

Chapter 138A.

State Government Ethics Act.

Article 1.

General Provisions.

§ 138A-1. Title.

This Chapter shall be known and may be cited as the "State Government Ethics Act". (2006-201, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-2. Purpose.

The purpose of this Chapter is to ensure that elected and appointed State agency officials exercise their authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence. To this end, it is the intent of the General Assembly in this Chapter to ensure that standards of ethical conduct and standards regarding conflicts of interest are clearly established for elected and appointed State agency officials, that the State continually educates these officials on matters of ethical conduct and conflicts of interest, that potential and actual conflicts of interests are identified and resolved, and that violations of standards of ethical conduct and conflicts of interest are investigated and properly addressed. (2006-201, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-3. Definitions.

The following definitions apply in this Chapter:

- (1) Blind trust. – A trust established by or for the benefit of a covered person or a member of the covered person's immediate family for divestiture of all control and knowledge of assets. A trust qualifies as a blind trust under this subdivision if the covered person or a member of the covered person's immediate family has no knowledge of the holdings and sources of income of the trust, the trustee of the trust is independent of and not associated with or employed by the covered person or a member of the covered person's immediate family and is not a member of the covered person's extended family, and the trustee has sole discretion as to the management of the trust assets.
- (3) Board. – Any State board, commission, council, committee, task force, authority, or similar public body, however denominated, created by statute or executive order, as determined and designated by the Commission, except for those public bodies that have only advisory authority.
- (5) Business. – Any of the following organized for profit:
 - a. Association.
 - b. Business trust.
 - c. Corporation.
 - d. Enterprise.
 - e. Joint venture.
 - f. Organization.
 - g. Partnership.
 - h. Proprietorship.

- i. Vested trust.
 - j. Every other business interest, including ownership or use of land for income.
- (7) Business with which associated. – A business in which the covered person or filing person or any member of that covered person's or filing person's immediate family does any of the following:
- a. Is an employee.
 - b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned.
 - c. Owns a legal, equitable, or beneficial interest of ten thousand dollars (\$10,000) or more in the business or five percent (5%) of the business, whichever is less, other than as a trustee on a deed of trust.
 - d. Is a lobbyist registered under Chapter 120C of the General Statutes.
 For purposes of this subdivision, the term "business" shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:
 - 1. The covered person, filing person, or a member of the covered person's or filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.
 - 2. The fund is publicly traded, or the fund's assets are widely diversified.
- (9) Commission. – The State Ethics Commission.
- (11) Committee. – The Legislative Ethics Committee as created in Part 3 of Article 14 of Chapter 120 of the General Statutes.
- (13) Compensation. – Any money, thing of value, or economic benefit conferred on or received by any covered person or filing person in return for services rendered or to be rendered by that covered person or filing person or another. This term does not include campaign contributions properly received and reported as required by Article 22A of Chapter 163 of the General Statutes.
- (15) Confidential information. – Information defined as confidential by the law.
- (17) Constitutional officers of the State. – Officers whose offices are established by Article III of the North Carolina Constitution.
- (19) Contract. – Any agreement, including sales and conveyances of real and personal property, and agreements for the performance of services.
- (21) Covered person. – A legislator, public servant, or judicial officer, as identified by the Commission under G.S. 138A-11.
- (23) Employing entity. – For public servants, any of the following bodies of State government of which the public servant is an employee or a member, or over which the public servant exercises supervision: agencies, authorities, boards, commissions, committees, councils, departments, offices, institutions and their subdivisions, and constitutional offices of the State. For legislators, it is the house of which the legislator is a member. For legislative employees, it is the authority that hired the individual. For judicial employees, it is the Chief Justice.

- (25) Extended family. – Spouse, lineal descendant, lineal ascendant, sibling, spouse's lineal descendant, spouse's lineal ascendant, spouse's sibling, and the spouse of any of these individuals.
- (27) Filing person. – An individual required to file a statement of economic interest under G.S. 138A-22.
- (28), (29) Reserved for future codification purposes.
- (30) Financial benefit. – A direct pecuniary gain or loss to the legislator, the public servant, or a person with which the legislator or public servant is associated, or a direct pecuniary loss to a business competitor of the legislator, the public servant, or a person with which the legislator or public servant is associated.
- (32) Gift. – Anything of monetary value given or received without valuable consideration by or from a lobbyist, lobbyist principal, liaison personnel, or a person described under G.S. 138A-32(d)(1), (2), or (3). The following shall not be considered gifts under this subdivision:
 - a. Anything for which fair market value, or face value if shown, is paid by the covered person or legislative employee.
 - b. Commercially available loans made on terms not more favorable than generally available to the general public in the normal course of business if not made for lobbying.
 - c. Contractual arrangements or commercial relationships or arrangements made in the normal course of business if not made for lobbying.
 - d. Academic or athletic scholarships based on the same criteria as applied to the public.
 - e. Anything of value properly reported as required under Article 22A of Chapter 163 of the General Statutes.
 - f. Expressions of condolence related to a death of an individual, sent within a reasonable time of the death, if the expression is one of the following:
 - 1. A sympathy card, letter, or note.
 - 2. Flowers.
 - 3. Food or beverages for immediate consumption.
 - 4. Donations to a religious organization, charity, the State or a political subdivision of the State, not to exceed a total of two hundred dollars (\$200.00) per death per donor.
- (33) through (35) Reserved for future codification purposes.
- (36) Governmental unit. – A political subdivision of the State, and any other entity or organization created by a political subdivision of the State.
- (38) Honorarium. – Payment for services for which fees are not legally or traditionally required.
- (40) Immediate family. – An unemancipated child of the covered person residing in the household and the covered person's spouse, if not legally separated. A member of a covered person's extended family shall also be considered a member of the immediate family if actually residing in the covered person's household.
- (42) Judicial employee. – The director and assistant director of the Administrative Office of the Courts and any other individual, designated by the Chief Justice,

- employed in the Judicial Department whose annual compensation from the State is sixty thousand dollars (\$60,000) or more.
- (44) Judicial officer. – Justice or judge of the General Court of Justice, district attorney, clerk of court, or any individual elected or appointed to any of these positions prior to taking office.
 - (46) Legislative action. – As the term is defined in G.S. 120C-100.
 - (48) Legislative employee. – As the term is defined in G.S. 120C-100.
 - (50) Legislator. – A member or presiding officer of the General Assembly, or an individual elected or appointed a member or presiding officer of the General Assembly before taking office.
 - (52) Lobbying. – As the term is defined in G.S. 120C-100.
 - (54) Nonprofit corporation or organization with which associated. – Any not for profit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the covered person, filing person, or any member of the covered person's or filing person's immediate family is a director, officer, governing board member, employee, lobbyist registered under Chapter 120C of the General Statutes, or independent contractor. "Nonprofit corporation or organization with which associated" shall not include any board, entity, or other organization created by this State or by any political subdivision of this State.
 - (56) Official action. – Any decision, including administration, approval, disapproval, preparation, recommendation, the rendering of advice, and investigation, made or contemplated in any proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, investigation, charge, or rule making.
 - (58) Participate. – To take part in, influence, or attempt to influence, including acting through an agent or proxy.
 - (60) Permanent designee. – An individual designated by a public servant to serve and vote in the absence of the public servant on a regular basis on a board on which the public servant serves.
 - (62) Person. – Any individual, firm, partnership, committee, association, corporation, business, or any other organization or group of persons acting together. The term "person" does not include the State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State.
 - (63), (64) Reserved for future codification purposes.
 - (65) Person with which the legislator is associated. – Any of the following:
 - a. A member of the legislator's extended family.
 - b. A client of the legislator.
 - c. A business with which the legislator or a member of the legislator's immediate family is associated.
 - d. A nonprofit corporation or association with which the legislator or a member of the legislator's immediate family is associated.
 - e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State

that employs the legislator or a member of the legislator's immediate family.

- (67) Person with which the public servant is associated. – Any of the following:
 - a. A member of the public servant's extended family.
 - b. A client of the public servant.
 - c. A business with which the public servant or a member of the public servant's immediate family is associated.
 - d. A nonprofit corporation or association with which the public servant or a member of the public servant's immediate family is associated.
 - e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State that employs the public servant or a member of the public servant's immediate family.
- (69) Political party. – Either of the two largest political parties in the State based on statewide voter registration at the applicable time.
- (70) Public servants. – All of the following:
 - a. Constitutional officers of the State and individuals elected or appointed as constitutional officers of the State prior to taking office.
 - b. Employees of the Office of the Governor.
 - c. Heads of all principal State departments, as set forth in G.S. 143B-6, who are appointed by the Governor.
 - d. The chief deputy and chief administrative assistant of each individual designated under sub-subdivision a. or c. of this subdivision.
 - e. Confidential assistants and secretaries as defined in G.S. 126-5(c)(2), to individuals designated under sub-subdivision a., c., or d. of this subdivision.
 - f. Employees in exempt positions designated in accordance with G.S. 126-5(d)(1), (2), or (2a) and confidential secretaries to these individuals.
 - g. Any other employees or appointees in the principal State departments as may be designated by the Governor to the extent that the designation does not conflict with the State Personnel Act.
 - h. Judicial employees.
 - i. All voting members of boards, including ex officio members, permanent designees of any voting member, and members serving by executive, legislative, or judicial branch appointment.
 - j. For The University of North Carolina, the voting members of the Board of Governors of The University of North Carolina, the president, the vice-presidents, and the chancellors, the vice-chancellors, and voting members of the boards of trustees of the constituent institutions.
 - k. For the Community College System, the voting members of the State Board of Community Colleges, the President and the chief financial officer of the Community College System, the president, chief financial officer, and chief administrative officer of each community college, and voting members of the boards of trustees of each community college.

- l. Members of the State Board, the executive director, and the assistant executive director of the State Board.
 - m. Individuals under contract with the State working in or against a position included under this subdivision.
 - n. The director of the Office of State Human Resources.
 - o. The State Controller.
 - p. The State Chief Information Officer, deputy chief information officers, chief financial officers, and general counsel of the Department of Information Technology.
 - q. The director of the State Museum of Art.
 - r. The executive director of the Agency for Public Telecommunications.
 - s. The Commissioner of Motor Vehicles.
 - t. The Commissioner of Banks and the chief deputy commissioners of the Banking Commission.
 - u. The executive director of the North Carolina Housing Finance Agency.
 - v. The executive director, chief financial officer, and chief operating officer of the North Carolina Turnpike Authority.
- (71) through (80) Reserved for future codification purposes.
- (81) State agency. – An agency in the executive branch of the government of this State, including the Governor's Office, a board, a department, a division, and any other unit of government in the executive branch.
- (83) Vested trust. – A trust, annuity, or other funds held by a trustee or other third party for the benefit of the covered person or a member of the covered person's immediate family, except a blind trust. A vested trust shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if:
- a. The covered person or a member of the covered person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund; and
 - b. The fund is publicly traded, or the fund's assets are widely diversified. (2006-201, s. 1; 2007-347, ss. 7, 8; 2007-348, ss. 19-26; 2008-187, s. 44; 2008-213, ss. 40-54, 84(c); 2010-169, ss. 10, 17(n), (o); 2010-170, s. 14; 2013-382, s. 9.1(c); 2015-241, s. 7A.4(n); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-4. Application to Lieutenant Governor.

For purposes of this chapter, the Lieutenant Governor shall be considered a legislator when carrying out the Lieutenant Governor's duties under Sec. 13 of Article II of the Constitution, and a public servant for all other purposes. (2006-201, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-5: Reserved for future codification purposes.