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 rulemaking.

(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 Commission, the executive director, and the assistant executive director of the Commission.
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. Repealed by Session Laws 2021-90, s. 2(b), effective July 22, 2021.
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.
w. Commissioners appointed to the Lake Norman Marine Commission.

(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); 2021-90, s. 2(b); 2025-25, s. 29(6); 2025-67, s. 5.2.)

§ 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.

Article 2.

State Ethics Commission.

§ 138A-6. State Ethics Commission established.

There is established the State Ethics Commission. (2006-201, s. 1; 2017-6, ss. 4(c), 5(a); 2018-146, ss. 3.1(a), (b), 3.3(a).)

§ 138A-7. Membership.

(a) The Commission shall consist of eight members. Four members shall be appointed by the Governor, of whom no more than two shall be of the same political party. Four members shall be appointed by the General Assembly, two upon the recommendation of the Speaker of the House of Representatives, neither of whom shall be of the same political party, and two upon the recommendation of the President Pro Tempore of the Senate, neither of whom shall be of the same political party. Members shall serve for four-year terms, beginning January 1, 2019, except for the initial terms that shall be as follows:

(1) Two members appointed by the Governor shall serve an initial term of one year.
(2) Two members appointed by the General Assembly, one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate, shall serve initial terms of two years.
(3) Two members appointed by the Governor shall serve initial terms of three years.
(4) Two members appointed by the General Assembly, one upon the recommendation of the Speaker of the House of Representatives and one member upon the recommendation of the President Pro Tempore of the Senate, shall serve initial terms of four years.

(b) Members shall be removed from the Commission only for misfeasance, malfeasance, or nonfeasance. Members appointed by the Governor may be removed by the Governor. Members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be removed by the Governor upon the recommendation of the Speaker. Members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall be removed by the Governor upon the recommendation of the President Pro Tempore of the Senate.

(c) Vacancies in appointments made by the Governor shall be filled by the Governor for the remainder of any unfulfilled term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122 for the remainder of any unfulfilled term.

(d) No member while serving on the Commission or employee while employed by the Commission shall:

(1) Hold or be a candidate for any other office or place of trust or profit under the United States, the State, or a political subdivision of the State.
(2) Hold office in any political party above the precinct level.
(3) Participate in or contribute to the political campaign of any covered person or any candidate for a public office as a covered person over which the Commission would have jurisdiction or authority.
(4) Otherwise be an employee of the State, a community college, or a local school administrative unit, or serve as a member of any other State board.

(e) No individual is eligible to serve on the Commission who, within the 48 months prior to appointment, has held any of the following positions with an organization that has engaged in electioneering in those 48 months:

(1) Director, officer, or governing board member.
(2) Employee.

(3) Lobbyist registered under Chapter 120C of the General Statutes.
(4) Independent contractor.
(5) Legal counsel of record.

(f) The Governor shall annually appoint a member of the Commission to serve as chair of the Commission. The Commission shall elect a vice-chair annually from its membership. The vice-chair shall act as the chair in the chair's absence or if there is a vacancy in that position.

(g) Members of the Commission shall receive no compensation for service on the Commission but shall be reimbursed for subsistence, travel, and convention registration fees as provided under G.S. 138-5 or G.S. 138-7, as applicable.

(h) No individual may serve more than two consecutive four-year terms. (2006-201, s. 1; 2017-6, ss. 4(c), 5(b); 2018-2, s. 8(b); 2018-13, s. 5; 2018-146, ss. 3.1(a), (b), 3.3(b).)

§ 138A-8. Meetings and quorum.

The Commission shall meet at least quarterly and at other times as called by its chair or by four of its members. In the case of a vacancy in the chair, meetings may be called by the vice-chair. Five members of the Commission constitute a quorum. (2006-201, s. 1; 2017-6, ss. 4(c), 5(c); 2018-146, ss. 3.1(a), (b), 3.3(c).)

§ 138A-9. Staff and offices.

(a) The Commission may employ professional and clerical staff, including an executive director.

(b) The Commission shall be located within the Department of Administration for administrative purposes only, but shall exercise all of its powers, including the power to employ, direct, and supervise all personnel, independently of the Secretary of Administration, and is subject to the direction and supervision of the Secretary of Administration only with respect to the management functions of coordinating and reporting. The Department shall provide administrative support to the Commission free of charge. (2006-201, s. 1; 2015-241, s. 27.1; 2017-6, ss. 4(c), 5(d); 2018-146, ss. 3.1(a), (b), 3.3(d).)

§ 138A-10. Powers and duties.

(a) In addition to other powers and duties specified in this Chapter, the Commission shall:
(1) Provide reasonable assistance to covered persons in complying with this Chapter.
(2) Develop readily understandable forms, policies, and procedures to accomplish the purposes of the Chapter.
(3) Identify and publish the following:
a. A list of nonadvisory boards.
b. The names of individuals subject to this Chapter as covered persons and legislative employees under G.S. 138A-11.
(4) Receive and review all statements of economic interest filed with the Commission by prospective and actual covered persons as provided in G.S. 138A-28. Pursuant to G.S. 138A-24(c), this subdivision does not apply to statements of economic interest of legislators and judicial officers.
(5) Conduct inquiries of alleged violations against judicial officers, legislators, and legislative employees in accordance with G.S. 138A-12.

(6) Conduct inquiries into alleged violations against public servants in accordance with G.S. 138A-12.

(6a) Issue confidential recommendations to the State Board of Elections regarding the appropriateness of a criminal referral of campaign finance violations.

(7) Render advisory opinions in accordance with G.S. 138A-13 and G.S. 138A-102.

(8) Initiate and maintain oversight of ethics educational programs for public servants and their staffs, and legislators and legislative employees, consistent with G.S. 138A-14.

(9) Conduct a continuing study of governmental ethics in the State and propose changes to the General Assembly in the government process and the law as are conducive to promoting and continuing high ethical behavior by governmental officers and employees.

(10) Adopt procedures and guidelines to implement this Chapter.

(11) Report annually to the Joint Legislative Oversight Committee on General Government and the Governor on the Commission's activities and generally on the subject of public disclosure, ethics, and conflicts of interest, including recommendations for administrative and legislative action, as the Commission deems appropriate.

(12) Publish annually statistics on complaints filed with or considered by the Commission, including the number of complaints filed, the number of complaints referred under G.S. 138A-12(c), the number of complaints dismissed under G.S. 138A-12(e)(4), the number of complaints dismissed under G.S. 138A-12(h), the number of complaints referred for criminal prosecution under G.S. 138A-12, the number of complaints dismissed under G.S. 138A-12(j), the number of complaints referred for appropriate action under G.S. 138A-12(j) or G.S. 138A-12(m)(3), and the number and age of complaints pending action by the Commission.

(13) Perform other duties as may be necessary to accomplish the purposes of this Chapter.

(b) The Commission may authorize the Executive Director and other staff of the Commission to evaluate statements of economic interest on behalf of the Commission as authorized under subdivision (a)(4) of this section.

(c) Except as otherwise provided in this Chapter, the Commission shall be the sole State agency with authority to determine compliance with or violations of this Chapter and to issue interpretations and advisory opinions under this Chapter. Decisions and advisory opinions by the Commission under this Chapter shall be binding on all other State agencies. (2006-201, s. 1; 2008-213, s. 55; 2008-215, s. 7; 2009-549, s. 8; 2013-360, s. 30.4(a); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 4.11(a); 2021-180, s. 37.2.)

§ 138A-11. Identify and publish names of covered persons and legislative employees.

The Commission shall identify and publish at least quarterly a listing of the names and positions of all individuals subject to this Chapter as covered persons or legislative employees. The Commission shall also identify and publish at least annually a listing of all boards to which this Chapter applies. This listing may be published electronically on a public website maintained by the

Commission. (2006-201, s. 1; 2008-213, s. 56; 2017-6, s. 3; 2018-146, s. 3.1(a), (b); 2025-25, s. 29(5).)

§ 138A-12. Inquiries by the Commission.

(a) Jurisdiction. – The Commission may receive complaints alleging unethical conduct by covered persons and legislative employees and shall conduct inquiries of complaints alleging unethical conduct by covered persons and legislative employees, as set forth in this section.

(b) Notice of Allegation. – Upon receipt by the Commission of a written allegation of unethical conduct by a covered person or legislative employee, or the initiation by the Commission of an inquiry into unethical conduct under subsection (c) of this section, the Commission shall immediately notify the covered person or legislative employee subject to the allegation or inquiry in writing.

(c) Institution of Proceedings. – On its own motion, in response to a signed and sworn, under oath or affirmation, complaint of any registered voter filed with the Commission, or upon the written request of any public servant or those responsible for the hiring, appointing, or supervising of a public servant, the Commission shall conduct an inquiry into any of the following:

(1) The application or alleged violation of this Chapter.
(2) For legislators, the application or alleged violations of Part 1 of Article 14 of Chapter 120 of the General Statutes.
(3) An alleged violation of the criminal law by a covered person in the performance of that individual's official duties.
(4) An alleged violation of G.S. 126-14.

Upon receipt of a referral under G.S. 147-64.6B or a report under G.S. 147-64.6(c)(19), the Commission may conduct an inquiry under this section on its own motion. Allegations of violations of the Code of Judicial Conduct shall be referred to the Judicial Standards Commission without investigation.

(d) Complaints on Its Own Motion. – An investigation initiated by the Commission on its own motion or upon written request of any public servant or those responsible for the hiring, appointing, or supervising of a public servant instituted under subsection (c) of this section shall be treated as a complaint for purposes of this section and need not be sworn or verified.

(e) Complaint. –

(1) A sworn complaint filed under this Chapter shall state the name, address, and telephone number of the individual filing the complaint, the name and job title or appointive position of the covered person or legislative employee against whom the complaint is filed, and a concise statement of the nature of the complaint and specific facts indicating that a violation of this Chapter or Chapter 120 of the General Statutes or G.S. 126-14 or the criminal law in the performance of that individual's official duties has occurred, the date the alleged violation occurred, and either (i) that the contents of the complaint are within the knowledge of the individual verifying the complaint, or (ii) the basis upon which the individual verifying the complaint believes the allegations to be true.
(2) Except as provided in subsection (f) of this section, a complaint filed under this Chapter must be filed within two years of the date the complainant knew or should have known of the conduct upon which the complaint is based.
(3) The Commission may decline to accept, refer, or conduct an inquiry into any complaint that does not meet all of the requirements set forth in subdivision (1)

of this subsection, or the Commission may, in its sole discretion, request additional information to be provided by the complainant within a specified period of time of no less than five business days.

(4) In addition to subdivision (3) of this subsection, the Commission may decline to accept, refer, or conduct an inquiry into a complaint if it determines that any of the following apply:

a. The complaint is frivolous or brought in bad faith.

b. The covered person or legislative employee and conduct complained of have already been the subject of a prior complaint.

c. The conduct complained of is primarily a matter more appropriately and adequately addressed and handled by other federal, State, or local agencies or authorities, including law enforcement authorities. If other agencies or authorities are conducting an investigation of the same actions or conduct involved in a complaint filed under this section, the Commission may stay its complaint inquiry pending final resolution of the other investigation.

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

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

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

(h) Dismissal of Complaint After Preliminary Inquiry. – The Commission shall conclude the preliminary inquiry within 20 business days. The Commission shall dismiss the complaint, if at the end of its preliminary inquiry the Commission determines that any of the following apply:

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

(2) The complaint does not allege facts sufficient to constitute a violation within the jurisdiction of the Commission under subsection (c) of this section.

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

(i) Commission Inquiries. – If at the end of its preliminary inquiry, the Commission determines to proceed with further inquiry into the conduct of a covered person or legislative

employee, the Commission shall provide written notice to the individual who filed the complaint and the covered person or legislative employee as to the fact of the inquiry and the charges against the covered person or legislative employee. The covered person or legislative employee shall be given an opportunity to file a written response with the Commission.

(j) Action on Inquiries. – The Commission shall conduct inquiries into complaints to the extent necessary to either dismiss the complaint for lack of probable cause of a violation under this section, or:

(1) For public servants, decide to proceed with a hearing under subsection (k) of this section.

(2) For legislators, except the Lieutenant Governor, refer the complaint to the Committee.

(3) For judicial officers, refer the complaint to the Judicial Standards Commission for complaints against justices and judges, to the senior resident superior court judge of the district or county for complaints against district attorneys, or to the chief district court judge for the district or county for complaints against clerks of court.

(4) For legislative employees, refer the complaint to the employing entity.

(k) Hearing. –

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

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

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

(4) At any hearing held by the Commission:

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

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

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

(*l*) Settlement of Inquiries. – The public servant who is the subject of the complaint and the staff of the Commission may meet by mutual consent before the hearing to discuss the possibility

of settlement of the inquiry or the stipulation of any issues, facts, or matters of law. Any proposed settlement of the inquiry is subject to the approval of the Commission.

(m) Disposition of Inquiries. – After hearing, the Commission shall dispose of the matter in one or more of the following ways:

(1) If the Commission finds substantial evidence of an alleged violation of a criminal statute, the Commission shall refer the matter to the Attorney General for investigation and referral to the district attorney for possible prosecution.

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

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

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

b. Refer the matter for appropriate action to the Governor and the employing entity that appointed or employed the public servant or of which the public servant is a member.

c. Refer the matter for appropriate action to the Chief Justice for judicial employees.

d. Refer the matter to the Principal Clerks of the House of Representatives and Senate of the General Assembly for constitutional officers of the State.

e. Refer the matter for appropriate action to the principal clerk of the house of the General Assembly that elected the public servant for members of the Board of Governors and the State Board of Community Colleges.

(n) Notice of Dismissal. – Upon the dismissal of a complaint under this section, the Commission shall provide written notice of the dismissal to the individual who filed the complaint and the covered person or legislative employee against whom the complaint was filed. The Commission shall forward copies of complaints and notices of dismissal of complaints against legislators to the Committee, against legislative employees to the employing entity for legislative employees, and against judicial officers to the Judicial Standards Commission for complaints against justices and judges, and the senior resident superior court judge of the district or county for complaints against district attorneys, or the chief district court judge of the district or county for complaints against clerks of court. The Commission shall also forward a copy of the notice of dismissal to the employing entity of the covered person against whom a complaint was filed if the employing entity received a copy of the complaint under subdivision (5) of subsection (e) of this section. Except as provided in subsection (p) of this section, the complaint and notice of dismissal are confidential and not public records.

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

(p) Confidentiality. – Complaints and responses filed with the Commission and reports and other investigative documents and records of the Commission connected to an inquiry under this section, including information provided pursuant to G.S. 147-64.6B or G.S. 147-64.6(c)(19), shall

be confidential and not matters of public record, except as otherwise provided in this section or when the covered person or legislative employee under inquiry requests in writing that the complaint, response, and findings be made public. Once a hearing under this section commences, the complaint, response, and all other documents offered at the hearing in conjunction with the complaint, not otherwise privileged or confidential under law, shall be public records. If no hearing is held at such time as the Commission reports to the employing entity a recommendation of sanctions, the complaint and response shall be made public.

(q) Staff to the Commission may share with staff to the Committee information connected to an inquiry into the conduct of a legislator under this section. The Commission shall provide to the Committee copies of all reports, investigative documents, information, and other documents used by the Commission when it refers a complaint to the Committee under subdivision (2) of subsection (j) of this section. Upon written request by staff to the Committee, the Commission shall provide copies of all reports, investigative documents, information, and other documents used by the Commission when it dismisses a complaint against a legislator under subsection (n) of this section. The information and documents provided to the Committee and staff to the Committee and the written request provided to the Commission are confidential and are not public records as defined in G.S. 132-1.

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

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

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

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

(s1) Subpoena Authority. – The Commission may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of alleged violations of this Chapter. The court shall authorize subpoenas under this subsection when the court determines the subpoenas are necessary for the enforcement of this Chapter. Subpoenas issued under this subsection shall be enforceable by the court through contempt powers. Venue shall be with the Superior Court of Wake County for any person or governmental unit covered by this Chapter, and personal jurisdiction may be asserted under G.S. 1-75.4.

(t) Continuing Jurisdiction. – The Commission shall have continuing jurisdiction to investigate possible criminal violations of this Chapter for a period of one year following the date an individual, who was formerly a public servant or legislative employee, ceases to be a public servant or legislative employee for any investigation that commenced prior to the date the public servant or legislative employee ceases to be a public servant or legislative employee.

(u) Reports. – The number of complaints referred under this section shall be reported under G.S. 138A-10(a)(12).

(v) Concurrent Jurisdiction. – Nothing in this section shall limit the jurisdiction of the Committee or the Judicial Standards Commission with regards to legislative or judicial misconduct, and jurisdiction under this section shall be concurrent with the jurisdiction of the Committee and the Judicial Standards Commission. (2006-201, s. 1; 2007-348, ss. 27-30; 2008-187, s. 21; 2008-213, ss. 1(b), 57; 2008-215, ss. 4, 5; 2009-549, ss. 9, 10, 11; 2010-169, s. 23(a)-(e), (h); 2012-182, s. 3; 2017-6, ss. 3, 5(e); 2018-146, ss. 3.1(a), (b), 3.3(e), 4.2(a).)

§ 138A-13. Request for advice.

(a) At the request of any public servant or legislative employee, any individual who is responsible for the supervision or appointment of a public servant or legislative employee, legal counsel for any public servant or legislative employee, any ethics liaison under G.S. 138A-14, or any member of the Commission, the Commission shall render advice on specific questions involving the meaning and application of this Chapter and the public servant's or legislative employee's compliance therewith. Requests for advice and advice rendered in response to those requests shall relate prospectively to real or reasonably anticipated fact settings or circumstances.

(b) On its own motion, the Commission may render advisory opinions on specific questions involving the meaning and application of this Chapter.

(c) A request for a formal advisory opinion under subsection (a) of this section shall be in writing, electronic or otherwise. The Commission shall issue formal advisory opinions having prospective application only. A public servant or legislative employee who relies upon the advice provided to that public servant or legislative employee on a specific matter addressed by the requested formal advisory opinion shall be immune from all of the following:

(1) Investigation by the Commission, except for an inquiry under G.S. 138A-12(c)(3).
(2) Any adverse action by the employing entity.
(3) Investigation by the Secretary of State.

(d) At the request of a legislator, the Commission shall render advice on specific questions involving the meaning and application of this Chapter and Part 1 of Article 14 of Chapter 120 of the

General Statutes, and the legislator's compliance therewith. Requests for advice and advice rendered in response to those requests shall relate prospectively to real or reasonably anticipated fact settings or circumstances.

(e) A request by a legislator for a recommended formal advisory opinion shall be in writing, electronic or otherwise. The Commission shall issue recommended formal advisory opinions having prospective application only. Until action is taken by the Committee under G.S. 120-104, a legislator who relies upon the advice provided to that legislator on a specific matter addressed by the requested recommended formal advisory opinion shall be immune from all of the following:

(1) Investigation by the Commission, except for an inquiry under G.S. 138A-12(c)(3).
(2) Any adverse action by the house of which the legislator is a member.
(3) Investigation by the Secretary of State.

Any recommended formal advisory opinion issued to a legislator under this subsection shall immediately be delivered to the chairs of the Committee, together with a copy of the request. Except for the Lieutenant Governor, the immunity granted under this subsection shall not apply after the time the Committee modifies or overturns the advisory opinion of the Commission in accordance with G.S. 120-104.

(f) At the request of the Auditor, the Commission shall render advisory opinions on specific questions involving the meaning and application of this Chapter, Article 14 of Chapter 120 of the General Statutes, Chapter 120C of the General Statutes, and an affected person's compliance therewith. The request shall be in writing, electronic or otherwise, and relate to real fact settings and circumstances. Except when the question involves a question governed by subsection (d) or (e) of this section, the Commission shall issue an advisory opinion under this subsection within 60 days of the receipt of all information deemed necessary by the Commission to render an opinion. If the question involves a question governed by subsection (d) or (e) of this section, the Commission shall comply with the provisions of that section [subsection] prior to responding to the Auditor by delivering the recommended advisory opinion to the Committee within 60 days of the receipt of all information deemed necessary by the Commission to render an opinion. The Committee shall act on the opinion within 30 days of receipt and the Commission shall deliver the opinion to the Auditor. If the Committee fails to act on a recommended advisory opinion under this subsection with 30 days of receipt, the Commission shall deliver its recommended advisory opinion to the Auditor. Notwithstanding G.S. 138A-13(i), the Auditor may only release those portions of the advisory opinion necessary to comply with the requirements of G.S. 147-64.6(c)(1).

(g) Staff to the Commission may issue advice, but not formal or recommended formal advisory opinions, under procedures adopted by the Commission.

(h) The Commission shall publish its formal advisory opinions within 30 days of issuance. These formal advisory opinions shall be edited for publication purposes as necessary to protect the identities of the individuals requesting formal advisory opinions. When the Commission issues a recommended formal advisory opinion to a legislator under subsection (e) of this section, the Commission shall publish only the edited formal advisory opinion of the Committee within 30 days of receipt of the edited opinion from the Committee.

(i) Except as provided under subsections (f), (h) and (j) of this section, a request for advice, any advice provided by Commission staff, any formal or recommended formal advisory opinions, any supporting documents submitted or caused to be submitted to the Commission or Commission staff, and any documents prepared or collected by the Commission or Commission staff in

connection with a request for advice are confidential. The identity of the individual making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual who requests advice or receives advice, including a formal or recommended formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

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

(j) Staff to the Commission may share all information and documents related to requests for advice, made by legislators under this section with staff to the Committee. The information and documents in the possession of staff to the Committee are confidential and are not public records.

(k) This section shall apply to judicial officers only for advice related to Article 3 of this Chapter.

(*l*) Requests for advice may be withdrawn by the requestor at any time prior to the issuance of the advice. (2006-201, s. 1; 2007-348, s. 31; 2008-213, ss. 2(b), 91.5; 2008-215, s. 6; 2009-570, s. 17; 2010-169, s. 17(p); 2016-125, 4th Ex. Sess., s. 3(e); 2017-6, ss. 2, 3, 5(f); 2018-146, s. 3.1(a), (b).)

§ 138A-13.5. Recommendations Regarding Criminal Referrals of Campaign Finance Violations.

Upon request by the State Board of Elections, the Commission shall offer confidential recommendations regarding the appropriateness of a criminal referral for campaign finance violations. The Commission shall employ staff to conduct an investigation. The investigation and vote of the Commission on the recommendation shall be completed within 90 days of receipt of the request from the State Board of Elections. (2018-146, s. 4.11(b).)

§ 138A-14. Ethics education program.

(a) The Commission shall develop and implement an ethics education and awareness program designed to instill in all covered persons and their immediate staffs, and legislative employees, a keen and continuing awareness of their ethical obligations and a sensitivity to situations that might result in real or potential conflicts of interest.

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

(c) A public servant appointed to a board determined and designated as nonadvisory under G.S. 138A-10(a)(3) shall attend an ethics presentation approved by the Commission within six months of notification of the designation by the Commission and at least every two years thereafter in a manner as the Commission deems appropriate.

(d) The Commission, jointly with the Committee, shall make basic ethics education and awareness presentations to all legislators and legislative employees upon their election, reelection, appointment, or employment and shall offer periodic refresher presentations as the Commission

and the Committee deem appropriate. Every legislator shall participate in an ethics presentation approved by the Commission and Committee within two months of either the convening of the General Assembly to which the legislator is elected or within two months of the legislator's appointment, whichever is later. Every legislative employee shall participate in an ethics presentation approved by the Commission and Committee within three months of employment, and shall attend refresher ethics education presentations at least every two years thereafter, in a manner as the Commission and Committee deem appropriate.

(e) Upon request, the Commission shall assist each agency in developing in-house education programs and procedures necessary or desirable to meet the agency's particular needs for ethics education, conflict identification, and conflict avoidance.

(f) Each agency head shall designate an ethics liaison who shall maintain active communication with the Commission on all agency ethical issues. The ethics liaison shall attend ethics education and awareness programs as provided under this section and lobbying education and awareness programs as provided under G.S. 120C-103 and continuously assess and advise the Commission of any issues or conduct which might reasonably be expected to result in a conflict of interest and seek advice and rulings from the Commission as to their appropriate resolution.

(g) The Commission shall publish a newsletter containing summaries of the Commission's opinions, policies, procedures, and interpretive bulletins as issued from time to time. The newsletter shall be distributed to all covered persons and legislative employees. Publication under this subsection may be done electronically.

(h) The Commission shall assemble and maintain a collection of relevant State laws, rules, and regulations that set forth ethical standards applicable to covered persons. This collection shall be made available electronically as resource material to public servants, and ethics liaisons, upon request.

(i) This section shall not apply to judicial officers. (2006-201, s. 1; 2007-347, s. 9(a); 2008-213, ss. 59, 60; 2009-10, s. 4; 2009-549, s. 12; 2010-169, s. 22(a); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-15. Duties of heads of State agencies.

(a) The head of each State agency, including the chair of each board subject to this Chapter, shall take an active role in furthering ethics in public service and ensuring compliance with this Chapter. The head of each State agency and the chair of each board shall make a conscientious, good-faith effort to assist public servants within the agency or on the board in monitoring their personal, financial, and professional affairs to avoid taking any action that results in a conflict of interest.

(b) The head of each State agency, including the chair of each board subject to this Chapter, shall maintain familiarity with and stay knowledgeable of the reports, opinions, newsletters, and other communications from the Commission regarding ethics in general and the interpretation and enforcement of this Chapter. The head of each State agency and the chair of each board shall also maintain familiarity with and stay knowledgeable of the Commission's reports, evaluations, opinions, or findings regarding individual public servants in that individual's agency or on that individual's board, or under that individual's supervision or control, including all reports, evaluations, opinions, or findings pertaining to actual or potential conflicts of interest.

(c) When an actual or potential conflict of interest is cited by the Commission under G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the

board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with this Chapter.

(d) The head of each State agency, including the chair of each board subject to this Chapter, shall periodically remind public servants under that individual's authority of the public servant's duties to the public under the ethical standards and rules of conduct in this Chapter, including the duty of each public servant to continually monitor, evaluate, and manage the public servant's personal, financial, and professional affairs to ensure the absence of conflicts of interest.

(e) At the beginning of any meeting of a board, the chair shall remind all members of their duty to avoid conflicts of interest under this Chapter. The chair also shall inquire as to whether there is any known conflict of interest with respect to any matters coming before the board at that time.

(f) The head of each State agency, including the chair of each board subject to this Chapter, shall ensure that legal counsel employed by or assigned to their agency or board are familiar with the provisions of this Chapter, including the Ethical Standards for Covered Persons set forth in Article 4 of this Chapter, and are available to advise public servants on the ethical considerations involved in carrying out their public duties in the best interest of the public. Legal counsel so engaged may consult with the Commission, seek the Commission's assistance or advice, and refer public servants and others to the Commission as appropriate.

(g) Taking into consideration the individual autonomy, needs, and circumstances of each agency and board, the head of each State agency, including the chair of each board subject to this Chapter, shall consider the need for the development and implementation of in-house educational programs, procedures, or policies tailored to meet the agency's or board's particular needs for ethics education, conflict identification, and conflict avoidance. This includes the periodic presentation to all agency heads, their chief deputies or assistants, other public servants under their supervision or control, and members of boards, of the basic ethics education and awareness presentation outlined in G.S. 138A-14 and any other workshop or seminar program the agency head or board chair deems necessary in implementing this Chapter. Agency heads and board chairs may request reasonable assistance from the Commission in complying with the requirements of this subsection.

(h) As soon as reasonably practicable after the designation, hiring, or promotion of their chief deputies, assistants, or other public servants under their supervision or control, or learning of the appointment or election of other public servants to a board covered under this Chapter, all agency heads and board chairs shall (i) notify the Commission of such designation, hiring, promotion, appointment, or election and (ii) provide these public servants with copies of this Chapter and all applicable financial disclosure forms, if these materials and forms have not been previously provided to these public servants in connection with their designation, hiring, promotion, appointment, or election. In order to avoid duplication of effort, agency heads and board chairs shall coordinate this effort with the Commission's staff. (2006-201, s. 1; 2007-347, s. 9(b); 2008-213, ss. 61, 62; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-16. Reserved for future codification purposes.

§ 138A-17. Reserved for future codification purposes.

§ 138A-18. Reserved for future codification purposes.

§ 138A-19. Reserved for future codification purposes.

§ 138A-20. Reserved for future codification purposes.

Article 3.

Public Disclosure of Economic Interests.

§ 138A-21. Purpose.

The purpose of disclosure of the financial and personal interests by covered persons is to assist covered persons and those who appoint, elect, hire, supervise, or advise them identify and avoid conflicts of interest and potential conflicts of interest between the covered person's private interests and the covered person's public duties. It is critical to this process that current and prospective covered persons examine, evaluate, and disclose those personal and financial interests that could be or cause a conflict of interest or potential conflict of interest between the covered person's private interests and the covered person's public duties. Covered persons must take an active, thorough, and conscientious role in the disclosure and review process, including having a complete knowledge of how the covered person's public position or duties might impact the covered person's private interests. Covered persons have an affirmative duty to provide any and all information that a reasonable person would conclude is necessary to carry out the purposes of this Chapter and to fully disclose any conflict of interest or potential conflict of interest between the covered person's public and private interests, but the disclosure, review, and evaluation process is not intended to result in the disclosure of unnecessary or irrelevant personal information. (2006-201, s. 1; 2008-213, s. 63; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-22. Statement of economic interest; filing required.

(a) Every covered person subject to this Chapter who is elected, appointed, or employed, including one appointed to fill a vacancy in elective office, except for public servants (i) included under G.S. 138A-3(70)b., e., f., or g. whose annual compensation from the State is less than sixty thousand dollars ($60,000), or (ii) who are ex officio student members under Chapters 115D and 116 of the General Statutes, shall file a statement of economic interest with the Commission prior to the covered person's initial appointment, election, or employment and no later than April 15 of every year thereafter, except as otherwise filed under subsections (d) and (f) of this section. A prospective covered person required to file a statement under this Chapter shall not be appointed, employed, or receive a certificate of election, prior to submission by the Commission of the Commission's evaluation of the statement in accordance with this Article. The requirement for an annual filing under this subsection also shall apply to covered persons whose terms have expired but who continue to serve until the covered person's replacement is appointed. Once a statement of economic interest is properly completed and filed under this Article, the statement of economic interest does not need to be supplemented or refiled prior to the next due date set forth in this subsection.

(b) Notwithstanding subsection (a) of this section, individuals hired by, and appointees of, constitutional officers of the State may file a statement of economic interest within 30 days after their appointments or employment when the appointment or employment is made during the first 60 days of the constitutional officer's initial term in that constitutional office.

(b1) Notwithstanding subsection (a) of this section, covered persons subject to this Chapter who are appointed to fill a vacancy in elective office may file a statement of economic interest within 30 days after appointment to elective office.

(c) Notwithstanding subsection (a) of this section, public servants, under G.S. 138A-3(70)j. and k., who have submitted a statement of economic interest under subsection (a) of this section, may be hired, appointed, or elected provisionally prior to submission by the Commission of the Commission's evaluation of the statement in accordance with this Article, subject to dismissal or removal based on the Commission's evaluation.

(d) A public servant reappointed to a board between January 1 and April 15 shall file a current statement of economic interest prior to the reappointment.

(e) A public servant appointed to a board determined and designated as nonadvisory under G.S. 138A-10(a)(3) shall file the initial statement of economic interest within 60 days of notification of the designation by the Commission and as provided in this section thereafter.

(f) A candidate for an office subject to this Article shall file the statement of economic interest with the Commission no earlier than the first business day in January and no later than 45 days before the primary. An individual nominated under G.S. 163-114 shall file the statement within three days following the individual's nomination, or not later than the day preceding the general election, whichever occurs first. An individual seeking to qualify as an unaffiliated candidate under G.S. 163-122 shall file the statement of economic interest within three days of filing the petition required under that section. An individual seeking to have write-in votes counted for that individual in a general election shall file a statement of economic interest within three days of the time the candidate files a declaration of intent under G.S. 163-123. A candidate of a new party chosen by convention shall file a statement of economic interest within three days of the time that the president of the convention certifies the names of its candidates to the State Board of Elections under G.S. 163-98.

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

(1) Filed on or before April 15 of the year following the year a covered person or former covered person does not file a notice of candidacy or petition for election, or does not receive a certificate of election, to the position making that individual a covered person, with all information provided in the statement of economic interest current as of the last day of December of the preceding year.

(2) Filed on or before April 15 of the year following the year the covered person or former covered person resigns from the position making that individual a covered person, with all information provided in the statement of economic interest current as of the last day in the position.

(h) The State Board of Elections shall provide for notification of the statement of economic interest requirements of this Article to be given to any candidate filing for nomination or election to those offices subject to this Article and to any nominee under G.S. 163-114. Each year, the Commission shall publish the date by which the statement of economic interest is to be filed. In the year candidates file for office, the State Board of Elections shall notify candidates filing for offices subject to this Article of the date published by the Commission.

(i) Within 10 days of the filing deadline for office of a covered person, the executive director of the State Board of Elections shall send to the Commission a list of the names and addresses of each candidate who has filed as a candidate for office as a covered person. Within five days of an individual otherwise qualifying to be on the ballot, the State Board of Elections shall send notice of that qualification to the Commission.

(j) The Commission shall issue forms to be used for the statement of economic interest and shall revise the forms from time to time as necessary to carry out the purposes of this Chapter. Except as otherwise set forth in this section and in G.S. 138A-15(h), upon notification by the employing entity, the Commission shall furnish to all other covered persons the appropriate forms needed to comply with this Article. (2006-201, s. 1; 2007-29, s. 2; 2007-348, ss. 32, 33; 2008-213, s. 64; 2009-549, s. 13; 2010-169, ss. 12, 22(b); 2014-111, s. 13(a); 2017-6, s. 3; 2018-146, s. 3.1(a), (b); 2023-139, s. 6.9(a).)

§ 138A-23. Statements of economic interest as public records.

(a) The statements of economic interest filed by prospective public servants under this Article for appointed or employed positions and written evaluations by the Commission of these statements are not public records until the prospective public servant is appointed or employed by the State. All other statements of economic interest and all other written evaluations by the Commission of those statements are public records.

(b) The statements of economic interest filed by prospective public servants, and the written evaluations by the Commission of those statements, for individuals elected by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the election and made available to all members of the General Assembly. The statements of economic interest filed by public servants elected to positions by the General Assembly, and written evaluations by the Commission of those statements, are not public records until the prospective public servant is sworn into office.

(c) The statements of economic interest filed by prospective public servants, and the written evaluations by the Commission of those statements, for individuals confirmed for appointment as a public servant by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the appointment. The statements of economic interest filed by prospective public servants for confirmation for appointment by the General Assembly, and written evaluations by the Commission of those statements, are public records at the time of the announcement of the appointment. (2006-201, s. 1; 2007-347, s. 10; 2008-213, ss. 65, 66; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-24. Contents of statement.

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

(1) Except as otherwise provided in this subdivision, the name, current mailing address, occupation, employer, and business of the filing person. Any individual holding or seeking elected office for which residence is a qualification for office shall include a home address. A judicial officer may use a current mailing address instead of the home address on the form required in this subsection. The filing person may also use the initials instead of the name of any unemancipated child of the filing person who also resides in the household of the filing person. If the filing person provides the initials of an unemancipated child, the filing person shall concurrently provide the name of the unemancipated child to the Commission. The name of an unemancipated child provided by the filing person to the Commission shall not be a public

record under Chapter 132 of the General Statutes and is privileged and confidential.

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

a. All real estate located in the State owned wholly or in part by the filing person or the filing person's immediate family, including descriptions adequate to determine the location by city and county of each parcel.

b. Real estate that is currently leased or rented to or from the State.

c. Personal property sold to or bought from the State within the preceding two years.

d. Personal property currently leased or rented to or from the State.

e. The name of each publicly owned company. For purposes of this sub-subdivision, the term "publicly owned company" 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 filing person or a member of the 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.

f. The name of each nonpublicly owned company or business entity, including interests in sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations.

g. For each company or business entity listed under sub-subdivision f. of this subdivision, if known, a list of any other companies or business entities in which the company or business entity owns securities or equity interests exceeding a value of ten thousand dollars ($10,000).

h. For a vested trust created, established, or controlled by the filing person of which the filing person or the members of the filing person's immediate family are the beneficiaries, excluding a blind trust, the name and address of the trustee, a description of the trust, and the filing person's relationship to the trust.

i. A list of all liabilities, excluding indebtedness on the filing person's primary personal residence, by type of creditor and debtor.

j. A list of all stock options in a company or business not otherwise disclosed on this statement.

(3) The name of each source (not specific amounts) of income of more than five thousand dollars ($5,000) received during the previous year by business or industry type, if that source is not listed under subdivision (2) of this subsection. Income shall include salary, wages, professional fees, honoraria, interest, dividends, rental income, and business income from any source other than

capital gains, federal government retirement, military retirement, or social security income.

(4) If the filing person is a practicing attorney, an indication of whether the filing person, or the law firm with which the filing person is affiliated, earned legal fees during the past year in excess of ten thousand dollars ($10,000) from any of the following categories of legal representation:
   a. Administrative law.
   b. Admiralty law.
   c. Corporate law.
   d. Criminal law.
   e. Decedents' estates law.
   f. Environmental law.
   g. Insurance law.
   h. Labor law.
   i. Local government law.
   j. Negligence or other tort litigation law.
   k. Real property law.
   l. Securities law.
   m. Taxation law.
   n. Utilities regulation law.

(5) Except for a filing person in compliance under subdivision (4) of this subsection, if the filing person is a licensed professional or provides consulting services, either individually or as a member of a professional association, a list of categories of business and the nature of services rendered, for which payment for services were charged or paid during the past year in excess of ten thousand dollars ($10,000).

(6) An indication of whether the filing person, the filing person's employer, a member of the filing person's immediate family, or the immediate family member's employer is licensed or regulated by, or has a business relationship with, the board or employing entity with which the filing person is or will be associated. This subdivision does not apply to a legislator, a judicial officer, or that legislator's or judicial officer's immediate family.

(7) A list of societies, organizations, or advocacy groups, pertaining to subject matter areas over which the public servant's agency or board may have jurisdiction, in which the public servant or a member of the public servant's immediate family is a director, officer, or governing board member. This subdivision does not apply to a legislator, a judicial officer, or that legislator's or judicial officer's immediate family.

(8) A list of all things with a total value of over two hundred dollars ($200.00) per calendar quarter given and received without valuable consideration and under circumstances that a reasonable person would conclude that the thing was given for lobbying, if such things were given by a person not required to report under Chapter 120C of the General Statutes, excluding things given by a member of the filing person's extended family. The list shall include only those things received during the 12 months preceding the reporting period under subsection (d) of this section, and shall include the source of those things. The list required

by this subdivision shall not apply to things of monetary value received by the filing person prior to the time the filing person filed or was nominated as a candidate for office, as described in G.S. 138A-22, or was appointed or employed as a covered person.

(9) A list of any felony convictions of the filing person, excluding any felony convictions for which a pardon of innocence or order of expungement has been granted.

(10) Any other information that the filing person believes may assist the Commission in advising the filing person with regards to compliance with this Chapter.

(11) A list of any nonprofit corporation or organization with which associated during the preceding calendar year, including a list of which of those nonprofit corporations or organizations with which associated do business with the State or receive State funds and a brief description of the nature of the business, if known or with which due diligence could reasonably be known.

(12) A statement of whether the filing person or the filing person's immediate family is or has been a lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes within the preceding 12 months.

(13) A list of all contributions as defined in G.S. 163-278.6(13) with a cumulative total of more than one thousand dollars ($1,000) made by the filing person only, during the preceding calendar year, to the candidate or candidate campaign committee of the covered person as defined in G.S. 138A-3(70)a. appointing the filing person to the covered board.

(14) A statement indicating "Yes" or "No" as to whether the filing person engaged in each of the following activities during the preceding calendar year, with respect to or on the behalf of the candidate or candidate campaign committee of the covered person as defined in G.S. 138A-3(70)a. appointing the filing person: (i) collected contributions from multiple contributors, took possession of such multiple contributions, and transferred or delivered those collected multiple contributions, (ii) hosted a fund-raiser in the filing person's residence or place of business, or (iii) volunteered for campaign-related activity. This subdivision only applies to filing persons in the following categories:

a. A public servant, or a prospective appointee to, as defined in G.S. 138A-3(70)c.

b. A judicial officer that serves on, or a prospective appointee to, the Supreme Court, the Court of Appeals, the superior court, or the district court.

c. A covered person serving on, or a prospective appointee to, one of the following panels or boards:

1. Alcoholic Beverage Control Commission.
2. Coastal Resources Commission.
3. State Board of Education.
4. State Board of Elections.
5. Division of Employment Security.
6. Environmental Management Commission.
7. Industrial Commission.

8. State Human Resources Commission.
9. Rules Review Commission.
10. Board of Transportation.
11. Board of Governors of the University of North Carolina.
12. Utilities Commission.
13. Wildlife Resources Commission.

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

(16) For any company or business entity listed under subdivision (15) of this subsection and sub-subdivisions f. and g. of subdivision (2) of this subsection, if known, a statement whether that company or business entity has any material business dealings or business contracts with the State, or is regulated by the State, including a brief description of the business activity.

(b) The Supreme Court, the Committee, constitutional officers of the State, heads of principal departments, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, other boards, and the appointing authority or employing entity may require a filing person to file supplemental information in conjunction with the filing of that filing person's statement of economic interest. These supplemental filings requirements shall be filed with the Commission and included on the forms to be filed with the Commission. The Commission shall evaluate the supplemental forms as part of the statement of economic interest. The failure to file supplemental forms shall be subject to the provisions of G.S. 138A-25.

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

(d) All information provided in the statement of economic interest shall be current as of the last day of December of the year preceding the date the statement of economic interest was due.

(e) The Commission shall prepare a written evaluation of each statement of economic interest relative to conflicts of interest and potential conflicts of interest. This subsection does not apply to statements of economic interest of legislators and judicial officers. The Commission shall submit the evaluation to all of the following:

(1) The filing person who submitted the statement.

(2) The head of the agency in which the filing person serves.

(3) The Governor for gubernatorial appointees and employees in agencies under the Governor's authority.

(4) The appointing or hiring authority for those public servants not under the Governor's authority.

(5) The State Board of Elections for those filing persons who are elected.

(f) The Commission shall prepare a written evaluation of each statement of economic interest for nominees of the Board of Governors of The University of North Carolina elected pursuant to G.S. 116-6, and nominees of the State Board of Community Colleges elected pursuant to G.S. 115D-2.2 within seven days of the submission of the completed statement of economic interest to the Commission. (2006-201, s. 1; 2007-29, s. 1; 2007-348, s. 34; 2008-187, s. 32; 2008-213, ss. 67-72(a), 73, 74, 74.5, 91; 2009-549, s. 14; 2009-570, s. 45; 2010-169, ss. 13(a)-(d),

17(q), 22(b); 2011-401, s. 3.18; 2013-382, s. 9.1(c); 2017-6, s. 3; 2018-146, s. 3.1(a), (b); 2021-90, s. 25.2(c).)

§ 138A-25. Failure to file.

(a) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify filing persons who have failed to file or filing persons whose statement has been deemed incomplete. For a filing person currently serving as a covered person, the Commission shall notify the filing person and the ethics liaison that if the statement of economic interest is not filed or completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be subject to a fine as provided for in this section.

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

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

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

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

(2) Failure by any filing person to file or complete the Statement of Economic Interest within 60 days of the receipt of the notice required under this subsection shall be a Class 1 misdemeanor. The Commission shall report such failure to the Director of the State Bureau of Investigation for investigation and referral to the District Attorney for possible prosecution, unless the Commission determines extenuating circumstances exist.

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

(1) Any filing person who fails to file or who files an incomplete additional disclosure within 30 days of the receipt of the notice required under this section shall be fined two hundred fifty dollars ($250.00) for not filing or filing an

incomplete additional disclosure, except in extenuating circumstances as determined by the Commission.

(2) Failure by any filing person to file or complete the additional disclosure within 60 days of the receipt of the notice required under this subsection shall be a Class 1 misdemeanor. The Commission shall report such failure to the Director of the State Bureau of Investigation for investigation and referral to the District Attorney for possible prosecution, unless the Commission determines extenuating circumstances exist. (2006-201, s. 1; 2008-213, s. 75; 2009-549, s. 15; 2014-58, s. 12(c); 2014-115, s. 56.6A(c); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-26. Concealing or failing to disclose material information.

A filing person who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a statement of economic interest under this Article shall be guilty of a Class 1 misdemeanor and shall be subject to disciplinary action under G.S. 138A-45. (2006-201, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-27. Penalty for false information.

A filing person who provides false information on a statement of economic interest as required under this Article knowing that the information is false is guilty of a Class H felony and shall be subject to disciplinary action under G.S. 138A-45. (2006-201, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

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

(a) The Commission shall receive and review all statements of economic interest pursuant to G.S. 138A-10(a)(4) and shall evaluate whether (i) the statements conform to the law and the rules of the commission, and (ii) the financial interests and other information reported by prospective and actual covered persons reveal actual or potential conflicts of interest.

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

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

(1) The University of North Carolina Board of Governors, subject to G.S. 138A-24(f).
(2) The State Board of Community Colleges, subject to G.S. 138A-124(f).
(3) The North Carolina Utilities Commission.
(4) The North Carolina Industrial Commission.
(5) Supplemental statements filed pursuant to Chapter 136 of the General Statutes.
(6) Any other board or commission whose members are elected or confirmed by the General Assembly.

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

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

(f) Nothing in this section shall be construed to impair the Commission's duties and authority under G.S. 138A-25 and G.S. 138A-26. (2013-360, s. 30.4(b); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-29. Reserved for future codification purposes.

§ 138A-30. Reserved for future codification purposes.

Article 4.

Ethical Standards for Covered Persons.

§ 138A-31. Use of public position for private gain.

(a) Except as permitted under G.S. 138A-38, a covered person or legislative employee shall not knowingly use the covered person's or legislative employee's public position in an official action or legislative action that will result in financial benefit to the covered person or legislative employee, a member of the covered person's or legislative employee's extended family, or business with which the covered person or legislative employee is associated. This subsection shall not apply to financial or other benefits derived by a covered person or legislative employee that the covered person or legislative employee would enjoy to an extent no greater than that which other citizens of the State would or could enjoy, or that are so remote, tenuous, insignificant, or speculative that a reasonable person would conclude under the circumstances that the covered person's or legislative employee's ability to protect the public interest and perform the covered person's or legislative employee's official duties would not be compromised.

(b) A covered person shall not mention or authorize another person to mention the covered person's public position in nongovernmental advertising that advances the private interest of the covered person or others. The prohibition in this subsection shall not apply to any of the following:

(1) Political advertising.
(2) News stories and articles.
(3) The inclusion of a covered person's public position in a directory or a biographical listing.
(4) The inclusion of a covered person's public position in an agenda or other document related to a meeting, conference, or similar event when the disclosure could reasonably be considered material by an individual attending the meeting, conference, or similar event.
(5) The inclusion of a covered person's public position in a charitable solicitation for a nonprofit business entity qualifying under 26 U.S.C. § 501(c)(3).
(6) The disclosure of a covered person's position to an existing or prospective customer, supplier, or client when the disclosure could reasonably be considered material by the customer, supplier, or client.
(7) A letter of character reference for any of the following:

a. A student seeking admittance to a school or institution of higher education.
b. An individual seeking an academic scholarship.
c. An individual seeking leniency upon sentencing by the courts, or other matters related to probation or parole.
d. An individual seeking employment, at the request of that individual or in response to the inquiry of a potential employer as to the qualifications and character of that individual.

(c) Notwithstanding G.S. 163-278.16A, no covered person shall use or permit the use of State funds for any advertisement or public service announcement in a newspaper, on radio, television, magazines, or billboards, that contains that covered person's name, picture, or voice, except in case of State or national emergency and only if the announcement is reasonably necessary to the covered person's official function. This subsection shall not apply to fund-raising on behalf of and aired on public radio or public television. (2006-201, s. 1; 2009-549, s. 16; 2011-393, s. 1; 2015-208, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-32. Gifts.

(a) A covered person or a legislative employee shall not knowingly, directly or indirectly, ask, accept, demand, exact, solicit, seek, assign, receive, or agree to receive anything of value for the covered person or legislative employee, or for another person, in return for being influenced in the discharge of the covered person's or legislative employee's official responsibilities, other than that which is received by the covered person or the legislative employee from the State for acting in the covered person's or legislative employee's official capacity.

(b) A covered person may not solicit for a charitable purpose any thing of monetary value from any subordinate State employee. This subsection shall not apply to generic written solicitations to all members of a class of subordinates. Nothing in this subsection shall prohibit a covered person from serving as the honorary head of the State Employees Combined Campaign.

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

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

(d) No public servant shall knowingly accept a gift from a person whom the public servant knows or has reason to know any of the following:

(1) Is doing or is seeking to do business of any kind with the public servant's employing entity.
(2) Is engaged in activities that are regulated or controlled by the public servant's employing entity.

(3) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the public servant's official duties.

(e) No public servant shall accept a gift knowing all of the following:

(1) The gift was obtained indirectly from a person described under subdivision (d)(1), (2), or (3) of this section.

(2) The person described under subdivision (d)(1), (2), or (3) of this section intended for an ultimate recipient of the gift to be a public servant.

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

(1) Food and beverages for immediate consumption in connection with any of the following:

a. An open meeting of a public body, provided that the open meeting is properly noticed under Article 33C of Chapter 143 of the General Statutes.

b. A gathering of a person or governmental unit with at least 10 or more individuals in attendance open to the general public, provided that a sign or other communication containing a message that is reasonably designed to convey to the general public that the gathering is open to the general public is displayed at the gathering.

c. A gathering of a person or governmental unit to which the entire board of which a public servant is a member, at least 10 public servants, all the members of the House of Representatives, all the members of the Senate, all the members of a county or municipal legislative delegation, all the members of a recognized legislative caucus with regular meetings other than meetings with one or more lobbyists, all the members of a committee, a standing subcommittee, a joint committee or joint commission of the House of Representatives, the Senate, or the General Assembly, or all legislative employees are invited, and one of the following applies:

1. At least 10 individuals associated with the person or governmental unit actually attend, other than the covered person or legislative employee, or the immediate family of the covered person or legislative employee.

2. All shareholders, employees, board members, officers, members, or subscribers of the person or governmental unit located in North Carolina are notified and invited to attend.

For purposes of this sub-subdivision only, the term "invited" shall mean written notice from at least one host or sponsor of the gathering containing the date, time, and location of the gathering given at least 24 hours in advance of the gathering to the specific qualifying group listed in this sub-subdivision. If it is known at the time of the written notice that at least one sponsor is a lobbyist or lobbyist principal, the written notice shall also state whether or not the gathering is permitted under this section.

(2) Informational materials relevant to the duties of the covered person or legislative employee.

(3) Reasonable actual expenditures of the legislator, public servant, or legislative employee for food, beverages, registration, travel, lodging, other incidental items of nominal value, and entertainment, in connection with (i) a legislator's, public servant's, or legislative employee's attendance at an educational meeting for purposes primarily related to the public duties and responsibilities of the legislator, public servant, or legislative employee; (ii) a legislator's, public servant's, or legislative employee's participation as a speaker or member of a panel at a meeting; (iii) a legislator's or legislative employee's attendance and participation in meetings of a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or that the legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position, or as a member of a board, agency, or committee of such organization; or (iv) a public servant's attendance and participation in meetings as a member of a board, agency, or committee of a nonpartisan state, regional, national, or international organization of which the public servant's agency is a member or the public servant is a member by virtue of that public servant's public position, provided the following conditions are met:

a. The reasonable actual expenditures shall be made by a lobbyist principal, and not a lobbyist.
b. Any meeting must be attended by at least 10 or more participants, have a formal agenda, and notice of the meeting has been given at least 10 days in advance.
c. Any food, beverages, transportation, or entertainment must be provided to all attendees or defined groups of 10 or more attendees as part of the meeting or in conjunction with the meeting.
d. Any entertainment must be incidental to the principal agenda of the meeting.
e. If the legislator, public servant, or legislative employee is participating as a speaker or member of a panel, then that legislator, public servant, or legislative employee must be a bona fide speaker or participant.

(4) A plaque or similar nonmonetary memento recognizing individual services in a field or specialty or to a charitable cause.
(5) Gifts accepted on behalf of the State for use by the State or for the benefit of the State.
(6) Anything generally made available or distributed to the general public or all other State employees by lobbyists or lobbyist principals, or persons described in subdivisions (d)(1), (2), or (3) of this section.
(7) Gifts from the covered person's or legislative employee's extended family, or a member of the same household of the covered person or legislative employee.
(8) Gifts given to a public servant not otherwise subject to an exception under this subsection, where the gift is food and beverages, transportation, lodging, entertainment or related expenses associated with the public business of industry recruitment, promotion of international trade, or the promotion of travel and tourism, and the public servant is responsible for conducting the business on behalf of the State, provided all the following conditions apply:

a. The public servant did not solicit the gift, and the public servant did not accept the gift in exchange for the performance of the public servant's official duties.
b. The public servant reports electronically to the Commission within 30 days of receipt of the gift or of the date set for disclosure of public records under G.S. 132-6(d), if applicable. The report shall include a description and value of the gift and a description how the gift contributed to the public business of industry recruitment, promotion of international trade, or the promotion of travel and tourism. This report shall be posted to the Commission's public website.
c. A tangible gift, other than food or beverages, not otherwise subject to an exception under this subsection shall be turned over as State property to the Department of Commerce within 30 days of receipt, except as permitted under subsection (g) of this section.

(9) Gifts of personal property valued at less than one hundred dollars ($100.00) given to a public servant in the commission of the public servant's official duties if the gift is given to the public servant as a personal gift in another country as part of an overseas trade mission, and the giving and receiving of such personal gifts is considered a customary protocol in the other country.

(10) Gifts given or received as part of a business, civic, religious, fraternal, personal, or commercial relationship provided all of the following conditions are met:
a. The relationship is not related to the public servant's, legislator's, or legislative employee's public service or position.
b. The gift is made under circumstances that a reasonable person would conclude that the gift was not given to lobby.

(11) Food and beverages for immediate consumption and related transportation provided all of the following conditions are met:
a. The food, beverage, or transportation is given by a lobbyist principal and not a lobbyist.
b. The food, beverage, or transportation is provided during a conference, meeting, or similar event and is available to all attendees of the same class as the recipient.
c. The recipient of the food, beverage, or transportation is a director, officer, governing board member, employee, or independent contractor of one of the following:
1. The lobbyist principal giving the food, beverage, or transportation.
2. A third party that received the funds to purchase the food, beverages, or transportation.

(12) Food and beverages for immediate consumption at an organized gathering of a person, the State, or a governmental unit to which a public servant is invited to attend for purposes primarily related to the public servant's public service or position, and to which at least 10 individuals, other than the public servant, or the public servant's immediate family, actually attend, or to which all shareholders, employees, board members, officers, members, or subscribers of

the person or governmental unit who are located in a specific North Carolina office or county are notified and invited to attend.

(g) A prohibited gift that would constitute an expense appropriate for reimbursement by the public servant's employing entity if it had been incurred by the public servant personally shall be considered a gift accepted by or donated to the State, provided the public servant has been approved by the public servant's employing entity to accept or receive such things of value on behalf of the State. The fact that the employing entity's reimbursement rate for the type of expense is less than the value of a particular gift shall not render the gift prohibited.

(h) A prohibited gift shall be, and a permissible gift may be, promptly declined, returned, paid for at fair market value, or donated to charity or the State.

(i) A covered person or legislative employee shall not accept an honorarium from a source other than the employing entity for conducting any activity where any of the following apply:

(1) The employing entity reimburses the covered person or legislative employee for travel, subsistence, and registration expenses.

(2) The employing entity's work time or resources are used.

(3) The activity would be considered official duty or would bear a reasonably close relationship to the covered person's or legislative employee's official duties.

An outside source may reimburse the employing entity for actual expenses incurred by a covered person or legislative employee in conducting an activity within the duties of the covered person or legislative employee, or may pay a fee to the employing entity, in lieu of an honorarium, for the services of the covered person or legislative employee. An honorarium permissible under this subsection shall not be considered a gift for purposes of subsection (c) of this section.

(j) Acceptance or solicitation of a gift in compliance with this section without corrupt intent shall not constitute a violation of the statutes related to bribery under G.S. 14-217, 14-218, or 120-86. (2006-201, s. 1; 2007-347, s. 11; 2007-348, ss. 15(b), 35-41(a); 2008-213, ss. 77(a), 78(a), 79-82, 90; 2009-549, s. 17; 2010-169, ss. 15(b), (c), 17(r); 2017-6, s. 3; 2018-146, s. 3.1(a), (b); 2025-25, s. 29(5).)

§ 138A-33. Other compensation.

A public servant or legislative employee shall not solicit or receive personal financial gain, other than that received by the public servant or legislative employee from the State, or with the approval of the employing entity, for acting in the public servant's or legislative employee's official capacity, or for advice or assistance given in the course of carrying out the public servant's or legislative employee's duties. (2006-201, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-34. Use of information for private gain.

A public servant or legislative employee shall not use or disclose nonpublic information gained in the course of, or by reason of, the public servant's or legislative employee's official responsibilities in a way that would affect a personal financial interest of the public servant or legislative employee, a member of the public servant's or legislative employee's extended family, or a person or governmental unit with whom or business with which the public servant or legislative employee is associated. A public servant or legislative employee shall not improperly use or improperly disclose any confidential information. (2006-201, s. 1; 2008-213, s. 83; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-35. Other rules of conduct.

(a) A public servant shall make a due and diligent effort before taking any action, including voting or participating in discussions with other public servants on a board on which the public servant also serves, to determine whether the public servant has a conflict of interest. If the public servant is unable to determine whether or not a conflict of interest may exist, the public servant has a duty to inquire of the Commission as to that conflict.

(b) A public servant shall continually monitor, evaluate, and manage the public servant's personal, financial, and professional affairs to ensure the absence of conflicts of interest.

(c) A public servant shall obey all other civil laws, administrative requirements, and criminal statutes governing conduct of State government applicable to appointees and employees. (2006-201, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-36. Public servant participation in official actions.

(a) Except as permitted by subsection (d) of this section and under G.S. 138A-38, no public servant acting in that capacity, authorized to perform an official action requiring the exercise of discretion, shall participate in an official action by the employing entity if the public servant knows the public servant or a person with which the public servant is associated may incur a reasonably foreseeable financial benefit from the matter under consideration, which financial benefit would impair the public servant's independence of judgment or from which it could reasonably be inferred that the financial benefit would influence the public servant's participation in the official action.

(b) A public servant described in subsection (a) of this section shall abstain from taking any verbal or written action in furtherance of the official action. The public servant shall submit in writing to the employing entity the reasons for the abstention. When the employing entity is a board, the abstention shall be recorded in the employing entity's minutes.

(c) A public servant shall take appropriate steps, under the particular circumstances and considering the type of proceeding involved, to remove himself or herself to the extent necessary, to protect the public interest and comply with this Chapter from any proceeding in which the public servant's impartiality might reasonably be questioned due to the public servant's familial, personal, or financial relationship with a participant in the proceeding. A participant includes (i) an owner, shareholder, partner, member or manager of a limited liability company, employee, agent, officer, or director of a business, organization, or group involved in the proceeding, or (ii) an organization or group that has petitioned for rulemaking or has some specific, unique, and substantial interest in the proceeding. Proceedings include quasi-judicial proceedings and quasi-legislative proceedings. A personal relationship includes one in a leadership or policy-making position in a business, organization, or group.

(d) If a public servant is uncertain about whether the relationship described in subsection (c) of this section justifies removing the public servant from the proceeding under subsection (c) of this section, the public servant shall disclose the relationship to the individual presiding over the proceeding and seek appropriate guidance. The presiding officer, in consultation with legal counsel if necessary, shall then determine the extent to which the public servant will be permitted to participate. If the affected public servant is the individual presiding, then the vice-chair or any other substitute presiding officer shall make the determination. A good-faith determination under this subsection of the allowable degree of participation by a public servant is presumptively valid

and only subject to review under G.S. 138A-12 upon a clear and convincing showing of mistake, fraud, abuse of discretion, or willful disregard of this Chapter.

(e) This section shall not allow participation in an official action prohibited by G.S. 14-234. (2006-201, s. 1; 2007-347, s. 12; 2007-348, s. 42; 2008-213, s. 84(a); 2017-6, s. 3; 2018-146, s. 3.1(a), (b); 2025-25, s. 29(6).)

§ 138A-37. Legislator participation in legislative actions.

(a) Except as permitted under G.S. 138A-38, no legislator shall participate in a legislative action if the legislator knows the legislator or a person with which the legislator is associated may incur a reasonably foreseeable financial benefit from the action, and if after considering whether the legislator's judgment would be substantially influenced by the financial benefit and considering the need for the legislator's particular contribution, including special knowledge of the subject matter to the effective functioning of the legislature, the legislator concludes that an actual financial benefit does exist which would impair the legislator's independence of judgment.

(b) The legislator shall submit in writing to the principal clerk of the house of which the legislator is a member the reasons for the abstention from participation in the legislative matter.

(c) If the legislator has a material doubt as to whether the legislator should act, the legislator may submit the question for an advisory opinion to the State Ethics Commission in accordance with G.S. 138A-13 or the Legislative Ethics Committee in accordance with G.S. 120-104. (2006-201, s. 1; 2007-347, s. 13; 2008-213, s. 84(b); 2010-169, s. 22(c); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-38. Permitted participation exception.

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

(1) The only interest or reasonably foreseeable benefit or detriment that accrues to the covered person, the covered person's extended family, business with which the covered person is associated, or nonprofit corporation or organization with which the covered person is associated as a member of a profession, occupation, or general class is no greater than that which could reasonably be foreseen to accrue to all members of that profession, occupation, or general class.

(2) When an official or legislative action affects or would affect the covered person's compensation and allowances as a covered person.

(3) Before the covered person participated in the official or legislative action, the covered person requested and received from the Commission or Committee a written advisory opinion that authorized the participation. In authorizing the participation under this subdivision, the Commission or Committee shall consider the need for the legislator's particular contribution, such as special knowledge of the subject matter, to the effective functioning of the General Assembly.

(4) Before participating in an official action, a public servant made full written disclosure to the public servant's employing entity which then made a written determination that the interest or benefit would neither impair the public servant's independence of judgment nor influence the public servant's

participation in the official action. The employing entity shall file a copy of that written determination with the Commission.

(5) When action is ministerial only and does not require the exercise of discretion.

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

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

(b) This section shall not allow participation in an official action prohibited by G.S. 14-234.

(c) Notwithstanding G.S. 138A-37, if a legislator is employed or retained by, or is an independent contractor of, a governmental unit, and the legislator is the only member of the house elected from the district where that governmental unit is located, then the legislator may take legislative action on behalf of that governmental unit provided the legislator discloses in writing to the principal clerk the nature of the relationship with the governmental unit prior to, or at the time of, taking the legislative action.

(d) Notwithstanding G.S. 138A-36, service by the president, chief financial officer, chief administrative officer, or voting member of the board of trustees of a community college as an officer, employee, or member of the board of directors of a nonprofit corporation established under G.S. 115D-20(9) to support the community college shall not constitute a conflict of interest under G.S. 138A-36, provided that the majority of the nonprofit corporation's board of directors is not comprised of the president, chief financial officer, and chief administrative officer, or voting members of the board of trustees of the community college which the nonprofit corporation was created to support. (2006-201, s. 1; 2007-347, s. 14; 2008-213, s. 85; 2010-169, s. 22(d); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-39. Disqualification to serve.

(a) Within 30 days of notice of the Commission's determination that a public servant has a disqualifying conflict of interest, the public servant shall eliminate the interest that constitutes the disqualifying conflict of interest or resign from the public position.

(b) Failure by a public servant to comply with subsection (a) of this section is a violation of this Chapter for purposes of G.S. 138A-45.

(c) A decision under this section shall be considered a final decision for contested case purposes under Article 3 of Chapter 150B of the General Statutes.

(d) As used in this section, a disqualifying conflict of interest is a conflict of interest of such significance that the conflict of interest would prevent a public servant from fulfilling a substantial function or portion of the public servant's public duties. (2006-201, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-40. Employment and supervision of members of covered person's or legislative employee's extended family.

A covered person or legislative employee shall not cause the employment, appointment, promotion, transfer, or advancement of an extended family member of the covered person or legislative employee to a State office, or a position to which the covered person or legislative employee supervises or manages, except for positions at the General Assembly as permitted under G.S. 120-32(2). A public servant or legislative employee shall not supervise, manage, or participate in an action relating to the discipline of a member of the public servant's or legislative employee's extended family, except as specifically authorized by the public servant's or legislative employee's employing entity. (2006-201, s. 1; 2007-347, s. 15; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-41. Other ethics standards.

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

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

(c) The Governor, as a constitutional officer of the State, shall have the authority to adopt minimum ethics standards applicable to any employee of a State agency. If the Governor adopts such standards, the ethics standards shall be published in the North Carolina Register and made available to each employee subject to the ethics standards. (2006-201, s. 1; 2010-169, s. 14; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 138A-42. Reserved for future codification purposes.

§ 138A-43. Reserved for future codification purposes.

§ 138A-44. Reserved for future codification purposes.

Article 5.

Violation Consequences.

§ 138A-45. Violation consequences.

(a) Violation of this Chapter by any covered person or legislative employee is grounds for disciplinary action. Except as specifically provided in this Chapter and for perjury under G.S. 138A-12 and G.S. 138A-24, no criminal penalty shall attach for any violation of Articles 1, 3, 4, or 5 of this Chapter.

(b) The willful failure of any public servant serving on a board to comply with this Chapter is misfeasance, malfeasance, or nonfeasance. In the event of misfeasance, malfeasance, or nonfeasance, the offending public servant serving on a board is subject to removal from the board of which the public servant is a member. For appointees of the Governor and members of the Council of State, the appointing authority may remove the offending public servant. For appointees

of the Speaker of the House of Representatives, the Speaker of the House of Representatives may remove the offending public servant. For appointees of the General Assembly made upon the recommendation of the Speaker of the House of Representatives, the Governor at the recommendation of the Speaker of the House of Representatives may remove the offending public servant. For appointees of the President Pro Tempore of the Senate, the President Pro Tempore of the Senate may remove the offending public servant. For appointees of the General Assembly made upon the recommendation of the President Pro Tempore of the Senate, the Governor at the recommendation of the President Pro Tempore of the Senate may remove the offending public servant. For public servants elected to a board by either the Senate or House of Representatives, the electing house of the General Assembly shall exercise the discretion of whether to remove the offending public servant. For all other appointees, the Commission shall exercise the discretion of whether to remove the offending public servant.

(c) The willful failure of any public servant serving as a State employee to comply with this Chapter is a violation of a written work order, thereby permitting disciplinary action as allowed by the law, including termination from employment. For employees of State departments headed by a member of the Council of State, the appropriate member of the Council of State shall make all final decisions on the manner in which the offending public servant shall be disciplined. For public servants who are judicial employees, the Chief Justice shall make all final decisions on the matter in which the offending judicial employee shall be disciplined. For legislative employees, the Legislative Services Commission shall make or refer to the hiring authority all final decisions on the matter in which the offending legislative employee shall be disciplined. For public servants appointed or elected for The University of North Carolina or the Community Colleges System, the appointing or electing authority shall make all final decisions on the matter in which the offending public servant shall be disciplined. For any other public servant serving as a State employee, the Governor shall make all final decisions on the manner in which the offending public servant shall be disciplined.

(d) The willful failure of any constitutional officer of the State to comply with this Chapter is malfeasance in office for purposes of G.S. 123-5.

(e) The willful failure of a legislator, other than the Lieutenant Governor, to comply with this Chapter is grounds for sanctions under G.S. 120-103.1.

(f) Nothing in this Chapter affects the power of the State to prosecute any person for any violation of the criminal law.

(g) The Commission may seek to enjoin violations of G.S. 138A-34. (2006-201, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)