTION 49.** Sections 47 and 47.5 of this act become effective when it becomes
47 law. The remainder of this act becomes effective January 1, 2012.