

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 1055
PROPOSED COMMITTEE SUBSTITUTE H1055-PCS30511-TY-10

Short Title: State Ethics Comm. Revisions.

(Public)

Sponsors:

Referred to:

May 10, 2016

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS REVISIONS TO THE STATE GOVERNMENT ETHICS ACT
3 AND THE LOBBYING LAWS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** G.S. 138A-3(15) reads as rewritten:

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

10 ...

11 g. Campaign contributions properly reported under federal law.

12 h. Anything of value given and received between extended family
13 members."

14 **SECTION 1.(b)** G.S. 138A-32(e)(7) reads as rewritten:

15 "(e) Subsections (c), (d), and (d1) of this section shall not apply to any of the following:

16 ...

17 (7) Gifts from ~~the covered person's or legislative employee's extended family~~, or a
18 member of the same household of the covered person or legislative employee."

19 **SECTION 1.(c)** This section becomes effective December 1, 2016, and applies to
20 offenses committed on or after that date.

21 **SECTION 2.** G.S. 138A-10(a) reads as rewritten:

22 **"§ 138A-10. Powers and duties.**

23 (a) In addition to other powers and duties specified in this Chapter, the Commission shall:

24 ...

25 (5) Conduct inquiries ~~of~~ and investigations on alleged violations against judicial
26 officers, legislators, and legislative employees in accordance with
27 G.S. 138A-12.

28 (6) Conduct ~~inquiries into~~ inquiries, investigations, and hearings on alleged
29 violations against public servants in accordance with G.S. 138A-12.

30"

31 **SECTION 3.** G.S. 138A-14(i) reads as rewritten:

32 "(i) This section shall not apply to judicial ~~officers.~~ officers, unless otherwise serving as a
33 public servant."

34 **SECTION 4.** G.S. 138A-15(h) reads as rewritten:

35 "(h) ~~As soon as reasonably practicable after~~ Prior to the designation, hiring, or promotion of
36 their chief deputies, assistants, or other public servants under their supervision or control, or upon



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1 learning of the appointment or election of other public servants to a board covered under this
2 Chapter, all agency heads and board chairs shall (i) notify the Commission in writing of such
3 designation, hiring, promotion, appointment, or election and (ii) provide these public servants with
4 copies of this Chapter and all applicable financial disclosure forms, if these materials and forms
5 have not been previously provided to these public servants in connection with their designation,
6 hiring, promotion, appointment, or election. In order to avoid duplication of effort, agency heads
7 and board chairs shall coordinate this effort with the Commission's staff."

8 **SECTION 5.** G.S. 138A-22(c) reads as rewritten:

9 "(c) Notwithstanding subsection (a) of this section, public servants, ~~under~~
10 ~~G.S. 138A-3(30)j. and k., except those as defined in G.S. 138A-3(30)a.,~~ who have submitted a
11 statement of economic interest under subsection (a) of this section, may be hired, appointed, or
12 elected provisionally prior to submission by the Commission of the Commission's evaluation of
13 the statement in accordance with this Article, subject to dismissal or removal based on the
14 Commission's evaluation."

15 **SECTION 6.** G.S. 138A-24(a) reads as rewritten:

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

- 19 (1) Except as otherwise provided in this subdivision, the name, current mailing
20 address, occupation, employer, and business of the filing person. Any
21 individual holding or seeking elected office for which residence is a
22 qualification for office shall include a home address. A judicial officer may use
23 a current mailing address instead of the home address on the form required in
24 this subsection. The filing person may also use the initials instead of the name
25 of any unemancipated child of the filing person who also resides in the
26 household of the filing person. If the filing person provides the initials of an
27 unemancipated child, the filing person shall concurrently provide the name of
28 the unemancipated child to the Commission. The name of an unemancipated
29 child provided by the filing person to the Commission shall not be a public
30 record under Chapter 132 of the General Statutes and is privileged and
31 confidential.
- 32 (2) A list of each asset and liability included in this subdivision of whatever nature
33 (including legal, equitable, or beneficial interest) with a value of at least ten
34 thousand dollars (\$10,000) owned by the filing person and the filing person's
35 immediate family, except assets or liabilities held in a blind trust. This list shall
36 include the following:
 - 37 a. All real estate located in the State owned wholly or in part by the filing
38 person or the filing person's immediate family, including descriptions
39 adequate to determine the location by city and county of each parcel.
 - 40 b. Real estate that is currently leased or rented to or from the State.
 - 41 c. Personal property sold to or bought from the State within the preceding
42 two years.
 - 43 d. Personal property currently leased or rented to or from the State.
 - 44 e. The name of each publicly owned company. For purposes of this
45 sub-subdivision, the term "publicly owned company" shall not include a
46 widely held investment fund, including a mutual fund, regulated
47 investment company, or pension or deferred compensation plan, if all of
48 the following apply:
 - 49 1. The filing person or a member of the filing person's immediate
50 family neither exercises nor has the ability to exercise control
51 over the financial interests held by the fund.

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

- 1 (12) A statement of whether the filing person or the filing person's immediate family
2 is or has been a lobbyist or lobbyist principal registered under Chapter 120C of
3 the General Statutes within the preceding 12 months.
- 4 (13) A list of all contributions as defined in G.S. 163-278.6(6) with a cumulative
5 total of more than one thousand dollars (\$1,000) made by the filing person only,
6 during the preceding calendar year, to the candidate or candidate campaign
7 committee of the covered person as defined in G.S. 138A-3(30)a. appointing
8 the filing person to the covered board.
- 9 (14) A statement indicating "Yes" or "No" as to whether the filing person engaged in
10 each of the following activities during the preceding calendar year, with respect
11 to or on the behalf of the candidate or candidate campaign committee of the
12 covered person as defined in G.S. 138A-3(30)a. appointing the filing person: (i)
13 collected contributions from multiple contributors, took possession of such
14 multiple contributions, and transferred or delivered those collected multiple
15 contributions, (ii) hosted a fund-raiser in the filing person's residence or place
16 of business, or (iii) volunteered for campaign-related activity. This subdivision
17 only applies to filing persons in the following categories:
- 18 a. A public servant, or a prospective appointee to, as defined in
19 G.S. 138A-3(30)c.
- 20 b. A judicial officer that serves on, or a prospective appointee to, the
21 Supreme Court, the Court of Appeals, the superior court, or the district
22 court.
- 23 c. A covered person serving on, or a prospective appointee to, one of the
24 following panels or boards:
- 25 1. Alcoholic Beverage Control Commission.
26 2. Coastal Resources Commission.
27 3. State Board of Education.
28 4. State Board of Elections.
29 5. Division of Employment Security.
30 6. Environmental Management Commission.
31 7. Industrial Commission.
32 8. State Human Resources Commission.
33 9. Rules Review Commission.
34 10. Board of Transportation.
35 11. Board of Governors of the University of North Carolina.
36 12. Utilities Commission.
37 13. Wildlife Resources Commission.
- 38 (15) The name of each business with which associated that the filing person or a
39 member of the filing person's immediate family is an employee, director,
40 officer, partner, proprietor, or member or manager.
- 41 (16) For any company or business entity listed under subdivision (15) of this
42 subsection and sub-subdivisions f. and g. of subdivision (2) of this subsection,
43 if known, a statement whether that company or business entity has any material
44 business dealings or business contracts with the State, or is regulated by the
45 State, including a brief description of the business activity."

46 **SECTION 7.** G.S. 138A-25 reads as rewritten:

47 **"§ 138A-25. Failure to file.**

48 (a) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify
49 filing persons who have failed to file or filing persons whose statement has been deemed
50 incomplete. For a filing person currently serving as a covered person, the Commission shall notify
51 the filing person and the ethics liaison that if the statement of economic interest is not filed or

1 completed within 30 days of ~~receipt~~ the date of the notice of failure to file or complete, the filing
2 person shall be subject to a fine as provided for in this section.

3 (b) Any filing person who fails to file or complete a statement of economic interest within
4 30 days of the ~~receipt~~ date of the notice, required under subsection (a) of this section, shall be
5 subject to a fine of two hundred fifty dollars (\$250.00), to be imposed by the Commission.

6 (c) Failure by any filing person to file or complete a statement of economic interest within
7 60 days of the ~~receipt~~ date of the notice, required under subsection (a) of this section, shall be
8 deemed to be a violation of this Chapter and shall be grounds for disciplinary action under
9 G.S. 138A-45.

10 (d) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify
11 persons who are required to file a Statement of Economic Interest under G.S. 136-200.2(g)(3) or
12 G.S. 136-211(f)(3) of a failure to file the Statement of Economic Interest or the filing of an
13 incomplete Statement of Economic Interest. The Commission shall notify the filing person that if
14 the Statement of Economic Interest is not filed or completed within 30 days of ~~receipt~~ the date of
15 the notice of failure to file or complete, the filing person shall be fined and referred for prosecution
16 after an additional 30 days, as provided for in this section:

17 (1) Any filing person who fails to file a Statement of Economic Interest under
18 G.S. 136-200.2(g)(3) or G.S. 136-211(f)(3) within 30 days of the ~~receipt~~ date
19 of the notice required under this section shall be fined two hundred fifty dollars
20 (\$250.00) by the Commission for not filing or filing an incomplete Statement of
21 Economic Interest, except in extenuating circumstances as determined by the
22 Commission.

23 (2) Failure by any filing person to file or complete the Statement of Economic
24 Interest within 60 days of the ~~receipt~~ date of the notice required under this
25 subsection shall be a Class 1 misdemeanor. The Commission shall report such
26 failure to the Director of the State Bureau of Investigation for investigation and
27 referral to the District Attorney for possible prosecution, unless the
28 Commission determines extenuating circumstances exist. Upon receipt of the
29 report from the Commission, the Director of the State Bureau of Investigation
30 shall make appropriate investigation into the matter and forward a copy of the
31 investigation to the Wake County District Attorney for possible prosecution.

32 (e) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify
33 persons who are required to file an additional disclosure under G.S. 136-200.2(g)(4) or
34 G.S. 136-211(f)(4) of a failure to file the additional disclosure or the filing of an incomplete
35 additional disclosure. The Commission shall notify the filing person that if the additional
36 disclosure is not filed or completed within 30 days of ~~receipt~~ the date of the notice of failure to file
37 or complete, the filing person shall be fined and referred for prosecution after an additional 30
38 days, as provided for in this section:

39 (1) Any filing person who fails to file or who files an incomplete additional
40 disclosure within 30 days of the ~~receipt~~ date of the notice required under this
41 section shall be fined two hundred fifty dollars (\$250.00) for not filing or filing
42 an incomplete additional disclosure, except in extenuating circumstances as
43 determined by the Commission.

44 (2) Failure by any filing person to file or complete the additional disclosure within
45 60 days of the ~~receipt~~ date of the notice required under this subsection shall be a
46 Class 1 misdemeanor. The Commission shall report such failure to the Director
47 of the State Bureau of Investigation for investigation and referral to the District
48 Attorney for possible prosecution, unless the Commission determines
49 extenuating circumstances exist. Upon receipt of the report from the
50 Commission, the Director of the State Bureau of Investigation shall make

1 appropriate investigation into the matter and forward a copy of the investigation
2 to the Wake County District Attorney for possible prosecution.
3 (f) Computation of periods of time provided for in this section shall be calculated as set
4 forth in G.S. 1A-1, Rule 6(e)."

5 **SECTION 8.** G.S. 138A-28 reads as rewritten:

6 "**§ 138A-28. Review and evaluation of statements of economic interest.**

7 (a) The Commission shall receive and review all statements of economic interest pursuant
8 to G.S. 138A-10(a)(4) and shall ~~evaluate~~evaluate, under subsection (b) of this section, whether (i)
9 the statements conform to the law and the rules of the Commission, and (ii) the financial interests
10 and other information reported by prospective and actual covered persons and others required to
11 file reveal actual or potential conflicts of interest.

12 (b) Beginning July 1, 2013, the Commission shall establish a biennial cycle for evaluating
13 subsequently filed statements of economic interest. The Commission shall evaluate each initial
14 filing as provided in subsection (a) of this section.

15 (c) Notwithstanding subsection (b) of this section, statements filed by the following
16 prospective and actual public servants shall be evaluated on an annual basis:

17 (1) The University of North Carolina Board of Governors, subject to
18 G.S. 138A-24(f).

19 (2) The State Board of Community Colleges, subject to G.S. 138A-24(f).

20 (3) The North Carolina Utilities Commission.

21 (4) The North Carolina Industrial Commission.

22 (5) ~~Supplemental statements filed pursuant to Metropolitan Planning Organizations~~
23 and Rural Transportation Planning Organizations subject to Chapter 136 of the
24 General Statutes.

25 (5a) The North Carolina Board of Transportation, subject to Article 8 of Chapter
26 143B of the General Statutes.

27 (6) Any other board or commission whose members are elected or confirmed by
28 the General Assembly.

29 (d) Notwithstanding subsections (a) and (b) of this section, statements of economic interest
30 filed by Constitutional officers of the State and individuals elected or appointed as Constitutional
31 officers of the State prior to taking office shall be evaluated every four years upon election or
32 appointment to office.

33 ~~(e) A public servant who simultaneously serves on more than one covered board may file~~
34 ~~one statement of economic interest and that statement shall serve as disclosure for all the covered~~
35 ~~boards. If, during the biennial cycle, a public servant leaves one covered board and begins~~
36 ~~membership on another covered board, the public servant is not required to file another statement~~
37 ~~of economic interest, and the Commission is not required to evaluate the statement again in light~~
38 ~~of the subsequent appointment. The public servant must make subsequent filings pursuant to~~
39 ~~G.S. 138A-22(a) upon the expiration of the biennial cycle.~~

40 (f) Nothing in this section shall be construed to impair the Commission's duties and
41 authority under ~~G.S. 138A-25 and G.S. 138A-26.~~G.S. 138A-25."

42 **SECTION 9.** G.S. 138A-38(a) reads as rewritten:

43 "(a) Notwithstanding ~~G.S. 138A-36~~G.S. 138A-31(a), G.S. 138A-36, and G.S. 138A-37, a
44 covered person may participate in an official action or legislative action under any of the
45 following circumstances except as specifically limited:

46 ...

47 (6) When a public or legislative body records in its minutes that it cannot obtain a
48 quorum in order to take the official or legislative action because the covered
49 person is disqualified from acting under G.S. 138A-31(a), G.S. 138A-36,
50 G.S. 138A-37, or this section, the covered person may be counted for purposes
51 of a quorum, but shall otherwise abstain from taking any further action.

1 "

2 **SECTION 10.** G.S. 138A-45 reads as rewritten:

3 "**§ 138A-45. Violation consequences.**

4 (a) Violation of this Chapter by any ethics liaison, covered person or legislative employee
5 is grounds for disciplinary action. Except as specifically provided in this Chapter and for perjury
6 under G.S. 138A-12 and G.S. 138A-24, no criminal penalty shall attach for any violation of this
7 Chapter.

8 (b) The willful failure of any public servant serving on a board to comply with this Chapter
9 is misfeasance, malfeasance, or nonfeasance. In the event of misfeasance, malfeasance, or
10 nonfeasance, the offending public servant serving on a board is subject to removal from the board
11 of which the public servant is a member. For appointees of the Governor and members of the
12 Council of State, the appointing authority may remove the offending public servant. For
13 appointees of the Speaker of the House of Representatives, the Speaker of the House of
14 Representatives may remove the offending public servant. For appointees of the General
15 Assembly made upon the recommendation of the Speaker of the House of Representatives, the
16 Governor at the recommendation of the Speaker of the House of Representatives may remove the
17 offending public servant. For appointees of the President Pro Tempore of the Senate, the President
18 Pro Tempore of the Senate may remove the offending public servant. For appointees of the
19 General Assembly made upon the recommendation of the President Pro Tempore of the Senate,
20 the Governor at the recommendation of the President Pro Tempore of the Senate may remove the
21 offending public servant. For public servants elected to a board by either the Senate or House of
22 Representatives, the electing house of the General Assembly shall exercise the discretion of
23 whether to remove the offending public servant. For all other appointees, public servants, the
24 Commission shall exercise the discretion of whether to remove the offending public servant.

25 "

26 **SECTION 11.** G.S. 120C-100(a)(3) reads as rewritten:

27 "(3) Executive action. – The preparation, research, drafting, development,
28 consideration, modification, amendment, adoption, approval, tabling,
29 postponement, defeat, or rejection of a policy, guideline, request for proposal,
30 procedure, regulation, or rule by a public servant purporting to act in an official
31 capacity. This term does not include any of the following:

- 32 a. Present, prior, or possible proceedings of a contested case hearing under
33 Chapter 150B of the General Statutes, of a judicial nature, or of a
34 quasi-judicial nature.
- 35 b. A public servant's communication with a person, or another person on
36 that person's behalf, with respect to any of the following:
- 37 1. Applying for a permit, license, determination of eligibility, or
38 certification.
 - 39 2. Making an inquiry about or asserting a benefit, claim, right,
40 obligation, duty, entitlement, payment, or penalty.
 - 41 3. Making an inquiry about or responding to a request for proposal
42 made under Chapter ~~143~~135, 143, or 147 of the General
43 Statutes.
 - 44 4. Ratemaking.

45 "

46 **SECTION 12.** G.S. 120C-200 reads as rewritten:

47 "**§ 120C-200. Lobbyist registration procedure.**

48 (a) ~~A lobbyist shall file a separate registration statement for each principal the lobbyist~~
49 ~~represents with the Secretary of State before engaging in any lobbying.~~ It shall be unlawful for an
50 individual to lobby without ~~registering~~filing a registration statement within one business day of
51 engaging in any lobbying as defined in G.S. 120C-100(9) unless exempted by this Chapter. A

1 lobbyist shall file a separate registration statement for each principal the lobbyist represents with
2 the Secretary of State.

3 (b) The form of the registration statement shall be prescribed by the Secretary of State, be
4 filed electronically, and shall include the registrant's full name, firm, complete address, and
5 telephone number; the registrant's place of business; the full name, complete address, and
6 telephone number of each principal the lobbyist represents; and a general description of the
7 matters on which the registrant expects to act as a lobbyist.

8 (c) Each lobbyist shall electronically file an amended registration statement form with the
9 Secretary of State no later than 10 business days after any change in the information supplied in
10 the lobbyist's last registration statement under subsection (b) of this section. Each supplementary
11 registration statement shall include a complete statement of the information that has changed.

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

18 **SECTION 13.** G.S. 120C-201(a) reads as rewritten:

19 "**§ 120C-201. Lobbyist's registration fee.**

20 (a) A fee of two hundred fifty dollars (\$250.00) is due and payable to the Secretary of
21 State at the time of filing each lobbyist ~~registration~~ registration statement. Fees so collected shall
22 be deposited in the General Fund of the State. The fees required under this section shall be paid
23 electronically."

24 **SECTION 14.** G.S. 120C-206(a) reads as rewritten:

25 "**§ 120C-206. Lobbyist principal's authorization.**

26 (a) A written authorization signed by the lobbyist principal authorizing the lobbyist to
27 represent the principal shall be filed with the Secretary of State within 20 business days after the
28 lobbyist's ~~registration~~ registration statement is filed. If the written authorization is filed more than
29 20 business days after the lobbyist's registration statement is filed and before January 1 of the
30 following year, the lobbyist registration is effective from the date of filing of the lobbyist
31 registration statement is filed and all reports due under Article 4 of this Chapter shall be filed."

32 **SECTION 15.** G.S. 120C-401 reads as rewritten:

33 "**§ 120C-401. Reporting generally.**

34 ...
35 (b1) For purposes of subdivision (b)(5) of this section, when more than 15 designated
36 individuals benefit from or request a reportable expenditure, no names of individuals need be
37 reported provided that the report identifies the approximate number of designated individuals
38 benefiting or requesting and the basis for their selection, including the name of the board,
39 legislative body, committee, caucus, ~~or~~ other group whose membership list is a matter of public
40 record in accordance with ~~G.S. 132-1~~ G.S. 132-1, a description of the group that clearly
41 distinguishes the designated individuals, or including a description of the group that clearly
42 distinguishes its purpose or composition from the general membership of the General Assembly.
43 The approximate number of immediate family members of designated individuals who benefited
44 from the reportable expenditure shall be listed separately.

45 (b2) For purposes of subdivision (b)(5) of this section, when the reportable expenditure is a
46 gift given with the intent that a designated individual be ~~the~~ an ultimate recipient and the lobbyist
47 or lobbyist principal does not know the name or names of the designated individuals, the lobbyist
48 or lobbyist principal shall report a description of the designated individuals and those designated
49 individuals' immediate family members connected with the reportable expenditure that clearly
50 distinguishes its purpose or composition, and an approximate number, if known.

51"

1 **SECTION 16.** G.S. 120C-601(a) reads as rewritten:

2 "**§ 120C-601. Powers and duties of the Commission.**

3 (a) The Commission may investigate complaints of violations of this Chapter and shall
4 refer complaints related solely to Articles 2, 4, or 8 of this Chapter to the Secretary of State. The
5 Commission or the Secretary of State may utilize the services of a hired investigator when
6 conducting investigations."

7 **SECTION 17.** G.S. 120C-700 reads as rewritten:

8 "**§ 120C-700. Persons exempted from this Chapter.**

9 Except as otherwise provided in Article 8, the provisions of this Chapter shall not be construed
10 to apply to any of the following:

11 ...

12 (2) ~~A person~~An individual appearing before a committee, commission, board,
13 council, or other collective body whose membership includes one or more
14 designated individuals at the invitation or request of the committee or a member
15 thereof and who does not act in any further activities as a lobbyist with respect
16 to the legislative or executive action for which that person appeared.

17 ...

18 (7) ~~A person~~An individual responding to inquiries from a designated individual and
19 who does not act in any further activities as a lobbyist in connection with that
20 inquiry.

21 "

22 **SECTION 18.** G.S. 120C-800 reads as rewritten:

23 "**§ 120C-800. Reportable expenditures made by persons exempted or not covered by this**
24 **Chapter.**

25 ...

26 (d) If the person granting the scholarship in subsection (c) of this section is outside North
27 Carolina, the designated individual accepting the scholarship shall be responsible for filing the
28 report or reporting the information in the designated individual's statement of economic interest in
29 accordance with ~~G.S. 138A-24(a)(2)~~.G.S. 138A-24(a)(8a).

30 ...

31 (g) For purposes of this section, the term "scholarship" shall mean a grant-in-aid to attend
32 a conference, meeting, or other similar ~~event~~.event, including all event-related expenses, such as
33 food, beverages, registration, travel, and lodging. For purposes of this section only, the term
34 "person" shall include all persons as defined in G.S. 138A-3(27) and all governmental units as
35 defined in G.S. 138A-3(15d)."

36 **SECTION 19.**(a) G.S. 138A-12 reads as rewritten:

37 "**§ 138A-12. ~~Inquiries~~Inquiries, investigations, and hearings by the Commission.**

38 ...

39 (b) Institution of Proceedings. – On its own motion, in response to a timely, signed and
40 sworn complaint of any individual against a covered person or legislative employee filed with the
41 Commission, or upon the written request of any public servant or those responsible for the hiring,
42 appointing, or supervising of a public servant, the Commission shall conduct an inquiry into any
43 of the following:

44 (1) The application or alleged violation of this Chapter.

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

47 (3) An alleged violation of the criminal law by a covered person in the performance
48 of that individual's official duties.

49 (4) An alleged violation of G.S. 126-14.

50 Upon receipt of a referral under G.S. 147-64.6B or a report under G.S. 147-64.6(c)(19), the
51 Commission may conduct an inquiry under this section on its own motion. Allegations of

1 violations of the Code of Judicial Conduct shall be referred to the Judicial Standards Commission
2 without investigation.

3 (b1) ~~Complaints on Its Own Motion.~~ Commission Initiated Inquiry. – An ~~investigation~~
4 inquiry initiated by the Commission on its own motion ~~is~~ not subject to the requirements of
5 subdivision (c)(1) of this section. An inquiry initiated upon written request of any public servant
6 or those responsible for the hiring, appointing, or supervising of a public servant instituted under
7 subsection (b) of this section ~~shall be treated as a complaint for purposes of this section and need~~
8 not be sworn or verified.

9 (c) Complaint. –

- 10 (1) A sworn complaint filed under this Chapter shall state the name, address, and
11 telephone number of the individual filing the complaint, the name and job title
12 or appointive position of the covered person or legislative employee against
13 whom the complaint is filed, and a concise statement of the nature of the
14 complaint and specific facts indicating that a violation of this Chapter or
15 Chapter 120 of the General Statutes or G.S. 126-14 or the criminal law in the
16 performance of that individual's official duties has occurred, the date the
17 alleged violation occurred, and either (i) that the contents of the complaint are
18 within the knowledge of the individual verifying the complaint, or (ii) the basis
19 upon which the individual verifying the complaint believes the allegations to be
20 true.
- 21 (2) Except as provided in subsection (d) of this section, a complaint filed under this
22 Chapter must be filed within two years of the date the complainant knew or
23 should have known of the conduct upon which the complaint is based.
- 24 (3) The Commission may decline to ~~accept, refer, refer~~ or conduct an inquiry into
25 any complaint that does not meet all of the requirements set forth in subdivision
26 (1) of this subsection, or the Commission may, in its sole discretion, request
27 additional information to be provided by the complainant within a specified
28 period of time of no less than five business days.
- 29 (4) In addition to subdivision (3) of this subsection, the Commission may decline to
30 ~~accept, refer, refer~~ or conduct an inquiry into a complaint if it determines that
31 any of the following apply:
- 32 a. The complaint is frivolous or brought in bad faith.
- 33 b. The covered person or legislative employee and conduct complained of
34 have already been the subject of a prior complaint.
- 35 c. The conduct complained of is primarily a matter more appropriately and
36 adequately addressed and handled by other federal, State, or local
37 agencies or authorities, including law enforcement authorities. If other
38 agencies or authorities are conducting an investigation of the same
39 actions or conduct involved in a complaint filed under this section, the
40 Commission may stay its complaint inquiry pending final resolution of
41 the other investigation.
- 42 (5) The Commission shall send a copy of the complaint to the covered person or
43 legislative employee who is the subject of the complaint ~~and the employing~~
44 entity, within 10 business days of the filing-accepting the complaint. For
45 purposes of this section, a complaint is deemed accepted if it is timely, signed,
46 sworn if required, and against a covered person.

47 (d) ~~Conduct of Inquiry of Complaints~~ Inquiries by the Commission. – The Commission
48 shall conduct an inquiry into all complaints properly before the Commission in a timely manner.
49 The Commission shall initiate an inquiry into a complaint within 10 business days of ~~the~~
50 filing acceptance of the complaint. The Commission is authorized to initiate inquiries upon request
51 of any member of the Commission if there is reason to believe that a covered person or legislative

1 employee has or may have violated this Chapter. Commission-initiated ~~complaint~~-inquiries under
2 this section shall be initiated within two years of the date the Commission knew of the conduct
3 upon which the ~~complaint-inquiry~~ is based, except when the conduct is material to the continuing
4 conduct of the duties in office. In determining whether there is reason to believe that a violation
5 has or may have occurred, a member of the Commission may take general notice of available
6 information even if not formally provided to the Commission in the form of a complaint. The
7 Commission may utilize the services of a hired investigator when conducting inquiries.

8 (e) Covered Person and Legislative Employees Cooperation With Inquiry. – Covered
9 persons and legislative employees shall promptly and fully cooperate with the Commission in any
10 Commission-related inquiry. Failure to cooperate fully with the Commission in any inquiry shall
11 be grounds for sanctions as set forth in G.S. 138A-45.

12 (f) Dismissal of Complaint After ~~Preliminary~~-Inquiry. – The Commission shall conclude
13 the ~~preliminary~~-inquiry within ~~20–30~~ business ~~days-days~~ of acceptance of the complaint. The
14 Commission shall dismiss the complaint, if at the end of its ~~preliminary~~ inquiry the Commission
15 determines that any of the following apply:

- 16 (1) The individual who is the subject of the complaint is not a covered person or
17 legislative employee subject to the Commission's jurisdiction and authority
18 under this Chapter.
- 19 (2) The complaint does not allege facts sufficient to constitute a violation within
20 the jurisdiction of the Commission under subsection (b) of this section.
- 21 (3) The complaint is determined to be frivolous or brought in bad faith.

22 (g) ~~Commission Inquiries-Initiation of Probable Cause Investigations.~~ – If at the end of its
23 ~~preliminary~~-inquiry, the Commission determines to proceed with ~~further inquiry~~an investigation
24 into the conduct of a covered person or legislative employee, the Commission shall provide
25 written notice to ~~the individual who filed the complaint and~~ the covered person or legislative
26 ~~employee as to~~employee, the employing entity, and appointing authority of the fact of the
27 ~~inquiry~~investigation and the ~~charges~~allegations against the covered person or legislative
28 employee. The covered person or legislative employee shall be given an opportunity to file a
29 written response with the Commission.

30 (h) ~~Action on Inquiries-Probable Cause Investigations.~~ – The Commission shall conduct
31 ~~inquiries~~investigations into ~~complaints~~a complaint to the extent necessary to either dismiss the
32 complaint for lack of probable cause ~~of a violation under this section, or~~or upon a finding of
33 probable cause:

- 34 (1) For public servants, ~~decide to~~ proceed with a hearing under subsection (i) of
35 this section.
- 36 (2) For legislators, except the Lieutenant Governor, refer the ~~complaint~~matter to
37 the Committee.
- 38 (3) For judicial officers, refer the ~~complaint~~matter to the Judicial Standards
39 Commission for complaints against justices and judges, or to the senior resident
40 superior court judge of the district or county for complaints against district
41 ~~attorneys, or to the chief district court judge for the district or county for~~
42 ~~complaints against~~attorneys or clerks of court.
- 43 (4) For legislative employees, refer the ~~complaint~~matter to the employing entity.

44 (h1) Settlement of Inquiries Against Public Servants. – The public servant who is the
45 subject of the inquiry and the staff of the Commission may meet by mutual consent at any time
46 before the hearing to discuss the possibility of settlement or the stipulation of facts, issues of
47 law, or other pertinent matters. Any proposed settlement is subject to the approval of the
48 Commission. Upon the Commission's approval of a settlement, the matter shall be closed, subject
49 to reopening by the Commission upon any breach of the settlement agreement. The
50 Commission shall provide written notice of the fact of the settlement to the individual who filed

1 the complaint, the public servant who was the subject of the inquiry, and the public servant's
2 employing entity and appointing authority.

3 (i) Hearing. –

4 (1) The Commission shall give full and fair consideration to all accepted
5 complaints received against a public servant. If the Commission determines that
6 the complaint cannot be resolved without a hearing, or if the public servant
7 requests a hearing, a hearing shall be held.

8 (2) The Commission shall send a notice of the hearing to the complainant, and the
9 public servant. The notice shall contain the date, time and place for a hearing on
10 the matter, which shall begin no less than 30 days and no more than 90 days
11 after the date of the notice.

12 (3) ~~The~~ At least 30 days prior to the date of the hearing, the Commission shall make
13 available to the public servant or that public servant's private legal counsel all
14 documents or other evidence which are intended to be presented at the hearing
15 to the Commission or which a reasonable person would believe might exculpate
16 the accused public servant ~~at least 30 days prior to the date of the hearing held~~
17 ~~in connection with the investigation of a complaint.~~ servant. Any documents or
18 other evidence discovered within less than 30 days of the hearing shall be
19 furnished as soon as possible after discovery but prior to the hearing.

20 (4) At any hearing held by the Commission:

21 a. Oral evidence shall be taken only on oath or affirmation.

22 b. The hearing shall be open to the public, except for matters involving
23 minors, personnel records, or matters that could otherwise be considered
24 in closed session under G.S. 143-318.11. In any event, the deliberations
25 by the Commission on a complaint may be held in closed session.

26 c. The public servant being investigated shall have the right to present
27 evidence, call and examine witnesses, cross-examine witnesses,
28 introduce exhibits, and be represented by counsel.

29 ~~(j) Settlement of Inquiries. — The public servant who is the subject of the complaint and~~
30 ~~the staff of the Commission may meet by mutual consent before the hearing to discuss the~~
31 ~~possibility of settlement of the inquiry or the stipulation of any issues, facts, or matters of law.~~
32 ~~Any proposed settlement of the inquiry is subject to the approval of the Commission.~~

33 ~~(k) Disposition of Inquiries.~~ Post-Hearing Dispositions. – After the hearing, the
34 Commission shall dispose of the matter in one or more of the following ways:

35 (1) If the Commission finds substantial evidence of an alleged violation of a
36 criminal statute, the Commission shall refer the matter to the ~~Attorney~~
37 ~~General~~ Director of the State Bureau of Investigation for investigation and
38 referral to the district attorney for possible prosecution. The Director of the
39 State Bureau of Investigation shall make appropriate investigation into the
40 matter and forward a copy of the investigation to the District Attorney for
41 possible prosecution.

42 (2) If the Commission finds that the alleged violation is not established by clear
43 and convincing evidence, the Commission shall dismiss the complaint.

44 (3) If the Commission finds that the alleged violation of this Chapter is established
45 by clear and convincing evidence, the Commission shall do one or more of the
46 following:

47 a. Issue a private admonishment to the public servant and notify the
48 employing entity, if applicable. Such notification shall be treated as part
49 of the personnel record of the public servant.

- 1 b. Refer the matter for appropriate action to the Governor and the
2 employing entity that appointed or employed the public servant or of
3 which the public servant is a member.
4 c. Refer the matter for appropriate action to the Chief Justice for judicial
5 employees.
6 d. Refer the matter to the Principal Clerks of the House of Representatives
7 and Senate of the General Assembly for constitutional officers of the
8 State.
9 e. Refer the matter for appropriate action to the principal clerk of the house
10 of the General Assembly that elected the public servant for members of
11 the Board of Governors and the State Board of Community Colleges.

12 (l) Notice of Dismissal. – Upon the dismissal of a complaint under this section, the
13 Commission shall provide written notice of the dismissal to the individual who filed the complaint
14 and the covered person or legislative employee against whom the complaint was filed. ~~The For~~
15 ~~dismissals under subsection (h) or subdivision (k)(2) of this section, the~~ Commission shall forward
16 copies of complaints and notices of dismissal of complaints against public servants to the
17 employing entity and appointing authority, against legislators to the Committee, against legislative
18 employees to the employing entity for legislative employees, and against judicial officers to the
19 Judicial Standards Commission for complaints against justices and judges, and the senior resident
20 superior court judge of the district or county for complaints against district ~~attorneys, or the chief~~
21 ~~district court judge of the district or county for complaints against~~attorneys or clerks of court. ~~The~~
22 ~~Commission shall also forward a copy of the notice of dismissal to the employing entity of the~~
23 ~~covered person against whom a complaint was filed if the employing entity received a copy of the~~
24 ~~complaint under subdivision (5) of subsection (c) of this section.~~ Except as provided in subsection
25 (n) of this section, the complaint and notice of dismissal are confidential and not public records.

26 (m) Reports and Records. – The Commission shall render the results of its ~~inquiry~~
27 investigation in writing. When a matter is referred under ~~subdivision (h)(2) and (3), or subsection~~
28 ~~(h) or subdivision (k)(2) of this section, the Commission's report shall consist of the complaint,~~
29 response, and detailed results of its ~~inquiry~~investigation in support of the Commission's finding of
30 a violation under this Chapter.

31 (n) Confidentiality. – Complaints and responses filed with the ~~Commission and~~
32 ~~reports~~Commission, settlement agreements, referrals, recommendations, reports, and other
33 investigative documents and records of the Commission connected to an inquiry or investigation
34 under this section, including information provided pursuant to G.S. 147-64.6B or
35 G.S. 147-64.6(c)(19), shall be confidential and not matters of public record, except as otherwise
36 provided in this section or when the covered person or legislative employee under inquiry requests
37 in writing that the complaint, response, and findings be made public. Once a hearing under this
38 section commences, the complaint, response, and all other documents offered at the hearing in
39 conjunction with the complaint, not otherwise privileged or confidential under law, shall be public
40 records. ~~If no hearing is held at such time as the Commission reports to the employing entity a~~
41 ~~recommendation of sanctions, the complaint and response shall be made public.~~

42 (n1) Staff to the Commission may share with staff to the Committee information connected
43 to an inquiry into the conduct of a legislator under this section. The Commission shall provide to
44 the Committee copies of all reports, investigative documents, information, and other documents
45 used by the Commission when it refers a complaint to the Committee under subdivision (2) of
46 subsection (h) of this section. Upon written request by staff to the Committee, the Commission
47 shall provide copies of all reports, investigative documents, information, and other documents
48 used by the Commission when it dismisses a complaint against a legislator under subsection (l) of
49 this section. The information and documents provided to the Committee and staff to the
50 Committee and the written request provided to the Commission are confidential and are not public
51 records as defined in G.S. 132-1.

1 (n2) When referring a matter to another State or local agency or authority, staff to the
 2 Commission may share related information and documents with the agency or authority receiving
 3 the referral. The information and documents provided shall remain confidential, are not public
 4 records, and may only be released according to the terms of this Chapter.

5 (o) Recommendations of ~~Sanctions.~~Sanctions After Hearing. – After referring a matter
 6 under subsection (k) of this section, ~~if requested by the entity to which the matter was referred,~~ the
 7 Commission may recommend sanctions or issue rulings as it deems necessary or appropriate to
 8 protect the public interest and ensure compliance with this Chapter. In recommending appropriate
 9 sanctions, the Commission may consider the following factors:

- 10 (1) The public servant's prior experience in an agency or on a board and prior
 11 opportunities to learn the ethical standards for a public servant as set forth in
 12 Article 4 of this Chapter, including those dealing with conflicts of interest.
- 13 (2) The number of ethics violations.
- 14 (3) The severity of the ethics violations.
- 15 (4) Whether the ethics violations involve the public servant's financial interest.
- 16 (5) Whether the ethics violations were inadvertent or intentional.
- 17 (6) Whether the public servant knew or should have known that the improper
 18 conduct was a violation of this Chapter.
- 19 (7) Whether the public servant has previously been advised or warned by the
 20 Commission.
- 21 (8) Whether the conduct or situation giving rise to the ethics violation was pointed
 22 out to the public servant in the Commission's Statement of Economic Interest
 23 evaluation letter issued under G.S. 138A-24(e).
- 24 (9) The public servant's motivation or reason for the improper conduct or action,
 25 including whether the action was for personal financial gain versus protection
 26 of the public interest.

27 In making recommendations under this subsection, if the Commission ~~determines, after proper~~
 28 ~~review and investigation, determines~~ that sanctions are appropriate, the Commission may
 29 recommend any action it deems necessary to properly address and rectify any violation of this
 30 Chapter by a public servant, including removal of the public servant from the public servant's
 31 State position. Nothing in this subsection is intended, and shall not be construed, to give the
 32 Commission any independent civil, criminal, or administrative investigative or enforcement
 33 authority over covered persons, or other State employees or appointees.

34 (p) Authority of Employing Entity. – Any action or failure to act by the Commission under
 35 this Chapter, except G.S. 138A-13, shall not limit any authority of any of the applicable
 36 employing entities to discipline the covered person or legislative employee.

37 (q) Continuing Jurisdiction. – ~~The~~ For a period of one year following the date an
 38 individual who was formerly a public servant or legislative employee ceases to be a public servant
 39 or legislative employee, the Commission shall have continuing jurisdiction to investigate possible
 40 refer evidence of alleged criminal violations of this Chapter for a period of one year following the
 41 date an individual, who was formerly a public servant or legislative employee, ceases to be a
 42 public servant or legislative employee to the Director of the State Bureau of Investigation for any
 43 investigation that commenced prior to the date the public servant or legislative employee ceases
 44 ceased to be a public servant or legislative employee. The Director of the State Bureau of
 45 Investigation shall make appropriate investigation into the matter and forward a copy of the
 46 investigation to the Wake County District Attorney for possible prosecution.

47 "

48 **SECTION 19.(b)** G.S. 120-103.1 reads as rewritten:

49 "**§ 120-103.1. Investigations by the Committee.**

50 (a) Institution of Proceedings. – On its own motion, upon receipt by the Committee of a
 51 signed and sworn allegation of a legislator's unethical conduct by a legislator, conduct, or upon

1 receipt of a referral of a complaint from the State Ethics Commission under Chapter 138A of the
2 General Statutes, the Committee shall conduct an investigation into any of the following:

- 3 (1) The application or alleged violation of Chapter 138A of the General Statutes
4 and of this Article.
- 5 (2) Repealed by Session Laws 2007-348, s. 2, effective August 9, 2007.
- 6 (3) The alleged violation of the criminal law by a legislator while acting in the
7 legislator's official capacity as a participant in the lawmaking process.

8 ...

9 (h3) Settlement of Inquiries. – The legislator who is the subject of the investigation and
10 members of the Committee may meet by mutual consent at any time before the hearing to discuss
11 the possibility of settlement or the stipulation of facts, issues of law, or other pertinent matters.
12 Any proposed settlement is subject to the approval of the Committee. Upon the Committee's
13 approval of a settlement, the matter shall be closed, subject to reopening by the Committee upon
14 any breach of the settlement agreement. The Committee shall provide written notice of the fact of
15 the settlement to the individual who filed the complaint and the legislator who was the subject of
16 the investigation.

17 ...

18 (j) Disposition of Investigations After Hearing. – Except as permitted under subsections
19 (b) and (g) of this section, after the hearing, the Committee shall dispose of the matter before the
20 Committee under this section, in any of the following ways:

- 21 (1) If the Committee finds that the alleged violation is not established by clear and
22 convincing evidence, the Committee shall dismiss the complaint.
- 23 (2) If the Committee finds that the alleged violation is established by clear and
24 convincing evidence, the Committee shall do one or more of the following:
 - 25 a. Issue a public or private admonishment to the legislator.
 - 26 b. Refer the matter to the ~~Attorney General~~ Director of the State Bureau of
27 Investigation for investigation and referral to the district attorney for
28 possible prosecution or the appropriate house for appropriate action, or
29 both, if the Committee finds substantial evidence of a violation of a
30 criminal statute. Upon referral to the Director of the State Bureau of
31 Investigation, the Director shall make appropriate investigation into the
32 matter and forward a copy of the investigation to the District Attorney
33 for possible prosecution.
 - 34 c. Refer the matter to the appropriate house for appropriate action, which
35 may include censure and expulsion.
- 36 (3) If the Committee issues an admonishment as provided in subdivision (2)a. of
37 this subsection, the legislator affected may, upon written request to the
38 Committee, have the matter referred as provided under subdivision (2)c. of this
39 subsection.

40 ...

41 (l) Confidentiality. – The complaint, response, records, settlement agreements, and
42 findings of the Committee connected to an inquiry under this section shall be confidential and not
43 matters of public record, except as otherwise provided in this section or when the legislator under
44 inquiry requests in writing that the complaint, response, and findings be made public. Once a
45 hearing under subsection (i) of this section commences the complaint, response, Committee's
46 report to the house, and all other documents offered at the hearing in conjunction with the
47 complaint, that are not otherwise privileged or confidential under law, shall be public records. If
48 no hearing is held, at such time as the Committee recommends sanctions to the house of which the
49 legislator is a member, the complaint, response, and Committee's report to the house shall be made
50 public.

1 (11) Sharing of Information for Law Enforcement Purposes. – When referring a matter to
2 another State or local agency or authority, the Committee may share related information and
3 documents with the agency or authority receiving the referral. The information and documents
4 provided shall remain confidential, are not public records, and may only be released according to
5 the terms of this Chapter.

6 "

7 **SECTION 20.** Except as otherwise provided, this act becomes effective October 1,
8 2016.