

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 735

Short Title: Rev. Leg. Ethics/Lobbying.

(Public)

Sponsors: Representatives Gamble; H. Hunter, Miller, Luebke, and Hensley.

Referred to: Ethics.

April 1, 1997

A BILL TO BE ENTITLED

AN ACT TO REVISE THE LEGISLATIVE ETHICS ACT, TO AMEND THE LOBBYING STATUTES, TO AMEND THE LAWS RELATED TO PAYMENT OF TRAVEL AND SUBSISTENCE FOR LEGISLATORS, AND TO AMEND THE CAMPAIGN FINANCING LAWS FOR LEGISLATIVE CANDIDATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-85 reads as rewritten:

"§ 120-85. Definitions.

As used in this Article:

(1) ~~"Business with which he is associated" means any enterprise, incorporated or otherwise, doing business in the State of which the legislator or any member of his immediate household is a director, officer, owner, partner, employee, or of which the legislator and his immediate household, either singularly or collectively, is a holder of securities worth five thousand dollars (\$5,000) or more at fair market value as of December 31 of the preceding year, or constituting five percent (5%) or more of the outstanding stock of such enterprise.~~

(2) ~~"Immediate household" means the legislator, his spouse, and all dependent children of the legislator.~~

- 1 (3) ~~"Vested trust" as set forth in G.S. 120-96(4) means any trust, annuity or~~
2 ~~other funds held by a trustee or other third party for the benefit of the~~
3 ~~member or a member of his immediate household.~~

4 As used in this Article and in Article 9A of this Chapter, unless the context clearly
5 requires otherwise, the following definitions apply:

- 6 (1) Business. – Any of the following, whether or not for profit: association,
7 corporation, enterprise, joint venture, organization, limited liability
8 company, partnership, proprietorship, trust, or every other business
9 interest, including ownership or use of land for income.

- 10 (2) Business With Which Associated. – A business of which the person
11 filing an economic interest statement required under Part II of this
12 Article, or any member of the person's immediate family is:

13 a. A director, employee, officer, owner, partner, compensated
14 agent, or member of a governing body of a business entity; or

15 b. A holder, either individually or collectively, of securities (i)
16 worth one thousand dollars (\$1,000) or more at fair market value
17 as of December 31 of the preceding year; or (ii) constituting five
18 percent (5%) or more of the outstanding stock of the business.
19 For purposes of this sub-subdivision, the term 'business' shall not
20 include a widely held investment fund, including, but not limited
21 to, a mutual fund, regulated investment company, or pension or
22 deferred compensation plan, if:

23 1. The person or a member of the person's immediate family
24 neither exercises nor has the ability to exercise control
25 over the financial interests held by the fund; and

26 2. The fund is publicly traded, or the fund's assets are widely
27 diversified.

- 28 (3) Committee. – The Legislative Ethics Committee.

- 29 (4) Compensation. – Any money, thing of value, or economic benefit
30 conferred on or received by any person in return for services rendered or
31 to be rendered by that person or another. This term does not include
32 campaign contributions properly received and, if applicable, reported as
33 required by Article 22A of Chapter 163 of the General Statutes.

- 34 (5) Contract. – Any agreement including, but not limited to, sales and
35 conveyances of real and personal property and agreements for the
36 performance of services.

- 37 (6) Immediate Family. – An unemancipated child residing in the household
38 of the person and the person's spouse, if not legally separated.

- 39 (7) Legislator. – Any person who has been elected or appointed to the
40 General Assembly and who has or has not yet taken the oath of office.

- 41 (8) Official Action. – On questions before, or questions that may come
42 before the General Assembly, any discussion either: (i) in a standing
43 committee or subcommittee, (ii) on the floor, or (iii) in a study

- 1 committee or commission; participation in any motion or vote; or
2 participation in any other official decision.
- 3 (9) Participate. – To take part in, to influence, or to attempt to influence any
4 matter or question before, or that could reasonably be expected to come
5 before the General Assembly, including in committee or on the floor of
6 the General Assembly.
- 7 (10) Pecuniary Interest. – Any of the following:
- 8 a. Owning, either individually or collectively, a legal or equitable
9 interest exceeding one thousand dollars (\$1,000) or five percent
10 (5%), whichever is less, of any business.
- 11 b. Receiving, either individually or collectively, during the
12 preceding calendar year compensation that is or will be required
13 to be included as taxable income on federal income tax returns of
14 the person, the person's immediate family, or a business with
15 which associated in an aggregate amount of five thousand dollars
16 (\$5,000) from any business or combination of businesses. A
17 pecuniary interest exists in any client or customer who pays fees
18 or commissions, either individually or collectively, of five
19 thousand dollars (\$5,000) or more in the preceding 12 months to
20 the person, the person's immediate family, or a business with
21 which associated.
- 22 c. Receiving, either individually or collectively and directly or
23 indirectly, in the preceding 12 months, gifts or honoraria having
24 an unknown value or having an aggregate value of five hundred
25 dollars (\$500.00) or more from any person. A pecuniary interest
26 does not exist under this sub-subdivision by reason of (i) a gift or
27 bequest received as the result of the death of the donor; (ii) a gift
28 from an immediate family member; or (iii) acting as a trustee of a
29 trust for the benefit of another.
- 30 d. Holding the position of associate, director, officer, partner,
31 compensated agent, member of the governing body, or proprietor
32 of any business, irrespective of the amount of compensation
33 received.
- 34 (11) State Agency. – A State department, institution, commission,
35 committee, board, division, bureau, officer, or official.
- 36 (12) Vested Trust. – A trust, annuity, or other funds, held by a trustee or
37 other third party for the benefit of the person or a member of the
38 person's immediate family. A vested trust shall not include a widely
39 held investment fund, including but not limited to a mutual fund,
40 regulated investment company, or pension or deferred compensation
41 plan, if:

1 a. The person or a member of the person's immediate family neither
2 exercises nor has the ability to exercise control over the financial
3 interests held by the fund; and

4 b. The fund is publicly traded, or the fund's assets are widely
5 diversified.

6 (13) Widely Diversified. – A securities group or fund that holds no more
7 than five percent (5%) of the value of its portfolio in the securities of
8 any one issuer (other than the United States Government) and no more
9 than twenty percent (20%) in any particular economic or geographic
10 sector."

11 Section 2. G.S. 120-86 reads as rewritten:

12 "**§ 120-86. Bribery, etc.**

13 (a) No person shall offer or give to a legislator or a member of a legislator's
14 immediate ~~household, family,~~ or to a business with which ~~he~~ the legislator is associated,
15 and no legislator shall solicit or receive, anything of monetary value, including a gift,
16 favor or service or a promise of future employment, based on any understanding that such
17 legislator's vote, official actions or judgment would be influenced thereby, or where it
18 could reasonably be inferred that the thing of value would influence the legislator in the
19 discharge of ~~his~~ the legislator's duties.

20 (b) It shall be unlawful for the partner, client, customer, or employer of a legislator
21 or the agent of that partner, client, customer, or ~~employer to threaten economically, directly~~
22 ~~or indirectly, employer, directly or indirectly, to threaten economically~~ that legislator
23 legislator, a member of the legislator's immediate family, or a business with which
24 associated, with the intent to influence the legislator in the discharge of ~~his~~ the legislator's
25 legislative duties.

26 (c) It shall be unethical for a legislator to contact the partner, client, customer, or
27 employer of another legislator if the purpose of the contact is to cause the partner, client,
28 customer, or employer to threaten economically, directly or indirectly, that legislator with
29 the intent to influence that legislator in the discharge of ~~his~~ the legislator's legislative
30 duties.

31 (d) ~~For the purposes of this section, the term "legislator" also includes any person~~
32 ~~who has been elected or appointed to the General Assembly but who has not yet taken the~~
33 ~~oath of office.~~

34 (e) Violation of subsection (a) or (b) is a Class F felony. Violation of subsection
35 (c) is not a crime but is punishable under G.S. 120-103."

36 Section 3. G.S. 120-87 reads as rewritten:

37 "**§ 120-87. Disclosure of confidential information.**

38 No legislator shall use or disclose confidential information gained in the course of or
39 by reason of ~~his~~ the legislator's official position or activities in any way that could result
40 in financial gain for ~~himself, the legislator,~~ a business with which ~~he~~ the legislator or the
41 legislator's immediate family is associated ~~or a member of his immediate household~~
42 associated, or any other person. A violation of this section shall be punished as a Class 1
43 misdemeanor."

1 Section 4. Part 1 of Article 14 of Chapter 120 of the General Statutes is
2 amended by adding new sections to read:

3 **"§ 120-87.1. Use of public position for private gain.**

4 (a) A legislator may not knowingly and intentionally use the legislator's public
5 position for the private gain of the legislator or of a member of the legislator's immediate
6 family. The performance of usual and customary duties associated with the legislative
7 position or the advancement of public policy goals or constituent services, without
8 compensation, shall not constitute the use of public position for private gain.

9 (b) A legislator shall not mention or permit another person to mention the
10 legislator's legislative position in commercial advertising.

11 **"§ 120-87.2. Gifts.**

12 (a) A legislator may not solicit any gift unless the solicitation is for a charitable
13 purpose with no resulting direct pecuniary benefit conferred upon the legislator, the
14 legislator's immediate family, or a business with which associated.

15 (b) No legislator subject to this Chapter may knowingly accept any gift as set forth
16 in Article 9A of this Chapter, directly or indirectly, from a lobbyist as defined in G.S.
17 120-47.1.

18 (c) This section shall not apply to any of the following gifts:

19 (1) Political contributions properly received and reported as required under
20 Article 22A of Chapter 163 of the General Statutes.

21 (2) Gifts from relatives by blood or marriage, or a member of the same
22 household.

23 (3) Honoraria or other compensation subject to G.S. 120-87.3.

24 (4) Printed informational or promotional material, not to exceed ten dollars
25 (\$10.00) in monetary value.

26 (5) Items of nominal value, not to exceed ten dollars (\$10.00), containing or
27 displaying promotional material.

28 (6) A personalized plaque or trophy with a value that does not exceed one
29 hundred fifty dollars (\$150.00).

30 (7) Educational material of a nominal value directly related to the
31 legislator's official duties.

32 (8) An honorary degree bestowed upon a legislator from a public or private
33 university or college.

34 (9) Promotional or marketing items offered to the general public or State
35 employees on the same terms and conditions without regard to status as
36 a legislator.

37 **"§ 120-87.3. Honoraria and other compensation.**

38 A legislator shall not accept an honorarium or other compensation from a source other
39 than the State for conducting or participating in any activity where:

40 (1) The State reimburses the legislator for travel, subsistence, and
41 registration expenses;

42 (2) The activity would be considered official duty or would bear a
43 reasonably close relationship to the legislator's official duties.

1 An outside source may reimburse the State for actual expenses incurred by a legislator in
2 conducting an activity within the duties of the legislator; or may pay a fee to the State, in
3 lieu of an honorarium, for the services of the legislator."

4 Section 5. G.S. 120-88 reads as rewritten:

5 "**§ 120-88. When legislator to disqualify himself or submit question to Legislative**
6 **Ethics Committee. Participation in official actions.**

7 ~~When a legislator must act on a legislative matter as to which he has an economic~~
8 ~~interest, personal, family, or client, he shall consider whether his judgment will be~~
9 ~~substantially influenced by the interest, and consider the need for his particular~~
10 ~~contribution, such as special knowledge of the subject matter, to the effective functioning~~
11 ~~of the legislature. If after considering these factors the legislator concludes that an actual~~
12 ~~economic interest does exist which would impair his independence of judgment, then he~~
13 ~~shall not take any action to further the economic interest, and shall ask that he be~~
14 ~~excused, if necessary, by the presiding officer in accordance with the rules of the~~
15 ~~respective body. If the legislator has a material doubt as to whether he should act, he may~~
16 ~~submit the question to the Legislative Ethics Committee for an advisory opinion in~~
17 ~~accordance with G.S. 120-104.~~

18 (a) Except as permitted by subsection (c) of this section and notwithstanding any
19 other law, no legislator acting in that capacity, knowingly shall participate in an official
20 action as a legislator if the legislator, a member of the legislator's immediate family, or a
21 business with which associated has a pecuniary interest in or a reasonably foreseeable
22 pecuniary benefit from the matter under consideration. A potential pecuniary benefit
23 includes a detriment to a business competitor of the legislator, a member of the
24 legislator's immediate family, or a business with which associated. It shall be presumed
25 that a legislator has a pecuniary interest in or a reasonably foreseeable pecuniary benefit
26 from the matter under consideration if the matter involves, directly or indirectly, any item
27 that the legislator has listed on the legislator's most recent statement of economic interest
28 or which would be required to be reported if the item has been acquired since the filing of
29 the most recent statement.

30 (b) A legislator described by subsection (a) of this section shall abstain from
31 participation in the official action. The legislator shall submit in writing the reasons for
32 the abstention to the presiding officer of the legislator's legislative body. The abstention
33 shall be recorded in the legislative body's journal.

34 (c) A legislator may participate in an official action under any of the following
35 circumstances:

36 (1) The only pecuniary interest or reasonably foreseeable pecuniary benefit
37 that accrues to the legislator, the legislator's immediate family, or
38 business with which associated, as a member of a profession,
39 occupation, or large class, is no greater than that which could reasonably
40 be foreseen to accrue to all members of that profession, occupation, or
41 large class. A large class does not include a group of investors in the
42 stock of a single issuer or a group of investors in a group of stocks not
43 widely diversified.

1 (2) Where an official action affects or would affect the legislator's
2 compensation and allowances as a legislator.

3 (3) Before the legislator participated in the official action, the legislator
4 requested and received a written advisory opinion from the Committee
5 that the legislator's pecuniary interest or reasonably foreseeable
6 pecuniary benefit from a matter under consideration would not impair
7 the legislator's independence of judgment or influence the legislator's
8 participation in the official action.

9 (4) When the house of which the legislator is a member records in its
10 minutes that it cannot obtain a quorum in order to take the official action
11 because members are disqualified from acting under this section. As to
12 matters being considered in committee, a legislator disqualified to
13 participate in an official action under this section shall not be considered
14 as a member of the committee for quorum purposes on the matter being
15 considered."

16 Section 6. Part 1 of Article 14 of Chapter 120 of the General Statutes is
17 amended by adding new sections to read:

18 **"§ 120-88.1. Representation before State agencies.**

19 (a) No legislator nor associate, employee, partner, or spouse of the legislator shall
20 represent another person before any State agency.

21 (b) No former legislator shall represent any person other than the State, or a
22 charitable or nonprofit organization, in a matter before a State agency or the General
23 Assembly within two years after the end of service as a member of the General
24 Assembly. This subsection shall apply only to legislators who hold office on or after
25 January 1, 1998.

26 (c) This section shall not apply to representation of the legislator or former
27 legislator in that individual's personal capacity, or to representation before the courts of
28 the General Court of Justice.

29 **"§ 120-88.2. Advisory opinions.**

30 At the request of any legislator, the Committee shall render advisory opinions on
31 specific questions involving legislative ethics. Reliance upon a requested written
32 advisory opinion on a specific matter shall immunize the legislator, on that matter, from
33 investigation by the Committee.

34 The Committee shall publish its advisory opinions, edited as necessary to protect the
35 identities of the individuals requesting opinions, at least once a year."

36 Section 7. G.S. 120-89 reads as rewritten:

37 **"§ 120-89. Statement of economic ~~interest by legislative candidates;~~ interest; filing**
38 **required.**

39 ~~Every person who files as a candidate for nomination or election to a seat in either~~
40 ~~house of the General Assembly shall file a statement of economic interest as specified in~~
41 ~~this Article within 10 days of the filing deadline for the office he seeks.~~

1 (a) Every legislator shall file a statement of economic interest no later than
2 January 31 of each year with the Legislative Services Office to be filed in the Legislative
3 Library.

4 (b) Every candidate for nomination or election to a seat in the General Assembly
5 or as Lieutenant Governor shall file a statement of economic interest as specified in this
6 Article within 10 days of the filing deadline for that office. Every candidate elected to a
7 term of office shall file a statement of economic interest by January 31 every subsequent
8 year.

9 (c) A candidate for the legislature shall file the statement of economic interest at
10 the same place and in the same manner as the notice of candidacy for that office is
11 required to be filed under G.S. 163-106. A person who is nominated under G.S. 163-114
12 after the primary and before the general election, and a person who qualifies under G.S.
13 163-122 as an independent candidate in a general election, shall file a statement of
14 economic interest with the county board of elections of each county in the senatorial or
15 representative district. A person nominated under G.S. 163-114 shall file the statement
16 within three days following his nomination, or not later than the day preceding the
17 general election, whichever occurs first. A person seeking to qualify as an independent
18 candidate under G.S. 163-122 shall file the statement of economic interest with the
19 petition filed under that section. A person seeking to have write-in votes counted for
20 himself or herself in a general election shall file a statement of economic interest at the
21 same time the candidate files a declaration of intent under G.S. 163-123. A candidate of
22 a new party chosen by convention shall file a statement of economic interest at the same
23 time that the president of the convention certifies the names of its candidates to the State
24 Board of Elections under G.S. 163-98. A candidate for Lieutenant Governor shall file the
25 statement of economic interest with the State Board of Elections in the same manner as
26 the notice of candidacy for that office is required to be filed under G.S. 163-106.

27 (d) The State Board of Elections and the county board of elections shall provide
28 for notification of the economic-interest-statement requirements of this Article to be
29 given to any candidate filing for nomination or election at the time of the filing of
30 candidacy with the board.

31 (e) Once the candidate is certified as elected, the Chair of the State or county
32 board of elections with which a statement of economic interest is filed shall forward a
33 certified copy of the statement to the Legislative Services Office to be filed in the
34 Legislative Library. The Chair shall also forward a certified copy of each candidate's
35 statement of economic interest, within 10 days after its filing, to the board of elections in
36 each other county in the district the candidate seeks to represent."

37 Section 8. G.S. 120-90 is repealed.

38 Section 9. G.S. 120-92 is repealed.

39 Section 10. G.S. 120-93 is repealed.

40 Section 11. G.S. 120-93.1 is repealed.

41 Section 12. G.S. 120-94 reads as rewritten:

42 **"§ 120-94. Statements of economic interest are public records.**

1 The statements of economic interest are public records and shall be made available for
2 inspection and copying by any person during normal business hours at the office of the
3 various county boards of election where the statements or copies thereof are filed and at the
4 Legislative Library after certified copies are forwarded to the Legislative Services Office. If a
5 county board of elections of a county does not keep an office open during normal business hours
6 each day, that board shall deliver a copy of all statements of economic interest filed with it to the
7 clerk of superior court of the county, and the statements shall be available for inspection and
8 copying by any person during normal business hours at that clerk's office. where filed."

9 Section 13. G.S. 120-96 reads as rewritten:

10 **"§ 120-96. Contents of statement.**

11 Any statement of economic interest filed under this Article shall be on a form
12 prescribed by the Committee, and the person filing the statement shall supply the following
13 information: Committee and sworn to by the person filing the statement. The form shall
14 include, but not be limited to, the following information about the person filing the
15 statement and the person's immediate family:

- 16 (1) ~~The identity, by name, of any business with which he, or any member of~~
17 ~~his immediate household, is associated;~~
 - 18 (2) ~~The character and location of all real estate of a fair market value in~~
19 ~~excess of five thousand dollars (\$5,000), other than his personal~~
20 ~~residence (curtilage), in the State in which he, or a member of his~~
21 ~~immediate household, has any beneficial interest, including an option to~~
22 ~~buy and a lease for 10 years or over;~~
 - 23 (3) ~~The type of each creditor to whom he, or a member of his immediate~~
24 ~~household, owes money, except indebtedness secured by lien upon his~~
25 ~~personal residence only, in excess of five thousand dollars (\$5,000);~~
 - 26 (4) ~~The name of each "vested trust" in which he or a member of his~~
27 ~~immediate household has a financial interest in excess of five thousand~~
28 ~~dollars (\$5,000) and the nature of such interest;~~
 - 29 (5) ~~The name and nature of his and his immediate household member's~~
30 ~~respective business or profession or employer and the types of~~
31 ~~customers and types of clientele served;~~
 - 32 (6) ~~A list of businesses with which he is associated that do business with~~
33 ~~the State, and a brief description of the nature of such business; and~~
 - 34 (7) ~~In the case of professional persons and associations, a list of~~
35 ~~classifications of business clients which classes were charged or paid~~
36 ~~two thousand five hundred dollars (\$2,500) or more during the previous~~
37 ~~calendar year for professional services rendered by him, his firm or~~
38 ~~partnership. This list need not include the name of the client but shall~~
39 ~~list the type of the business of each such client or class of client, and~~
40 ~~brief description of the nature of the services rendered.~~
- 41 (1) The name, occupation, nature of business, and type of clients served;
 - 42 (2) The name and address of any business with which associated as of the
43 date of the filing of the statement;

- 1 (3) Any business listed under subdivision (2) of this section which the
2 person knows or has reason to believe does business with or is regulated
3 by the State;
- 4 (4) The character and location of all real estate, other than the personal
5 residence of the person or of a member of the person's immediate
6 family, that:
- 7 a. Is located within North Carolina,
8 b. Has a fair market value of ten thousand dollars (\$10,000) or
9 more, and
- 10 c. Of which the person or any member of the person's immediate
11 family has any beneficial interest, including an option to buy or
12 lease for 10 or more years; provided, however, if the person's
13 personal residence is a part of a larger tract, the land on which
14 the personal residence and that part of the surrounding land used
15 for residential purposes by the family need not be listed;
- 16 (5) The name and address of each creditor to whom the person or a member
17 of the person's immediate family owes more than ten thousand dollars
18 (\$10,000), except for debts secured by lien upon the personal residence;
- 19 (6) The name of each vested trust in which the person or a member of the
20 person's immediate family has a financial interest in excess of ten
21 thousand dollars (\$10,000);
- 22 (7) For professional persons and associations, a list of classifications of
23 business clients which classes were charged or paid more than five
24 thousand dollars (\$5,000) or more during the previous calendar year;
25 however, individual clients need not be identified, but the type of
26 business of the client or class of the client and a description of the
27 nature of the services rendered must be listed."

28 Section 14. G.S. 120-98 reads as rewritten:

29 **"§ 120-98. ~~Penalty for failure to file~~ Penalty for violations.**

30 (a) If a candidate does not file the statement of economic interest within the time
31 required by this Article, the ~~county~~ board of elections in which the statement is required
32 to be filed shall immediately notify the candidate by registered mail, restricted delivery to
33 addressee only, that, if the statement is not received within 15 days, the candidate shall
34 not be certified as the nominee of his party. If the statement is not received within 15
35 days of notification, the board of elections authorized to certify a candidate as nominee to
36 the office shall not certify the candidate as nominee under any circumstances, regardless
37 of the number of candidates for the nomination and regardless of the number of votes the
38 candidate receives in the primary. A vacancy thus created on a party's ticket shall be
39 considered a vacancy for the purposes of G.S. 163-114, and shall be filled according to
40 the procedures set out in G.S. 163-114.

41 (b) Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1028, s. 5.

42 (c) Violation of this Chapter by any legislator is grounds for disciplinary action by
43 the body in which the legislator sits.

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

3 Section 15. G.S. 120-3.1 is amended by adding new subsections to read:

4 "(e) No member of the General Assembly shall receive a weekly travel allowance
5 as provided for in subdivision (a)(1) of this section during any week that the member
6 does not travel to a regular or extra session of the General Assembly.

7 "(f) No member of the General Assembly shall be entitled to receive a subsistence
8 allowance as provided for in subdivision (a)(3) of this section for any day, beginning on
9 the fourth consecutive calendar day, that the member does not attend the session of the
10 house to which the member is a member, even when the member's absence is excused,
11 except in the event of illness or family emergency of the member or the member's
12 immediate family as determined by the Speaker of the House for members of the House
13 of Representatives and the President Pro Tempore of the Senate for members of the
14 Senate, except in no event shall a member be entitled to a subsistence allowance after
15 being absent from session more than 15 consecutive calendar days."

16 Section 16. G.S. 120-7 is repealed.

17 Section 17. G.S. 120-47.1 reads as rewritten:

18 **"§ 120-47.1. Definitions.**

19 (a) For the purposes of this Article, the following terms shall have the meanings
20 ascribed to them in this section unless the context clearly indicates a different meaning:

21 (1) The terms 'contribution,' 'compensation' and 'expenditure' mean any
22 advance, conveyance, deposit, payment, gift, retainer, fee, salary,
23 honorarium, reimbursement, loan, pledge or anything of value and any
24 contract, agreement, promise or other obligation whether or not legally
25 enforceable, but those terms do not include prizes, awards, or
26 compensation not exceeding one hundred dollars (\$100.00) in a
27 calendar year.

28 (2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.

29 (4) The term 'legislative action' means the preparation, research, drafting,
30 introduction, consideration, modification, amendment, approval,
31 passage, enactment, tabling, postponement, defeat, or rejection of a bill,
32 resolution, amendment, motion, report, nomination, appointment, or
33 other matter by the legislature or by a member or employee of the
34 legislature acting or purporting to act in an official capacity.

35 (5) The term 'lobbying' means:

36 a. Influencing or attempting to influence legislative action through
37 direct oral or written communication with a member of the
38 General Assembly; or

39 b. Solicitation of others by lobbyists to influence legislative action.

40 (6) The term 'lobbyist' means an individual who:

41 a. Is employed and receives compensation, or who contracts for
42 economic consideration, for the purpose of lobbying; or

b. Represents another person and receives compensation for the purpose of lobbying.

The term 'lobbyist' shall not include those individuals who are specifically exempted from this Article by G.S. 120-47.8. For the purpose of determining whether an individual is a lobbyist under this subdivision, reimbursement of actual travel and subsistence expenses shall not be considered compensation; provided, however, that reimbursement in the ordinary course of business of these expenses shall be considered compensation if a significant part of the individual's duties involve lobbying before the General Assembly.

(7) The terms 'lobbyist's principal' and 'principal' mean the entity in whose behalf the lobbyist influences or attempts to influence legislative action.

(8) The term 'person' means any individual, firm, partnership, committee, association, corporation, or any other organization or group of persons.

(9) The General Assembly is in 'regular session' from the date set by law or resolution that the General Assembly convenes until the General Assembly either:

a. Adjourns sine die; or

b. Recesses or adjourns for more than 10 days.

(10) The term 'thing of value' means any property, tangible or intangible, worth more than ten dollars (\$10.00).

(b) The definition of terms set forth in G.S. 120-85 apply when those terms are used in this Article, unless the context clearly requires otherwise."

Section 18. Article 9A of Chapter 120 of the General Statutes is amended by adding a section to read:

"§ 120-47.5A. Acts prohibited of lobbyists and legislators; exceptions.

(a) A lobbyist or a person acting on behalf of a lobbyist shall not offer, solicit, facilitate, or provide to or on behalf of any legislator, a member of the legislator's immediate family, or a business with which associated any of the following:

(1) Lodging;

(2) Transportation;

(3) Entertainment;

(4) Food, meals, beverages, money, or any other thing of value, except as permitted under G.S. 120-87.2; or

(5) Campaign contributions.

(b) A legislator shall not solicit or receive from a lobbyist or a person acting on behalf of a lobbyist any of the following:

(1) Lodging;

(2) Transportation;

(3) Entertainment;

(4) Food, meals, beverages, money, or any other thing of value, except as permitted under G.S. 120-87.2; or

(5) Campaign contributions.

1 (c) Subdivisions (1) through (4) of subsection (a) of this section and subdivisions
2 (1) through (4) of subsection (b) of this section do not apply to the furnishing of lodging,
3 transportation, entertainment, food, meals, beverages, or any other thing of value which
4 also is furnished on the same terms or at the same expense to a member of the general
5 public or a State employee without regard to status as a legislator.

6 (d) Subdivisions (1) through (4) of subsection (a) of this section and subdivisions
7 (1) through (4) of subsection (b) of this section do not apply to the rendering of
8 emergency assistance given gratuitously and in good faith by a lobbyist, a lobbyist's
9 principal, or any person acting on behalf of a lobbyist or a lobbyist's principal to any
10 legislator.

11 (e) Subsections (a) and (b) of this section do not apply to anything of value given
12 to a family member for love and affection."

13 Section 19. Article 9A of Chapter 120 of the General Statutes is amended by
14 adding a section to read:

15 **"§ 120-47.5B. Acts prohibited of lobbyists' principals and legislators; exceptions.**

16 (a) Except as otherwise provided under G.S. 120-47.5C, no lobbyist's principal
17 may offer, solicit, facilitate, or provide to a legislator, a member of the legislator's
18 immediate family, or a business with which associated, and no legislator may accept
19 lodging, transportation, entertainment, food, meals, beverages, or an invitation to a
20 function paid for by a lobbyist's principal except for a function to which a legislator is
21 invited if the entire membership of the House, the Senate, or the General Assembly is
22 invited, or one of the committees, subcommittees, joint committees, legislative caucuses,
23 or county legislative delegations of the General Assembly of which the legislator is a
24 member is invited. No lobbyist's principal or a person acting on behalf of a lobbyist's
25 principal may provide to the legislator pursuant to this subsection the value of lodging,
26 transportation, entertainment, food, meals, or beverages exceeding seventy-five dollars
27 (\$75.00) in a day and two hundred dollars (\$200.00) in a calendar year per legislator.

28 (b) A lobbyist's principal extending an invitation under subsection (a) of this
29 section must report all expenses as required by G.S. 120-47.7.

30 (c) The provisions of this section do not apply to a legislator who pays for the
31 legislator's lodging, transportation, entertainment, meals, food, or beverages at a function
32 to which the legislator has been invited by a lobbyist's principal or to a legislator who
33 pays the face value of a ticket to attend a ticketed event sponsored by a lobbyist's
34 principal when the ticketed event is open to the general public.

35 (d) Notwithstanding any other provision of this section, a legislator may accept
36 lodging, transportation, entertainment, meals, food, beverages, or an invitation to a
37 function paid for by a lobbyist's principal if it is provided to the legislator solely on the
38 basis that the spouse of the legislator is an official or employee of the providing lobbyist's
39 principal, and the spouse's receipt of the lodging, transportation, entertainment, meals,
40 food, beverages, or invitation is purely incidental to the spouse's office or employment
41 with the lobbyist's principal, and the legislator is receiving it only as the spouse of an
42 official or employee of the providing lobbyist's principal."

1 Section 20. Article 9A of Chapter 120 is amended by adding a new section to
2 read:

3 **"§ 120-47.5C. Legislators not to receive compensation for speaking before**
4 **audiences; exception and rules for payment of expenses.**

5 A legislator may not receive anything of value from a lobbyist's principal for speaking
6 before a public or private group. A legislator is not prohibited by this section from
7 accepting a meal provided in conjunction with a speaking engagement where all
8 participants are entitled to the same meal, and the meal is incidental to the speaking
9 engagement. Notwithstanding G.S. 120-47.5B, a legislator may receive payment or
10 reimbursement for actual expense incurred for a speaking engagement. The expenses
11 must be reasonable and must be incurred in a reasonable time and manner in which to
12 accomplish the purpose of the engagement. The payment or reimbursement must be
13 disclosed by the lobbyist's principal as required by G.S. 120-47.7."

14 Section 21. Article 9A of Chapter 120 is amended by adding a new section to
15 read:

16 **"§ 120-47.5D. Additional acts prohibited by lobbyists and lobbyists' principals.**

17 (a) A lobbyist may not serve as a treasurer for a candidate, as defined in G.S. 163-
18 278.6.

19 (b) A lobbyist, a lobbyist's principal, or a person acting on behalf of a lobbyist or a
20 lobbyist's principal may not host events to raise funds for legislators. No legislator may
21 solicit a lobbyist, a lobbyist's principal, or a person acting on behalf of a lobbyist or a
22 lobbyist's principal to host a fund-raising event for the legislator.

23 (c) A lobbyist, a lobbyist's principal, or a person acting on behalf of a lobbyist or a
24 lobbyist's principal may not employ on retainer a legislator, a member of the legislator's
25 immediate family, or a business with which associated. A retainer, for purposes of this
26 section, is a payment for availability to perform services rather than for actual services
27 rendered.

28 (d) A lobbyist, a lobbyist's principal, or a person acting on behalf of a lobbyist or a
29 lobbyist's principal shall not pay an honorarium to a legislator. This subsection does not
30 prohibit the reimbursement of or expenditure for actual expenses by a lobbyist's principal
31 as allowed in G.S. 120-47.5C.

32 (e) A lobbyist, or a person acting on behalf of a lobbyist, may not offer, facilitate,
33 or provide a loan to or on behalf of a legislator or a member of the legislator's immediate
34 family. A lobbyist's principal, or a person acting on behalf of a lobbyist's principal, may
35 not offer, facilitate, or provide a loan to or on behalf of a legislator unless the lobbyist's
36 principal is a financial institution authorized to transact business in the State, makes the
37 loan in the ordinary course of business, and makes the loan on the same terms and
38 conditions as would be applied to a similarly qualified borrower."

39 Section 22. G.S. 163-278.13A reads as rewritten:

40 **"§ 163-278.13A. No fund-raising from lobbyists for ~~legislators or~~ Council of State**
41 **members while General Assembly is in regular session.**

42 (a) While the General Assembly is in regular session, none of the following
43 entities may solicit or accept a contribution from, or at the behest or recommendation of,

1 an individual registered as a lobbyist pursuant to Article 9A of Chapter 120 of the
2 General Statutes:

3 (1) A member of the Council of State; or

4 ~~(2) A member of the General Assembly; or~~

5 (3) A political committee the principal purpose of which is to assist a
6 member or members of the Council of ~~State or General Assembly.~~ State.

7 (b) While the General Assembly is in regular session, no individual registered as a
8 lobbyist under Article 9A of Chapter 120 of the General Statutes may make a
9 contribution to any of the entities listed in subdivisions (1) ~~through and~~ (3) of subsection
10 (a) of this section.

11 (c) This section does not apply to:

12 (1) Any contribution made to or by a State, county or congressional district
13 executive committee of a political party; or

14 (2) Any contribution made to or solicited for a political committee that
15 operates on a Statewide basis in conjunction with the executive
16 committee of a political party for the purpose of assisting that party's
17 candidates for Council of ~~State or General Assembly.~~ State; or

18 (3) Any contribution made by a member of the Council of State or General
19 Assembly to a political committee the principal purpose of which is to
20 assist himself; or

21 (4) Any contribution made to or any solicitation for a nonprofit
22 organization under 26 U.S.C. § 501(c); or

23 (5) Any contribution accepted with the intent that it be used to defray legal
24 or other expenses incurred in connection with the contesting of election
25 results; or

26 (6) Any contribution to any of the entities listed in subdivisions (1) ~~through~~
27 and (3) of subsection (a) of this section if the member of the Council of
28 ~~State or General Assembly~~ has filed an official notice of candidacy with
29 the appropriate board of elections for any elective office, provided the
30 contribution is for the elective office for which the member has filed.

31 (d) A violation of this section is a Class 2 misdemeanor, but no individual or
32 person shall be prosecuted under this section for accepting or making a contribution
33 unless the State Board of Elections has notified the individual or person of the apparent
34 violation in writing by certified mail, has given the individual or person an opportunity to
35 return or to request the return of the contribution, and, within 10 days of the receipt of the
36 notification, the individual or person has failed to return or to request the return of the
37 contribution.

38 (e) For purposes of this section, the General Assembly is in regular session from
39 the date set by law or resolution that the General Assembly convenes until the General
40 Assembly either:

41 (1) Adjourns sine die; or

42 (2) Recesses or adjourns for more than 10 days."

1 Section 23. Article 22A of Chapter 163 is amended by adding two new
2 sections to read:

3 **"§ 163-278.13B. Retention and disposition of excess campaign funds by legislators.**

4 (a) Within 30 days following a general election, a candidate elected to the General
5 Assembly shall turn over to either:

- 6 (1) The State Treasurer for the benefit of the General Fund;
7 (2) A political party as defined in G.S. 163-96; or
8 (3) Contributors to the candidate's campaign on a pro rata basis;
9 any balance of campaign funds over expenses incurred as of the day of the election.

10 (b) Subsection (a) of this section does not apply to:

- 11 (1) An amount equal to one-half the maximum amount raised by the
12 candidate during any two-year campaign for a seat in the General
13 Assembly; and
14 (2) Any funds required to reimburse the candidate for personal funds
15 contributed to the campaign or to repay loans made by financial
16 institutions to the candidate and applied to the campaign.

17 **"§ 163-278.13C. Legislative campaign fund-raising functions prohibited outside**
18 **legislative district.**

19 No legislator or candidate for the General Assembly shall accept or solicit any
20 contribution from any individual or other political committee of any money or any other
21 contribution in conjunction with a political fund-raising function, including, but not
22 limited to, a reception, rally, or dinner, held outside of the legislative district for the seat
23 for which the legislator serves or the candidate is running."

24 Section 24. This act becomes effective January 1, 1998.