

EXECUTIVE ORDER NO. ONE

THE NORTH CAROLINA BOARD OF ETHICS

WHEREAS, the people of North Carolina entrust public power to elected and appointed officials for the purpose of furthering the public, not private or personal, interest; and

WHEREAS, to maintain the public trust it is essential that government function honestly and fairly, free from all forms of impropriety, threats, favoritism, and undue influence; and

WHEREAS, elected and appointed officials must maintain and exercise the highest standards of duty to the public in carrying out the responsibilities and functions of their positions; and

WHEREAS, acceptance of authority granted by the people to elected and appointed officials imposes a commitment of fidelity to the public interest and such power cannot be used to advance narrow interest for oneself, other persons, or groups; and

WHEREAS, self interest, partiality, and prejudice have no place in decision making for the public good; and

WHEREAS, Public Officials must exercise their duties responsibly with skillful judgment and energetic dedication; and

WHEREAS, Public Officials must exercise discretion with sensitive information pertaining to public and private persons and activities; and

WHEREAS, to maintain the integrity of North Carolina's state government, those citizens entrusted with authority must exercise it for the good of the public and treat every citizen with courtesy, attentiveness, and respect; and

WHEREAS, because many public officials serve on a part-time basis, it is inevitable that conflicts of interest and appearances of conflict will occur. Often these conflicts are unintentional and slight, but at every

turn those who represent the people of this State must be certain that it is the interests of the people, and not their own, that are being served. Officials should be prepared to remove themselves immediately from decisions, votes, or processes where even the appearance of a conflict of interest exists; and

WHEREAS, the State of North Carolina is committed to the responsible exercise of authority by persons of honor and good will in their government, by adopting a stronger procedure to prevent the occurrence of conflicts of interest in government and to resolve conflicts when they do occur.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Rescission of Executive Order No. 127, as amended.

Executive Order Number 127, dated January 16, 1998, and all subsequent amendments thereto, including Executive Order 131 dated March 25, 1998, are hereby rescinded. All records, including Statements of Economic Interest and other resources of the North Carolina Board of Ethics created pursuant to Executive Order Number 127, as amended, are transferred to the North Carolina Board of Ethics created herein.

Section 2. North Carolina Board of Ethics – Creation & Term of Service

There is hereby established the North Carolina Board of Ethics ("the Board"). The Board shall consist of seven persons appointed by the Governor. To provide for staggered terms, the Governor shall appoint three members to serve initial terms of two years, two members to serve initial terms of three years, and two members to serve initial terms of four years. Thereafter, each member shall serve a term of four years. No member shall be removed from the Board absent misfeasance, malfeasance, or nonfeasance as determined by the Governor. The Governor shall, from time to time, designate one of the members as Chair. The members shall receive no compensation, but shall receive reimbursement for any necessary expenses incurred in connection with the performance of their duties pursuant to North Carolina law and procedure. Vacancies on the Board shall be filled for the remainder of the term by appointment of the Governor.

Section 3. Persons Subject to this Executive Order

The following persons are subject to this Executive Order and to the jurisdiction of the Board and shall hereafter be referred to as "Public Officials":

- (a) All employees in the Office of the Governor.

(b) The heads of all “principal departments” (as set out in North Carolina General Statutes (“N.C.G.S.”) §143B-6, as amended from time to time¹) who are appointed by the Governor, and their chief deputies or chief administrative assistants.

(c) All "confidential" assistants or secretaries to the aforesaid department heads (or to the aforesaid chief deputies and assistants of department heads) as defined in N.C.G.S. §126-5(c)(2).

(d) All employees in “exempt positions” (as that term is defined in N.C.G.S. §126-5(b)) as designated by the Governor pursuant to the State Personnel Act; all employees in exempt positions in the Cabinet Department as designated by the Governor per §126-5(d)(1); and all employees in additional positions designated as exempt by the Governor per §126-5(d)(2a).

(e) Any other exempt employees in the principal departments as defined above who are appointed by the Governor, or designated by the Governor upon the recommendation of the Board, to the extent such designation does not conflict with the State Personnel Act.

(f) Gubernatorial appointees to non-advisory boards, commissions, councils, committees, task forces, authorities, or similar public bodies, however denominated (hereinafter “boards”) located within the Executive branch of State government. Final determination of whether a board, commission, or council is “advisory” shall be made by the Board according to its standards and criteria.

(g) Individuals made subject to this Executive Order pursuant to Section 4 below.

(h) Members of the Board.

The departments, agencies, authorities, boards, commissions, councils, and other State entities identified above in which Public Officials serve are hereafter collectively referred to as "Agencies" (or "Agency" as the context may require).

Section 4. Other Public Officials.

(a) The Board of Governors of the University of North Carolina System, the President Pro Tempore of the North Carolina Senate, the Speaker of the North Carolina House of Representatives, and each of the elected heads of the Council of State agencies (the Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance), are invited to participate in this Executive Order.

¹ Currently, such “principal departments” include the following: Administration; Correction; Crime Control & Public Safety; Cultural Resources; Commerce; Environment and Natural Resources; Health & Human Services; Juvenile Justice and Delinquency Prevention; Revenue; and Transportation.

(b) Those desirous of participating shall notify the Board in writing. The notification shall specify the exempt employees and appointees who shall become Public Officials under this Order and shall include the name of the board or position to which the Official is appointed, the appointee's address and telephone number, and the effective and expiration dates of their appointment.

(c) All Public Officials brought within the coverage of this Order under this Section shall be subject to and comply with all applicable provisions of the Order, including, without limitation, the duty to timely file a Statement of Economic Interest pursuant to Section 9 below. All appointing authorities listed above shall, prior to or as soon as reasonably practicable after designating an individual as a Public Official covered under this Order, provide such Public Official with copies of this Order (together with any subsequent amendments thereto) and any financial disclosure forms required by Section 9 below, including the Statement of Economic Interest form or forms.

(d) All services of the Board available to the Governor under this Order shall be available to each of the heads of the participating Agencies. All services of the Board available to Public Officials under this Order shall be available to those brought within the coverage of this Order under this Section.

Section 5. Duties and Powers of the Board.

(a) General Duties

(1) The Board shall provide reasonable assistance to Public Officials in complying with the terms of this Order.

(2) The Board shall develop readily understandable forms, policies, rules, and procedures to accomplish the purposes of this Order.

(3) The Board shall interpret the provisions of this Order and such interpretations shall be binding on all Public Officials. Any conflict between a provision in this Order and other North Carolina law (such as the North Carolina Administrative Code, North Carolina General Statutes, and State Constitution) shall be resolved in favor of the law.

(4) The Board shall submit a report annually to the Governor on its activities and generally on the subject of public disclosure, ethics, and conflicts of interest. The report shall include such recommendations for administrative and legislative action as the Board deems appropriate.

(5) The Board shall meet as often as it deems necessary to carry out its duties under this Order. A meeting may be called by the Chair or by a majority of its members upon request to the Chair or person acting in his or her stead.

(6) The Board shall perform such other duties as may be necessary to accomplish the purposes of this Order.

(b) **“Statement of Economic Interest” Review and Evaluation**

(1) The Board shall review all Statements of Economic Interest (hereinafter “Statements” or “SEI”) filed by prospective or actual Public Officials to evaluate whether:

- (a) the Statements conform with the terms of this Order;
- (b) the Statements comply with the Board's forms, policies, and procedures; and
- (c) the financial, familial, and personal interests and other information reported reveals an actual or potential conflict of interest.

(2) The Board shall submit a written evaluation of each Statement to the following:

- (a) the Public Official who submitted the Statement;
- (b) the chair of each covered board on which the Public Official serves;
- (c) the Governor for gubernatorial appointees and employees in the Office of the Governor; and
- (d) the appointing or hiring authority for those Public Officials subject to this Order.

The Board shall make every reasonable effort to evaluate Statements filed by actual or prospective Public Officials as promptly as possible. The Board may not accept and shall not evaluate Statements voluntarily or inadvertently submitted by those who are not Public Officials covered under this Order, including, without limitation, appointees to advisory boards or employees or appointees in other branches of State government.

(c) **Complaints Against Public Officials**

(1) The Board shall investigate legitimate, properly-filed complaints against covered Public Officials according to rules or regulations it may adopt for that purpose. The Board may not investigate and shall not accept complaints filed against employees or appointees who do not come under its jurisdiction pursuant to this Order. Any person may file a complaint with the Board regarding actions of any Public Official covered by this Order which constitute a violation of the Order. A complaint shall include:

- (a) the name, address, and telephone number of the individual filing the complaint (“the complainant”);
- (b) the name and job title or appointive position of the Public Official against whom the complaint is filed; and
- (c) a concise statement of the nature of the complaint and specific facts

indicating that a violation of this Order has occurred.

Complaints filed against Public Officials pursuant to this subsection must be filed with the Board within ninety (90) days of when the complainant knew or should of known of the conduct complained of. The Board may decline to accept or investigate any attempted complaint which does not contain any of the aforementioned information, or the Board may, at its sole option and discretion, request additional information be provided by the complainant within a specified reasonable amount of time (such time to be not less than seven (7) business days), barring which the attempted complaint may be dismissed.

(2) In addition to the foregoing, the Board may decline to accept or investigate a complaint if it determines that

- (a) the complaint is frivolous or brought in bad faith,
- (b) the individuals and conduct complained of have already been the subject of

a prior complaint, or

(c) the conduct complained of is primarily a matter more appropriately and adequately addressed and handled by other Federal, State, or Local agencies or authorities, including, but not limited to, law enforcement authorities. If other agencies or authorities are conducting an investigation of the same actions or conduct involved in a complaint filed pursuant to this Section, the Board shall stay its complaint investigation pending final resolution of such other investigation.

(3) The Board also is authorized to unilaterally initiate investigations upon the request of any Board member if, in the Board member's discretion, there is reason to believe that a Public Official has or may have violated this Executive Order. There is no time limit on Board-initiated complaint investigations under this subsection. In determining whether there is reason to believe that a violation has or may have occurred, a Board member can take general notice of available information even if not formally provided to the Board in the form of a complaint.

(4) The Board shall promptly notify Public Officials that a complaint has been filed or initiated against them. A Public Official against whom a complaint is filed, and all other individuals against whom allegations are made in a complaint, shall be given an opportunity to file a written response with the Board. As provided in Section 10 of this Order, the Board may utilize the services of hired investigators when conducting investigations.

(5) Public Officials shall promptly and fully cooperate with the Board in any Board related investigations. Failure to cooperate fully with the Board in any investigation shall be grounds for sanctions as set forth in Section 8 of this Order.

(6) To the extent possible and consistent with Chapter 132 of the North Carolina General Statutes (the "Public Records Law"), it is the intent of this Order that all preliminary and ongoing

investigative materials and information not be disclosed until such investigation is completed, at which time the Board shall issue its official findings and recommendations. To the extent the Board deems it necessary or advisable to enhance compliance with this Order and raise the level of ethical awareness in public service, the Board may periodically publish (either in complete or summary form) its official findings and recommendations made pursuant to third-party or Board-initiated complaint investigations. The Board shall forward a copy of its official findings and recommendations to:

- (a) the Public Official whose conduct is at issue;
- (b) the complainant (if applicable);
- (c) the head of the Agency in which the Public Official serves (which term includes the chair of each covered board) ;
- (d) the Governor for all gubernatorial appointees and employees in the Office of the Governor; and,
- (e) the official responsible for hiring or making the appointment of the person investigated.

(d) **Advisory Opinions**

The Board shall render advisory opinions as may be requested by any Public Official, any individual not otherwise a Public Official who is responsible for the supervision or appointment of someone who is a Public Official, Agency heads (which term includes the chair of each covered board), and legal counsel for covered Agencies or boards. The request shall be in writing and relate prospectively to real or reasonably-anticipated fact settings or circumstances. The Board shall issue advisory opinions having prospective application only. Advisory opinions are not intended to and shall not serve as substitute or *de facto* complaints against Public Officials for past conduct. Staff to the Board may issue advisory opinions under such circumstances and procedures as may be prescribed by the Board.

(e) **Ethics Education and Awareness Program.**

(1) The Board shall develop and implement an ethics education and awareness program designed to instill in all Public Officials a keen and continuing awareness of their ethical obligations and a sensitivity to situations that might result in real or potential conflicts of interest or appearances of conflict of interest.

(2) Upon request, the Board shall make basic ethics education and awareness presentations to all Agency heads, their chief deputies or assistants, and all other Public Officials subject to this Order. Such presentations shall stress the Rules of Conduct for Public Officials as set out below and provide attendees with

practical tools to aid in identifying and neutralizing real or potential conflicts of interest. Covered Public Officials and those responsible for appointing, supervising, or advising such Public Officials are strongly encouraged to attend a basic ethics education and awareness presentation as soon as reasonably practicable.

(3) In addition, upon request the Board shall assist each Agency in developing such in-house educational programs, procedures, workshops, or seminars as are necessary or desired to meet the Agency's particular needs for ethics education, conflict identification, and conflict avoidance.

(4) The Board shall produce and distribute to all Public Officials a newsletter designed to further the goals and objectives of this Order. In particular, such newsletter shall inform Public Officials of the Board's policies, procedures, and opinions having widespread applicability or interest, and shall provide such other information as may be helpful in raising the level of ethical awareness in public service.

(5) The Board shall assemble and maintain a collection of relevant North Carolina laws, rules, and regulations that set forth ethical standards applicable to Public Officials, which collection shall be made available as resource material to all Public Officials and ethics liaisons upon request.

Section 6. Duties of the "Heads of State Agencies."

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

(b) The head of each State Agency shall maintain familiarity with and stay knowledgeable of the reports, opinions, newsletters, and other communications from the Board of Ethics regarding ethics in general and the interpretation and enforcement of this Order. Agency heads shall also maintain familiarity with and stay knowledgeable of the Board's reports, evaluations, opinions, or findings regarding individual Public Officials in his or her Agency or on his or her board or under his or her supervision or control, including all such reports, evaluations, opinions, or findings pertaining to actual or potential conflicts of interest.

(c) When an actual or potential conflict of interest is cited by the Board of Ethics in regard to a Public Official sitting on a board, then the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the entity's chair as often as necessary to remind all members of the conflict and help ensure compliance with this Order.

(d) The head of each State Agency shall periodically remind Public Officials under his or her authority of their duties to the public under the Rules of Conduct herein, including the duty of each Public

Official to monitor, evaluate, and manage his or her personal, financial, and professional affairs to ensure the absence of conflicts of interest or appearances of conflict.

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

(f) Agency heads shall ensure that legal counsel employed by or assigned to their Agencies are familiar with the provisions of this Order (particularly the Rules of Conduct set out in Section 7 below) and are available to advise Public Officials on the ethical considerations involved in carrying out their public duties in the best interest of the public. Legal counsel so engaged may consult with the Board of Ethics, seek the Board's assistance or advice, and refer Public Officials and others to the Board of Ethics as appropriate.

(g) Taking into consideration the individual autonomy, needs, and circumstances of each Agency covered by this Order, Agency heads shall consider the need for the development and implementation of in-house educational programs, procedures, or policies tailored to meet the Agency's particular needs for ethics education, conflict identification, and conflict avoidance. This should include, at a minimum, the periodic presentation to all Agency heads, their chief deputies or assistants, and other Public Officials under their supervision or control of the basic ethics education and awareness presentation outlined in Section 5 above and any other workshop/seminar program the Agency head deems necessary in implementing the provisions of this Order. Agency heads may request reasonable assistance from the Board of Ethics in complying with the requirements of this subsection.

(h) As soon as reasonably practicable after the designation, hiring, or promotion of their chief deputies, assistants, or other Public Officials under their supervision or control, or learning of the appointment or election of other Public Officials to an Agency head's board covered under this Order, all Agency heads shall (1) notify the Board of Ethics of such designation, hiring, promotion, appointment, or election and (2) provide all such Public Officials with copies of this Order (together with any subsequent amendments thereto) and all applicable financial disclosure forms (including, without limitation, Statement of Economic Interest disclosure form(s) pursuant to Section 9 below), if such materials and forms have not been previously provided to such Public Officials by their appointing authorities. In order to avoid duplication of effort, Agency heads shall coordinate this effort with the Board's staff.

Section 7. Rules of Conduct for Public Officials.

Public Officials shall perform their official duties in a manner to promote the best interests of the public. To help ensure the proper performance of their duties, the following Rules of Conduct are adopted.

(a) Conflicts of Interest

(1) A Public Official shall not knowingly use his or her position in any manner which will result in financial benefit, direct or indirect, to the Public Official, the Official's family, or an individual with whom or business, organization, or group with which the Public Official is associated. This provision shall not apply to financial and other benefits (a) derived by a Public Official that he or she would enjoy to an extent no greater than that which other citizens of North Carolina would or could enjoy, (b) rightfully gained by a Public Official pursuant to the proper performance of his or her official duties or State employment, or (c) that are so remote, tenuous, insignificant, or speculative that a reasonable person would conclude under the circumstances that the Public Official's ability to protect the public interest and perform his or her official duties would not be compromised.

(2) A Public Official shall not, directly or indirectly, knowingly ask, accept, demand, exact, solicit, seek, assign, receive, or agree to receive anything of value for himself or herself, or for another person, in return for being influenced in the discharge of his or her official responsibilities, other than that which is received by the Public Official from the State for acting in his or her official capacity.

(3) A Public Official shall not solicit or receive personal financial gain, other than that received by the Public Official from the State for acting in his or her official capacity, for advice or assistance given in the course of carrying out the Public Official's duties.

(4) A Public Official shall not use or disclose information gained in the course of, or by reason of, his or her official responsibilities in a way that would affect a personal financial interest of the Public Official, a member of the Official's family, or a person with whom or business, organization, or group with which the Public Official is associated. A Public Official shall not improperly use or disclose any information deemed confidential by North Carolina law and therefore not a public record.

(5) A Public Official shall not cause the employment, appointment, promotion, transfer, or advancement of a family member to a State or local office or position which the Public Official supervises or manages. A Public Official shall not participate in an action relating to the disciplining of a member of the Public Official's family.

(b) Appearances of Conflict

(1) A Public Official shall make every effort to avoid even the appearance of a conflict of interest. An appearance of conflict exists when a reasonable person would conclude from the circumstances that the Public Official's ability to protect the public interest, or perform public duties, is compromised by familial, personal, or financial interests. An appearance of conflict could exist even in the absence of a true conflict of interest.

(2) A Public Official shall take reasonable and appropriate steps, under the particular circumstances and considering the type of proceeding involved, to remove himself or herself, to the extent necessary to protect the public interest and comply with this Order, from any proceeding in which the Public Official's impartiality might reasonably be questioned due to the Official's familial, personal, or financial relationship with a participant in the proceeding. A "participant" includes, but is not limited to, (a) an owner, shareholder, partner, employee, agent, officer, or director of a business, organization, or group involved in the proceeding, or (b) an organization or group which has petitioned for rulemaking or has some specific, unique, and substantial interest in the proceeding. "Proceeding" includes, but is not limited to, both quasi-judicial proceedings (like contested case hearings) and quasi-legislative proceedings (like most rulemaking). A "personal relationship" includes, but is not limited to, one in a leadership or policy-making position (such as officers or directors) in a business, organization, or group.

(3) If a Public Official is uncertain whether the relationship in question justifies removing himself or herself from the proceeding pursuant to this subsection, then the Official shall disclose the relationship to the person presiding over the proceeding and seek appropriate guidance. The presiding officer, in consultation with legal counsel if necessary, shall then determine the extent to which, if any, the Public Official will be permitted to participate. If the affected Public Official is the person presiding, then the vice chair or such other substitute presiding officer shall make the determination. A good-faith determination under this subsection of the allowable degree of participation by a Public Official is presumptively valid and only subject to review under Section 8 below upon a clear and convincing showing of mistake, fraud, abuse of discretion, or willful disregard of the provisions of this Order.

(c) Other Rules of Conduct

(1) A Public Official shall make a due and diligent effort before taking any action (such as voting or participating in discussions with other Public Officials on a board) to determine whether he or she has a conflict of interest or appearance of conflict.

(2) A Public Official shall continually monitor, evaluate, and manage his or her personal, financial, and professional affairs to ensure the absence of conflicts of interest and appearances of conflicts.

Section 8. Sanctions.

(a) Public Officials serving on boards, commissions, or councils.

The North Carolina General Statutes provide that certain appointees to boards, commissions, and councils may be removed from office for misfeasance, malfeasance, or nonfeasance. The failure of any Public Official serving on a board, commission, or council to comply with this Order is hereby deemed to be misfeasance, malfeasance, or nonfeasance as used in the General Statutes. In the event of misfeasance, malfeasance, or nonfeasance, the offending Public Official shall be subject to removal from the board, commission, or council of which he or she is a member. For gubernatorial appointees, the Governor shall determine whether to remove the Public Official. For all other appointees, the appointing authority shall exercise the discretion of whether to remove the offending Public Official.

(b) Public Officials serving as State employees.

The provisions within this Executive Order are hereby deemed to be written work rules. The failure of any Public Official to comply with this Order shall be a violation of a written work rule thereby permitting disciplinary action as allowed by North Carolina law, including termination from employment. Except for State employees brought under the terms of this Order pursuant to Section 4, the Governor shall make all final decisions on the manner in which offending Public Official State employees shall be disciplined. For State employees subject to this Order pursuant to Section 4, the elected or appointed head of the Agency in which the Public Official State employee works shall determine whether and what disciplinary action shall be taken.

(c) Sanctions issued by the Board of Ethics

If the Board of Ethics determines, after proper review and investigation, that such action is appropriate, the Board may issue such sanctions or rulings as it deems necessary or appropriate to protect the public interest and ensure compliance with the terms of this Order, specifically including, without limitation, Section 7 (Rules of Conduct for Public Officials).

In formulating appropriate sanctions, the Board may consider, without limitation, the following factors:

- (1) the Public Official's prior experience in an Agency or on a covered board and prior opportunities to learn the Rules of Conduct for Public Officials, including those dealing with conflicts of interest and appearances of conflict of interest;
- (2) the number of ethics violations;
- (3) the severity of the violations;
- (4) whether the violations involve the Public Official's financial interests or arise from an appearance of conflict of interest;
- (5) whether the violations were inadvertent or intentional; whether the Public Official knew or should have known that the improper conduct was a violation of this Order;
- (6) whether the Public Official has previously been sanctioned by the Board of Ethics;
- (7) whether the conduct or situation giving rise to the violation was pointed out to the Public Official in the Board's Statement of Economic Interest evaluation letter issued pursuant to Section 9 below;
- (8) the Public Official's motivation or reason for the improper conduct or actions (for example, personal financial gain versus protection of the public interest).

(d) Recommendations by the Board of Ethics.

If the Board of Ethics determines, after proper review and investigation, that such action is appropriate, the Board may recommend any action it deems necessary, including removal of the Public Official from his or her State position, to properly address and rectify any violation of this Order by a Public Official. As it deems necessary and proper, the Board may make referrals to appropriate State officials, including law enforcement officials, for investigation of wrongful conduct by State employees or appointees, regardless of whether the individual is a Public Official under this Order, discovered during the course of a complaint investigation. Nothing in this provision is intended, and shall not be construed, to give the Board of Ethics any independent civil, criminal, or administrative investigative or enforcement power or authority over Public Officials or other State employees or appointees.

Section 9. Statement of Economic Interest.

(a) Each of the following Public Officials shall file with the Board of Ethics a sworn Statement of Economic Interest ("Statement"):

(1) Public Officials appointed by the Governor to a board, commission, or council.

(2) Public Officials hired for State employment to a position which is anticipated to have annual compensation in excess of \$40,000 per year.

(3) Public Officials appointed or employed whose position is determined by the Board to be particularly susceptible to conflicts of interest.

(4) Each prospective Public Official designated under the provisions of Section 9 below to be subject to the Statement filing requirements herein.

(5) Prospective Members of the Board.

(b) Between April 15 and May 15 of each succeeding year after the persons identified in (a) above are appointed or employed, an updated Statement shall be filed with the Board.

(c) The Statement shall contain:

(1) The name, home address, occupation, employer and business address of the person filing.

(2) A list of each asset and liability of whatever nature of the filing prospective or actual Public Official, and his or her spouse, with a value of at least \$10,000. This list shall contain, but shall not be limited to, the following. (As used herein, "Public Official" shall include prospective and actual Public Officials.)

(a) All North Carolina real estate owned wholly or in part by the Public Official or the Official's spouse.

(1) The listing shall include specific descriptions adequate to determine the location of each parcel.

(2) The listing shall include the specific interest held by the Public Official and spouse in each identified parcel.

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

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

(d) Personal property currently leased or rented to the State.

(e) The name of each publicly-owned company in which the value of securities held exceeds \$10,000.

(f) The name of each non-publicly-owned company or business entity in which the value of securities or other equity interests held exceeds \$10,000. This subsection (f) includes, but is not limited to, interests held in partnerships, limited partnerships, joint ventures, limited liability companies or partnerships, and closely held corporations.

For each non-publicly owned company or business entity listed pursuant to this subsection (f), the filing Public Official shall indicate whether the listed company/entity owns securities or equity interests exceeding a value of \$10,000 in any other companies or entities. If so, then the other companies or entities shall also be listed with a brief description of the business activity of each.

(g) If the filing Public Official, his or her spouse, or dependent children are the Beneficiary of a trust created, established or controlled by the Public Official, then the name and address of the trustee and a description of the trust shall be provided. To the extent such information is available to the Public Official, the Statement also shall include a list of businesses in which the trust has an ownership interest exceeding \$10,000.

(h) The filing Public Official shall make a good faith effort to list any individual or business entity with which the filing Public Official has a financial or professional relationship provided:

(1) a reasonable person would conclude that the nature of the financial or professional relationship presents a conflict of interest or the appearance of a conflict of interest for the Public Official; or,

(2) a reasonable person would conclude that any other financial or professional interests of the individual or business entity would present a conflict of interest or appearance of a conflict of interest for the Public Official.

For each individual or business entity listed under this subsection, the filing Public Official shall describe the financial or professional relationship and provide an explanation of why the individual or business entity has been listed.

(i) A list of all other assets and liabilities with a valuation of at least \$10,000 including bank accounts and debts.

(j) A list of each source (not specific amounts) of income (including capital gains) shown on the most recent federal and state income tax returns of the person filing where \$10,000 or more was received from such source.

(k) If the Public Official is a practicing attorney, an indication of whether he or she, or the law firm with which the Public Official is affiliated, earned legal fees during any single year of the past

five years in excess of ten thousand dollars (\$10,000) from any of the following categories of legal representation:

- (1) Criminal Law;
- (2) Utilities regulation or representation of regulated utilities;
- (3) Corporation Law;
- (4) Taxation;
- (5) Decedent's estates;
- (6) Labor Law;
- (7) Insurance Law;
- (8) Administrative Law;
- (9) Real property;
- (10) Admiralty;
- (11) Negligence (representing plaintiffs);
- (12) Negligence (representing defendants); or
- (13) Local Government.

(l) A list of all non-publicly owned businesses with which, during the past five years, the Public Official has been associated, indicating the time period of such association and the relationship with each business as an officer, employee, director, partner, or owner. The list also shall indicate whether or not each does business with, or is regulated by, the State and the nature of the business, if any, done with the State.

(m) A list of all gifts of a value of more than \$200 received during the twelve months preceding the date of the Statement from sources other than the Public Official's family, and a list of all gifts valued in excess of \$100 received from any source having business with, or regulated by, the State.

(n) A list of all bankruptcies filed during the preceding five years by the Public Official, the Official's spouse, or any entity in which the Public Official or spouse has been associated financially. A brief summary of the facts and circumstances regarding each listed bankruptcy shall be provided.

(o) The filing Public Official shall list all directorships on all boards of which he or she is a member.

(3) In addition to the foregoing, the filing Public Official shall provide in his or her Statement any other information which a reasonable person would conclude is necessary either to carry out the purposes of this Order or to fully disclose any potential conflict of interest or appearance of conflict. If a

Public Official is uncertain of whether particular information is necessary, then the Public Official shall consult the Board for guidance.

(4) Each Statement of Economic Interest shall contain a sworn certification by the filing Public Official that he or she has read the Statement and that, to the best of his or her knowledge and belief, the Statement is true, correct, and complete. The Public Official's sworn certification also shall provide that he or she has not transferred, and will not transfer, any asset, interest, or other property for the purpose of concealing it from disclosure while retaining an equitable interest therein.

(5) If the Public Official believes a potential for conflict exists, he or she has a duty to inquire of the Board as to that potential conflict.

(d) The Board shall issue a form for such Statements of Economic Interest as soon as a reasonably practicable, and shall revise the form from time to time as necessary to carry out the purposes of this Executive Order.

(e) All Public Officials currently serving who submitted a Statement of Economic Interest under Executive Order Number 127 shall resubmit a new Statement in accordance with the provisions of this Order. These statements shall be resubmitted to the Board of Ethics on or before May 15, 2001. Between April 15 and May 15 of each succeeding year, Public Officials under this subsection shall file an updated Statement with the Board.

Section 10. Board Staff, Offices, and Funding.

(a) The Board shall have a minimum staff of three, headed by an Executive Director who shall be an attorney licensed to practice law in the State of North Carolina.

(b) The Board may engage the services of private investigators as needed to carry out the purposes of this Executive Order.

(c) All State agencies subject to this Executive Order shall provide reasonable assistance upon request of the Board to carry out the purposes of this Order.

(d) The Board and its staff, for administrative purposes only, shall be located in the Department of Administration.

(e) The State Budget Officer is directed to identify sufficient funds from lawfully appropriate sources to ensure that all provisions of this Executive Order are fully carried out.

Section 11. Effective Date.

This Executive Order is effective immediately and shall remain in effect until rescinded.

Done in the Capital City of Raleigh, North Carolina, this the 12th *day of January, 2001.*

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State