



## STATE ETHICS COMMISSION

POST OFFICE BOX 27685

RALEIGH, NC 27611

<https://ethics.nc.gov>

### CONFIDENTIAL FORMAL ADVISORY OPINION

May 11, 2023

Ms. Meredith Henderson  
Executive Director  
Go Global NC  
68 T.W. Alexander Drive  
Box 13628  
Research Triangle Park, NC 27709

RE: Lobbyist Principals Paying Expenses of Covered Persons to Participate in the 2023 Global Leaders Program to the Netherlands  
AO-E-23-001

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Dear Ms. Henderson:

This is in response to your April 17, 2023, request for a formal advisory opinion. You have asked whether the State Government Ethics Act (“the Ethics Act”), G.S. Chapter 138A, would allow legislators and public servants to participate in the 2023 Global Leaders Program (“2023 GL Program”) sponsored by Go Global NC (formerly the UNC Center for International Understanding). Participants in the 2023 GL Program would travel to the Netherlands from September 22-30, 2023. Travel costs of participating legislators and public servants may be paid by donations from lobbyist principals. You have also asked whether registered lobbyist principals may make those donations to Go Global NC in accordance with the gift ban of the Lobbying Law, G.S. Chapter 120C.

This formal advisory opinion is based upon the information you have provided and was adopted by the State Ethics Commission (“Commission”) at its May 11, 2023, meeting.<sup>1</sup>

#### **I. Brief Conclusion.**

The Commission has determined that the 2023 GL Program qualifies as an “educational meeting” related to the public duties of attending legislators and public servants and that the additional meeting requirements of G.S. 138A-32(f)(3)a.-d. will be satisfied. Therefore, lobbyist principals may donate funds

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<sup>1</sup> Please see the enclosure entitled “Formal Advisory Opinions Issued by the State Ethics Commission” for further information regarding the protections offered to individuals receiving those opinions.

to pay for the reasonable actual travel expenses of participating legislators and public servants and the legislators and public servants may accept those expenditures. However, additional expenses related to cultural or social activities must be paid by the participating legislator or public servant.

## **II. The Facts.**

Go Global NC is planning the 2023 GL Program, in collaboration with the North Carolina Department of Agriculture and Consumer Sciences (“Agriculture Department”). The 2023 GL Program will include a visit to the Netherlands to allow participants to study economic development opportunities in Agricultural Technology (“AgTech”) in Western North Carolina. This will include opportunities to expand economic development through foreign direct investments and exports of agricultural products. Participants will also gain an understanding of the expansion of controlled atmosphere technologies and flood management policies. This is the ninth international study trip which the Commission has considered.

Go Global NC expects 20-30 individuals to participate in the Netherlands fact-finding trip. Many participants will be required to pay at least a portion of the trip’s cost. Additional funding may be provided by various non-profits organizations, none of which are registered lobbyist principals. However, Go Global NC continues to seek additional funding from other organizations to defray the costs of legislative and public servant participants, including registered lobbyist principals. However, none of the sponsors, including any lobbyist principals, will be involved in the planning or administration of the 2023 GL Program or the selection of participating legislators and public servants.

Fact-finding trip participants will include six to eight members of the North Carolina General Assembly, local elected officials, staff of Go Global NC and the Agriculture Department, and ten to fifteen representatives from various North Carolina businesses, educational institutions, and other State agencies.

The 2023 GL Program will focus on the following goals:

- 1) Strengthen connections between North Carolina’s AgTech and biosciences industries and the Netherlands to expand future collaborations;
- 2) Learn about the economic climate in the Netherlands and understand the driving factors behind the success of their AgTech businesses;
- 3) Explore opportunities to use the Netherlands as an entry point to European markets and for expanding investment opportunities in the United States and North Carolina;
- 4) Learn about flood management practices and potential application in North Carolina, and
- 5) Develop recommendations to grow the AgTech industry in Western North Carolina, including potential economic incentives and strategic partnerships.

A preliminary meeting of 40-60 regional cross-sector leaders will take place prior to the trip to familiarize participants with the Netherlands. Participants will also meet after the trip to summarize information collected and make recommendations for implementing those lessons.

The tentative travel itinerary you provided for the 2023 GL Program, excluding travel time to and from the Netherlands and orientation time on the day of arrival, consists of 8 to 10 hours of scheduled activities a day beginning on Sunday, September 24, 2023, and ending Friday, September 29, 2023. The itinerary includes meetings, presentations, and site visits in The Hague, Zeeland, Bleiswijk, Delft, and Wageningen.

Scheduled activities include site visits as follows:

A. Governmental agencies:

1. The United States Commercial Service to explore governmental connections between the United States and the Netherlands;
2. The Netherlands Enterprise Agency, which assists entrepreneurs and organizations with business development abroad and “Top Sector” teams focused on agriculture and horticulture;
3. The United States Embassy and Foreign Agricultural Services which assists companies with exporting products to the Netherlands;
4. The Ministry of Infrastructure and Water Management, which is responsible for road and water infrastructure, including flood protection, water supply safety, and the development of green space;
5. Local economic development agencies including Zeeland’s economic development agency, Impuls Zeeland, which assists with the development of economic development partnerships; and

B. Ag/Tech facilities and research institutes:

1. The World Horti Center, an innovation center for international greenhouse horticulture;
2. Working greenhouse farms, including West Land Greenhouses and the Greenhouse Horticultural Research Facilities;
3. Seed Valley, a center for plant breeding and seed technology which focuses on improving plant yields and disease resistance while utilizing less space, energy, and water; and
4. Deltares, a research institute focusing on water management technologies.

C. Educational institutions:

1. HAS Den Bosch University of Applied Sciences which specializes in food, agriculture, horticulture, nature, and the environment; and
2. Wageningen University & Research which specializes in life sciences and agricultural research and collaborates with North Carolina State University in plant sciences. This will include visits to Unilever and Friesland Campina located on campus.

D. Other sites visited include:

1. The Port of Rotterdam, the world's largest seaport outside East Asia, speakers will provide detail on import/export regulations; and
2. Royal Flora Holland, one of the largest floriculture auction companies in the world.

There are two entertainment options available during the trip, including a visit to the Binnenhof, the seat of the Dutch government, and an afternoon of visits to Hague cultural and historical sites. All participants, including legislators and public servants whose trip expenses are being paid by donations, will be required to independently pay all expenses associated with attending these entertainment options.

### III. Applicable Statutory Provisions.

The Lobbying Law prohibits a lobbyist, lobbyist principal, or legislative liaison<sup>2</sup> from giving direct or indirect gifts (“anything of monetary value”), to a designated individual (legislators, legislative employees, and public servants), unless an exception to the gift ban listed in G.S. 138A-32(f) applies. G.S. 120C-303(a). Legislators and public servants are also restricted from accepting those gifts. G.S. 138A-32(c).

One of the gift ban exceptions, G.S. 138A-32(f)(3), allows a lobbyist principal to pay for “reasonable actual expenditures” incurred by a public servant, legislator, or legislative employee in connection with that individual’s attendance at four types of meetings delineated in that exception. In particular, G.S. 138A-32(f)(3)(i) allows the payment of expenses incurred for attending *an educational meeting* “for purposes primarily related to the public duties and responsibilities of the covered person ....” Permissible expenses include food, beverages, registration, travel, lodging, incidental items of nominal value, and incidental entertainment.

The Commission has adopted the following non-exclusive factors to be considered when determining what is an “educational meeting” under G.S. 138A-32(f)(3)(i):

- 1) Whether the meeting’s primary purpose is to promote learning for professional improvement or to influence a particular legislative or official action,

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<sup>2</sup> State entities, are not restricted from giving gifts to designated individuals.

- 2) Whether the meeting's organizer is an independent educational or governmental institution or a Lobbyist Principal,
- 3) The proportion of educational content relative to meals and entertainment provided at the meeting and the proportion of presenters who are outside experts or are independent from the Lobbyist Principal paying for the meeting expenses, and
- 4) The relationship between the meeting's location and length to its educational purpose.

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In addition to the specific meeting criteria outlined above, G.S. 138A-32(f)(3) sets forth general requirements applicable to those meetings. They include a requirement that any food, beverages, transportation, or entertainment be provided to all attendees or defined groups of ten or more attendees and that the meeting: (a) be attended by at least ten or more participants; (b) have a formal agenda; and (c) be noticed at least ten days in advance. Moreover, any entertainment provided "must be incidental to the principal agenda of the meeting."

#### **IV. Analysis.**

Based upon a review of the itinerary for the 2023 GL Program, the Program's content is related to the public duties of invited legislators and may be related to the duties of attending public servants, depending upon their job responsibilities.

Moreover, the Program fits the educational meeting criteria of G.S. 138A-32(f)(3)(i). Factors that support the educational purpose of the Program include the fact that the agenda includes a wide variety of presentations and site visits to governmental, manufacturing, and educational institutions, the Program is not related to or seek to influence a particular legislative or official action, the Program is scheduled with educational content throughout each day and includes minimal entertainment activities, and the Program's location and length is closely related to its education goals.

You have also stated that there will be at least ten participants in the Program. In addition, it has a formal agenda, will have been noticed at least ten days in advance, and incidental entertainment, if any, is being provided to all participants. Thus, the meeting also complies with the general meeting requirements imposed by G.S. 138A-32(f)(3)a.-d.

Therefore, it is permissible for registered lobbyist principals to donate funds for food, beverages, registration, travel, lodging (including airfare and ground transportation), incidental items of nominal value, and incidental entertainment to attending legislators; and public servants if job-related; and for those individuals to accept those expenditures.

#### **V. Closing.**

Thank you for contacting the State Ethics Commission. Please do not hesitate to call the Commission's staff if you have any questions about the foregoing formal advisory opinion. Pursuant to G.S. 120C-102(e1), an unedited copy of this formal advisory opinion will be forwarded to the Secretary

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of State. The Secretary of State is statutorily obligated to treat the opinion as confidential and not a public record.

State Ethics Commission

By: \_\_\_\_\_  
William H. Freeman  
Chairman

## **Formal Advisory Opinions Issued by the State Ethics Commission**

Upon the written request of a public servant or legislative employee, G.S. 138A-13(a) of the State Government Ethics Act (“the Ethics Act”) authorizes the State Ethics Commission (“Commission”) to issue formal advisory opinions on the “meaning and application” of the Ethics Act “and the public servant’s or legislative employee’s compliance therewith.” All opinions have prospective application only, are limited to the particular facts presented, and confer limited civil immunity upon a requester who follows the advice given. G.S. 138A-13(a).

Reliance upon a formal advisory opinion immunizes the public servant or legislative employee making the request from (1) investigation by the Commission, except the alleged violation of criminal law while performing his or her official duties, (2) adverse action by his or her employing entity, or (3) investigation by the Secretary of State. G.S. 138A-13(c).

Once issued by the Commission, formal advisory opinions are published in a redacted format on the Commission’s website within 30 days of issuance. G.S. 138A-13(h). Otherwise, requests for advisory opinions, the opinions themselves, and all materials related to the opinions are confidential and are not public records. G.S. 138A-13(i).

Upon the written request of any person, State agency, or governmental unit affected by G.S. Chapter 120C (“the Lobbying Law”), G.S. 120C-102(a) authorizes the State Ethics Commission (“Commission”) to issue formal advisory opinions “on the meaning and application” of the Lobbying Law and “that person’s, State agency’s or any other governmental unit’s compliance therewith.” All opinions have prospective application only and must relate to real or reasonably anticipated fact settings or circumstances. G.S. 120C-102(a). Formal advisory opinions confer limited civil immunity upon a requester who follows the advice given. G.S. 120C-102(b).

Once issued by the Commission, formal advisory opinions are published in an edited format on the Commission’s website within 30 days of issuance. G.S. 120C-102(d). Requests for advisory opinions, the opinions themselves, and all materials related to the opinions are confidential and are not public records. G.S. 120C-102(e). However, the Commission is required to send an unedited copy of each formal advisory opinion to the Secretary of State’s Office at the time the formal advisory opinion is issued to the requester, and the Secretary of State is required to treat the formal advisory opinion as confidential and not a matter of public record. G.S. 120C-102(e1). In addition, Commission staff is specifically authorized to share all information and documents related to requests for formal advisory opinions with the Secretary of State’s Office. The Secretary of State’s Office is required to treat any such information and documents in its possession as confidential and not a matter of public record G.S. 120C-102(e1).