

May 9, 2006

**H 1843. REVISE LEGISLATIVE ETHICS ACT - 1.** Filed 5/9/06. *TO REVISE THE LEGISLATIVE ETHICS ACT AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON ETHICS AND GOVERNMENTAL REFORM.* Effective January 1, 2007, repeals the current Legislative Ethics Act, GS Chapter 120, Article 14, and transfers those provision into GS Chapter 120, Article 32. Incorporates the following additional provisions, many of which are similar to provisions set forth in the Executive Ethics Act, H 1844, also filed 5/9/06.

*Part 1 – Definitions.* Adds new definitions for “business with which associated,” “extended family,” and “public event.”

*Part 2 – Ethical Standards for Legislators.* Prohibits legislators from the following activities: (1) using their position for their personal financial benefit or for the benefit of their extended family or a business with which they are associated, or using their public position in nongovernmental advertising intended to advance their personal interests (although use of the legislative title is specifically permitted); (2) receiving anything of value in return for being influenced in the exercise of their official responsibilities or accepting anything of monetary value from a legislative or executive lobbyist (sets forth limited exceptions to general prohibition against gifts, including nonmonetary items worth \$10 and under, meals and beverages provided for immediate consumption in connection with public events, and services received in connection with a state, regional or national legislative organization); and (3) receiving an honorarium or other compensation from an outside source for fulfilling their public duties. New GS 120-290(f) clarifies that the offering or receipt of a gift in compliance with the statute without corrupt intent will not constitute bribery. Requires that legislators use due diligence to determine if they have a conflict of interest and to avoid conflicts. GS 120-293 requires that legislators abstain from participating in decisions in which they may have a conflict, and provides examples of situations in which there is no conflict of interest. GS 120-294 prohibits legislators from causing the hiring or advancement of a member of their extended family to a State or local office or position, except for General Assembly positions as permitted by the Legislative Services Commission.

*Part 3 – Legislative Ethics Committee.* Recodifies current law which establishes the ten-member Legislative Ethics Committee. Sets forth the powers and duties of the Committee, including the authority to investigate ethics or criminal violations; establishes procedures for the filing of ethics complaints, the investigation of those complaints, and the consideration of complaints in public hearings; authorizes the issuance of advisory opinions; and requires that the Committee develop and conduct an ethics education program. Requires that all legislators and legislative employees participate in an ethics presentation within three months of the person’s election, appointment, or employment.

*Part 4 – Public Disclosure of Economic Interests.* Continues the requirement that legislative candidates file a statement of economic interest within 10 days of the end of the filing period of their candidacy, but adds a requirement that legislators file a statement no later than March 15 of each year thereafter. Provides that statements are public records. GS 129-318 details the information that must be provided in the statement and requires that the Committee prepare a written evaluation of each statement and provide copies of that evaluation to the person submitting the statement and to the Legislative Services Office. Establishes a penalty for a legislator’s failure to submit a timely statement. Makes concealing or failing to disclose information required on an economic interest statement a Class 2 misdemeanor and makes providing false or misleading information on statement a Class F felony.

*Part 5 – Violation consequences.* Provides that violation of the Article is grounds for disciplinary action.

Effective October 1, 2006, and applicable to persons holding office and employed on or after January 1, 2007, and acts and conflicts of interest that arise on or after that date.

**Intro. by Hackney, Howard, Brubaker, Luebke.** GS 120

May 16, 2006

**H 1843. REVISE LEGISLATIVE ETHICS ACT - 1.** Filed 5/9/06. House committee substitute makes the following changes to 1st edition. Adds new GS 120-287(c) to prohibit legislators from allowing the use of State funds for a newspaper, radio, or television advertisement or public

service announcement that includes the legislator's name, picture, or voice, unless the advertisement or announcement is made in connection with a State or national emergency and is related to the legislator's official duties. Clarifies that the GS 120-290(c)(10) exception from the gift ban applies to items for which fair market value was paid by the legislator or legislative employee (was, paid). Amends GS 120-289 to provide that it is unethical for a legislator to take or threaten any legislative action in order to influence the hiring, promotion, grievance, or disciplinary action of a particular state employee (was, state employees). Deletes requirements in GS 120-291 and 120-292(a) and (b) that legislators make reasonable efforts to avoid the appearance of a conflict of interest. Also deletes GS 120-308 requirement that program developed by the Legislative Ethics Committee enhance legislator's awareness of situations that may result in the appearance of a conflict of interest.

Amends GS 120-301 to increase the membership of the Committee from ten to twelve members and to provide that members of the Committee will be elected by party caucus as follows: (1) six from the Senate (three from the majority and three from the minority party); and (2) six from the House (three from the majority and three from the minority party). Formerly, five members of the Committee were appointed by the President Pro Tem. and five by the Speaker. Requires that the respective caucuses appoint members to the Committee within seven days of the convening of the General Assembly's session in odd-numbered years and provides that the President Pro Tem. and Speaker will make appointments to any positions left unfilled by the caucuses. Also requires that vacancies on the Committee be filled by caucus within seven days. Amends GS 120-303(a) to provide that eight members (was, six) constitute a quorum of the Committee. Makes conforming changes to GS 120-301 and GS 120-302 to reflect the change in the appointing authority.

Deletes "notwithstanding any other law" from proposed GS 120-293(a), which is renumbered as GS 120-292(a). Amends proposed GS 120-306(c) to require that the Committee initiate the investigation of a complaint within 60 (was, 90) days of the filing of the complaint. Amends GS 120-316(d) to require that candidates be informed of overdue statements of economic interest by certified (was, registered) mail. Increases penalty in GS 120-320 for knowingly concealing or failing to disclose required information on a statement of economic interest from a Class 2 to a Class 1 misdemeanor. Reduces penalty for providing false and misleading information on a statement of economic interest from a Class F to a Class H felony. Authorizes the Legislative Ethics Committee to request that the Office of the Attorney General seek to enjoin violations of GS 120-288, which prohibits a legislator's disclosure of confidential information in certain circumstances (was, authorized Committee to enjoin violation). Provides that the act applies to offenses committed on or after January 1, 2007, and that prosecutions for offenses or ethics violations committed before that date are not abated or affected by the act.

May 17, 2006

**H 1843. REVISE LEGISLATIVE ETHICS ACT - 1.** Filed 5/10/06. House amendments make the following changes to 2nd edition. Amendment #1 amends GS 120-318(a)(2)m. to require that a legislator's statement of economic interest include a list of gifts valued in excess of \$500 (was, \$100) that were received from sources doing business with or regulated by the State and a list of gifts from other sources valued in excess of \$1,000 (was, \$200). Amendment #4 further amends that provision to require that list include those gifts received in the 12 month period preceding the designated reporting period (was, preceding the date of the statement). Amendment #2 amends GS 120-301 and 120-302 to delete provision requiring that members of the Legislative Ethics Committee be appointed by party caucus and all related provisions and to reinstate provisions requiring that the President Pro Tem. and the Speaker appoint members of the now 12-member Committee. Amendment #3 amends GS 120-287(c) to provide that the prohibition against a legislator's use of State funds for any advertisement or public service announcement that includes the legislator's name, picture, or voice does not apply to fundraising on behalf of public radio or public television. Amendment #5 revises GS 120-289 to also make it unethical for a legislator to take or threaten any legislative action in order to influence the hiring, promotion, grievance, or disciplinary action of an employee of any unit of local government. Amendment #6

requires that the Office of the Attorney General enforce the collection of the \$250 fine imposed by GS 120-319(b) for a person's failure to complete a statement of economic interest.

July 18, 2006

**H 1843. STATE GOVERNMENT ETHICS ACT - 1 (NEW).** Filed 5/9/06. Senate committee substitute makes the following changes to 3rd edition.

*Part I. Enact State Government Ethics Act.* Replaces 3rd edition of H 1843 (Revise Legislative Ethics Act -1) with an act that combines the provisions of the 3rd edition of H 1843 and the 3rd edition of H 1844 (Executive Branch Ethics Act – 1, codifying Executive Order No. 1). Enacts new GS Chapter 138A, entitled the "State Government Ethics Act", to make the following revisions to those provisions contained in the 3rd editions of H 1843 and/or H 1844. Act is effective October 1, 2006.

*Article I. Definitions. GS 138A-3.* Revises definition of "business with which associated." Defines a "covered person" as a legislator, public servant, or judicial officer (a justice or judge of the General Court of Justice, district attorney, clerk of court, or any person elected or appointed to any of these positions). Revises definition of "extended family" to include lineal descendants and ascendants (was, descendents and ascendants), the siblings of the person and the person's spouse, and the spouse of any of those persons. Adds definition of "filing person," defined as a person required to file a statement of economic interest under GS 138A-22. Adds definition of "gift," defined as anything of monetary value given or received without valuable consideration by or from a lobbyist, lobbyist principal, or person described in GS 138A-32(d)(1) – (3) (persons doing business with state or engaged in activities regulated by the state). Transfers certain exceptions contained in GS 138A-7(a)(10) to (14) to GS 138A-3(16) and revises subdivision (16)d. to also exempt athletic scholarships but only those scholarships that are based on the same criteria as applied to the public. Adds new subdivision GS 138A-3(16)f. to also exempt from definition of gift anything of value received in connection with certain listed civic, business, or personal relationships that are unrelated to the person's public service or position and not made for the purpose of lobbying. Revises definition of "immediate family" to also include a member of a covered person's extended family if residing in the covered person's household. Defines "judicial employee" as the director and assistant director of the Administrative Office of the Courts and other persons as designated by the Chief Justice who are employed in the Judicial Department and paid \$60,000 or more. Defines "political party." Expands definition of "public event." Includes judicial employees in the definition of "public servants."

*Article II. State Ethics Commission.* Increases the membership of the Commission from seven to eight members and provides for the appointment of four members by the Governor, two members upon recommendation of the Speaker of the House of Representatives, and two members upon the recommendation of the President Pro Tem. Proposed new GS 138A-7(c) requires that vacancies in appointments made by the General Assembly be filled in accordance with GS 120-122 for the remainder of the unfilled term and new GS 138A-7(e) requires that the Governor annually appoint a member of the Commission to serve as the Chair (was, Chair elected by the Commission). Modifies proposed GS 138A-10 and enacts new GS 138A-11 to require that the Commission identify and publish at least quarterly the names of persons subject to the Chapter as covered persons and legislative employees under GS 138A-11. Further requires that the Commission receive and refer complaints of violations against judicial officers and legislators, oversee ethics education for legislators and legislative employees, and publish annual statistics on complaints filed with or considered by the Commission. Enacts new GS 138A-11(b) to authorize the Executive Director of the Commission to evaluate statements of economic interest on behalf of the Commission. New GS 138A-11(c) provides that the Commission is exempt from the requirements of Article 2A of GS Chapter 150B (Administrative Rules), but requires that the Commission comply with listed requirements prior to adoption of those rules. Revises GS 138A-12 to authorize the Commission to receive and investigate complaints alleging unethical conduct by covered persons and legislative employees. Proposed GS 138A-12(b)(3) requires that the Commission also conduct an investigation into alleged violations by legislators of the Code of Legislative Ethics. Specifically requires that allegations of violations of the Code of Judicial Conduct be referred to the Judicial Standards Commission

without investigation. Deletes requirement that a complaint be dismissed if the Commission has not initiated an investigation within 60 days of its filing. Deletes provision designating the complaint and any written response as a public record, along with other documents offered at the hearing. Adopts new GS 138A-12(o) to provide that those records are confidential, prior to the issuance of sanctions, except where the covered person requests that the records be made public. Provides that upon the issuance of sanctions, the complaint, response, and Commission's report to the employing entity will be made public. Enacts new GS 138A-12(i) to require that following the Commission's investigation of a complaint, it must either dismiss the complaint for lack of probable cause or: (1) for public servant and legislative employees, decide to proceed with a hearing under subsection (j); (2) for legislators, refer the complaint to the Legislative Ethics Committee; or (3) for judicial officers, refer the complaint to specified judicial officers or the Judicial Standards Commission. Requires that the Commission issue a written report of a violation of the Chapter. Makes conforming changes to account for the inclusion of legislative employees and legislators and judicial officers. Revises GS 138A-13, which authorizes the Commission to issue advisory opinions, to also authorize the Commission to issue written advisory opinions concerning GS Chapters 138A and 120 at the request of a legislator. Provides that a legislator's reliance upon the advisory opinion will immunize the legislator from investigation by the Commission and any adverse action by the house of which the legislator is a member. Specifically provides that the section on advisory opinions does not apply to judicial officers. Revises GS 138A-14, which requires that the Commission conduct ethics education programs, to add a requirement that the Commission make education programs available to all legislators and legislative employees. Requires that legislators and legislative employees participate in an ethics presentation approved by the Commission within three months of their election or appointment

*Article 3.* Requires that "covered persons," file a statement of economic interest. Exempts the following "public servants" whose annual compensation is less than \$60,000 from the disclosure requirement: (1) employees of the Office of the Governor, (2) confidential assistants and secretaries to certain public servants, and (3) employees in exempt positions under GS 126-5(d)(1), (2), or (2a). Also requires that candidates for an office subject to the Article file the statement of economic interest within ten days of the filing deadline for the office the candidate seeks. GS 138A-22 requires that the statement be filed prior to a covered person's initial appointment and no later than March 15th of every year thereafter, except subsection (c) allows the provisional hiring, appointment, or election of certain public servants prior to the submission of the statement and makes those individuals subject to dismissal or removal based upon the State Ethics Commission's evaluation of the statement. Subsection (b) also permits the filing of a statement within 30 days of persons hired by, and appointees of, constitutional officers of the State when the appointment or employment is made during the first 60 days of the officer's initial term in that office. GS 138A-23 provides that statements are not public records until the prospective public servant is appointed or employed by the State.

GS 138A-24 requires that the statements include a list of specified assets and liabilities with a value of at least \$10,000 owned by the filing person and person's spouse. The act revises information required in economic disclosure statements by H 1843 and H 1844 as follows: (1) in addition to location descriptions of NC real estate owned, requires a description of the specific interest held; (2) in addition to the name of each nonpublicly owned business entity, requires a list of any other business entity in which the business entity owns securities in excess of \$10,000, but only if that information is known; (3) for publicly and nonpublicly owned companies, requires a list of any business entity that has material business dealings, contracts, or other involvement with the State, including a description of the business activity; (4) deletes requirement that the statement also include a list of businesses in which a vested trust has an ownership interest of more than \$10,000; (5) deletes provision requiring the disclosure of individual or business entities with which the person or the person's extended family is associated or has a financial or professional relationship; (6) replaces provision requiring that the statement list all other assets or liabilities with a requirement that the statement list all liabilities, excluding indebtedness on the filing person's residence, by type of creditor and debtor; (7) requires that the statement list sources of income received during the previous year by business and industry type, including salary or wages, professional fees, honoraria, interest, dividends, capital gains and business

income (House versions required listing of each source of income shown on tax returns); (8) if the person is a practicing attorney, requires an indication of whether the person or person's law firm earned annual legal fees during the past year (was, past five years) of over \$10,000 in listed categories of legal representation; (9) adds new GS 138A-24(a)(2)m. to require that the person list certain religious, charitable, or public interest groups if the person or the person's immediate family is a director, officer, governing board member, employee, or independent contractor, including those that do business with the state if known; (10) adds new GS 138A-24(a)(2)n. to require that the statement list those boards or employing entities with which the person is associated (but the provision does not apply to legislators or judicial officers); (11) requires that gifts valued at more than \$200 (was, \$1,000) be reported; (12) deletes requirement that bankruptcies filed by the person or the person's spouse during the past five years be listed; and (13) enacts new GS 138A-24(a)(7) to require that any other information necessary to fully disclose a conflict of interest be provided. Enacts new GS 138A-24(b) to authorize listed state entities to require the filing of supplemental information along with the person's statement of economic interest. Expands the list of individuals to whom the Commission must submit it evaluation of each statement.

*Article 4. Ethical Standards for Public Servants.* Modifies GS 138A-31(a) to apply to covered persons and legislative employees and to prohibit those individuals from using their public position in an official action or legislative action that will result in their financial benefit, or in a benefit to a member of their family or a business with which they are associated. Deletes provision also prohibiting the use of a public position to benefit a person with whom the covered person or legislative employee is associated. Revises GS 138A-31(b) to exempt from the prohibition against use of a covered person's public position in nongovernmental advertising the inclusion of a covered person's position in a directory or biographical listing, or the charitable solicitation of certain nonprofit business entities. Also clarifies that disclosure of a covered person's position to a customer, supplier, or client is not considered advertising when the disclosure could reasonably be considered material by the customer, supplier, or client. Revises GS 138A-31(c) to also include public service announcements on the Internet in the prohibition against the use of State funds for advertisements. Expands exceptions to the general prohibition to include public service announcements that are designed to ensure public safety. Also excludes fundraising on behalf of and aired on public radio or public television. Makes both covered persons and legislative employees subject to restrictions on the acceptance of gifts in GS 138A-32. Provides that the prohibition against soliciting subordinate State employees does not apply to a covered person serving as the honorary head of the State Employees Combined Campaign. Modifies the exceptions to the ban on gifts set forth in section (c) (gifts to public servants, legislators, or legislative employees from a lobbyist and lobbyist principal) and (d) (gifts to public servants from person seeking or doing business with the State or who are engaged in activities regulated or controlled by the public servant's employing entity) to exempt the following. (1) Meal and beverages for immediate consumption in connection with public events where the food and beverages are generally provided to other attendees. (2) Lodging, transportation, entertainment, and recreation provided in connection with a public event by a chamber of commerce to which all legislators are invited when the items are provided within the geographic area represented by the chamber. (3) Entertainment or recreation provided in connection with a public event sponsored by a charitable organization. (4) Items and entertainment received in connection with a state, regional, or national organization if the items are made available to other attendees and the entertainment is of an incidental nature. Changes exception for items associated with industry recruitment or travel promotion to delete the \$10 threshold. Also makes provisions prohibiting receipt of other compensation (GS 138A-33) and use of information for private gain (GS 138A-34) applicable to public servants and legislative employees (was, public servants only). Deletes GS 138A-10 (H 1844, 3rd edition), which required that public servants make reasonable efforts to avoid even the appearance of a conflict. Revises proposed GS 138A-39(c) to provide that a decision by the State Ethics Commission that a public servant has a conflict of interest is a final decision for contested case purposes under GS Chapter 150B, Article 3.

*Article 5. Violation Consequences.* GS 138A-35 sets forth the entities that have authority to remove individuals from office for failure to comply with the Chapter. Amends GS 150B-1(d) to

exempt the State Ethics Commission from the rulemaking requirements of the Administrative Procedures Act.

Makes stylistic and conforming changes.

*Part II. Amend Legislative Ethics Act.* Enacts new GS 120-32.6 to provide that GS 114-2.3 and GS 147-17 (requiring that Attorney General or Governor approve hiring of outside counsel) does not apply to the General Assembly. The 3rd edition of H 1843 would have moved the Legislative Ethics Act from Article 14 of GS Chapter 120 to a new Article 32. The committee substitute retains Article 14 and amends it to include the substantive changes proposed in the 3rd edition, with the following modifications, effective January 1, 2007. (1) Conforms GS 120-102 (powers and duties of Committee) to reflect that legislators will submit statements of economic interest to the State Ethics Commission, and not to the Legislative Ethics Committee. (2) Deletes proposed GS 120-305 (continuing study of ethical questions). (3) Repeals GS 120-103 and adopts new GS 120-103.1 to require that the Committee, upon its own motion or upon receipt of a referral of a complaint from the State Ethics Commission under GS Chapter 138A, conduct an investigation into the application or alleged violation of GS Chapter 138A and the Code of Legislative Ethics. Deletes provisions that specify the content of a complaint. (4) Establishes procedure for investigations by the Committee that are similar to those adopted to govern investigations by the State Ethics Commission. (5) Deletes GS 120-308, which required that Committee develop and implement an ethics education and awareness program.

*Part III. Amend Lobbying Laws.* SL 2005-456 (S 612) amended GS Chapter 120, Article 9A ("Legislative Branch Lobbying") and enacted new Article 4C of GS Chapter 147 ("Executive Branch Lobbying"), effective January 1, 2007. H 1849 (Lobbying Reforms 2006) amended Article 9A (as amended by SL 2005-456) to regulate both legislative and executive branch lobbying, made conforming changes to that Article in order to cover both forms of lobbying, repealed Article 4C, and made additional changes to Article 9A. The committee substitute incorporates H 1849 with the following changes. All changes are effective January 1, 2007, except as noted.

Makes GS 120-47.7C effective when the act becomes law (currently, effective January 1, 2007) and amends that section to prohibit both a member or a former member of the General Assembly or member of the Council of State to be employed as a legislative lobbyist to lobby within six months after the end of the term to which the member was elected or appointed and to prohibit a person serving as a head of a principal State department (was, current GS 120-47.7C also included the Governor) from becoming employed as a legislative lobbyist within one year (was, current GS 120-47.7C prohibited employment within six months) of separation from employment or leaving office. Further amends GS 120-47.7C(d) and (e) to make those prohibitions applicable only to legislative lobbyists (deletes executive lobbyists). Repeals this provision effective January 1, 2007. Makes GS 120-47.7B (powers and duties of the Secretary of State with respect to legislative branch lobbying) effective when the act becomes law (currently January 1, 2007) and repeals that provision effective January 1, 2007.

Recodifies executive and legislative branch lobbying provisions into new GS Chapter 120C, Article 1, which makes the following modifications to the changes proposed by H 1849:

*Definitions.* Replaces definition of "covered person" with "designated individual," defined as a legislator, legislative employees, or public servant. Revises definition of "executive action" to clarify that the actions listed are taken by a public servant acting in an official capacity and to set forth several exceptions to that term. Also adds definitions for "in session," "liaison personnel," and "legislator." Deletes definition of "person." Revises definition of "lobbying" to also exclude monies spent as part of a business, civic, or personal relationship. Revises definition of lobbyist to include an individual who contracts for economic consideration for the purpose of lobbying. Deletes provision in current law to provide that reimbursement of actual travel and subsistence expenses are not considered compensation for the purpose of defining a lobbyist. Adds definition of "reportable expenditure." Transfers provision concerning "solicitation of others" from definition of "lobbying" to separate provision and revises definition. Revises definition of "public event."

*General Provisions.* Modifies section concerning advisory opinions (GS 120C-102 in act) to delete provision requiring that the Secretary of State interpret the provisions of the Article by rules that will be binding. Revises provision regarding lobbying education program (GS 120-103) to require that the Secretary of State publish a newsletter containing summaries of ethics opinions and policies at least once per year. Enacts new section (also GS 120C-103) to provide that GS

Chapter 120C also applies to candidates for certain legislative and public servant offices. Deletes provision requiring that the Secretary of State establish a "No Gifts" Registry.

*Article 2. Registration.* Recodifies provisions requiring lobbyist registration in new Article 2 of GS Chapter 120C (formerly contained in GS 120-47.2). Revises registration provisions to: (1) require registration within one business day of lobbying, and (2) transfer into new GS 120C-220 requirements that registrations be made available in an electronic, searchable format and that lists of legislative lobbyists be made available in the State Legislative Library and to each designated person. New GS 120C-207(b) requires that the Secretary of State adopt rules allowing waiver or reduction of fees for lobbyists that have been granted non-profit status (was, in cases of hardship). Enacts new GS 120C-215 to require that persons incurring an expense for solicitation of others ("solicitors") register when the expense exceeds to following amounts in a 90 days period: (1) media costs over \$1,000, (2) mailing costs exceeding \$500, and (3) conferences, meetings, or other similar event exceeding \$500. Enacts new GS 120C-200(e) to require that lobbyists identify their status as a lobbyist and the identity of their principal before engaging in lobbying activities with a covered individual.

*Article 3. Prohibitions and Restrictions.* Incorporates provisions of former GS 120-47.5 into new GS 120C-300 (contingency fees prohibited) and amends provision to exempt from the prohibition any person doing business with the State who is engaged in sales with respect to that business with the State and whose compensation agreement includes commissions on those sales. Enacts new GS 120C-301 to prohibit any person, a lobbyist, or a lobbyist's principal, or any other person required to register under the Chapter, from attempting to influence the action of a designated individual by the promise of financial support to the designated individual's candidacy or threat of support to the individual's opposition. Enacts new GS 120C-302 to prohibit a lobbyist and a lobbyist's principal from making a campaign contribution to a candidate or candidate campaign committee when the candidate is a legislator or a constitutional officer of the state. Replaces GS 120-47.5 with new GS 120C-303 to prohibit lobbyists and lobbyist's principals to give a gift to a designated individual. Provides that those items listed in GS 138A-32(e) (see summary of Article 4 of GS Chapter 138A, above) are not included in this ban. GS 120C-303(c) incorporates an exemption from listed bribery statutes "for the offering or giving of a gift without corrupt intent in compliance with this Chapter," but provides that these actions are subject to civil fines. Incorporates revolving door restrictions contained in GS 120-47.7C in new GS 120C-304 and provides that any appointment or registration made in violation of the section is void. New GS 120C-305 also prohibits the use of cash or credit of the lobbyist for the purpose of lobbying unless the lobbyist is present.

*Article 4. Reporting.* Adds new GS 120C-404 to require that "solicitors" also file quarterly reports with the Secretary of State that include reportable expenditures. New GS 120C-405 requires that expenditure reports be open to public inspection and requires that the Secretary of State coordinate with the State Board of Elections to create a searchable database of reports.

*Article 5. Liaison Personnel.* New GS 120C-500 requires that all agencies and constitutional officers of the State designate up to two liaison personnel to lobby legislators and legislative employees. GS 120C-501 provides that the Chapter does not apply to liaison personnel, except that the registration requirements of GS 120C-200 and the reporting requirements of GS 120C-402 must be complied with.

*Article 7. Exemptions.* Incorporates exemptions in former GS 120-47.8 into new GS 120C-700, except deletes exemptions for individuals who represent the employer's interests for five hours in a calendar quarter and certain licensed professionals appearing before executive branch officers. Adds an exemption for a person who is a political committee, the person's employee, and the person's service provider.

*Article 8. Miscellaneous.* Effective September 1, 2008, requires that all personnel and associated funding of those personnel of the Secretary of State's office dedicated to lobbying reporting matters be transferred to the State Ethics Commission. Requires that persons holding covered positions on January 1, 2007, file statements of economic interest by March 15, 2007, and that public servants holding positions on January 1, 2007, participate in ethics education presentations on or before January 1, 2008. Makes conforming changes.

July 19, 2006

**H 1843. STATE GOVERNMENT ETHICS ACT - 1.** Filed 5/9/06. Senate committee substitute makes the following changes to 4th edition. (1) Replaces references to “individuals” with “persons” in proposed GS 138A-3(30) definition of “public event.” (2) Makes conforming change to proposed GS 138A-10(a)(5) to provide that the State Ethics Commission has the authority to investigate alleged violations against judicial officers and legislators in accordance with GS 138A-12 (was, authorized the Commission to receive and refer complaints of violations). (3) Modifies proposed GS 138A-12(o) to delete the requirement that once public sanctions are imposed against a legislative employee, the complaint, response, and Commission report must be made public. Retains provision requiring the disclosure of that information once sanctions are imposed against a covered person. (4) Revises GS 138A-31(c) (prohibiting a covered person from using State funds for announcements and advertisements that include the person’s name, picture, or voice) to delete the exemption for public service announcements made to ensure public safety. (5) Deletes provision making GS 120-47.7C effective when the act becomes law, amending GS 120-47.7C, and repealing that provision effective January 1, 2007. Also deletes “as enacted by this act” from the provision repealing GS 120-47.7B. (6) Makes technical changes to Section 26 (effective dates).

July 19, 2006

**H 1843. STATE GOVERNMENT ETHICS ACT - 1.** Filed 5/9/06. Senate amendments make the following changes to 5th edition. Amendment # 1 revises proposed GS 120C-501 (listing provisions of Chapter applicable to liaison personnel) to enact new subsection (d) to provide that GS 120C-303 (prohibiting gifts to designated individuals by a lobbyist or a lobbyist’s principal) also applies to liaison personnel. Amendment #3 reorganizes GS 120C-302 and adds subsection (b) to prohibit a lobbyist or a lobbyist’s principal from delivering a contribution to a candidate who is a State legislator or constitutional officer or to the candidate’s campaign committee.

July 27, 2006

**H 1843. STATE GOVERNMENT ETHICS ACT - 1.** Filed 5/9/06. Conference report recommends the following changes to 6th edition to reconcile matters in controversy.

*State Government Ethics Act.* Amends several definitions in proposed GS 138A-3, as follows: (1) *business* now includes business trusts; (2) *Business with which associated* now excludes acting as a trustee on a deed of trust; and (3) *employing entity* now specifies that the employing entity of legislative employees is the authority that hired the individual. Adds a provision specifying that the Lt. Governor is to be considered a legislator when carrying out duties under Art. II, section 13 of the Constitution (presiding over the Senate) and a public servant in all other contexts.

Details in GS 138A-7(b) who has power to remove members of new State Ethics Commission: Governor, for those members appointed by Governor; Governor upon recommendation of the Speaker, for those members appointed by the General Assembly upon the recommendation of the Speaker; and the Governor upon recommendation of the Senate President Pro Tempore, for those members appointed by the General Assembly upon the recommendation of the President Pro Tempore Directs the Commission in GS 138A-11 to annually identify the boards subject to the State Government Ethics Act and publish a list of these boards. Deletes the authority of the Commission to adopt rules to implement and interpret GS Chapter 138A (State Government Ethics), including establishing ethical standards and guidelines; and substitutes the authority to adopt procedures and guidelines to implement chapter. In consequence, deletes the provision exempting rule-making from the provisions of GS Chapter 150B and the provision calling for Commission investigations of violations of its rules.

Deletes the characterization of Commission actions as investigations and recasts them as inquiries. Adds provision in GS 138A-12(c) directing the Commission to send a copy of any complaint to the employing entity of the person who is the subject of the complaint. Amends the authority of the Commission to initiate its own complaint inquiries in GS 138A-12(d) to provide that such an inquiry must be begun within two years of the date the Commission knew of the conduct (except when it is continuing conduct). Deletes the authority of the Commission to



investigate matters not associated with the complaint. The previous edition had directed the Commission to refer complaints against certain categories of officials to other entities. The conference report specifies in GS 138A-12(h) that complaints against the Lt. Governor are not to be referred to the Legislative Ethics Committee, and that complaints against legislative employees are to be referred to the employing entity. As a result of the last-noted change, the Commission will not hold hearings on complaints against legislative employees and the bill is amended accordingly. Provides that any private admonishment issued by the Commission to a public servant is to be treated as part of the person's personnel file. Provides that if the Commission determines that an alleged violation of the ethics act has been established, with respect to a member of UNC Board of Governors, it is to refer the matter for appropriate action to the principal clerk of the house of the General Assembly that elected that member of the Board of Governors. Adds new GS 116-7(b1) directing the principal clerk to refer the matter to the appropriate education committee of that house, which may recommend removal; if a majority of the members of the house present and voting adopt the committee's recommendation, the Board of Governors member is removed. Adds new GS 115D-2.1(b1) setting out comparable procedure for referrals involving members of State Board of Community Colleges. Provides that if the Commission decides to dismiss a complaint against a legislative employee, it must notify that employee's employing entity.

Permits the Commission to issue advisory opinions under GS 138A-13 on its own motion. Provides that an advisory opinion issued at the request of a legislator is to be a recommendation to Legislative Ethics Committee; and that reliance upon such an opinion immunizes a legislator from investigation or adverse action "until action is taken by the Committee under GS 120-104."

Modifies provisions calling for an ethics education and awareness program in GS 138A-14 as follows: (1) removes exclusion of judicial officers from the audience for these programs and (2) provides that programs for legislators and legislative employees are to be jointly developed and offered with the Legislative Ethics Committee.

Modifies the required content of the statement of economic interest required to be filed by a covered person under Article 3 of GS Chapter 138A, as follows: (1) requires that the statement include real estate owned by the covered person's immediate family (was, spouse); (2) requires the listing of business dealings with the State for companies for which the covered person is an officer, employee, director, partner, owner, or member of manager of a limited liability company; (3) limits the sources of income required to be listed to those of \$5,000 or more annually; (4) modifies the kinds of gifts that must be reported to those received under circumstances that a reasonable person would conclude indicate that the gift was given for the purpose of lobbying (if not required to be reported under GS Chapter 120C by the giver). The previous edition required the Commission to prepare a written evaluation of each statement relative to real and potential conflicts of interest and submit the evaluation to several listed entities; the conference report requires that each evaluation prepared for legislators be submitted to the Legislative Ethics Committee. Previous edition made it a Class H felony to provide false *and misleading* information on statement; conference report deletes the italicized language.

Deletes sentence in proposed GS 138A-31 stating that performance of the usual and customary duties of a public position, or advancement of public policy goals or constituent services without compensation, does not constitute use of the public position for financial benefit. Bill prohibits a covered person from using or permitting the use of State funds for an advertisement or public service announcement that includes the person's name, picture, or voice, and sets out media to which the prohibition applies; the previous edition included the Internet; the conference report deletes the Internet and adds magazines and billboards.

Rewrites various exceptions from the ban on gifts that involve food, beverages, lodging, registration, travel, etc., under GS 138A-32 to provide as follows: the exception applies to reasonable actual expenditures for food, beverages, registration, travel, lodging, other incidental items of nominal value, and entertainment, when the covered person is attending an educational meeting or a meeting of a state, regional, national, or international legislative organization; and the meeting must meet these requirements: (1) the expenditures must be made by lobbyist's principal, not lobbyist; (2) any educational meeting must be attended by at least 10 or more participants and have a formal agenda, and the notice of the meeting must have been given at least 10 days in advance; (3) any food, beverages, or entertainment must be provided to all

attendees or to defined groups of 10 or more attendees; and (4) any entertainment must be incidental to the principal agenda of the educational meeting. Deletes provisions about discarding prohibited gifts of perishable food items.

Provides in GS 138A-45 that if a member of a state board is to be removed and that person was appointed by the General Assembly upon the recommendation of the Speaker or the President Pro Tempore, removal is by the Governor upon recommendation by the Speaker or President Pro Tempore, as appropriate.

*Legislative Ethics Act.* Specifies in GS 120-103.1 that complaints made to the Legislative Ethics Committee (Committee) concerning the Lt. Governor are to be referred to the State Ethics Commission (Commission). Deletes provision that made a complaint a public record if not acted on at all by the Committee within 60 days after reception. Makes clear that when the Committee receives a referral from the Commission, it must either make recommendations to the appropriate house of General Assembly, conduct further investigations, or dismiss complaint. Directs the Committee to publish annual statistics on complaints filed with or considered by it.

Modifies provisions in GS 120-104 dealing with Commission advisory opinions referred to Committee, with following result: the Commission is to receive and review these opinions, which do not become a formal Committee opinion until adopted by the Committee; the Committee may modify or overrule the Commission's recommended opinion, and the Committee's final action is to control. Makes clear that the Committee's jurisdiction for advisory opinions does not include conduct of the Lt. Governor. Provides that the Commission is to publish the Committee's advisory opinions.

*Lobbying amendments.* Modifies several of the definitions set out in proposed GS 120C-100, as follows: (1) Defines *Commission* as the State Ethics Commission (Commission); (2) Excludes from *Executive action* a public servant's communication with respect to ratemaking; (3) Defines *Legislative employee* to include consultants and counsel to legislative committees and commissions who are paid by State funds and to exclude legislators, Council of State members, and pages; (4) Modifies *Lobbyist* to provide that an employee is not considered a lobbyist if less than five percent of the employee's actual duties in any 30-day period include engaging in lobbying; (5) Modifies *Lobbyist principal* to exclude any person designating a registered liaison personnel; (6) Deletes definition of *News medium*; and (7) Rewrites *Solicitation of others* to specify the means by which a request to others may be made. Makes clear that *Legislator* under GS Chapter 120C includes persons nominated by a party under GS 163-114 and by a new party under GS 163-98.

Provides that advisory opinions provided for under new GS Chapter 120C are to be issued by the Commission, rather than the Secretary of State (Secretary) and that the educational program under GS 120C-103 is the responsibility of the Commission rather than the Secretary. Gives the Commission the authority in GS 120C-101 to adopt rules necessary to carry out the provisions of GS Chapter 120C, and establishes the procedure under which the rules are to be adopted (with general exclusion from GS Chapter 150B).

The previous edition set out the conditions under which a person soliciting others was required to register as a lobbyist. The conference report revises these conditions in GS 120C-215 so that registration is required whenever solicitation expenses exceed \$3,000 during any 90-day period.

The previous edition prohibited campaign contributions from lobbyists and lobbyists principals in GS 120C-302; the conference report deletes principals from section. The same section specifically prohibits lobbyists from bundling contributions, and a provision is added exempting from the section a lobbyist who has filed notice of candidacy for office, when making a contribution to his or her own campaign. Modifies the prohibitions on legislators and public servants becoming lobbyists and on lobbyists becoming public servants in GS 120C-304 as follows: (1) reduces from one year to six months the time period after concluding service during which the former head of the state department may not register as lobbyist and (2) modifies prohibition on appointing a lobbyist to a State body, to limit it to the body with "regulatory authority over the activities of a person that the lobbyist currently represents or has represented" within 120 days after expiration of registration for that principal.

Modifies provisions in Article 4 of GS 120C for reports from lobbyists, principals, and solicitors, to require reporting of all solicitation of others when the solicitation involves an

aggregate cost of more than \$3,000. Modifies Article 5 of GS Chapter 120C detailing the application of the lobbyist laws to liaison personnel, to specify that liaison personnel need not pay the registration fee under proposed GS 120C-200. In addition, prohibits The University of North Carolina, or its constituent institutions, or liaison personnel of either, from giving, for purpose of lobbying, athletic tickets to anyone except Board of Governor members, board of trustee members, or the president, vice-presidents, chancellors and vice-chancellors, and students.

Provides in Article 6 of GS Chapter 120C that the Secretary has enforcement authority for Articles 4 and 8 (reporting) of GS Chapter 120C, and that the Commission has enforcement authority for the remainder of the Chapter. Adds GS 120C-601 giving the Commission specific enforcement powers comparable to those already included for the Secretary, and permits the Commission to levy civil fines up to \$5,000 per violation. Provides that the Commission may investigate complaints under GS Chapter 120C and report apparent violations to the district attorney for the prosecutorial district including Wake County; and that complaints against Commission members or staff are to be referred to the Attorney General. Deletes other enforcement authority previously given to the Attorney General.

Modifies exemptions for new GS Chapter 120C in Article 7 as follows: (1) the exemption for state and local employees does not cover persons designated as liaison personnel; (2) the exemption for news media applies to "recognized" news media and extends to commentary as well as straight news.

Makes clear that entire act applies to gifts received on or after January 1, 2007.

August 14, 2006

**SL 2006-201 (H 1843). STATE GOVERNMENT ETHICS ACT-1. AN ACT TO ESTABLISH THE STATE GOVERNMENT ETHICS ACT; TO CREATE THE STATE ETHICS COMMISSION; TO ESTABLISH ETHICAL STANDARDS FOR CERTAIN STATE PUBLIC OFFICERS, STATE EMPLOYEES, AND APPOINTEES TO NONADVISORY STATE BOARDS AND COMMISSIONS; TO REQUIRE PUBLIC DISCLOSURE OF ECONOMIC INTERESTS BY CERTAIN PERSONS IN THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES; TO AMEND THE LOBBYING LAWS; AND TO MAKE CONFORMING CHANGES.** Summarized in *Daily Bulletin* 5/9/06, 5/16/06, 5/17/06, 7/18/06, 7/19/06, and 7/27/06. Enacted August 4, 2006. Sections 4–15 and 17–21 are effective January 1, 2007. GS 120C-304, as enacted by Section 18, applies to appointments made on or after that date. The remainder is effective October 1, 2006, and applies to covered persons and legislative employees on or after January 1, 2007, to gifts received on or after January 1, 2007, to acts and conflicts of interest that arise on or after January 1, 2007, and to offenses committed on or after January 1, 2007.