

1999-2000

**HOUSE
ELECTION LAW &
CAMPAIGN FINANCE
REFORM
COMMITTEE**

MINUTES

HOUSE COMMITTEE ON ELECTION LAW AND FINANCE REFORM

1999 SESSION BOOK 1 OF 2

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ELECTION LAW AND CAMPAIGN FINANCE REFORM



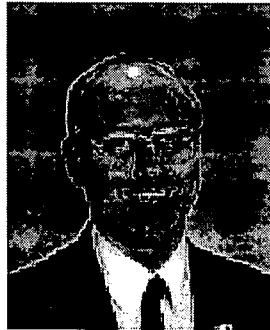
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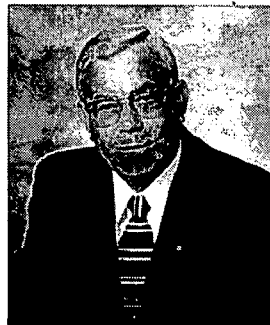
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**HOUSE COMMITTEE ON ELECTION LAW AND CAMPAIGN
FINANCE REFORM 1999 SESSION**

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LUEBKE, Paul	Norma Bower	3-7663	529	44
MELTON, Max	Gerry Durant	3-5784	633	105
MICHAUX, Mickey	Anne Peele	3-5772	1325	57
NEELY, Chuck	Betty Harrison	3-5809	539	101
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ROGERS, Gene	Sally Gillis	5-3023	416A	35
THOMPSON, Gregg	Edna Sykes	3-5828	1002	90
WILSON, Connie	Paula Covington	3-5903	501	73

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1999-2000 Biennium		HOUSE: ELECTION LAW AND CAMPAIGN FINANCE REFORM		Valid Through 21-JUL-1999	
BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 98	SUTTON	FOUR YEAR TERMS	*H -RE-REF COM ON RULES	02-17-99	04-22-99
H 175	NESBITT	ABSENTEE VOTING CHANGES	H -REF TO COM ON ELECLAW	03-01-99	
H 248	ALEXANDER	PRECINCT BOUNDARIES/MUNIC. REDISTRIC	*R -CH. SL 99-0227	03-04-99	03-31-99
H 248	ALEXANDER	PRECINCT BOUNDARIES/MUNIC. REDISTRIC	*R -CH. SL 99-0227	06-09-99	
H 421	MORRIS	PARTY ALIGNMENT ROTATED	H -RE-REF COM ON ELECLAW	04-21-99	
H 642	INSKO	CHAPEL HILL CAMPAIGN DISCLOSURE	H -REF TO COM ON ELECLAW	03-29-99	
H 724=	INSKO	ONE-STOP VOTING SITES	H -REF TO COM ON ELECLAW	03-30-99	
H 921=	BADDOUR	CAMPAIGN FINANCE CHANGES	*R -CH. SL 99-0031	04-05-99	04-15-99
H 930	GOODWIN	QUALIFICATIONS/CONSISTENCY	S -REF TO COM ON RULES &	04-06-99	04-22-99
H1023	RAYFIELD	STATEWIDE ELECTIONS/FUNDING	H -REF TO COM ON ELECLAW	04-14-99	
H1072	ALEXANDER	ELECTION LAW CLEANUP	*H -PRES. TO GOV. 07-13	04-15-99	04-21-99
H1074	ALEXANDER	ELECTION LAW CHANGES - 1	*H -PRES. TO GOV. 07-14	04-21-99	04-23-99
H1074	ALEXANDER	ELECTION LAW CHANGES - 1	*H -PRES. TO GOV. 07-14	07-08-99	07-09-99
H1091	WOOD	PRESIDENTIAL PRIMARY CHANGED	HF-REPTD UNFAV	04-15-99	05-05-99
H1161	WOOD	GUBERNATORIAL TEAM TICKET - 2	H -REF TO COM ON ELECLAW	04-15-99	
H1179	ELLIS	INDEPENDENT REDISTRICTING COMM. - 2	H -REF TO COM ON ELECLAW	04-15-99	
H1180	ELLIS	TERM LIMITS	H -REF TO COM ON ELECLAW	04-15-99	
H1181	ELLIS	REDISTRICTING CRITERIA	H -REF TO COM ON ELECLAW	04-15-99	
H1402	ALEXANDER	NC CLEAN ELECTION ACT	H -REF TO COM ON ELECLAW	04-29-99	
S 568=	KINNAIRD	ONE-STOP VOTING SITES	*HA-CONF REPORT ADOPTED	04-23-99	07-01-99
S 881	GULLEY W	CAMPAIGN REFORM ACT	*S -CONCURRED IN H/COM SUB	06-21-99	07-09-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.

* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.

BOLDDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

AGENDA

HOUSE COMMITTEE ON ELECTION LAW AND CAMPAIGN

**March 10, 1999
Room 1228/1327
11:00 a.m.**

Presiding: Representative Martha Alexander, Chair

OPENING REMARKS:

Representative Donald A. Bonner, Chair

BACK GROUND ON CAMPAIGN FINANCE

William R. Gilkeson, Staff Attorney

NORTH CAROLINA RIGHT TO LIFE, INC. V. BARLETT

Susan Kelly Nichols, Deputy Attorney General

COMMENTS FROM COMMITTEE

ADJOURNMENT

**MINUTES
HOUSE COMMITTEE ON
ELECTION LAW AND CAMPAIGN REFORM**

MARCH 10, 1999

The House Committee on Election Law and Campaign Reform met on Wednesday, March 10, 1999 in Room 1228 at 11:00 AM. The following members were present: Chairman Donald A. Bonner, Representatives, Alexander, Co-Chair, Berry, Decker, Dedmon, Goodwin, Justus, Kiser, Melton, Neely, Rogers, Thompson, Wilson, C. Bill Gilkeson, Staff Attorney was present. A Visitor Registration list is attached and made part of these minutes.

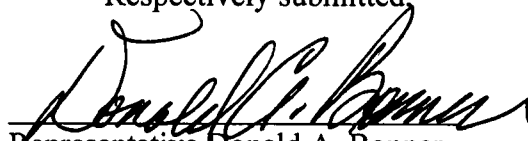
The Chairman called the meeting to order to begin the Agenda of the day. The first item was the introduction of all members and visitors as well as committee assistants, pages and Sgt. At Arms.


The next order of business was Background on Election Law and Campaign explained by Bill Gilkeson, Staff Attorney.

The Chair recognized Susan Kelly Nichols, Deputy Attorney General, to explain the case of North Carolina Right To Life, Inc. V. Barlett.

There being no further business, the Chair adjourned the meeting at 12:05 PM.

Respectively submitted,


Representative Donald A. Bonner
Chairman


Lucy B. Johnson
Committee Assistant

Attachments:

Visitor Registration Sheet

Campaign Finance Law Overview

North Carolina Right to Life, Inc. v. Bartlett

DRAFT
FOR REVIEW ONLY

**Draft of 99-RR-012M, To Revise the Campaign Finance Law
After NCRL v. Bartlett.**

1. Redefining “Political Committee” and Prohibiting Circumvention of Contribution Limits by Proliferation of Committees.

- a. Re-Definition of “Political Committee.” The 4th Circuit in NCRL said the State’s definition of “political committee” is too broad—particularly focusing on our language that any group is a political committee if it has the “primary or incidental purpose” of “influencing an election.” The court said this pulls into regulation groups that engage only in issue advocacy rather than express advocacy of the election or defeat of clearly identified candidates. To narrow the definition, the draft says a group is a political committee if it has one of the following characteristics:

- Is controlled by a candidate;
- Is controlled by a party;
- Is set up by a corporation, other business entity, union, or professional association as a connected political committee;
- Has as a significant purpose “to support or oppose the nomination or election of a clearly identified candidate” (that term is defined in Section 2).

The presumption is raised that a group has as a significant purpose to support or oppose, etc., if the group expends more than \$3,000 during an election cycle to support or oppose, etc. This presumption is rebuttable. This use of a numerical threshold as a rebuttable presumption is designed to satisfy the “major purpose test” that was articulated in Buckley v. Valeo for regulating a group as a “political committee.” The draft includes language to treat jointly controlled groups as one group for the purpose of determining whether they have met the presumption threshold. Another provision in Section 3(d) sets up a special reporting section for contributions and expenditures to catch some information about spending from groups that do not meet the threshold of being political committees.

- b. New Definition of “Election Cycle.” The draft defines “election cycle” to mean the calendar years of the term of the office, or if multiple offices are involved, the 2-year odd-even cycle.
- c. Anti-Proliferation of Committees. The draft adds to the contribution limits statute a provision parallel to the final sentence of the “political committee” definition. It says that if political committees are jointly controlled, they are to be treated as one for purposes of the contribution limits.
- d. Conforming Change. A conforming amendment is made to the statute requiring every contribution to go through a treasurer.

2. Presumption of “Support or Oppose the Nomination or Election of a Clearly Identified Candidate.”

What Raises a Presumption that a Communication is to “Support or Oppose, etc.” The definitions of “political committee” and “expenditure” are pegged to the term “supporting or opposing the nomination or election of a clearly identified candidate.” The draft sets out two sets of facts that raise a presumption that a sponsor is “supporting or opposing the nomination or election of a

clearly identified candidate.” This is an approach similar to what is being proposed in Wisconsin, which recalls the definition of “express advocacy” proposed by such bills in Congress as McCain-Feingold and Shays-Meehan, but with important differences. It intentionally does not use the term “express advocacy,” on the theory that the State can design its own system without tying into every term of art and precedent of the Federal Election Campaign Act. Moreover, instead of defining a term, the draft sets out two ways in which the State can raise a presumption that the sponsor of a communication meant to

1. Evidence that the sponsor has used typical words of advocacy. A non-inclusive list is set out of phrases such as “vote for,” “elect,” and “defeat.”
2. Evidence that the sponsor has publicly stated that one of its purposes is to support or oppose a candidate in an election and in addition has met a 4-part bright line test:
 - Has put in the ad a reference to that clearly identified candidate.
 - Has targeted the electorate for that election.
 - Has communicated through various kinds of public media.
 - Has spent more than \$3,000 in ads concerning that candidate.

The sponsor could rebut the evidence by showing it had a contrary intent, and the State would have the burden of proving all the elements of its case—in civil court by a preponderance of the evidence, in criminal court beyond a reasonable doubt.

Specific exceptions are set out for news stories, commentaries and editorials in media of general circulation, for communications distributed by a corporation to its stockholders or employees or by an association or union to its members or to subscribers who pay for its publication.

3. Redefining “Contribution” and “Expenditure”; Defining “Independent Expenditure”; Changing the Reporting Requirement for Independent Expenditures.

- a. Re-Definition of “Contribution.” The definition of “contribution” is changed to make clear that it refers to a gift to a candidate, political committee, or referendum committee. It distinguishes a contribution from an independent expenditure.
- b. Re-Definition of “Expenditure.” The definition of “expenditure” is changed so that it is limited to a payment to support or oppose the nomination, election, or passage of a clearly identified candidate or ballot measure. “Expenditure” also retains its balance-sheet meaning as any payment by a political committee, for campaign reporting purposes.
- c. New Definition of “Independent Expenditure.” A new definition of “independent expenditure” says this term means an expenditure made without consultation or coordination with the candidate supported or the opponent of the candidate opposed, or with an agent of either.
- d. Special Reporting of Contributions and Expenditures. Current law says an individual may make independent expenditures but must report them if they exceed \$100. The draft extends that requirement to other entities that may make independent expenditures (i.e., non-business corporations and groups that don’t meet the significant purpose threshold to be a full-blown political committee). If the entity is not just an individual, it must also report all its contributions over \$100. It must also report contributions made to it if they were made for the purpose of furthering the group’s contribution or expenditure. That reporting is not as extensive (or burdensome) as what would be required of a political committee, but it would put on the public

record information that would otherwise be below the radar screen. The language for such “special reports” comes from the regulations under the Federal Election Campaign Act, which was upheld in Buckley.

4. Redefining the Term “Candidate.”

The current definition of “candidate” is limited to those who have filed their notice of candidacy. Because the draft bases the key definitions on supporting or opposing the nomination or election of a clearly identified “candidate,” the current definition would not always work. The draft also includes as “candidates” those who raise or spend (or authorize others to do so) “for the purpose of bringing about that individual’s nomination or election to office.”

5. Removing the Term “Political Purpose.”

“Political purpose” was a defined term that the NCRL court found to be overly broad. It is defined as “any purpose in aid of seeking to influence an election or political party or candidate.” A computer search of Chapter 163 found that the term is rarely used. The draft repeals the term and replaces it where it was found with the “support or oppose the nomination or election of” concept.

6. Permitting Contributions and Independent Expenditures by Non-Business Corporations; Removing Redundant Statutes Concerning Corporate and Insurance Company Contributions.

a. Narrowly Tailoring the Contribution Ban. In one of its two major rulings, the NCRL court held that the State’s statute that bans contributions and expenditures by corporations (as well as other business entities, unions, and professional associations) is overbroad. The court said the problem is that the law has no exception for non-business, idea-oriented corporations such as it found N.C. Right to Life, Inc., to be. Since the U.S. Supreme Court’s decision in Massachusetts Citizens for Life (MCFL) in 1986, it has been known that such corporations could at least make independent expenditures. The only surprise in the NCRL court’s approach was its facial invalidation of the whole statute. The opinion’s wording leaves questions as to how far the State must go to narrow the statute. The draft makes these choices:

- The special exempted corporations are allowed to make not just independent expenditures but contributions as well. The plaintiff asserted that it should be able to make contributions. The court referred repeatedly to the statute’s ban on “contributions and expenditures.” Since the court threw out the statute *in toto* because of its overbreadth, it did not make at all clear whether it thought banning contributions was still acceptable. Other courts have stopped short of saying that the special corporations have a right to make actual contributions to candidates. But some litigators believe that the NCRL court intended to allow contributions, so the draft does so.
- In defining the special corporation, the draft includes the traditional MCFL characteristics: It was formed to promote ideas and does not engage in business activities. It does not have shareholders that have an economic interest in its assets and earnings. It was not formed by a business corporation (or other business entity or union, etc.). But the draft also puts into the definition two characteristics that the NCRL court noted were characteristics of N.C. Right to Life, Inc. One is that the corporation is exempt from federal income taxation. The other is that the special corporation has received no more than a certain percent of its revenues in from non-exempt corporations. With NCRL the percentage was 8%; the draft sets 10%.

- b. Removal of Redundant Statutes. The election statutes still have two old statutes banning corporate contributions and contributions by insurance companies. As best we can tell, everything in those old statutes is contained in G.S. 163-278.19, which was enacted in 1974. The draft repeals the old ones as redundant.
- c. Conforming Change – Contribution Limits. The draft makes a conforming change to the contribution limits statute. It says the \$4,000 limit applies not just to gifts by individuals and political committees, but also by “other entities.”
- d. Conforming Change – Lobbyist-Related Fundraising in Session. The draft makes another conforming change to the statute prohibiting fundraising during legislative sessions from lobbyists and lobbyist related political committees. This is the one challenged portion of the N.C. campaign finance statute that NCRL upheld entirely. When it was written, the only people who were allowed to make contributions were individuals and political committees. Since nonprofit corporations can now make contributions, the draft adds to the list of entities that can’t contribute during legislative sessions the principal (employer) of the lobbyist.

7. Clarifying What the North Carolina Campaign Finance Law Covers and What Constitutes Indirect Contributions by Corporations, Etc.

- a. Scope of Campaign Finance Law; Severability Clause. This puts a new section at the beginning of Article 22A, the Campaign Finance Law, stating that it applies only to elections for North Carolina offices and not elections for federal offices and offices in other states. The act regulates non-North Carolina entities only as their actions affect elections for North Carolina offices. The new section also puts into the statutes a “severability clause,” saying that if a court holds one part of the act invalid the other parts are still valid. The draft bill also has an uncodified severability clause at the end, but it was felt that if courts pay attention to such clauses, it would be good to have it right in the statutes where the judge could readily see it.
- b. What Constitutes “Indirect” Corporate Contribution/Expenditure. This section addresses the situation in which a business corporation, union, etc., forbidden by North Carolina law to put money into elections for North Carolina offices, circumvents that prohibition by sending money through an account of an outside organization – such as a national party’s “soft money” account – with the understanding that the money or some replacement for the money will find its way back into the North Carolina system, perhaps through the State party. The draft says that such a practice is an indirect contribution or expenditure.



North Carolina General Assembly
Legislative Services Office

Attachment-2

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

March 10, 1999

TO: House Committee on Election Laws and Campaign Reform.
FROM: William R. Gilkeson, Staff Attorney.
RE: Campaign Finance Law Overview.

I. RESTRAINTS UNDER THE U.S. CONSTITUTION – THE FIRST AMENDMENT:

A. Contributions to Candidates, Expenditures by Candidates, Independent Expenditures on Behalf of Candidates. Buckley v. Valeo (1976).

- * Campaign spending is "speech" protected by the Free Speech clause.
- * That "speech" may be limited only if government has a **compelling interest**.
- * **Contributions to a candidate** are an area where government regulation serves a compelling interest. The compelling interest is the prevention of corruption (i.e., the contributor buying influence with an elected official) or the appearance of corruption.
- * **Expenditures by a candidate on own behalf** give rise to no such compelling interest: How can the candidate corrupt him/herself?
- * **Independent expenditures on behalf of (or against) a candidate** also do not trigger the compelling interest of preventing corruption. If there is no coordination with the candidate, the independent spender does not corrupt.
- * Voluntary agreements by candidate to limit spending are valid in exchange for **public financing**.

B. Contributions Concerning Referendum Campaigns.

- * **Corporations may not be barred** from contributing to referendum campaigns.
National Bank of Boston v. Bellotti (1978)

- * **Individuals may not be limited** in their contributions to a referendum campaign. Citizens Against Rent Control v. Berkeley (1981).

C. Banning Corporate Contributions and Expenditures.

- * **Business-oriented corporations may be prohibited** from contributing or spending in candidate elections. Austin v. Michigan State Chamber of Commerce (1990).
- * **Non-business, non-profit, idea-oriented corporations may not be barred.** At least, they may not be barred from making independent expenditures. FEC v. Massachusetts Citizens for Life (1986), N.C. Right to Life, Inc. v. Bartlett (4th Cir. U.S. Court of Appeals, 1999).
- * Even business-oriented corporations may not be barred from contributing to **referendum campaigns**. National Bank of Boston v. Bellotti (1978)

D. Issue Advocacy.

- * Unless material **expressly advocates for or against the nomination or election of a clearly identified candidate**, it cannot be regulated as a contribution or expenditure. Buckley v. Valeo (1976), Maine Right to Life Committee v. FEC (U.S. District Court, 1996), N.C. Right to Life, Inc., v. Bartlett (4th Cir. U.S. Court of Appeals, 1999).
- * Unless a group is controlled by a candidate or its **major purpose** is to expressly advocate the election or defeat of clearly identified candidates, the Supreme Court was not willing to apply the federal act's definition of "political committee" and the regulation that entailed. Buckley v. Valeo (1976), Massachusetts Citizens for Life (1986).

E. Disclosure.

- * Requiring disclosure reports about campaign finance is justified by a **compelling government interest** because it deters corruption and avoids the appearance of corruption by exposing large contributions and expenditures to the light of publicity. Buckley v. Valeo (1976).
- * Some disclosure requirements are justified **even where an issue is involved** rather than candidates. Buckley v. American Constitutional Law Foundation (1999).

F. Spending by Political Parties.

- * A **party is capable of engaging in independent expenditure**, even if that expenditure indirectly benefits its own candidates, if the party's spending is done without coordination with the candidate. FEC v. Colorado Republican Federal Campaign Committee (1996)

G. Controls on Negative and Anonymous Campaigning.

- * **Civil suit for defamation** may be successfully brought by a public figure (such as a candidate) only if the defamer is proven by clear and convincing evidence to have **known the statement to be false or acted with reckless disregard of its truth or falsity**. New York Times v. Sullivan (1964).
- * Lower court cases: No **criminal action** may be brought or prior restraint imposed because of a negative statement in a campaign unless the **Sullivan standards** are met. Vanasco v. Schwartz (U.S. District Court, 1975). But a State may be able to **comment officially on the falsity** of a statement, Pestak v. Ohio Election Commission (6th Circuit, 1991), or **exclude a candidate's statement** from a State-published voter information booklet because it is false or misleading, Geary v. Renne (9th Circuit, 1990).
- * A State **may not simply require that all circulated political statements be signed**. McIntyre v. Ohio (1994).
- * A State **may not require a newspaper to give equal space** to a candidate whom it has criticized editorially. Miami Herald v. Tornillo (1974).

H. Election Day Prohibitions.

- * A State **may not ban newspaper editorials** about a referendum on election day. Mills v. Alabama (1966).
- * State law has been upheld that **banned electioneering within 100 feet of a polling place**. Burson v. Freeman (1992).

II. CURRENT NORTH CAROLINA LAW. (ARTICLE 22A OF CHAPTER 163).

A. Who may give a contribution?

- * **Individuals**: up to \$4,000 per election. (\$8,000 a cycle, including and general election as separate elections. If candidate is on the ballot in a second primary, that is another separate election, so the limit is \$12,000 per cycle.). *G.S. 163-278.13.*
- * **Political committees**: up to \$4,000 per election. "Political committee" is broadly defined to include any combination of 2 or more individuals with primary or incidental purpose of influencing the result of an election. *163-278.6(14)*. (***This definition has been invalidated by N.C. Right to Life, Inc., v. Bartlett.***)
- * **Candidate giving to self**: Any amount.
- * **Candidate's family** (spouse, parents, brothers, sisters): Any amount.

- * **Party executive committees:** Any amount. (They are included in the definition of "political committee," but excluded from the \$4,000 limit.)
- * **Corporations, labor unions, professional associations:** Nothing directly. They are prohibited from making political contributions, but their officers, employees, shareholders, or members may create a political committee whose "parent entity" is the corporation, union, or association. 163-278.19. *(The entire statutory section that provides this was invalidated in N.C. Right to Life, Inc., v. Bartlett, but most of it could presumably be restored if the reach of the statute were pulled back so that non-business nonprofits were not included.)*
- * **Lobbyists and political committees connected to lobbyists:** May not contribute to legislators, Council of State members, or candidates for those offices while the General Assembly is in regular session. 163-278.13B. *(This limitation on lobbyist fundraising during legislative sessions was upheld in N.C. Right to Life, Inc., v. Bartlett.)*

B. Who may receive a contribution?

- * **Committee treasurers:** Every candidate or political committee must have a treasurer. 163-278.7. *(This provision, like all those involving "political committees," has been thrown into question by N.C. Right to Life, Inc. v. Bartlett.)*
- * **Candidate treasurer by default:** If candidate does not name a treasurer, candidate is own treasurer by default.

C. Who must report?

- * **Treasurers** of candidates or political committees. 163-278.9.
- * **Individuals making independent expenditures** over \$100. 163-278.12.
- * Any entity, whether or not a political committee, that spends more than \$3,000 on an ad that **names a candidate**, unless the ad is solely informational and not intended to advocate the candidate's election or defeat. Only the expenditure need be reported. 163-278.12A.
- * Not candidates or party executive committees who have financial transactions **under \$3,000.** 163-278.10A.
- * Not **inactive candidates.**

D. What must be reported?

* **Contributions:**

- Anything of value.
- For any contributor of more than \$100: Name, address, and (job title or profession) plus (employer's name or employer's specific field).
- Amount of contribution.
- Not volunteer time. 163-278.6(6) and 163-278.8.

* **Expenditures:**

- Name and address of payee.
- Purpose (generally, use is not restricted, but must be reported).
- All media expenditures must be itemized.
- All non-media expenditures of \$50 or more. 163-278.6(9) and 163-278.8.

- * **"Reasonable administrative support"**—If a corporation or union is a parent entity of a political committee, that corp. or union may provide "reasonable administrative support" to the political committee, but must report it. 163-278.19.
(This provision, like all those involving "political committees," has been thrown into question by N.C. Right to Life, Inc. v. Bartlett.)

E. When must reporting be done?

- * **Quarterly** during election years (plus 10 days before a primary).
- * **Semi-annually** during non-election years.
- * After final pre-election report but before election, political committees and political parties must report contributions of \$1,000 or more from any political committee **within 48 hours** of receipt. 163-278.9.

F. How must reporting be done?

- * By the treasurer.
- * Under oath. 163-278.32.
- * Electronically if the report involves more than \$5,000 related to statewide offices. 163-278.9.

G. Controls on Negative and Anonymous Political Advertising.

- * All political advertising must have the following **labeling**:
 - "Paid for by..."
 - If sponsor is a political committee or referendum committee, name of committee must reflect economic interest of organizers. 163-278.7. *(This provision, like all those involving "political committees," has been thrown into question by N.C. Right to Life, Inc. v. Bartlett.)*
 - If ad is for or against a candidate or ballot measure, the ad must state that position.

-- If print ad, if candidate being opposed is named in ad, ad must also state the name of the candidate the ad is intended to benefit. 163-278.16.

- * No charge derogatory to a candidate or calculated to affect the candidate's electoral chances may be published **unless it is signed**. 163-274(7).
- * No derogatory reports about a candidate calculated to affect that candidate's electoral chances may be published if the sponsor **knew it was false** or acted in reckless disregard of its truth or falsity. 163-274(8).

III. ISSUES.

- A. Narrowly tailoring the 1974 statute to satisfy the courts. Narrowing the definition of "political committee." How to deal with "issue advocacy." How to exempt non-business nonprofit corporations from the corporate-money ban.
- B. Stricter contribution limits. Reducing the \$4,000 limit to a smaller amount. Plugging "loopholes": family, second primary, party committees. How to deal with "soft money" from national parties. Requiring specific authorization from union or association members before payroll checkoff money can be used for any political purpose.
- C. Public financing. Give candidates all they would need in public money if they agreed to spending limits. Try a more limited public funding approach. Should public funds be given as a match of private funds raised?
- D. Control of negative campaigning. Create a campaign standards code and provide for non-criminal enforcement of it. Require more disclosure on print and TV/radio ads. Create a public fund to pay for structured ads for candidates who have signed a pledge not to attack their opponents.
- E. Improving disclosure of campaign finance: (Much of this was dealt with in 1997.) More or less frequent reporting. Lower or higher thresholds for reporting. Electronic filing. Stricter penalties for late filing. Administrative enforcement, rather than reliance on district attorneys. A greater role for the Attorney General.

North Carolina Right to Life, Inc. v. Bartlett.

**Synopsis of February 17, 1999 Decision
Susan Kelly Nichols, Special Deputy Attorney General.**

In late 1996, North Carolina Right to Life, Inc., its related political committee, and its President and registered lobbyist, Barbara Holt, sued the Executive Director of the State Board of Elections and other state officials. The plaintiffs complained that several statutes in North Carolina law were unconstitutional. These included:

1. The definition of a political committee set forth in N.C. Gen. Stat. § 163-278.6(14);
2. The prohibition against corporate contributions and expenditures for a political purpose contained in N.C. Gen. Stat. §§ 163-269, -278.6(16), and -278.19; and,
3. The restriction in N.C. Gen. Stat. § 163-278.13B imposed on lobbyists and entities which employ them against soliciting or giving contributions to legislative and Council of State candidates while the legislature is in regular session.

The federal district court agreed with the plaintiffs and found these provisions to be unconstitutional. The defendants appealed. On February 17, 1999, the Fourth Circuit issued its opinion in which it agreed that the statutes listed in numbers one and two above were unconstitutional but upheld N.C. Gen. Stat. § 163-278.13B.

The Fourth Circuit reasoned that the definition of political committee was vague and overbroad. The challenged statute provides that a political committee is "a combination of two or more individuals, or any person, committee, association, or organization, the primary or incidental purpose of which is to support or oppose any candidate or political party or to influence or attempt to influence the result of an election." The Fourth Circuit found objectionable the word "incidental" and the words "to influence or attempt to influence the result of an election." "Incidental" was objectionable because it meant the statute covered groups that did not have as a primary purpose supporting or opposing candidates. The Court further found the statute vague and overbroad because it applied to entities that merely wished to influence an election through issue advocacy.

With respect to the prohibition against corporate contributions and expenditures, the Fourth Circuit recognized that the prohibitions were appropriate when there was concern about the "unfair deployment of wealth for political purposes." North Carolina's law made no exception, however, for nonprofits that present a minimal

risk of disturbing the political process. Thus, it was unconstitutionally overbroad. The Court recognized that North Carolina had the right to regulate or prevent the type of direct corporate spending "that creates a threat to the political marketplace." But its statute must provide an exception for corporations which do not "pose a threat to the integrity of the political process." Such corporations include ones which do not engage in profit-making activity, have no shareholders or others with a claim on their assets or earnings, are exempt from federal income taxation, are created to disseminate political ideas, were not established by a business or labor union, and do not serve as a conduit for funds from such entities.

Finally, the Court upheld the restrictions set forth in N.C. Gen. Stat. § 163-278.13B as narrowly tailored to serve a compelling governmental interest in eliminating corruption or the appearance of corruption.

**PUBLISHED****UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 98-1636

NORTH CAROLINA RIGHT TO LIFE,
INCORPORATED; NORTH CAROLINA
RIGHT TO LIFE POLITICAL ACTION
COMMITTEE; BARBARA HOLT,
President of North Carolina Right to
Life, Incorporated,
Plaintiffs-Appellees.

v.

GARY O. BARTLETT, in his official
capacity as Executive Secretary-
Director of the State Board of
Elections of the State of North
Carolina; STEVE A. BALOG, in his
official capacity as District Attorney
for North Carolina Prosecutorial
District 15A, and as a representative
of the class of District Attorneys in
the State of North Carolina; MIKE
EASLEY, in his official capacity as
Attorney General for the State of
North Carolina; JUNE K.
YOUNGBLOOD, in her official capacity

as a Member of the State Board of
Elections; DOROTHY PRESSER, in her
official capacity as a Member of the
State Board of Elections; LARRY
LEAKE, in his official capacity as
Chairman of the State Board of
Elections; S. KATHERINE BURNETTE,
in her official capacity as Secretary
of the State Board of Elections;
FAIGER M. BLACKWELL, in his
official capacity as a Member of the
State Board of Elections,
Defendants-Appellants.

NORTH CAROLINA ALLIANCE FOR
DEMOCRACY; AMERICAN CIVIL
LIBERTIES UNION OF NORTH CAROLINA
LEGAL FOUNDATION, INCORPORATED,
Amici Curiae.

Appeal from the United States District Court
for the Eastern District of North Carolina, at Raleigh.
Terrence W. Boyle, Chief District Judge.

(CA-96-835-5-BO-1)

Argued: October 27, 1998

Decided: February 17, 1999

Before WILKINSON, Chief Judge, and ERVIN and
WILKINS, Circuit Judges.

Affirmed in part and reversed in part by published opinion. Chief
Judge Wilkinson wrote the opinion, in which Judge Ervin and Judge

Wilkins joined.

COUNSEL

ARGUED: Susan Kelly Nichols, Special Deputy Attorney General, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellants. James Bopp, Jr., BOPP, COLESON & BOSTROM, Terre Haute, Indiana, for Appellees. **ON BRIEF:** Michael F. Easley, North Carolina Attorney General, James Peeler

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Smith, Special Deputy Attorney General, Alexander McC. Peters, Special Deputy Attorney General, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellants. John K. Abegg, BOPP, COLESON & BOSTROM, Terre Haute, Indiana; Paul Stam, Jr., STAM, FORDHAM & DANCHI, Apex, North Carolina, for Appellees. James G. Exum, Jr., John J. Korzen, SMITH, HELMS, MULLISS & MOORE, Greensboro, North Carolina; Marta Nelson, Glenn Moramarco, Nancy Northup, Brennan Center for Justice, NEW YORK UNIVERSITY SCHOOL OF LAW, New York, New York, for Amicus Curiae Alliance. Hugh Stevens, EVERETT, GASKINS, HANCOCK & STEVENS, L.L.P., Raleigh, North Carolina; Deborah K. Ross, AMERICAN CIVIL LIBERTIES UNION OF NORTH CAROLINA, Raleigh, North Carolina, for Amicus Curiae ACLU.



OPINION

WILKINSON, Chief Judge:

Appellees North Carolina Right to Life (NCRL), its political action committee, and its president brought suit in federal district court challenging the constitutionality of several provisions of North Carolina

election and campaign finance law. The district court found for NCRL on each of its claims. North Carolina Right to Life, Inc. v. Bartlett, 3 F. Supp. 2d 675 (E.D.N.C. 1998). The State of North Carolina appeals. For the reasons that follow, we affirm in part and reverse in part.

I.

NCRL is a nonprofit corporation operating in the State of North Carolina. NCRL has as a purpose the protection of human life. In furtherance of that purpose, it provides information to the public about abortion and euthanasia. NCRL is not associated with any political candidate, political party, or campaign committee. Nor is one of NCRL's major purposes to nominate, elect, or defeat specific candidates for public office or to pass or defeat ballot measures. In other words, NCRL does not engage in "express advocacy" -- advocacy

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"that in express terms [calls for] the election or defeat of a clearly identified candidate for . . . office." Buckley v. Valeo, 424 U.S. 1, 44 (1976) (per curiam). Rather, NCRL engages in "issue advocacy" -- the discussion of issues of public concern, including candidates' positions on those issues -- by, among other means, distributing voter guides to the general public. Thus, issue advocacy may influence an election even though it does not expressly advocate the election or defeat of a particular candidate or party. See Virginia Society for Human Life, Inc. v. Caldwell, 152 F.3d 268, 270 (4th Cir. 1998). NCRL created North Carolina Right to Life Political Action Committee (NCRLPAC) to engage in express advocacy consistent with NCRL's views. NCRLPAC, therefore, does have as a primary purpose supporting or opposing specific candidates and political parties. Toward that end, NCRLPAC contributes money to the campaigns of

candidates with whom it agrees and makes "independent expenditures" -- expenditures made independently of candidates that finance an express call for their election or defeat -- to support them.

NCRL's president, Barbara Holt, oversees the operations of both NCRL and NCRLPAC. Holt is also a registered lobbyist in the State of North Carolina.

While preparing for North Carolina's 1996 general election, NCRL became concerned that some of the activities in which it wished to engage might violate North Carolina's election law. Specifically, NCRL worried that it might be considered a "political committee" under North Carolina law if it were to distribute its voter guide. N.C. Gen. Stat. § 163-278.6(14). If NCRL were a political committee, it would need to register as such, keep detailed accounts of its expenditures and contributions, and regularly file organizational and financial reports with the State. Id. §§ 163-278.7(b), .8, .9, .11. If NCRL failed to satisfy these requirements, its officers would be subject to criminal penalties. Id. §§ 163-278.27, .34.

In addition, NCRL was concerned that, by publishing its voter guide, it might violate the provision prohibiting corporations from making any contributions or expenditures for a "political purpose," id. §§ 163-269, -278.19, which the statute defines as any attempt to "influence an election," id. § 163-278.6(16). Were the State to determine that NCRL's voter guide was for a political purpose, NCRL's officers

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would be similarly subject to criminal penalties. Id. §§ 163-269, -278.19(c).

To determine whether it would violate these provisions by distributing a voter guide, NCRL twice wrote to Yvonne Southerland, Chief Deputy Director of the State Board of Elections, to request her opin-

ion. Along with each letter, NCRL sent a sample voter guide. The first sample guide inadvertently contained a one-page candidate endorsement list -- i.e., express advocacy -- prepared by NCRL-PAC. Southerland informed NCRL that the distribution of this voter guide would violate the State's prohibition against corporate expenditures for a political purpose. Southerland also stated more generally that any expenditure for a political purpose would make NCRL a political committee. Realizing that its first sample voter guide accidentally contained NCRLPAC's express advocacy, NCRL sent a second letter to Southerland and attached a voter guide without any candidate endorsements. In this second letter, NCRL asked only whether the distribution of this second guide would violate North Carolina's prohibition against corporate expenditures for a political purpose. Southerland again answered affirmatively.

NCRL, NCRLPAC, and Holt then brought suit in federal district court challenging several provisions of North Carolina's election law. They named as defendants the members of the State Board of Elections, the State Attorney General, and the district attorney for the prosecutorial district in which Holt lives. First, NCRL challenged North Carolina's definition of political committee on the ground that it includes entities that engage in issue advocacy only. Id. § 163-278.6(14). Second, it challenged the State's total ban on corporate expenditures for a political purpose because it prohibits NCRL from engaging in both issue advocacy and express advocacy. Id. §§ 163-269, -278.6(16), -278.19. Third, NCRLPAC and Holt challenged the provision prohibiting lobbyists, and the political committees that employ them, from contributing to members and candidates for the General Assembly and Council of State while the General Assembly is in session. Id. § 163-278.13B(c). They also challenged the provi-

sion prohibiting members and candidates for the General Assembly and Council of State from soliciting contributions from lobbyists and the political committees that employ them. Id. § 163-278.13B(b).

Finally, NCRLPAC objected to North Carolina's requirement that all

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political committees provide prospective donors with the name of the candidate for whom the money will be used. Id. § 163-278.20(a). On each of their claims, NCRL, NCRLPAC, and Holt sought declaratory and injunctive relief.

With respect to North Carolina's definition of political committee, the district court declared section 163-278.6(14) to be unconstitutional because it defines as political committees those entities that engage in issue advocacy as well as express advocacy. NCRL, 3 F. Supp. 2d at 679-80. With regard to North Carolina's ban on corporate contributions and expenditures, the district court declared it to be unconstitutional because it prohibits all corporations, including non-profits, from making expenditures for a political purpose. Id. at 681. As to North Carolina's prohibition on lobbyists and the political committees that employ them contributing to candidates and incumbents during the General Assembly session, the district court declared section 163-278.13B unconstitutional as an undue burden on Holt's and NCRLPAC's First Amendment rights. Id. at 682. Finally, with respect to North Carolina's requirement that political committees alert donors of the use to which their donation will be put, the district court granted NCRLPAC a declaratory judgment that it need only alert prospective donors of its name and need not tell them for whom the money will be used. Id. at 677. North Carolina now appeals.

II.

The State argues initially that no case or controversy exists with

respect to several of the provisions NCRL and NCRLPAC challenge.

Initially, the State claims that, irrespective of the statute's plain language, it interprets the definition of political committee in section 163-278.6(14) to allow NCRL to distribute a voter guide free of candidate endorsements, or to engage in other forms of issue advocacy, without registering or filing the required reports. Indeed, the State points out that in the twenty-five years since the statute's enactment, it has never interpreted it to apply to groups engaging only in issue advocacy. Consequently, NCRL proffers nothing more than a hypothetical risk of prosecution under section 163-278.6(14).

We disagree. When a plaintiff faces a credible threat of prosecution under a criminal statute he has standing to mount a pre-enforcement

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challenge to that statute. See Doe v. Bolton, 410 U.S. 179, 188 (1973).

A non-moribund statute that "facially restrict[s] expressive activity by the class to which the plaintiff belongs" presents such a credible threat, and a case or controversy thus exists in the absence of compelling evidence to the contrary. New Hampshire Right to Life PAC v. Gardner, 99 F.3d 8, 15 (1st Cir. 1996). This presumption is particularly appropriate when the presence of a statute tends to chill the exercise of First Amendment rights. See Wilson v. Stocker, 819 F.2d 943, 946 (10th Cir. 1987).

Section 163-278.6(14) appears by its terms to apply to NCRL.

North Carolina law provides that any entity "the primary or incidental purpose of which is to . . . influence or attempt to influence the result of an election," N.C. Gen. Stat. § 163-278.6(14), must register and file certain reports with the State, or its officers risk criminal prosecution. Since the record in this case demonstrates that NCRL has distributed voter guides -- which attempt to influence elections -- the

statute facially restricts "expressive activity by the class to which the plaintiff belongs." Gardner, 99 F.3d at 15.

More importantly, NCRL has stated that it wants to distribute these guides in the future, and would do so but for its fear that it would fall within North Carolina's definition of political committee. To determine whether that fear was well-founded, NCRL wrote the State Board of Elections. The State did not indicate that it would interpret the statute to mean anything other than what its plain language would suggest. As a result, NCRL refrained from disseminating its guide, and its speech was chilled.

The State's litigation position -- that it does not interpret section 163-278.6(14) to encompass issue advocacy -- fails to alter our analysis in this case. The record does not indicate that the Board has promulgated a rule exempting from its definition of political committee those entities that engage in issue advocacy only. See, e.g., Wisconsin Right to Life, Inc. v. Paradise, 138 F.3d 1183, 1185 (7th Cir.), cert. denied, 119 S. Ct. 172 (1998). Nor does the record indicate that the local district attorneys have any intention of refraining from prosecuting those who appear to violate the plain language of the statute. See id.

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NCRL is left, therefore, with nothing more than the State's promise that NCRL's officers will face no criminal penalties if NCRL distributes its voter guide without registering as a political committee.

NCRL's First Amendment rights would exist only at the sufferance of the State Board of Elections. It has no guarantee that the Board might not tomorrow bring its interpretation more in line with the provision's plain language. Without such a guarantee, NCRL will suffer from the reasonable fear that it can and will be prosecuted for failing

to register and file the necessary disclosures, and its constitutionally protected speech will be chilled as a result.

This same analysis applies to the State's argument that no case or controversy exists with respect to its prohibition on corporate contributions and expenditures for a political purpose. See N.C. Gen. Stat. §§ 163-269, -278.6(16), -278.19. As noted, section 163-278.6(16) defines political purpose to include seeking to influence an election — language which certainly appears to cover NCRL's endorsement-free voter guide. More importantly, in its response to NCRL's second letter, the State indicated that it would consider NCRL's endorsement-free guide to be for a political purpose and therefore prohibited by sections 163-269 and 163-278.19. Again, the only thing standing in the way of a criminal prosecution is the State's litigation position that it will voluntarily refrain from enforcing the statute according to its plain language.

Finally, the State claims that no case or controversy exists with regard to section 163-278.20(a). Section 163-278.20(a), in relevant part, requires "any group" or "committee" soliciting contributions to advise those solicited of either the name of the candidate for whom the funds will be used, id. § 163-278.20(a)(1), the name of the political committee or party for which they will be used, id. § 163-278.20(a)(2), or that a decision will be reached as to the candidate, committee, or party to be supported at some later date no later than twenty days prior to the upcoming primary or general election, id. § 163-278.20(a)(3). Section 163-278.20(b) provides that a violation of this provision is a criminal offense.

The State argues that only section 163-278.20(a)(2) applies to NCRLPAC, and that it interprets that section to require political committees such as NCRLPAC to do nothing more than identify them-

selves when they solicit funding. In a prior interpretive letter, however, the State informed another political committee that it must comply with each subsection of 163-278.20(a) -- not just (a)(2). Consequently, as was true with respect to NCRL above, NCRLPAC is protected from possible prosecution by nothing more than the State's post-suit position that the section does not apply as its plain language would suggest.

In sum, this case presents a statute aimed directly at plaintiffs who "will have to take significant . . . compliance measures or risk criminal prosecution." Virginia v. American Booksellers Ass'n. Inc., 484 U.S. 383, 392 (1988). In such a circumstance, courts have long recognized that the statute's mere existence risks chilling First Amendment rights. Indeed, in this case, NCRL has discontinued distributing its voter guide and NCRLPAC has stopped soliciting without providing a disclaimer because of a credible threat of prosecution. Consequently, a case or controversy inheres in each provision.¹

¹ The State also argues that we should abstain from ruling on appellees' claims concerning sections 163-269, 163-278.6(14), and 163-278.19 because no state court has construed these provisions and such a construction may either render unnecessary this court's constitutional determination or substantially alter the questions before us. Railroad Comm'n v. Pullman Co., 312 U.S. 496 (1941). Recognizing that North Carolina has no procedure by which we may certify these questions to its Supreme Court, the State suggests that we solicit the State Board of Elections for its interpretation of these provisions under section 163-278.23. N.C. Gen. Stat. § 163-278.23. Quite apart from the problem of applying Pullman abstention to the unauthoritative declarations of a state administrative

body, section 163-278.23 provides no mechanism for a federal court to certify a question to the Board. And in all events, courts "have been particularly reluctant to abstain in cases involving facial challenges based on the First Amendment," City of Houston v. Hill, 482 U.S. 451, 467 (1987), because the delay involved "might itself effect the impermissible chilling of the very constitutional right [the litigant] seeks to protect," Zwickler v. Koota, 389 U.S. 241, 252 (1967). Consequently, abstention in this case is inappropriate.

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III.

We next proceed to the merits of NCRL, NCRLPAC, and Holt's constitutional challenges. Section 163-278.6(14) defines political committee as "a combination of two or more individuals, or any person, committee, association, or organization, the primary or incidental purpose of which is to support or oppose any candidate or political party or to influence or attempt to influence the result of an election." N.C. Gen. Stat. § 163-278.6(14). The consequences of finding NCRL a political committee are substantial -- NCRL would be required to register as such, keep detailed records of its expenditures and contributions, and file organizational and financial reports with the State. Id. §§ 163-278.7(b), .8, .9, .11.

The district court found section 163-278.6(14)'s definition of political committee to be impermissibly broad because it includes groups such as NCRL that engage in issue advocacy only. NCRL, 3 F. Supp. 2d at 679-80. The State appeals, claiming that the district court should have narrowly construed North Carolina's definition of political committee so as not to include groups that only engage in issue advocacy.

Specifically, the State requests that we follow the path of the Supreme Court which in Buckley v. Valeo narrowly construed a simi-

lar provision. In Buckley, the Supreme Court addressed a provision that required any entity falling within the Federal Election Campaign Act's (FECA) definition of "political committee" to make certain disclosures to the federal government. FECA defined a political committee as any entity making contributions or expenditures above a certain amount "for the purpose of . . . influencing" the nomination or election of individuals to federal office. Buckley, 424 U.S. at 63. The Court held that, without a narrowing construction, the general requirement that political committees "disclose their expenditures could raise . . . vagueness problems, for 'political committee' is defined [in such a way that it] could be interpreted to reach groups engaged purely in issue discussion." Id. at 79.

To save the provision from being unconstitutionally vague, the Court defined political committee as including only those entities that have as a major purpose engaging in express advocacy in support of a candidate, id., by using words such as "vote for," "elect," "support,"
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"vote against," "defeat," or "reject," id. at 44 n.52. Otherwise, "absent the bright-line limitation, the distinction between issue discussion (in the context of electoral politics) and candidate advocacy would be sufficiently indistinct that the right of citizens to engage in the vigorous discussion of issues of public interest without fear of official reprisal would be intolerably chilled." FEC v. Christian Action Network, 110 F.3d 1049, 1051 (4th Cir. 1997) (emphasis omitted).

The question then is whether we may similarly construe North Carolina's definition of political committee to save it from being void for vagueness. We cannot. Two crucial differences exist between section 163-278.6(14) and the provisions of FECA at issue in Buckley. First, unlike the provisions of FECA, North Carolina's definition expressly

sweeps within its ambit those groups that only incidentally engage in express advocacy. This is a much broader definition of political committee than that at issue in Buckley, and to save it would require quite a stretch -- in fact, we would have to excise the word "incidental" from the statute.

Second, the North Carolina definition of political committee covers groups engaging in issue advocacy by explicitly juxtaposing express and issue advocacy, and thereby indicating that it encompasses both. Specifically, the definition covers any group "the primary or incidental purpose of which is to support or oppose any candidate . . . or to influence or attempt to influence the result of an election." N.C. Gen. Stat. § 163-278.6(14) (emphasis added). The only reasonable reading of this definition is that political committee encompasses both entities that have as a primary or incidental purpose supporting a candidate -- i.e., engaging in express advocacy -- and those that merely wish to influence an election -- i.e., engage in issue advocacy. To accept the State's proffered interpretation would read the references to influencing elections (a classic form of issue advocacy) right out of the statute.

Without the benefit of a narrowing construction, section 163-278.6(14) is unconstitutionally vague and overbroad. See Buckley, 424 U.S. at 79-80. The statute subjects groups engaged in only issue advocacy to an intrusive set of reporting requirements. In so doing, it "blankets with uncertainty" the entire field of campaign politics "compel[ling] the speaker to hedge and trim." Thomas v. Collins, 323 11

U.S. 516, 535 (1945). Burdening speech of this sort is unacceptable in an area of such crucial import to our representative democracy. The district court was correct in finding section 163-278.6(14) facially

unconstitutional, and we affirm its judgment.

IV.

North Carolina prohibits corporate expenditures or contributions for a political purpose. N.C. Gen. Stat. §§ 163-269, -278.6(16), -278.19. Sections 163-269 and 163-278.19 prohibit corporations from making "any contribution or expenditure . . . for any political purpose whatsoever." Section 163-278.6(16) defines "political purpose" in relevant part as "any purpose in aid of seeking to influence an election."

Because North Carolina's ban on corporate expenditures makes no exception for nonprofit corporations, the district court declared sections 163-269, 163-278.6(16), and 163-278.19 to be unconstitutionally overbroad. NCRL, 3 F. Supp. 2d at 681. The State appeals.

⁷ The Supreme Court has recognized that, in the realm of campaign politics, "the special characteristics of the corporate structure require particularly careful regulation." FEC v. National Right to Work Comm., 459 U.S. 197, 209-10 (1982). The economic advantages of the corporate form such as "limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets" all enhance a corporation's ability "to attract capital and to deploy . . . resources." Austin v. Michigan Chamber of Commerce, 494 U.S. 652, 658-59 (1990). These advantages enable corporations to create enormous "war chests" and "to incur political debts from legislators who are aided by [their] contributions" and expenditures. National Right to Work Comm., 459 U.S. at 207. The danger, of course, is that there is no guarantee that any relationship exists between the amount of corporate expenditures in favor of a position and the popularity of that position with the public at large. FEC v. Massachusetts Citizens for Life, 479 U.S. 238, 258 (1986) [hereinafter MCFL]. Recognizing this, the Supreme Court has, in some circumstances, upheld complete pro-

hibitions on both corporate political contributions, National Right to Work Comm., 459 U.S. 197, and independent expenditures, Austin, 494 U.S. 652.

Nevertheless, the Court has been careful to note that "[r]egulation of corporate political activity . . . has reflected concern not about use
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of the corporate form per se, but about the potential for unfair deployment of wealth for political purposes." MCFL, 479 U.S. at 259. Moreover, such a concern is not omnipresent. For instance, in MCFL, the Court considered a prohibition on corporate expenditures in connection with federal elections. MCFL, like NCRL, was a nonprofit corporation founded for the purpose of fostering respect for human life by opposing abortion. MCFL did not accept contributions from for-profit corporations. MCFL, 479 U.S. at 242.

After reiterating its general concern with the distorting effect of the corporate form in politics, the Court held that its analysis with respect to corporate expenditures must be more nuanced. Specifically, it held that MCFL was sufficiently distinct from the traditional for-profit corporation. First, MCFL could not engage in for-profit activity, and it was created simply to disseminate political ideas. Second, it had no shareholders or other persons who held a claim on its assets or earnings. Finally, it was not established by a business or a labor union, and it had a policy of refusing to accept contributions from either type of entity. Such organizations, the Court held, do not pose the same dangers to the political system since they are organized to promote a political message and their revenues typically reflect the public's support of that message. Id. at 264.

Like the federal election law in MCFL, North Carolina's law makes no exception for nonprofits that present a minimal risk of dis-

torting the political process. Rather, it bars all corporations from making any expenditures and contributions for a political purpose. As such, it is substantially overbroad and thus unconstitutional.

The State, in an apparent last-ditch effort to save its statute, argues that NCRL is ineligible for the MCFL exception because, unlike MCFL, NCRL has no policy against accepting contributions from for-profit corporations. Indeed, from 1993 to 1995, NCRL's contributions from such entities fluctuated from zero to eight percent of its overall revenues.

We do not think this modest percentage of revenue disqualifies NCRL for the nonprofit exemption to North Carolina's ban on corporate expenditures. We agree with those circuits that have addressed the question, each of which has held that the list of nonprofit corporate characteristics in MCFL was not "a constitutional test for when

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a nonprofit corporation must be exempt," but "an application, in three parts, of First Amendment jurisprudence to the facts in MCFL." Day v. Holahan, 34 F.3d 1356, 1363 (8th Cir. 1994); see also FEC v. Survival Educ. Fund. Inc., 65 F.3d 285, 292 (2d Cir. 1995). The crucial question is not whether NCRL has a policy against accepting corporate contributions, but whether its acceptance of those contributions means that it is serving as a conduit "for the type of direct spending [by for-profit corporations] that creates a threat to the political marketplace." MCFL, 479 U.S. at 264.

Such is clearly not the case with respect to NCRL. Those corporate contributions it has received are but a fraction of its overall revenues. In addition, the contributions are not of the traditional form. They are instead part of a program by which phone company customers may direct their phone bill refunds to a nonprofit of their choice. Conse-

quently, while these contributions technically come from the phone company, they in fact result from the decisions of individual phone company customers. Moreover, NCRL displays all the typical characteristics of the nonprofit form -- it does not engage in profit-making activity, it has no shareholders or other persons who might have a claim on its assets and earnings, and it is exempt from federal income taxation. As a result, NCRL falls squarely within the MCFL exception. And because North Carolina law fails "to distinguish between corporations which pose a threat to the integrity of the political process and those which do not," we agree with the district court that sections 163-269, 163-278.6(16), and 163-278.19 are unconstitutionally overbroad. NCRL, 3 F. Supp. 2d at 680.

V.

Section 163-278.13B prohibits a lobbyist, a lobbyist's agent, or a political committee that employs a lobbyist from contributing to a member of or candidate for the North Carolina General Assembly or Council of State while the General Assembly is in session. N.C. Gen. Stat. § 163-278.13B(c). It also prohibits candidates or incumbents from soliciting lobbyists or political committees that employ them during the session. Id. § 163-278.13B(b). Violation of these restrictions carries a criminal penalty. Id. § 163-278.13B(e). The record indicates that the General Assembly was in session for one to two

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months for most of the years from 1975 to 1997 in which an election was held. In 1998 it apparently extended its session, and in nonelection years it routinely meets for a longer period of time. When the General Assembly is not in session, lobbyists and political committees may contribute up to \$4,000 per election to any candidate. Id. § 163-278.13(a).

Holt and NCRLPAC challenged North Carolina's prohibition on lobbyist and PAC contributions to members and candidates for the General Assembly while it is in session. They also challenged North Carolina's solicitation restriction.² The district court struck section 163-278.13B as violating the First Amendment. NCRL, 3 F. Supp. 2d at 682. We hold, however, that North Carolina can constitutionally enact the limited restrictions on lobbyist and political committee contributions embodied in sections 163-278.13B(b) and (c).

A.

Initially, appellees argue that section 163-278.13B impermissibly burdens their First Amendment rights of speech and association. Appellees are correct that political contribution limits do implicate one's speech and association rights. See Buckley, 424 U.S. at 14-15, 24-25. As such, courts have applied strict scrutiny to such limits. See, e.g., Carver v. Nixon, 72 F.3d 633, 637 (8th Cir. 1995). Nevertheless, it is settled that "[n]either the right to associate nor the right to participate in political activities is absolute." CSC v. National Ass'n of Letter Carriers, 413 U.S. 548, 567 (1973). In fact, the activities of lobbyists are extensively regulated. See, e.g., Lobbying Disclosure Act of 1995, 2 U.S.C. §§ 1601-1612 (requiring lobbyists to make detailed disclosures related to their lobbying efforts). Moreover, the Supreme Court has long noted that restrictions on political contributions are constitutionally less problematic than are,

² We cannot accept the State's argument that appellees have no standing to challenge North Carolina's solicitation restriction because they are not members of or candidates for the General Assembly or Council of State. North Carolina's solicitation restriction is inextricably intertwined with its contribution limitation. Indeed, the two are the mirror reflection

of one another.

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for instance, restrictions on independent expenditures. See Buckley, 424 U.S. at 20-21. This lesser concern springs from the fact that contribution limits typically "entail[] only a marginal restriction upon the contributor's ability to engage in free communication." Id. Such is the case here. North Carolina's restrictions do nothing more than place a temporary hold on appellees' ability to contribute during the General Assembly session, leaving them free to contribute during the rest of the calendar year and to engage in political speech for the entire year. North Carolina's contribution and solicitation restrictions also survive strict scrutiny because they advance a compelling state interest. Prohibiting lobbyist contributions and solicitations while the General Assembly is in session serves to prevent corruption and the appearance of corruption -- "the only legitimate and compelling government interests thus far identified for restricting campaign finances." FEC v. National Conservative PAC, 470 U.S. 480, 496-97 (1985); see also Buckley v. American Constitutional Law Found., Inc., 119 S. Ct. 636, 648 (1999)(noting the risk of quid pro quo corruption "when money is paid to, or for, candidates"). Legislative action which is procured directly through gifts, or even campaign contributions, too often fails to reflect what is in the public interest, what enjoys public support, or what represents a legislator's own conscientious assessment of the merits of a proposal.

Appellees respond that the compelling interest the Court identified in Buckley was not the prevention of corruption or its appearance generally, but the prevention of only that corruption or appearance of corruption that results from large contributions by individuals. Holt and NCRLPAC, however, define the interest too narrowly. Corruption,

either petty or massive, is a compelling state interest because it distorts both the concept of popular sovereignty and the theory of representative government.

In evaluating the state interest in this case, we find a genuine risk of both actual corruption and the appearance of corruption. With respect to actual corruption, lobbyists are paid to effectuate particular political outcomes. The pressure on them to perform mounts as legislation winds its way through the system. If lobbyists are free to contribute to legislators while pet projects sit before them, the temptation

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to exchange "dollars for political favors" can be powerful. National Conservative PAC, 470 U.S. at 497.

Illicit bargaining of this type is not limited to the old days when trusts shopped state legislatures like children in a candy store. More recent cases of improper activity, unfortunately, also exist. Indeed, courts have recognized instances of influence peddling, Marvland Right to Life State PAC v. Weathersbee, 975 F. Supp. 791, 797 (D. Md. 1997), political quid pro quos, United States v. Nelson, 486 F. Supp. 464, 468 (W.D. Mich. 1980), and other improper behavior on the part of legislators, United States v. Bailey, 990 F.2d 119, 121 (4th Cir. 1993) (detailing personal cash payments for support of pari-mutuel betting legislation); Kentucky Right to Life, Inc. v. Terry, 108 F.3d 637, 639 (6th Cir.) ("Numerous Kentucky public officials have been convicted of abusing their political offices for personal gain over the past twenty-five years."), cert. denied, 118 S. Ct. 162 (1997).

While lobbyists do much to inform the legislative process, and their participation is in the main both constructive and honest, there remain powerful hydraulic pressures at play which can cause both legislators and lobbyists to cross the line. State governments need not await the

onset of scandal before taking action.

The appearance of corruption resulting from PAC and lobbyist contributions during the legislative session can also be corrosive. Even if lobbyists have no intention of directly "purchasing" favorable treatment, appearances may be otherwise. The First Amendment does not prevent states such as North Carolina from recognizing these dangers and taking reasonable steps to ensure that the appearance of corruption does not undermine public confidence in the integrity of representative democracy. See Buckley, 424 U.S. 26-27.

Toward these ends, North Carolina enacted narrowly tailored restrictions. First, the restrictions in section 163-278.13B are limited to lobbyists and the political committees that employ them -- the two most ubiquitous and powerful players in the political arena. Second, the restrictions are temporally limited: they last only during the legislative session, which typically, though not invariably, has covered just a few months in an election year. In short, the restrictions cover only that period during which the risk of an actual quid pro quo or the appearance of one runs highest.

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Holt and NCRLPAC counter that the limitations are not narrowly tailored for two reasons. First, they maintain that the restrictions cover any contribution, not just those large enough to support a potential quid pro quo. But a "court has no scalpel to probe" such fine distinctions. Buckley, 424 U.S. at 30 (internal quotation marks omitted). And even were we able to distinguish those dollar amounts that are sufficient to support actual purchases of political favors from those that are not, the appearance of corruption may persist whenever a favorable legislative outcome follows closely on the heels of a financial contribution. Courts simply are not in the position to "second-guess

a legislative determination as to the need for prophylactic measures where corruption is the evil feared." National Right to Work Comm., 459 U.S. at 210.

Second, Holt and NCRLPAC claim the restrictions are not narrowly tailored because they prevent candidates for office from receiving contributions even though candidates are in no position to sell legislative outcomes. Appellees' argument might be persuasive were contributions to incumbents the only way to gain favorable treatment. But sticks can work as well as carrots, and the threat of contributing to a legislator's challenger can supply as powerful an incentive as contributing to that legislator himself.

Finally, appellees argue that North Carolina's restrictions are constitutionally infirm because they allegedly make fundraising a more difficult proposition for challengers than it is for incumbents. The restrictions work a particular disadvantage upon challengers, so the argument runs, because they effectively deprive them of a major funding source in the critical months leading up to an election or primary. Incumbents, by contrast, would allegedly benefit from a huge infusion of contributions shortly after the General Assembly session ends.

This precise argument was squarely rejected by the Supreme Court in Buckley. In Buckley, the Court faced a provision of FECA that limited to \$1000 the contribution any one person could make to any candidate with respect to a federal election. 424 U.S. at 23-24. The plaintiffs in Buckley argued that the FECA limitation was unconstitutional because it allegedly made fundraising more difficult for challengers vis a vis incumbents. Id. at 30-31. In rejecting plaintiffs'

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claim, the Court found important the fact that FECA, like North Caro-

lina's restriction, "applies the same limitations on contributions to all candidates" -- incumbents and challengers alike. Id. at 31. Indeed, the Court emphasized that "[s]ince the danger of corruption and the appearance of corruption apply with equal force to challengers and to incumbents, Congress had ample justification for imposing the same fundraising constraints upon both." Id. at 33 (emphasis added). In addition, the Court took issue with the plaintiffs' claim that fundraising is necessarily more difficult for challengers. It noted that "major-party challengers as well as incumbents are capable of raising large sums for campaigning" and that "a small but nonetheless significant number of challengers have in recent elections outspent their incumbent rivals." Id. at 32. Finally, as a practical matter, the Court's view was informed by the realization that if challengers and incumbents were required to play by different sets of campaign finance rules, few reforms would be likely to win legislative enactment.

B.

Appellees also claim that section 163-278.13B violates the Fourteenth Amendment because it treats lobbyists and political committees differently than it does the general population with respect to their fundamental right to associate. As the preceding section notes, however, the State has advanced strong reasons for doing so -- reasons that the Supreme Court has in fact expressly validated. National Conservative PAC, 470 U.S. at 496-97.

C.

Appellees' last challenge to section 163-278.13B is equally unavailing. Holt and NCRLPAC argue that the provision impermissibly forces lobbyists to forego their constitutional right to petition the government for a redress of grievances if, during the General Assembly session, they wish to exercise their First Amendment right to asso-

ciate by contributing to candidates and incumbents. They argue that such a system creates an "intolerable [situation in which] one constitutional right [must] be surrendered in order to assert another."

Simmons v. United States, 390 U.S. 377, 394 (1968).

As an initial matter, it is instructive to note that Holt's position is in many respects similar to that of federal employees. Under the 19

Hatch Act, one must forego certain rights to participate in the political process if one wishes to take federal employment. Despite the obvious trade-off such a scheme forces prospective federal employees to make, the Supreme Court has upheld the Hatch Act's restrictions as constitutional. Letter Carriers, 413 U.S. 548.

More generally, "[n]either the right to associate nor the right to participate in political activities is absolute." Letter Carriers, 413 U.S. at 567. When the interests sought to be advanced by the statutory scheme are sufficiently important, minimal burdens on one's right to associate are constitutional. Id. at 564-65. Not only are the interests served by North Carolina's statutory scheme important, they are compelling. Moreover, the burden on appellees' right to associate is minimal. Appellees are not prevented from contributing to the candidates and incumbents of their choice, they are only restrained from doing so while the Assembly is in session.

In conclusion, this effort on the part of a state legislature to protect itself from the damaging effects of corruption should not lightly be thwarted by the courts. Here, the proper judicial posture should be one of restraint. The Constitution does not prevent this attempt on the part of North Carolina to preserve the integrity of and maintain public confidence in its legislative process. In the end, North Carolina law does nothing more than recognize that lobbyists are paid to persuade

legislators, not to purchase them.

VI.

The following represents a summation of our holdings. We hold North Carolina's definition of political committee in section 163-278.6(14) to be unconstitutionally vague and overbroad, and we affirm the judgment of the district court. North Carolina's prohibition on corporate expenditures and contributions in sections 163-269, 163-278.6(16), and 163-278.19 is substantially overbroad, and we again affirm the district court. Finally, the State's contribution and solicitation limitations set forth in section 163-278.13B are constitutional, and we thus reverse the district court.³

³ Before the trial court, NCRLPAC also challenged North Carolina's requirement that political committees provide donors with the name of

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Each of the provisions we strike works in its own way to impede the free and open discussion of issues and candidates that sustains our ability as citizens to control our own destiny. The one provision we do uphold is a reasonable measure to ensure that this free and open debate does not go for naught.

The judgment of the district court is hereby

AFFIRMED IN PART AND REVERSED IN PART.

the candidate for whom their contribution would be used. N.C. Gen. Stat. § 163-278.20(a). The district court granted NCRLPAC a declaratory judgment that section 163-278.20(a) requires it merely to provide prospective donors with its own name. NCRL, 3 F. Supp. 2d at 677. On appeal, the State challenges only the presence of a case or controversy -- it offers no objection to the merits of the district court's decision. As

noted, a case or controversy does exist with regard to this section. We agree with the district court that NCRLPAC cannot be required to identify to potential contributors the names of specific candidates or parties for whom the contributions will be used.

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[Case in WordPerfect Format](#)

[Return to Fourth Circuit Home Page](#)



North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Attachment - 5

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

March 10, 1999

TO: House Committee on Election Laws and Campaign Reform.

FROM: William R. Gilkeson, Staff Attorney.

RE: Campaign Finance Law Overview.

I. RESTRAINTS UNDER THE U.S. CONSTITUTION – THE FIRST AMENDMENT:

A. Contributions to Candidates, Expenditures by Candidates, Independent Expenditures on Behalf of Candidates. Buckley v. Valeo (1976).

- * **Campaign spending is "speech"** protected by the Free Speech clause.
- * That "speech" may be limited only if government has a **compelling interest**.
- * **Contributions to a candidate** are an area where government regulation serves a compelling interest. The compelling interest is the prevention of corruption (i.e., the contributor buying influence with an elected official) or the appearance of corruption.
- * **Expenditures by a candidate on own behalf** give rise to no such compelling interest: How can the candidate corrupt him/herself?
- * **Independent expenditures on behalf of (or against) a candidate** also do not trigger the compelling interest of preventing corruption. If there is no coordination with the candidate, the independent spender does not corrupt.
- * Voluntary agreements by candidate to limit spending are valid in exchange for **public financing**.

B. Contributions Concerning Referendum Campaigns.

- * **Corporations may not be barred** from contributing to referendum campaigns.
National Bank of Boston v. Bellotti (1978)

- * **Individuals may not be limited** in their contributions to a referendum campaign. Citizens Against Rent Control v. Berkeley (1981).

C. Banning Corporate Contributions and Expenditures.

- * **Business-oriented corporations may be prohibited** from contributing or spending in candidate elections. Austin v. Michigan State Chamber of Commerce. (1990).
- * **Non-business, non-profit, idea-oriented corporations may not be barred.** At least, they may not be barred from making independent expenditures. FEC v. Massachusetts Citizens for Life (1986), N.C. Right to Life, Inc. v. Bartlett (4th Cir. U.S. Court of Appeals, 1999).
- * Even business-oriented corporations may not be barred from contributing to **referendum campaigns**. National Bank of Boston v. Bellotti (1978)

D. Issue Advocacy.

- * Unless material **expressly advocates for or against the nomination or election of a clearly identified candidate**, it cannot be regulated as a contribution or expenditure. Buckley v. Valeo (1976), Maine Right to Life Committee v. FEC (U.S. District Court, 1996), N.C. Right to Life, Inc., v. Bartlett (4th Cir. U.S. Court of Appeals, 1999).
- * Unless a group is controlled by a candidate or its **major purpose** is to expressly advocate the election or defeat of clearly identified candidates, the Supreme Court was not willing to apply the federal act's definition of "political committee" and the regulation that entailed. Buckley v. Valeo (1976), Massachusetts Citizens for Life (1986).

E. Disclosure.

- * Requiring disclosure reports about campaign finance is justified by a **compelling government interest** because it deters corruption and avoids the appearance of corruption by exposing large contributions and expenditures to the light of publicity. Buckley v. Valeo (1976).
- * Some disclosure requirements are justified **even where an issue is involved** rather than candidates. Buckley v. American Constitutional Law Foundation (1999).

F. Spending by Political Parties.

- * A **party is capable of engaging in independent expenditure**, even if that expenditure indirectly benefits its own candidates, if the party's spending is done without coordination with the candidate. FEC v. Colorado Republican Federal Campaign Committee (1996)

G. Controls on Negative and Anonymous Campaigning.

- * **Civil suit for defamation** may be successfully brought by a public figure (such as a candidate) only if the defamer is proven by clear and convincing evidence to have **known the statement to be false or acted with reckless disregard of its truth or falsity**. New York Times v. Sullivan (1964).
- * Lower court cases: No **criminal action** may be brought or prior restraint imposed because of a negative statement in a campaign unless the **Sullivan standards** are met. Vanasco v. Schwartz (U.S. District Court, 1975). But a State may be able to **comment officially on the falsity** of a statement, Pesttrak v. Ohio Election Commission (6th Circuit, 1991), or **exclude a candidate's statement** from a State-published voter information booklet because it is false or misleading, Geary v. Renne (9th Circuit, 1990).
- * A State **may not simply require that all circulated political statements be signed**. McIntyre v. Ohio (1994).
- * A State **may not require a newspaper to give equal space** to a candidate whom it has criticized editorially. Miami Herald v. Tornillo (1974).

H. Election Day Prohibitions.

- * A State **may not ban newspaper editorials** about a referendum on election day. Mills v. Alabama (1966).
- * State law has been upheld that **banned electioneering within 100 feet of a polling place**. Burson v. Freeman (1992).

II. CURRENT NORTH CAROLINA LAW. (ARTICLE 22A OF CHAPTER 163).

A. Who may give a contribution?

- * **Individuals**: up to \$4,000 per election. (\$8,000 a cycle, including and general election as separate elections. If candidate is on the ballot in a second primary, that is another separate election, so the limit is \$12,000 per cycle.). G.S. 163-278.13.
- * **Political committees**: up to \$4,000 per election. "Political committee" is broadly defined to include any combination of 2 or more individuals with primary or incidental purpose of influencing the result of an election. 163-278.6(14). (*This definition has been invalidated by N.C. Right to Life, Inc., v. Bartlett.*)
- * **Candidate giving to self**: Any amount.
- * **Candidate's family** (spouse, parents, brothers, sisters): Any amount.

- * **Party executive committees:** Any amount. (They are included in the definition of "political committee," but excluded from the \$4,000 limit.)
- * **Corporations, labor unions, professional associations:** Nothing directly. They are prohibited from making political contributions, but their officers, employees, shareholders, or members may create a political committee whose "parent entity" is the corporation, union, or association. 163-278.19. *(The entire statutory section that provides this was invalidated in N.C. Right to Life, Inc., v. Bartlett, but most of it could presumably be restored if the reach of the statute were pulled back so that non-business nonprofits were not included.)*
- * **Lobbyists and political committees connected to lobbyists:** May not contribute to legislators, Council of State members, or candidates for those offices while the General Assembly is in regular session. 163-278.13B. *(This limitation on lobbyist fundraising during legislative sessions was upheld in N.C. Right to Life, Inc., v. Bartlett.)*

B. Who may receive a contribution?

- * **Committee treasurers:** Every candidate or political committee must have a treasurer. 163-278.7. *(This provision, like all those involving "political committees," has been thrown into question by N.C. Right to Life, Inc. v. Bartlett.)*
- * **Candidate treasurer by default:** If candidate does not name a treasurer, candidate is own treasurer by default.

C. Who must report?

- * **Treasurers of candidates or political committees.** 163-278.9.
- * **Individuals making independent expenditures over \$100.** 163-278.12.
- * Any entity, whether or not a political committee, that spends more than \$3,000 on an ad that **names a candidate**, unless the ad is solely informational and not intended to advocate the candidate's election or defeat. Only the expenditure need be reported. 163-278.12A.
- * Not candidates or party executive committees who have financial transactions **under \$3,000.** 163-278.10A.
- * Not inactive candidates.

D. What must be reported?

* **Contributions:**

- Anything of value.
- For any contributor of more than \$100: Name, address, and (job title or profession) plus (employer's name or employer's specific field).
- Amount of contribution.
- Not volunteer time. 163-278.6(6) and 163-278.8.

* **Expenditures:**

- Name and address of payee.
- Purpose (generally, use is not restricted, but must be reported).
- All media expenditures must be itemized.
- All non-media expenditures of \$50 or more. 163-278.6(9) and 163-278.8.

- * **"Reasonable administrative support"**—If a corporation or union is a parent entity of a political committee, that corp. or union may provide "reasonable administrative support" to the political committee, but must report it. 163-278.19.
(This provision, like all those involving "political committees," has been thrown into question by N.C. Right to Life, Inc. v. Bartlett.)

E. When must reporting be done?

- * **Quarterly** during election years (plus 10 days before a primary).
- * **Semi-annually** during non-election years.
- * After final pre-election report but before election, political committees and political parties must report contributions of \$1,000 or more from any political committee **within 48 hours** of receipt. 163-278.9.

F. How must reporting be done?

- * By the treasurer.
- * Under oath. 163-278.32.
- * Electronically if the report involves more than \$5,000 related to statewide offices. 163-278.9.

G. Controls on Negative and Anonymous Political Advertising.

- * All political advertising must have the following **labeling**:
 - "Paid for by..."
 - If sponsor is a political committee or referendum committee, name of committee must reflect economic interest of organizers. 163-278.7. *(This provision, like all those involving "political committees," has been thrown into question by N.C. Right to Life, Inc. v. Bartlett.)*
 - If ad is for or against a candidate or ballot measure, the ad must state that position.

-- If print ad, if candidate being opposed is named in ad, ad must also state the name of the candidate the ad is intended to benefit. 163-278.16.

* No charge derogatory to a candidate or calculated to affect the candidate's electoral chances may be published **unless it is signed**. 163-274(7).

* No derogatory reports about a candidate calculated to affect that candidate's electoral chances may be published if the sponsor **knew it was false** or acted in reckless disregard of its truth or falsity. 163-274(8).

III. ISSUES.

A. Narrowly tailoring the 1974 statute to satisfy the courts. Narrowing the definition of "political committee." How to deal with "issue advocacy." How to exempt non-business nonprofit corporations from the corporate-money ban.

B. Stricter contribution limits. Reducing the \$4,000 limit to a smaller amount. Plugging "loopholes": family, second primary, party committees. How to deal with "soft money" from national parties. Requiring specific authorization from union or association members before payroll checkoff money can be used for any political purpose.

C. Public financing. Give candidates all they would need in public money if they agreed to spending limits. Try a more limited public funding approach. Should public funds be given as a match of private funds raised?

D. Control of negative campaigning. Create a campaign standards code and provide for non-criminal enforcement of it. Require more disclosure on print and TV/radio ads. Create a public fund to pay for structured ads for candidates who have signed a pledge not to attack their opponents.

E. Improving disclosure of campaign finance: (Much of this was dealt with in 1997.) More or less frequent reporting. Lower or higher thresholds for reporting. Electronic filing. Stricter penalties for late filing. Administrative enforcement, rather than reliance on district attorneys. A greater role for the Attorney General.

VISITOR REGISTRATION SHEET

3/10/99 Election Law & Campaign Finance Reform

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY

1. Bob Hall
2. Susan Nicholas
3. Gary J Barlett
4. James McLean
5. Yvonne Southernland
6. Lion Percy
7. Lee-Ann Cox
8. Erskine Bowler
9. Alice Garland
10. Katherine Joyce
11. Mike English
- 12.
- 13.
- 14.
- 15.
- 16.
- 17.
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- 20.
- 21.

Democracy South
NIC Dept of Justice
SBE
SBE
SBE
Capital Group
Farmers for Fairness
Charlotte
Election Cities
SEANIC
NIC Agr. Council

ATTENDANCE

ELECTION LAW AND CAMPAIGN REFORM

(Name of Committee)

DATES	3/10	3/17	3/24	3/31	4/7	4/14	4/21	4/28	4/29	5/5	5/16	5/23	5/30	6/6	6/13
ALEXANDER, MARTHA CHAIR		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BONNER, DONALD CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BERRY, CHERIE	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
DECKER, MICHAEL					✓	✓	✓	✓	✓	✓	✓	✓	✓		
DEDMON, ANDREW	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
GOODWIN, WAYNE	✓	✓	✓	✓	✓	✓		✓		✓	✓		✓	✓	✓
HENSLEY, BOB			✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓
INSKO, VERLA		✓	✓	✓	✓	✓					✓	✓	✓	✓	✓
JUSTUS, LARRY	✓	✓		✓		✓	✓	✓		✓		✓	✓	✓	✓
KISER, JOE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
LUEBKE, PAUL		✓	✓	✓		✓	✓	✓			✓		✓	✓	✓
MELTON, MAX	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
MICHAUX, H.M.		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
NEELY, CHARLES / Pope, Art	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NESBITT, MARTIN		✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓
ROGERS, GENE	✓	✓	✓	✓	✓	✓	✓			✓			✓	✓	✓
THOMPSON, GREGORY	✓	✓			✓		✓	✓		✓	✓	✓	✓	✓	
WILSON, CONNIE	✓			✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Ex-officio															
Baddour, Phil					✓	✓	✓								
Cunningham, Pete			✓			✓	✓			✓	✓	✓			
Hackney, Joe							✓								

AGENDA

**HOUSE COMMITTEE
ON**

ELECTION LAW AND CAMPAIGN FINANCE REFORM

MARCH 17, 1999

Room 1228/1327

11:00 a.m.

Presiding: Representative Donald A. Bonner, Chair

OPENING REMARKS:

Representative Donald A. Bonner, Chair

DISCUSSION:

- 1. Bill Gilkeson, Election Law that is not Financial.**
- 2. Gary Bartlett, Campaign Reporting and Municipal Elections**

COMMENTS FROM COMMITTEE

ADJOURNMENT

**MINUTES
HOUSE COMMITTEE ON
ELECTION LAW AND CAMPAIGN REFORM**

**MARCH 17, 1999
11:00 AM**

The House Committee on Election Law and Campaign Reform met on Wednesday March 17, 1999 in Room 1228 at 11:00 AM. The following members were present: Representative Donald A. Bonner, Chair, Representative Martha Alexander, Chair, Representative Michael Decker, Representative Wayne Goodwin, Representative Representative Verla Insko, Representative Larry Justus, Representative Joe Kiser, Representative Paul Luebke, Representative Max Melton, Representative Micky Michaux, Representative Charles Neely, Representative Martin Nesbitt, Representative Gene Rogers, Representative Greg Thompson, Representative Phil Baddour, Ex Officio, Bill Gikeson, Staff Attorney. A visitor Registration list is attached and made part of these minutes.

Chairperson Martha Alexander called the meeting to order to begin the Agenda of the day. The first item was to introduce the Sgt at Arms and Pages..

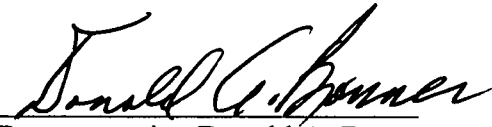
The next order of business was a presentation by Bill Gikeson, Staff Attorney. He spoke on Election Law that's not financial.


The Chair recognized Gary Bartlett Executive Secretary – Director of the State Board of Elections who spoke on:

1. Campaign Reporting
2. Petition Process
3. Municipal Elections

After a short question and answer period there being no further business, the Chairman adjourned the meeting at 11:55 AM.

Respectively Submitted,


Representative Donald A. Bonner
Chairman


Lucy B. Johnson
Committee Assistant

Attachments:
Visitor Registration Sheet

VISITOR REGISTRATION SHEET

SECTION LAW & CAMPAIGN FINANCE REFORM
Name of Committee

3/17/99
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Katherine Joyce	SEARC
Johnnie McLean	State Bd. of Elections
Gary O. Bartlett	" " "
Wynne Southland	State Bd. of Elections
Marian Dodd	League of Women Voters NC
Stacy Flannery	NC Health Care Facilities Assoc
Lyman Cooper	CSX CORP.
C. Porter	Bond & Associates
Danny Livezey	Speaker's Office
Beth Troutman	Speaker's Office
Richard Davis	Gov. Office
Smackham	EgHS
Erskine Bowler	Charlotte
Lu-Ann Coe	FFF
Dennis Patterson	AP

VISITOR REGISTRATION SHEET

Election Law and Campaign Finance Reform
Name of Committee

3/17/99
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Deborah Ross

ACLU

Ken Howell

Gov's office

ATTENDANCE

ELECTION LAW AND CAMPAIGN REFORM

(Name of Committee)

AM PM

DATES	3/10	3/17	3/24	3/31	4/7	4/14	4/21	4/21	4/23	5/5	5/16	5/23	6/30	7/7	7/14
ALEXANDER, MARTHA CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BONNER, DONALD CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BERRY, CHERIE	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
DECKER, MICHAEL					✓	✓	✓	✓	✓	✓	✓	✓	✓		
DEDMON, ANDREW	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
GOODWIN, WAYNE	✓	✓	✓	✓	✓	✓		✓		✓	✓		✓	✓	✓
HENSLEY, BOB			✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓
INSKO, VERLA		✓	✓	✓	✓	✓					✓	✓	✓	✓	✓
JUSTUS, LARRY	✓	✓		✓		✓	✓	✓		✓		✓	✓	✓	✓
KISER, JOE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
LUEBKE, PAUL		✓	✓	✓		✓	✓	✓			✓		✓	✓	✓
MELTON, MAX	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
MICHAUX, H.M.		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
NEELY, CHARLES / <i>Bpc, Art</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NESBITT, MARTIN		✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓
ROGERS, GENE	✓	✓	✓	✓	✓	✓	✓			✓			✓	✓	✓
THOMPSON, GREGORY	✓	✓			✓		✓	✓		✓	✓	✓	✓	✓	
WILSON, CONNIE	✓			✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<i>Ex-officio</i>															
<i>Baddour, Phil</i>				✓	✓	✓									
<i>Cunningham, Pete</i>			✓			✓	✓		✓	✓	✓				
<i>Hackney, Joe</i>							✓								

ELECTION LAW AND CAMPAIGN FINANCE REFOR,

MARCH 24, 1999

11:00 A.M.

AGENDA

REPRESENTATIVE ALEXANDER, Co-Chairman, presiding

STAFF COMMENTS

HB 248 – Precinct Boundaries

DISCUSSION BY MEMBERS

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 248

Proposed Committee Substitute -- H248-PCSRR-001
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION.

Short Title: Precinct Boundaries.

(Public)

Sponsors:

Referred to: Election Law and Campaign Finance Reform.

March 4, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE STATUTES CONCERNING PRECINCT BOUNDARIES.
3 The General Assembly of North Carolina enacts:
4 Section 1. Article 12A of Chapter 163 of the General
5 Statutes reads as rewritten:
6 "ARTICLE 12A.
7 "Precinct Boundaries.
8 "§ 163-132.1. Participation in 2000 Census Redistricting Data
9 Program of the United States Bureau of the Census.
10 (a) Purpose. -- The State of North Carolina shall participate
11 in the 2000 Census Redistricting Data Program, conducted pursuant
12 to P.L. 94-171, of the United States Bureau of the Census,
13 including Phase I (Block Boundary Suggestion Program) and Phase
14 II (concerning the designation of precincts on 2000 Census maps
15 or databases), so that the State will receive 2000 Census data by
16 voting precinct and be able to revise districts at all levels
17 without splitting precincts and in compliance with the United
18 States and North Carolina Constitutions and the Voting Rights Act
19 of 1965, as amended.
20 (b) Phase I (Block Boundary Suggestion Program). -- The State
21 shall participate in the Block Boundary Suggestion Program of the
22 United States Bureau of the Census so that the maps the Census

1 Bureau will use in the 2000 Census will contain adequate features
2 to permit reporting of Census data by precinct for use in the
3 2001 redistricting efforts. The Legislative Services Office shall
4 send preliminary maps produced by the Census Bureau in
5 preparation for the 2000 Census, as soon as practical after the
6 maps are available, to the county boards of elections to
7 determine which of their precincts have boundaries that are not
8 coterminous with a physical feature, a current township boundary,
9 or a current municipal boundary, as shown on those preliminary
10 2000 Census maps. The Legislative Services Office shall:

- 11 (1) Assist county boards of elections in identifying
12 the precincts with boundaries not shown on the
13 preliminary Census maps and in identifying physical
14 features the county boards may wish to have
15 available for future precinct boundaries;
- 16 (2) Place those boundaries and features on maps deemed
17 appropriate by the State Board;
- 18 (3) Request the U.S. Census Bureau to hold for census
19 block identification in the 2000 U.S. Census all
20 physical features the county boards have identified
21 as current or potential precinct boundaries; and
- 22 (4) Request the U.S. Census Bureau to hold for census
23 block identification in the 2000 U.S. Census all
24 other physical features already on 1990 Census
25 maps.

26 (c) Phase II. -- The State shall participate in Phase II of
27 the 2000 Census Redistricting Data Program so that, to the extent
28 practical, the precinct boundaries of all North Carolina counties
29 will appear on the 2000 Census maps or database. The State's
30 effort shall be conducted as follows:

- 31 (1) By January 1, 1998, or as soon thereafter as they
32 become available, the Legislative Services Office
33 shall ~~send to the county boards of elections the~~
34 ~~Census Bureau's official block maps, on paper or~~
35 ~~electronically, to be used in the 2000 Census.~~
36 provide the county boards of elections with access,
37 on paper or electronically, to the Census Bureau's
38 maps for Phase II of the Census Redistricting Data
39 Program.
- 40 (2) After receiving the maps, the county boards of
41 elections shall designate their precinct lines
42 along the ~~block boundary lines on the maps.~~ lines
43 the Census Bureau indicates on the maps it will
44 hold as block boundaries for the 2000 Census. Where

1 necessary, the county boards of elections shall
2 alter precincts, including any precincts approved
3 under the provisions of G.S. 163-132.1A, 163-132.2,
4 or 163-132.3 or designated by local act, to conform
5 to lines the Census Bureau indicates it will hold
6 as Census block boundaries as shown on the official
7 block maps to be used for the 2000 Census and to
8 consist only of contiguous territory. The county
9 boards of elections, at a time deemed necessary by
10 the Executive Secretary-Director of the State Board
11 of Elections, shall file with the Legislative
12 Services Office the maps ~~sent to them and marked by~~
13 ~~them~~ on which they have designated their precincts
14 pursuant to this subsection.

15 (3) After examining the ~~returned~~ maps, the Legislative
16 Services Office shall submit to the Executive
17 Secretary-Director of the State Board of Elections
18 its opinion as to whether the county board of
19 elections has complied with the provisions of this
20 subsection, with notations as to where those
21 boundaries do not comply with these standards.

22 (4) If the Executive Secretary-Director determines that
23 the county board of elections has complied, he
24 shall approve the precinct boundaries as filed and
25 those precincts shall be the official precincts.

26 (5) If the Executive Secretary-Director determines that
27 the county board of elections has not complied, he
28 shall not approve those precinct boundaries but
29 shall alter the precinct boundaries so that each
30 precinct consists solely of contiguous territory
31 and that each precinct's boundaries are coterminous
32 with 2000 Census block boundaries nearest to the
33 precinct boundaries shown by the county boards on
34 the maps. These altered precincts shall then be the
35 official precincts.

36 (6) Upon the adoption of a resolution by a county board
37 of elections and instead of altering precinct lines
38 as required by G.S. 163-132.1(c)(5), the Executive
39 Secretary-Director may combine for Census reporting
40 purposes only two or more adjacent precincts of the
41 county into a Combined Reporting Unit, if the
42 Executive Secretary-Director finds that:

43 a. The boundaries of the Combined Reporting Unit
44 conform with the Census block boundaries as

1 shown on the official block maps to be used in
2 the 2000 Census;

3 b. The Combined Reporting Unit consists only of
4 contiguous territory;

5 c. The precincts of which the Combined Reporting
6 Unit consists were bounded as of January 1,
7 1996, by ridgelines, as certified on official
8 county maps by the county manager of the
9 relevant county, or if there is no county
10 manager the chair of the board of
11 commissioners, and the boundaries failed to
12 comply with subdivision (2) of this subsection
13 only because those ridgelines were
14 unrecognized as Census block boundaries in the
15 2000 official Census maps;

16 d. The Combined Reporting Unit does not contain a
17 majority of the territory of more than one
18 township; and

19 e. To alter those precinct boundaries would
20 result in significant voter dislocation.

21 If the Executive Secretary-Director recognizes a
22 Combined Reporting Unit for specific precincts, the
23 official boundaries of those individual precincts
24 forming the Combined Reporting Unit shall be those
25 which the Legislative Services Office submitted to
26 the Executive Secretary-Director under subdivision
27 (3) of this subsection.

28 (7) The Executive Secretary-Director shall file the
29 completed maps with the Census Bureau and request
30 that the Census Bureau provide summaries of 2000
31 Census data by precinct and Combined Reporting
32 Units.

33 (d) Freezing of Precincts. -- Notwithstanding the provisions
34 of G.S. 163-132.3, after the Executive Secretary-Director
35 approves the precincts in accordance with subsection (c) of this
36 section and before January 2, ~~2000~~, 2002, no county board of
37 elections may establish, alter, discontinue, or create any
38 precinct except by division of one precinct into two or more
39 precincts using lines that the Census Bureau has indicated it
40 will use as 2000 Census block boundaries for that division.
41 Provided that, whenever an annexation ordinance adopted under
42 Parts 1, 2, or 3 of Article 4A of Chapter 160A of the General
43 Statutes, or a local act of the General Assembly annexing
44 property to a municipality, becomes effective during the period

1 beginning with the date of the annexation as reported through the
2 U.S. Census Bureau's 1998 Boundary and Annexation Survey and
3 ending January 2, 2000, 2002, and any part of the boundary of the
4 area being annexed which is actually contiguous to the city is
5 also a precinct boundary for elections administered by the county
6 board of elections then the county board of elections may
7 exercise one of the following options:

8 (1) Direct by resolution that the annexed area is
9 automatically moved into the 'city precinct',
10 provided that if the annexed area is adjacent to
11 more than one city precinct, the board of elections
12 shall place the area in any one or more of the
13 adjacent city precincts.

14 (2) Adopt a resolution moving the precinct boundary to
15 a visible feature that the Census Bureau has
16 indicated it will use as a 2000 block boundary.

17 The county board of elections shall submit any proposed change
18 made during the freeze under this subsection to the Legislative
19 Services Office, which shall review the proposal and write a
20 letter advising the Executive Secretary-Director of its opinion
21 as to the legal compliance of the proposal. If the proposal
22 complies with the law, the Executive Secretary-Director shall
23 approve the proposal. No newly created or altered precinct
24 boundary is effective until approved by the Executive Secretary-
25 Director as being in compliance with the provisions of this
26 subsection. The county board of elections may delay the effective
27 date of any change under this subsection to a date not later than
28 January 1, 2002.

29 (e) Municipal and Township Boundaries. -- Notwithstanding the
30 provisions of subsections (c) and (d) of this section, the county
31 boards of elections may designate precinct boundaries on
32 municipal or township boundaries that are not designated on the
33 2000 official Census block maps, according to directives
34 promulgated by the Executive Secretary-Director of the State
35 Board of Elections and adopted to insure that all precincts shall
36 be included on the 2000 Census database.

37 (f) Additional Rules. -- In addition to the directives
38 promulgated by the Executive Secretary-Director of the State
39 Board of Elections under G.S. 163-132.4, the Legislative Services
40 Commission may promulgate rules to implement this section.

41 ~~§ 163-132.1A. Precinct boundaries for certain counties.~~

42 ~~(a) The boundaries of precincts for the counties listed in~~
43 ~~subsection (b) of this section are those recorded in the~~
44 ~~Legislative Services Office's automated redistricting system as~~

~~1 of May 1, 1991, except as changed in accordance with G.S.~~
~~2 163-132.3, and except in Caldwell County, the boundaries of~~
~~3 Lenoir #3, North Catawba, Camewell #1, and Camewell #2 Precincts~~
~~4 shall be as provided on the precinct map of the county adopted by~~
~~5 the Caldwell County Board of Elections and in effect on January~~
~~6 1, 1992, unless changed in accordance with G.S. 163-132.1 or G.S.~~
~~7 163-132.3, whichever occurs later.~~

~~8 (b) This section shall apply only to the following counties:~~
~~9 Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham,~~
~~10 Chowan, Cleveland, Craven, Cumberland, Davidson, Duplin, Durham,~~
~~11 Edgecombe, Forsyth, Gaston, Granville, Guilford, Halifax,~~
~~12 Harnett, Henderson, Iredell, Johnston, Jones, Lenoir,~~
~~13 Mecklenburg, Nash, New Hanover, Onslow, Orange, Pender, Pitt,~~
~~14 Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson,~~
~~15 Scotland, Surry, Union, Wake, Washington, Wayne, Wilkes, Wilson,~~
~~16 and Yancey.~~

~~17 § 163-132.2. Precinct boundaries for other counties.~~

~~18 (a) The Legislative Services Office shall send as directed by~~
~~19 the schedule contained in subsection (g) of this section the~~
~~20 relevant copies of the United States Census Bureau's official~~
~~21 census block maps of the 1990 United States Census to each county~~
~~22 board of elections. The county board of elections shall:~~

~~23 (1) Alter, where necessary, precinct boundaries to be~~
~~24 coterminous with those of:~~

~~25 a. Townships, as certified by the county manager,~~
~~26 or the chairman of the board of county~~
~~27 commissioners if there is not a county~~
~~28 manager, on the official map of the county;~~

~~29 b. The census blocks established under the latest~~
~~30 U.S. Census;~~

~~31 c. The following visible physical features,~~
~~32 readily distinguishable upon the ground:~~

~~33 1. Roads or streets;~~

~~34 2. Water features or drainage features;~~

~~35 3. Ridgelines;~~

~~36 4. Ravines;~~

~~37 5. Jeep trails;~~

~~38 6. Rail features;~~

~~39 7. Above-ground power lines; or~~

~~40 8. Major footpaths~~

~~41 as certified by the North Carolina Department~~
~~42 of Transportation on its highway maps or the~~
~~43 county manager of the relevant county or, if~~
~~44 there is no county manager, the chair of the~~

1 ~~county board of commissioners, on official~~
2 ~~county maps.~~
3 ~~d. Municipalities, as certified by the city clerk~~
4 ~~on the official map of the city; or~~
5 ~~e. A combination of these boundaries;~~
6 ~~(1a) Alter, where necessary, precinct boundaries so that~~
7 ~~each precinct is composed solely of contiguous~~
8 ~~territory;~~
9 ~~(2) Mark all precinct boundaries on the maps sent by~~
10 ~~the Legislative Services Office or on other maps or~~
11 ~~electronic databases approved by the Executive~~
12 ~~Secretary-Director, showing the precinct boundaries~~
13 ~~in effect as of the time of marking, but with any~~
14 ~~changes effective at a later time as provided by~~
15 ~~subsection (d) of this section; and~~
16 ~~(3) File, at a time deemed necessary by the Executive~~
17 ~~Secretary-Director of the State Board of Elections,~~
18 ~~with the State Board and the Legislative Services~~
19 ~~Office the maps identifying the precinct~~
20 ~~boundaries. The Executive Secretary-Director may~~
21 ~~require a county board of elections to file a~~
22 ~~written description of the boundaries of any~~
23 ~~precinct or part thereof.~~
24 ~~(b) The Executive Secretary-Director of the State Board of~~
25 ~~Elections and the Legislative Services Office shall examine the~~
26 ~~returned maps and their written descriptions. After its~~
27 ~~examination of the maps and their written descriptions, the~~
28 ~~Legislative Services Office shall submit to the Executive~~
29 ~~Secretary-Director of the State Board of Elections its opinion as~~
30 ~~to whether the county board of elections has complied with the~~
31 ~~provisions of subsection (a) of this section, with notations as~~
32 ~~to where those boundaries do not comply with these standards. If~~
33 ~~the Executive Secretary-Director of the State Board determines~~
34 ~~that the county board of elections has complied with the~~
35 ~~provisions of subsection (a) of this section, the Executive~~
36 ~~Secretary-Director of the State Board shall approve the maps and~~
37 ~~written descriptions as filed and these precincts shall be the~~
38 ~~official precincts.~~
39 ~~(c) If the Executive Secretary-Director of the State Board~~
40 ~~determines that the county board of elections has not complied~~
41 ~~with the provisions of subsection (a) of this section, he shall~~
42 ~~not approve those precinct boundaries but shall alter the~~
43 ~~precinct boundaries so that each precinct consists solely of~~
44 ~~contiguous territory and that each precinct's boundaries are~~

~~1 coterminous with those boundaries set forth in subsection (a)(1)
2 of this section nearest to those existing precinct boundaries.
3 These altered precincts shall then be the official precincts.
4 (d) The changes in precinct boundaries under subsections (b)
5 and (c) of this section shall be made effective not later than
6 January 1, 1997; unless the change would result in placing a
7 precinct in more than one State House of Representatives, State
8 Senate, or Congressional district, in which case it shall be made
9 effective not later than January 1, 2002.
10 (e), (f) Repealed by Session Laws 1991 (Reg. Sess., 1992), c.
11 927, s. 1.
12 (g) The Legislative Services Office shall send maps, under
13 subsection (a) of this section, to the counties named below by
14 the dates indicated:
15 (1) Maps to be sent not later than January 1, 1993, to
16 the following counties: Alexander, Alleghany,
17 Anson, Ashe, Avery, Beaufort, Bertie, Bladen,
18 Brunswick, Camden, Carteret, Caswell, Currituck,
19 Cherokee, Clay, Franklin, Gates, and Hoke;
20 (2) Maps to be sent not later than January 1, 1994, to
21 the following counties: Columbus, Dare, Davie,
22 Graham, Greene, Haywood, Hertford, Hyde, Jackson,
23 Lee, Lincoln, Madison, Martin, Mitchell,
24 Montgomery, Northampton, and Pasquotank; and
25 (3) Maps to be sent not later than January 1, 1995, to
26 the following counties: Macon, McDowell, Moore,
27 Pamlico, Perquimans, Person, Polk, Rutherford,
28 Stanly, Stokes, Swain, Transylvania, Tyrrell,
29 Vance, Warren, Watauga, and Yadkin.
30 (h) This section shall apply only to the following counties:
31 Alexander, Alleghany, Anson, Ashe, Avery, Beaufort, Bertie,
32 Bladen, Brunswick, Camden, Carteret, Caswell, Cherokee, Clay,
33 Columbus, Currituck, Dare, Davie, Franklin, Gates, Graham,
34 Greene, Haywood, Hertford, Hoke, Hyde, Jackson, Lee, Lincoln,
35 Macon, Madison, Martin, McDowell, Mitchell, Montgomery, Moore,
36 Northampton, Pamlico, Pasquotank, Perquimans, Person, Polk,
37 Rutherford, Stanly, Stokes, Swain, Transylvania, Tyrrell, Vance,
38 Warren, Watauga, and Yadkin.
39 (i) Any county board of elections whose precincts were not
40 approved by the Executive Secretary-Director under the provisions
41 of this section during the year by which maps were to be sent to
42 the county under subsection (g) of this section shall submit
43 precinct boundary changes that comply with subsection (a) of this
44 section to the Legislative Services Office before January 1,~~

1 ~~1996, according to directives promulgated by the Executive~~
2 ~~Secretary-Director.~~
3 "§ 163-132.3. Alterations to approved precinct boundaries.
4 (a) No county board of elections of a county listed in G.S.
5 ~~163-132.1A(b), after January 1, 1990, and no county board of~~
6 ~~elections of a county listed in G.S. 163-132.2(h), after its~~
7 ~~precinct boundaries are approved pursuant to G.S. 163-132.2, may~~
8 change any precinct boundary unless the proposed new precinct
9 consists solely of contiguous territory and its new boundaries
10 are coterminous with those of:
11 (1) Townships, as certified by the county manager, or
12 the chairman of the board of county commissioners
13 if there is not a county manager, on the official
14 map of the county;
15 (2) The census blocks established under the latest U.S.
16 Census or the boundaries contained on the latest
17 preliminary U.S. Census maps, issued under P.L. 94-
18 171, whichever occurs later;
19 (3) The following visible physical features, readily
20 distinguishable upon the ground:
21 a. Roads or streets;
22 b. Water features or drainage features;
23 ~~c. Ridgelines;~~
24 ~~d. Ravines;~~
25 ~~e. Jeep trails;~~
26 f. Rail features; or
27 ~~g. Above-ground power lines; or~~ Major above-
28 ground power lines
29 ~~h. Major footpaths~~
30 as certified by the North Carolina Department of
31 Transportation on its highway maps or the county
32 manager of the relevant county or, if there is no
33 county manager, the chair of the county board of
34 commissioners, on official county maps.
35 (4) Municipalities, as certified by the city clerk on
36 the official map of the city; or
37 (5) A combination of these boundaries.
38 The county boards of elections shall report precinct boundary
39 changes by filing with the Legislative Services Office on current
40 official census maps or maps certified by the North Carolina
41 Department of Transportation or the county's planning department
42 or on other maps or electronic databases approved by the
43 Executive Secretary-Director the new boundaries of these
44 precincts. The Executive Secretary-Director may require a county

1 board of elections to file a written description of the
2 boundaries of any precinct or part thereof. No newly created or
3 altered precinct boundary is effective until approved by the
4 Executive Secretary-Director of the State Board as being in
5 compliance with this subsection. No precinct may be changed under
6 this section between the date its boundaries become effective
7 under G.S. 163-132.1(c) and January 2, 2002. Any changes to
8 precincts during that period shall be made as provided in G.S.
9 163-132.1(d).

10 (b) The Executive Secretary-Director of the State Board of
11 Elections and the Legislative Services Office shall examine the
12 maps of the proposed new or altered precincts and any required
13 written descriptions. After its examination of the maps and their
14 written descriptions, the Legislative Services Office shall
15 submit to the Executive Secretary-Director of the State Board of
16 Elections its opinion as to whether all of the proposed precinct
17 boundaries are in compliance with subsection (a) of this section,
18 with notations as to where those boundaries do not comply with
19 these standards. If the Executive Secretary-Director of the State
20 Board determines that all precinct boundaries are in compliance
21 with this section, the Executive Secretary-Director of the State
22 Board shall approve the maps and written descriptions as filed
23 and these precincts shall be the official precincts.

24 (c) If the Executive Secretary-Director of the State Board
25 determines that the proposed precinct boundaries are not in
26 compliance with subsection (a) of this section, he shall not
27 approve those precinct boundaries. He shall notify the county
28 board of elections of his disapproval specifying the reasons. The
29 county board of elections may then resubmit new precinct maps and
30 written descriptions to cure the reasons for their disapproval."

31 **"§ 163-132.4. Directives.**

32 The Executive Secretary-Director of the State Board of
33 Elections may promulgate directives concerning its duties and
34 those of the county boards of elections under this Article.

35 **"§ 163-132.5. Cooperation of State and local agencies.**

36 The State Budget Office, the Department of Transportation and
37 county and municipal planning departments shall cooperate and
38 assist the Legislative Services Office, the Executive Secretary-
39 Director of the State Board of Elections and the county boards of
40 elections in the implementation of this Article.

41 **"§ 163-132.5A: Repealed by Session Laws 1991 (Regular Session,**
42 **1992), c. 927, s. 1.**

43 **"§ 163-132.5B. Exemption from Administrative Procedure Act.**

1 The State Board of Elections is exempt from the provisions of
2 Chapter 150B of the General Statutes while acting under the
3 authority of this Article. Appeals from a final decision of the
4 Executive Secretary-Director of the State Board of Elections
5 under this Article shall be taken to the State Board of Elections
6 within 30 days of that decision. The State Board shall approve,
7 disapprove or modify the Executive Secretary's decision within 30
8 days of receipt of notice of appeal. Failure of the State Board
9 to act within 30 days of receipt of notice of appeal shall
10 constitute a final decision approving that of the Executive
11 Secretary. Appeals from a final decision of the State Board
12 under this Article shall be taken to the Superior Court of Wake
13 County.

14 **"§ 163-132.5C. Local acts and township lines.**

15 (a) Notwithstanding the provisions of any local act, a county
16 board of elections need not have the approval of any other county
17 board or commission to make precinct boundary changes required by
18 this Article.

19 (b) Precinct boundaries established, retained or changed under
20 this Article, or changed to follow a district line where a
21 precinct has been divided in a districting plan, may cross
22 township lines.

23 **"§ 163-132.5D. Retention of precinct maps.**

24 The Executive Secretary-Director of the State Board of
25 Elections shall retain the maps and written descriptions which he
26 approves pursuant to G.S. 163-132.3.

27 ~~§ 163-132.5E. Precinct maps and voter statistics filed with the~~
28 ~~Legislative Services Office.~~

29 ~~(a) No later than January 31 of each year, the chairman of~~
30 ~~each county board of elections shall file with the Legislative~~
31 ~~Services Office a map showing the county's precincts as of~~
32 ~~January 1 of that year.~~

33 ~~(b) Not later than January 31 of each year, the chair of each~~
34 ~~county board of elections shall file with the Legislative~~
35 ~~Services Office a list of each precinct in the county as of~~
36 ~~January 1 of that year and the number of registered voters, in~~
37 ~~each precinct, by political party and race; and, no later than~~
38 ~~January 31 of each year beginning in 1996, with a numerical~~
39 ~~breakdown as to the race of registered voters of each political~~
40 ~~party.~~

41 ~~(c) The Legislative Services Office shall develop and send by~~
42 ~~mail to each county board of elections by September 15 of each~~
43 ~~year a standard electronic data format that can be used in the~~
44 ~~following year by county boards of election as an alternative~~

~~1 method of filing the list required by subsection (b) of this
2 section. The standard electronic data format shall be for data
3 provided in international standard ASCII file format on 9-track
4 magnetic tape, 8-millimeter magnetic tape, 5 1/4 inch diskettes,
5 or 3 1/2 inch diskettes. The standard electronic data format
6 shall contain the name of the precinct, and for each precinct the
7 total number of registered voters, the number of registered
8 voters by party affiliation, the number of registered voters by
9 race, and a numerical breakdown as to the race of registered
10 voters in each political party.~~

11 "§ 163-132.5F. U.S. Census data by precinct.

12 The State shall request the U.S. Census Bureau for each
13 decennial census to provide summaries of census data by precinct
14 and shall participate in any U.S. Bureau of the Census' program
15 to effectuate this provision.

16 "§ 163-132.6: Repealed by Session Laws 1991 (Regular Session,
17 1992), c. 927, s. 1."

18 Section 2. Notwithstanding the provisions of Sections 2
19 and 3 of Chapter 423 of the 1995 Session Laws, the version of
20 G.S. 163-132.3 contained in Section 1 of this act is effective
21 upon this act's becoming law and does not expire. To the extent
22 it is inconsistent with the provisions of this act, Section 3 of
23 Chapter 423 of the 1995 Session Laws is repealed.

24 Section 3. Notwithstanding the repeal of G.S. 163-132.1A
25 and 163-132.2 contained in Section 1 of this act, the precincts
26 established under the repealed provisions, as amended under G.S.
27 163-132.3, shall continue to be in effect until new precincts are
28 established under G.S. 163-132.1.

29 Section 4. This act is effective when it becomes law.



HOUSE BILL 248: Precinct Boundary Changes.

BILL ANALYSIS

Committee: House Election Law and
Campaign Finance Reform.
Date: March 24, 1999
Version: Edition 1, H248-PCSR-001

Introduced by: Reps. Alexander and Bonner.
Summary by: William R. Gilkeson,
Committee Counsel

SUMMARY: *The PCS for House Bill 248 would make several changes to update the statute governing the Precinct Boundary Program. That program is preparing all the State's voting precincts for the 2000 Census and the 2001 redistricting. The bill would extend for two years a partial freeze of precincts while elections and redistricting take place.*

CURRENT LAW: Under current law, North Carolina is participating in a Census Bureau program called the 2000 Census Redistricting Data Program. That law is contained in Article 12A of Chapter 163, which is set out in full in the bill. The purpose of the program is to include in the Bureau's map database for the 2000 Census all the State's voting precincts.

Current law requires all 100 counties to examine preliminary 2000 Census maps and "suggest" to the Bureau where it should place its block boundaries. (This was Phase I of the program; it has already occurred.) Then, as part of Phase II, each county board of elections is to designate on final Census maps its precincts. It must designate them using only the 2000 Census Blocks shown on the map. (Exceptions to that rule involve township lines that will change and mountain ridgelines.)

Once the county designates its precincts on the Phase II maps, those precincts are frozen until January 2, 2000. The freeze is only a partial freeze. The county may split its precincts during the freeze if they have grown too crowded (or for any other reason), but only if it uses Census block lines to split them. Current law also has an automatic mechanism for changing a precinct during the freeze where the precinct tracked a city limits line and the city has annexed outward.

After the freeze, the county board of elections has broader leeway to change precinct lines. It may, for example, use features after the freeze that were not designated as 2000 block boundaries. They must, however, be some kind of visible feature: a street or road, a water or drainage feature, a rail feature, or an above-ground power line. Those are included because they are believed to be the kind of features likely to be accepted by the Census as block boundaries for 2010.

BILL ANALYSIS: In addition to technical changes, the bill makes the following substantive changes:

1. In its description of the process of Phase II, the current law was based on certain assumptions of how the program would proceed, based on prior experience. The bill alters that, reflecting the fact that the program will now be conducted using electronic means.
2. In its dealing with annexations during the freeze, the current law gives the county board of elections no choice. If a precinct line follows a city limits line that changes in the annexation, the precinct line automatically floats out with the new city limits. The bill would give the county the option of letting the precinct line float out or choosing a nearby visible feature, if it is a block line.

HOUSE BILL 248

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3. The post-freeze precinct change statute allows the designation of precincts on "above-ground power lines." The bill would narrow that to "major above-ground power lines."
4. The county boards of elections are required under current law to send their precinct maps and a list of their registered voters by precinct to the Legislative Services Office by January 31 of every year. Since other methods have been established to get the same information better and more often, the bill would repeal the January 31 requirement as outdated.
5. In the biggest change, the bill would extend the freeze from January 2, 2000, to January 2, 2002.

The bill would be effective when it becomes law. Like all election bills, it would be subject to preclearance under Section 5 of the Voting Rights Act.

BACKGROUND: The purpose of the Census Redistricting Data Program is to enter into the Census Bureau's map database for the 2000 Census all the State's voting precincts. That will enable the State to receive 2000 Census data by precinct. Since the State uses the Census database as the basis for redistricting, the precincts' being in the database will mean that when redistricting is done in 2001, precinct splitting can be more easily avoided.

The purpose of the freeze was to make a snapshot of the State's precincts just before the taking of the Census in April 2000. That is how the program was handled before the 1990 Census. Forty-eight of 100 counties participated in the 1990 cycle. Then, however, Phase II was completed almost two years before the 1990 Census. This time, Census production problems have delayed Phase II so that it is just now beginning. Its completion by January 2, 2000, while still likely, seems less certain than it once did.

Moreover, the snapshot would be more useful if it included returns from the 2000 elections. And there would be a further advantage if the basic outlines of precincts would stay as they appear on the redistricting database until the legislative, congressional, and local redistricting lines are completed in 2001. That would enable the redistricters and the county boards of elections to avoid creating precinct/district splits, often the bane of election administrators.

During the freeze, as indicated above, county boards of elections would still be able to split precincts that had grown too populous. They could also adapt their precinct lines to annexations.

At some point early in the decade, it makes sense to permit counties to designate precincts using features that were not designated as 2000 block boundaries. New roads are built. The face of a county changes over the years. Therefore, the partial freeze is lifted.

Prior to the 1990 Census, 48 of the State's 100 counties went through the Census Redistricting Data Program and had their precincts entered on the Census and redistricting database. During the subsequent decade, the State attempted to maintain the compatibility of those precincts with Census standards. At the same time, the State attempted to bring into compatibility with Census standards the other 52 counties, generally the less populous ones, that did not go through the 1990 program. Two sections of the current Article 12A are vestiges of the State's effort to maintain and prepare the precincts during the 1990s for the 2000 Census Redistricting Data Program that is occurring now. One is 163-132.2, in which the 52 smaller counties were required during the 1990s to place their precincts on township or city limits lines or on visible features for the first time. The other is 163-132.3, in which those 52 and the bigger 48 counties are required to maintain their precincts in compliance as they change them during the decade. Both those statutes require the counties to submit their precinct lines or changes in lines to the Executive Secretary-Director of the State Board of Elections, who with the advice of the Legislative Services Office, will rule on whether the precincts comply with the law. Both those statutes have a wider list of visible features than does the post-freeze precinct-change statute. Current law sets the current 163-132.3(a) to expire January 2, 2000, to be replaced then by the post-freeze precinct change statute. The bill, therefore, when amending the statute, is shooting at a moving target. It handles the situation this way: It rewrites the current version of 163-132.3, making it similar to the post-freeze version. It makes the post-freeze version effective immediately, but suspends precinct changes under it from the time precincts are designated under Phase II until January 2, 2002. During that period, i.e., the partial freeze, precincts may only be changed under the freeze rules.

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Alexander and Bonner** for the Committee on **ELECTION LAW
AND CAMPAIGN FINANCE REFORM.**

☐ Committee Substitute for

H.B. 248 A BILL TO BE ENTITLED AN ACT TO AMEND THE STATUTES
CONCERNING PRECINCT BOUNDARIES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill, unfavorable as to original bill.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

ELECTION LAW AND CAMPAIGN FINANCE REFORM

MARCH 31, 1999

11:00 A.M.

AGENDA

Representative Alexander, Co Chair, presiding

HB 175 – Absentee Voting Changes, Rep. Nesbitt

Discussion by members

**MINUTES OF THE MEETING
ELECTION LAW AND CAMPAIGN FINANCE REFORM**

**MARCH 31, 1999
11:00 AM**

The meeting was called to order by presiding co-chair, Rep. Martha Alexander, who welcomed the committee members and introduced the staff of the Sergeant at Arms, the pages and the Committee Assistants, Lucy Johnson and Ann Faust.

Rep. Martin Nesbitt presented his House Bill 175, Absentee Voting Changes, attached hereto as Exhibit 1, for explanation and questions and discussion but no vote. He distributed a chart showing what actions other states have taken with respect to absentee voting, attached hereto as Exhibit 2.

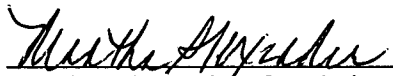
Staff counsel, Bill Gilkeson, answered some questions from the Committee.

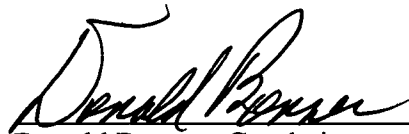
Rep. Nesbitt introduced Johnnie McLain, Deputy Director of the State Board of Elections, to answer questions directed to the State Board.

A question and answer and discussion period followed until the end of the allotted hour for the meeting.

The meeting was adjourned with further discussion scheduled for the next Committee Meeting on April 7, 1999.

Respectfully submitted:


Martha Alexander, Co-chair


Donald Bonner, Co-chair


Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 175

Short Title: Absentee Voting Changes.

(Public)

Sponsors: Representatives Nesbitt, Alexander (Primary Sponsors); Adams, Baddour, Barefoot, Bonner, Bowie, Boyd-McIntyre, Church, Cunningham, Earle, Gibson, Goodwin, Hackney, Haire, Hardaway, Hensley, Hill, Hunter, Jarrell, Jeffus, Luebke, McAllister, McCombs, McCrary, Melton, Michaux, Miller, Nye, Oldham, Owens, Ramsey, Redwine, Saunders, Wainwright, Warner, Warwick, Womble, and Wright.

Referred to: Election Laws and Campaign Finance Reform.

March 1, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES IN THE ELECTION LAWS DESIGNED TO
3 PREVENT LONG LINES AT THE POLLS ON ELECTION DAY.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 163-226 reads as rewritten:
6 "**§ 163-226. Who may vote an absentee ballot.**
7 (a) Who May Vote Absentee Ballot; Generally. -- Any qualified voter of the State
8 may vote by absentee ballot in a statewide primary, general, or special election on
9 constitutional amendments, referenda or bond proposals, and any qualified voter of a
10 county is authorized to vote by absentee ballot in any primary or election conducted
11 by the county board of elections, in the manner provided in this Article if:
12 (1) The voter expects not to be ~~absent from the county in which he is~~
13 ~~registered during the entire period that the polls are open~~ present
14 at the voting place to vote in person on the day of the specified
15 election in which the voter desires to vote; or
16 (2) The voter is unable to be present at the voting place to vote in
17 person on the day of the specified election in which the voter
18 desires to vote because of the voter's sickness or other physical
19 disability.

(3) ~~The voter is incarcerated, whether in the voter's county of residence or elsewhere, shall be entitled to vote by absentee ballot in the county of the voter's residence in any election, specified herein, in which the voter otherwise would be entitled to vote. Absentee voting shall be in the same manner as provided in this Article. The chief custodian or superintendent of the institution or other place of confinement shall certify that the applicant is not a felon, and the certification shall be as prescribed by the State Board of Elections. The State Board of Elections is authorized to prescribe procedures to carry out the intent and purpose of this subsection;~~

(3a) ~~The voter because of the observance of a religious holiday pursuant to the tenets of the voter's religion will be unable to cast a ballot at the polling place on the day of the election; or~~

(4) ~~The voter is an employee of the county board of elections or a precinct official, observer, or ballot counter, in another precinct and the voter's assigned duties on the day of the election will cause the voter to be unable to be present at the voting place to vote in person and provided such employee has the application witnessed by the chairman of the county board of elections.~~

(b) Absentee Ballots; Exceptions. -- Notwithstanding the authority contained in G.S. 163-226(a), absentee ballots shall not be permitted in fire district elections.

(c) As used in this Subchapter, unless the context clearly requires otherwise, the term 'election' includes a general, primary, second primary, runoff election, bond election, referendum, or special election."

Section 2. G.S. 163-226.1 reads as rewritten:

"§ 163-226.1. Absentee voting in primary.

A qualified voter may vote by absentee ballot in a ~~statewide or countywide~~ partisan primary provided ~~he the qualified voter~~ he the qualified voter is affiliated, at the time ~~he the qualified voter~~ he the qualified voter makes application for absentee ballots, with the political party in whose primary ~~he the qualified voter~~ he the qualified voter wishes to ~~vote. vote, except that an unaffiliated voter may vote in a party primary if permitted under G.S. 163-119.~~ The official registration records of the county in which the voter is registered shall be proof of whether ~~he the qualified voter~~ he the qualified voter is affiliated with a political party and of the party, if any, with which ~~he the qualified voter~~ he the qualified voter is affiliated."

Section 3. G.S. 163-226.3 reads as rewritten:

"§ 163-226.3. Certain acts declared felonies.

(a) Any person who shall, in connection with absentee voting in any ~~primary, general, municipal or special~~ election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be unlawful:

(1) For any person except the voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or the voter's verifiable legal guardian to assist the voter to vote an absentee ballot when the voter is voting an

- absentee ballot other than under the procedure described in G.S. 163-227.2; provided that if there is not a near relative or legal guardian available to assist the voter, the voter may request some other person to give assistance;
- (2) For any person to assist a voter to vote an absentee ballot under the absentee voting procedure authorized by G.S. 163-227.2 except a member of the county board of elections, the director of elections, an employee of the board authorized by the board, the voter's near relative ~~as defined in G.S. 163-227(e)(4)~~, or the voter's verifiable legal guardian;
- (3) For a voter who votes an absentee ballot under the procedures authorized by G.S. 163-227.2 to vote ~~his~~ that voter's absentee ballot outside of the voting booth or private room provided to ~~him~~ the voter for that purpose in or adjacent to the office of the county board of elections or at the additional site provided by G.S. 163-227.2(f1), or to receive assistance in getting to and from the voting booth or private room and in preparing and marking ~~his~~ that voter's ballots from any person other than a member of the county board of elections, the director of elections, an employee of the board of elections authorized by the board, a near relative of the voter ~~as defined in G.S. 163-227(e)(4)~~, or the voter's verifiable legal guardian;
- (4) For any owner, manager, director, employee, or other person, other than the voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or verifiable legal guardian, to make a written request pursuant to G.S. 163-230.1 or an application on behalf of a registered voter who is a patient in any hospital, clinic, nursing home or rest home in this State or for any owner, manager, director, employee, or other person other than the voter's near relative or verifiable legal guardian, ~~or officer authorized to administer oaths acting pursuant to G.S. 163-231(a)(1)~~, to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot;
- (5) Repealed by Session Laws 1987, c. 583, s. 8.
- (6) For any person to take into ~~his~~ that person's possession for delivery to a voter or for return to a county board of elections the absentee ballot of any voter, provided, however, that this prohibition shall not apply to a voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or the voter's verifiable legal guardian;
- (7) Except as provided in subsections (1), (2), (3), and (4) of this section, G.S. 163-231(a), G.S. 163-250(a), and G.S. 163-227.2(e), for any voter to permit another person to assist ~~him~~ the voter in marking ~~his~~ that voter's absentee ballot, to be in the voter's presence when a voter votes an absentee ballot, or to observe the voter mark ~~his~~ that voter's absentee ballot.

(b) The State Board of Elections or a county board of elections, upon receipt of a sworn affidavit from any qualified voter of the State or the county, as the case may be, attesting to first-person knowledge of any violation of subsection (a) of this section, shall transmit ~~such~~ that affidavit to the appropriate district attorney, who shall investigate and prosecute any person violating subsection (a)."

Section 4. G.S. 163-227 is repealed.

Section 5. G.S. 163-227.1 reads as rewritten:

"§ 163-227.1. Second primary; applications for absentee ballots for voting in second primary.

A voter applying for an absentee ballot for a primary election who will be ~~absent from the county of his residence~~ eligible to vote under this Article on the day of the primary and second primary shall be permitted by the county board of elections to indicate ~~such~~ that fact on ~~his~~ that voter's application and ~~such~~ that voter shall automatically be issued an application and absentee ballot for the second primary if one is called. The county board of elections shall consider ~~such~~ that indication a separate request for application for the second primary and, at the proper time, shall enter ~~such~~ that voter's name in the absentee register along with the listing of other applicants for absentee ballots for the second primary.

In addition, a voter entitled to absentee ballots under the provisions of this Article who did not make application for the primary or who failed to apply for a second primary ballot at the time of application for a first primary ballot may ~~apply for~~ make a written request for absentee ballots for a second primary not earlier than the day a second primary is called and not later than ~~5:00 P.M. on the Tuesday prior to the date on which the second primary is held.~~ the date and time provided by G.S. 163-230.1.

All procedures with respect to absentee ballots in a second primary shall be the same as with respect to absentee ballots in a first primary except as otherwise provided by this section."

Section 6. G.S. 163-227.2 reads as rewritten:

"§ 163-227.2. Alternate procedures for requesting application for absentee ballot; 'one-stop' voting procedure in board office.

(a) A person expecting ~~to be absent from the county~~ not to be present at the polling place in which ~~he~~ that person is registered during the entire period that the polls are open on the day of an election in which absentee ballots are authorized ~~or is eligible under G.S. 163-226(a)(2), 163-226(a)(3a), or 163-226(a)(4)~~ may request an application for absentee ballots, complete the application, ~~receive the absentee ballots, vote and deliver them sealed in a container return envelope to the county board of elections in the county in which he is registered~~ and vote under the provisions of this section.

(b) Not earlier than the ~~twenty-fourth day~~ first business day after the twenty-fifth day before an election, in which absentee ballots are authorized, in which ~~he~~ a voter seeks to vote and not later than 5:00 P.M. on the Friday prior to that election, the voter shall appear in person only at the office of the county board of elections and request that the chairman, a member, or the director of elections of the board, or an

1 employee of the board of elections, authorized by the board, furnish ~~him~~ the voter
2 with an application form as specified in G.S. ~~163-227~~ 163-229. The voter shall
3 complete the application in the presence of the chairman, member, director of
4 elections or authorized employee of the board, and shall deliver the application to
5 that person.

6 (c) If the application is properly filled out, the chairman, member, director of
7 elections of the board, or employee of the board of elections, authorized by the
8 board, shall enter the voter's name in the register of absentee ~~ballot requests~~,
9 applications, and ballots issued; shall furnish the voter with the instruction sheets
10 called for by G.S. 163-229(c); and shall furnish the voter with the ballots to which the
11 application for absentee ballots applies; and shall furnish the voter with a
12 container return envelope. applies. The voter thereupon shall ~~comply with the~~
13 ~~provisions of G.S. 163-231(a) except that he shall deliver the container return~~
14 ~~envelope to the chairman, member, supervisor of elections of the board, or an~~
15 ~~employee of the board of elections, authorized by the board, immediately after~~
16 ~~making and subscribing the certificate printed on the container return envelope as~~
17 ~~provided in G.S. 163-229(b).~~ vote in accordance with subsection (e) of this section.

18 All actions required by this subsection shall be performed in the office of the
19 board of ~~elections~~ elections, except that the voting may take place in an adjacent
20 room as provided by subsection (e) of this section. ~~For the purposes of this section~~
21 ~~only, the~~ The application under this subsection shall be signed in the presence of the
22 chairman, member, director of elections of the board, or full-time employee,
23 authorized by the board who shall sign the application and certificate as the witness
24 and indicate the official title held by him or her. Notwithstanding G.S. 163-231(a), in
25 the case of this subsection, only one witness shall be required on the certificate.

26 (d) Only the chairman, ~~member~~ member, employee, or director of elections of the
27 board shall keep the voter's application for absentee ballots ~~and the sealed~~
28 ~~container return envelope~~ in a safe place, separate and apart from other applications
29 and container-return envelopes. ~~At the first meeting of the board pursuant to G.S.~~
30 ~~163-230(2) held after receipt of the application and envelope, the chairman shall~~
31 ~~comply with the requirements of G.S. 163-230(1) and G.S. 163-230(2) b. and e. If the~~
32 ~~voter's application for absentee ballots is approved by the board at that meeting, the~~
33 ~~application form and container return envelope, with the ballots enclosed, shall be~~
34 ~~handled in the same manner and under the same provisions of law as applications~~
35 ~~and container return envelopes received by the board under other provisions of this~~
36 ~~Article.~~ If the voter's application for absentee ballots is disapproved by the board, the
37 board shall so notify the voter stating the reason for disapproval by first-class mail
38 addressed to the voter at ~~his~~ that voter's residence address ~~or~~ and at the address
39 shown in the application for absentee ballots; and the board ~~chairman~~ shall ~~retain the~~
40 ~~container return envelope in its unopened condition until the day of the primary or~~
41 ~~election to which it relates and on that day he shall destroy the container return~~
42 ~~envelope and the ballots therein, without, however, revealing the manner in which~~
43 ~~the voter marked the ballots.~~ enter a challenge under G.S. 163-89.

1 (e) The voter shall vote ~~his~~ that voter's absentee ballot in a voting booth in the
2 office of the county board of elections, and the county board of elections shall
3 provide a voting booth for that purpose, provided however, that the county board of
4 elections may in the alternative provide a private room for the voter adjacent to the
5 office of the board, in which case the voter shall vote ~~his~~ that voter's absentee ballot
6 in that room. ~~The voting booth shall be in the office of the county board of elections.~~
7 If the voter needs assistance in getting to and from the voting booth and in preparing
8 and marking ~~his~~ that voter's ballots or if ~~he~~ the voter is a blind voter, only a member
9 of the county board of elections, the director of elections, an employee of the board
10 of elections authorized by the board, a near relative of the voter ~~as defined in G.S.~~
11 ~~163-227(e)(4)~~, or the voter's verifiable legal guardian shall be entitled to assist the
12 voter.

13 (e1) If a county uses a voting system with retrievable ballots, that county's board
14 of elections may by resolution elect to conduct one-stop absentee voting according to
15 the provisions of this subsection. In a county in which the board has opted to do so, a
16 one-stop voter shall cast the ballot and then shall deposit the ballot in the ballot box
17 or voting system in the same manner as if such box or system was in use in a precinct
18 on election day. At the end of each business day, or at any time when there will be
19 no employee or officer of the board of elections on the premises, the ballot box or
20 system shall be secured in accordance with a plan approved by the State Board of
21 Elections, which shall include that no additional ballots have been placed in the box
22 or system. Any county board desiring to conduct one-stop voting according to this
23 subsection shall submit a plan for doing so to the State Board of Elections. The State
24 Board shall adopt standards for conducting one-stop voting under this subsection and
25 shall approve any county plan that adheres to its standards. The county board shall
26 adhere to its State Board-approved plan. The plan shall provide that each one-stop
27 ballot shall have a ballot number on it in accordance with G.S. ~~163-230(3)a.~~ 163-
28 230.1(a2), or shall have an equivalent identifier to allow for retrievability. The
29 standards shall address retrievability in one-stop voting on direct record electronic
30 equipment where no paper ballot is used.

31 (f) Notwithstanding the exception specified in G.S. 163-36, counties which operate
32 a modified full-time office shall remain open five days each week during regular
33 business hours consistent with daily hours presently observed by the county board of
34 elections, commencing with the date prescribed in G.S. 163-227.2(b) and continuing
35 until 5:00 P.M. on the Friday prior to that election or primary. The boards of county
36 commissioners shall provide necessary funds for the additional operation of the office
37 during ~~such~~ that time.

38 (f1) Notwithstanding any other provision of this section, a county board of
39 elections may provide for one or more sites in that county for absentee ballots to be
40 applied for and cast under this section. Those sites must be approved by the State
41 Board of Elections as part of a Plan for Implementation approved by both the county
42 board of elections and by the State Board of Elections which shall also provide
43 adequate security of the ballots and provisions to avoid allowing persons to vote who
44 have already voted."

1 Section 7. G.S. 163-228 reads as rewritten:

2 "**§ 163-228. Register of absentee ~~ballot requests~~, applications, and ballots issued; a**
3 **public record.**

4 The State Board of Elections shall ~~design~~ approve an official register ~~and provide a~~
5 ~~source of supply thereof from in~~ which the ~~chairman of the~~ county board of elections
6 in each county of the State shall ~~purchase a book to be called the register of absentee~~
7 ~~ballot applications and ballots issued in which shall be recorded~~ record the following
8 information:

- 9 (1) Name of voter for whom application and ballots are being
10 requested, and, if applicable, the name and address of the voter's
11 near relative or verifiable legal guardian who requested the
12 application and ballots for the voter.
- 13 (2) Number of assigned voter's application when issued.
- 14 (3) Precinct in which applicant is registered.
- 15 (4) Address to which ballots are to be mailed, or, if the voter voted
16 pursuant to G.S. 163-227.2, a notation of that fact.
- 17 (5) Reason assigned for requesting absentee ballots.
- 18 (6) Date request for application for ballots is received by the county
19 board of elections.
- 20 (7) The voter's party affiliation.
- 21 (8) The date the ballots were mailed or delivered to the voter.
- 22 (9) ~~whatever~~ Whatever additional information and official action may
23 be required by this Article.

24 The State Board of Elections may provide for the register to be kept by electronic
25 data processing equipment, and a copy shall be printed out each business day or a
26 supplement printed out each business day of new information.

27 The register of absentee ~~ballot requests~~, applications, and ballots issued shall
28 constitute a public record and shall be opened to the inspection of any registered
29 voter of the county at any time within 50 days before and 30 days after an election in
30 which absentee ballots were authorized, or at any other time when good and
31 sufficient reason may be assigned for its inspection."

32 Section 8. G.S. 163-229 reads as rewritten:

33 "**§ 163-229. Absentee ballots, applications on container-return envelopes, and**
34 **instruction sheets.**

35 (a) Absentee Ballot Form. -- In accordance with the provisions of G.S. ~~163-230(3),~~
36 163-230.1, persons entitled to vote by absentee ballot shall be furnished with ~~regular~~
37 ~~official ballots. Separate or distinctly marked absentee ballots shall not be used.~~

38 (b) Application on Container-Return Envelope. -- In time for use not later than 50
39 days before a statewide primary, general election or county bond election, the county
40 board of elections shall print a sufficient number of envelopes in which persons
41 casting absentee ballots may transmit their marked ballots to the ~~chairman of the~~
42 county board of elections. Each container-return envelope shall have printed on it an
43 application which shall be designed and prescribed by the State Board of Elections,
44 the voter's certification of eligibility to vote the enclosed ballot and of having voted

1 the enclosed ballot in accordance with this Article, a space for identification of the
2 envelope with the voter, and a space for approval by the county board of elections.
3 The envelope shall allow reporting of a change of name as provided by G.S. 163-
4 82.16. The container-return envelope shall be printed in accordance with the
5 following instructions: instructions of the State Board of Elections.

- 6 (1) ~~On one side shall be printed an identified space in which shall be~~
7 ~~inserted the application number of the voter and the following~~
8 ~~statement which shall be certified by one member of the county~~
9 ~~board of elections:~~

10
11 ~~"Certification of Election Official-~~

12 ~~The undersigned election official does by his hand~~
13 ~~and seal certify that..... is a registered and qualified~~
14 ~~voter of County, Precinct # and has~~
15 ~~made proper application to vote under the Absentee~~
16 ~~Ballot Law of North Carolina.~~

17 ~~(Seal)~~

18 ~~Chairman-Member"~~

- 19
20 (2) ~~On the other side shall be printed the return address of the~~
21 ~~chairman of the county board of elections and the following~~
22 ~~certificate:~~

23
24 ~~"Certificate of Absentee or Sick Voter~~

25 ~~State of~~

26 ~~County of~~

27 ~~I,, do certify that I am a resident and~~
28 ~~registered voter in precinct, County,~~
29 ~~North Carolina; that on the day of an election,~~
30 ~~....., (check whichever of the following~~
31 ~~statements is correct.)~~

32 ~~[] I will be absent from the county in which I reside.~~

33 ~~[] Due to sickness or physical disability, or incarceration as~~
34 ~~a misdemeanor, I will be unable to travel to the voting~~
35 ~~place in the precinct in which I reside.~~

36 ~~[] Due to the observance of a religious holiday pursuant to~~
37 ~~the tenets of my religion, I will be unable to cast a ballot at~~
38 ~~the polling place on the day of the election.~~

39 ~~I further certify that I made application for absentee~~
40 ~~ballots, and that I marked the ballots enclosed herein,~~
41 ~~or that they were marked for me in my presence and~~
42 ~~according to my instructions. I understand it is a~~
43 ~~felony to falsely sign this certificate.~~
44

1 (~~Signature of voter~~)

2

3 ~~Signature of Witness #1 Signature of Witness #2~~

4

5 ~~Address of Witness #1 Address of Witness #2~~."

6 (c) Instruction Sheets. -- In time for use not later than 50 days before a statewide
7 primary, general or county bond election, the county board of elections shall prepare
8 and print a sufficient number of sheets of instructions on how voters are to prepare
9 absentee ballots and return them to the ~~chairman of the~~ county board of elections."

10 Section 9. G.S. 163-230 is repealed.

11 Section 10. G.S. 163-230.1 reads as rewritten:

12 "**§ 163-230.1. Simultaneous issuance of absentee ballots with application.**

13 (a) ~~When a~~ A qualified voter ~~personally requests by mail who is eligible to vote~~
14 by absentee ballot under G.S. 163-226(a)(1), or that voter's near relative or verifiable
15 legal guardian, shall request in writing an application for absentee ballots, so that the
16 county board of elections receives the request not later than 5:00 p.m. on the Tuesday
17 before the election, an application for absentee ballots, The county board of
18 elections shall enter in the register of absentee requests, applications, and ballots
19 issued the information required in G.S. 163-228 as soon as each item of that
20 information becomes available. Upon receiving the application, the county board of
21 elections shall cause to be mailed to that voter in a single package:

22 (1) The official ballots the voter is entitled to ~~vote if his application is~~
23 ~~approved; vote;~~

24 (2) A container-return envelope for the ballots, ~~upon the outside of~~
25 ~~which shall be printed the appropriate application form as~~
26 ~~provided in G.S. 163-227; printed in accordance with G.S. 163-229;~~
27 ~~and~~

28 (3) ~~A large envelope (similar to a No. 14 or larger manila envelope) in~~
29 ~~which the container-return envelope with the ballots may be~~
30 ~~returned and on which the affidavit provided by G.S. 163-229(b)~~
31 ~~shall be printed; and~~

32 (4) An instruction sheet.

33 The ballots, ~~envelopes~~ envelope, and instructions shall be mailed to the voter by
34 the county board's ~~chairman, secretary or director~~ chairman, member, officer, or
35 employee as determined by the board and entered in ~~its official minutes; the register~~
36 as provided by this Article.

37 ~~On the back of the large transmittal envelope shall be clearly printed or stamped~~
38 ~~the following statement:~~

39 ~~DO NOT PLACE THE ENVELOPE CONTAINING YOUR BALLOTS INTO~~
40 ~~THIS ENVELOPE UNTIL YOU HAVE COMPLETED THE APPLICATION ON~~
41 ~~THE ENVELOPE CONTAINING YOUR BALLOTS AND SECURED THE~~
42 ~~SIGNATURE OF A WITNESS.~~

43 (a1) Absence for Sickness or Physical Disability. -- Notwithstanding the provisions
44 of subsection (a) of this section, if a voter expects to be unable to go to the voting

place to vote in person on election day because of that voter's sickness or other physical disability, that voter or that voter's near relative or verifiable legal guardian may make written request in person for absentee ballots to the board of elections of the county in which the voter is registered after 5:00 p.m. on the Tuesday before the election but not later than 5:00 p.m. on the Friday before the election. The county board of elections shall enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as soon as each item of that information becomes available. The county board of elections shall personally deliver to the requester in a single package:

(1) The official ballots the voter is entitled to vote;

(2) A container-return envelope for the ballots, printed in accordance with G.S. 163-229; and

(3) An instruction sheet.

(a2) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. -- When the county board of elections receives a request for applications and absentee ballots, the board shall promptly issue and transmit them to the voter in accordance with the following instructions:

(1) On the top margin of each ballot the applicant is entitled to vote, the chair, a member, officer, or employee of the board of elections shall write or type the words 'Absentee Ballot No.' or an abbreviation approved by the State Board of Elections and insert in the blank space the number assigned the applicant's application in the register of absentee requests, applications, and ballots issued. That person shall not write, type, or print any other matter upon the ballots transmitted to the absentee voter. Alternatively, the board of elections may cause to be barcoded on the ballot the voter's application number, if that barcoding system is approved by the State Board of Elections.

(2) The chair, member, officer, or employee of the board of elections shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's name, the absentee voter's application number, and the designation of the precinct in which the voter is registered. If the ballot is barcoded under this section, the envelope may be barcoded rather than having the actual number appear. The person placing the ballots in the envelopes shall leave the container-return envelope holding the ballots unsealed.

(3) The chair, member, officer, or employee of the board of elections shall then place the unsealed container-return envelope holding the ballots together with printed instructions for voting and returning the ballots, in an envelope addressed to the voter at the post office address stated in the request, seal the envelope, and

1 mail it at the expense of the county board of elections: Provided,
2 that in case of a request received after 5:00 p.m. on the Tuesday
3 before the election under the provisions of subsection (a1) of this
4 section, in lieu of transmitting the ballots to the voter in person or
5 by mail, the chair, member, officer, or employee of the board of
6 elections may deliver the sealed envelope containing the
7 instruction sheet and the container-return envelope holding the
8 ballots to a near relative or verifiable legal guardian of the voter.

9 The county board of elections may receive written requests for applications earlier
10 than 50 days prior to the election but shall not mail applications and ballots to the
11 voter or issue applications and ballots in person earlier than 50 days prior to the
12 election, except as provided in G.S. 163-227.2. No election official shall issue
13 applications for absentee ballots except in compliance with this Article.

14 (b) The application shall be ~~completed~~, completed and signed by the voter
15 personally, the ballots marked, the ballots sealed in the container-return envelope,
16 and the ~~large envelope affidavit~~ certificate completed as provided in ~~G.S. 163-227 and~~
17 G.S. 163-231. ~~The container-return envelope shall be placed in the large transmittal~~
18 ~~envelope for return to the chairman of the county board of elections.~~

19 (c) At its next official meeting after return of the completed container-return
20 envelope ~~and large envelope~~ with the voter's ballots, the county board of elections
21 shall determine whether the container-return envelope ~~and large envelope have~~ has
22 been properly executed. If the board determines that ~~both~~ the container-return
23 envelope ~~and large envelope have~~ has been properly executed, it shall approve the
24 application and deposit the container-return envelope with other container-return
25 envelopes for the envelope to be opened and the ballots counted at the same time as
26 all other container-return envelopes and absentee ballots.

27 (c1) Required Meeting of County Board of Elections. -- During the period
28 commencing on the third Tuesday before an election, in which absentee ballots are
29 authorized, the county board of elections shall hold one or more public meetings
30 each Tuesday at 5:00 p.m. for the purpose of action on applications for absentee
31 ballots. At these meetings, the county board of elections shall pass upon applications
32 for absentee ballots.

33 If the county board of elections changes the time of holding its meetings or
34 provides for additional meetings in accordance with the terms of this subsection,
35 notice of the change in hour and notice of the schedule of additional meetings, if any,
36 shall be published in a newspaper circulated in the county at least 30 days prior to
37 the election.

38 At the time the county board of elections makes its decision on an application for
39 absentee ballots, the board shall enter in the appropriate column in the register of
40 absentee requests, applications, and ballots issued opposite the name of the applicant
41 a notation of whether the applicant's application was 'Approved' or 'Disapproved'.

42 The decision of the board on the validity of an application for absentee ballots
43 shall be final subject only to such review as may be necessary in the event of an
44 election contest. The county board of elections shall constitute the proper official

1 body to pass upon the validity of all applications for absentee ballots received in the
2 county; this function shall not be performed by the chairman or any other member of
3 the board individually.

4 ~~(d) The provisions of this section shall apply only to requests received by mail~~
5 ~~from and signed by the voter individually and personally. No near relative, guardian,~~
6 ~~or other person other than the voter himself shall be permitted to apply for absentee~~
7 ~~ballots under this section.~~

8 (e) The State Board of Elections, by regulation rule or by instruction to the
9 county board of elections, shall establish procedures to provide appropriate
10 safeguards in the implementation of this section.

11 (f) For the purpose of this Article, 'near relative' means spouse, brother, sister,
12 parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law,
13 son-in-law, stepparent, or stepchild."

14 Section 11. G.S. 163-231 reads as rewritten:

15 "**§ 163-231. Voting absentee ballots and transmitting them to ~~chairman~~ of the county**
16 **board of elections.**

17 (a) Procedure for Voting Absentee Ballots. -- In the presence of two other persons
18 who are at least 18 years of age, and who are not disqualified by G.S. 163-226.3(a)(4)
19 or G.S. 163-237(b1), the voter shall:

- 20 (1) Mark ~~his~~ the voter's ballots, or cause them to be marked by one of
21 such persons in ~~his~~ the voter's presence according to ~~his~~ the voter's
22 instruction;
- 23 (2) Fold each ballot separately, or cause each of them to be folded in
24 ~~his~~ the voter's presence;
- 25 (3) Place the folded ballots in the container-return envelope and
26 securely seal it, or have this done in ~~his~~ the voter's presence;
- 27 (4) Make the application printed on the container-return envelope
28 according to the provisions of G.S. 163-229(b) and make the
29 certificate printed on the container-return envelope according to
30 the provisions of G.S. 163-229(b).

31 The persons in whose presence the ballot is marked shall at all times respect the
32 secrecy of the ballot and the privacy of the absentee voter, unless the voter requests
33 their assistance and they are otherwise authorized by law to give assistance. The
34 persons in whose presence the ballot was marked shall sign the application and
35 certificate as witnesses, and shall indicate their address. When thus executed, the
36 sealed container-return envelope, with the ballots enclosed, shall be transmitted in
37 accordance with the provisions of subsection (b) of this section to the ~~chairman of the~~
38 county board of elections ~~who~~ which issued the ballots.

39 (a1) Repealed by Session Laws 1987, c. 583, s. 1.

40 (b) Transmitting Executed Absentee Ballots to ~~Chairman~~ of County Board of
41 Elections. -- The sealed container-return envelope in which executed absentee ballots
42 have been placed shall be transmitted to the ~~chairman of the~~ county board of
43 elections who issued them as follows: All ballots issued under the provisions of
44 Articles 20 and 21 of this Chapter shall be transmitted by ~~mail~~, mail or by

1 commercial courier service, at the voter's expense, or delivered in person, or by the
2 voter's ~~spouse, brother, sister, parent, grandparent, child or grandchild~~ near relative
3 or verifiable legal guardian not later than 5:00 P.M. on the day before the statewide
4 primary or general election or county bond election. If such ballots are received later
5 than that hour, they shall not be accepted for ~~voting.~~ unless federal law so requires."

6 Section 12. G.S. 163-232 reads as rewritten:

7 "**§ 163-232. Certified list of executed absentee ballots; distribution of list.**

8 The ~~chairman of the~~ county board of elections shall prepare, or cause to be
9 prepared, a list in at least quadruplicate, of all absentee ballots returned to the county
10 board of elections to be counted, which have been approved by the county board of
11 ~~elections.~~ elections, and which have been received as of 5:00 p.m. on the day before
12 the election. At the end of the list, the chairman shall execute the following
13 certificate under oath:

14 'State of North Carolina

15 County of

16 I,, chairman of the County board of elections, do hereby certify
17 that the foregoing is a list of all executed absentee ballots to be voted in the election
18 to be conducted on the day of, 19, which have been approved by the
19 county board of ~~elections.~~ elections and which have been returned no later than 5:00
20 p.m. on the day before the election. ~~I further certify that I have issued ballots to no~~
21 ~~other persons than those listed herein, whose original applications or original~~
22 ~~applications made by near relatives are filed in the office of the county board of~~
23 ~~elections; and I further certify that I have~~ the chairman, member, officer, or employee
24 of the board of elections has not delivered ballots for absentee voting to any person
25 other than the voter himself, voter, by mail or by commercial courier service or in
26 person, except as provided by law, in the case of approved applications received after
27 5:00 P.M. on the Tuesday or Friday before the election; and have not mailed or
28 delivered ballots when the request for the ballot was received after the deadline
29 provided by law.

30 This the day of, 19.....

31

32 (Signature of chairman of county board of elections)

33 Sworn to and subscribed before me this day of, 19, Witness my hand
34 and official seal.

35

36 (Signature of officer administering oath)

37

38 (Title of officer)'

39 No ~~earlier than 3:00 P.M. on the day before the election and no~~ later than 10:00
40 A.M. on election day, the ~~chairman~~ county board of elections shall cause one copy of
41 the list of executed absentee ballots, which may be a continuing countywide list or a
42 separate list for each precinct, to be immediately deposited as 'first-class' mail to the
43 State Board of Elections. ~~He~~ The board shall retain one copy in the board office for
44 public inspection and ~~he~~ the board shall cause two copies of the appropriate precinct

1 list to be delivered to the chief judge of each precinct in the county. The ~~chairman~~
2 county board of elections shall be authorized to call upon the sheriff of the county to
3 distribute the list to the precincts. In addition the ~~chairman~~ county board of elections
4 shall, upon request, provide a copy of the complete list to the chairman of each
5 political party, recognized under the provisions of G.S. 163-96, represented in the
6 county.

7 The chief judge shall post one copy of the list immediately in a conspicuous
8 location in the voting place and retain one copy until all challenges of absentee
9 ballots have been heard by the county board of elections. Challenges shall be made
10 to absentee ballots as provided in G.S. 163-89.

11 After receipt of the list of absentee voters required by this section the chief judge
12 shall call the name of each person recorded on the list and enter an 'A' in the
13 appropriate voting square on the voter's permanent registration ~~record~~ record, or a
14 similar entry on the computer list used at the polls. If such person is already
15 recorded as having voted in that election, the chief judge shall enter a challenge
16 which shall be presented to the ~~chairman of the~~ county board of elections for
17 resolution by the board of elections prior to certification of results by the board.

18 All lists required by this section shall be retained by the county board of elections
19 for a period of ~~four years~~ 22 months after which they may then be destroyed."

20 Section 13. G.S. 163-233 reads as rewritten:

21 "**§ 163-233. Applications for absentee ballots; how retained.**

22 The ~~chairman of the~~ county board of elections shall retain, in a safe place, the
23 original of all applications made for absentee ballots and shall make them available to
24 inspection by the State Board of Elections or to any person upon the directive of the
25 State Board of Elections.

26 All applications for absentee ballots shall be retained by the county board of
27 elections for a period of one year after which they may be destroyed."

28 Section 14. G.S. 163-234 reads as rewritten:

29 "**§ 163-234. Counting absentee ballots by county board of elections.**

30 All absentee ballots returned to the ~~chairman or supervisor of elections of the~~
31 county board of elections in the container-return envelopes shall be retained by the
32 ~~chairman~~ board to be counted by the county board of elections as herein provided.

33 (1) Only those absentee ballots returned to the county board of
34 elections no later than 5:00 P.M. on the day before election day in
35 a properly executed container-return envelope shall be ~~counted~~
36 counted, except to the extent federal law requires otherwise.

37 (2) The county board of elections shall meet at 5:00 P.M. on election
38 day in the board office or other public location in the county
39 courthouse for the purpose of counting all absentee ballots except
40 those which have been challenged before 5:00 P.M. on election
41 day. Any elector of the county shall be permitted to attend the
42 meeting and allowed to observe the counting process, provided ~~he~~
43 the elector shall not in any manner interfere with the election
44 officials in the discharge of their duties.

1 Provided, that the county board of elections is authorized to
2 begin counting absentee ballots between the hours of 2:00 P.M. and
3 5:00 P.M. upon the adoption of a resolution at least two weeks
4 prior to the election wherein the hour and place of counting
5 absentee ballots shall be stated. A copy of the resolutions shall be
6 published once a week for two weeks prior to the election, in a
7 newspaper having general circulation in the county. Notice may
8 additionally be made on a radio or television station or both, but
9 such notice shall be in addition to the newspaper and other
10 required notice. The count shall be continuous until completed
11 and the members shall not separate or leave the counting place
12 except for unavoidable ~~necessity~~. necessity, except that if the count
13 has been completed prior to the time the polls close, it shall be
14 suspended until that time pending receipt of any additional ballots,
15 and except that one-stop ballots under G.S. 163-227.2 counted
16 electronically shall not be counted until the polls close; provided,
17 however, that if there are outstack ballots in the counting device,
18 they may be counted at the same time as other ballots are counted
19 under this subdivision. The county board of elections may begin
20 putting them in the tabulator at the same time as other ballots are
21 counted under this subdivision if the system for counting one-stop
22 ballots requires them to be put in a tabulator but the process has
23 the voter place them in a ballot box. The board shall not
24 announce the result of the count before 7:30 P.M.

- 25 (3) The counting of absentee ballots shall not commence until a
26 majority and at least one board member of each political party
27 represented on the board is present and ~~such~~ that fact is publicly
28 declared and entered in the official minutes of the county board.
- 29 (4) The county board of elections may employ such assistants as
30 deemed necessary to count the absentee ballots, but each board
31 member present shall be responsible for and observe and supervise
32 the opening and tallying of the ballots.
- 33 (5) As each ballot envelope is opened, the board shall cause to be
34 entered into a pollbook designated 'Pollbook of Absentee Voters'
35 the name of the absentee ~~voter~~. voter, or if the pollbook is
36 computer-generated, the board shall check off the name.
37 Preserving secrecy, the ballots shall be placed in the appropriate
38 ballot boxes, at least one of which shall be provided for each type
39 of ballot. The 'Pollbook of Absentee Voters' shall also contain the
40 names of all persons who voted under G.S. 163-227.2, but those
41 names may be printed by computer for inclusion in the pollbook.

42 After all ballots have been placed in the boxes, the counting
43 process shall begin.

If one-stop ballots under G.S. 163-227.2 are counted electronically, that count shall commence at the time the polls close. If one-stop ballots are paper ballots counted manually, that count shall commence at the same time as other absentee ballots are counted.

If a challenge transmitted to the board on canvass day by a chief judge is sustained, the ballots challenged and sustained shall be withdrawn from the appropriate boxes, as provided in G.S. 163-89(e).

As soon as the absentee ballots have been counted and the names of the absentee voters entered in the pollbook as required herein, the board members and assistants employed to count the absentee ballots shall each sign the pollbook immediately beneath the last absentee voter's name entered therein. The ~~chairman~~ county board of elections shall be responsible for the safekeeping of the pollbook of absentee voters.

(6) Upon completion of the counting process the board members shall cause the results of the tally to be entered on the absentee abstract prescribed by the State Board of Elections. The abstract shall be signed by the members of the board in attendance and the original mailed immediately to the State Board of Elections, ~~Raleigh, North Carolina 27602.~~ Elections. The county board of elections may have a separate count on the abstract for one-stop absentee ballots under G.S. 163-227.2.

(7) One copy of the absentee abstract shall be retained by the county board of elections and the totals appearing thereon shall be added to the final totals of all votes cast in the county for each office as determined on the official canvass.

(8) In the event a political party does not have a member of the county board of elections present at the ~~5:00 P.M.~~ meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party chairman of said absent member, or a member of the party's county executive committee, is in attendance. Such person shall act as an official witness to the counting and shall sign the absentee ballot abstract as an 'observer.'

(9) The county board of elections shall retain all container-return envelopes and absentee ballots, in a safe place, for at least four months, and longer if any contest is pending concerning the validity of any ballot."

Section 15. G.S. 163-236 reads as rewritten:

"§ 163-236. Violations by ~~chairman of~~ county board of elections.

The ~~chairman of the~~ county board of elections shall be sole custodian of blank applications for absentee ballots, official ballots, and container-return envelopes for

1 absentee ballots. ~~He~~ The board shall issue and deliver blank applications for absentee
2 ballots in strict accordance with the provisions of G.S. ~~163-227(e)~~. 163-230.1. The
3 issuance of ballots to persons whose ~~applications~~ requests for absentee ballots have
4 been ~~approved~~ received by the county board of elections under the provisions of G.S.
5 ~~163-230(3)~~ 163-230.1 is the responsibility and duty of the ~~chairman of the~~ county
6 board of elections.

7 It shall be the duty of the ~~chairman of the~~ county board of elections to keep
8 current all records required ~~of him~~ by this Article and to make promptly all reports
9 required ~~of him~~ by this Article. If that duty has been assigned to the chair, member,
10 officer, or employee of the board of elections, they shall carry out the duty.

11 The willful violation of this section shall constitute a Class 2 misdemeanor."

12 Section 16. G.S. 163-82.7(g)(2) reads as rewritten:

13 "(2) If the Postal Service has returned as undeliverable a notice sent
14 within 25 days before the election to the applicant under
15 subsection (c) of this section, then the applicant may vote only in
16 person in that first election and may not vote by ~~mailed~~ absentee
17 ~~ballot~~. ballot except in person under G.S. 163-227.2. The county
18 board of elections shall establish a procedure at the voting site for:

- 19 a. Obtaining the correct address of any person described in
20 this subdivision who appears to vote in person; and
21 b. Assuring that the person votes in the proper place and in
22 the proper contests.

23 If a notice mailed under subsection (c) or subsection (e) of this
24 section is returned as undeliverable after a person has already
25 voted by absentee ballot, then that person's ballot may be
26 challenged in accordance with G.S. 163-89."

27 Section 17. G.S. 163-137(b) reads as rewritten:

28 "(b) The ballots prepared for use in general and special elections under the
29 provisions of this Article by the State Board of Elections shall be printed and
30 delivered to the county boards of elections at least ~~60~~ 50 days prior to the date of any
31 ~~election in which absentee voting is permitted and at least 60 days prior to the date of~~
32 ~~any election in which absentee voting is not permitted.~~ election."

33 Section 18. G.S. 163-155(4) reads as rewritten:

34 "(4) The affidavit executed by the voter shall be retained by the county
35 board of elections for a period of six months. In those precincts
36 using voting machines, the county board of elections shall furnish
37 paper ballots of each kind for use by persons authorized to vote
38 outside the voting place by this section. In any precinct using
39 direct record electronic voting equipment, the county board of
40 elections, with the approval of the State Board of Elections, may
41 provide for all such paper ballots to be transported upon closing of
42 the polls to the office of the county board of elections for counting.
43 Those ballots may be transported only by the chief judge, judge, or
44 assistant. Upon receipt by the county board of elections, those

ballots shall be counted and canvassed in the same manner as one-stop ballots cast under G.S. 163-227.2, except that rather than the count commencing when the polls close under G.S. 163-234(5) as provided for one-stop ballots, the count shall commence when the board has received from each precinct either that precinct's ballots or notification that no such ballots were cast.

The total for ballots counted by the county board of elections under this subdivision shall be canvassed as if it were a separate precinct."

Section 19. G.S. 163-169(i) reads as rewritten:

"(i) Absentee Ballots. -- Absentee ballots shall be deposited and voted in accordance with the provisions of G.S. 163-227.2 and G.S. 163-234; they shall be counted and tabulated as provided in this section and G.S. 163-170."

Section 20. Article 21 is amended by adding a new section to read:

"§ 163-257. Facsimile and electronic mail transmission of election materials.

An applicant entitled to exercise the rights conferred by this Article may apply for registration and an absentee ballot by facsimile or electronic mail if otherwise qualified to apply for and vote by absentee ballot. A county board of elections may send and receive absentee ballot applications and accept voted ballots by facsimile or electronic mail from eligible electors as defined in G.S. 163-245."

Section 21. G.S. 163-274(5a) is repealed.

Section 22. G.S. 163-237 is amended by adding a new subsection to read:

"(b1) Candidate Witnessing Absentee Ballots of Nonrelative Made Class 2 Misdemeanor. -- A person is guilty of a Class 2 misdemeanor if that person acts as a witness under G.S. 163-231(a) or G.S. 163-250(a) in any primary or election in which the person is a candidate for nomination or election, unless the voter is the candidate's near relative as defined in G.S. 163-230.1(f)."

Section 23. Article 3 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-27.1. Emergency powers.

The chief election official may exercise emergency powers over any election being held in a district in which either a natural disaster or extremely inclement weather has occurred. The chief election official may also exercise emergency powers during an armed conflict involving United States Armed Forces, or mobilization of those forces, including State National Guard and Reserve components, or if an election contest court finds that there were errors in the conduct of an election making it impossible to determine the result. The chief election official shall adopt rules describing the emergency powers and the situations in which the powers will be exercised."

Section 24. This act applies to elections held on or after July 1, 1999, except that the State Board of Elections may issue rules required or permitted by this act prior to that date.

Exhibit 2

ABSENTEE VOTING

Vote: The First Steps
The League of Women Voters Education Fund 1998

Key: Who may vote absentee

- | | |
|--|---|
| b absent on business | r absent for religious reasons |
| c college students | so senior citizens, elderly |
| d disabled or ill, temporary or permanent | t temporarily out of jurisdiction for any reason |
| e not absent, but prevented by employment from voting at polling place | - may vote in person during designated period before election |

State	Who May Vote Absentee	Where to Get Absentee Ballot	Deadline for Requesting Absentee Ballot	Deadline for Returning Absentee Ballot
AL	b c d e t	County Clerk, Board of Registrars	5 days before election	noon, election day
AK	any registered voter	Division of Elections or absentee voting official	in person: 15 days before election, mail: 4 days before election	in person: 15 days before election, mail: postmarked election day
AZ	any registered voter	County Recorder	Friday before election	7pm election day
AR	any registered voter	County Clerk	1 day before election	in person: 1 day before election, mail: postmarked election day
CA	any registered voter	local election office	7 days before election	close of polls
CO	any registered voter	County Clerk	Friday before election	7pm election day
CT	b c d r t	Town Clerk	1 day before election	8pm election day
DE	b c d e r t s c	County Department of Elections	noon, 1 day before election	noon, 1 day before election
DC	b c d t s c	Board of Elections	in person: 1 day before election, mail: 7 days before election	in person: 1 day before election, mail: postmarked election day
FL	c d e r t	Supervisor of Elections	in person: 7pm election day, mail: 7pm election day	7pm election day
GA	d e r t, constant care giver	County Voter Registration Officer	in person: 1 day before election, mail: Friday before election	1 day before election
HI	any registered voter	City/County Clerk	7 days before election	close of polls
ID	any registered voter	County Clerk	5pm day before election	8pm election day
IL	b c d e r t s c	County Clerk, local election board	in person: 1 day before election, mail: from 40 to 5 days before election	in person: 1 day before election, mail: election day
IN	c d t s c	County Election Board	in person: noon election day, mail: before close of	in person: Monday before election, mail:

RECEIVED

Bill Gilkenson
919 715-5460

-733-2578

State	Who May Vote Absentee	Where to Get Absentee Ballot	Deadline for Requesting Absentee Ballot	Deadline for Returning Absentee Ballot
			polls	noon election day
IA	any registered voter	County Auditor, satellite absentee voting stations	in person: election day, mail: before close of polls	in person: close of polls, mail: postmarked 1 day before election
KS	any registered voter	County Election Office	in person: noon day before election, mail: Friday before election	in person: noon day before election, mail: close of polls
KY	c d s c * (12 days before election)	County Clerk	7 days before election	6pm election day
LA	c d e r t	Registrar of Voters	in person: 1 week before election, mail: before opening of polls	in person: 1 week before election, mail: opening of polls
ME	b c d e r t s c	Municipal Offices	election day	close of polls
MD	b c d t	local Board of Elections	Tuesday before election	in person: close of polls, mail: postmarked election day
MA	b c d e r t	local election official	noon day before election	close of polls
MI	b c d r t s c	local Clerk	in person: 4pm day before election, mail: 2pm Saturday before election	close of polls
MN	b c d r t	County Auditor	7pm day before election	in person: 1 day before election, mail: election day
MS	b c e t s c	Circuit Clerk	in person: Saturday before election, mail: in time to be delivered before close of polls	in person: noon Saturday before election, mail: 5pm day before election
MO	t d r e	election authority	5pm day before election	close of polls
MT	any registered voter	election administrator	noon day before election	close of polls
NE	b c d e r t s c	County Clerk or Election Commission	4pm Friday before election	in person: close of polls, mail: 10am 2 days after election
NV	any registered voter	Registrar of Voters	5pm Tuesday before election (may FAX if outside U.S.)	close of polls
NH	b c d r t	Town Clerk, Supervisor of the Checklist	in time for ballot to be mailed and returned	5pm day before election
NJ	b c d e t * (7 days before election)	County Clerk	in person: 1 day before election, mail: 7 days before election	close of polls
NM	any registered voter	County Clerk	in person: Saturday before election, mail: Thursday before election	7pm election day
NY	d t	County Board of Elections	in person: 1 day before election, mail: 7 days before election	in person: close of polls, mail: postmarked 1 day before election

State	Who May Vote Absentee	Where to Get Absentee Ballot	Deadline for Requesting Absentee Ballot	Deadline for Returning Absentee Ballot
NC	d t	County Board of Elections	in person: Friday before election, mail: 5pm Tuesday before election	5pm day before election
ND	b c d t	County Auditor, City Clerk, City Auditor	5pm day before election	in person: 5pm day before election, mail: 48 hours after close of polls
OH	d r t a c	County Board of Elections	noon Saturday before election	7:30pm election day
OK	any registered voter	County Election Board	Thursday, Friday, and Monday before election	7pm election day
OR	any registered voter	County Clerk	only need to request ballots if you do not receive normal mail delivery	8pm election day
PA	b c d e t	County Board of Elections	7 days before election	close of polls
RI	b c d r t	Board of Elections, Secretary of State	21 days before election	9pm election day
SC	b c d e r t	County Voter Registration Office	in person: before election, mail: 5pm 4 days before election	close of polls
SD	b c d e r t	County Auditor	3pm election day	close of polls
TN	c d r t s c * (20-5 days before election)	County Election Commission	in person: 3pm election day, mail: 5 days before election	before close of polls
TX	d t s c * (20-4 days before election)	County Clerk	7 days before election	close of polls
UT	b c d t	County Clerk	Friday before election	in person: 1 day before election, mail: postmarked election day
VT	any registered voter	Town Clerk	close of Clerk's office 1 day before election	close of polls
VA	b c d e r t	General Registrar of City or County	in person: 3 days before election, mail: 5 days before election	7pm election day
WA	any registered voter	County Auditor	in person: 1 day before election, mail: postmarked elect day	in person: close of polls, mail: postmarked elect day
WV	b c d r t s c	Circuit Clerk	in person: Saturday before election, mail: 6 days before election	in person: 1 day before election, mail: postmarked election day
WI	b c d r t s c	Municipal Clerk	in person: 5pm 1 day before election, mail: Friday before election	close of polls
WY	any registered voter	County Clerk	in time to be returned by close of polls	close of polls

VISITOR REGISTRATION SHEET

Election Law & Campaign Finance (Reform) 3-31-1999

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY

1. Jim R...
2. Barbara K Allen
3. Johnnie McLean
4. Marian Doud
5. Ken D. Hines
6. KAREN W...
7. Stacy
8. Mike Dym
9. Phillip Reese
10. Jim Blackburn
11. Rob Christensen
12. Ken Kivion
13. Chuck Barham
14. James Andrews
15. John MAY
16. _____
17. _____
18. _____
19. _____
20. _____
21. _____

1. UNC
2. Chair Dem. Party
3. SBE
4. League of Women Voters NC
5. Crow's office
6. AP
7. AP
8. Nashville
9. Asheville Citizen-Times
10. County Commrs Assoc.
11. News & Observer
12. American General
13. Resident Leaders of NC
14. NC State AFL-CIO
15. NC CWA Council
16. _____
17. _____
18. _____
19. _____
20. _____
21. _____

VISITOR REGISTRATION SHEET

ELECTION LAW AND CAMPAIGN FINANCE REFORM

APRIL 7, 1999

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
G. Markham	EGHS
Doris McABAY	Dob
Zee Lamb	State Board of Elections
Johnnie McLean	" " "
Joanne Southerland	" " "
Gary C. Bartlett	" " "
Lu Ann Coe	Farmers for Fairness
Joan Clark	N.C. York Region
Lisa Piercy	NC Assn Life Underwriters
Katherine Joyce	SEANC
Deborah KRS	ALHA
Cherokee Reiss	NC Center for Nonprofits
Kate McGuire	NC Center for Nonprofits
George Reed	NC Council of Churches
John M. May	NC CWA Council
T. J. [unclear]	PILOT (San. Times)
Art [unclear]	GP
Rob Christensen	NJO
Lynna Binner	NJO
Ligian Braswell	MGNS
Phillip Reese	Asheville Citizen-Times
Kathy Sawyer	Commerce
Ann [unclear]	BDMH L

ATTENDANCE

ELECTION LAW AND CAMPAIGN REFORM

(Name of Committee)

DATES	3/10	3/17	3/24	3/31	4/7	4/14	4/21	4/28	4/23	5/5	5/16	5/23	6/30	7/7	7/14
ALEXANDER, MARTHA CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BONNER, DONALD CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BERRY, CHERIE	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
DECKER, MICHAEL					✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
DEDMON, ANDREW	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
GOODWIN, WAYNE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
HENSLEY, BOB			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
INSKO, VERLA		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
JUSTUS, LARRY	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
KISER, JOE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
LUEBKE, PAUL		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
MELTON, MAX	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
MICHAUX, H.M.		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NEELY, CHARLES / <i>Pope, Art</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NESBITT, MARTIN		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ROGERS, GENE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
THOMPSON, GREGORY	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
WILSON, CONNIE	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<i>Ex-officio</i>															
<i>Baddour, Phil</i>				✓	✓	✓									
<i>Cunningham, Pete</i>			✓			✓	✓		✓	✓	✓				
<i>Hackney, Joe</i>							✓								

AGENDA

**HOUSE COMMITTEE
ON**

ELECTION LAW AND CAMPAIGN FINANCE REFORM

**APRIL 14, 1999
Room 1228/1327
11:00 a.m.**

Presiding: Representative Donald A. Bonner, Chair

OPENING REMARKS:

Representative Donald A. Bonner, Chair

DISCUSSION:

HB 175

HB 921

COMMENTS FROM COMMITTEE

ADJOURNMENT

**MINUTES OF THE MEETING
ELECTION LAW AND CAMPAIGN FINANCE REFORM**

**APRIL 14, 1999
11:00 AM**

The meeting was called to order by presiding co-chair, Rep. Martha Alexander, who welcomed the committee members and introduced the staff of the Sergeant at Arms, and the pages.

Rep. Phil Baddour was called on for further remarks begun at last week's meeting and presented the Committee Substitute for House Bill 921, Campaign Finance Changes, attached hereto as Exhibit 1, for explanation of the changes and questions and discussion.

Rep. C. Wilson moved that the Committee Substitute be before the Committee. Rep. Hensley said that at the appropriate time, he would move for a favorable report of the Committee Substitute, unfavorable as to the original bill.

Staff counsel, Bill Gilkeson, reviewed Sections 5 – 7 of the bill. There was discussion of the section of corporate gifts and non-profit corporate designation.

Rep. Baddour introduced Susan Nichols from the Attorney General's office who is assigned to work with the State Board of Elections, to answer legal questions.

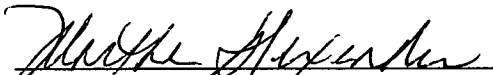
A question and answer and discussion period followed.

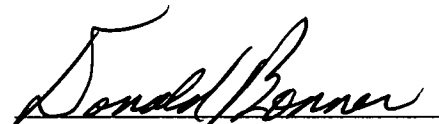
Rep. Hensley moved for a favorable report as to the Committee Substitute, unfavorable as to the original. The motion carried on a voice vote.

Rep. Nesbitt spoke briefly on HB 175, Absentee Voting Changes and presented a Committee Substitute. Rep. Cunningham moved that the Committee Substitute be before the Committee, and it was passed.

The meeting was adjourned with further discussion scheduled for the next Committee Meeting on April 21, 1999.

Respectfully submitted:


Martha Alexander, Co-chair


Donald Bonner, Co-chair


Ann Faust, Committee Assistant

Exhibit 1.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 921*

Proposed Committee Substitute H921-PCS2286-RR

Short Title: Campaign Finance Changes.

(Public)

Sponsors:

Referred to:

April 5, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO REWRITE THE DEFINITIONS OF "POLITICAL COMMITTEE,"
3 "CONTRIBUTION," "EXPENDITURE," AND "CANDIDATE"; TO ADD A
4 DEFINITION OF "INDEPENDENT EXPENDITURE"; TO REMOVE THE
5 TERM "POLITICAL PURPOSE"; TO NARROW THE PROHIBITION ON
6 CORPORATE AND OTHER POLITICAL EXPENDITURES TO
7 CONSTITUTIONAL BOUNDS; TO MERGE THE FIRST QUARTERLY
8 REPORT WITH THE PRE-PRIMARY REPORT; TO AMEND THE STATUTES
9 WITH REGARD TO REPORTING CONTRIBUTIONS AND EXPENDITURES;
10 AND TO MAKE OTHER CHANGES RELATED TO REPAIRING THE
11 CAMPAIGN STATUTES AFTER THE DECISION OF THE FOURTH U.S.
12 CIRCUIT COURT OF APPEALS IN NORTH CAROLINA RIGHT TO LIFE,
13 INC., V. BARTLETT.
14 The General Assembly of North Carolina enacts:
15 -- REDEFINING "POLITICAL COMMITTEE" AND RELATED CHANGES.
16 Section 1.(a) G.S. 163-278.6(14) reads as rewritten:
17 "(14) The term 'political committee' means a combination of two or
18 more individuals, or any person, committee, association, or
19 organization, ~~the primary or incidental purpose of which is to~~
20 ~~support or oppose any candidate or political party or to influence~~
21 ~~or attempt to influence the result of an election or which accepts~~
22 ~~contributions or makes~~ or other entity that makes, or accepts

1 anything of value to make, contributions or expenditures and has
2 one or more of the following characteristics:

- 3 a. Is controlled by a candidate;
4 b. Is a political party or executive committee of a political
5 party or is controlled by a political party or executive
6 committee of a political party;
7 c. Is created by a corporation, business entity, insurance
8 company, labor union, or professional association pursuant
9 to G.S. 163-278.19(b); or
10 d. Has as a major purpose expenditures for the purpose of
11 influencing or attempting to influence to support or oppose
12 the nomination or election of any candidate at any election,
13 or which one or more clearly identified candidates.

14 Supporting or opposing the election of clearly identified
15 candidates includes supporting or opposing the candidates of a
16 clearly identified political party.

17 An entity is rebuttably presumed to have as a major purpose to
18 support or oppose the nomination or election of one or more
19 clearly identified candidates if it contributes or expends or both
20 contributes and expends during an election cycle more than three
21 thousand dollars (\$3,000). Contributions to referendum committees
22 and expenditures to support or oppose ballot issues shall not be
23 facts considered to give rise to the presumption or otherwise be
24 used in determining whether an entity is a political committee.

25 If the entity qualifies as a 'political committee' under sub-
26 subdivision a., b., c., or d. of this subdivision, it continues to be a
27 political committee if it receives contributions to repay loans or
28 cover a deficit, or which makes expenditures to satisfy obligations
29 of an election already held. The term includes, without limitation,
30 any political party's State, county or district executive committee,
31 or maintains assets or liabilities. A political committee ceases to
32 exist when it winds up its operations, disposes of its assets, and files
33 its final report."

34 Section 1.(b) G.S. 163-278.6 is amended by adding a new subdivision to

35 read:

36 "(7c) The term 'election cycle' means the period of time from January 1
37 after an election for an office through December 31 after the
38 election for the next term of the same office. Where the term is
39 applied in the context of several offices with different terms,
40 'election cycle' means the period from January 1 of an odd-
41 numbered year through December 31 of the next even-numbered
42 year."

43 Section 1.(c) Article 22A of Chapter 163 of the General Statutes is
44 amended by adding a new section to read:

1 "§ 163-278.34A, Presumptions.

2 In any proceeding brought pursuant to this Article in which a presumption arises
3 from the proof of certain facts, the defendant has the burden of offering some
4 evidence to rebut the presumption. The State bears the ultimate burden of proving
5 the essential elements of its case."

6 Section 1.(d) G.S. 163-278.16(a) reads as rewritten:

7 "(a) Except as provided in G.S. 163-278.6(14) and G.S. 163-278.12, no
8 contribution may be received or expenditure made by or on behalf of a candidate,
9 political committee, or referendum committee:

10 (1) Until the candidate, political committee, or referendum committee
11 appoints a treasurer and certifies the name and address of the
12 treasurer to the Board; and

13 (2) Unless the contribution is received or the expenditure made by or
14 through the treasurer of the candidate, political committee, or
15 referendum committee."

16 -- REDEFINING "CONTRIBUTION" AND "EXPENDITURE"; DEFINING
17 "INDEPENDENT EXPENDITURE"; AND CHANGING THE SPECIAL
18 REPORTING REQUIREMENT FOR CONTRIBUTIONS AND INDEPENDENT
19 EXPENDITURES.

20 Section 2.(a) G.S. 163-278.6(6) reads as rewritten:

21 "(6) The terms 'contribute' or 'contribution' mean any advance,
22 conveyance, deposit, distribution, transfer of funds, loan, payment,
23 gift, pledge or subscription of money or anything of value
24 whatsoever, to a candidate, political committee, political party, or
25 referendum committee, from any person or individual, whether or
26 not made in an election year, and any contract, agreement, promise
27 or other obligation, whether or not legally enforceable, to make a
28 ~~contribution, in support of or in opposition to any candidate,~~
29 ~~political committee, referendum committee, or political party-~~
30 contribution. These terms include, without limitation, such
31 contributions as labor or personal services, postage, publication of
32 campaign literature or materials, in-kind transfers, loans or use of
33 any supplies, office machinery, vehicles, aircraft, office space, or
34 similar or related services, goods, or personal or real property.
35 These terms also include, without limitation, the proceeds of sale
36 of services, campaign literature and materials, wearing apparel,
37 tickets or admission prices to campaign events such as rallies or
38 dinners, and the proceeds of sale of any campaign-related services
39 or ~~goods notwithstanding goods.~~ Notwithstanding the foregoing
40 meanings of 'contribution,' the word shall not be construed to
41 include services provided without compensation by individuals
42 volunteering a portion or all of their time on behalf of a candidate,
43 political committee, or referendum committee. The term
44 'contribution' does not include an 'independent expenditure.'"

1 Section 2.(b) G.S. 163-278.6(9) reads as rewritten:

2 "(9) The terms 'expend' or 'expenditure' mean any purchase, advance,
3 conveyance, deposit, distribution, transfer of funds, loan, payment,
4 gift, pledge or subscription of money or anything of value
5 whatsoever, ~~from any person or individual~~, whether or not made in
6 an election year, and any contract, agreement, promise or other
7 obligation, whether or not legally enforceable, to make an
8 expenditure, ~~in support of or in opposition to~~ to support or oppose
9 the nomination, election, or passage of any candidate, political
10 committee, referendum committee, or political party. one or more
11 clearly identified candidates, or ballot measure. Supporting or
12 opposing the election of clearly identified candidates includes
13 supporting or opposing the candidates of a clearly identified
14 political party. The term 'expenditure' also includes any payment
15 or other transfer made by a candidate, political committee, or
16 referendum committee. The special definition of 'expenditure' in
17 G.S. 163-278.12A applies only in that section."

18 Section 2.(c) G.S. 163-278.6 is amended by adding a new subdivision to

19 read:

20 "(9a) The term 'independently expend' or 'independent expenditure'
21 means an expenditure to support or oppose the nomination or
22 election of one or more clearly identified candidates that is made
23 without consultation or coordination with a candidate or agent of a
24 candidate whose nomination or election the expenditure supports
25 or whose opponent's nomination or election the expenditure
26 opposes. Supporting or opposing the election of clearly identified
27 candidates includes supporting or opposing the candidates of a
28 clearly identified political party. A contribution is not an
29 independent expenditure. As applied to referenda, the term
30 'independent expenditure' applies if consultation or coordination
31 does not take place with a referendum committee that supports a
32 ballot measure the expenditure supports, or a referendum
33 committee that opposes the ballot measure the expenditure
34 opposes."

35 Section 2.(d) G.S. 163-278.12 reads as rewritten:

36 "~~§ 163-278.12. Contributions and expenditures by an individual other than a~~
37 ~~candidate. Special reporting of contributions and independent expenditures.~~

38 (a) ~~Subject to G.S. 163-278.16(f) and 163-278.14, it shall be permissible for an~~
39 ~~individual other than a candidate to~~ individuals and other entities not otherwise
40 prohibited from doing so may make contributions or expenditures in support of, or in
41 opposition to, any candidate, political committee, or referendum committee other
42 than by contribution to a candidate, political committee, or referendum committee.
43 independent expenditures. In the event an individual or other entity making
44 independent expenditures but not otherwise required to report them makes

1 ~~contributions or expenditures, other than by contribution to a candidate, political~~
2 ~~committee, or referendum committee, independent expenditures in excess of one~~
3 ~~hundred dollars (\$100.00), then, within 10 days after making such a contribution or~~
4 ~~expenditure, he that individual or entity shall file a statement of such contribution or~~
5 ~~independent expenditure with the Board in accordance with the terms and conditions~~
6 ~~of G.S. 163-278.11. appropriate board of elections in the manner prescribed by the~~
7 State Board of Elections.

8 (b) Any entity other than an individual that is permitted to make contributions but
9 is not otherwise required to report them shall report each contribution in excess of
10 one hundred dollars (\$100.00) with the appropriate board of elections in the manner
11 prescribed by the State Board of Elections.

12 (c) In assuring compliance with subsections (a) and (b) of this section, the State
13 Board of Elections shall require the identification of each entity making a donation of
14 more than one hundred dollars (\$100.00) to the entity filing the report if the donation
15 was made for the purpose of furthering the reported independent expenditure or
16 contribution.

17 (d) Contributions or expenditures required to be reported under this section shall
18 be reported within 30 days after they exceed one hundred dollars (\$100.00) or 10
19 days before an election the contributions or expenditures affect, whichever occurs
20 earlier."

21 -- REDEFINING THE TERM "CANDIDATE".

22 Section 3. G.S. 163-278.6(4) reads as rewritten:

23 "(4) The term 'candidate' means any individual who, with respect to a
24 public office listed in G.S. 163-278.6(18), has filed a notice of
25 candidacy or a petition requesting to be a candidate, or has been
26 certified as a nominee of a political party for a vacancy, ~~or~~ has
27 otherwise qualified as a candidate in a manner authorized by ~~law.~~
28 law, or has received funds or made payments or has given the
29 consent for anyone else to receive funds or transfer anything of
30 value for the purpose of exploring or bringing about that
31 individual's nomination or election to office. Transferring anything
32 of value includes incurring an obligation to transfer anything of
33 value. Status as a candidate for the purpose of this Article
34 continues if the individual is receiving contributions to repay loans
35 or cover a deficit or is making expenditures to satisfy obligations
36 from an election already held."

37 -- REMOVING THE TERM "POLITICAL PURPOSE".

38 Section 4.(a) G.S. 163-278.6(16) is repealed.

39 Section 4.(b) G.S. 163-278.16(g) reads as rewritten:

40 "(g) All printed matter ~~for a political purpose~~ from a political party or political
41 committee which ~~identifies a candidate that party or committee is opposing~~ opposes
42 the nomination or election of a clearly identified candidate shall indicate in type no
43 smaller than 12 point the name of the political party or political committee and the
44 name of the candidate that is intended to benefit from the printed matter."

Section 4.(c) G.S. 163-278.36 reads as rewritten:

"§ 163-278.36. Elected officials to report funds.

All ~~contributions~~ donations to, and all ~~expenditures~~ payments from any 'booster fund,' 'support fund,' 'unofficial office account' or any other similar source ~~which are~~ made ~~to, in behalf of,~~ or used in support of ~~any person holding~~ an individual's candidacy for elective office, or in support of an individual's duties and activities while in an elective office for any political purpose whatsoever during his term of office shall be deemed contributions and expenditures as defined in this Article and shall be reported as contributions and expenditures as required by this Article. The ~~annual report~~ reports due in January and July of each year shall show the balance of each separate fund or account maintained on behalf of the elected office holder."

Section 4.(d) G.S. 163-278.19(a) reads as rewritten:

"(a) Except as provided in ~~G.S. 163-278.19(b)~~, subsections (b), (d), (e), and (f) of this section it shall be unlawful for any corporation, business entity, labor union, professional association or insurance company directly or indirectly:

(1) To make any contribution to a candidate or political committee or expenditure (except a loan of money by a national or State bank or federal or State savings and loan association made in accordance with the applicable banking or savings and loan association laws and regulations and in the ordinary course of business) ~~in aid or in behalf of or in opposition to any candidate or political committee in any election or for any political purpose whatsoever; or to make any expenditure to support or oppose the nomination or election of a clearly identified candidate;~~

(2) To pay or use or offer, consent or agree to pay or use any of its money or property ~~for or in aid of or in opposition to any candidate or political committee or for or in aid of any person, organization or association organized or maintained for political purposes, or for or in aid of or in opposition to any candidate or political committee or for any political purpose whatsoever; and for any contribution to a candidate or political committee or for any expenditure to support or oppose the nomination or election of a clearly identified candidate; or~~

(3) To ~~reimburse~~ compensate, reimburse, or indemnify any person or individual for money or property so used or for any contribution or expenditure so made;

and it shall be unlawful for any officer, director, stockholder, attorney, agent or member of any corporation, business entity, labor union, professional association or insurance company to aid, abet, advise or consent to any such contribution or expenditure, or for any person or individual to solicit or knowingly receive any such contribution or expenditure. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. Any officer, director, stockholder, attorney, agent or member of any corporation, business entity, labor union, professional association or insurance

1 company aiding or abetting in any contribution or expenditure made in violation of
2 this section shall be guilty of a Class 2 misdemeanor, and shall in addition be liable to
3 such corporation, business entity, labor union, professional association or insurance
4 company for the amount of such contribution or expenditure, and the same may be
5 recovered of him upon suit by any stockholder or member thereof."

6 -- PERMITTING CONTRIBUTIONS AND INDEPENDENT EXPENDITURES BY
7 NONBUSINESS CORPORATIONS; REMOVING REDUNDANT STATUTES
8 CONCERNING CORPORATE AND INSURANCE COMPANY
9 CONTRIBUTIONS; AND MAKING CONFORMING CHANGES.

10 Section 5.(a) G.S. 163-278.19 is amended by adding a new subsection to
11 read:

12 "(f) This section does not prohibit a contribution or independent expenditure by
13 an entity that:

- 14 (1) Has as an express purpose promoting social, educational, or
15 political ideas and not to generate business income;
16 (2) Does not have shareholders or other persons which have an
17 economic interest in its assets and earnings;
18 (3) Is exempt from or has a pending application to be exempt from
19 federal income taxation; and
20 (4) Was not established by a business corporation, by an insurance
21 company, by a business entity, including, but not limited to, those
22 chartered under Chapter 55, Chapter 55A, Chapter 55B, or
23 Chapter 58 of the General Statutes, by a professional association,
24 or by a labor union and does not receive substantial revenue from
25 such entities. Substantial revenue is rebuttably presumed to be
26 more than ten percent (10%) of total revenues in a calendar year."

27 Section 5.(b) G.S. 163-269 and G.S. 163-270 are repealed.

28 Section 5.(c) G.S. 163-278.13 reads as rewritten:

29 "**§ 163-278.13. Limitation on contributions.**

30 (a) No ~~individual or political committee~~ individual, political committee, or other
31 entity shall contribute to any candidate or other political committee any money or
32 make any other contribution in any election in excess of four thousand dollars
33 (\$4,000) for that election.

34 (b) No candidate or political committee shall accept or solicit any contribution
35 from any ~~individual or other political committee~~ individual, other political
36 committee, or other entity of any money or any other contribution in any election in
37 excess of four thousand dollars (\$4,000) for that election.

38 (c) Notwithstanding the provisions of subsections (a) and (b) of this section, it
39 shall be lawful for a candidate or a candidate's spouse, parents, brothers and sisters to
40 make a contribution to the candidate or to the candidate's treasurer of any amount of
41 money or to make any other contribution in any election in excess of four thousand
42 dollars (\$4,000) for that election.

43 (d) For the purposes of this section, the term 'an election' means any primary,
44 second primary, or general election in which the candidate or political committee

1 may be involved, without regard to whether the candidate is opposed or unopposed
2 in the election, except that where a candidate is not on the ballot in a second
3 primary, that second primary is not 'an election' with respect to that candidate.

4 (e) This section shall not apply to any national, State, district or county executive
5 committee of any political party. For the purposes of this section only, the term
6 'political party' means only those political parties officially recognized under G.S.
7 163-96.

8 (e1) No referendum committee which received any contribution from a
9 corporation, labor union, insurance company, business entity, or professional
10 association may make any contribution to another referendum committee, to a
11 candidate or to a political committee.

12 (f) Any individual, candidate, political committee, ~~or referendum committee who~~
13 committee, or other entity that violates the provisions of this section is guilty of a
14 Class 2 misdemeanor."

15 Section 5.(d) G.S. 163-278.13B(a)(1) reads as rewritten:

16 "(1) 'Limited contributor' means a lobbyist registered pursuant to
17 Article 9A of Chapter 120 of the General Statutes, that lobbyist's
18 agent, that lobbyist's principal as defined in G.S. 120-47.1(7), or a
19 political committee that employs or contracts with or whose parent
20 entity employs or contracts with a lobbyist registered pursuant to
21 Article 9A of Chapter 120 of the General Statutes."

22 Section 5.(e) G.S. 163-278.15 reads as rewritten:

23 "**§ 163-278.15. No acceptance of contributions made by corporations, foreign and**
24 **domestic.**

25 No candidate, political committee, political party, or treasurer shall accept any
26 contribution made by any corporation, foreign or domestic, regardless of whether
27 such corporation does business in the State of North Carolina. This section does not
28 apply with regard to entities permitted to make contributions by G.S. 163-278.19(f)."

29 -- CLARIFYING WHAT IS COVERED BY ARTICLE 22A AND WHAT IS
30 ACTIVITY THAT CONSTITUTES INDIRECT CONTRIBUTIONS BY
31 CORPORATIONS, ETC.

32 Section 6.(a) Part 1 of Article 22A of Chapter 163 of the General Statutes
33 is amended by adding a new section to read:

34 "**§ 163-278.5. Scope of Article; severability.**

35 The provisions of this Article apply to primaries and elections for North Carolina
36 offices and do not apply to primaries and elections for federal offices or offices in
37 other States. Any provision in this Article that regulates a non-North Carolina entity
38 does so only to the extent that the entity's actions affect elections for North Carolina
39 offices.

40 The provisions of this Article are severable. If any provision is held invalid by a
41 court of competent jurisdiction, the invalidity does not affect other provisions of the
42 Article that can be given effect without the invalid provision."

43 Section 6.(b) G.S. 163-278.19 is amended by adding a new subsection to
44 read:

1 "(a1) A transfer of funds shall be deemed to have been a contribution or
2 expenditure made indirectly if it is made to any committee or political party account,
3 whether inside or outside this State, with the intent or purpose of being exchanged in
4 whole or in part for any other funds to be contributed or expended in an election for
5 North Carolina office or to offset any other funds contributed or expended in an
6 election for North Carolina office."

7 -- MERGING THE FIRST QUARTER REPORT AND THE PRE-PRIMARY
8 REPORT.

9 Section 7.(a) G.S. 163-278.9(a)(2) is repealed.

10 Section 7.(b) G.S. 163-278.9(a)(5a) reads as rewritten:

11 "(5a) Quarterly Reports. -- During even-numbered years during which
12 there is an election for that candidate or in which the campaign
13 committee is supporting a candidate, the treasurer shall file a
14 report by mailing or otherwise delivering it to the Board no later
15 than seven working days after the end of each calendar quarter
16 covering the prior calendar quarter, except ~~that the~~ that:

17 a. The report for the first quarter shall also cover the period in
18 April through the seventeenth day before the primary, the
19 first quarter report shall be due seven days after that date,
20 and the second quarter report shall not include that period
21 if a first quarter report was required to be filed; and

22 b. The report for the third quarter shall also cover the period
23 in October through the seventeenth day before the election,
24 the third quarter report shall be due seven days after that
25 date, and the fourth quarter report shall not include that
26 period if a third quarter report was required to be filed."

27 Section 7.(c) This section becomes effective January 1, 2000, and applies
28 to all reports due on or after that date.

29 Section 8. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-31
HOUSE BILL 921

AN ACT TO REWRITE THE DEFINITIONS OF "POLITICAL COMMITTEE," "CONTRIBUTION," "EXPENDITURE," AND "CANDIDATE"; TO ADD A DEFINITION OF "INDEPENDENT EXPENDITURE"; TO REMOVE THE TERM "POLITICAL PURPOSE"; TO NARROW THE PROHIBITION ON CORPORATE AND OTHER POLITICAL EXPENDITURES TO CONSTITUTIONAL BOUNDS; TO MERGE THE FIRST QUARTERLY REPORT WITH THE PRE-PRIMARY REPORT; TO AMEND THE STATUTES WITH REGARD TO REPORTING CONTRIBUTIONS AND EXPENDITURES; AND TO MAKE OTHER CHANGES RELATED TO REPAIRING THE CAMPAIGN STATUTES AFTER THE DECISION OF THE FOURTH U.S. CIRCUIT COURT OF APPEALS IN NORTH CAROLINA RIGHT TO LIFE, INC., V. BARTLETT.

The General Assembly of North Carolina enacts:

-- REDEFINING "POLITICAL COMMITTEE" AND RELATED CHANGES.

Section 1.(a) G.S. 163-278.6(14) reads as rewritten:

"(14) The term 'political committee' means a combination of two or more individuals, or any person, committee, association, ~~or~~ organization, ~~the primary or incidental purpose of which is to support or oppose any candidate or political party or to influence or attempt to influence the result of an election or which accepts contributions or makes or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:~~

- a. Is controlled by a candidate;
- b. Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party;
- c. Is created by a corporation, business entity, insurance company, labor union, or professional association pursuant to G.S. 163-278.19(b); or
- d. Has as a major purpose expenditures for the purpose of influencing or attempting to influence to support or oppose the nomination or election of any candidate at any election, or which one or more clearly identified candidates.

Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party.

An entity is rebuttably presumed to have as a major purpose to support or oppose the nomination or election of one or more

CONCERNING CORPORATE AND INSURANCE COMPANY CONTRIBUTIONS; AND MAKING CONFORMING CHANGES.

Section 5.(a) G.S. 163-278.19 is amended by adding a new subsection to read:

"(f) This section does not prohibit a contribution or independent expenditure by an entity that:

- (1) Has as an express purpose promoting social, educational, or political ideas and not to generate business income;
- (2) Does not have shareholders or other persons which have an economic interest in its assets and earnings; and
- (3) Was not established by a business corporation, by an insurance company, by a business entity, including, but not limited to, those chartered under Chapter 55, Chapter 55A, Chapter 55B, or Chapter 58 of the General Statutes, by a professional association, or by a labor union and does not receive substantial revenue from such entities. Substantial revenue is rebuttably presumed to be more than ten percent (10%) of total revenues in a calendar year."

Section 5.(b) G.S. 163-269 and G.S. 163-270 are repealed.

Section 5.(c) G.S. 163-278.13 reads as rewritten:

"§ 163-278.13. Limitation on contributions.

(a) No ~~individual or political committee~~ individual, political committee, or other entity shall contribute to any candidate or other political committee any money or make any other contribution in any election in excess of four thousand dollars (\$4,000) for that election.

(b) No candidate or political committee shall accept or solicit any contribution from any ~~individual or other political committee~~ individual, other political committee, or other entity of any money or any other contribution in any election in excess of four thousand dollars (\$4,000) for that election.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be lawful for a candidate or a candidate's spouse, parents, brothers and sisters to make a contribution to the candidate or to the candidate's treasurer of any amount of money or to make any other contribution in any election in excess of four thousand dollars (\$4,000) for that election.

(d) For the purposes of this section, the term 'an election' means any primary, second primary, or general election in which the candidate or political committee may be involved, without regard to whether the candidate is opposed or unopposed in the election, except that where a candidate is not on the ballot in a second primary, that second primary is not 'an election' with respect to that candidate.

(e) This section shall not apply to any national, State, district or county executive committee of any political party. For the purposes of this section only, the term 'political party' means only those political parties officially recognized under G.S. 163-96.

(e1) No referendum committee which received any contribution from a corporation, labor union, insurance company, business entity, or professional association may make any contribution to another referendum committee, to a candidate or to a political committee.

(f) Any individual, candidate, political committee, ~~or referendum committee who~~ committee, or other entity that violates the provisions of this section is guilty of a Class 2 misdemeanor."

Section 5.(d) G.S. 163-278.13B(a)(1) reads as rewritten:

"(1) 'Limited contributor' means a lobbyist registered pursuant to Article 9A of Chapter 120 of the General Statutes, that lobbyist's agent, that lobbyist's principal as defined in G.S. 120-47.1(7), or a

political committee that employs or contracts with or whose parent entity employs or contracts with a lobbyist registered pursuant to Article 9A of Chapter 120 of the General Statutes."

Section 5.(e) G.S. 163-278.15 reads as rewritten:

"§ 163-278.15. No acceptance of contributions made by corporations, foreign and domestic.

No candidate, political committee, political party, or treasurer shall accept any contribution made by any corporation, foreign or domestic, regardless of whether such corporation does business in the State of North Carolina. This section does not apply with regard to entities permitted to make contributions by G.S. 163-278.19(f)."

-- CLARIFYING WHAT IS COVERED BY ARTICLE 22A AND WHAT IS ACTIVITY THAT CONSTITUTES INDIRECT CONTRIBUTIONS BY CORPORATIONS, ETC.

Section 6.(a) Part 1 of Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-278.5. Scope of Article; severability.

The provisions of this Article apply to primaries and elections for North Carolina offices and do not apply to primaries and elections for federal offices or offices in other States. Any provision in this Article that regulates a non-North Carolina entity does so only to the extent that the entity's actions affect elections for North Carolina offices.

The provisions of this Article are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the Article that can be given effect without the invalid provision."

Section 6.(b) G.S. 163-278.19 is amended by adding a new subsection to read:

"(a1) A transfer of funds shall be deemed to have been a contribution or expenditure made indirectly if it is made to any committee or political party account, whether inside or outside this State, with the intent or purpose of being exchanged in whole or in part for any other funds to be contributed or expended in an election for North Carolina office or to offset any other funds contributed or expended in an election for North Carolina office."

-- MERGING THE FIRST QUARTER REPORT AND THE PRE-PRIMARY REPORT.

Section 7.(a) G.S. 163-278.9(a)(2) is repealed.

Section 7.(b) G.S. 163-278.9(a)(5a) reads as rewritten:

"(5a) Quarterly Reports. -- During even-numbered years during which there is an election for that candidate or in which the campaign committee is supporting a candidate, the treasurer shall file a report by mailing or otherwise delivering it to the Board no later than seven working days after the end of each calendar quarter covering the prior calendar quarter, except ~~that the that~~:

a. The report for the first quarter shall also cover the period in April through the seventeenth day before the primary, the first quarter report shall be due seven days after that date, and the second quarter report shall not include that period if a first quarter report was required to be filed; and

b. The report for the third quarter shall also cover the period in October through the seventeenth day before the election, the third quarter report shall be due seven days after that date, and the fourth quarter report shall not include that period if a third quarter report was required to be filed."

Section 7.(c) This section becomes effective January 1, 2000, and applies to all reports due on or after that date.

Section 8. This act is effective when it becomes law.

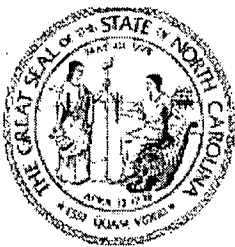
In the General Assembly read three times and ratified this the 29th day of April, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 1:30 p.m. this 4th day of May, 1999



HOUSE BILL 921: Campaign Finance Changes

BILL ANALYSIS

Committee: General Assembly and Governor
Date: July 22, 1999
Version: Session Law 1999-31

Introduced by: Baddour, Alexander, Bonner
Summary by: William R. Gilkeson
Staff Attorney

Session Law 1999-31 (House Bill 921) makes several changes to the N.C. Campaign Finance Act designed to restore it to enforceability. The decision of N.C. Right to Life, Inc. v. Bartlett, issued by the 4th Circuit Court of Appeals in February, invalidated as overbroad North Carolina's definition of "political committee." That definition is key to enforcement of the whole statute. The Court also invalidated as overbroad the State's ban on contributions and expenditures by corporations and unions. Both invalidated statutes, the Court said, contained provisions that were constitutionally acceptable. But because they went too far, the Court said in effect that they could not be enforced at all until they were narrowed. The bill attempts to do that narrowing so the statutes can be enforced again against their legitimate objects.

1. **Redefining "Political Committee."** To narrow the definition, the bill says a group is a political committee if it has at least one of the following characteristics:
 - Is controlled by a candidate;
 - Is a political party or is controlled by a party;
 - Is set up by a corporation, other business entity, union, or professional association as a connected political committee;
 - Has as a major purpose "to support or oppose the nomination or election of a clearly identified candidate." (That term includes supporting or opposing candidates of a clearly identified political party.)

The presumption is raised that a group has as a major purpose to support or oppose, etc., if the group expends more than \$3,000 during an election cycle to support or oppose, etc. This presumption is rebuttable.

2. **Redefining Terms Related to Political Committee; Special Reporting.** The bill redefines the terms "contribution" and "expenditure" to conform to the current thinking of the courts. It adds a new definition of "independent expenditure," a payment that supports or opposes the nomination or election of a candidate, but is not made in consultation with a candidate. Current law says an individual may make independent expenditures but must report them if they exceed \$100. The bill extends that requirement to other entities that may make independent expenditures (i.e., non-business corporations and groups that don't meet the significant purpose threshold to be a full-blown political committee). If the entity is not just an individual, it must also report all its contributions over \$100. It must also report contributions made to it if they were made for the purpose of furthering the group's contribution or expenditure. The reports must be made within 30 days, or at least 10 days before an election, whichever occurs first.

HOUSE BILL 921

Page 2

3. **Redefining the Term "Candidate."** The current definition of "candidate" is limited to those who have filed their notice of candidacy. Because the bill bases the key definitions on supporting or opposing the nomination or election of a clearly identified "candidate," the current definition would not always work. The bill extends the definition of "candidates" to include those who raise or spend (or authorize others to do so) "for the purpose of bringing about that individual's nomination or election to office."
4. **Removing the Term "Political Purpose."** "Political purpose" is a term in North Carolina's law that the court found to be overly broad. A computer search found that the term is rarely used. The bill repeals the term and replaces it where it was found with the "support or oppose the nomination or election of" concept.
5. **Permitting Contributions and Independent Expenditures by Non-Business Corporations.** The court held that the State's statute that bans contributions and expenditures by corporations (as well as other business entities, unions, and professional associations) is overbroad. The court said the problem is that the law has no exception for non-business, idea-oriented corporations such as it found N.C. Right to Life, Inc., to be. The bill allows those special non-business corporations to make both contributions and expenditures. It defines the special corporation as one that has all of the following characteristics:
 - Has as an express purpose to promote social, educational, or political ideas and not to generate business income.
 - Does not have shareholders that have an economic interest in its assets and earnings.
 - Not formed by a business corporation (or other business entity or union, etc.) and does not receive substantial revenue from such entities. Substantial revenue is rebuttably presumed to be more than 10 percent in a calendar year.
6. **Clarifying What the N.C. Campaign Finance Law Covers and What Constitutes Indirect Contributions by Corporations.** This clarifies that the Campaign Finance Law applies only to elections for North Carolina offices and not elections for federal offices and offices in other states. The act regulates non-North Carolina entities only as their actions affect elections for North Carolina offices. This section also addresses the situation in which a business corporation, union, etc., forbidden by North Carolina law to put money into elections for North Carolina offices, circumvents that prohibition by sending money through an account of an outside organization – such as a national party's "soft money" account – with the understanding that the money or some replacement for the money will find its way back into the North Carolina system, perhaps through the State party. The bill says that such a practice is an indirect contribution or expenditure.
7. **Merging the 1st Quarter and the Pre-Primary Reports.** Now, candidates and political committees must make a report at least 10 days before a primary if they are in a primary. If they are not in a primary, they do not have to make that report. Everyone must make quarterly reports. The first quarter report is due seven working days after the first of April. So a candidate who is in a primary must make a quarterly report and then two weeks later file a pre-primary report. The bill eliminates the pre-primary report. So that last minute disclosure is not lost, the 1st quarter report deadline is moved to 10 days before the primary. The effect is to merge the 1st quarter and the pre-primary reports.

The bill went into effect when it became law. It was ratified April 29, signed by the Governor May 4, and given Voting Rights Act preclearance by the U.S. Attorney General June 14, 1999.

PUBLIC BILL

C321

H.B. _____

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES IN THE CAMPAIGN FINANCE LAWS.

Introduced by Representative(s)

Baddour

Alexander

Bonner

Insko
Kennwright

Smith
Hurley

Barnett

Gordon

Principal Clerk's Use Only

PASSED 1st READING
APR 5 1999
REFERRED TO COMMITTEE
Estlin L. W. Arnold
Campaign Finance Reform

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Alexander and Bonner** for the Committee on **Election Law and Campaign Finance Reform**.

☐ Committee Substitute for

H.B. 921 A BILL TO BE ENTITLED AN ACT TO MAKE CHANGES IN THE
CAMPAIGN FINANCE LAWS.

- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .
- ☒ With a favorable report as to committee substitute bill (#), ☒ which changes the title, unfavorable as to (original bill) (~~Committee Substitute Bill #~~), (and recommendation that the committee substitute bill #) be re-referred to the Committee on)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

ELECTION LAW AND CAMPAIGN FINANCE REFORM 4-14, 1999

Date _____

NAME

Marian Dadd	League of Women Voters NC
Susan Nichols	Atty Gen's Office
Mary O. Bartlett	SBE
Wm L. Lortchland	State Bd of Elections
Johnnie McLean	" " "
Zee Lamb	" " "
Bernard Allen	SOS
Katherine Joyce	SEANC
Bob Hall	Democracy South
Lu-Ann Cole	Farmers for Fairness
Hattie English	NC Agribusiness Council
DON HOIBART	N.C. Atty Gen's Office
Jim Blackburn	Counties
John Sheros	NCLM
Jim	AD

ATTENDANCE

ELECTION LAW AND CAMPAIGN REFORM

(Name of Committee)

AM PM

DATES	3/10	3/17	3/24	3/31	4/7	4/14	4/21	4/21	4/23	5/5	5/16	5/23	6/30	7/7	7/8
ALEXANDER, MARTHA CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BONNER, DONALD CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BERRY, CHERIE	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
DECKER, MICHAEL					✓	✓	✓	✓	✓	✓	✓	✓	✓		
DEDMON, ANDREW	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
GOODWIN, WAYNE	✓	✓	✓	✓	✓	✓		✓		✓	✓		✓	✓	✓
HENSLEY, BOB			✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓
INSKO, VERLA		✓	✓	✓	✓	✓					✓	✓	✓	✓	✓
JUSTUS, LARRY	✓	✓		✓		✓	✓	✓		✓		✓	✓	✓	✓
KISER, JOE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
LUEBKE, PAUL		✓	✓	✓		✓	✓	✓			✓		✓	✓	✓
MELTON, MAX	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
MICHAUX, H.M.		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
NEELY, CHARLES / <i>Pope, Art</i>	✓	✓	✓	✓	✓	(R)	✓	✓	✓	✓	✓	✓	✓	✓	✓
NESBITT, MARTIN		✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓
ROGERS, GENE	✓	✓	✓	✓	✓	✓	✓			✓			✓	✓	✓
THOMPSON, GREGORY	✓	✓			✓		✓	✓		✓	✓	✓	✓	✓	
WILSON, CONNIE	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<i>Ex-officio</i>															
<i>Baddour, Phil</i>				✓	✓	✓									
<i>Cunningham, Pete</i>			✓			✓	✓		✓	✓	✓				
<i>Hackney, Joe</i>							✓								

AGENDA

**HOUSE COMMITTEE
ON**

ELECTION LAW AND CAMPAIGN FINANCE REFORM

**APRIL 21, 1999
Room 1228/1327
11:00 a.m.**

Presiding: Representative Donald A. Bonner, Chair

OPENING REMARKS:

Representative Donald A. Bonner, Chair

DISCUSSION:

HB 98

HB 1072

HB 175

COMMENTS FROM COMMITTEE

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON

ELECTION LAW AND CAMPAIGN REFORM

APRIL 21, 1999

The House Committee on Election Law and Campaign Reform met on Wednesday, April 21, 1999. The following members were present: Chairman Donald A. Bonner, Co-Chair Representative Alexander Representatives, Berry, Decker, Dedmon, Kiser, Justus, Luebke, Melton, Michaux, Pope, Nesbitt, Rogers, Thompson, Wilson Ex-officio Cunningham and Hackney, Staff Attorney Bill Gilkeson was present, as well as committee clerks Ann Faust and Lucy Johnson. A Visitor Registration list is attached and made part of these minutes.

The Chairman called the meeting to order to begin the Agenda of the day. The first item was the introduction of all members and visitors as well as committee assistants, pages and Sgt. At Arms.

The next order of business was Background on Election Law and Campaign explained by Bill Gilkeson, Staff Attorney.

The Chair recognized Representative Ron Sutton, to explain House Bill 98. After a brief discussion Representative sent forth an amendment. The committee passed House Bill 98 as an amended Bill.

The Chair recognized Representative Martha Alexander to explain House Bill 1072. After the explanation Staff Attorney William Gilkeson was recognized to answer questions from the body. Asking questions on the Bill were Representatives Thompson, Kiser, Decker and Justus. Mr. Gary O. Bartlett Director/CEO State Board of Elections came forward to explain and to entertain any questions. The Bill, House Bill 1072 received a favorable report as committee substitute but unfavorable as to the Bill.

Representative Nesbitt was recognized to introduce and explain House Bill 175. Asking questions were Representative Justus, Luebke, C. Wilson and Kiser. Representative Nesbitt passed out information on Committee Substitute, no vote was taken.

There being no further business, the Chair adjourned the meeting at 12:05 PM.

Respectively submitted,

Representative Donald A. Bonner
Chairman

Lucy B. Johnson
Committee Assistant

Attachments

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 98
Committee Substitute Favorable 4/22/99

Short Title: Four-Year Terms.

(Public)

Sponsors:

Referred to:

February 17, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO
3 PROVIDE FOR FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL
4 ASSEMBLY.

5 The General Assembly of North Carolina enacts:

6 Section 1. Section 2 of Article II of the Constitution of North Carolina
7 reads as rewritten:

8 "Sec. 2. Number of Senators.

9 The Senate shall be composed of 50 Senators, ~~biennially~~ quadrennially chosen by
10 ballot."

11 Section 2. Section 4 of Article II of the Constitution of North Carolina
12 reads as rewritten:

13 "Sec. 4. Number of Representatives.

14 The House of Representatives shall be composed of 120 Representatives, ~~biennially~~
15 quadrennially chosen by ballot."

16 Section 3. Section 8 of Article II of the Constitution of North Carolina
17 reads as rewritten:

18 "Sec. 8. Elections.

19 The election for members of the General Assembly shall be held for the respective
20 districts in ~~1972~~ 2000 and every ~~two~~ four years thereafter, at the places and on the
21 day prescribed by law."

22 Section 4. Section 2(1) of Article III of the Constitution of North
23 Carolina reads as rewritten:

1 "(1) **Election and term.** The Governor and Lieutenant Governor shall be elected
2 by the qualified voters of the State in ~~1972~~ 2000 and every four years thereafter,
3 ~~same time and places as members of the General Assembly are elected~~ at the places
4 and on the day prescribed by law. Their term of office shall be four years and shall
5 commence on the first day of January next after their election and continue until
6 their successors are elected and qualified."

7 Section 5. Section 7(3) of Article III of the Constitution of North
8 Carolina reads as rewritten:

9 "(3) **Vacancies.** If the office of any of these officers is vacated by death,
10 resignation, or otherwise, it shall be the duty of the Governor to appoint another to
11 serve until his successor is elected and qualified. Every such vacancy shall be filled
12 by election at the ~~first election for members of the General Assembly~~ first statewide
13 election for members of the United States House of Representatives, that occurs more
14 than 60 days after the vacancy has taken place, and the person chosen shall hold the
15 office for the remainder of the unexpired term fixed in this Section. When a vacancy
16 occurs in the office of any of the officers named in this Section and the term expires
17 on the first day of January succeeding the next election for members of the General
18 Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of
19 the office."

20 Section 6. Section 9(3) of Article IV of the Constitution of North
21 Carolina reads as rewritten:

22 "(3) **Clerks.** A Clerk of the Superior Court for each county shall be elected for a
23 term of four years by the qualified voters thereof, at the same time and places as
24 members of the ~~General Assembly~~ United States House of Representatives are
25 elected on a statewide basis. If the office of Clerk of the Superior Court becomes
26 vacant otherwise than by the expiration of the term, or if the people fail to elect, the
27 senior regular resident Judge of the Superior Court serving the county shall appoint
28 to fill the vacancy until an election can be regularly held."

29 Section 7. Section 18(1) of Article IV of the Constitution of North
30 Carolina reads as rewritten:

31 "(1) **District Attorneys.** The General Assembly shall, from time to time, divide the
32 State into a convenient number of prosecutorial districts, for each of which a District
33 Attorney shall be chosen for a term of four years by the qualified voters thereof, at
34 the same time and places as members of the ~~General Assembly~~ United States House
35 of Representatives are elected on a statewide basis. Only persons duly authorized to
36 practice law in the courts of this State shall be eligible for election or appointment as
37 a District Attorney. The District Attorney shall advise the officers of justice in his
38 district, be responsible for the prosecution on behalf of the State of all criminal
39 actions in the Superior Courts of his district, perform such duties related to appeals
40 therefrom as the Attorney General may require, and perform such other duties as the
41 General Assembly may prescribe."

42 Section 8. Section 19 of Article IV of the Constitution of North Carolina
43 reads as rewritten:

1 "Sec. 19. Vacancies. Unless otherwise provided in this Article, all vacancies
2 occurring in the offices provided for by this Article shall be filled by appointment of
3 the Governor, and the appointees shall hold their places until the ~~next election for~~
4 ~~members of the General Assembly~~ next statewide election for members of the United
5 States House of Representatives, that is held more than 60 days after the vacancy
6 occurs, when elections shall be held to fill the offices. When the unexpired term of
7 any of the offices named in this Article of the Constitution in which a vacancy has
8 occurred, and in which it is herein provided that the Governor shall fill the vacancy,
9 expires on the first day of January succeeding the ~~next election for members of the~~
10 ~~General Assembly~~ next statewide election for members of the United States House of
11 Representatives, the Governor shall appoint to fill that vacancy for the unexpired
12 term of the office. If any person elected or appointed to any of these offices shall fail
13 to qualify, the office shall be appointed to, held and filled as provided in case of
14 vacancies occurring therein. All incumbents of these offices shall hold until their
15 successors are qualified."

16 Section 9. The amendments set out in Sections 1 through 8 of this act
17 shall be submitted to the qualified voters of the State at a statewide election to be
18 held on the Tuesday after the first Monday in November of 1999, which election shall
19 be conducted under the laws then governing elections in the State. Ballots, voting
20 systems, or both may be used in accordance with Chapter 163 of the General
21 Statutes. The question to be used in the voting systems and ballots shall be:

22 "[] FOR [] AGAINST

23 Constitutional amendments making the term of members of the General
24 Assembly four years, beginning with members elected in 2000, and making
25 conforming amendments concerning the election of other officers and the filling of
26 vacancies."

27 Section 10. If a majority of votes cast on the question are in favor of the
28 amendments set out in Sections 1 through 8 of this act, the State Board of Elections
29 shall certify the amendments to the Secretary of State. The constitutional
30 amendments shall become effective January 1, 2000, and shall apply to members of
31 the General Assembly elected in the 2000 general election so that they shall serve
32 four-year terms. The Secretary of State shall enroll the amendments so certified
33 among the permanent records of that office.

34 Section 11. G.S. 7A-140 reads as rewritten:

35 "**§ 7A-140. Number; election; term; qualification; oath.**

36 There shall be at least one district judge for each district. Each district judge shall
37 be elected by the qualified voters of the district court district in which he is to serve
38 at the time ~~of the election for members of the General Assembly~~ specified by
39 Chapter 163 of the General Statutes. The number of judges for each district shall be
40 determined by the General Assembly. Each judge shall be a resident of the district
41 for which elected, and shall serve a term of four years, beginning on the first Monday
42 in December following his election.

1 Each district judge shall devote his full time to the duties of his office. He shall not
2 practice law during his term, nor shall he during such term be the partner or
3 associate of any person engaged in the practice of law.

4 Before entering upon his duties, each district judge, in addition to other oaths
5 prescribed by law, shall take the oath of office prescribed for a judge of the General
6 Court of Justice."

7 Section 12. G.S. 147-4 reads as rewritten:

8 **"§ 147-4. Executive officers -- election; term; induction into office.**

9 The executive department shall consist of a Governor, a Lieutenant Governor, a
10 Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an
11 Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and
12 a Commissioner of Labor, who shall be elected for a term of four years, by the
13 qualified electors of the State, ~~at the same time and places, and in the same manner,~~
14 ~~as members of the General Assembly are elected~~ as provided by Chapter 163 of the
15 General Statutes. Their term of office shall commence on the first day of January
16 next after their election and continue until their successors are elected and qualified.
17 The persons having the highest number of votes, respectively, shall be declared duly
18 elected, but if two or more be equal and highest in votes for the same office, then one
19 of them shall be chosen by joint ballot of both houses of the General Assembly.
20 Contested elections shall be determined by a joint ballot of both houses of the
21 General Assembly in such manner as shall be prescribed by law."

22 Section 13. G.S. 152-1 reads as rewritten:

23 **"§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

24 In each county a coroner shall be elected by the qualified voters thereof ~~in the~~
25 ~~same manner and at the same time as the election of members of the General~~
26 ~~Assembly~~ as provided by Chapter 163 of the General Statutes, and shall hold office
27 for a term of four years, or until his successor is elected and qualified.

28 A vacancy in the office of coroner shall be filled by the county commissioners, and
29 the person so appointed shall, upon qualification, hold office until his successor is
30 elected and qualified. If the coroner were elected as the nominee of a political party,
31 then the county commissioners shall consult with the county executive committee of
32 that political party before filling the vacancy, and shall appoint the person
33 recommended by that committee if the party makes a recommendation within 30 days
34 of the occurrence of the vacancy; this sentence shall apply only to the counties of
35 Alamance, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus,
36 Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood,
37 Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk,
38 Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

39 When the coroner shall be out of the county, or shall for any reason be unable to
40 hold the necessary inquest as provided by law, or there is a vacancy existing in the
41 office of coroner which has not been filled by the county commissioners and it is
42 made to appear to the clerk of the superior court by satisfactory evidence that a
43 deceased person whose body has been found within the county probably came to his

1 death by the criminal act or default of some person, it is the duty of the clerk to
2 appoint some suitable person to act as coroner in such special case."

3 Section 14. G.S. 161-1, now superseded by G.S. 161-2, is repealed.

4 Section 15. G.S. 162-1 reads as rewritten:

5 **"§ 162-1. Election and term of office.**

6 In each county a sheriff shall be elected by the qualified voters thereof, as is
7 prescribed ~~for members of the General Assembly by Chapter 163 of the General~~
8 Statutes, and shall hold his office for four years."

9 Section 16. G.S. 163-1 is amended in the table by rewriting the "DATE
10 OF ELECTION" entries for State Senator and member of the State House of
11 Representatives to read: "Tuesday next after the first Monday in November 2000 and
12 every four years thereafter".

13 Section 17. G.S. 163-1 is further amended in the table by rewriting the
14 "TERM OF OFFICE" entries for State Senator and member of the State House of
15 Representatives to read: "Four years".

16 Section 18. G.S. 163-1 is further amended in the table by rewriting the
17 "DATE OF ELECTION" entries for justices and judges of the Appellate Division,
18 judges of the superior courts, judges of the district courts, district attorney, county
19 commissioners, clerk of superior court, register of deeds, sheriff, and coroner, to read:
20 "At the next regular statewide election for members of the United States House of
21 Representatives, immediately preceding the termination of each regular term."

22 Section 19. G.S. 163-8 reads as rewritten:

23 **"§ 163-8. Filling vacancies in State executive offices.**

24 If the office of Governor or Lieutenant Governor shall become vacant, the
25 provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers
26 shall be vacated by death, resignation, or otherwise than by expiration of term, it
27 shall be the duty of the Governor to appoint another to serve until his successor is
28 elected and qualified: Secretary of State, Auditor, Treasurer, Superintendent of
29 Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of
30 Labor, and Commissioner of Insurance. Each such vacancy shall be filled by election
31 at the first statewide election for members of the ~~General Assembly~~ United States
32 House of Representatives, that occurs more than 60 days after the vacancy has taken
33 place, and the person chosen shall hold the office for the remainder of the unexpired
34 four-year term: Provided, that when a vacancy occurs in any of the offices named in
35 this section and the term expires on the first day of January succeeding ~~the next~~
36 ~~election for members of the General Assembly~~ the next statewide election for
37 members of the United States House of Representatives, the Governor shall appoint
38 to fill the vacancy for the unexpired term of the office.

39 Upon the occurrence of a vacancy in the office of any one of these officers for any
40 of the causes stated in the preceding paragraph, the Governor may appoint an acting
41 officer to perform the duties of that office until a person is appointed or elected
42 pursuant to this section and Article III, Section 7 of the State Constitution, to fill the
43 vacancy and is qualified."

44 Section 20. G.S. 163-9 reads as rewritten:

1 **"§ 163-9. Filling vacancies in State and district judicial offices.**

2 (a) Vacancies occurring in the offices of Justice of the Supreme Court, judge of
3 the Court of Appeals, and judge of the superior court for causes other than expiration
4 of term shall be filled by appointment of the Governor. An appointee to the office of
5 Justice of the Supreme Court or judge of the Court of Appeals shall hold office until
6 January 1 next following the next statewide election for members of the ~~General~~
7 ~~Assembly~~ United States House of Representatives that is held more than 60 days after
8 the vacancy occurs, at which time an election shall be held for an eight-year term and
9 until a successor is elected and qualified.

10 (b) Except for judges specified in the next paragraph of this subsection, an
11 appointee to the office of judge of superior court shall hold his place until the next
12 statewide election for members of the ~~General Assembly~~ United States House of
13 Representatives that is held more than 60 days after the vacancy occurs, at which
14 time an election shall be held to fill the unexpired term of the office.

15 Appointees for judges of the superior court from any district:

- 16 (1) With only one resident judge; or
17 (2) In which no county is subject to section 5 of the Voting Rights Act
18 of 1965,

19 shall hold the office until the next statewide election of members of the ~~General~~
20 ~~Assembly~~ United States House of Representatives, that is held more than 60 days
21 after the vacancy occurs, at which time an election shall be held to fill an eight-year
22 term.

23 (c) When the unexpired term of the office in which the vacancy has occurred
24 expires on the first day of January succeeding the next statewide election for
25 members of the ~~General Assembly~~, United States House of Representatives, the
26 Governor shall appoint to fill that vacancy for the unexpired term of the office.

27 (d) Vacancies in the office of district judge which occur before the expiration of a
28 term shall not be filled by election. Vacancies in the office of district judge shall be
29 filled in accordance with G.S. 7A-142."

30 Section 21. G.S. 163-10 reads as rewritten:

31 **"§ 163-10. Filling vacancy in office of district attorney.**

32 Any vacancy occurring in the office of district attorney for causes other than
33 expiration of term shall be filled by appointment of the Governor. An appointee shall
34 hold his place until the next statewide election for members of the ~~General Assembly~~
35 United States House of Representatives that is held more than 60 days after the
36 vacancy occurs, at which time an election shall be held to fill the unexpired term of
37 the office: Provided, that when the unexpired term of the office in which the vacancy
38 has occurred expires on the first day of January succeeding the next statewide
39 election for members of the ~~General Assembly~~ United States House of
40 Representatives the Governor shall appoint to fill that vacancy for the unexpired
41 term of the office."

42 Section 22. G.S. 163-12 reads as rewritten:

43 **"§ 163-12. Filling vacancy in United States Senate.**

1 Whenever there shall be a vacancy in the office of United States Senator from this
2 State, whether caused by death, resignation, or otherwise than by expiration of term,
3 the Governor shall appoint to fill the vacancy until an election shall be held to fill
4 the office. The Governor shall issue his writ for the election of a Senator to be held
5 at the time of the first statewide election for members of the ~~General Assembly~~
6 United States House of Representatives that is held more than 60 days after the
7 vacancy occurs. The person elected shall hold the office for the remainder of the
8 unexpired term. The election shall take effect from the date of the canvassing of the
9 returns."

10 Section 23. Each statute and each local act which states that a vacancy in
11 an elected office shall be filled until the next election for members of the General
12 Assembly, or similarly relies on the date of General Assembly elections as
13 determining when an event is to take place or the duration of an appointment, shall
14 be considered instead to use the date of the next statewide election of members of the
15 United States House of Representatives as the determining date for whatever purpose
16 the date of the General Assembly election is now used.

17 Section 24. Sections 11 through 23 of this act shall take effect only upon
18 approval of the voters of the constitutional amendments set forth in Sections 1
19 through 8 of this act. If the constitutional amendments proposed in those sections are
20 approved by the voters, Sections 11 through 23 of this act shall become effective at
21 the same time as the constitutional amendments.

Bill Passes

HB# 98
SB#

House Subcommittee on

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		ALEXANDER			
✓		BONNER			
	✓	BERRY			
✓	✓	DECKER			
		DEDMON			
		GOODWIN			
		HENSLEY			
		INSKO			
	✓	JUSTUS			
	✓	KISER			
	✓	LUEBKE			
✓		MELTON			
✓		MICHAUX			
	✓	NEELY Art Pope			
		NESBITT			
✓		ROGERS			
✓		THOMPSON			
	✓	WILSON C.			
✓		Crawlingham			

Ex officio Members

Speaker Pro Tem

____ Majority Leader

Majority Whip

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Bonner and Alexander** for the Committee on **Election Law & Campaign Finance Reform**.

☐ Committee Substitute for

H.B. 98 A BILL TO BE ENTITLED AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE FOR FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL ASSEMBLY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☒ With a favorable report as to committee substitute bill (~~#~~), ☐ which changes the title, unfavorable as to (original bill) (~~Committee Substitute Bill #~~), (and recommendation that the committee substitute bill ~~#~~) be re-referred to the Committee on ~~.~~)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

FOR JOURNAL USE ONLY

- ____ Pursuant to Rule 36(b), the bill is placed on the Calendar of _____.
- ____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.
- ____ The bill/resolution is re-referred to the Committee on _____.
- ____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.
- ____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. _____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. _____)/resolution is placed on the Unfavorable Calendar.
- ____ On motion of Rep. _____, (the rules are suspended) (Rule _____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.
- ____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).
- ____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in
____ House amendment (s).
____ House committee substitute.
____ enrolled.
- ____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, _____ RC) (, by EV _____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 1072
RATIFIED BILL

AN ACT TO MAKE THE FOLLOWING TECHNICAL CORRECTIONS IN THE ELECTION LAWS: TO CLARIFY THE ROLE OF THE STATE BOARD OF ELECTIONS IN THE PROCESS OF ORDERING NEW ELECTIONS; TO CLARIFY THE APPEAL PROCESS IN CONTESTED ELECTIONS; TO REENACT AND RECODIFY PROVISIONS OF THE PRE-1995 VOTER REGISTRATION LAWS THAT WERE INADVERTENTLY DROPPED IN THE ENACTMENT OF ARTICLE 7A IN CHAPTER 163; TO CLARIFY THE STATUTES CONCERNING CANDIDATE VACANCIES IN THE NONPARTISAN ELECTION OF JUDGES; TO MAKE CLEANUP CHANGES AS A RESULT OF SESSION LAW 1999-31; TO CONFORM THE PETITION STATUTES TO COURT RULINGS AND MAKE OTHER TECHNICAL CHANGES; AND TO CORRECT MISCELLANEOUS MIS-CITATIONS AND ERRORS IN THE ELECTION STATUTES.

The General Assembly of North Carolina enacts:

-- CLARIFYING THE ROLE OF THE STATE BOARD OF ELECTIONS IN THE PROCESS OF ORDERING NEW ELECTIONS.

Section 1. G.S. 163-22.1(a) reads as rewritten:

"(a) State Board's Authority. -- If the State Board of Elections, acting upon the agreement of at least four of its members, and after holding public hearings on election contests, alleged election irregularities or fraud, or violations of elections laws, determines that a new primary, general or special election should be held, the Board may order that a new primary, general or special election be held, either statewide, or in any counties, electoral districts, special districts, or municipalities over whose elections it has jurisdiction. The State Board shall be authorized to order a new election without conducting a public hearing provided a public hearing on the allegations was held by the county or municipal board of elections and the State Board is satisfied that such hearing gave sufficient opportunity for presentation of evidence and provided further that the State Board adopts the findings of the county or municipal board of elections: evidence.

Any new primary, general or special election so ordered shall be conducted under applicable constitutional and statutory authority and shall be supervised by the State Board of Elections and conducted by the appropriate elections officials.

The State Board of Elections has authority to adopt rules and regulations and to issue orders to carry out its authority under this section."

-- CLARIFYING THE APPEAL PROCESS IN CONTESTED ELECTIONS.

Section 2. G.S. 163-181 reads as rewritten:

"§ 163-181. ~~Certification of election stayed~~ Appeal process when election is contested.

~~The chairman of the county or city board of elections shall not issue a certification of election or nomination or the results of a referendum if there is an election contest~~

~~pending before the county or city board of election or before the State Board of Elections on appeal or otherwise.~~

~~Appeals from a decision of the State Board of Elections shall be to the Superior Court of Wake County.~~

~~A copy of the State Board of Elections' final decision shall be served on the parties personally or by certified mail. After the decision by the State Board of Elections has been served on the parties, the certification of election shall issue unless the appealing party petitions the Superior Court of Wake County for a stay of the certification within 10 days after the date of service.~~

~~The Superior Court of Wake County shall not issue a stay of certification unless the petitioner shows the court that he intends to appeal the decision of the State Board of Elections and that he is likely to prevail and that the results of the election would be changed in his favor. Mere irregularities in the election which would not change the results of the election shall not be sufficient for the court to issue a stay of certification.~~

A copy of the final decision of the State Board of Elections in a contested election shall be served on the parties personally or by certified mail. A decision to order a new election is considered a final decision for purposes of seeking review of the decision. An aggrieved party has the right to appeal the final decision within 10 days of the date of service. After the decision by the State Board of Elections has been served on the parties, the certification of nomination or election or the results of the referendum shall issue unless an appealing party obtains a stay of the certification from the Superior Court of Wake County within 10 days after the date of service.

Appeals from a decision of the State Board of Elections shall be to the Superior Court of Wake County. The court shall not issue a stay of certification of nomination or election or the results of a referendum unless the petitioner shows the court that the petitioner has appealed the decision of the State Board of Elections, that the petitioner is an aggrieved party, that the petitioner is likely to prevail, and that the results of the election would be changed in the petitioner's favor. Mere irregularities in the election which would not change the results of the election shall not be sufficient for the court to issue a stay of certification.

The chair of the county or municipal board of elections shall not issue a certification of nomination or election or the results of a referendum until 10 days after service of a final decision in an election contest or until an election contest is dismissed. No certification shall issue while an election contest is pending before the county, municipal, or State board of elections on appeal or otherwise."

-- REENACTING AND RECODIFYING PROVISIONS OF PRE-1995 VOTER REGISTRATION ARTICLE THAT WERE INADVERTENTLY DROPPED IN ENACTMENT OF ARTICLE 7A OF CHAPTER 163.

Section 3.(a) Article 4 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-37. Duty of county board of commissioners.

The respective boards of county commissioners shall appropriate reasonable and adequate funds necessary for the legal functions of the county board of elections, including reasonable and just compensation of the director of elections."

Section 3.(b) Article 12 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-131. Accessible polling places.

(a) The State Board of Elections shall promulgate rules to assure that any disabled or elderly voter assigned to an inaccessible polling place, upon advance request of such voter, will be assigned to an accessible polling place. Such rules should allow the request to be made in advance of the day of the election.

(b) Words in this section have the meanings prescribed by P.L. 98-435, except that the term 'disabled' in this section has the same meaning as 'handicapped' in P.L. 98-435."

-- CLARIFYING THE STATUTES CONCERNING CANDIDATE VACANCIES IN THE NONPARTISAN ELECTION OF JUDGES.

Section 4.(a) G.S. 163-327 reads as rewritten:

"§ 163-327. Death Vacancies of candidates or elected officers.

(a) Death or Disqualification of Candidate Before Primary. -- If a candidate for nomination in a primary ~~dies, dies or becomes disqualified, or withdraws~~ disqualified before the primary but after the ballots have been printed, the State Board of Elections shall determine whether or not there is time to reprint the ballots. If the Board determines that there is not enough time to reprint the ballots, the deceased or disqualified candidate's name shall remain on the ballots. If that candidate receives enough votes for nomination, such votes shall be disregarded and the candidate receiving the next highest number of votes below the number necessary for nomination shall be declared nominated. If the death or disqualification of the candidate leaves only two candidates for each office to be filled, the nonpartisan primary shall not be held and all candidates shall be declared nominees.

(b) Death, Disqualification, or Resignation of Official After Election. -- If a person elected to the office of superior court judge dies, becomes disqualified, or resigns on or after election day and before he has qualified by taking the oath of office, the office shall be deemed vacant and shall be filled as provided by law."

Section 4.(b) G.S. 163-328 reads as rewritten:

"§ 163-328. Failure of candidates to file; death or other disqualification of a candidate before election.

(a) Insufficient Number of Candidates. -- If when the filing period expires, candidates have not filed for an office to be filled under this Article, the State Board of Elections shall extend the filing period for five days for any such offices.

(b) Death or Other Disqualification of Candidate; Reopening Filing. -- If there is no primary because only one or two candidates have filed for a single office, or the number of candidates filed for a group of offices does not exceed twice the number of positions to be filled, and thereafter a candidate ~~dies or otherwise becomes disqualified~~ disqualified before the election and before the ballots are printed, the State Board of Elections shall, upon notification of the ~~death, death or other disqualification,~~ immediately reopen the filing period for an additional five days during which time additional candidates shall be permitted to file for election. If the ballots have been printed at the time the State Board of Elections receives notice of the candidate's ~~death, death or other disqualification,~~ the Board shall determine whether there will be sufficient time to reprint them before the election if the filing period is reopened for three days. If the Board determines that there will be sufficient time to reprint the ballots, it shall reopen the filing period for three days to allow other candidates to file for election, and such election shall be conducted on the plurality basis.

(c) Death of Vacancy Caused by Nominated Candidate; Ballots Not Reprinted. -- If the ballots have been printed at the time the State Board of Elections receives notice of a candidate's death, other disqualification, or resignation, and if the Board determines that there is not enough time to reprint the ballots before the election if the filing period is reopened for three days, then regardless of the number of candidates remaining for the office or group of offices, the ballots shall not be reprinted and the name of the ~~deceased~~ vacated candidate shall remain on the ballots. If a ~~deceased~~ vacated candidate should poll the highest number of votes in the election for a single office or enough votes to be elected to one of a group of offices, the State Board of Elections shall declare the office vacant and it shall be filled in the manner provided by law."

-- CONFORMING THE STATUTES TO COURT RULINGS CONCERNING PETITIONS AND MAKING OTHER TECHNICAL CHANGES TO THE PETITION STATUTES.

Section 5.(a) G.S. 163-96(b) reads as rewritten:

"§ 163-96. "Political party" defined; creation of new party.

(a) Definition. -- A political party within the meaning of the election laws of this State shall be either:

- (1) Any group of voters which, at the last preceding general State election, polled for its candidate for Governor, or for presidential electors, at least ten percent (10%) of the entire vote cast in the State for Governor or for presidential electors; or
- (2) Any group of voters which shall have filed with the State Board of Elections petitions for the formulation of a new political party which are signed by registered and qualified voters in this State equal in number to two percent (2%) of the total number of voters who voted in the most recent general election for Governor. Also the petition must be signed by at least 200 registered voters from each of four congressional districts in North Carolina. To be effective, the petitioners must file their petitions with the State Board of Elections before 12:00 noon on the first day of June preceding the day on which is to be held the first general State election in which the new political party desires to participate. The State Board of Elections shall forthwith determine the sufficiency of petitions filed with it and shall immediately communicate its determination to the State chairman of the proposed new political party.

(b) Petitions for New Political Party. -- Petitions for the creation of a new political party shall contain on the heading of each page of the petition in bold print or all in capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN COUNTY HEREBY PETITION FOR THE FORMATION OF A NEW POLITICAL PARTY TO BE NAMED AND WHOSE STATE CHAIRMAN IS, RESIDING AT..... AND WHO CAN BE REACHED BY TELEPHONE AT..... THE SIGNERS OF THIS PETITION INTEND TO ORGANIZE A NEW POLITICAL PARTY TO PARTICIPATE IN THE NEXT SUCCEEDING GENERAL ELECTION."

All printing required to appear on the heading of the petition shall be in type no smaller than 10 point or in all capital letters, double spaced typewriter size. In addition to the form of the petition, the organizers and petition circulators shall inform the signers of the general purpose and intent of the new party.

The petitions must specify the name selected for the proposed political party. The State Board of Elections shall reject petitions for the formation of a new party if the name chosen contains any word that appears in the name of any existing political party recognized in this State or if, in the Board's opinion, the name is so similar to that of an existing political party recognized in this State as to confuse or mislead the voters at an election.

The petitions must state the name and address of the State chairman of the proposed new political party.

~~The validity of the signatures on the petitions shall be proved in accordance with one of the following alternative procedures:~~

- ~~(1) The signers may acknowledge their signatures before an officer authorized to take acknowledgments, after which that officer shall certify the validity of the signatures by appropriate notation attached to the petition, or~~

- (2) ~~A person in whose presence a petition was signed may go before an officer authorized to take acknowledgments and, after being sworn, testify to the genuineness of the signatures on the petition; after which the officer before whom he has testified shall certify his testimony by appropriate notation attached to the petition.~~

(b1) Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained, and it shall be the chairman's duty:

- (1) To examine the signatures on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in his county.
- (2) To attach to the petition his signed certificate
 - a. Stating that the signatures on the petition have been checked against the registration records and
 - b. Indicating the number found qualified and registered to vote in his county.
- (3) To return each petition, together with the certificate required by the preceding subdivision, to the person who presented it to him for checking.

The group of petitioners shall submit the petitions to the chairman of the county board of elections in the county in which the signatures were obtained no later than 5:00 P.M. on the fifteenth day preceding the date the petitions are due to be filed with the State Board of Elections as provided in subsection (a)(2) of this section. Provided the petitions are timely submitted, the chairman of the county board of elections ~~shall require a fee of five cents (5¢) for each signature appearing and~~ shall proceed to examine and verify the signatures under the provisions of this subsection. Verification shall be completed within two weeks from the date such petitions are ~~presented and the required fee received.~~ presented.

(c) Repealed by Session Laws 1983, c. 576, s. 3."

Section 5.(b) G.S. 163-122(a) reads as rewritten:

"(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. -- Any qualified voter who seeks to have his name printed on the general election ballot as an unaffiliated candidate shall:

- (1) If the office is a statewide office, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the State equal in number to two percent (2%) of the total number of registered voters in the State as reflected by the most recent statistical report issued by the State Board of Elections. Each No later than 5:00 p.m. on the fifteenth day preceding the date the petitions are due to be filed with the State Board of Elections, each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. The Provided the petitions are timely submitted, the chairman shall examine the names on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in his county and shall attach to the petition his signed certificate. Said certificates shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers to be qualified and registered to vote in his county. The chairman shall return each petition, together with the certificate required in this

section, to the person who presented it to him for checking. Verification by the chairman of the county board of elections shall be completed within two weeks from the date such petitions are presented and a fee of five cents (5¢) for each name appearing on the petition has been received. presented.

- (2) If the office is a district office comprised of two or more counties, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of registered voters in the district as reflected by the latest statistical report issued by the State Board of Elections. Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. The chairman shall examine the names on the petition and the procedure for certification and deadline for submission to the county board shall be the same as specified in (1) above.
- (3) If the office is a county office or a single county legislative district, file written petitions with the chairman or director of the county board of elections supporting his candidacy for a specified county office. These petitions must be filed with the county board of elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the county equal in number to four percent (4%) of the total number of registered voters in the county as reflected by the most recent statistical report issued by the State Board of Elections, except if the office is for a district consisting of less than the entire county and only the voters in that district vote for that office, the petitions must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of voters in the district according to the most recent figures certified by the State Board of Elections. Each petition shall be presented to the chairman or director of the county board of elections. The chairman shall examine, or cause to be examined, the names on the petition and the procedure for certification shall be the same as specified in (1) above.
- (4) If the office is a partisan municipal office, file written petitions with the chairman or director of the county board of elections in the county wherein the municipality is located supporting his candidacy for a specified municipal office. These petitions must be filed with the county board of elections on or before the time and date specified in G.S. 163-296 and must be signed by the number of qualified voters specified in G.S. 163-296. The procedure for certification shall be the same as specified in (1) above.

Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the board of elections with which the petitions ~~and affidavit~~ have been timely filed shall cause the unaffiliated candidate's name to be printed on the general election ballots in accordance with G.S. 163-140.

An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be eligible to have his name placed on the general election ballot as an unaffiliated candidate for the same office in that year."

Section 5.(c) G.S. 163-123(c)(1) reads as rewritten:

"(1) If the office is a statewide office, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions shall be filed on or before noon on the 90th day before the general election. They shall be signed by 500 qualified voters of the State. ~~Before being filed with the State Board of Elections; No later than 5:00 p.m. on the fifteenth day preceding the date the petitions are due to be filed with the State Board of Elections,~~ each petition shall be presented to the board of elections of the county in which the signatures were obtained. A petition presented to a county board of elections shall contain only names of voters registered in that county. The Provided the petitions are timely submitted, the chairman of the county board of elections shall examine the names on the petition and place a check mark by the name of each signer who is qualified and registered to vote in his county. The chairman of the county board shall attach to the petition his signed certificate. On his certificate the chairman shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers who are qualified and registered to vote in his county and eligible to vote for that office. The chairman shall return each petition, together with the certificate required in this section, to the person who presented it to him for checking. The chairman of the county board shall complete the verification within two weeks from the date the petition is presented. ~~At the time of submitting the petition, a fee of five cents (5¢) shall be paid for each name appearing on the petition."~~

-- CLEANUP CHANGES AS A RESULT OF SESSION LAW 1999-31.

Section 6.(a) G.S. 163-278.6(14) reads as rewritten:

"(14) The term 'political committee' means a combination of two or more individuals, ~~or~~ such as any person, committee, association, organization, or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:

- a. Is controlled by a candidate;
- b. Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party;
- c. Is created by a corporation, business entity, insurance company, labor union, or professional association pursuant to G.S. 163-278.19(b); or
- d. Has as a major purpose to support or oppose the nomination or election of one or more clearly identified candidates.

Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party.

An entity is rebuttably presumed to have as a major purpose to support or oppose the nomination or election of one or more clearly identified candidates if it contributes or expends or both contributes and expends during an election cycle more than three thousand dollars (\$3,000). The presumption may be rebutted by showing that the contributions and expenditures giving rise to the presumption were not a major part of activities of the organization

during the election cycle. Contributions to referendum committees and expenditures to support or oppose ballot issues shall not be facts considered to give rise to the presumption or otherwise be used in determining whether an entity is a political committee.

If the entity qualifies as a 'political committee' under subdivision a., b., c., or d. of this subdivision, it continues to be a political committee if it receives contributions or makes expenditures or maintains assets or liabilities. A political committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report."

Section 6.(b) G.S. 163-278.6(18b) reads as rewritten:

"(18b) The term 'referendum committee' means a combination of two or more individuals ~~or any business entity, corporation, insurance company, labor union, professional association, such as a committee, association, or organization, or other entity or a combination of two or more business entities, corporations, insurance companies, labor unions, or professional associations~~ such as a committee, association, organization, or other entity the primary ~~or incidental~~ purpose of which is to support or oppose the passage of any referendum on the ballot, ~~or to influence or attempt to influence the result of a referendum, or which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the outcome of any referendum, or which receives contributions to repay loans or cover a deficit, or which makes expenditures to satisfy obligations of a referendum already held.~~ ballot. If the entity qualifies as a 'referendum committee' under this subdivision, it continues to be a referendum committee if it receives contributions or makes expenditures or maintains assets or liabilities. A referendum committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report."

Section 6.(c) G.S. 163-278.23 reads as rewritten:

"§ 163-278.23. Duties of Executive Secretary-Director of Board.

The Executive Secretary-Director of the Board shall inspect or cause to be inspected each statement filed with the Board under this Article within 30 days after the date it is filed. The Executive Secretary-Director shall advise, or cause to be advised, no more than 30 days and at least five days before each report is due, each candidate or treasurer whose organizational report has been filed, of the specific date each report is due. He shall immediately notify any individual, candidate, treasurer, political committee, referendum committee, ~~or media~~ media, or other entity that may be required to file a statement under this Article if:

- (1) It appears that the individual, candidate, treasurer, political committee, referendum ~~committee or media~~ committee, media, or other entity has failed to file a statement as required by law or that a statement filed does not conform to this Article; or
- (2) A written complaint is filed under oath with the Board by any registered voter of this State alleging that a statement filed with the Board does not conform to this Article or to the truth or that an individual, candidate, treasurer, political committee, referendum ~~committee or media~~ committee, media, or other entity has failed to file a statement required by this Article.

The entity that is the subject of the complaint will be given an opportunity to respond to the complaint before any action is taken requiring compliance.

The Executive Secretary-Director of the Board of Elections shall issue written rulings to ~~candidates and may issue written rulings to candidates~~, the communications media, political committees, ~~and referendum committees~~ committees, or other entities upon request, regarding filing procedures and compliance with this Article. Any such ruling so issued shall specifically refer to this paragraph. If the candidate, communications media, political committees, ~~or referendum committees~~ committees, or other entities rely on and comply with the ruling of the Executive Secretary-Director of the Board of Elections, then prosecution on account of the procedure followed pursuant thereto and prosecution for failure to comply with the statute inconsistent with the written ruling of the Executive Secretary-Director of the Board of Elections issued to the candidate or committee involved shall be barred. Nothing in this paragraph shall be construed to prohibit or delay the regular and timely filing of reports."

Section 6.(d) This section is effective when this act becomes law.

-- CORRECTING MISCITATIONS AND OTHER TECHNICAL ERRORS IN THE ELECTIONS STATUTES.

Section 7.(a) G.S. 163-22(e) reads as rewritten:

"(e) The State Board of Elections shall determine, in the manner provided by law, the form and content of ballots, instruction sheets, pollbooks, tally sheets, abstract and return forms, certificates of election, and other forms to be used in primaries and elections. The Board shall furnish to the county ~~and municipal~~ boards of elections the registration application forms required pursuant to G.S. ~~163-67. 163-82.3.~~ The State Board of Elections shall direct the county boards of elections to purchase a sufficient quantity of all forms attendant to the registration and elections process. In addition, the State Board shall provide a source of supply from which the county boards of elections may purchase the quantity of pollbooks needed for the execution of its responsibilities. In the preparation of ballots, pollbooks, abstract and return forms, and all other forms, the State Board of Elections may call to its aid the Attorney General of the State, and it shall be the duty of the Attorney General to advise and aid in the preparation of these books, ballots and forms."

Section 7.(b) G.S. 163-33(10) reads as rewritten:

"(10) To appoint and remove the board's clerk, assistant clerks, and other employees; and to appoint and remove precinct transfer assistants as provided in G.S. ~~163-72.3. 163-82.15(g).~~"

Section 7.(c) G.S. 163-82.4(b) reads as rewritten:

"(b) Notice of Requirements, Attestation, Notice of Penalty, and Notice of Confidentiality. -- The form required by G.S. 163-82.3(a) shall contain, in uniform type, the following:

- (1) A statement that specifies each eligibility requirement (including citizenship) and an attestation that the applicant meets each such requirement, with a requirement for the signature of the applicant, under penalty of a Class I felony under G.S. ~~163-275(a). 163-275(4).~~
- (2) A statement that, if the applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.
- (3) A statement that, if the applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes."

Section 7.(d) G.S. 163-82.4(c) reads as rewritten:

"(c) Party Affiliation or Unaffiliated Status. -- The application form described in G.S. 163-82.3(a) shall provide a place for the applicant to state a preference to be

affiliated with one of the political parties in G.S. 163-96, or a preference to be an "unaffiliated" voter. Every person who applies to register shall state his preference. If the applicant fails to declare a preference for a party or for unaffiliated status, that person shall be listed as "unaffiliated", except that if the person is already registered to vote in the county and that person's registration already contains a party affiliation, the county board shall not change the registrant's status to "unaffiliated" unless the registrant clearly indicates a desire in accordance with G.S. 163-82.17 for such a change. An unaffiliated registrant shall not be eligible to vote in any political party primary, except as provided in G.S. ~~163-116~~, 163-119, but may vote in any other primary or general election. The application form shall so state."

Section 7.(e) G.S. 163-111(e) reads as rewritten:

"(e) Date of Second Primary; Procedures. -- If a second primary is required under the provisions of this section, the appropriate board of elections, State or county, shall order that it be held four weeks after the first primary.

There shall be no registration of voters between the dates of the first and second primaries. Persons whose qualifications to register and vote mature after the day of the first primary and before the day of the second primary may register on the day of the second primary and, when thus registered, shall be entitled to vote in the second primary. The second primary is a continuation of the first primary and any voter who files a proper and timely affidavit of transfer of precinct, under the provisions of G.S. ~~163-72(e)~~, 163-82.15, before the first primary may vote in the second primary without having to refile the affidavit of transfer if he is otherwise qualified to vote in the second primary. Subject to this provision for registration, the second primary shall be held under the laws, rules, and regulations provided for the first primary."

Section 7.(f) G.S. 163-150(a) reads as rewritten:

"(a) Checking Registration. -- A person seeking to vote shall enter the voting enclosure at the voting place through the appropriate entrance and shall at once state his name and place of residence to one of the judges of election. In a primary election, the voter shall also state the political party with which he affiliates and in whose primary he desires to vote, or if the voter is an unaffiliated voter permitted to vote in the primary of a particular party under G.S. ~~163-116~~, 163-119, the voter shall state the name of the authorizing political party in whose primary he wishes to vote. The judge to whom the voter gives this information shall announce the name and residence of the voter in a distinct tone of voice. After examining the precinct registration records, the chief judge shall state whether the person seeking to vote is duly registered."

Section 7.(g) G.S. 163-150(b) reads as rewritten:

"(b) Distribution of Ballots; Information. -- If the voter is found to be registered and is not challenged, or, if challenged and the challenge is overruled as provided in G.S. 163-88, the responsible judge of election shall hand him an official ballot of each kind he is entitled to vote. In a primary election the voter shall be furnished ballots of the political party with which he affiliates and no others, except that unaffiliated voters who are permitted to vote in a party primary under G.S. ~~163-116~~ 163-119 shall be furnished ballots for that primary. No such unaffiliated voter shall vote in the primary of more than one party on the same day. It shall be the duty of the chief judge and judges holding the primary or election to give any voter any information he desires in regard to the kinds of ballots he is entitled to vote and the names of the candidates on the ballots. In response to questions asked by the voter, the chief judge and judges shall communicate to him any information necessary to enable him to mark his ballot as he desires."

Section 7.(h) G.S. 163-274(13) reads as rewritten:

"(13) Except as authorized by G.S. ~~163-72.2(b)~~, 163-82.15, for any person to provide false information, or sign the name of any other person, to a written report under G.S. ~~163-72.2~~, 163-82.15."

Section 7.(i) G.S. 163-275(14) reads as rewritten:

"(14) For any officer ~~authorized by G.S. 163-80~~ to register voters and any other individual to knowingly and willfully receive, complete, or sign an application to register from any voter contrary to the provisions of G.S. ~~163-72~~, 163-82.4; or".

Section 7.(j) G.S. 163-213.2 reads as rewritten:

"§ 163-213.2. Primary to be held; date; qualifications and registration of voters.

On the Tuesday after the first Monday in May, 1992, and every four years thereafter, the voters of this State shall be given an opportunity to express their preference for the person to be the presidential candidate of their political party.

Any person otherwise qualified who will become qualified by age to vote in the general election held in the same year of the presidential preference primary shall be entitled to register and vote in the presidential preference primary. Such persons may register not earlier than 60 days nor later than the last day for making application to register under G.S. ~~163-67~~ 163-82.6 prior to the said primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections."

Section 7.(k) G.S. 163-253 reads as rewritten:

"§ 163-253. Article inapplicable to persons after change of status; reregistration required.

Upon discharge from the armed forces of the United States or termination of any other status qualifying him to register and vote by absentee ballot under the provisions of this Article, the voter shall not be entitled to vote by military absentee ballot, and if he was registered under the provisions of this Article his registration shall become void and he shall be required to register under the provisions of Article ~~7~~ 7A before being entitled to vote in any primary or election."

Section 7.(l) G.S. 163-254 reads as rewritten:

"§ 163-254. Registration and voting on primary or election day.

Notwithstanding any other provisions of Chapter 163 of the General Statutes, any person entitled to vote an absentee ballot pursuant to G.S. 163-245 shall be permitted to register in person at any time including the day of a primary or election. Should such person's eligibility to register or vote as provided in G.S. 163-245 terminate after the ~~registration records have closed~~ twenty-fifth day prior to a primary or election, such person, if he appears in person, shall be entitled to register if otherwise qualified ~~during the time the records are closed, after the twenty-fifth day before the primary or election,~~ or on the primary or election day, and shall be permitted to vote if such person is otherwise qualified."

Section 7.(m) G.S. 163-278.8(f) reads as rewritten:

"(f) All expenditures for nonmedia expenses (except postage) of more than fifty dollars (\$50.00) shall be made by check only. All expenditures for nonmedia expenses of fifty dollars (\$50.00) or less may be made by check or by cash payment. All nonmedia expenditures of more than fifty dollars (\$50.00) shall be accounted for and reported individually and separately, but expenditures of ~~less than~~ fifty dollars (\$50.00) or less may be accounted for and reported in an aggregated amount, but in that case the treasurer shall account for and report that he made expenditures of ~~less than~~ fifty dollars (\$50.00) or less each, the amounts, dates, and the purposes for which made. In the case of a nonmedia expenditure required to be accounted for

individually and separately by this subsection, if the expenditure was to an individual, the report shall list the name and address of the individual."

Section 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 1999.

DENNIS A. WICKER

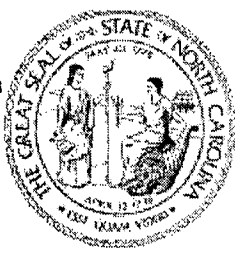
Dennis A. Wicker
President of the Senate

JAMES B. BLACK

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____m. this _____ day of _____, 19_____



HOUSE BILL 1072: Election Law Cleanup.

BILL ANALYSIS

Committee: General Assembly and Governor
Date: July 22, 1999
Version: Ratified Bill

Introduced by: Reps. Alexander and Bonner
Summary by: William R. Gilkeson
Staff Attorney

SUMMARY: *The ratified House Bill 1072 would make seven basically technical changes to the election statutes.*

BILL ANALYSIS: The bill is divided into seven main sections:

1. Clarifying the Role of the State Board of Elections in the Process of Ordering New Elections. The State Board of Elections now has the authority to order new elections after holding hearings. The State Board may order a new election without holding a hearing of its own, if a county board of elections has held an adequate hearing. The current statute has language that might lead one to believe that the State Board can only rely on a county board's hearing if the State Board agrees with the county board's conclusions. The bill removes that language, allowing the State Board to rely on the evidence at a county board's hearing but draw a different conclusion from it.
2. Clarifying the Appeal Process in Contested Elections. The section of the statutes governing appeals from contested-election decisions by the State Board has led to confusion. It could be interpreted to mean that a candidate can hold up the certification of an election simply by *applying* for a stay from Superior Court within 10 days. The bill changes the language to say that the certification must go forward unless the petitioner *obtains* a stay from court within 10 days.
3. Reenacting Provisions of the pre-1995 Voter Registration Laws that Were Inadvertently Dropped. When a new Voter Registration Law was enacted in 1994 (effective 1995), the entire old Article 7 was repealed and a new Article 7A was enacted to replace it. Almost all the essentials of the old Article were reenacted, but 2 were inadvertently left out. One was the sentence that gives the boards of county commissioners the duty to fund elections. The other was the duty of the State Board to make rules for accessible polling places. The county commissioners still have the duty to fund elections, but only because the part of the 1994 bill repealing the important sentence was withdrawn from submission under the Voting Rights Act. The bill would put the sentence back in the statutes, just as it appeared in the old law.
4. Clarifying Candidate Vacancies in Nonpartisan Judicial Elections. The statute governing the nonpartisan election of Superior Court judges has some inconsistent language. Basically, the law seems to say that after filing, but before a primary, a candidate is not permitted to resign. After nomination in the primary, the candidate may resign. At any time, of course, a candidate may either die or become disqualified through felony conviction or by change of residency. The language of the current statute does not always consistently reflect that pattern. The bill attempts to make the language consistent.
5. Cleaning Up the Petition Statutes. This section concerns statutes governing the gathering and submitting of signatures on petitions for new parties, unaffiliated candidates, and write-in candidates.

All those statutes contain requirements that have been invalidated by courts: notarization of the signatures and a fee of 5 cents per name. Those requirements are not now being enforced. The bill would take the requirements off the books. The bill would also add to the unaffiliated and write-in statutes a requirement that already exists in the new-party statutes: When the petitions must be filed with the State Board of Elections on a certain day, after they have already been filed with the county boards for verification of the signatures, the bill would require the petitions to be filed with the county board 15 days before the day they must be filed with the State Board.

6. Making Cleanup Changes as a Result of the Campaign Finance Repair Bill. After the 4th Circuit U.S. Court of Appeals invalidated much of North Carolina's campaign finance law in *N.C. Right to Life v. Bartlett* this year, the General Assembly repaired the law by passing House Bill 921, enacted as Session Law 1999-31. Several questions have arisen since the passage of that act. This section addresses three that appeared to lend themselves to technical changes:

a. *"Political Committee" Definition.* The American Civil Liberties Union raised the concern that the new definition of "political committee," like the old, invalidated one, could be interpreted to catch individuals who discuss an election and decide to write separate checks to a politician. The definition includes "a combination of two or more individuals, or..." and then lists various synonyms for organization. To indicate that a combination of individuals does not become a political committee unless it forms an organization and contributes or expends through that organization, the PCS would change the language in the definition to "a combination of two or more individuals such as...." and then lists the types of organizations. Debra Ross of the ACLU agreed with this language.

In another change to the political committee definition, the PCS adds language to the rebuttable presumption. The current law says that a rebuttable presumption is raised that a group has as a major purpose to support or oppose the nomination or election of one or more clearly identifiable candidates if that group contributes or expends more than \$3,000 for that purpose in an election cycle. The PCS adds the statement that a group may rebut the assumption by showing that the contributions and expenditures giving rise to the presumption were not a major part of its activities during the election cycle.

b. *"Referendum Committee" Definition.* Although the repair bill redefined "political committee" to remove language the 4th Circuit found overbroad, the bill did nothing to the definition of referendum committee. That definition had not been challenged in the *Right to Life* case, but it contained some of the same language, making an organization a referendum committee if it had as an "incidental purpose" to "influence the result of a referendum." In the course of removing that language, another problem was noticed. As the definition was worded, it appeared that a business corporation or union could itself be viewed as a referendum committee if it expended money to support or oppose a referendum. The U.S. Supreme Court has said that in referenda, unlike in candidate elections, a State may not prohibit contributions and expenditures by corporations. It may not even limit them. State law recognizes this fact in its definition of referendum committee, which includes references to corporations and unions. But the definition could be read to say that if a corporation spends money to support a referendum, the corporation itself is a referendum committee and must make a full accounting of its finances in reports to the board of elections. The law has not been enforced that way. The PCS addresses this problem by use of the "such as" language. A referendum committee is a "combination of two or more individuals such as (various types of organizations)" and a "combination of two or more ...corporations such as (various types of organizations)." So a single corporation would not be a referendum committee; a combination of corporations would be. If a single corporation on its own made a contribution or expenditure over \$100, it would have to make a special report of it under G.S. 163-278.12.

c. *Rulings by the Executive Secretary-Director.* Current law says that the Executive Secretary-Director of the State Board of Elections must give written rulings on campaign finance practices to candidates and may give them upon request to the media, political committees and referendum committees. Such a written

HOUSE BILL 1072

Page 3

ruling, if followed, bars prosecution. The repair bill opens up the possibility that groups other than political committees (e.g., certain nonprofit corporations) may be making contributions and expenditures. The PCS adds "other entities" to the list that may request a ruling from the Director, and requires the Director to give them, changing "may" to "shall." This change also states that before the Director takes any action under the campaign finance law against someone complained of, that entity must be given an opportunity to respond.

7. Miscellaneous Corrections. This section corrects 13 instances where of wrong citations or other errors in the election statutes. In one instance, a statute says what must be done if the amount is more than \$50 and what must be done if the amount is less than \$50, but not what must be done if the amount is \$50. The bill corrects those errors.

The bill would be effective when it becomes law.

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Martha Alexander and Donald A. Bonner** for the Committee on
ELECTION LAW AND CAMPAIGN FINANCE REFORM.

☐ Committee Substitute for

H.B. 1072 A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL
CORRECTIONS IN THE VOTER REGISTRATION LAWS AND OTHER ELECTION
LAWS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ .

☒ With a favorable report as to committee substitute bill (~~#~~), ☒ which changes the title,
unfavorable as to ~~(original bill) (Committee Substitute Bill #~~), ~~(and recommendation~~
~~that the committee substitute bill #~~) be re-referred to the Committee on ~~_____~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

VISITOR REGISTRATION SHEET

House Election Law and Campaign Finance Reform

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY

1. Margaret Diamond
2. Rhonda Griswold
3. Ann Dececco
4. Nancy Mueller
5. Marian Dodd
6. Stankham
7. Kelia Howell
8. Nancy Salmon
9. Nancy Foughtin
10. Don Frey
11. Johnnie McLean
12. Larry Barlett
13. Zee Hambr
14. John Moore
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____
21. _____

- LWV - Chapel Hill Area
- LWV-CHA - Durham
- LWV-CHA - Durham
- LWV-CHA
- LWV NC.
- EGHS
- COD's office
- LWV - Chapel Hill Area
- LWV Chapel Hill - Durham
- NCGA - ISD
- SBE
- "
- "
- Bone & Associates
- _____
- _____
- _____
- _____
- _____
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- _____

VISITOR REGISTRATION SHEET

ELECTION LAW AND CAMPAIGN FINANCE REFORM

APRIL 21 1999

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Thomas Hull	OSS
Ann T. Hancock	Co. 6 Wilson County
Sandra Hooker	" Pitt "
Ann Boyd	" Graham "
James Anders	NC State AFL-CIO
Judy Harrison	Wake Co BOE
Joan Pitt	Wake Co Bd of Elections
Lana Hartfield	NC Bar Association
Larry O. Bartlett	SBE
Johanne McLean	"
Yvonne L. Southerland	State Bd of Elections
Zee B. Lamb	" " "
Susan Nisbet	A.G.'s Office
Nancy Thompson	NCCB
Rosie Bueger	NCCBT
Smarchahn	Eggs
Melanie Dachel	League of Women Voters NC
Joe McClees	McClees Consultant
Bob Bank	ASSE
Charles Crumer	NCATL
Phail Wynn, Jr.	Durham Tech Comm College
Daryl Mitchell	Durham Tech Comm College

VISITOR REGISTRATION SHEET

* House Elections Law and Campaign Finance Re

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY

1. Margaret Diamond

LWV - Chapel Hill Area

2. Sharon Skiswell

LWV-CHA - Durham

3. Ginn Recenzo

LWV-CHA - Durham

4. Nancy Mueller

LWV-CHA

5. Marion Doherty

LWV NC.

6. Markham

EMHS

7. Kelda Howell

Gov's office

8. Nancy Salmon

LWV - Chapel Hill Area

9. Sally Ferguson

LWV Chapel Hill - Durham

10. Don Fry

NCGA - 7 SD

11. Lorraine McLean

PRC

12. Gary Bartlett

"

13. Zee Lamb

"

14. John Moore

Bone & Associates

15. _____

16. _____

17. _____

18. _____

19. _____

20. _____

21. _____

ATTENDANCE

ELECTION LAW AND CAMPAIGN REFORM

(Name of Committee)															
DATES	<div>AMPM</div>														
	3/10	3/17	3/24	3/31	4/7	4/14	4/21	4/28	4/23	5/5	5/16	5/23	6/30	7/7	7/14
ALEXANDER, MARTHA CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BONNER, DONALD CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BERRY, CHERIE	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
DECKER, MICHAEL					✓	✓	✓	✓	✓	✓	✓	✓	✓		
DEDMON, ANDREW	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
GOODWIN, WAYNE	✓	✓	✓	✓	✓	✓		✓		✓	✓		✓	✓	✓
HENSLEY, BOB			✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓
INSKO, VERLA		✓	✓	✓	✓	✓					✓	✓	✓	✓	✓
JUSTUS, LARRY	✓	✓		✓		✓	✓	✓		✓		✓	✓	✓	✓
KISER, JOE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
LUEBKE, PAUL		✓	✓	✓		✓	✓	✓			✓		✓	✓	✓
MELTON, MAX	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
MICHAUX, H.M.		✓	✓	✓			✓	✓		✓	✓	✓	✓	✓	✓
NEELY, CHARLES / Pope, Art	✓	✓	✓	✓	✓	(R)	✓	✓	✓	✓	✓	✓	✓	✓	✓
NESBITT, MARTIN		✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓
ROGERS, GENE	✓	✓	✓	✓	✓	✓	✓			✓			✓	✓	✓
THOMPSON, GREGORY	✓	✓			✓		✓	✓		✓	✓	✓	✓	✓	
WILSON, CONNIE	✓			✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Ex-officio															
Baddour, Phil				✓	✓	✓									
Cunningham, Pete			✓			✓	✓		✓	✓	✓				
Hackney, Joe							✓								

HOUSE COMMITTEE ON ELECTION LAW AND FINANCE REFORM

1999 SESSION BOOK 2 OF 2

REPRESENTATIVE MARTHA ALEXANDER

REPRESENTATIVE DONALD A. BONNER

CO-CHAIRS

LUCY B. JOHNSON

ANN FAUST

COMMITTEE ASSISTANTS

**MINUTES OF THE MEETING
ELECTION LAW AND CAMPAIGN FINANCE REFORM**

**APRIL 23, 1999
7:30 AM**

The meeting was called to order by presiding co-chair, Rep. Bonner, who welcomed the committee members and introduced the staff of the Sergeant at Arms. Rep. Art Pope was introduced as new member of the Committee, replacing Rep. Neely who resigned from the House.

Rep. Bonner recognized Rep. Alexander to present the Committee Substitute to House Bill 1074, Election Law Changes, attached hereto as Attachment 1, for explanation, questions and discussion. Rep. Connie Wilson moved to accept the Substitute for discussion; the motion passed unanimously.

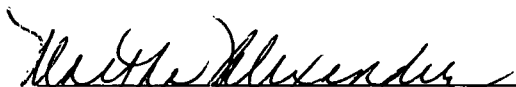
After brief questions and discussion, Rep. Wilson moved for a favorable report for the Committee Substitute, unfavorable as to Original. The motion passed, and the Committee Substitute was reported out of Committee.

The visitors' log is attached hereto as Attachment 2.

There being no further business, the meeting was adjourned at 7:48 a.m.

A list of the Committee present is in the permanent log.

Respectfully submitted:


Martha Alexander, Co-chair

Donald Bonner, Co-chair


Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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D

HOUSE BILL 1074

Committee Substitute Reported Without Prejudice 4/21/99

Proposed Committee Substitute -- H1074-PCSRR-004

Short Title: Election Law Changes -- 1.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THAT A SIGNED VOTER REGISTRATION FORM BE
3 DELIVERED TO THE BOARD OF ELECTIONS BY ANYONE DELEGATED THAT
4 RESPONSIBILITY AND MAKE VIOLATION A CLASS 2 MISDEMEANOR; TO
5 ESTABLISH THE CLASS 2 MISDEMEANOR OF AN ELECTION OFFICIAL OR
6 EMPLOYEE ALTERING VOTER REGISTRATION RECORDS WITHOUT WRITTEN
7 AUTHORIZATION; AND TO ALLOW COUNTIES TO USE A VOTING PLACE
8 OUTSIDE THE PRECINCT, WITH APPROVAL BY THE STATE BOARD OF
9 ELECTIONS.
10 The General Assembly of North Carolina enacts:
11 -- REQUIRING THAT A SIGNED VOTER REGISTRATION FORM BE DELIVERED
12 TO THE BOARD OF ELECTIONS BY ANYONE DELEGATED THAT
13 RESPONSIBILITY.
14 Section 1.(a) Article 7A of Chapter 163 of the General
15 Statutes is amended by adding a new section to read:
16 "§ 163-82.5A. Duty to deliver form executed by another to county
17 board of elections.
18 Any person who has been delegated the responsibility of
19 submitting a signed voter registration application form pursuant
20 to G.S. 163-82.6(a) shall deliver that form to the county board
21 of elections not later than five calendar days after gaining
22 possession of the signed form. No person shall sell or attempt to

1 sell completed voter registration forms or to condition their
2 delivery on payment. A violation of this section is a Class 2
3 misdemeanor."

4 Section 1.(b) This section becomes effective October 1,
5 1999, and applies to all offenses committed on and after that
6 date.

7 -- ESTABLISHING THE CLASS 2 MISDEMEANOR OF AN ELECTION OFFICIAL
8 OR EMPLOYEE ALTERING VOTER REGISTRATION RECORDS WITHOUT WRITTEN
9 AUTHORIZATION.

10 Section 2.(a) G.S. 163-274 is amended by adding a new
11 subdivision to read:

12 "(1a) For any member, director, or employee of a
13 board of elections to alter a voter
14 registration application or other voter
15 registration record without the written
16 authorization of the applicant or voter;".

17 Section 2.(b) This section becomes effective October 1,
18 1999, and applies to all offenses committed on and after that
19 date.

20 -- ALLOWING COUNTIES TO USE A VOTING PLACE OUTSIDE THE PRECINCT,
21 WITH APPROVAL BY THE STATE BOARD OF ELECTIONS.

22 Section 3.(a) Article 12 of Chapter 163 of the General
23 Statutes is amended by adding a new section to read:

24 "§ 163-130A. Out-of-precinct voting places.

25 A county board of elections, by unanimous vote of all its
26 members, may establish a voting place for a precinct that is
27 located outside that precinct. The county board's proposal is
28 subject to approval by the State Board of Elections. The county
29 board shall submit its proposal in writing to the State Board.
30 Approval by the State Board of Elections of the county's proposed
31 plan shall be conditioned upon the county board of elections'
32 demonstrating that:

33 (1) No facilities adequate to serve as a voting place
34 are located in the precinct;

35 (2) Adequate notification and publicity is provided to
36 notify voters in the precinct of the new polling
37 location;

38 (3) The plan does not unfairly favor or disfavor voters
39 with regard to race or party affiliation; and

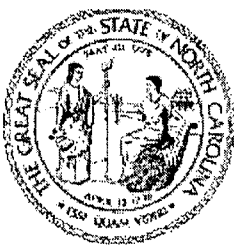
40 (4) The new voting place meets all requirements for
41 voting places including accessibility for elderly
42 and disabled voters.

43 Any approval granted by the State Board of Elections for a
44 voting place outside the precinct is effective only for one

1 primary and election and must be reevaluated by the county board
2 of elections and the State Board of Elections annually to
3 determine whether it is still the only available alternative for
4 that precinct."

5 Section 3.(b) This section is effective when this act
6 becomes law and expires January 1, 2002.

7 Section 4. This act is effective when it becomes law.



HOUSE BILL 1074: Election Law Changes-1.

BILL ANALYSIS

Committee: General Assembly and Governor
Date: July 22, 1999
Version: Ratified Bill

Introduced by: Representative Alexander
Summary by: William R. Gilkeson
Staff Attorney

SUMMARY: *The ratified House Bill 1074 would:*

1. *Clarify that anyone who has accepted responsibility for someone else's signed voter registration form must turn it in to the board of elections in time for the applicant to vote in the next election. Failure to make a good faith effort to do so would be a Class 2 misdemeanor. (pp. 1-2)*
2. *Make it a misdemeanor to alter a voter registration record without written authorization from the voter or the State Board of Elections. (p.2)*
3. *Allow county boards of elections to designate voting places outside a precinct. (pp.2-3)*
4. *Create a pilot program in up to 3 counties to allow those counties to temporarily use two voting places in the same precinct. (p. 3)*
5. *Allow county boards of elections to require that public buildings chosen as voting places provide voters with adequate parking. (pp. 3-4)*
6. *Give the State Board of Elections more specific authority over municipal boards of elections. This would include the authority to temporarily order county boards to conduct a city's elections if violations by a city council or municipal board reached a certain level of magnitude. (pp. 4-5)*
7. *Increase the minimum compensation for county election directors from \$8 per hour to \$12 per hour. (pp. 5-6)*
8. *Lower the registered-voter threshold for a county to have a full-time board of election from 14,001 to 6,501. (p. 6)*
9. *Allow corporations and unions to make donations to a political party headquarters building fund. (pp. 6-7)*
10. *Change the existing statute concerning a candidate's signature on a campaign finance report to conform to what has been enforced: instead of signing every report, the candidate would sign only an organizational statement and the appointment of a treasurer. (p. 7)*

CURRENT LAW and BILL ANALYSIS: The numbered paragraphs correspond to sections of the bill.

1. Misdemeanor: Failure to Deliver Registration Forms. Voter registration forms are self-executing. Unless the registration is conducted at a designated agency such as the DMV or ESC, the law places responsibility on the applicant to get the application to the county board of elections so the applicant can be registered for the next election. The law allows the applicant to delegate to another person the duty to get the application to the board, but it doesn't say what happens if the person to whom that duty is delegated doesn't follow through. There have been reports of people who have conducted voter

HOUSE BILL 1074

Page 2

registration drives discarding application rather than turning them in. There have also been reports of people offering to sell registration applications of a certain kind to candidates or political parties. *The bill states that if someone has accepted the job of delivering someone else's voter registration application form to the board of elections, that person has a legal duty to turn it in to the county board of elections in time for the applicant to vote in the next election. Failure to make a good faith effort to do so would be a Class 2 misdemeanor. The current registration deadline is 25 days before an election. The application must be postmarked on the 25th day if it is mailed, and must be received by the county board of elections on the 25th day if it is personally delivered. The bill would require the delegatee to meet those deadlines. The bill adds, however, that if a delegatee violates that duty, the applicant's registration is valid if the applicant has signed the application and given it to the delegatee by the 25th day. Effective October 1, 1999.* (pp. 1-2)

2. Misdemeanor: Altering Records Without Written Authorization. Changes in a voter's registration records, such as party affiliation, address, or name, must be made by the voter on a voter registration form. There have been reports of elections officials making changes based on such informal triggers as a phone conversation with the voter, a relayed request by a relative of the voter, etc. Although a Class I felony already exists for an election official knowingly to make a false or fraudulent entry on the registration books, and a Class 2 misdemeanor already exists for an election official to fail to perform any legal duty in the manner required by law, there is no specific crime for the offense of making a change to registration without written authorization. *The bill states specifically that it is a Class 2 misdemeanor for a member or employee of a board of elections to alter someone's voter registration records without written authorization from the voter or from the State Board of Elections. Effective October 1, 1999.* (p. 2)
3. Out-of-Precinct Voting Place. A voting place is now required to be in a precinct or on a lot adjacent to a precinct. Some county election boards have said they cannot find a suitable building in some precincts and could serve the voters there well if they could designate a voting place outside the precinct. *The bill allows a county board of elections, by unanimous vote, to apply to the Executive Secretary-Director of the State Board of Elections to designate a voting place outside a precinct. Effective when the act becomes law, but sunset January 1, 2001.* (pp. 2-3)
4. Pilot: Two Voting Places Per Precinct. The only provision for multiple voting places in the same precinct is a statute allowing a county to designate a satellite voting place only for elderly or disabled voters. *The bill would create a pilot program in up to three counties whereby the county board of elections could designate two voting places per precinct for up to three precincts in that county. The counties could apply to the State Election Director, who would report to the General Assembly by February 2001 on the program's results. Effective January 2, 2000, but sunset January 2, 2002.* (p. 3)
5. Parking at the Polls. The county board of elections has the authority to press into service any public, tax-supported building it needs as a precinct. Reports have surfaced of officials at schools or other public buildings, unhappy about being a voting place, stinting on the parking that voters and precinct officials could use. Current law says nothing about the provision of parking at a voting place. *The bill would allow the county board to require that adequate parking be provided around a tax-supported voting place. Effective January 1, 2000.* (pp. 3-4)
6. Special Supervisory Powers Over Municipal Boards of Elections. In addition to the 100 county boards of elections, there are now 57 municipal boards of elections. They are appointed by the city council in the city they serve. Their function is to conduct the elections for city council. They

HOUSE BILL 1074

Page 3

generally exist in small towns. The State Board of Elections has for several years advocated their abolition, arguing that the State Board's duty to supervise the conduct of local elections is thwarted by the existence of so many different entities. ***The bill would require any city council that opts to have a municipal board of elections to notify the State Board of Elections of its members within 5 days of their appointment. Current law requires a municipal board to be appointed by June 1 of the year before a city election. The bill says that if the State Election Director has not received that information nine months later, by March 1, he would be required to notify the city council that if he does not receive it by April 1 he will order the county board of elections to conduct that city's elections that year. Also, if as a city election approaches violations by the city council or a municipal board come to light that are of such magnitude as to cast doubt on a city's ability to conduct its own election fairly and competently, the State Election Director, with the assent of 4 of the 5 members of the State Board, may order the county board of elections to conduct that city's elections that year. Finally, if in more than one election either the county board has been ordered to conduct the city's election or a new election has been ordered because of irregularities by the city, the State Board, by a 4-member vote, may order the county board to conduct that city's elections on an ongoing basis. If that happens, the city may not conduct its own elections with a municipal board until every seat on the city council has been filled in a county-run election. Effective January 1, 2000.. (pp. 4-5)***

7. Increase Minimum Pay for County Directors. There are 16 part-time county boards of elections offices in small counties. The statutes require that the election directors in those offices be paid \$8 an hour for regular time and \$8 for overtime. Full-time directors must be paid a salary "commensurate with the salary paid to directors in counties similarly situated and similar in population and number of registered voters." ***The bill would set \$12 full-time and \$12 overtime as the minimum hourly rate for all election directors. Effective July 1, 2000. (pp. 5-6)***
8. More Full-Time County Elections Offices. Every county that has more than 14,000 registered voters must have a full-time elections office. Counties with fewer registered voters may operate a "modified full-time" (or part-time) office. The State Board of Elections has promulgated rules for the operation of the part-time offices. According to the rules, Plans A and B call for the office to be open 9-5 three days a week, and Plans C and D 9-1 three days a week. Only counties with 6,500 or fewer registered voters may use Plans C and D, the half-day plans. ***The bill would lower the threshold for the requirement of a full-time board of elections from 14,001 to 6,501. Effective July 1, 2000. The effect appears to be that 12 offices that are now part-time would become full-time. (p. 6)***
9. Gifts by Corporations, etc., to Party HQ Building Funds. Although the statutes prohibit contributions by business corporations to any candidate or political committee, including a political party, the State Board of Elections permits business entities to give to party headquarters building funds. Those funds must be separate segregated funds and may be used only for acquiring a headquarters building. The State Board decided it must allow those gifts contrary to State statute because of advisory opinions written by the Federal Elections Commission. Those opinions indicated that federal law allowing such gifts pre-empted State law. ***The bill would allow corporations, other business entities, unions, and professional associations to donate to political party headquarters building funds. (Those givers are treated like corporations under current law in being prohibited to make political contributions.) The bill would more or less codify the State Board's ruling on the matter. Parties would be strictly limited in how they could spend the money in the fund. They could use it only to purchase, construct, renovate, or pay a mortgage on a headquarters building. They could also use it to repay***

HOUSE BILL 1074

Page 4

donor if the building were not purchased, etc. They could NOT use the money to pay building rent or utilities. Effective when the bill becomes law. (pp. 6-7)

10. Candidate's Signature on Campaign Reports. A statute, unchanged since 1974, says that every campaign finance report must be signed under oath by the treasurer of the campaign as being true and correct. If the treasurer was appointed by a candidate or by a candidate's principal campaign committee, the report must be "certified as true and correct to the best of his knowledge" by the candidate. Although that language seems to call for a candidate's signature, the practice of the State Board of Elections has been to provide for a candidate's signature only on the form for an organization statement and the appointment of treasurer. The State Board's basic quarterly reporting form for contributions and expenditures has not had a space a for candidate to sign. As the State Board was reviewing its forms recently in preparation for redesign, it determined that to comply with the law it must include a space for candidate to sign. The State Board staff was concerned that legislators should be made aware that enforcing the old law would result in this change in practice. They wanted legislators to have the opportunity to review the law and make the policy decision of whether the law should be changed or enforced. *The bill would change the statute to conform to traditional practice. It would require a candidate's signature only on the organization statement and the appointment of treasurer, not on every report. Effective when it becomes law. (pp. 7)*

BACKGROUND Sections 1 through 3, minus some later refinements, were in the version of House Bill 1074 that passed the House before crossover. The rest of the PCS is new.

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Alexander and Bonner** for the Committee on **Election Law and Campaign Finance Reform**.

☐ Committee Substitute for

H.R. 1074 A BILL TO BE ENTITLED AN ACT TO REQUIRE THAT A SIGNED VOTER REGISTRATION FORM BE DELIVERED TO THE BOARD OF ELECTIONS BY ANYONE DELEGATED THAT RESPONSIBILITY AND TO MAKE VIOLATION A CLASS 2 MISDEMEANOR; TO ESTABLISH THE CLASS 2 MISDEMEANOR OF AN ELECTION OFFICIAL OR EMPLOYEE ALTERING VOTER REGISTRATION RECORDS WITHOUT WRITTEN AUTHORIZATION; TO ALLOW COUNTIES TO USE A VOTING PLACE OUTSIDE THE PRECINCT; TO CREATE A PILOT PROGRAM TO ALLOW THE TEMPORARY USE OF TWO VOTING PLACES FOR THE SAME PRECINCT; TO ALLOW COUNTIES TO REQUIRE THAT ADEQUATE PARKING BE PROVIDED AT VOTING PLACES THAT ARE PUBLIC BUILDINGS; TO PROVIDE FOR SUPERVISION, ASSISTANCE, AND TRAINING BY THE STATE BOARD OF ELECTIONS FOR MUNICIPAL BOARDS OF ELECTIONS AND TO PROVIDE FOR REMEDIES; TO INCREASE MINIMUM COMPENSATION FOR COUNTY ELECTIONS DIRECTORS; TO LOWER THE THRESHOLD FOR A FULL-TIME ELECTIONS OFFICE; TO PROVIDE FOR CERTAIN DONATIONS TO POLITICAL PARTY HEADQUARTERS BUILDING FUNDS; AND TO CHANGE THE STATUTE CONCERNING A CANDIDATE'S SIGNATURE ON A FINANCE REPORT TO REFLECT TRADITIONAL PRACTICE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☒ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

VISITOR REGISTRATION SHEET

Election + Camp LAWS4-23-99VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY

1. Johnnie McLeanSt. Bd. of Elections2. Harry O. Bartlett" " " "3. Sharon K. NicholsA. G.'s Office4. Zoe LuskS.D.E.5. Deb RenARM

6. _____

7. _____

8. _____

9. _____

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AGENDA

HOUSE COMMITTEE ON ELECTION LAW & CAMPAIGN FINANCE REFORM

MAY 5, 1999

Room 1228

11:00 am

Presiding: Representative Donald A. Bonner

Discussion:

House Bill – 1023

House Bill – 1091

Comments from the Committee

Adjournment

MINUTES

HOUSE COMMITTEE ON

ELECTION LAW AND CAMPAIGN REFORM

May 5, 1999

Representative Bonner, Presiding

The House Committee on Election Law and Campaign Reform met on Wednesday, May 5, 1999. The following members were present: Chairman Donald A. Bonner, Co-Chair Representative Alexander Representatives, Berry, Decker, Dedmon, Kiser, Justus, Kiser, Melton, Michaux, Pope, Nesbitt, Rogers, Thompson, C. Wilson Ex-Officio Cunningham and Hackney, Staff Attorney Bill Gilkeson was present, as well as committee clerks Ann Faust and Lucy Johnson. A Visitor Registration list is attached and made part of these minutes.

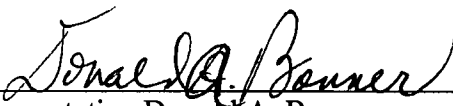
The Chairman called the meeting to order at 11:02 to begin the Agenda of the day. The first item was the introduction of all visitors as well as committee assistants, pages and Sgt. At Arms.

Representative Rayfield was recognized to explain House Bill 1023 after which Bill Gilkeson gave pertinent information on the Bill. Speaking on the Bill was Representatives Michaux and Cunningham. After much discussion, the group agreed unanimously to send the Bill to a Study Commission.

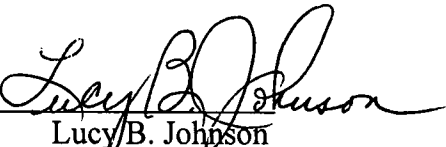
Representative Wood was recognized to introduce and explain House Bill 1091. Speaking on the Bill were Representatives Goodwin, Hensley, Decker, Alexander, Michaux and Justus.

After Many questions and discussion the Chair entertained a motion from Representative Michaux that the Committee give the Bill an unfavorable report. All members present voted in favor of the unfavorable reeport5

The meeting was adjourned.
Respectively Submitted:



Representative Donald A. Bonner
Chairman



Lucy B. Johnson
Committee Assistant

Attachments

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 1091

Short Title: Presidential Primary Changed.

(Public)

Sponsors: Representative Wood.

Referred to: Election Law and Campaign Finance Reform.

April 15, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE AN EARLIER DATE FOR THE PRESIDENTIAL
3 PRIMARY.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 163-213.2 reads as rewritten:
6 **"§ 163-213.2. Primary to be held; date; qualifications and registration of voters.**
7 **On the ~~Tuesday after the first Monday in May, 1992,~~ first Monday in March 2000,**
8 **and every four years thereafter, the voters of this State shall be given an opportunity**
9 **to express their preference for the person to be the presidential candidate of their**
10 **political party.**
11 Any person otherwise qualified who will become qualified by age to vote in the
12 general election held in the same year of the presidential preference primary shall be
13 entitled to register and vote in the presidential preference primary. Such persons may
14 register not earlier than 60 days nor later than the 21st day prior to the said primary.
15 In addition, persons who will become qualified by age to register and vote in the
16 general election for which the primary is held, who do not register during the special
17 period may register to vote after such period as if they were qualified on the basis of
18 age, but until they are qualified by age to vote, they may vote only in primary
19 elections."
20 Section 2. G.S. 163-213.3 reads as rewritten:
21 **"§ 163-213.3. Conduct of election.**
22 The presidential preference primary election shall be conducted and canvassed by
23 the same authority and in the manner provided by law for the conduct and
24 canvassing of the primary election for the office of Governor and all other offices

1 enumerated in G.S. 163-187 and under the same provisions stipulated in G.S.
2 ~~163-188. 163-188, except that the latest date by which absentee ballots shall be~~
3 ~~available shall be 30 days prior to the date of the primary.~~ The State Board of
4 Elections shall have authority to promulgate reasonable rules and regulations, not
5 inconsistent with provisions contained herein, pursuant to the administration of this
6 Article."

7 Section 3. G.S. 163-213.4 reads as rewritten:

8 "**§ 163-213.4. Nomination by State Board of Elections.**

9 The State Board of Elections shall convene in Raleigh on the first Tuesday in
10 ~~February~~ January preceding the presidential preference primary election. At the
11 meeting required by this section, the State Board of Elections shall nominate as
12 presidential primary candidates all candidates affiliated with a political party,
13 recognized pursuant to the provisions of Article 9 of Chapter 163 of the General
14 Statutes, who have become eligible to receive payments from the Presidential Primary
15 Matching Payment Account, as provided in section 9033 of the U.S. Internal Revenue
16 Code of 1954, as amended. Immediately upon completion of these requirements, the
17 Board shall release to the news media all such nominees selected. Provided,
18 however, nothing shall prohibit the partial selection of nominees prior to the meeting
19 required by this section, if all provisions herein have been complied with."

20 Section 4. This act is effective when it becomes law.

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Alexander and Bonner** for the Committee on **ELECTION LAW
AND CAMPAIGN FINANCE REFORM.**

- ☐ Committee Substitute for
H.B. 1091 A BILL TO BE ENTITLED AN ACT TO PROVIDE AN EARLIER DATE FOR
THE PRESIDENTIAL PRIMARY.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title,
unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☒ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 1023

Short Title: Statewide Elections/Funding.

(Public)

Sponsors: Representatives Rayfield; Allred, Arnold, Barbee, Berry, Bowie, Bridgeman, Brown, Brubaker, Buchanan, Cansler, Capps, Daughtry, Davis, Dockham, Eddins, Esposito, Gillespie, Grady, Gray, Gulley, Hiatt, Holmes, Howard, Kiser, McCombs, McMahan, Miner, Mitchell, Morris, Preston, Russell, Setzer, Sherrill, Starnes, Teague, Tucker, Walend, and G. Wilson.

Referred to: Election Law and Campaign Finance Reform, if favorable, Appropriations.

April 14, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE STATE REIMBURSEMENT TO COUNTIES FOR THE
3 COST OF CONDUCTING STATEWIDE PRIMARIES, ELECTIONS, AND
4 REFERENDA, AND TO APPROPRIATE FUNDS.
5 The General Assembly of North Carolina enacts:
6 Section 1. Article 14 of Chapter 163 of the General Statutes is amended
7 by adding a new section to read:
8 "§ 163-25.1. State reimbursement of county boards of elections for cost of conducting
9 statewide primaries, elections, and referenda.
10 The State Board of Elections shall reimburse each county board of elections for
11 the cost of conducting each statewide primary, election, and referendum. State
12 reimbursement shall be a pro rata share of the cost of conducting a primary, election,
13 or referendum based on the portion of the ballot taken up with statewide contests.
14 'Cost of conducting a primary, election, or referendum' shall include, but not be
15 limited to, the cost of printing ballots, programming computerized voting systems, and
16 paying precinct officials. It shall not include costs of the county board of elections
17 that would be the same were an election not being held, such as the salaries of
18 permanent employees, building rent, and the portion of utility costs that is unaffected
19 by the election."

1 Section 2. There is appropriated from the General Fund to the State
2 Board of Elections the sum of two hundred twenty-seven thousand five hundred
3 dollars (\$227,500) for the 1999-2000 fiscal year and two hundred twenty-seven
4 thousand five hundred dollars (\$227,500) for the 2000-2001 fiscal year to reimburse
5 county boards of elections for the cost of conducting statewide primaries, elections,
6 and referenda, according to the provisions of Section 1 of this act.

7 Section 3. This act becomes effective July 1, 1999.

VISITOR REGISTRATION SHEET

ELECTION LAW & CAMPAIGN FINANCE REFORM

MAY 5, 1999

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

- | | | |
|------|--------------------|--|
| 1.) | Smarcham | EGHS |
| 2.) | Rob Christensen | N & O |
| 3.) | Michael Powell | ATTY. PAULGH |
| 4.) | Shirine McLean | State Bd. of Elections |
| 5.) | Debra Ross | ALLC |
| 6.) | Summers | NC Equity |
| 7.) | Dwight H. Green | TPC. Service |
| 8.) | Rob Holliday | Legislative Intern |
| 9.) | Yvonne Southerland | State Bd. of Elections |
| 10.) | John Sullivan | 103 Wildwood Dr. Goldsboro 27534 |
| 11.) | PAT Graham | 391 Gurley Dairy rd. P. Kenille NC 27863 |
| 12.) | John Cyrus | N.C. State Exchange |
| 13.) | | AAA |
| 14.) | Frank D. Hamel | Comman's office |
| 15.) | | |
| 16.) | | |
| 17.) | | |
| 18.) | | |
| 19.) | | |
| 20.) | | |

AGENDA

**HOUSE COMMITTEE
ON**

ELECTION LAW AND CAMPAIGN FINANCE REFORM

**JUNE 16, 1999
Room 1228/1327
11:00 a.m.**

Presiding: Representative Donald A. Bonner, Chair

OPENING REMARKS:

Representative Donald A. Bonner, Chair

DISCUSSION:

House Bill 248

House Bill 1402

COMMENTS FROM COMMITTEE

ADJOURNMENT

**MINUTES OF THE MEETING
ELECTION LAW AND CAMPAIGN FINANCE REFORM**

**JUNE 16, 1999
11:00 AM**

The meeting was called to order by the presiding co-chair, Rep. Donald Bonner, who recognized the pages and called attention to the agenda items.

Rep. Martha Alexander presented House Bill 248, An Act to Amend the Statutes Concerning Precinct Boundaries and to Provide the Rules and Procedure for Municipal Redistricting in 2001, attached hereto as Exhibit 1, which has returned to the House for concurrence. The Senate made three changes in the House Bill :

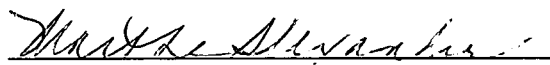
1. Adding major footpaths and ridgelines for mountain counties to use as precinct lines;
2. Allowing counties to wait until after the 1999 municipal elections to draw Phase II precinct lines; and
3. Provide for special schedules for municipal elections where 2000 census data is not available in time to adjust for 2001 elections.

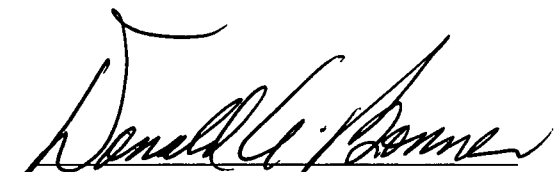
After discussion, it was moved to concur, which motion passed by voice vote.

Rep. Alexander presented House Bill 1402, An Act To Establish A Program Which Allows Voters To Authorize That Public Funds Be Used To Support The Campaigns Of Candidates For Governor, Lieutenant Governor, Other Council Of State Offices, And The General Assembly Who Agree To Abide By Fund-Raising And Spending Limits, attached hereto as Exhibit 2. Bill Gilkeson, Staff Attorney, explained the bill's purpose and procedure. Discussion followed on a candidate's qualifying for public funds, gifts from political parties, rescue funds, complexity of election laws, using bill against opponent, late filing stalking horse knows how much first candidate can spend, major economic interests give large support to candidates making it hard for candidates representing middle America to win, decrease in voting public because voters feel disenfranchised, freedom to give money to whomever you choose.

Rep. Bonner thanked everyone for their open discussion and a good beginning on a long and arduous process. The meeting adjourned at 12:00.

Respectfully submitted:


Rep. Martha Alexander


Rep. Donald Bonner

Ann Faust, Committee Assistant

Exhibit 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

3

HOUSE BILL 248
Committee Substitute Favorable 3/31/99
Senate Judiciary I Committee Substitute Adopted 6/2/99

Short Title: Precinct Boundaries.

(Public)

Sponsors:

Referred to:

March 4, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE STATUTES CONCERNING PRECINCT
3 BOUNDARIES AND TO PROVIDE THE RULES AND PROCEDURE FOR
4 MUNICIPAL REDISTRICTING IN 2001.
5 The General Assembly of North Carolina enacts:
6 Section 1. Article 12A of Chapter 163 of the General Statutes reads as
7 rewritten:
8 "ARTICLE 12A.
9 "Precinct Boundaries.
10 "§ 163-132.1. Participation in 2000 Census Redistricting Data Program of the United
11 States Bureau of the Census.
12 (a) Purpose. -- The State of North Carolina shall participate in the 2000 Census
13 Redistricting Data Program, conducted pursuant to P.L. 94-171, of the United States
14 Bureau of the Census, including Phase I (Block Boundary Suggestion Program) and
15 Phase II (concerning the designation of precincts on 2000 Census maps or databases),
16 so that the State will receive 2000 Census data by voting precinct and be able to
17 revise districts at all levels without splitting precincts and in compliance with the
18 United States and North Carolina Constitutions and the Voting Rights Act of 1965, as
19 amended.
20 (b) Phase I (Block Boundary Suggestion Program). -- The State shall participate in
21 the Block Boundary Suggestion Program of the United States Bureau of the Census
22 so that the maps the Census Bureau will use in the 2000 Census will contain adequate

1 features to permit reporting of Census data by precinct for use in the 2001
2 redistricting efforts. The Legislative Services Office shall send preliminary maps
3 produced by the Census Bureau in preparation for the 2000 Census, as soon as
4 practical after the maps are available, to the county boards of elections to determine
5 which of their precincts have boundaries that are not coterminous with a physical
6 feature, a current township boundary, or a current municipal boundary, as shown on
7 those preliminary 2000 Census maps. The Legislative Services Office shall:

- 8 (1) Assist county boards of elections in identifying the precincts with
9 boundaries not shown on the preliminary Census maps and in
10 identifying physical features the county boards may wish to have
11 available for future precinct boundaries;
- 12 (2) Place those boundaries and features on maps deemed appropriate
13 by the State Board;
- 14 (3) Request the U.S. Census Bureau to hold for census block
15 identification in the 2000 U.S. Census all physical features the
16 county boards have identified as current or potential precinct
17 boundaries; and
- 18 (4) Request the U.S. Census Bureau to hold for census block
19 identification in the 2000 U.S. Census all other physical features
20 already on 1990 Census maps.

21 (c) Phase II. -- The State shall participate in Phase II of the 2000 Census
22 Redistricting Data Program so that, to the extent practical, the precinct boundaries of
23 all North Carolina counties will appear on the 2000 Census maps or database. The
24 State's effort shall be conducted as follows:

- 25 (1) By January 1, 1998, or as soon thereafter as they become available,
26 the Legislative Services Office shall ~~send to the county boards of~~
27 ~~elections the Census Bureau's official block maps, on paper or~~
28 ~~electronically, to be used in the 2000 Census.~~ provide the county
29 boards of elections with access, on paper or electronically, to the
30 Census Bureau's maps for Phase II of the Census Redistricting
31 Data Program.
- 32 (2) After receiving the maps, the county boards of elections shall
33 designate their precinct lines along the ~~block boundary lines on the~~
34 ~~maps.~~ lines the Census Bureau indicates on the maps it will hold as
35 block boundaries for the 2000 Census. Where necessary, the county
36 boards of elections shall alter precincts, including any precincts
37 approved under the provisions of G.S. 163-132.1A, 163-132.2, or
38 163-132.3 or designated by local act, to conform to lines the Census
39 Bureau indicates it will hold as Census block boundaries as shown
40 on the official block maps to be used for the 2000 Census and to
41 consist only of contiguous territory. The county boards of elections,
42 at a time deemed necessary by the Executive Secretary-Director of
43 the State Board of Elections, shall file with the Legislative Services

- 1 Office the maps ~~sent to them and marked by them~~ on which they
2 have designated their precincts pursuant to this subsection.
- 3 (3) After examining the ~~returned~~ maps, the Legislative Services Office
4 shall submit to the Executive Secretary-Director of the State Board
5 of Elections its opinion as to whether the county board of elections
6 has complied with the provisions of this subsection, with notations
7 as to where those boundaries do not comply with these standards.
- 8 (4) If the Executive Secretary-Director determines that the county
9 board of elections has complied, he shall approve the precinct
10 boundaries as filed and those precincts shall be the official
11 precincts.
- 12 (5) If the Executive Secretary-Director determines that the county
13 board of elections has not complied, he shall not approve those
14 precinct boundaries but shall alter the precinct boundaries so that
15 each precinct consists solely of contiguous territory and that each
16 precinct's boundaries are coterminous with 2000 Census block
17 boundaries nearest to the precinct boundaries shown by the county
18 boards on the maps. These altered precincts shall then be the
19 official precincts.
- 20 (6) Upon the adoption of a resolution by a county board of elections
21 and instead of altering precinct lines as required by G.S. 163-
22 132.1(c)(5), the Executive Secretary-Director may combine for
23 Census reporting purposes only two or more adjacent precincts of
24 the county into a Combined Reporting Unit, if the Executive
25 Secretary-Director finds that:
- 26 a. The boundaries of the Combined Reporting Unit conform
27 with the Census block boundaries as shown on the official
28 block maps to be used in the 2000 Census;
- 29 b. The Combined Reporting Unit consists only of contiguous
30 territory;
- 31 c. The precincts of which the Combined Reporting Unit
32 consists were bounded as of January 1, 1996, by ridgelines,
33 as certified on official county maps by the county manager
34 of the relevant county, or if there is no county manager the
35 chair of the board of commissioners, and the boundaries
36 failed to comply with subdivision (2) of this subsection only
37 because those ridgelines were unrecognized as Census block
38 boundaries in the 2000 official Census maps;
- 39 d. The Combined Reporting Unit does not contain a majority
40 of the territory of more than one township; and
- 41 e. To alter those precinct boundaries would result in
42 significant voter dislocation.
- 43 If the Executive Secretary-Director recognizes a Combined
44 Reporting Unit for specific precincts, the official boundaries of

those individual precincts forming the Combined Reporting Unit shall be those which the Legislative Services Office submitted to the Executive Secretary-Director under subdivision (3) of this subsection.

- (7) The Executive Secretary-Director shall file the completed maps with the Census Bureau and request that the Census Bureau provide summaries of 2000 Census data by precinct and Combined Reporting Units.

(d) Freezing of Precincts. -- Notwithstanding the provisions of G.S. 163-132.3, after the Executive Secretary-Director approves the precincts in accordance with subsection (c) of this section and before January 2, ~~2000~~, 2002, no county board of elections may establish, alter, discontinue, or create any precinct except by division of one precinct into two or more precincts using lines that the Census Bureau has indicated it will use as 2000 Census block boundaries for that division. Provided that, whenever an annexation ordinance adopted under Parts 1, 2, or 3 of Article 4A of Chapter 160A of the General Statutes, or a local act of the General Assembly annexing property to a municipality, becomes effective during the period beginning with the date of the annexation as reported through the U.S. Census Bureau's 1998 Boundary and Annexation Survey and ending January 2, ~~2000~~, 2002, and any part of the boundary of the area being annexed which is actually contiguous to the city is also a precinct boundary for elections administered by the county board of elections then the county board of elections may exercise one of the following options:

- (1) Direct by resolution that the annexed area is automatically moved into the 'city precinct', provided that if the annexed area is adjacent to more than one city precinct, the board of elections shall place the area in any one or more of the adjacent city precincts.
- (2) Adopt a resolution moving the precinct boundary to a visible feature that the Census Bureau has indicated it will use as a 2000 block boundary.

The county board of elections shall submit any proposed change made during the freeze under this subsection to the Legislative Services Office, which shall review the proposal and write a letter advising the Executive Secretary-Director of its opinion as to the legal compliance of the proposal. If the proposal complies with the law, the Executive Secretary-Director shall approve the proposal. No newly created or altered precinct boundary is effective until approved by the Executive Secretary-Director as being in compliance with the provisions of this subsection. The county board of elections may delay the effective date of any change under this subsection to a date not later than January 1, 2002.

(d1) Right to Postpone Effective Date Until January 1, 2000. -- A county board of elections may postpone the effective date of the precincts designated in Phase II until January 1, 2000.

(d2) Special Permission to Postpone Effective Date Until January 1, 2001. -- The Executive Secretary-Director may permit a county board of elections to postpone the

1 effective date of precinct lines designated under Phase II until January 1, 2001, upon
2 written application by the county board of elections, if the Executive Secretary-
3 Director finds both of the following:

4 (1) That the Phase II-designated lines would create a split precinct in
5 2000 for county commissioner, board of education, judicial, State
6 legislative, or congressional district elections and that a split could
7 be avoided by using the pre-Phase II precinct.

8 (2) That the county can provide reasonably reliable voter registration
9 data for April and October of 2000 by the Phase II-designated
10 precincts.

11 In granting an exception under this subsection, the Executive Secretary-Director shall
12 allow an exception only for the precincts that would result in splits and for any
13 adjacent precincts for which pre-Phase II precincts must be used to avoid geographic
14 overlap or discontinuity. Every county board of elections granted an exception under
15 this subsection shall provide to the State Board of Elections voter registration data for
16 April and October of 2000 by the Phase II-designated precincts.

17 (e) Municipal and Township Boundaries. -- Notwithstanding the provisions of
18 subsections (c) and (d) of this section, the county boards of elections may designate
19 precinct boundaries on municipal or township boundaries that are not designated on
20 the 2000 official Census block maps, according to directives promulgated by the
21 Executive Secretary-Director of the State Board of Elections and adopted to insure
22 that all precincts shall be included on the 2000 Census database.

23 (f) Additional Rules. -- In addition to the directives promulgated by the Executive
24 Secretary-Director of the State Board of Elections under G.S. 163-132.4, the
25 Legislative Services Commission may promulgate rules to implement this section.

26 ~~"§ 163-132.1A. Precinct boundaries for certain counties.~~

27 ~~(a) The boundaries of precincts for the counties listed in subsection (b) of this~~
28 ~~section are those recorded in the Legislative Services Office's automated redistricting~~
29 ~~system as of May 1, 1991, except as changed in accordance with G.S. 163-132.3, and~~
30 ~~except in Caldwell County, the boundaries of Lenoir #3, North Catawba, Gamewell~~
31 ~~#1, and Gamewell #2 Precincts shall be as provided on the precinct map of the~~
32 ~~county adopted by the Caldwell County Board of Elections and in effect on January~~
33 ~~1, 1992, unless changed in accordance with G.S. 163-132.1 or G.S. 163-132.3,~~
34 ~~whichever occurs later.~~

35 ~~(b) This section shall apply only to the following counties: Alamance, Buncombe,~~
36 ~~Burke, Cabarrus, Caldwell, Catawba, Chatham, Chowan, Cleveland, Craven,~~
37 ~~Cumberland, Davidson, Duplin, Durham, Edgecombe, Forsyth, Gaston, Granville,~~
38 ~~Guilford, Halifax, Harnett, Henderson, Iredell, Johnston, Jones, Lenoir, Mecklenburg,~~
39 ~~Nash, New Hanover, Onslow, Orange, Pender, Pitt, Randolph, Richmond, Robeson,~~
40 ~~Rockingham, Rowan, Sampson, Scotland, Surry, Union, Wake, Washington, Wayne,~~
41 ~~Wilkes, Wilson, and Yancey.~~

42 ~~"§ 163-132.2. Precinct boundaries for other counties.~~

43 ~~(a) The Legislative Services Office shall send as directed by the schedule~~
44 ~~contained in subsection (g) of this section the relevant copies of the United States~~

~~Census Bureau's official census block maps of the 1990 United States Census to each county board of elections. The county board of elections shall:~~

~~(1) Alter, where necessary, preeinct boundaries to be coterminous with those of:~~

~~a. Townships, as certified by the county manager, or the chairman of the board of county commissioners if there is not a county manager, on the official map of the county;~~

~~b. The census blocks established under the latest U.S. Census;~~

~~c. The following visible physical features, readily distinguishable upon the ground:~~

~~1. Roads or streets;~~

~~2. Water features or drainage features;~~

~~3. Ridgelines;~~

~~4. Ravines;~~

~~5. Jeep trails;~~

~~6. Rail features;~~

~~7. Above-ground power lines; or~~

~~8. Major footpaths~~

~~as certified by the North Carolina Department of Transportation on its highway maps or the county manager of the relevant county or, if there is no county manager, the chair of the county board of commissioners, on official county maps.~~

~~d. Municipalities, as certified by the city clerk on the official map of the city; or~~

~~e. A combination of these boundaries;~~

~~(1a) Alter, where necessary, preeinct boundaries so that each preeinct is composed solely of contiguous territory;~~

~~(2) Mark all preeinct boundaries on the maps sent by the Legislative Services Office or on other maps or electronic databases approved by the Executive Secretary Director, showing the preeinct boundaries in effect as of the time of marking, but with any changes effective at a later time as provided by subsection (d) of this section; and~~

~~(3) File, at a time deemed necessary by the Executive Secretary Director of the State Board of Elections, with the State Board and the Legislative Services Office the maps identifying the preeinct boundaries. The Executive Secretary Director may require a county board of elections to file a written description of the boundaries of any preeinct or part thereof.~~

~~(b) The Executive Secretary Director of the State Board of Elections and the Legislative Services Office shall examine the returned maps and their written descriptions. After its examination of the maps and their written descriptions, the Legislative Services Office shall submit to the Executive Secretary Director of the~~

~~1 State Board of Elections its opinion as to whether the county board of elections has
2 complied with the provisions of subsection (a) of this section, with notations as to
3 where those boundaries do not comply with these standards. If the Executive
4 Secretary-Director of the State Board determines that the county board of elections
5 has complied with the provisions of subsection (a) of this section, the Executive
6 Secretary-Director of the State Board shall approve the maps and written descriptions
7 as filed and these precincts shall be the official precincts.~~

~~8 (e) If the Executive Secretary-Director of the State Board determines that the
9 county board of elections has not complied with the provisions of subsection (a) of
10 this section, he shall not approve those precinct boundaries but shall alter the
11 precinct boundaries so that each precinct consists solely of contiguous territory and
12 that each precinct's boundaries are coterminous with those boundaries set forth in
13 subsection (a)(1) of this section nearest to those existing precinct boundaries. These
14 altered precincts shall then be the official precincts.~~

~~15 (d) The changes in precinct boundaries under subsections (b) and (c) of this
16 section shall be made effective not later than January 1, 1997; unless the change
17 would result in placing a precinct in more than one State House of Representatives,
18 State Senate, or Congressional district, in which case it shall be made effective not
19 later than January 1, 2002.~~

~~20 (e), (f) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 927, s. 1.~~

~~21 (g) The Legislative Services Office shall send maps, under subsection (a) of this
22 section, to the counties named below by the dates indicated:~~

~~23 (1) Maps to be sent not later than January 1, 1993, to the following
24 counties: Alexander, Alleghany, Anson, Ashe, Avery, Beaufort,
25 Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Currituck,
26 Cherokee, Clay, Franklin, Gates, and Hoke;~~

~~27 (2) Maps to be sent not later than January 1, 1994, to the following
28 counties: Columbus, Dare, Davie, Graham, Greene, Haywood,
29 Hertford, Hyde, Jackson, Lee, Lincoln, Madison, Martin, Mitchell,
30 Montgomery, Northampton, and Pasquotank; and~~

~~31 (3) Maps to be sent not later than January 1, 1995, to the following
32 counties: Macon, McDowell, Moore, Pamlico, Perquimans, Person,
33 Polk, Rutherford, Stanly, Stokes, Swain, Transylvania, Tyrrell,
34 Vance, Warren, Watauga, and Yadkin.~~

~~35 (h) This section shall apply only to the following counties: Alexander, Alleghany,
36 Anson, Ashe, Avery, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret,
37 Caswell, Cherokee, Clay, Columbus, Currituck, Dare, Davie, Franklin, Gates,
38 Graham, Greene, Haywood, Hertford, Hoke, Hyde, Jackson, Lee, Lincoln, Macon,
39 Madison, Martin, McDowell, Mitchell, Montgomery, Moore, Northampton, Pamlico,
40 Pasquotank, Perquimans, Person, Polk, Rutherford, Stanly, Stokes, Swain,
41 Transylvania, Tyrrell, Vance, Warren, Watauga, and Yadkin.~~

~~42 (i) Any county board of elections whose precincts were not approved by the
43 Executive Secretary-Director under the provisions of this section during the year by
44 which maps were to be sent to the county under subsection (g) of this section shall~~

1 ~~submit precinct boundary changes that comply with subsection (a) of this section to~~
2 ~~the Legislative Services Office before January 1, 1996, according to directives~~
3 ~~promulgated by the Executive Secretary-Director.~~

4 **"§ 163-132.3. Alterations to approved precinct boundaries.**

5 (a) ~~No county board of elections of a county listed in G.S. 163-132.1A(b), after~~
6 ~~January 1, 1990, and no county board of elections of a county listed in G.S.~~
7 ~~163-132.2(h), after its precinct boundaries are approved pursuant to G.S. 163-132.2,~~
8 may change any precinct boundary unless the proposed new precinct consists solely
9 of contiguous territory and its new boundaries are coterminous with those of:

- 10 (1) Townships, as certified by the county manager, or the chairman of
11 the board of county commissioners if there is not a county
12 manager, on the official map of the county;
- 13 (2) The census blocks established under the latest U.S. Census or the
14 boundaries contained on the latest preliminary U.S. Census maps,
15 issued under P.L. 94-171, whichever occurs later;
- 16 (3) The following visible physical features, readily distinguishable
17 upon the ground:
 - 18 a. Roads or streets;
 - 19 b. Water features or drainage features;
 - 20 c. Ridgelines;
 - 21 ~~d. Ravines;~~
 - 22 ~~e. Jeep trails;~~
 - 23 f. Rail features;
 - 24 ~~g. Above-ground power lines; or~~ Major above-ground power
25 lines; or
 - 26 h. Major footpathsas certified by the North Carolina Department of Transportation
27 on its highway maps or the county manager of the relevant county
28 or, if there is no county manager, the chair of the county board of
29 commissioners, on official county maps.
- 30 (4) Municipalities, as certified by the city clerk on the official map of
31 the city; or
- 32 (5) A combination of these boundaries.

34 The county boards of elections shall report precinct boundary changes by filing
35 with the Legislative Services Office on current official census maps or maps certified
36 by the North Carolina Department of Transportation or the county's planning
37 department or on other maps or electronic databases approved by the Executive
38 Secretary-Director the new boundaries of these precincts. The Executive Secretary-
39 Director may require a county board of elections to file a written description of the
40 boundaries of any precinct or part thereof. No newly created or altered precinct
41 boundary is effective until approved by the Executive Secretary-Director of the State
42 Board as being in compliance with this subsection. No precinct may be changed
43 under this section between the date its boundaries become effective under G.S. 163-

1 132.1(c) and January 2, 2002. Any changes to precincts during that period shall be
2 made as provided in G.S. 163-132.1(d).

3 (b) The Executive Secretary-Director of the State Board of Elections and the
4 Legislative Services Office shall examine the maps of the proposed new or altered
5 precincts and any required written descriptions. After its examination of the maps
6 and their written descriptions, the Legislative Services Office shall submit to the
7 Executive Secretary-Director of the State Board of Elections its opinion as to whether
8 all of the proposed precinct boundaries are in compliance with subsection (a) of this
9 section, with notations as to where those boundaries do not comply with these
10 standards. If the Executive Secretary-Director of the State Board determines that all
11 precinct boundaries are in compliance with this section, the Executive Secretary-
12 Director of the State Board shall approve the maps and written descriptions as filed
13 and these precincts shall be the official precincts.

14 (c) If the Executive Secretary-Director of the State Board determines that the
15 proposed precinct boundaries are not in compliance with subsection (a) of this
16 section, he shall not approve those precinct boundaries. He shall notify the county
17 board of elections of his disapproval specifying the reasons. The county board of
18 elections may then resubmit new precinct maps and written descriptions to cure the
19 reasons for their disapproval.

20 **"§ 163-132.4. Directives.**

21 The Executive Secretary-Director of the State Board of Elections may promulgate
22 directives concerning its duties and those of the county boards of elections under this
23 Article.

24 **"§ 163-132.5. Cooperation of State and local agencies.**

25 The State Budget Office, the Department of Transportation and county and
26 municipal planning departments shall cooperate and assist the Legislative Services
27 Office, the Executive Secretary-Director of the State Board of Elections and the
28 county boards of elections in the implementation of this Article.

29 **"§ 163-132.5A: Repealed by Session Laws 1991 (Regular Session, 1992), c. 927, s. 1.**

30 **"§ 163-132.5B. Exemption from Administrative Procedure Act.**

31 The State Board of Elections is exempt from the provisions of Chapter 150B of the
32 General Statutes while acting under the authority of this Article. Appeals from a
33 final decision of the Executive Secretary-Director of the State Board of Elections
34 under this Article shall be taken to the State Board of Elections within 30 days of
35 that decision. The State Board shall approve, disapprove or modify the Executive
36 Secretary's decision within 30 days of receipt of notice of appeal. Failure of the State
37 Board to act within 30 days of receipt of notice of appeal shall constitute a final
38 decision approving that of the Executive Secretary. Appeals from a final decision of
39 the State Board under this Article shall be taken to the Superior Court of Wake
40 County.

41 **"§ 163-132.5C. Local acts and township lines.**

42 (a) Notwithstanding the provisions of any local act, a county board of elections
43 need not have the approval of any other county board or commission to make
44 precinct boundary changes required by this Article.

1 (b) Precinct boundaries established, retained or changed under this Article, or
2 changed to follow a district line where a precinct has been divided in a districting
3 plan, may cross township lines.

4 **"§ 163-132.5D. Retention of precinct maps.**

5 The Executive Secretary-Director of the State Board of Elections shall retain the
6 maps and written descriptions which he approves pursuant to G.S. 163-132.3.

7 ~~"§ 163-132.5E. Precinct maps and voter statistics filed with the Legislative Services
8 Office.~~

9 ~~(a) No later than January 31 of each year, the chairman of each county board of
10 elections shall file with the Legislative Services Office a map showing the county's
11 precincts as of January 1 of that year.~~

12 ~~(b) Not later than January 31 of each year, the chair of each county board of
13 elections shall file with the Legislative Services Office a list of each precinct in the
14 county as of January 1 of that year and the number of registered voters, in each
15 precinct, by political party and race; and, no later than January 31 of each year
16 beginning in 1996, with a numerical breakdown as to the race of registered voters of
17 each political party.~~

18 ~~(c) The Legislative Services Office shall develop and send by mail to each county
19 board of elections by September 15 of each year a standard electronic data format
20 that can be used in the following year by county boards of election as an alternative
21 method of filing the list required by subsection (b) of this section. The standard
22 electronic data format shall be for data provided in international standard ASCII file
23 format on 9-track magnetic tape, 8-millimeter magnetic tape, 5 1/4-inch diskettes, or 3
24 1/2-inch diskettes. The standard electronic data format shall contain the name of the
25 precinct, and for each precinct the total number of registered voters, the number of
26 registered voters by party affiliation, the number of registered voters by race, and a
27 numerical breakdown as to the race of registered voters in each political party.~~

28 **"§ 163-132.5F. U.S. Census data by precinct.**

29 The State shall request the U.S. Census Bureau for each decennial census to
30 provide summaries of census data by precinct and shall participate in any U.S.
31 Bureau of the Census' program to effectuate this provision.

32 **"§ 163-132.6: Repealed by Session Laws 1991 (Regular Session, 1992), c. 927, s. 1."**

33 Section 2. Notwithstanding the provisions of Sections 2 and 3 of Chapter
34 423 of the 1995 Session Laws, the version of G.S. 163-132.3 contained in Section 1 of
35 this act is effective upon this act's becoming law and does not expire. To the extent it
36 is inconsistent with the provisions of this act, Section 3 of Chapter 423 of the 1995
37 Session Laws is repealed.

38 Section 3. Section 1 of Chapter 1012 of the 1989 Session Laws reads as
39 rewritten:

40 "Section 1. (a) The General Assembly finds that:

41 (1) Largely because of the 1982 amendments to the Voting Rights Act
42 of 1965, the number of cities electing governing boards by districts
43 has increased to more than 50;

- (2) The federal constitution and G.S. 160A-23 require that units of government electing on the district basis have district boundaries that follow the one-person-one-vote rule;
- (3) The Voting Rights Act of 1965 requires that minorities have the opportunity to elect candidates of their choice;
- (4) Census data will not be released until April 1, ~~1991~~, 2001, and may not be in usable form for redistricting purposes by local governments until several weeks after that;
- (5) Many cities are subject to Section 5 of the Voting Rights Act of 1965, requiring federal approval of any changes in district boundaries before filing can even open, a process which can take 60 or more days;
- (6) Filing is currently scheduled to open for municipal elections on ~~July 5, 1991~~; July 6, 2001;
- (7) ~~A consent judgement in a federal lawsuit between the City of New York and the Census Bureau may result in adjusted census data being released on July 15, 1991, after filing has already opened. The United States Supreme Court in its 1999 opinion in the case of Department of Commerce vs. United States House of Representatives has stated that the Census Bureau's plan to use census data for congressional apportionment was invalid, but adjusted data might be able to be used for redistricting itself. Further litigation in the lower courts will continue over which set of census data to use, litigation that likely will extend into 2000 and 2001, presenting possible chaos;~~
- (8) Trying to deal with all of this on an ad hoc, city-by-city basis may result in needless legal expenses, confusion, chaos, and delays;
- (9) A uniform system of anticipating these problems needs to be adopted in ~~1990~~, 1999, which will allow a structured approach by the cities involved, allowing an organized election system while protecting the rights of minorities to be involved in the redistricting process and minimizing litigation;
- (10) ~~Changes need to be made now to allow possible adjustment of census data on July 15, 1991, not to occur for the possibility that census-related litigation might not be resolved until the middle of the redistricting process, or perhaps even while filing is already open for municipal offices in cities with a district system; and~~
- (11) If cities are unable to complete redistricting in ~~1994~~ 2001 in a timely fashion, it will be far better to put off the elections by six months or a year (depending on the type of electoral system) in an identical method as was allowed in 1991 than to have court-ordered delays or a chaotic election year for candidates and election officials, except that if changes have been adopted but approval under the Voting Rights Act of 1965 is still pending on

1 the date filing is to open, the ~~1991~~ 2001 election should be held
2 under prior district boundaries so as to minimize disruption.

3 (b) The ~~1991 Session~~ 2000 and 2001 Sessions of the General Assembly may make
4 further changes in the election timetable as more details about the possible July 1991
5 adjustment of census data become available.

6 (c) In order to devise a plan that conforms to the Voting Rights Act of 1965,
7 changes in the number of district seats may need to be made, but the current
8 procedural requirements in the general law for making such changes are too
9 restrictive to allow meaningful use in ~~1991~~ 2001 without the changes made by this
10 act."

11 Section 4. G.S. 160A-23.1 reads as rewritten:

12 "**§ 160A-23.1. Special rules for redistricting after ~~1990~~ 2000 census.**

13 (a) As soon as possible after receipt of federal census information in ~~1991~~ 2001 the
14 council of any city which elects the members of its governing board on a district
15 basis, or where candidates for such office must reside in a district in order to run,
16 shall evaluate the existing district boundaries to determine whether it would be lawful
17 to hold the next election without revising districts to correct population imbalances.
18 If such revision is necessary, the council shall consider whether it will be possible to
19 adopt the changes (and obtain approval from the United States Department of
20 Justice, if necessary) before the third day before opening of the filing period for the
21 municipal election. The council shall take into consideration the time that will be
22 required to afford ample opportunities for public input. If the council determines that
23 it most likely will not be possible to adopt the changes (and obtain federal approval,
24 if necessary) before the third business day before opening of the filing period, and
25 determines further that the population imbalances are so significant that it would not
26 be lawful to hold the next election using the current electoral districts, it may adopt a
27 resolution delaying the election so that it will be held on the timetable provided by
28 subsection (d) of this section. Before adopting such a resolution, the council shall
29 hold a public hearing on it. The notice of public hearing shall summarize the
30 proposed resolution and shall be published at least once in a newspaper of general
31 circulation, not less than seven days before the date fixed for the hearing.
32 Notwithstanding adoption of such a resolution, if the council proceeds to adopt the
33 changes, (and federal approval is obtained, if necessary) by the end of the third
34 business day before the opening of the filing period, the election shall be held on the
35 regular schedule under the revised electoral districts. Any resolution adopted under
36 this subsection, and any changes in electoral district boundaries made under this
37 section shall be submitted to the United States Department of Justice (if the city is
38 covered under Section 5 of the Voting Rights Act of 1965), the State Board of
39 Elections, and to the board conducting the elections for that city.

40 (b) In adopting any revisal under this section, if the council determines that in
41 order for the plan to conform to the Voting Rights Act of 1965, the number of district
42 seats needs to be increased or decreased, it may do so by following the procedures set
43 forth in Part 4 of Article 5 of Chapter 160A of the General Statutes, except that the
44 ordinance under G.S. 160A-102 may be adopted at the same meeting as the public

1 hearing, and any referendum on the change under G.S. 160A-103 shall not apply to
2 the municipal election in ~~1991 or 1992~~, 2001 or 2002.

3 (c) If the resolution provided for in subsection (a) of this section is not adopted
4 and:

- 5 (1) Proposed changes to the electoral districts are not adopted, or
- 6 (2) Such changes are adopted, but approval under the Voting Rights
7 Act of 1965, as amended, is required, and notice of such approval
8 is not received,

9 by the end of the third business day before the opening of the filing period, the
10 election shall be held on the regular schedule using the current electoral districts.

11 (d) If the council adopts the resolution provided for in subsection (a) of this
12 section and:

- 13 (1) Does not adopt the changes, or
- 14 (2) Does adopt the changes, but approval under the Voting Rights Act
15 of 1965, as amended, is required, and notice of such approval is
16 not received,

17 by the end of the third day before the opening of the filing period, the municipal
18 election shall be rescheduled as provided in this subsection and current officeholders
19 shall hold over until their successors are elected and qualified. For cities using the:

- 20 (1) Partisan primary and election method under G.S. 163-291, the
21 primary shall be held on the primary election date for county
22 officers in ~~1992~~, 2002, the second primary, if necessary, shall be
23 held on the second primary election date for county officers in
24 ~~1992~~, 2002, and the general election shall be held on the general
25 election date for county officers in 1992;
- 26 (2) Nonpartisan primary and election method under G.S. 163-294, the
27 primary shall be held on the primary election date for county
28 officers in ~~1992~~ 2002 and the election shall be held on the date for
29 the second primary for county officers in ~~1992~~, 2002;
- 30 (3) Nonpartisan plurality election method under G.S. 163-292, the
31 election shall be held on the primary election date for county
32 officers in ~~1992~~, 2002;
- 33 (4) Election and runoff method under G.S. 163-293, the election shall
34 be held on the primary election date for county officers in ~~1992~~
35 2002 and the runoffs, if necessary, shall be held on the date for the
36 second primary for county officers in ~~1992~~, 2002.

37 The organizational meeting of the new council may be held at any time after the
38 results of the election have been officially determined and published, but not later
39 than the time and date of the first regular meeting of the council in July ~~1992~~, 2002,
40 except in the case of partisan municipal elections, when the organizational meeting
41 shall be held not later than the time and date of the first regular meeting of the
42 council in December of ~~1992~~, 2002."

43 Section 5. G.S. 163-291(2) reads as rewritten:

"(2) A candidate seeking party nomination for municipal or district office shall file his notice of candidacy with the board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00 noon on the first Friday in August preceding the election, except:

a. In 2001 a candidate seeking party nomination for municipal or district office in any city which elects members of its governing board on a district basis, or requires that candidates reside in a district in order to run, shall file his notice of candidacy with the board of elections no earlier than 12:00 noon on the fourth Monday in July and no later than 12:00 noon on the second Friday in August preceding the election; and

b. In 2002 if the election is held then under G.S. 160A-23.1, a candidate seeking party nomination for municipal or district office shall file his notice of candidacy with the board of elections at the same time as notices of candidacy for county officers are required to be filed under G.S. 163-106.

No person may file a notice of candidacy for more than one municipal office at the same election. If a person has filed a notice of candidacy for one office with the county board of elections under this section, then a notice of candidacy may not later be filed for any other municipal office for that election unless the notice of candidacy for the first office is withdrawn first."

Section 6. G.S. 163-294.2(c) reads as rewritten:

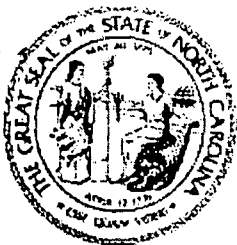
"(c) Candidates seeking municipal office shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00 noon on the first Friday in August preceding the election, except:

(1) ~~In 1991~~ 2001 candidates seeking municipal office in any city which elects members of its governing board on a district basis, or requires that candidates reside in a district in order to run, shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the fourth Monday in July and no later than 12:00 noon on the second Friday in August preceding the election; and

(2) ~~In 1992~~ 2002 if the election is held then under G.S. 160A-23.1, candidates seeking municipal office shall file their notices of candidacy with the board of elections at the same time as notices of candidacy for county officers are required to be filed under G.S. 163-106.

Notices of candidacy which are mailed must be received by the board of elections before the filing deadline regardless of the time they were deposited in the mails."

Section 7. This act is effective when it becomes law.



HOUSE BILL 248: Precinct Boundaries.

BILL ANALYSIS

Committee: House Election Law and
Campaign Finance Reform

Date: June 16, 1999

Version: Third Edition

Introduced by: Representative Alexander

Summary by: William R. Gilkeson
Committee Counsel

SUMMARY: *The Third Edition of House Bill 248 has returned to the House for concurrence. The bill would make several changes to update the statute governing the Precinct Boundary Program. That program is preparing all the State's voting precincts for the 2000 Census and the 2001 redistricting. The bill would extend for two years a partial freeze of precincts while elections and redistricting take place. It would allow counties, under certain circumstances, to postpone the effective date of their new precincts.*

The bill passed the House in April. It received 3 amendments in the Senate before it passed the Senate in June. The bill is now back in the House for concurrence. The 3 changes to the House passed bill made by the Senate would do the following:

1. Revise the list of features that counties may use to designate precinct lines after the partial freeze is lifted in 2002. Current law limits that to Census block lines, township and city limit lines, roads and streets, water features, rail features, and above-ground power lines. Recognizing strong feeling in some mountain counties, the PCS would add major footpaths and ridgelines. (p.8, lines 4 through 33, particularly lines 20 and 26.)
2. Allow counties to postpone the effective date of their Phase II precincts. Any county could postpone the new precincts until January 1, 2000, to get past this year's municipal elections. A county could get special permission to postpone a new precinct line till January 1, 2001, if it could show the State Election Director that putting the new precinct in place would result in an electoral district split for the 2000 elections. The county would also have to show that, even though it would not be using the new precincts in 2000, it could nonetheless provide reasonably accurate voter registration data for those new precincts as of the 2000 elections. (p. 4, line 40, through p. 5, line 16.)
3. Provide for special schedules for municipal elections in cases where the municipality does not receive 2000 Census data in time to redraw City Council districts in time for the 2001 municipal elections. To comply with the one-person/one-vote requirement, those City Council districts must be redrawn before the 2001 elections. (p. 10, line 38, through p. 14, line 42.)

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2. Gives the county flexibility in dealing with city annexations during the freeze. Current law says that if a precinct line follows a city limits line that changes in the annexation, the precinct line automatically floats out with the new city limits. The bill would give the county the option of letting the precinct line float out or choosing a nearby feature, if it is a Census block.
3. Revises the list of features that counties may use to designate precinct lines after the freeze. Current law limits that to Census block lines, township and city limit lines, roads and streets, water features, rail features, and above-ground power lines. Recognizing strong feeling in some mountain counties, the PCS would add major footpaths and ridgelines.)
4. Repeals an outdated requirement that county boards of elections send precinct maps and registered voter data to the Legislative Services Office every year by January 31.
5. Allows counties to postpone the effective date of their Phase II precincts. Any county could postpone the new precincts until January 1, 2000, to get past this year's municipal elections. A county could get special permission to postpone a new precinct line till January 1, 2001, if it could show the State Election Director that putting the new precinct in place would result in an electoral district split for the 2000 elections. The county would also have to show that, even though it would not be using the new precincts in 2000, it could nonetheless provide reasonably accurate voter registration data for those new precincts as of the 2000 elections.
6. Extends the freeze from January 2, 2000, to January 2, 2002.
7. Provides for special schedules for municipal elections in cases where the municipality does not receive 2000 Census data in time to redraw City Council districts in time for the 2001 municipal elections. To comply with the one-person/one-vote requirement, those City Council districts must be redrawn before the 2001 elections.

BACKGROUND: The purpose of the Census Redistricting Data Program is to put into the Census Bureau's map database for the 2000 Census all the State's voting precincts. That will enable the State to receive 2000 Census data by precinct. Since the State uses the Census database as the basis for redistricting, the precincts being in the database will mean that when redistricting is done in 2001, precinct splitting could be more easily avoided.

The purpose of the freeze was to make a snapshot of the State's precincts just before the taking of the Census in April 2000. That is how the program was handled before the 1990 Census. Then, however, Phase II was begun almost 2 years before the 1990 Census. This time, Census production problems have delayed the start of Phase II so it is now just beginning. Its completion by January 2, 2000, while still likely, seems less certain than it once did.

Moreover, the snapshot would be more useful if it included returns from the 2000 elections. And there would be a further advantage if the basic outlines of precincts would stay as they appear on the redistricting database until the legislative, congressional, and local redistricting lines are completed in 2001. That would enable the redistricters and the county boards of elections to avoid creating precinct/district splits, often the bane of election administrators.

During the freeze, as indicated above, county boards of elections would still be able to split precincts that had grown too populous. They could also adapt their precinct lines to annexations.

At some point early in the decade, it makes sense to permit counties to designate precincts using features that were not designated as 2000 block boundaries. New roads are built. The face of the county changes over the years. Therefore, the partial freeze is lifted.

Two sections of the current Article 12A are vestiges of the State's effort to prepare the precincts during the 1990s for the 2000 Census Redistricting Data Program that is occurring now. One is 163-132.2, in which 52 counties were required during the 1990s to place their precincts on township or city limits lines or on visible features for the first time. The other is 163-132.3, in which counties that have once brought their precincts into compliance are required to maintain them in compliance as they change them during the decade. Both those statutes require the counties to submit their precinct lines or changes in lines to the State Election Director, who with the advice of the Legislative Services Office will rule on whether the precincts comply with the law. Both those statutes have a wider list of visible features than does the post-freeze precinct change statute. The current 163-132.3(a) will expire January 2, 2000, and will be replaced by the post-freeze precinct change statute.

JBLAC BILL

Judiciary I
House of Representatives
Senate Committee Substitute For
H.B. 248

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATUTES CONCERNING PRECINCT BOUNDARIES AND TO PROVIDE THE RULES AND PROCEDURE FOR MUNICIPAL REDISTRICTING IN 2001.

Introduced by Representative(s) _____

A. Mendenhall

Principal Clerk's Use Only

Senate
Committee Substitute
Adopted
Pursuant to Rule 45.1
JUN 2 1999

CHANGES TITLE

PASSES 2nd READING
45-0
JUN 3 1999
Remains
AND PLACED ON THE
CALENDAR

PASSED 3rd
READING
48-0
JUN 7 1999
ORDERED SENT TO
HOUSE OF REPRESENTATIVE

*for concurrence
in Senate
Comm. Sub -
Janet Pruitt*

06-08-99A11:54 RCVD
gr

RECEIVED for CONCURRENCE
in Senate Amendment *Comm. Sub.*
JUN 9 1999
*referred to
Placed on calendar for
Election Law and*

*Campaign Finance
Reform*

~~PASSED 3rd
READING
JUN 7 1999
ORDERED SENT TO
HOUSE OF REPRESENTATIVE~~

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Alexander and Bonner** for the Committee on **Election Law and Campaign Finance Reform**.

☒ Senate Committee Substitute for

H.B. 248 A BILL TO BE ENTITLED AN ACT TO AMEND THE STATUTES
CONCERNING PRECINCT BOUNDARIES AND TO PROVIDE THE RULES AND
PROCEDURE FOR MUNICIPAL REDISTRICTING IN 2001

- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .
- ☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☒ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

VISITOR REGISTRATION SHEET

ELECTION LAW AND CAMPAIGN FINANCE REFORM JUNE 16, 1999

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
<i>Don KRAKauer</i>	<i>Mason 1116-5000, Durham</i>
<i>Abraham Rios</i>	<i>ACLU</i>
<i>Chris Off</i>	<i>ACLU</i>
<i>Laura Hartwell</i>	<i>NC Bar Assocn</i>
<i>Bob Hall</i>	<i>Democracy Smith</i>
<i>Smardham</i>	<i>EHS</i>
<i>Etherine Davis</i>	<i>epithCiting</i>
<i>Yohanie McLean</i>	<i>SBE</i>
<i>Thomas Mills</i>	<i>Dass</i>
<i>Ed Regan</i>	<i>N.C.A.C.L.</i>
<i>Eric Randolph</i>	<i>Chooskee</i>
<i>Mary Curran</i>	<i>Woolenbury County</i>
<i>Lisa Reeves</i>	<i>THE INSIDER</i>
<i>Amal Sabi</i>	<i>Biz Journal</i>
<i>Pam Silberman</i>	<i>UNC-SPH</i>
<i>Irene Ayupong</i>	<i>UNC-SPH</i>
<i>Janie Benson</i>	<i>UNC-SPH</i>
<i>Valerie Rose</i>	<i>UNC-SPH</i>
<i>W. Harris</i>	<i>UNC-SPH</i>
<i>Khando Lee</i>	<i>UNC-SPH</i>
<i>Audy Lomont</i>	<i>NCLM</i>
<i>Patricia Paulen</i>	<i>NCAEC</i>
<i>G. Paul Wilms</i>	<i>NCHBA</i>

AGENDA

**HOUSE COMMITTEE
ON**

ELECTION LAW AND CAMPAIGN FINANCE REFORM

June 23, 1999

**Room 1228/1327
11:00a.m.**

Presiding: Representative Donald A. Bonner, Chair

OPENING REMARKS:

Representative Donald A. Bonner, Chair

DISCUSSION:

Continuation of House Bill 1402

COMMENTS FROM COMMITTEE

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 1402

Short Title: N.C. Clean Election Act.

(Public)

Sponsors: Representatives Alexander, Nesbitt, Earle, Goodwin (Primary Sponsors); Adams, Barefoot, Blue, Bonner, Braswell, Church, Cunningham, Easterling, Fitch, Hackney, Hardaway, Hill, Hunter, Hurley, Insko, Jarrell, Jeffus, Kinney, Luebke, Michaux, Miller, Mosley, Oldham, Smith, Tolson, Wainwright, Warner, Womble, and Yongue.

Referred to: Election Law and Campaign Finance Reform, if favorable, Appropriations.

April 29, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A PROGRAM WHICH ALLOWS VOTERS TO
3 AUTHORIZE THAT PUBLIC FUNDS BE USED TO SUPPORT THE
4 CAMPAIGNS OF CANDIDATES FOR GOVERNOR, LIEUTENANT
5 GOVERNOR, OTHER COUNCIL OF STATE OFFICES, AND THE GENERAL
6 ASSEMBLY WHO AGREE TO ABIDE BY FUND-RAISING AND SPENDING
7 LIMITS.
8 The General Assembly of North Carolina enacts:
9 Section 1. Chapter 163 of the General Statutes is amended by adding a
10 new Article to read:
11 "ARTICLE 22D.
12 "The North Carolina Clean Election Act.
13 "§ 163-278.61. Definitions.
14 When used in this Article:
15 (1) The term 'certified candidate' means a candidate running for office
16 who chooses to participate in the North Carolina Clean Election
17 Act and who is certified as a Clean Election Act candidate under
18 G.S. 163-278.64(e).
19 (2) The term 'Commission' means the North Carolina Commission on
20 Election Practices, as established under G.S. 163-278.65.

- 1 (3) The terms 'contested primary election' and 'contested general
2 election' mean elections in which there are more candidates than
3 the number to be elected.
- 4 (4) The terms 'contribution' and 'expenditure' have the same meaning
5 as defined in G.S. 163-278.6.
- 6 (5) The term 'election cycle' comprises the primary, runoff primary,
7 and general election for election to the same term of the same
8 office.
- 9 (6) The term 'Fund' means the North Carolina Clean Election Fund
10 established in G.S. 163-278.63.
- 11 (7) The term 'nonparticipating candidate' means a candidate running
12 for Governor, Lieutenant Governor, other office in the Council of
13 State, State Senator, or State Representative who does not choose
14 to participate in the North Carolina Clean Election Act and who is
15 not seeking to be certified as a Clean Election Act candidate under
16 G.S. 163-278.64(e).
- 17 (8) The term 'office', as used in this Article, means Governor,
18 Lieutenant Governor, other office in the Council of State, State
19 Senator, or State Representative.
- 20 (9) The term 'participating candidate' means a candidate who is
21 running for office who is seeking to be certified as a Clean
22 Election Act candidate under G.S. 163-278.64(e).
- 23 (10) The term 'qualifying contribution' means a donation of not less
24 than fifteen dollars (\$15.00) and not more than seventy-five dollars
25 (\$75.00) in the form of a check or money order payable to the
26 candidate that is:
- 27 a. Made by any registered voter who is eligible to vote for the
28 office which the candidate is seeking;
- 29 b. Made during the designated qualifying period and obtained
30 through efforts made with the knowledge and approval of
31 the candidate; and
- 32 c. Acknowledged by a written receipt, on a form provided by
33 the Commission, which identifies the name, address, and
34 principal occupation of the donor in accordance with G.S.
35 163-278.11; states that the donor is a registered voter who is
36 eligible to vote for the office the candidate is seeking; and
37 states that the donor authorizes the candidate to use the
38 contribution to qualify to receive campaign funds from the
39 Clean Election Fund.
- 40 (11) The term 'excess qualifying contributions' means the qualifying
41 contributions received in excess of a sum to be determined by
42 multiplying the minimum number of qualifying contributions
43 required for that office by the maximum dollar amount allowed for
44 such contributions.

(12) The term 'qualifying period' means:

- a. For participating candidates for Governor, Lieutenant Governor, and other offices in the Council of State, the period beginning 270 days before the close of the filing period for candidates for party nomination for the office and ending at the close of the filing period for candidates for party nomination for the office.
- b. For participating candidates for State Senator and State Representative, the period beginning 120 days before the close of the filing period for candidates for party nomination for the office and ending at the close of the filing period for candidates for party nomination for the office.

"§ 163-278.62. Purpose and establishment of North Carolina Clean Election Act.

The purpose of this Article is to ensure the vitality and fairness of democratic elections in North Carolina, to the end that any eligible citizen of this State can realistically choose to seek and run for public office. It is also the purpose of this Article to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent in North Carolina to influence the outcome of elections. It is in the public interest to minimize the potential for corruption or the appearance of corruption, and to ensure the equal and meaningful participation of all citizens in the democratic process. Accordingly, this Article establishes the North Carolina Clean Election Fund as an alternative source of campaign financing for candidates who obtain a sufficient number of qualifying contributions from registered voters and who voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for candidates for Governor, Lieutenant Governor, other Council of State offices, and the General Assembly in elections to be held in 2002 and thereafter. Candidates participating in this Article must also comply with all other applicable election and campaign laws and rules. The Commission shall administer this Article and the North Carolina Clean Election Fund.

"§ 163-278.63. North Carolina Clean Election Fund established; sources of funding.

(a) Establishment of Fund. -- The North Carolina Clean Election Act is established to finance the election campaigns of certified candidates for office and to pay administrative and enforcement costs of the Commission related to this Article. The Fund is a special, dedicated, nonlapsing fund. Any interest generated by the Fund is credited to the Fund. The Commission shall administer the Fund.

(b) Sources of Funding. -- Money received from the following sources must be deposited in the Fund:

- (1) Unspent Clean Election Act revenues distributed to any Clean Election Act candidate who does not remain a candidate until the primary or general election for which they were distributed, or such revenues that remain unspent by a candidate following the date of the primary election or general election for which they were distributed;

- 1 (2) Any money transferred to the Clean Election Fund from the North
2 Carolina Candidates Financing Fund;
3 (3) Contributions made to the Clean Election Fund by individual
4 taxpayers pursuant to G.S. 105-269.6;
5 (4) Voluntary donations made directly to the Clean Election Fund;
6 and
7 (5) General Fund monies appropriated for the use of the Clean
8 Election Fund by the General Assembly pursuant to subsection (c)
9 of this section.

10 (c) Determination of Fund Amount. -- By April 1, 2001, and every two years
11 thereafter, the Commission shall prepare and provide to the General Assembly a
12 report documenting, evaluating, and making recommendations relating to the
13 administration, implementation, and enforcement of the North Carolina Clean
14 Election Act. In its report, the Commission shall set out the funds received to date,
15 the expected needs of the Fund during the next election cycle, and the amount of the
16 appropriation from the General Assembly that will be needed for the biennium. The
17 General Assembly shall include in its appropriations from the General Fund that year
18 at least the amount that the Commission states in its report will be needed. In
19 addition, the General Assembly shall reserve for the first fiscal year of the biennium
20 at least fifteen percent (15%) of the amount of funds the Commission states in its
21 report that it will need during the biennium, to be used by the Commission to cover
22 any disbursement under G.S. 163-278.64 in excess of the amount of its direct
23 appropriation.

24 **"§ 163-278.64. Terms of participation.**

25 (a) Declaration of Intent. -- Any individual choosing to participate in the North
26 Carolina Clean Election Act shall first file with the Commission a declaration of
27 intent to participate in the Act as a candidate for a stated office. The declaration of
28 intent shall be filed with the Commission prior to or during the qualifying period,
29 except as provided under subsection (m) of this section, according to forms and
30 procedures developed by the Commission. A candidate choosing to participate in the
31 Clean Election Act must submit a declaration of intent prior to collecting any
32 qualifying contributions under this Article.

33 A candidate who files a declaration of intent shall swear or affirm that the
34 candidate has complied with and will continue to comply with Clean Election Act
35 contribution and expenditure limits and will comply with all other requirements set
36 forth in this Article, or promulgated by the Commission.

37 (b) Restrictions on Contributions and Expenditures for Participating Candidates. --
38 After becoming a participating candidate as defined by G.S. 163-278.61(6) and prior
39 to certification, participating candidates shall not accept contributions, except for
40 qualifying contributions. A participating candidate shall expend only from the
41 qualifying contributions raised and shall not use other funds.

42 (c) Qualifying Contributions. -- Participating candidates must obtain qualifying
43 contributions as follows:

- 1 (1) For a candidate for Governor, at least 7,000 verified registered
2 North Carolina voters shall have supported the candidacy by
3 providing a qualifying contribution to that candidate.
4 (2) For a candidate for Lieutenant Governor or Attorney General, at
5 least 4,000 verified registered North Carolina voters shall have
6 supported the candidacy by providing a qualifying contribution to
7 that candidate.
8 (3) For a candidate for other office in the Council of State, at least
9 2,750 verified registered North Carolina voters shall have
10 supported the candidacy by providing a qualifying contribution to
11 that candidate.
12 (4) For a candidate for State Senator, at least 500 verified registered
13 voters shall have supported the candidacy by providing a qualifying
14 contribution to that candidate.
15 (5) For a candidate for State Representative, at least 250 verified
16 registered voters shall have supported the candidacy by providing a
17 qualifying contribution to that candidate.

18 No payment, gift, or anything of value shall be given in exchange for a qualifying
19 contribution.

20 (d) Filing With the Commission. -- All participating candidates shall report
21 qualifying contributions with the Commission at least five business days after the end
22 of the qualifying period in accordance with procedures developed by the
23 Commission, except as provided under subsection (m) of this section.

24 (e) Certification of Clean Election Act Candidates. -- Upon receipt of a final
25 submittal of the record of qualifying contributions by a participating candidate, the
26 Commission shall determine whether or not the candidate has:

- 27 (1) Signed and filed a declaration of intent to participate in this
28 Article;
29 (2) Reported the appropriate number of qualifying contributions;
30 (3) Qualified as a candidate under G.S. 163-106, 163-98, 163-122, 163-
31 123, or 163-114;
32 (4) Complied with expenditure restrictions; and
33 (5) Otherwise met the requirements for participation in this Article.

34 The Commission shall certify candidates complying with the requirements of this
35 section as Clean Election Act candidates as soon as possible and no later than five
36 business days after final submittal of qualifying contributions.

37 Certified candidates shall comply with all requirements of this Article after
38 certification and throughout the primary election and general election periods.
39 Failure to do so is a violation of this Article.

40 (f) Restrictions on Contributions and Expenditures for Participating and Certified
41 Candidates. -- After filing a declaration of intent, a candidate shall limit campaign
42 expenditures and debts to the qualifying contributions and the revenues distributed to
43 the candidate from the Fund, provided that a candidate may accept in-kind
44 contributions from political party executive committees, up to an aggregate value of

ten percent (10%) of a candidate's base level of public financing as determined under subsection (h) of this section. All revenues from qualifying contributions, public funds, or in-kind contributions from a political party must be used for campaign-related purposes. The Commission shall publish guidelines outlining permissible campaign-related expenditures. A candidate shall return to the Fund any amount that is unspent and uncommitted at the time that person ceases to be a candidate before a primary or election for which the Fund money was distributed. A candidate shall return to the Fund any amount that was unspent and uncommitted after the date of the primary election or general election for which the Fund money was distributed.

(g) Timing of Fund Distribution. -- The Commission shall distribute to certified candidates revenues from the Fund in amounts determined under subsection (h) of this section, minus any excess qualifying contributions, in the following manner:

- (1) Within three business days after certification, for candidates certified before the first Monday in February of the election year, revenues from the Fund as if the candidates are in an uncontested primary election.
- (2) Within three business days after the first Monday in February of the election year, for primary election certified candidates, revenues from the Fund according to whether the candidate is in a contested or uncontested primary election, reduced by any amounts previously distributed under subdivision (1) of this subsection.
- (3) Within the earlier of the following: within three business days after the primary election, or within three business days after the certification pursuant to G.S. 163-122, 163-123, or 163-98 of the first opposition candidate, for general election certified candidates, revenues from the Fund according to whether the candidate is in a contested general election. No funds are distributed for uncontested general elections.

Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability, and safeguards the integrity of the Fund.

(h) Amount of Fund Distribution. -- By March 1, 2001, and no less frequently than every two or four years thereafter, as appropriate, the Commission shall determine the amount of funds to be distributed to participating candidates based on the type of election and office as follows:

- (1) Contested Primary Elections. -- The amount of revenues to be distributed is the average amount of campaign expenditures made by the number of highest vote-receiving candidates equal to twice the number of candidates to be nominated during all contested primary election races for the immediately preceding two primary elections for that office, provided that each of the following shall

be considered a separate office for purposes of calculating the average:

a. Governor.

b. Lieutenant Governor and Attorney General shall be considered together as one separate office.

c. Other offices in the Council of State shall be considered together as one separate office.

d. State Senate district seats.

e. State Representative district seats.

(2) Uncontested Primary Elections. -- The amount of revenues to be distributed is the average amount of campaign expenditures made by each candidate during all uncontested primary election races, or for contested races if the amount is lower, for the immediately preceding two primary elections for that office as defined in subdivision (1) of this subsection.

(3) Contested General Elections. -- The amount of revenues to be distributed is the average amount of campaign expenditures made by the number of highest vote-receiving candidates equal to twice the number to be elected during all contested general election races for the immediately preceding two general elections for that office as defined in subdivision (1) of this subsection.

(4) Uncontested General Elections. -- No revenues shall be distributed for uncontested general elections.

The average for Senate races shall be calculated using all the applicable Senate races in the State, rather than those in the same district. The same method shall be used for House races. If the immediately preceding two election cycles do not contain sufficient data for the Commission to determine the amount to be distributed for an office, the Commission shall use data from the most recent applicable elections for that office. If no applicable elections for that office contain sufficient data, the Commission shall set an amount based on data from elections for comparable offices.

(i) Reporting by Noncertified Candidates. -- Any noncertified candidate who has as an opponent a certified candidate shall report to the Commission 20 days before an election a statement of the amount that the noncertified candidate intends to spend for that election, as well as the total amount raised and borrowed to date. Any noncertified candidate with a certified opponent shall report electronically to the Commission within 24 hours after the total amount of expenditures or obligations made, or funds raised or borrowed, exceeds the base level of public funding described in subsection (h) of this section. Reports required by this subsection shall be made according to procedures developed by the Commission.

(j) Matching Funds. -- When any campaign, finance, or election report or group of reports shows that the sum of a noncertified candidate's actual or estimated expenditures or obligations made, or funds raised or borrowed, whichever is greater, exceeds the amount described under subsection (h) of this section, the Commission shall issue immediately to any opposing certified candidate an additional amount

equivalent to the reported excess within the limits set forth in this subsection. Total matching funds to a certified candidate in an election are limited to an amount equal to the amount described in subdivisions (1) or (3) of subsection (h), whichever is applicable.

(k) Unaffiliated Candidates. -- Unaffiliated candidates certified pursuant to G.S. 163-122 before noon on the first Monday in February of the election year shall be eligible for revenues from the Fund in the same amounts and at the same time as uncontested primary election candidates and general election candidates as specified in subsections (g) and (h) of this section. For unaffiliated candidates not certified by noon on the first Monday in February, the deadline for filing qualifying contributions is noon on the last Friday in June of the election year. Unaffiliated candidates certified after noon on the first Friday in February shall be eligible for revenues from the Fund in the same amounts as general election candidates, as specified in subsections (g) and (h).

(l) Reporting by Participating and Certified Candidates. -- Notwithstanding other provisions of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations, and related activities to the Commission according to procedures developed by the Commission. Upon the filing of a final report for any losing primary election, special election, or general election, each candidate who has revenues from the Fund remaining unspent shall return all revenues to the Commission. In developing these procedures, the Commission shall utilize existing campaign reporting procedures wherever practicable. The Commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

(m) Other Procedures. -- For races involving special elections, recounts, vacancies, withdrawals, or replacement candidates, the Commission shall establish by rule procedures for qualification, certification, disbursement of Fund revenues, and return of unspent Fund revenues.

(n) Appeals. -- The procedure for challenging a certification decision by the Commission is as follows:

(1) A person aggrieved by a certification decision may appeal to the full Commission within three business days of the certification decision. The appeal shall be in writing and shall set forth the reasons for the appeal.

(2) Within five business days after an appeal is properly made, and after due notice is given to the parties, the Commission shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the Commission's decision was improper. The Commission shall rule on the appeal within three business days after the completion of the hearing.

§ 163-278.65. The Commission on Election Practices.

(a) Establishment of the Commission. -- There is established under the State Board of Elections the North Carolina Commission on Election Practices.

1 (b) Membership. -- The Commission shall consist of five members to be appointed
2 as follows:

3 (1) By March 31, 2000, and as needed thereafter, the Governor, with
4 the advice of the President Pro Tempore of the Senate and the
5 Speaker of the House of Representatives, shall establish and
6 publish a nomination period for members of the public, groups,
7 and organizations to nominate individuals to the Governor for
8 appointment to the Commission.

9 (2) The Governor shall appoint the members of the Commission,
10 taking into consideration nominations made during the nomination
11 period, subject to confirmation by the General Assembly by joint
12 resolution. No more than two Commission members shall be
13 affiliated with the same political party. No elected official or
14 candidate for elective office shall be eligible to be a member of the
15 Commission. The Commission members shall be appointed and
16 confirmed by September 1, 2000.

17 (3) Of the initial appointees, two are appointed for one-year terms,
18 two are appointed for two-year terms, and one is appointed for a
19 three-year term according to random lot under the supervision of
20 the Secretary of State. Thereafter, appointees are appointed to
21 serve four-year terms. A person may not serve more than two full
22 terms. The appointed members receive the legislative per diem
23 pursuant to G.S. 120-3.1.

24 (4) One of the Commission members shall be elected by the members
25 as chair.

26 (5) A vacancy during an unexpired term must be filled as provided in
27 this subsection, but only for the unexpired portion of the term.

28 (c) Staffing of Commission. -- The Executive Secretary-Director of the State Board
29 of Elections shall be the Director of the Commission. The State Board of Elections
30 shall provide staffing for the Commission.

31 **"§ 163-278.66. Commission to adopt rules.**

32 The Commission shall adopt rules to ensure effective administration of this Article.
33 Such rules shall include, but not be limited to, procedures for obtaining qualifying
34 contributions, certification as a Clean Election Act candidate, addressing
35 circumstances involving special elections, vacancies, recounts, withdrawals, or
36 replacements, collection of revenues for the Fund, distribution of Fund revenue to
37 certified candidates, return of unspent Fund disbursements, and compliance with the
38 Clean Election Act.

39 **"§ 163-278.67. Violations.**

40 (a) Civil Penalty. -- In addition to any other penalties that may be applicable, any
41 person who violates any provision of this Article is subject to a civil penalty of up to
42 ten thousand dollars (\$10,000) per violation. In addition to any fine, for good cause
43 shown, a candidate found in violation of this Article may be required to return to the
44 Fund all amounts distributed to the candidate from the Fund. If the Commission

1 makes a determination that a violation of this Article has occurred, the Commission
2 shall impose a fine or transmit the finding to the Attorney General for prosecution.
3 Fines paid under this section must be deposited in the Fund. In determining whether
4 or not a candidate is in violation of the expenditure limits of this Article, the
5 Commission may consider as a mitigating factor any circumstances out of the person's
6 control.

7 (b) Class I Felony. -- Any person who willfully or knowingly violates this Article
8 or rules of the Commission or knowingly makes a false statement in any report
9 required by this Article is guilty of a Class I felony and, if certified as a Clean
10 Election Act candidate, must return to the Fund all amounts distributed to the
11 candidate."

12 Section 2. Article 22C of Chapter 163 of the General Statutes is
13 repealed.

14 Section 3.(a) G.S. 105-269.6 reads as rewritten:

15 **"§ 105-269.6. Contribution of individual income tax refund to ~~Candidates Financing~~**
16 **~~Fund; the North Carolina Clean Election Fund.~~**

17 An individual entitled to a refund of income taxes under Division II of Article 4 of
18 this Chapter may elect to contribute all or part of the refund to the ~~North Carolina~~
19 ~~Candidates Financing Fund for the use of political campaigns as provided in Article~~
20 ~~22C of Chapter 163 of the General Statutes.~~ North Carolina Clean Election Fund
21 created in Article 22D of Chapter 163 of the General Statutes. The Secretary of
22 ~~Revenue~~ shall provide appropriate language and space on the individual income tax
23 form in which to make the election. The election becomes irrevocable upon filing
24 the individual's income tax return for the taxable year. The Secretary of ~~Revenue~~
25 shall, on a quarterly basis, transmit the contributions made pursuant to this section to
26 the State Treasurer for credit to the ~~North Carolina Candidates Financing Fund.~~
27 North Carolina Clean Election Fund. Any interest earned on funds so credited shall
28 be credited to the Fund."

29 Section 3.(b) The Secretary of Revenue shall transfer to the North
30 Carolina Clean Election Fund any funds contributed to the North Carolina
31 Candidates Financing Fund pursuant to G.S. 105-269.6 before its amendment by this
32 section but not yet transferred to that Fund.

33 Section 4. G.S. 163-278.13 is amended by adding a new subsection to
34 read:

35 "(e2) In order to make meaningful the provisions of the North Carolina Clean
36 Election Act, as set forth in Article 22D of this Chapter, no candidate for Governor,
37 for Lieutenant Governor, for any other office in the Council of State, or for the
38 General Assembly shall accept a contribution during the period beginning 21 days
39 before the day of the general election and ending the day after the general election.
40 No contributor shall make a contribution to a candidate for Governor, for Lieutenant
41 Governor, for any other office in the Council of State, or for the General Assembly
42 during the period beginning 21 days before the general election and ending the day
43 after the general election. The prohibitions in this subsection shall also apply to a
44 political committee the principal purpose of which is to support a candidate for those

1 offices. Nothing in this subsection shall prohibit a candidate from making a
2 contribution or loan secured entirely by that candidate's assets to that candidate's
3 own campaign or to a political committee the principal purpose of which is to
4 support that candidate's campaign. This subsection applies with respect to a
5 candidate only if both of the following statements are true regarding that candidate:

6 (1) That candidate is opposed in the general election by a certified
7 candidate as defined in Article 22D of this Chapter.

8 (2) That certified candidate has not received the maximum matching
9 funds available under G.S. 163-278.64(j).

10 The recipient of a contribution that apparently violates this subsection has five days
11 to return the contribution or file a detailed statement with the N.C. Commission on
12 Election Practices explaining why the contribution does not violate this subsection."

13 Section 5. The provisions of this act are severable. If any provision of
14 this act is held invalid by a court of competent jurisdiction, the invalidity does not
15 affect other provisions of the act that can be given effect without the invalid
16 provision.

17 Section 6. There is appropriated from the General Fund to the State
18 Board of Elections the sum of fifty thousand dollars (\$50,000) for the 1999-2000 fiscal
19 year and the sum of fifty thousand dollars (\$50,000) for the 2000-2001 fiscal year for
20 the administration of this act.

21 Section 7. Section 4 of this act becomes effective January 1, 2002, and
22 applies to general elections for Governor, Lieutenant Governor, other Council of
23 State offices, and the General Assembly after that date. The remainder of this act is
24 effective when this act becomes law.

Clean Election Act

House Bill 1402

William R. Gilkeson, Staff Attorney, Legislative Services Office.

What is the Purpose?	"... to ensure the vitality and fairness of democratic elections in North Carolina, to the end that any citizen of this State can realistically choose to seek and run for public office. . . .also . . . to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent in North Carolina to influence the outcome of elections. . . ."
Where Does Funding Come From?	<ul style="list-style-type: none">• Money distributed to participating candidates but then returned unspent.• Leftover money from Candidates Financing Fund (built up since that Fund was created in 1988).• Voluntary contributions made on State Income Tax Return or otherwise.• Appropriations by the General Assembly.
Who May Participate?	Candidate for Governor, Lt. Gov. or other Council of State office, State Senate or State House who: <ul style="list-style-type: none">• Files a declaration of intent to participate and to abide by the spending limits during the campaign;• Raises the required amount in "qualifying contributions."
What Are Qualifying Contributions and How Much Must a Candidate Raise in Qualifying Contributions to Be Certified?	<p>A qualifying contribution is a check or money order payable to the candidate by a registered voter who is eligible to vote for the office the candidate is seeking. It can be no less than \$15 and no more than \$75. It must be raised during a period ending with the candidate filing deadline and beginning 120 days earlier for legislative candidates and 270 days earlier for the statewide candidates.</p> <p>To be certified for Clean Election Act funds, the candidates must raise qualifying contributions from the following numbers of registered voters:</p> <ul style="list-style-type: none">• Governor 7,000 registered voters.• Lt. Gov. or Attorney General, 4,000 registered voters.• Other Council of State office, 2,750 registered voters.• State Senator 500 registered voters.• State Representative 250 registered voters. <p>Candidate may keep qualifying contributions, but any excess raised over the threshold will reduce candidate's public funding.</p>
What Else Must a Participating Candidate Do?	<ul style="list-style-type: none">• Report spending according to a schedule set by the Commn.• Accept no private contributions (other than qualifying contributions and contributions from candidate's party if the party contributions do not exceed 10% of Clean Act funds).• Spend only from public funds, qualifying contribs, or party \$

When Are Funds Distributed?	<ul style="list-style-type: none"> • Within 3 business days after end of filing period for candidates certified for the primary. • Within 3 business days after the primary or 3 business days after the first general election opposition otherwise appears, for candidates certified for general election.
How Much Is Distributed?	<p>For contested primaries, the average amount spent by the two highest vote-getting candidates in contested primaries for the office for the past 2 election cycles.</p> <p>For uncontested primaries, the average amount spent by the candidates in uncontested primaries for the office for the past 2 election cycles, or by contested primary elections if that is lesser.</p> <p>For contested gen. elections, the average amount spent by 2 highest candidates in all contested races for the office in past 2 gen. elections.</p> <p>For uncontested general elections, no distribution at all.</p> <p>The above amount is reduced by the amount of any qualifying contributions the candidate received above the qualifying threshold.</p>
What Must Non-Participants Do?	<p>Give an estimate of last-minute expenditures to the Commission 20 days before the election. Report within 24 hours any transaction over the Clean Act candidate's limit.</p> <p>Suspend fundraising in last 21 days before gen. election, if opponent is Clean Act candidate who has not maxed out on matching funds.</p>
What Happens If Participants Are Outspent by Non-Participants?	<p>If expenditures by opposing candidate exceed what the Clean Act candidate can spend, Clean Act candidate receives from the Fund additional money to match the excess, up to 100% of the normal funding for primary or general.</p>
How Is the Act Enforced?	<p>By a new N.C. Commission on Election Practices with 5 members. They would be appointed by Governor to 4-year terms, subject to confirmation by the General Assembly. No more than 2 from same party. Governor shall consider nominees put forth by the public and by organizations, but is not limited to them. No elected official or candidate is eligible for appointment.</p> <p>The Commission would be placed administratively under the State Board of Elections, which would provide staffing. Violations are subject to a civil penalty of up to \$10,000. Candidate may also be required to return all Fund money.</p> <p>Class I felony for willful and knowing violations and for knowing false statements made on Clean Act reports.</p>

VISITOR REGISTRATION SHEET

ELECTION LAW AND CAMPAIGN FINANCE REFORM June 23, 1999

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Maggie Santoro	NCVCE
Tom Cousens	NCVCE
Carly H. Bolton	Religious Community
A. Allison	A.C. NAACP
Samuel Brown	Common Cause - NC
William Geist	Citizen
Dorothy Reist	Citizen
Lorah Hamilton	NCVCE
Bill Wilson	NCAE
Cecil Cahoon	NCAE
Peg Chapin	League of Women Voters - Charlotte-Meck
Mary Klenz	League of Women Voters of Charlotte-Meck
Olivia Callaway	LWV Charlotte
Robert Partin	SCOTLAND NECK
W. WARREN MURPHY	NC ALLIANCE FOR DEMOCRACY
Chris Coffey	ACLU
Jaub Kline	citizen
Johnnie McLean	State Board of Elections
Zee B. Lamb	State Board of Elections
Madeline Jepperson	NC Alliance for Democracy
Robert Porter	NC Alliance for Democracy
Selkiah Hamlin	Bennett College
Joan Walsh	Steps Center, UNC-Chapel Hill
Dick Terrell	NC AD
Leigh Bradley	Democracy South
Peter Walz	NC Voters for Clean Elections
PETER VAN DORSTEN	COMMON CAUSE, SIERRA CLUB
George Reed	NC Council of Churches
Gordon Smith	New Party member

VISITOR REGISTRATION SHEET

ELECTION LAW AND CAMPAIGN FINANCE REFORM *June 23 1999*

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME**FIRM OR AGENCY AND ADDRESS**

David Potocki	Common Cause / NC
Joette Steger	Governor's Office
Matt Allen	CARY, NC
M. B. Hardy	CARY, NC
Jeff Neman	North Carolina Alliance for Democracy, Chapel Hill, NC
Markham	N. C. Consumers' Council
Alice Garland	UNC Board of Governors / Students
James Shelby	FAHS
Carol Love	Quincy City
John Boyel	"
G.R. Quinn	Raleigh
Lisa Hamill	Common Cause NC (Raleigh)
Kevin D. Howell	Citizen for Responsible Government
Thomas J. Walker	Article III Foundation 6419 Northern Ranches Rd Sanford, NC 27330
Surabhi Shah	Chapel Hill, NC
Barbara Coulson	CCNC
	Gov's Office
	BP/MLC
	Citizen of Raleigh
	Raleigh Citizen, 9409 Seaforth Ct Raleigh, NC 27606
	N.C. Voters for Clean Election

VISITOR REGISTRATION SHEET

Election Laws
Name of Committee

6-23-99
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

P.M.

NAME

FIRM OR AGENCY AND ADDRESS

Johnnie McLean

State Bd. of Elections

Zee Lamb

" "

Gordon Payne

Governor's Office

James Smith

MEM

Dan Lin

Pave

Jim Henth

"

Kie Henke

UNC - Chapel Hill

NICHOLAS MIRISIS

UNC BOARD OF GOVERNORS

Nancy Thompson

UNC

ATTENDANCE

ELECTION LAW AND CAMPAIGN REFORM

(Name of Committee)

DATES	3/10	3/17	3/24	3/31	4/7	4/14	4/21	4/28	4/23	5/5	5/16	5/23	5/30	6/7	6/14
ALEXANDER, MARTHA CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BONNER, DONALD CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BERRY, CHERIE	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
DECKER, MICHAEL					✓	✓	✓	✓	✓	✓	✓	✓	✓		
DEDMON, ANDREW	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
GOODWIN, WAYNE	✓	✓	✓	✓	✓	✓		✓		✓	✓		✓	✓	✓
HENSLEY, BOB			✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓
INSKO, VERLA		✓	✓	✓	✓	✓					✓	✓	✓	✓	✓
JUSTUS, LARRY	✓	✓		✓		✓	✓	✓		✓		✓	✓	✓	✓
KISER, JOE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
LUEBKE, PAUL		✓	✓	✓		✓	✓	✓			✓		✓	✓	✓
MELTON, MAX	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
MICHAUX, H.M.		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
NEELY, CHARLES / <i>Pope, Art</i>	✓	✓	✓	✓	✓	(R)	✓	✓	✓	✓	✓	✓	✓	✓	✓
NESBITT, MARTIN		✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓
ROGERS, GENE	✓	✓	✓	✓	✓	✓	✓			✓			✓	✓	✓
THOMPSON, GREGORY	✓	✓			✓		✓	✓		✓	✓	✓	✓	✓	
WILSON, CONNIE	✓			✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<i>Ex-officio</i>															
<i>Baddour, Phil</i>				✓	✓	✓									
<i>Cunningham, Pete</i>			✓			✓	✓		✓	✓	✓				
<i>Hackney, Joe</i>							✓								

AGENDA

**HOUSE COMMITTEE
ON**

ELECTION LAW AND CAMPAIGN FINANCE REFORM

**JUNE 30, 1999
Room 1228/1327
11:00 a.m.**

Presiding: Representative Donald A. Bonner, Chair

OPENING REMARKS:

Representative Donald A. Bonner, Chair

DISCUSSION:

SB 568

COMMENTS FROM COMMITTEE

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON

ELECTION LAW AND CAMPAIGN REFORM

JUNE 30, 1999

Representative Bonner, Presiding

The House Committee on Election Law and Campaign Reform met on Wednesday, June 30, 1999. The following members were present: Chairman Donald A. Bonner, Co-Chair Representative Alexander Representatives, Berry, Decker, Dedmon, Hensley, Kiser, Justus, Luebke, Melton, Michaux, Pope, Nesbitt, Rogers, Thompson, C. Wilson Ex-Officio Cunningham and Hackney, Staff Attorney Bill Gilkeson was present, as well as committee clerks Ann Faust and Lucy Johnson. A Visitor Registration list is attached and made part of these minutes.

The Chairman called the meeting to order at 11:02 to begin the Agenda of the day. The first item was the introduction of all visitors as well as committee assistants, pages and Sgt. At Arms.

Representative Nesbitt was recognized to explain Senate Bill 568 after which Bill Gilkeson gave pertinent information on the Bill. Speaking on the Bill was Representatives Goodwin, Justus and Pope.

Representative Kiser sent forth an amendment, it passed.

Representative Nesbitt sent forth an amendment, Staff Attorney explained the Amendment. The amendment was passed.

The Chairman recognized Representative Pope to send forth an amendment; he did but later rescinded the call for his amendment.

Speaking on the Bill and Amendments were Representatives Goodwin, Michaux, Pope, Luebke, and Hensley.

The Chair asked Staff Attorney Bill Gilkeson to prepare a Committee Substitute that would have the two amendments rolled in.

The Bill with changes was given a favorable report.

The meeting was adjourned.

Respectively Submitted:

Representative Donald A. Bonner
Chairman

Lucy B. Johnson
Committee Assistant

Attachments

filed

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 568
Second Edition Engrossed 4/21/99
Proposed House Committee Substitute S568-PCS3849-RR

Short Title: Absentee Voting Changes.

(Public)

Sponsors:

Referred to:

March 29, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO REMOVE THE EXCUSE REQUIREMENT FROM ONE-STOP
3 ABSENTEE VOTING FOR THE GENERAL ELECTION HELD IN
4 NOVEMBER OF EVEN-NUMBERED YEARS, TO ALLOW COUNTY
5 BOARDS OF ELECTIONS TO DESIGNATE ADDITIONAL ONE-STOP
6 SITES, AND TO MAKE CHANGES RELATED TO STREAMLINING THE
7 ABSENTEE BALLOT PROCESS.
8 The General Assembly of North Carolina enacts:
9 Section 1. G.S. 163-226 reads as rewritten:
10 "§ 163-226. Who may vote an absentee ballot.
11 (a) Who May Vote Absentee Ballot; Generally. -- Any qualified voter of the State
12 may vote by absentee ballot in a statewide primary, general, or special election on
13 constitutional amendments, referenda or bond proposals, and any qualified voter of a
14 county is authorized to vote by absentee ballot in any primary or election conducted
15 by the county board of elections, in the manner provided in this Article if:
16 (1) The voter expects to be absent from the county in which he is
17 registered during the entire period that the polls are open on the
18 day of the specified election in which the voter desires to vote;
19 (2) The voter is unable to be present at the voting place to vote in
20 person on the day of the specified election in which the voter
21 desires to vote because of the voter's sickness or other physical
22 ~~disability~~ disability;

(3) The voter is incarcerated, whether in the voter's county of residence or elsewhere, shall be entitled to vote by absentee ballot in the county of the voter's residence in any election, specified herein, in which the voter otherwise would be entitled to vote. Absentee voting shall be in the same manner as provided in this Article. The chief custodian or superintendent of the institution or other place of confinement shall certify that the applicant is not a felon, and the certification shall be as prescribed by the State Board of Elections. The State Board of Elections is authorized to prescribe procedures to carry out the intent and purpose of this subsection;

(3a) The voter because of the observance of a religious holiday pursuant to the tenets of the voter's religion will be unable to cast a ballot at the polling place on the day of the election; or

(4) The voter is an employee of the county board of elections or a precinct official, observer, or ballot counter, in another precinct and the voter's assigned duties on the day of the election will cause the voter to be unable to be present at the voting place to vote in person and provided such employee has the application witnessed by the chairman of the county board of elections.

(a1) No-Excuse Absentee Voting for One-Stop in General Elections Only. -- The only type of absentee voting that is not subject to the excuse requirements of subsection (a) of this section is one-stop voting as provided in G.S. 163-227.2 for elections held on the day of the general elections in November of even-numbered years.

(b) Absentee Ballots; Exceptions. -- Notwithstanding the authority contained in G.S. 163-226(a), absentee ballots shall not be permitted in fire district elections.

(c) The Term 'Election'. -- As used in this Subchapter, unless the context clearly requires otherwise, the term 'election' includes a general, primary, second primary, runoff election, bond election, referendum, or special election."

Section 2. G.S. 163-226.1 reads as rewritten:

"§ 163-226.1. Absentee voting in primary.

A qualified voter may vote by absentee ballot in a ~~statewide or countywide~~ partisan primary provided ~~he the qualified voter~~ he the qualified voter is affiliated, at the time ~~he the qualified voter~~ he the qualified voter makes application for absentee ballots, with the political party in whose primary ~~he the qualified voter~~ he the qualified voter wishes to ~~vote. vote, except that an unaffiliated voter may vote in a party primary if permitted under G.S. 163-119.~~ The official registration records of the county in which the voter is registered shall be proof of whether ~~he the qualified voter~~ he the qualified voter is affiliated with a political party and of the party, if any, with which ~~he the qualified voter~~ he the qualified voter is affiliated."

Section 3. G.S. 163-226.3 reads as rewritten:

"§ 163-226.3. Certain acts declared felonies.

(a) Any person who shall, in connection with absentee voting in any ~~primary, general, municipal or special~~ election held in this State, do any of the acts or things

1 declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be
2 unlawful:

- 3 (1) For any person except the voter's near relative ~~as defined in G.S.~~
4 ~~163-227(e)(4)~~ or the voter's verifiable legal guardian to assist the
5 voter to vote an absentee ballot when the voter is voting an
6 absentee ballot other than under the procedure described in G.S.
7 163-227.2; provided that if there is not a near relative or legal
8 guardian available to assist the voter, the voter may request some
9 other person to give assistance;
- 10 (2) For any person to assist a voter to vote an absentee ballot under
11 the absentee voting procedure authorized by G.S. 163-227.2 except
12 a member of the county board of elections, the director of
13 elections, an employee of the board authorized by the board, the
14 voter's near relative ~~as defined in G.S. 163-227(e)(4)~~, or the voter's
15 verifiable legal guardian;
- 16 (3) For a voter who votes an absentee ballot under the procedures
17 authorized by G.S. 163-227.2 to vote ~~his~~ that voter's absentee
18 ballot outside of the voting booth or private room provided to ~~him~~
19 the voter for that purpose in or adjacent to the office of the county
20 board of elections or at the additional site provided by G.S. 163-
21 227.2(f1), or to receive assistance in getting to and from the voting
22 booth or private room and in preparing and marking ~~his~~ that
23 voter's ballots from any person other than a member of the county
24 board of elections, the director of elections, an employee of the
25 board of elections authorized by the board, a near relative of the
26 voter ~~as defined in G.S. 163-227(e)(4)~~, or the voter's verifiable
27 legal guardian;
- 28 (4) For any owner, manager, director, employee, or other person,
29 other than the voter's near relative ~~as defined in G.S. 163-227(e)(4)~~
30 or verifiable legal guardian, to make a written request pursuant to
31 G.S. 163-230.1 or an application on behalf of a registered voter
32 who is a patient in any hospital, clinic, nursing home or rest home
33 in this State or for any owner, manager, director, employee, or
34 other person other than the voter's near relative or verifiable legal
35 guardian, or officer authorized to administer oaths acting pursuant
36 to G.S. 163-231(a)(1); to mark the voter's absentee ballot or assist
37 such a voter in marking an absentee ballot;
- 38 (5) Repealed by Session Laws 1987, c. 583, s. 8.
- 39 (6) For any person to take into ~~his~~ that person's possession for
40 delivery to a voter or for return to a county board of elections the
41 absentee ballot of any voter, provided, however, that this
42 prohibition shall not apply to a voter's near relative ~~as defined in~~
43 ~~G.S. 163-227(e)(4)~~ or the voter's verifiable legal guardian;

(7) Except as provided in subsections (1), (2), (3), and (4) of this section, G.S. 163-231(a), G.S. 163-250(a), and G.S. 163-227.2(e), for any voter to permit another person to assist ~~him~~ the voter in marking ~~his~~ that voter's absentee ballot, to be in the voter's presence when a voter votes an absentee ballot, or to observe the voter mark ~~his~~ that voter's absentee ballot.

(b) The State Board of Elections or a county board of elections, upon receipt of a sworn affidavit from any qualified voter of the State or the county, as the case may be, attesting to first-person knowledge of any violation of subsection (a) of this section, shall transmit ~~such~~ that affidavit to the appropriate district attorney, who shall investigate and prosecute any person violating subsection (a)."

Section 4. G.S. 163-227 is repealed.

Section 5. G.S. 163-227.1 reads as rewritten:

"§ 163-227.1. Second primary; applications for absentee ballots for voting in second primary.

A voter applying for an absentee ballot for a primary election who will be ~~absent from the county of his residence~~ eligible to vote under this Article on the day of the primary and second primary shall be permitted by the county board of elections to indicate ~~such~~ that fact on ~~his~~ that voter's application and ~~such~~ that voter shall automatically be issued an application and absentee ballot for the second primary if one is called. The county board of elections shall consider ~~such~~ that indication a separate request for application for the second primary and, at the proper time, shall enter ~~such~~ that voter's name in the absentee register along with the listing of other applicants for absentee ballots for the second primary.

In addition, a voter entitled to absentee ballots under the provisions of this Article who did not make application for the primary or who failed to apply for a second primary ballot at the time of application for a first primary ballot may ~~apply for~~ make a written request for absentee ballots for a second primary not earlier than the day a second primary is called and not later than ~~5:00 P.M. on the Tuesday prior to the date on which the second primary is held.~~ the date and time provided by G.S. 163-230.1.

All procedures with respect to absentee ballots in a second primary shall be the same as with respect to absentee ballots in a first primary except as otherwise provided by this section."

Section 6. G.S. 163-227.2 reads as rewritten:

"§ 163-227.2. Alternate procedures for requesting application for absentee ballot; 'one-stop' voting procedure in board office.

(a) ~~A~~ Except as provided in subsection (a1) of this section, a person expecting to be absent from the county in which ~~he~~ that person is registered during the entire period that the polls are open on the day of an election in which absentee ballots are authorized or is eligible under G.S. 163-226(a)(2), 163-226(a)(3a), or 163-226(a)(4) may request an application for absentee ballots, complete the application, ~~receive the absentee ballots, vote and deliver them sealed in a container return envelope to the~~

1 ~~county board of elections in the county in which he is registered~~ and vote under the
2 provisions of this section.

3 (a1) The excuse requirements of G.S. 163-226(a) do not apply to one-stop voting
4 for elections held on the day of the general elections in November of even-numbered
5 years.

6 (b) Not earlier than the first business day after the twenty-fifth day before an
7 election, in which absentee ballots are authorized, in which ~~he~~ a voter seeks to vote
8 and not later than 5:00 P.M. ~~p.m.~~ on the Friday prior to that election, the voter shall
9 appear in person only at the office of the county board of ~~elections and elections,~~
10 except as provided in subsection (f1) of this section. That voter shall enter the voting
11 enclosure at the board office through the appropriate entrance and shall at once state
12 his or her name and place of residence to an authorized member or employee of the
13 board. In a primary election, the voter shall also state the political party with which
14 the voter affiliates and in whose primary the voter desires to vote, or if the voter is an
15 unaffiliated voter permitted to vote in the primary of a particular party under G.S.
16 163-119, the voter shall state the name of the authorizing political party in whose
17 primary he wishes to vote. The board member or employee to whom the voter gives
18 this information shall announce the name and residence of the voter in a distinct tone
19 of voice. After examining the registration records, an employee of the board shall
20 state whether the person seeking to vote is duly registered. If the voter is found to be
21 registered that voter may request that the ~~chairman, a member, authorized member~~
22 ~~or the director of elections of the board, or an employee of the board of elections,~~
23 ~~authorized by the board,~~ furnish him the voter with an application form as specified
24 in G.S. 163-227. The voter shall complete the application in the presence of the
25 ~~chairman, member, director of elections or~~ authorized member or employee of the
26 board, and shall deliver the application to that person.

27 (c) If the application is properly filled out, the ~~chairman, member, director of~~
28 ~~elections of the board, or employee of the board of elections, authorized by the~~
29 ~~board,~~ authorized member or employee shall enter the voter's name in the register of
30 ~~absentee ballot applications requests, applications, and ballots issued; shall furnish~~
31 the voter with the instruction sheets called for by G.S. 163-229(c); and shall furnish
32 the voter with the ballots to which the application for absentee ballots ~~applies; and~~
33 ~~shall furnish the voter with a container return envelope. applies.~~ The voter
34 thereupon shall ~~comply with the provisions of G.S. 163-231(a) except that he shall~~
35 ~~deliver the container return envelope to the chairman, member, supervisor of~~
36 ~~elections of the board, or an employee of the board of elections, authorized by the~~
37 ~~board, immediately after making and subscribing the certificate printed on the~~
38 ~~container return envelope as provided in G.S. 163-229(b):~~ vote in accordance with
39 subsection (e) of this section.

40 All actions required by this subsection shall be performed in the office of the
41 ~~board of elections. elections, except that the voting may take place in an adjacent~~
42 room as provided by subsection (e) of this section. For the purposes of this section
43 only, the The application under this subsection shall be signed in the presence of the
44 chairman, member, director of elections of the board, or full-time employee,

1 authorized by the board who shall sign the application and certificate as the witness
2 and indicate the official title held by him or her. Notwithstanding G.S. 163-231(a), in
3 the case of this subsection, only one witness shall be required on the certificate.

4 (d) Only the chairman, ~~member member, employee,~~ or director of elections of the
5 board shall keep the voter's application for absentee ballots ~~and the sealed~~
6 ~~container-return envelope~~ in a safe place, separate and apart from other applications
7 and container-return envelopes. ~~At the first meeting of the board pursuant to G.S.~~
8 ~~163-230(2) held after receipt of the application and envelope, the chairman shall~~
9 ~~comply with the requirements of G.S. 163-230(1) and G.S. 163-230(2) b. and c. If the~~
10 ~~voter's application for absentee ballots is approved by the board at that meeting, the~~
11 ~~application form and container-return envelope, with the ballots enclosed, shall be~~
12 ~~handled in the same manner and under the same provisions of law as applications~~
13 ~~and container-return envelopes received by the board under other provisions of this~~
14 ~~Article. If the voter's application for absentee ballots is disapproved by the board, the~~
15 board shall so notify the voter stating the reason for disapproval by first-class mail
16 addressed to the voter at his that voter's residence address ~~or~~ and at the address
17 shown in the application for absentee ballots; and the board ~~chairman~~ shall ~~retain the~~
18 ~~container-return envelope in its unopened condition until the day of the primary or~~
19 ~~election to which it relates and on that day he shall destroy the container-return~~
20 ~~envelope and the ballots therein, without, however, revealing the manner in which~~
21 ~~the voter marked the ballots. enter a challenge under G.S. 163-89.~~

22 (e) The voter shall vote his that voter's absentee ballot in a voting booth in the
23 office of the county board of elections, and the county board of elections shall
24 provide a voting booth for that purpose, provided however, that the county board of
25 elections may in the alternative provide a private room for the voter adjacent to the
26 office of the board, in which case the voter shall vote his that voter's absentee ballot
27 in that room. ~~The voting booth shall be in the office of the county board of elections.~~
28 If the voter needs assistance in getting to and from the voting booth and in preparing
29 and marking his that voter's ballots or if ~~he~~ the voter is a blind voter, only a member
30 of the county board of elections, the director of elections, an employee of the board
31 of elections authorized by the board, a near relative of the voter ~~as defined in G.S.~~
32 ~~163-227(e)(4),~~ or the voter's verifiable legal guardian shall be entitled to assist the
33 voter.

34 (e1) If a county uses a voting system with retrievable ballots, that county's board
35 of elections may by resolution elect to conduct one-stop absentee voting according to
36 the provisions of this subsection. In a county in which the board has opted to do so, a
37 one-stop voter shall cast the ballot and then shall deposit the ballot in the ballot box
38 or voting system in the same manner as if such box or system was in use in a precinct
39 on election day. At the end of each business day, or at any time when there will be
40 no employee or officer of the board of elections on the premises, the ballot box or
41 system shall be secured in accordance with a plan approved by the State Board of
42 Elections, which shall include that no additional ballots have been placed in the box
43 or system. Any county board desiring to conduct one-stop voting according to this
44 subsection shall submit a plan for doing so to the State Board of Elections. The State

1 Board shall adopt standards for conducting one-stop voting under this subsection and
2 shall approve any county plan that adheres to its standards. The county board shall
3 adhere to its State Board-approved plan. The plan shall provide that each one-stop
4 ballot shall have a ballot number on it in accordance with G.S. ~~163-230(3)a~~, 163-
5 230.1(a2), or shall have an equivalent identifier to allow for retrievability. The
6 standards shall address retrievability in one-stop voting on direct record electronic
7 equipment where no paper ballot is used.

8 (f) Notwithstanding the exception specified in G.S. 163-36, counties which operate
9 a modified full-time office shall remain open five days each week during regular
10 business hours consistent with daily hours presently observed by the county board of
11 elections, commencing with the date prescribed in G.S. 163-227.2(b) and continuing
12 until 5:00 ~~P.M.~~ p.m. on the Friday prior to that election or primary. The boards of
13 county commissioners shall provide necessary funds for the additional operation of
14 the office during ~~such~~ that time.

15 (f1) Notwithstanding any other provision of this section, a county board of
16 elections by unanimous vote of the members present may provide for one or more
17 sites in that county for absentee ballots to be applied for and cast under this section.
18 Any site other than the county board of elections office shall be in any building or
19 part of a building that the county board of elections is entitled under G.S. 163-129 to
20 demand and use as a voting place. Those sites must be approved by the State Board
21 of Elections as part of a Plan for Implementation approved by both the county board
22 of elections and by the State Board of Elections which shall also provide adequate
23 security of the ballots and provisions to avoid allowing persons to vote who have
24 already voted."

25 Section 7. G.S. 163-228 reads as rewritten:

26 "**§ 163-228. Register of absentee ~~ballot applications~~ requests, applications, and ballots**
27 **issued; a public record.**

28 The State Board of Elections shall ~~design~~ approve an official register and ~~provide a~~
29 ~~source of supply thereof from in which the chairman of the county board of elections~~
30 ~~in each county of the State shall purchase a book to be called the register of absentee~~
31 ~~ballot applications and ballots issued in which shall be recorded~~ record the following
32 information:

- 33 (1) Name of voter for whom application and ballots are being
34 requested, and, if applicable, the name and address of the voter's
35 near relative or verifiable legal guardian who requested the
36 application and ballots for the voter.
- 37 (2) Number of assigned voter's application when issued.
- 38 (3) Precinct in which applicant is registered.
- 39 (4) Address to which ballots are to be mailed, or, if the voter voted
40 pursuant to G.S. 163-227.2, a notation of that fact.
- 41 (5) Reason assigned for requesting absentee ballots.
- 42 (6) Date request for application for ballots is received by the county
43 board of elections.
- 44 (7) The voter's party affiliation.

(8) The date the ballots were mailed or delivered to the voter.

(9) ~~whatever~~ Whatever additional information and official action may be required by this Article.

The State Board of Elections may provide for the register to be kept by electronic data processing equipment, and a copy shall be printed out each business day or a supplement printed out each business day of new information.

The register of absentee ~~ballot applications~~ requests, applications, and ballots issued shall constitute a public record and shall be opened to the inspection of any registered voter of the county at any time within 50 days before and 30 days after an election in which absentee ballots were authorized, or at any other time when good and sufficient reason may be assigned for its inspection."

Section 8. G.S. 163-229 reads as rewritten:

"§ 163-229. Absentee ballots, applications on container-return envelopes, and instruction sheets.

(a) Absentee Ballot Form. -- In accordance with the provisions of G.S. ~~163-230(3);~~ 163-230.1, persons entitled to vote by absentee ballot shall be furnished with ~~regular~~ official ballots. ~~Separate or distinctly marked absentee ballots shall not be used.~~

(b) Application on Container-Return Envelope. -- In time for use not later than 50 days before a statewide primary, general election or county bond election, the county board of elections shall print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the ~~chairman of the~~ county board of elections. Each container-return envelope shall have printed on it an application which shall be designed and prescribed by the State Board of Elections, the voter's certification of eligibility to vote the enclosed ballot and of having voted the enclosed ballot in accordance with this Article, a space for identification of the envelope with the voter, and a space for approval by the county board of elections. The envelope shall allow reporting of a change of name as provided by G.S. 163-82.16. The container-return envelope shall be printed in accordance with the following instructions: instructions of the State Board of Elections.

(1) ~~On one side shall be printed an identified space in which shall be inserted the application number of the voter and the following statement which shall be certified by one member of the county board of elections:~~

~~"Certification of Election Official-~~

~~The undersigned election official does by his hand and seal certify that..... is a registered and qualified voter of County, Precinct # and has made proper application to vote under the Absentee Ballot Law of North Carolina:~~

~~.....(Seal)~~

~~Chairman Member"~~

- (2) ~~On the other side shall be printed the return address of the chairman of the county board of elections and the following certificate:~~

~~"Certificate of Absentee or Sick Voter~~

~~State of.....~~

~~County of.....~~

~~I,, do certify that I am a resident and registered voter in precinct, County, North Carolina; that on the day of an election,,~~
~~(check whichever of the following statements is correct.)~~

~~[] I will be absent from the county in which I reside.~~

~~[] Due to sickness or physical disability, or incarceration as a misdemeanant, I will be unable to travel to the voting place in the precinct in which I reside.~~

~~[] Due to the observance of a religious holiday pursuant to the tenets of my religion, I will be unable to cast a ballot at the polling place on the day of the election.~~

~~I further certify that I made application for absentee ballots, and that I marked the ballots enclosed herein; or that they were marked for me in my presence and according to my instructions. I understand it is a felony to falsely sign this certificate.~~

~~.....~~
~~— (Signature of voter)~~

~~.....~~
~~Signature of Witness #1 —~~

~~.....~~
~~Signature of Witness #2 —~~

~~.....~~
~~Address of Witness #1~~

~~.....~~
~~Address of Witness #2".~~

(c) Instruction Sheets. -- In time for use not later than 50 days before a statewide primary, general or county bond election, the county board of elections shall prepare and print a sufficient number of sheets of instructions on how voters are to prepare absentee ballots and return them to the ~~chairman of the~~ county board of elections."

Section 9. G.S. 163-230 is repealed.

Section 10. G.S. 163-230.1 reads as rewritten:

"§ 163-230.1. Simultaneous issuance of absentee ballots with application.

(a) ~~When a~~ A qualified voter personally requests by mail who is eligible to vote by absentee ballot under G.S. 163-226(a)(1), or that voter's near relative or verifiable legal guardian, shall request in writing an application for absentee ballots, so that the county board of elections receives the request not later than 5:00 p.m. on the Tuesday before the election, an application for absentee ballots, The county board of elections shall enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as soon as each item of that

1 information becomes available. Upon receiving the application, the county board of
2 elections shall cause to be mailed to that voter in a single package:

3 (1) The official ballots the voter is entitled to ~~vote if his application is~~
4 approved; ~~vote;~~

5 (2) A container-return envelope for the ballots, ~~upon the outside of~~
6 ~~which shall be printed the appropriate application form as~~
7 ~~provided in G.S. 163-227; printed in accordance with G.S. 163-229;~~
8 ~~and~~

9 (3) ~~A large envelope (similar to a No. 14 or larger manila envelope) in~~
10 ~~which the container-return envelope with the ballots may be~~
11 ~~returned and on which the affidavit provided by G.S. 163-229(b)~~
12 ~~shall be printed; and~~

13 (4) An instruction sheet.

14 The ballots, ~~envelopes~~ envelope, and instructions shall be mailed to the voter by
15 the county board's ~~chairman, secretary or director~~ chairman, member, officer, or
16 employee as determined by the board and entered in its official minutes. ~~the register~~
17 as provided by this Article.

18 ~~On the back of the large transmittal envelope shall be clearly printed or stamped~~
19 ~~the following statement:~~

20 ~~DO NOT PLACE THE ENVELOPE CONTAINING YOUR BALLOTS INTO~~
21 ~~THIS ENVELOPE UNTIL YOU HAVE COMPLETED THE APPLICATION ON~~
22 ~~THE ENVELOPE CONTAINING YOUR BALLOTS AND SECURED THE~~
23 ~~SIGNATURE OF A WITNESS.~~

24 (a1) Absence for Sickness or Physical Disability. -- Notwithstanding the provisions
25 of subsection (a) of this section, if a voter expects to be unable to go to the voting
26 place to vote in person on election day because of that voter's sickness or other
27 physical disability, that voter or that voter's near relative or verifiable legal guardian
28 may make written request in person for absentee ballots to the board of elections of
29 the county in which the voter is registered after 5:00 p.m. on the Tuesday before the
30 election but not later than 5:00 p.m. on the day before the election. The county board
31 of elections shall enter in the register of absentee requests, applications, and ballots
32 issued the information required in G.S. 163-228 as soon as each item of that
33 information becomes available. The county board of elections shall personally deliver
34 to the requester in a single package:

35 (1) The official ballots the voter is entitled to vote;

36 (2) A container-return envelope for the ballots, printed in accordance
37 with G.S. 163-229; and

38 (3) An instruction sheet.

39 (a2) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. --
40 When the county board of elections receives a request for applications and absentee
41 ballots, the board shall promptly issue and transmit them to the voter in accordance
42 with the following instructions:

43 (1) On the top margin of each ballot the applicant is entitled to vote,
44 the chair, a member, officer, or employee of the board of elections

1 shall write or type the words 'Absentee Ballot No.' or an
2 abbreviation approved by the State Board of Elections and insert
3 in the blank space the number assigned the applicant's application
4 in the register of absentee requests, applications, and ballots issued.
5 That person shall not write, type, or print any other matter upon
6 the ballots transmitted to the absentee voter. Alternatively, the
7 board of elections may cause to be barcoded on the ballot the
8 voter's application number, if that barcoding system is approved by
9 the State Board of Elections.

10 (2) The chair, member, officer, or employee of the board of elections
11 shall fold and place the ballots (identified in accordance with the
12 preceding instruction) in a container-return envelope and write or
13 type in the appropriate blanks thereon, in accordance with the
14 terms of G.S. 163-229(b), the absentee voter's name, the absentee
15 voter's application number, and the designation of the precinct in
16 which the voter is registered. If the ballot is barcoded under this
17 section, the envelope may be barcoded rather than having the
18 actual number appear. The person placing the ballots in the
19 envelopes shall leave the container-return envelope holding the
20 ballots unsealed.

21 (3) The chair, member, officer, or employee of the board of elections
22 shall then place the unsealed container-return envelope holding
23 the ballots together with printed instructions for voting and
24 returning the ballots, in an envelope addressed to the voter at the
25 post office address stated in the request, seal the envelope, and
26 mail it at the expense of the county board of elections; Provided,
27 that in case of a request received after 5:00 p.m. on the Tuesday
28 before the election under the provisions of subsection (a1) of this
29 section, in lieu of transmitting the ballots to the voter in person or
30 by mail, the chair, member, officer, or employee of the board of
31 elections may deliver the sealed envelope containing the
32 instruction sheet and the container-return envelope holding the
33 ballots to a near relative or verifiable legal guardian of the voter.

34 The county board of elections may receive written requests for applications earlier
35 than 50 days prior to the election but shall not mail applications and ballots to the
36 voter or issue applications and ballots in person earlier than 50 days prior to the
37 election, except as provided in G.S. 163-227.2. No election official shall issue
38 applications for absentee ballots except in compliance with this Article.

39 (b) ~~The application shall be completed, completed and signed by the voter~~
40 ~~personally, the ballots marked, the ballots sealed in the container-return envelope,~~
41 ~~and the large envelope affidavit certificate completed as provided in G.S. 163-227 and~~
42 ~~G.S. 163-231. The container-return envelope shall be placed in the large transmittal~~
43 ~~envelope for return to the chairman of the county board of elections.~~

(c) At its next official meeting after return of the completed container-return envelope ~~and large envelope~~ with the voter's ballots, the county board of elections shall determine whether the container-return envelope ~~and large envelope have~~ has been properly executed. If the board determines that ~~both~~ the container-return envelope ~~and large envelope have~~ has been properly executed, it shall approve the application and deposit the container-return envelope with other container-return envelopes for the envelope to be opened and the ballots counted at the same time as all other container-return envelopes and absentee ballots.

(c1) Required Meeting of County Board of Elections. -- During the period commencing on the third Tuesday before an election, in which absentee ballots are authorized, the county board of elections shall hold one or more public meetings each Tuesday at 5:00 p.m. for the purpose of action on applications for absentee ballots. At these meetings, the county board of elections shall pass upon applications for absentee ballots.

If the county board of elections changes the time of holding its meetings or provides for additional meetings in accordance with the terms of this subsection, notice of the change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county at least 30 days prior to the election.

At the time the county board of elections makes its decision on an application for absentee ballots, the board shall enter in the appropriate column in the register of absentee requests, applications, and ballots issued opposite the name of the applicant a notation of whether the applicant's application was 'Approved' or 'Disapproved'.

The decision of the board on the validity of an application for absentee ballots shall be final subject only to such review as may be necessary in the event of an election contest. The county board of elections shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.

~~(d) The provisions of this section shall apply only to requests received by mail from and signed by the voter individually and personally. No near relative, guardian, or other person other than the voter himself shall be permitted to apply for absentee ballots under this section.~~

(e) The State Board of Elections, by ~~regulation~~ rule or by instruction to the county board of elections, shall establish procedures to provide appropriate safeguards in the implementation of this section.

(f) For the purpose of this Article, 'near relative' means spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild."

Section 11. G.S. 163-231 reads as rewritten:

"§ 163-231. Voting absentee ballots and transmitting them to ~~chairman of the county board of elections.~~

1 (a) Procedure for Voting Absentee Ballots. -- In the presence of two other persons
2 who are at least 18 years of age, and who are not disqualified by G.S. 163-226.3(a)(4)
3 or G.S. 163-237(b1), the voter shall:

- 4 (1) Mark ~~his~~ the voter's ballots, or cause them to be marked by one of
5 such persons in ~~his~~ the voter's presence according to ~~his~~ the voter's
6 instruction;
7 (2) Fold each ballot separately, or cause each of them to be folded in
8 ~~his~~ the voter's presence;
9 (3) Place the folded ballots in the container-return envelope and
10 securely seal it, or have this done in ~~his~~ the voter's presence;
11 (4) Make the application printed on the container-return envelope
12 according to the provisions of G.S. 163-229(b) and make the
13 certificate printed on the container-return envelope according to
14 the provisions of G.S. 163-229(b).

15 The persons in whose presence the ballot is marked shall at all times respect the
16 secrecy of the ballot and the privacy of the absentee voter, unless the voter requests
17 their assistance and they are otherwise authorized by law to give assistance. The
18 persons in whose presence the ballot was marked shall sign the application and
19 certificate as witnesses, and shall indicate their address. When thus executed, the
20 sealed container-return envelope, with the ballots enclosed, shall be transmitted in
21 accordance with the provisions of subsection (b) of this section to the ~~chairman of the~~
22 county board of elections ~~who~~ which issued the ballots.

23 (a1) Repealed by Session Laws 1987, c. 583, s. 1.

24 (b) Transmitting Executed Absentee Ballots to ~~Chairman of~~ County Board of
25 Elections. -- The sealed container-return envelope in which executed absentee ballots
26 have been placed shall be transmitted to the ~~chairman of the~~ county board of
27 elections who issued them as follows: All ballots issued under the provisions of
28 Articles 20 and 21 of this Chapter shall be transmitted by ~~mail~~, mail or by
29 commercial courier service, at the voter's expense, or delivered in person, or by the
30 voter's ~~spouse, brother, sister, parent, grandparent, child or grandchild~~ near relative
31 or verifiable legal guardian not later than 5:00 P.M. ~~p.m.~~ on the day before the
32 statewide primary or general election or county bond election. If such ballots are
33 received later than that hour, they shall not be accepted for ~~voting~~, unless federal law
34 so requires."

35 Section 12. G.S. 163-232 reads as rewritten:

36 "**§ 163-232. Certified list of executed absentee ballots; distribution of list.**

37 The ~~chairman of the~~ county board of elections shall prepare, or cause to be
38 prepared, a list in at least quadruplicate, of all absentee ballots returned to the county
39 board of elections to be counted, which have been approved by the county board of
40 ~~elections~~, elections, and which have been received as of 5:00 p.m. on the day before
41 the election. At the end of the list, the chairman shall execute the following
42 certificate under oath:

43 'State of North Carolina

44 County of

I,, chairman of the County board of elections, do hereby certify that the foregoing is a list of all executed absentee ballots to be voted in the election to be conducted on the day of, 19, which have been approved by the county board of elections. elections and which have been returned no later than 5:00 p.m. on the day before the election. ~~I further certify that I have issued ballots to no other persons than those listed herein, whose original applications or original applications made by near relatives are filed in the office of the county board of elections; and I further certify that I have~~ the chairman, member, officer, or employee of the board of elections has not delivered ballots for absentee voting to any person other than the ~~voter himself, voter,~~ by mail or by commercial courier service or in person, except as provided by law, ~~in the case of approved applications received after 5:00 P.M. on the Tuesday or Friday before the election.~~ and have not mailed or delivered ballots when the request for the ballot was received after the deadline provided by law.

This the day of, 19.....

.....
(Signature of chairman of county board of elections)

Sworn to and subscribed before me this day of, 19, Witness my hand and official seal.

.....
(Signature of officer administering oath)

.....
(Title of officer)'

No ~~earlier than 3:00 P.M. on the day before the election and no~~ later than 10:00 A.M. a.m. on election day, the ~~chairman~~ county board of elections shall cause one copy of the list of executed absentee ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately deposited as 'first-class' mail to the State Board of Elections. ~~He~~ The board shall retain one copy in the board office for public inspection and ~~he~~ the board shall cause two copies of the appropriate precinct list to be delivered to the chief judge of each precinct in the county. The ~~chairman~~ county board of elections shall be authorized to call upon the sheriff of the county to distribute the list to the precincts. In addition the ~~chairman~~ county board of elections shall, upon request, provide a copy of the complete list to the chairman of each political party, recognized under the provisions of G.S. 163-96, represented in the county.

The chief judge shall post one copy of the list immediately in a conspicuous location in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made to absentee ballots as provided in G.S. 163-89.

After receipt of the list of absentee voters required by this section the chief judge shall call the name of each person recorded on the list and enter an 'A' in the appropriate voting square on the voter's permanent registration ~~record.~~ record, or a similar entry on the computer list used at the polls. If such person is already recorded as having voted in that election, the chief judge shall enter a challenge

1 which shall be presented to the ~~chairman of the~~ county board of elections for
2 resolution by the board of elections prior to certification of results by the board.

3 All lists required by this section shall be retained by the county board of elections
4 for a period of ~~four years~~ 22 months after which they may then be destroyed."

5 Section 13. G.S. 163-233 reads as rewritten:

6 "**§ 163-233. Applications for absentee ballots; how retained.**

7 The ~~chairman of the~~ county board of elections shall retain, in a safe place, the
8 original of all applications made for absentee ballots and shall make them available to
9 inspection by the State Board of Elections or to any person upon the directive of the
10 State Board of Elections.

11 All applications for absentee ballots shall be retained by the county board of
12 elections for a period of one year after which they may be destroyed."

13 Section 14. G.S. 163-234 reads as rewritten:

14 "**§ 163-234. Counting absentee ballots by county board of elections.**

15 All absentee ballots returned to the ~~chairman or supervisor of elections of the~~
16 county board of elections in the container-return envelopes shall be retained by the
17 ~~chairman~~ board to be counted by the county board of elections as herein provided.

18 (1) Only those absentee ballots returned to the county board of
19 elections no later than 5:00 ~~P.M.~~ p.m. on the day before election
20 day in a properly executed container-return envelope shall be
21 ~~counted.~~ counted, except to the extent federal law requires
22 otherwise.

23 (2) The county board of elections shall meet at 5:00 ~~P.M.~~ p.m. on
24 election day in the board office or other public location in the
25 county courthouse for the purpose of counting all absentee ballots
26 except those which have been challenged before 5:00 ~~P.M.~~ p.m. on
27 election day. Any elector of the county shall be permitted to attend
28 the meeting and allowed to observe the counting process, provided
29 ~~he~~ the elector shall not in any manner interfere with the election
30 officials in the discharge of their duties.

31 Provided, that the county board of elections is authorized to
32 begin counting absentee ballots between the hours of 2:00 ~~P.M.~~
33 p.m. and 5:00 ~~P.M.~~ p.m. upon the adoption of a resolution at least
34 two weeks prior to the election wherein the hour and place of
35 counting absentee ballots shall be stated. A copy of the resolutions
36 shall be published once a week for two weeks prior to the election,
37 in a newspaper having general circulation in the county. Notice
38 may additionally be made on a radio or television station or both,
39 but such notice shall be in addition to the newspaper and other
40 required notice. The count shall be continuous until completed
41 and the members shall not separate or leave the counting place
42 ~~except for unavoidable necessity.~~ necessity, except that if the count
43 has been completed prior to the time the polls close, it shall be
44 suspended until that time pending receipt of any additional ballots.

1 and except that one-stop ballots under G.S. 163-227.2 counted
2 electronically shall not be counted until the polls close; provided,
3 however, that if there are outstack ballots in the counting device,
4 they may be counted at the same time as other ballots are counted
5 under this subdivision. The county board of elections may begin
6 putting them in the tabulator at the same time as other ballots are
7 counted under this subdivision if the system for counting one-stop
8 ballots requires them to be put in a tabulator but the process has
9 the voter place them in a ballot box. The board shall not
10 announce the result of the count before 7:30 P.M. p.m.

11 (3) The counting of absentee ballots shall not commence until a
12 majority and at least one board member of each political party
13 represented on the board is present and ~~such~~ that fact is publicly
14 declared and entered in the official minutes of the county board.

15 (4) The county board of elections may employ such assistants as
16 deemed necessary to count the absentee ballots, but each board
17 member present shall be responsible for and observe and supervise
18 the opening and tallying of the ballots.

19 (5) As each ballot envelope is opened, the board shall cause to be
20 entered into a pollbook designated 'Pollbook of Absentee Voters'
21 the name of the absentee ~~voter.~~ voter, or if the pollbook is
22 computer-generated, the board shall check off the name.
23 Preserving secrecy, the ballots shall be placed in the appropriate
24 ballot boxes, at least one of which shall be provided for each type
25 of ballot. The 'Pollbook of Absentee Voters' shall also contain the
26 names of all persons who voted under G.S. 163-227.2, but those
27 names may be printed by computer for inclusion in the pollbook.

28 After all ballots have been placed in the boxes, the counting
29 process shall begin.

30 If one-stop ballots under G.S. 163-227.2 are counted
31 electronically, that count shall commence at the time the polls
32 close. If one-stop ballots are paper ballots counted manually, that
33 count shall commence at the same time as other absentee ballots
34 are counted.

35 If a challenge transmitted to the board on canvass day by a
36 chief judge is sustained, the ballots challenged and sustained shall
37 be withdrawn from the appropriate boxes, as provided in G.S.
38 163-89(e).

39 As soon as the absentee ballots have been counted and the
40 names of the absentee voters entered in the pollbook as required
41 herein, the board members and assistants employed to count the
42 absentee ballots shall each sign the pollbook immediately beneath
43 the last absentee voter's name entered therein. The ~~chairman~~

- 1 county board of elections shall be responsible for the safekeeping
2 of the pollbook of absentee voters.
- 3 (6) Upon completion of the counting process the board members shall
4 cause the results of the tally to be entered on the absentee abstract
5 prescribed by the State Board of Elections. The abstract shall be
6 signed by the members of the board in attendance and the original
7 mailed immediately to the State Board of Elections, Raleigh, North
8 ~~Carolina 27602.~~ Elections. The county board of elections may have
9 a separate count on the abstract for one-stop absentee ballots under
10 G.S. 163-227.2.
- 11 (7) One copy of the absentee abstract shall be retained by the county
12 board of elections and the totals appearing thereon shall be added
13 to the final totals of all votes cast in the county for each office as
14 determined on the official canvass.
- 15 (8) In the event a political party does not have a member of the
16 county board of elections present at the ~~5:00 P.M.~~ meeting to count
17 absentee ballots due to illness or other cause of the member, the
18 counting shall not commence until the county party chairman of
19 said absent member, or a member of the party's county executive
20 committee, is in attendance. Such person shall act as an official
21 witness to the counting and shall sign the absentee ballot abstract
22 as an 'observer.'
- 23 (9) The county board of elections shall retain all container-return
24 envelopes and absentee ballots, in a safe place, for at least four
25 months, and longer if any contest is pending concerning the
26 validity of any ballot."

27 Section 15. G.S. 163-236 reads as rewritten:

28 "**§ 163-236. Violations by ~~chairman of~~ county board of elections.**

29 The ~~chairman of the~~ county board of elections shall be sole custodian of blank
30 applications for absentee ballots, official ballots, and container-return envelopes for
31 absentee ballots. ~~He~~ The board shall issue and deliver blank applications for absentee
32 ballots in strict accordance with the provisions of G.S. ~~163-227(e).~~ 163-230.1. The
33 issuance of ballots to persons whose ~~applications~~ requests for absentee ballots have
34 been ~~approved~~ received by the county board of elections under the provisions of G.S.
35 ~~163-230(3)~~ 163-230.1 is the responsibility and duty of the ~~chairman of the~~ county
36 board of elections.

37 It shall be the duty of the ~~chairman of the~~ county board of elections to keep
38 current all records required ~~of him~~ by this Article and to make promptly all reports
39 required ~~of him~~ by this Article. If that duty has been assigned to the chair, member,
40 officer, or employee of the board of elections, that person shall carry out the duty.

41 The willful violation of this section shall constitute a Class 2 misdemeanor."

42 Section 16. G.S. 163-82.7(g)(2) reads as rewritten:

43 "(2) If the Postal Service has returned as undeliverable a notice sent
44 within 25 days before the election to the applicant under

1 subsection (c) of this section, then the applicant may vote only in
2 person in that first election and may not vote by ~~mailed~~ absentee
3 ~~ballot~~. ballot except in person under G.S. 163-227.2. The county
4 board of elections shall establish a procedure at the voting site for:

- 5 a. Obtaining the correct address of any person described in
6 this subdivision who appears to vote in person; and
7 b. Assuring that the person votes in the proper place and in
8 the proper contests.

9 If a notice mailed under subsection (c) or subsection (e) of this
10 section is returned as undeliverable after a person has already
11 voted by absentee ballot, then that person's ballot may be
12 challenged in accordance with G.S. 163-89."

13 Section 17. G.S. 163-137(b) reads as rewritten:

14 "(b) The ballots prepared for use in general and special elections under the
15 provisions of this Article by the State Board of Elections shall be printed and
16 delivered to the county boards of elections at least ~~60~~ 50 days prior to the date of any
17 ~~election in which absentee voting is permitted and at least 60 days prior to the date of~~
18 ~~any election in which absentee voting is not permitted.~~ election."

19 Section 18. G.S. 163-155(4) reads as rewritten:

20 "(4) The affidavit executed by the voter shall be retained by the county
21 board of elections for a period of six months. In those precincts
22 using voting machines, the county board of elections shall furnish
23 paper ballots of each kind for use by persons authorized to vote
24 outside the voting place by this section. In any precinct using
25 direct record electronic voting equipment, the county board of
26 elections, with the approval of the State Board of Elections, may
27 provide for all such paper ballots to be transported upon closing of
28 the polls to the office of the county board of elections for counting.
29 Those ballots may be transported only by the chief judge, judge, or
30 assistant. Upon receipt by the county board of elections, those
31 ballots shall be counted and canvassed in the same manner as one-
32 stop ballots cast under G.S. 163-227.2, except that rather than the
33 count commencing when the polls close under G.S. 163-234(5) as
34 provided for one-stop ballots, the count shall commence when the
35 board has received from each precinct either that precinct's ballots
36 or notification that no such ballots were cast.

37 The total for ballots counted by the county board of elections
38 under this subdivision shall be canvassed as if it were a separate
39 precinct."

40 Section 19. G.S. 163-169(i) reads as rewritten:

41 "(i) Absentee Ballots. -- Absentee ballots shall be deposited and voted in
42 accordance with the provisions of G.S. 163-227.2 and G.S. 163-234; they shall be
43 counted and tabulated as provided in this section and G.S. 163-170."

44 Section 20. Article 21 is amended by adding a new section to read:

1 "§ 163-257. Facsimile and electronic mail transmission of election materials.

2 An applicant entitled to exercise the rights conferred by this Article may apply for
3 registration and an absentee ballot by facsimile or electronic mail if otherwise
4 qualified to apply for and vote by absentee ballot. A county board of elections may
5 send and receive absentee ballot applications and accept voted ballots by facsimile or
6 electronic mail from eligible electors as defined in G.S. 163-245."

7 Section 21. G.S. 163-274(5a) is repealed.

8 Section 22. G.S. 163-237 is amended by adding a new subsection to read:

9 "(b1) Candidate Witnessing Absentee Ballots of Nonrelative Made Class 2
10 Misdemeanor. -- A person is guilty of a Class 2 misdemeanor if that person acts as a
11 witness under G.S. 163-231(a) or G.S. 163-250(a) in any primary or election in which
12 the person is a candidate for nomination or election, unless the voter is the
13 candidate's near relative as defined in G.S. 163-230.1(f)."

14 Section 23. Article 3 of Chapter 163 of the General Statutes is amended
15 by adding a new section to read:

16 "§ 163-27.1. Emergency powers.

17 The chief election official may exercise emergency powers over any election being
18 held in a district in which either a natural disaster or extremely inclement weather
19 has occurred. The chief election official may also exercise emergency powers during
20 an armed conflict involving United States armed forces, or mobilization of those
21 forces, including State national guard and reserve components, or if an election
22 contest court finds that there were errors in the conduct of an election making it
23 impossible to determine the result. The chief election official shall adopt rules
24 describing the emergency powers and the situations in which the powers will be
25 exercised."

26 Section 24. This act applies to elections held on or after January 1, 2000,
27 except that the State Board of Elections may issue rules required or permitted by this
28 act prior to that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SENATE BILL 568
RATIFIED BILL

AN ACT TO REMOVE THE EXCUSE REQUIREMENT FROM ONE-STOP ABSENTEE VOTING FOR THE GENERAL ELECTION HELD IN NOVEMBER OF EVEN-NUMBERED YEARS, TO ALLOW COUNTY BOARDS OF ELECTIONS TO DESIGNATE ADDITIONAL ONE-STOP SITES, AND TO MAKE CHANGES RELATED TO STREAMLINING THE ABSENTEE BALLOT PROCESS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-226 reads as rewritten:

"§ 163-226. Who may vote an absentee ballot.

(a) Who May Vote Absentee Ballot; Generally. -- Any qualified voter of the State may vote by absentee ballot in a statewide primary, general, or special election on constitutional amendments, referenda or bond proposals, and any qualified voter of a county is authorized to vote by absentee ballot in any primary or election conducted by the county board of elections, in the manner provided in this Article if:

- (1) The voter expects to be absent from the county in which he is registered during the entire period that the polls are open on the day of the specified election in which the voter desires to vote;
- (2) The voter is unable to be present at the voting place to vote in person on the day of the specified election in which the voter desires to vote because of the voter's sickness or other physical ~~disability~~; disability;
- (3) The voter is incarcerated, whether in the voter's county of residence or elsewhere, shall be entitled to vote by absentee ballot in the county of the voter's residence in any election, specified herein, in which the voter otherwise would be entitled to vote. Absentee voting shall be in the same manner as provided in this Article. The chief custodian or superintendent of the institution or other place of confinement shall certify that the applicant is not a felon, and the certification shall be as prescribed by the State Board of Elections. The State Board of Elections is authorized to prescribe procedures to carry out the intent and purpose of this subsection;
- (3a) The voter because of the observance of a religious holiday pursuant to the tenets of the voter's religion will be unable to cast a ballot at the polling place on the day of the election; or
- (4) The voter is an employee of the county board of elections or a precinct official, observer, or ballot counter, in another precinct and the voter's assigned duties on the day of the election will cause the voter to be unable to be present at the voting place to vote in

person and provided such employee has the application witnessed by the chairman of the county board of elections.

(a1) No-Excuse Absentee Voting for One-Stop in General Elections Only. -- The only type of absentee voting that is not subject to the excuse requirements of subsection (a) of this section is one-stop voting as provided in G.S. 163-227.2 for elections held on the day of the general elections in November of even-numbered years.

(b) Absentee Ballots; Exceptions. -- Notwithstanding the authority contained in G.S. 163-226(a), absentee ballots shall not be permitted in fire district elections.

(c) The Term 'Election'. -- As used in this Subchapter, unless the context clearly requires otherwise, the term 'election' includes a general, primary, second primary, runoff election, bond election, referendum, or special election."

Section 2. G.S. 163-226.1 reads as rewritten:

"§ 163-226.1. Absentee voting in primary.

A qualified voter may vote by absentee ballot in a ~~statewide or countywide partisan~~ primary provided ~~he the qualified voter~~ is affiliated, at the time ~~he the qualified voter~~ makes application for absentee ballots, with the political party in whose primary ~~he the qualified voter~~ wishes to vote. vote, except that an unaffiliated voter may vote in a party primary if permitted under G.S. 163-119. The official registration records of the county in which the voter is registered shall be proof of whether ~~he the qualified voter~~ is affiliated with a political party and of the party, if any, with which ~~he the qualified voter~~ is affiliated."

Section 3. G.S. 163-226.3 reads as rewritten:

"§ 163-226.3. Certain acts declared felonies.

(a) Any person who shall, in connection with absentee voting in any ~~primary, general, municipal or special~~ election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be unlawful:

- (1) For any person except the voter's near relative ~~as defined in G.S. 163-227(c)(4)~~ or the voter's verifiable legal guardian to assist the voter to vote an absentee ballot when the voter is voting an absentee ballot other than under the procedure described in G.S. 163-227.2; provided that if there is not a near relative or legal guardian available to assist the voter, the voter may request some other person to give assistance;
- (2) For any person to assist a voter to vote an absentee ballot under the absentee voting procedure authorized by G.S. 163-227.2 except a member of the county board of elections, the director of elections, an employee of the board authorized by the board, the voter's near relative ~~as defined in G.S. 163-227(c)(4)~~, or the voter's verifiable legal guardian;
- (3) For a voter who votes an absentee ballot under the procedures authorized by G.S. 163-227.2 to vote ~~his that voter's~~ absentee ballot outside of the voting booth or private room provided to ~~him~~ the voter for that purpose in or adjacent to the office of the county board of elections or at the additional site provided by G.S. 163-227.2(f1), or to receive assistance in getting to and from the voting booth or private room and in preparing and marking ~~his that voter's~~ ballots from any person other than a member of the county board of elections, the director of elections, an employee of the board of elections authorized by the board, a near relative of the voter ~~as defined in G.S. 163-227(c)(4)~~, or the voter's verifiable legal guardian;

- (4) For any owner, manager, director, employee, or other person, other than the voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or verifiable legal guardian, to make a written request pursuant to G.S. 163-230.1 or an application on behalf of a registered voter who is a patient in any hospital, clinic, nursing home or rest home in this State or for any owner, manager, director, employee, or other person other than the voter's near relative or verifiable legal guardian, ~~or officer authorized to administer oaths acting pursuant to G.S. 163-231(a)(1)~~, to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot;
- (5) Repealed by Session Laws 1987, c. 583, s. 8.
- (6) For any person to take into ~~his~~ that person's possession for delivery to a voter or for return to a county board of elections the absentee ballot of any voter, provided, however, that this prohibition shall not apply to a voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or the voter's verifiable legal guardian;
- (7) Except as provided in subsections (1), (2), (3), and (4) of this section, G.S. 163-231(a), G.S. 163-250(a), and G.S. 163-227.2(e), for any voter to permit another person to assist ~~him~~ the voter in marking ~~his~~ that voter's absentee ballot, to be in the voter's presence when a voter votes an absentee ballot, or to observe the voter mark ~~his~~ that voter's absentee ballot.

(b) The State Board of Elections or a county board of elections, upon receipt of a sworn affidavit from any qualified voter of the State or the county, as the case may be, attesting to first-person knowledge of any violation of subsection (a) of this section, shall transmit ~~such~~ that affidavit to the appropriate district attorney, who shall investigate and prosecute any person violating subsection (a)."

Section 4. G.S. 163-227 is repealed.

Section 5. G.S. 163-227.1 reads as rewritten:

"§ 163-227.1. Second primary; applications for absentee ballots for voting in second primary.

A voter applying for an absentee ballot for a primary election who will be ~~absent from the county of his residence~~ eligible to vote under this Article on the day of the primary and second primary shall be permitted by the county board of elections to indicate ~~such~~ that fact on ~~his~~ that voter's application and ~~such~~ that voter shall automatically be issued an application and absentee ballot for the second primary if one is called. The county board of elections shall consider ~~such~~ that indication a separate request for application for the second primary and, at the proper time, shall enter ~~such~~ that voter's name in the absentee register along with the listing of other applicants for absentee ballots for the second primary.

In addition, a voter entitled to absentee ballots under the provisions of this Article who did not make application for the primary or who failed to apply for a second primary ballot at the time of application for a first primary ballot may ~~apply for~~ make a written request for absentee ballots for a second primary not earlier than the day a second primary is called and not later than ~~5:00 P.M. on the Tuesday prior to the date on which the second primary is held~~ the date and time provided by G.S. 163-230.1.

All procedures with respect to absentee ballots in a second primary shall be the same as with respect to absentee ballots in a first primary except as otherwise provided by this section."

Section 6. G.S. 163-227.2 reads as rewritten:

"§ 163-227.2. Alternate procedures for requesting application for absentee ballot; 'one-stop' voting procedure in board office.

(a) ~~★ Except as provided in subsection (a1) of this section, a person expecting to be absent from the county in which he that person is registered during the entire period that the polls are open on the day of an election in which absentee ballots are authorized or is eligible under G.S. 163-226(a)(2), 163-226(a)(3a), or 163-226(a)(4) may request an application for absentee ballots, complete the application, receive the absentee ballots, vote and deliver them sealed in a container-return envelope to the county board of elections in the county in which he is registered and vote under the provisions of this section.~~

(a1) The excuse requirements of G.S. 163-226(a) do not apply to one-stop voting for elections held on the day of the general elections in November of even-numbered years.

(b) Not earlier than the first business day after the twenty-fifth day before an election, in which absentee ballots are authorized, in which ~~he~~ a voter seeks to vote and not later than 5:00 P.M. ~~p.m.~~ on the Friday prior to that election, the voter shall appear in person only at the office of the county board of elections ~~and elections~~, except as provided in subsection (f1) of this section. That voter shall enter the voting enclosure at the board office through the appropriate entrance and shall at once state his or her name and place of residence to an authorized member or employee of the board. In a primary election, the voter shall also state the political party with which the voter affiliates and in whose primary the voter desires to vote, or if the voter is an unaffiliated voter permitted to vote in the primary of a particular party under G.S. 163-119, the voter shall state the name of the authorizing political party in whose primary he wishes to vote. The board member or employee to whom the voter gives this information shall announce the name and residence of the voter in a distinct tone of voice. After examining the registration records, an employee of the board shall state whether the person seeking to vote is duly registered. If the voter is found to be registered that voter may request that the chairman, a member, authorized member or the director of elections of the board, or an employee of the board of elections, authorized by the board, furnish him the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the chairman, member, director of elections or authorized member or employee of the board, and shall deliver the application to that person.

(c) If the application is properly filled out, the chairman, member, director of elections of the board, or employee of the board of elections, authorized by the board, authorized member or employee shall enter the voter's name in the register of absentee ballot applications requests, applications, and ballots issued; shall furnish the voter with the instruction sheets called for by G.S. 163-229(c); and shall furnish the voter with the ballots to which the application for absentee ballots applies; and shall furnish the voter with a container-return envelope. applies. The voter thereupon shall comply with the provisions of G.S. 163-231(a) except that he shall deliver the container-return envelope to the chairman, member, supervisor of elections of the board, or an employee of the board of elections, authorized by the board, immediately after making and subscribing the certificate printed on the container-return envelope as provided in G.S. 163-229(b). vote in accordance with subsection (e) of this section.

All actions required by this subsection shall be performed in the office of the board of elections. ~~elections, except that the voting may take place in an adjacent room as provided by subsection (e) of this section. For the purposes of this section only, the~~ The application under this subsection shall be signed in the presence of the chairman, member, director of elections of the board, or full-time employee, authorized by the board who shall sign the application and certificate as the witness and indicate the official title held by him or her. Notwithstanding G.S. 163-231(a), in the case of this subsection, only one witness shall be required on the certificate.

(d) Only the chairman, ~~member member, employee,~~ or director of elections of the board shall keep the voter's application for absentee ballots ~~and the sealed container-return envelope~~ in a safe place, separate and apart from other applications and container-return envelopes. ~~At the first meeting of the board pursuant to G.S. 163-230(2) held after receipt of the application and envelope, the chairman shall comply with the requirements of G.S. 163-230(1) and G.S. 163-230(2) b. and c. If the voter's application for absentee ballots is approved by the board at that meeting, the application form and container-return envelope, with the ballots enclosed, shall be handled in the same manner and under the same provisions of law as applications and container-return envelopes received by the board under other provisions of this Article. If the voter's application for absentee ballots is disapproved by the board, the board shall so notify the voter stating the reason for disapproval by first-class mail addressed to the voter at his that voter's residence address ~~or~~ and at the address shown in the application for absentee ballots; and the board chairman shall retain the container-return envelope in its unopened condition until the day of the primary or election to which it relates and on that day he shall destroy the container-return envelope and the ballots therein, without, however, revealing the manner in which the voter marked the ballots; enter a challenge under G.S. 163-89.~~

(e) The voter shall vote his that voter's absentee ballot in a voting booth in the office of the county board of elections, and the county board of elections shall provide a voting booth for that purpose, provided however, that the county board of elections may in the alternative provide a private room for the voter adjacent to the office of the board, in which case the voter shall vote his that voter's absentee ballot in that room. ~~The voting booth shall be in the office of the county board of elections.~~ If the voter needs assistance in getting to and from the voting booth and in preparing and marking his that voter's ballots or if ~~he~~ the voter is a blind voter, only a member of the county board of elections, the director of elections, an employee of the board of elections authorized by the board, a near relative of the voter ~~as defined in G.S. 163-227(e)(4)~~, or the voter's verifiable legal guardian shall be entitled to assist the voter.

(e1) If a county uses a voting system with retrievable ballots, that county's board of elections may by resolution elect to conduct one-stop absentee voting according to the provisions of this subsection. In a county in which the board has opted to do so, a one-stop voter shall cast the ballot and then shall deposit the ballot in the ballot box or voting system in the same manner as if such box or system was in use in a precinct on election day. At the end of each business day, or at any time when there will be no employee or officer of the board of elections on the premises, the ballot box or system shall be secured in accordance with a plan approved by the State Board of Elections, which shall include that no additional ballots have been placed in the box or system. Any county board desiring to conduct one-stop voting according to this subsection shall submit a plan for doing so to the State Board of Elections. The State Board shall adopt standards for conducting one-stop voting under this subsection and shall approve any county plan that adheres to its standards. The county board shall adhere to its State Board-approved plan. The plan shall provide that each one-stop ballot shall have a ballot number on it in accordance with G.S. ~~163-230(3)a.~~ 163-230.1(a2), or shall have an equivalent identifier to allow for retrievability. The standards shall address retrievability in one-stop voting on direct record electronic equipment where no paper ballot is used.

(f) Notwithstanding the exception specified in G.S. 163-36, counties which operate a modified full-time office shall remain open five days each week during regular business hours consistent with daily hours presently observed by the county board of elections, commencing with the date prescribed in G.S. 163-227.2(b) and continuing until 5:00 P.M. p.m. on the Friday prior to that election or primary. The boards of

county commissioners shall provide necessary funds for the additional operation of the office during ~~such~~ that time.

(f1) Notwithstanding any other provision of this section, a county board of elections by unanimous vote of all its members may provide for one or more sites in that county for absentee ballots to be applied for and cast under this section. Any site other than the county board of elections office shall be in any building or part of a building that the county board of elections is entitled under G.S. 163-129 to demand and use as a voting place. Every individual staffing any of those sites shall be a member or full-time employee of the county board of elections or an employee of the county board of elections whom the board has given training equivalent to that given a full-time employee. Those sites must be approved by the State Board of Elections as part of a Plan for Implementation approved by both the county board of elections and by the State Board of Elections which shall also provide adequate security of the ballots and provisions to avoid allowing persons to vote who have already voted. The Plan for Implementation shall include a provision for the presence of political party observers at each one-stop site equivalent to the provisions in G.S. 163-45 for party observers at voting places on election day.

(f2) Notwithstanding the provisions of G.S. 163-89(a) and (b), a challenge may be entered against a voter at a one-stop site under subsection (f1) of this section or during one-stop voting at the county board office. The challenge may be entered by a person conducting one-stop voting under this section or by another registered voter who resides in the same precinct as the voter being challenged. If challenged at the place where one-stop voting occurs, the voter shall be allowed to cast a ballot in the same way as other voters. The challenge shall be made on forms prescribed by the State Board of Elections. The challenge shall be heard by the county board of elections in accordance with the procedures set forth in G.S. 163-89(e)."

Section 7. G.S. 163-228 reads as rewritten:

"§ 163-228. Register of absentee ~~ballot applications~~ requests, applications, and ballots issued; a public record.

~~The State Board of Elections shall design approve an official register and provide a source of supply thereof from in which the chairman of the county board of elections in each county of the State shall purchase a book to be called the register of absentee ballot applications and ballots issued in which shall be recorded~~ record the following information:

- (1) Name of voter for whom application and ballots are being requested, and, if applicable, the name and address of the voter's near relative or verifiable legal guardian who requested the application and ballots for the voter.
- (2) Number of assigned voter's application when issued.
- (3) Precinct in which applicant is registered.
- (4) Address to which ballots are to be mailed, or, if the voter voted pursuant to G.S. 163-227.2, a notation of that fact.
- (5) Reason assigned for requesting absentee ballots.
- (6) Date request for application for ballots is received by the county board of elections.
- (7) The voter's party affiliation.
- (8) The date the ballots were mailed or delivered to the voter.
- (9) ~~whatever~~ Whatever additional information and official action may be required by this Article.

The State Board of Elections may provide for the register to be kept by electronic data processing equipment, and a copy shall be printed out each business day or a supplement printed out each business day of new information.

The register of absentee ~~ballot applications requests, applications,~~ and ballots issued shall constitute a public record and shall be opened to the inspection of any registered voter of the county at any time within 50 days before and 30 days after an election in which absentee ballots were authorized, or at any other time when good and sufficient reason may be assigned for its inspection."

Section 8. G.S. 163-229 reads as rewritten:

"§ 163-229. Absentee ballots, applications on container-return envelopes, and instruction sheets.

(a) Absentee Ballot Form. -- In accordance with the provisions of G.S. ~~163-230(3); 163-230.1,~~ persons entitled to vote by absentee ballot shall be furnished with regular official ballots. ~~Separate or distinctly marked absentee ballots shall not be used.~~

(b) Application on Container-Return Envelope. -- In time for use not later than 50 days before a statewide primary, general election or county bond election, the county board of elections shall print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the ~~chairman of the~~ county board of elections. Each container-return envelope shall have printed on it an application which shall be designed and prescribed by the State Board of Elections, the voter's certification of eligibility to vote the enclosed ballot and of having voted the enclosed ballot in accordance with this Article, a space for identification of the envelope with the voter, and a space for approval by the county board of elections. The envelope shall allow reporting of a change of name as provided by G.S. 163-82.16. The container-return envelope shall be printed in accordance with the following instructions: instructions of the State Board of Elections.

- (1) ~~On one side shall be printed an identified space in which shall be inserted the application number of the voter and the following statement which shall be certified by one member of the county board of elections:~~

~~"Certification of Election Official~~

~~The undersigned election official does by his hand and seal certify that..... is a registered and qualified voter of County, Precinct # and has made proper application to vote under the Absentee Ballot Law of North Carolina:~~

~~.....(Seal)
Chairman-Member"~~

- (2) ~~On the other side shall be printed the return address of the chairman of the county board of elections and the following certificate:~~

~~"Certificate of Absentee or Sick Voter~~

~~State of.....
County of.....~~

~~I,, do certify that I am a resident and registered voter in precinct, County, North Carolina; that on the day of an election,,~~

~~(check whichever of the following statements is correct.)~~

~~[] I will be absent from the county in which I reside.~~

~~[] Due to sickness or physical disability, or incarceration as a misdemeanor, I will be unable to travel to the voting place in the precinct in which I reside.~~

~~[] Due to the observance of a religious holiday pursuant to the tenets of my religion, I will be unable to cast a ballot at the polling place on the day of the election.~~

~~I further certify that I made application for absentee ballots, and that I marked the ballots enclosed herein, or that they were marked for me in my presence and according to my instructions. I understand it is a felony to falsely sign this certificate.~~

.....
~~_____ (Signature of voter)~~

.....
~~Signature of Witness #1 _____~~

.....
~~Signature of Witness #2 _____~~

.....
~~Address of Witness #1 _____~~

.....
~~Address of Witness #2 _____~~

(c) Instruction Sheets. -- In time for use not later than 50 days before a statewide primary, general or county bond election, the county board of elections shall prepare and print a sufficient number of sheets of instructions on how voters are to prepare absentee ballots and return them to the chairman of the county board of elections."

Section 9. G.S. 163-230 is repealed.

Section 10. G.S. 163-230.1 reads as rewritten:

"§ 163-230.1. Simultaneous issuance of absentee ballots with application.

(a) ~~When a~~ A qualified voter personally requests by mail who is eligible to vote by absentee ballot under G.S. 163-226(a)(1), or that voter's near relative or verifiable legal guardian, shall request in writing an application for absentee ballots, so that the county board of elections receives the request not later than 5:00 p.m. on the Tuesday before the election, an application for absentee ballots; The county board of elections shall enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as soon as each item of that information becomes available. Upon receiving the application, the county board of elections shall cause to be mailed to that voter in a single package:

- (1) The official ballots the voter is entitled to vote if his application is approved; ~~vote;~~
- (2) A container-return envelope for the ballots, ~~upon the outside of which shall be printed the appropriate application form as provided in G.S. 163-227; printed in accordance with G.S. 163-229; and~~
- (3) A large envelope (similar to a No. 14 or larger manila envelope) in which the container-return envelope with the ballots may be returned and on which the affidavit provided by G.S. 163-229(b) shall be printed; and
- (4) An instruction sheet.

The ballots, ~~envelopes~~ envelope, and instructions shall be mailed to the voter by the county board's ~~chairman, secretary or director~~ chairman, member, officer, or employee as determined by the board and entered in its official minutes: the register as provided by this Article.

~~On the back of the large transmittal envelope shall be clearly printed or stamped the following statement:~~

~~DO NOT PLACE THE ENVELOPE CONTAINING YOUR BALLOTS INTO THIS ENVELOPE UNTIL YOU HAVE COMPLETED THE APPLICATION ON~~

~~THE ENVELOPE CONTAINING YOUR BALLOTS AND SECURED THE SIGNATURE OF A WITNESS.~~

(a1) Absence for Sickness or Physical Disability. -- Notwithstanding the provisions of subsection (a) of this section, if a voter expects to be unable to go to the voting place to vote in person on election day because of that voter's sickness or other physical disability, that voter or that voter's near relative or verifiable legal guardian may make written request in person for absentee ballots to the board of elections of the county in which the voter is registered after 5:00 p.m. on the Tuesday before the election but not later than 5:00 p.m. on the day before the election. The county board of elections shall enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as soon as each item of that information becomes available. The county board of elections shall personally deliver to the requester in a single package:

- (1) The official ballots the voter is entitled to vote;
- (2) A container-return envelope for the ballots, printed in accordance with G.S. 163-229; and
- (3) An instruction sheet.

(a2) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. -- When the county board of elections receives a request for applications and absentee ballots, the board shall promptly issue and transmit them to the voter in accordance with the following instructions:

- (1) On the top margin of each ballot the applicant is entitled to vote, the chair, a member, officer, or employee of the board of elections shall write or type the words 'Absentee Ballot No.' or an abbreviation approved by the State Board of Elections and insert in the blank space the number assigned the applicant's application in the register of absentee requests, applications, and ballots issued. That person shall not write, type, or print any other matter upon the ballots transmitted to the absentee voter. Alternatively, the board of elections may cause to be barcoded on the ballot the voter's application number, if that barcoding system is approved by the State Board of Elections.
- (2) The chair, member, officer, or employee of the board of elections shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's name, the absentee voter's application number, and the designation of the precinct in which the voter is registered. If the ballot is barcoded under this section, the envelope may be barcoded rather than having the actual number appear. The person placing the ballots in the envelopes shall leave the container-return envelope holding the ballots unsealed.
- (3) The chair, member, officer, or employee of the board of elections shall then place the unsealed container-return envelope holding the ballots together with printed instructions for voting and returning the ballots, in an envelope addressed to the voter at the post office address stated in the request, seal the envelope, and mail it at the expense of the county board of elections: Provided, that in case of a request received after 5:00 p.m. on the Tuesday before the election under the provisions of subsection (a1) of this section, in lieu of transmitting the ballots to the voter in person or by mail, the chair, member, officer, or employee of the board of

elections may deliver the sealed envelope containing the instruction sheet and the container-return envelope holding the ballots to a near relative or verifiable legal guardian of the voter.

The county board of elections may receive written requests for applications earlier than 50 days prior to the election but shall not mail applications and ballots to the voter or issue applications and ballots in person earlier than 50 days prior to the election, except as provided in G.S. 163-227.2. No election official shall issue applications for absentee ballots except in compliance with this Article.

(b) The application shall be ~~completed~~, completed and signed by the voter personally, the ballots marked, the ballots sealed in the container-return envelope, and the ~~large envelope affidavit~~ certificate completed as provided in G.S. 163-227 and G.S. 163-231. The ~~container-return envelope shall be placed in the large transmittal envelope for return to the chairman of the county board of elections.~~

(c) At its next official meeting after return of the completed container-return envelope and ~~large envelope~~ with the voter's ballots, the county board of elections shall determine whether the container-return envelope and ~~large envelope~~ have ~~has~~ been properly executed. If the board determines that ~~both~~ the container-return envelope and ~~large envelope~~ have ~~has~~ been properly executed, it shall approve the application and deposit the container-return envelope with other container-return envelopes for the envelope to be opened and the ballots counted at the same time as all other container-return envelopes and absentee ballots.

(c1) Required Meeting of County Board of Elections. -- During the period commencing on the third Tuesday before an election, in which absentee ballots are authorized, the county board of elections shall hold one or more public meetings each Tuesday at 5:00 p.m. for the purpose of action on applications for absentee ballots. At these meetings, the county board of elections shall pass upon applications for absentee ballots.

If the county board of elections changes the time of holding its meetings or provides for additional meetings in accordance with the terms of this subsection, notice of the change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county at least 30 days prior to the election.

At the time the county board of elections makes its decision on an application for absentee ballots, the board shall enter in the appropriate column in the register of absentee requests, applications, and ballots issued opposite the name of the applicant a notation of whether the applicant's application was 'Approved' or 'Disapproved'.

The decision of the board on the validity of an application for absentee ballots shall be final subject only to such review as may be necessary in the event of an election contest. The county board of elections shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.

(d) ~~The provisions of this section shall apply only to requests received by mail from and signed by the voter individually and personally. No near relative, guardian, or other person other than the voter himself shall be permitted to apply for absentee ballots under this section.~~

(e) The State Board of Elections, by ~~regulation~~ rule or by instruction to the county board of elections, shall establish procedures to provide appropriate safeguards in the implementation of this section.

(f) For the purpose of this Article, 'near relative' means spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild."

Section 11. G.S. 163-231 reads as rewritten:

"§ 163-231. Voting absentee ballots and transmitting them to ~~chairman~~ of the county board of elections.

(a) Procedure for Voting Absentee Ballots. -- In the presence of two other persons who are at least 18 years of age, and who are not disqualified by G.S. 163-226.3(a)(4) or G.S. 163-237(b1), the voter shall:

- (1) Mark ~~his~~ the voter's ballots, or cause them to be marked by one of such persons in ~~his~~ the voter's presence according to ~~his~~ the voter's instruction;
- (2) Fold each ballot separately, or cause each of them to be folded in ~~his~~ the voter's presence;
- (3) Place the folded ballots in the container-return envelope and securely seal it, or have this done in ~~his~~ the voter's presence;
- (4) Make the application printed on the container-return envelope according to the provisions of G.S. 163-229(b) and make the certificate printed on the container-return envelope according to the provisions of G.S. 163-229(b).

The persons in whose presence the ballot is marked shall at all times respect the secrecy of the ballot and the privacy of the absentee voter, unless the voter requests their assistance and they are otherwise authorized by law to give assistance. The persons in whose presence the ballot was marked shall sign the application and certificate as witnesses, and shall indicate their address. When thus executed, the sealed container-return envelope, with the ballots enclosed, shall be transmitted in accordance with the provisions of subsection (b) of this section to the ~~chairman of the county board of elections who~~ which issued the ballots.

(a1) Repealed by Session Laws 1987, c. 583, s. 1.

(b) Transmitting Executed Absentee Ballots to ~~Chairman of County Board of Elections.~~ -- The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the ~~chairman of the county board of elections who~~ issued them as follows: All ballots issued under the provisions of Articles 20 and 21 of this Chapter shall be transmitted by ~~mail~~, mail or by commercial courier service, at the voter's expense, or delivered in person, or by the voter's ~~spouse, brother, sister, parent, grandparent, child or grandchild~~ near relative or verifiable legal guardian not later than 5:00 P.M. ~~p.m.~~ on the day before the statewide primary or general election or county bond election. If such ballots are received later than that hour, they shall not be accepted for ~~voting.~~ unless federal law so requires."

Section 12. G.S. 163-232 reads as rewritten:

"§ 163-232. Certified list of executed absentee ballots; distribution of list.

The ~~chairman of the county board of elections~~ shall prepare, or cause to be prepared, a list in at least quadruplicate, of all absentee ballots returned to the county board of elections to be counted, which have been approved by the county board of ~~elections.~~ elections, and which have been received as of 5:00 p.m. on the day before the election. At the end of the list, the chairman shall execute the following certificate under oath:

'State of North Carolina

County of

I,, chairman of the County board of elections, do hereby certify that the foregoing is a list of all executed absentee ballots to be voted in the election to be conducted on the day of, 19, which have been approved by the county board of ~~elections.~~ elections and which have been returned no later than 5:00 p.m. on the day before the election. I further certify that I have issued ballots to ~~no other persons than those listed herein, whose original applications or original applications made by near relatives are filed in the office of the county board of~~

~~elections; and I further certify that I have the chairman, member, officer, or employee of the board of elections has not delivered ballots for absentee voting to any person other than the voter himself, voter, by mail or by commercial courier service or in person, except as provided by law, in the case of approved applications received after 5:00 P.M. on the Tuesday or Friday before the election, and have not mailed or delivered ballots when the request for the ballot was received after the deadline provided by law.~~

This the day of, 19.....

.....
(Signature of chairman of county board of elections)

Sworn to and subscribed before me this day of, 19 Witness my hand and official seal.

.....
(Signature of officer administering oath)

.....
(Title of officer)

~~No earlier than 3:00 P.M. on the day before the election and no later than 10:00 A.M. a.m.~~ on election day, the ~~chairman~~ county board of elections shall cause one copy of the list of executed absentee ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately deposited as 'first-class' mail to the State Board of Elections. ~~He~~ The board shall retain one copy in the board office for public inspection and ~~he~~ the board shall cause two copies of the appropriate precinct list to be delivered to the chief judge of each precinct in the county. The ~~chairman~~ county board of elections shall be authorized to call upon the sheriff of the county to distribute the list to the precincts. In addition the ~~chairman~~ county board of elections shall, upon request, provide a copy of the complete list to the chairman of each political party, recognized under the provisions of G.S. 163-96, represented in the county.

The chief judge shall post one copy of the list immediately in a conspicuous location in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made to absentee ballots as provided in G.S. 163-89.

After receipt of the list of absentee voters required by this section the chief judge shall call the name of each person recorded on the list and enter an 'A' in the appropriate voting square on the voter's permanent registration ~~record, record, or a similar entry on the computer list used at the polls.~~ If such person is already recorded as having voted in that election, the chief judge shall enter a challenge which shall be presented to the ~~chairman of the~~ county board of elections for resolution by the board of elections prior to certification of results by the board.

All lists required by this section shall be retained by the county board of elections for a period of ~~four years~~ 22 months after which they may then be destroyed."

Section 13. G.S. 163-233 reads as rewritten:

"§ 163-233. Applications for absentee ballots; how retained.

The ~~chairman of the~~ county board of elections shall retain, in a safe place, the original of all applications made for absentee ballots and shall make them available to inspection by the State Board of Elections or to any person upon the directive of the State Board of Elections.

All applications for absentee ballots shall be retained by the county board of elections for a period of one year after which they may be destroyed."

Section 14. G.S. 163-234 reads as rewritten:

"§ 163-234. Counting absentee ballots by county board of elections.

All absentee ballots returned to the ~~chairman or supervisor of elections of the~~ county board of elections in the container-return envelopes shall be retained by the ~~chairman~~ board to be counted by the county board of elections as herein provided.

- (1) Only those absentee ballots returned to the county board of elections no later than 5:00 ~~P.M.~~ p.m. on the day before election day in a properly executed container-return envelope shall be ~~counted.~~ counted, except to the extent federal law requires otherwise.
- (2) The county board of elections shall meet at 5:00 ~~P.M.~~ p.m. on election day in the board office or other public location in the county courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 ~~P.M.~~ p.m. on election day. Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, provided ~~he the elector~~ shall not in any manner interfere with the election officials in the discharge of their duties.

Provided, that the county board of elections is authorized to begin counting absentee ballots between the hours of 2:00 ~~P.M.~~ p.m. and 5:00 ~~P.M.~~ p.m. upon the adoption of a resolution at least two weeks prior to the election wherein the hour and place of counting absentee ballots shall be stated. A copy of the resolutions shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable ~~necessity.~~ necessity, except that if the count has been completed prior to the time the polls close, it shall be suspended until that time pending receipt of any additional ballots, and except that one-stop ballots under G.S. 163-227.2 counted electronically shall not be counted until the polls close; provided, however, that if there are outstack ballots in the counting device, they may be counted at the same time as other ballots are counted under this subdivision. The county board of elections may begin putting them in the tabulator at the same time as other ballots are counted under this subdivision if the system for counting one-stop ballots requires them to be put in a tabulator but the process has the voter place them in a ballot box. The board shall not announce the result of the count before 7:30 ~~P.M.~~ p.m.

- (3) The counting of absentee ballots shall not commence until a majority and at least one board member of each political party represented on the board is present and ~~such~~ that fact is publicly declared and entered in the official minutes of the county board.
- (4) The county board of elections may employ such assistants as deemed necessary to count the absentee ballots, but each board member present shall be responsible for and observe and supervise the opening and tallying of the ballots.
- (5) As each ballot envelope is opened, the board shall cause to be entered into a pollbook designated 'Pollbook of Absentee Voters' the name of the absentee ~~voter.~~ voter, or if the pollbook is computer-generated, the board shall check off the name. Preserving secrecy, the ballots shall be placed in the appropriate

ballot boxes, at least one of which shall be provided for each type of ballot. The 'Pollbook of Absentee Voters' shall also contain the names of all persons who voted under G.S. 163-227.2, but those names may be printed by computer for inclusion in the pollbook.

After all ballots have been placed in the boxes, the counting process shall begin.

If one-stop ballots under G.S. 163-227.2 are counted electronically, that count shall commence at the time the polls close. If one-stop ballots are paper ballots counted manually, that count shall commence at the same time as other absentee ballots are counted.

If a challenge transmitted to the board on canvass day by a chief judge is sustained, the ballots challenged and sustained shall be withdrawn from the appropriate boxes, as provided in G.S. 163-89(e).

As soon as the absentee ballots have been counted and the names of the absentee voters entered in the pollbook as required herein, the board members and assistants employed to count the absentee ballots shall each sign the pollbook immediately beneath the last absentee voter's name entered therein. The chairman of the county board of elections shall be responsible for the safekeeping of the pollbook of absentee voters.

- (6) Upon completion of the counting process the board members shall cause the results of the tally to be entered on the absentee abstract prescribed by the State Board of Elections. The abstract shall be signed by the members of the board in attendance and the original mailed immediately to the State Board of Elections, Raleigh, North Carolina 27602. Elections. The county board of elections may have a separate count on the abstract for one-stop absentee ballots under G.S. 163-227.2.
- (7) One copy of the absentee abstract shall be retained by the county board of elections and the totals appearing thereon shall be added to the final totals of all votes cast in the county for each office as determined on the official canvass.
- (8) In the event a political party does not have a member of the county board of elections present at the 5:00 P.M. meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party chairman of said absent member, or a member of the party's county executive committee, is in attendance. Such person shall act as an official witness to the counting and shall sign the absentee ballot abstract as an 'observer.'
- (9) The county board of elections shall retain all container-return envelopes and absentee ballots, in a safe place, for at least four months, and longer if any contest is pending concerning the validity of any ballot."

Section 15. G.S. 163-236 reads as rewritten:

"§ 163-236. Violations by chairman of county board of elections.

The ~~chairman of the~~ county board of elections shall be sole custodian of blank applications for absentee ballots, official ballots, and container-return envelopes for absentee ballots. ~~He~~ The board shall issue and deliver blank applications for absentee ballots in strict accordance with the provisions of G.S. ~~163-227(e). 163-230.1.~~ The issuance of ballots to persons whose applications requests for absentee ballots have

been ~~approved~~ received by the county board of elections under the provisions of G.S. ~~163-230(3)~~ 163-230.1 is the responsibility and duty of the ~~chairman of the county board of elections.~~

It shall be the duty of the ~~chairman of the county board of elections~~ to keep current all records required of him by this Article and to make promptly all reports required of him by this Article. If that duty has been assigned to the chair, member, officer, or employee of the board of elections, that person shall carry out the duty.

The willful violation of this section shall constitute a Class 2 misdemeanor."

Section 16. G.S. 163-82.7(g)(2) reads as rewritten:

- "(2) If the Postal Service has returned as undeliverable a notice sent within 25 days before the election to the applicant under subsection (c) of this section, then the applicant may vote only in person in that first election and may not vote by ~~mailed absentee ballot.~~ ballot except in person under G.S. 163-227.2. The county board of elections shall establish a procedure at the voting site for:
- Obtaining the correct address of any person described in this subdivision who appears to vote in person; and
 - Assuring that the person votes in the proper place and in the proper contests.

If a notice mailed under subsection (c) or subsection (e) of this section is returned as undeliverable after a person has already voted by absentee ballot, then that person's ballot may be challenged in accordance with G.S. 163-89."

Section 17. G.S. 163-137(b) reads as rewritten:

"(b) The ballots prepared for use in general and special elections under the provisions of this Article by the State Board of Elections shall be printed and delivered to the county boards of elections at least ~~60~~ 50 days prior to the date of any election in which absentee voting is permitted and at least ~~60~~ days prior to the date of any election in which absentee voting is not permitted. election."

Section 18. G.S. 163-155(4) reads as rewritten:

- "(4) The affidavit executed by the voter shall be retained by the county board of elections for a period of six months. In those precincts using voting machines, the county board of elections shall furnish paper ballots of each kind for use by persons authorized to vote outside the voting place by this section. In any precinct using direct record electronic voting equipment, the county board of elections, with the approval of the State Board of Elections, may provide for all such paper ballots to be transported upon closing of the polls to the office of the county board of elections for counting. Those ballots may be transported only by the chief judge, judge, or assistant. Upon receipt by the county board of elections, those ballots shall be counted and canvassed in the same manner as one-stop ballots cast under G.S. 163-227.2, except that rather than the count commencing when the polls close under G.S. 163-234(5) as provided for one-stop ballots, the count shall commence when the board has received from each precinct either that precinct's ballots or notification that no such ballots were cast.

The total for ballots counted by the county board of elections under this subdivision shall be canvassed as if it were a separate precinct."

Section 19. G.S. 163-169(i) reads as rewritten:

"(i) Absentee Ballots. -- Absentee ballots shall be deposited and voted in accordance with the provisions of G.S. 163-227.2 and G.S. 163-234; they shall be counted and tabulated as provided in this section and G.S. 163-170."

Section 20. Article 21 is amended by adding a new section to read:

"§ 163-257. Facsimile and electronic mail transmission of election materials.

An applicant entitled to exercise the rights conferred by this Article may apply for registration and an absentee ballot by facsimile or electronic mail if otherwise qualified to apply for and vote by absentee ballot. A county board of elections may send and receive absentee ballot applications and accept voted ballots by facsimile or electronic mail from eligible electors as defined in G.S. 163-245. The State Board of Elections shall promulgate uniform rules for the use of facsimiles and electronic mail in application and voting under this section, and all county boards of elections shall adhere to those rules."

Section 21. G.S. 163-274(5a) is repealed.

Section 22. G.S. 163-237 is amended by adding a new subsection to read:

"(b1) Candidate Witnessing Absentee Ballots of Nonrelative Made Class 2 Misdemeanor. -- A person is guilty of a Class 2 misdemeanor if that person acts as a witness under G.S. 163-231(a) or G.S. 163-250(a) in any primary or election in which the person is a candidate for nomination or election, unless the voter is the candidate's near relative as defined in G.S. 163-230.1(f)."

Section 23. Article 3 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-27.1. Emergency powers.

The Executive Secretary-Director, as chief State elections official, may exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by any of the following:

- (1) A natural disaster.
- (2) Extremely inclement weather.
- (3) An armed conflict involving United States armed forces, or mobilization of those forces, including State National Guard and reserve components.

In exercising those emergency powers, the Executive Secretary-Director shall avoid unnecessary conflict with the provisions of this Chapter. The Executive Secretary-Director shall adopt rules describing the emergency powers and the situations in which the emergency powers will be exercised."

Section 24. This act applies to elections held on or after January 1, 2000, except that the State Board of Elections may issue rules required or permitted by this act prior to that date.

In the General Assembly read three times and ratified this the 20th day of July, 1999.

MARY BASNIGHT

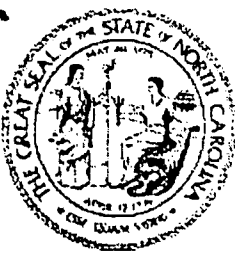
Dennis A. Wicker
President of the Senate

JAMES B. BLACK

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____m. this _____ day of _____, 19____



SENATE BILL 568: Absentee Voting Changes

BILL ANALYSIS

Committee: House Election Law and
Campaign Finance Reform
Date: June 23, 1999
Version: S568-PCSRR-002

Introduced by: Senator Kinnaird
Summary by: William R. Gilkeson
Committee Counsel

SUMMARY: *The Proposed Committee Substitute for Senate Bill 568 would remove the excuse requirement for One-Stop absentee voting in general elections held in November of even-numbered years and for other elections held on the same day. It would leave the excuse requirement in place for mail absentee voting and for One-Stop in primaries, municipal elections, and referenda not occurring at the same time as the big general election in November of even years. The bill would also allow county boards of elections to designate additional sites for One-Stop voting beyond the county board office. And the bill would streamline what the county board of elections must do to process absentee ballots.*

1. **Remove the excuse requirement for One-Stop absentee voting in November of even-numbered years.** Current law requires an excuse if the voter is required to vote absentee either by mail or in person. The excuses allowed now are:
 - * The voter expects to be out of the county all day on election day.
 - * The voter will not be able to go to the polls to vote on election day because of disability or sickness.
 - * The voter is incarcerated and is eligible to vote because is a misdemeanor.
 - * The voter will not be voting on election day because of observing a holiday of that religion.
 - * The voter will not be at the polling place because of working for the board of elections somewhere else in the county.

One of those excuses is required if the voter is to be allowed to vote absentee by mail from the 50th day before an election to the Tuesday before the election. One of those excuses is also required for the voter to vote absentee in person (One-Stop) from the next business day after the twenty-fifth day before the election until the Friday before the election. *The bill would remove the excuse for One-Stop absentee voting for the general elections in November of even-numbered years and for other elections held on the same day. (Sections 1, 5, and 6 of the bill.) The excuses would remain for primary elections, municipal elections, and referenda not held in November of even-numbered years.*

2. **Allow a county board of elections to designate additional sites for One-Stop.** Currently, One-Stop is allowed only in the county board of elections office. In almost all counties (exceptions, Orange and Guilford) that means only one place. *The bill*

SENATE BILL 568

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would allow the county board of elections to designate additional sites as part of a plan approved by the State Board for the county. (Section 6 of the bill.)

3. Conform deadline for sick/disabled absentee voting with One-Stop deadline. Under current law, there is one special category of absentee voter who is allowed to vote after the deadline a week before the election: The voter whose excuse is illness or other disability. The voter is allowed to apply up till 5 p.m. the day before the election. *The bill would require that the voter or a near relative or guardian request the ballots in person before 5 p.m. on the Friday before the election—the same deadline as for One-Stop voting. (Section 10 of the bill.) The effect is to remove one business day from the illness/disability period. But the bill would expand the definition of "near relative," now spouse, brother, sister, parent, grandparent, child, or grandchild, to include mother-in-law, father-in-law, daughter-in-law, son-in-law step-parent, or step-child. (Section 10 of the bill.)*
4. Streamline the process by which a county elections board approves absentee ballots and applications in the following ways:
 - * *Allow a 4-step process for all off-site absentee voting: (1) A written request for absentee voting is accepted, (2) A numbered and recorded package containing an application (on the outside of an envelope) and a ballot is sent to the voter, and (3) the voter marks the ballot in the presence of witnesses, fills out the application and sends the ballot back, and (4) the board approves the application at its next meeting. (Sections 9 and 10 of the bill.)* That is essentially the process now if the request is mailed in by the voter. But if the request comes not from the voter but from the voter's near relative or guardian, an extra step is now required: the application must be sent to the voter separate from the ballot, the voter must fill out the application and send it back in, the board approves the application in a meeting, and only then does the ballot go out to the voter. The State Board of Elections feels that this extra step is a vestige of the past that inconveniences voters and burdens boards of elections with paperwork but does little to address fraud problems.
 - * *Reduce the number of required meetings boards of elections must hold to approve absentee applications.* Current law requires all board of elections to hold the following meetings to approve absentee applications: From the 50th day to the 30th day before an election, one meeting a week. After the 30th day, two meetings a week, one on Tuesday at 10 a.m. and one on Friday at 10 a.m. It must also hold meetings at 10 a.m. on the eighth, sixth, fourth days and also on the day before an election. *The bill would replace this elaborate schedule with a requirement that a board must hold one meeting a week at 5 p.m. Tuesdays for the last three weeks before an election., but may meet more often. (Sections 9 and 10 of the bill.)* Since the lack of approval of an application will no longer delay the transmission of an application or ballot to a voter, the State Board of Elections feels that the county boards ought to have flexibility in holding the meetings. If the board does not approve an application, the ballot, which has been marked by the voter and is stored in a numbered envelope, is simply not counted.

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- * ***Reduce the complexity of the package sent to the voter, and lets the State Board design the application.*** Currently, the statutes require the voter to be sent a package with two envelopes to for the voter to return to the board. This results in confusion for some voters. Also, the statute spells out what the application form shall look like. The State Board would like for the voter to have only one envelope to deal with, the one with the application form on it. The State Board would also like to have the flexibility to design the application form. ***The bill would make those changes.*** (Sections 8 and 10 of the bill.)
- * ***Increase options for a voter in returning a voted ballot to the board of elections.*** Now it must be done by mail only. ***The bill would allow commercial courier service as well. Either would be at the voter's expense.*** (Section 11 of the bill.) ***A military or overseas voter would be allowed to fax or e-mail registration applications and absentee ballot applications, as well as receive and send actual ballots by fax or e-mail.***
- 5. **Allow a candidate to witness the absentee voting of a near relative.** (Sections 21 and 22 of the bill.) Now, a candidate may not be a witness to anybody's absentee ballot.
- 6. **Give emergency powers to the Executive Secretary Director of the State Board of Elections in case of natural disaster, extremely inclement weather, or armed conflict.** (Section 23 of the bill.)

The bill would be effective January 1, 2000.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 568

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

S568-ARR-008

Date _____, 1999

Comm. Sub. [YES]
Amends Title []
S568-PCSRR-002

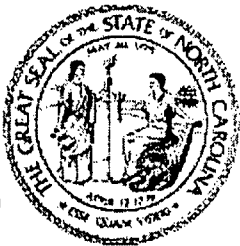
Representative

1 moves to amend the bill on page 8, line 42,
2 by inserting after the period the following: "Any site other than
3 the county board of elections office shall be in any building or
4 part of a building that the county board of elections is entitled
5 under G.S. 163-129 to demand and use as a voting place.".
6

SIGNED Nesbitt
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



SENATE BILL 568: Absentee Voting Changes

BILL ANALYSIS

Committee: House Election Law and
Campaign Finance Reform
Date: June 23, 1999
Version: S568-PCSR-001

Introduced by: Senator Kinnaird
Summary by: William R. Gilkeson
Committee Counsel

SUMMARY: *The Proposed Committee Substitute for Senate Bill 568 would remove the excuse requirement for One-Stop absentee voting in general elections held in November of even-numbered years and for other elections held on the same day. It would leave the excuse requirement in place for mail absentee voting and for One-Stop in primaries, municipal elections, and referenda not occurring at the same time as the big general election in November of even years. The bill would also allow county boards of elections to designate additional sites for One-Stop voting beyond the county board office. And the bill would streamline what the county board of elections must do to process absentee ballots.*

1. **Remove the excuse requirement for One-Stop absentee voting in November of even-numbered years.** Current law requires an excuse if the voter is required to vote absentee either by mail or in person. The excuses allowed now are:
 - * The voter expects to be out of the county all day on election day.
 - * The voter will not be able to go to the polls to vote on election day because of disability or sickness.
 - * The voter is incarcerated and is eligible to vote because is a misdemeanor.
 - * The voter will not be voting on election day because of observing a holiday of that religion.
 - * The voter will not be at the polling place because of working for the board of elections somewhere else in the county.

One of those excuses is required if the voter is to be allowed to vote absentee by mail from the 50th day before an election to the Tuesday before the election. One of those excuses is also required for the voter to vote absentee in person (One-Stop) from the next business day after the twenty-fifth day before the election until the Friday before the election. *The bill would remove the excuse for One-Stop absentee voting for the general elections in November of even-numbered years and for other elections held on the same day. (Sections 1, 5, and 6 of the bill.) The excuses would remain for primary elections, municipal elections, and referenda not held in November of even-numbered years.*

2. **Allow a county board of elections to designate additional sites for One-Stop.** Currently, One-Stop is allowed only in the county board of elections office. In almost all counties (exceptions, Orange and Guilford) that means only one place. *The bill*

SENATE BILL 568

Page 2

would allow the county board of elections to designate additional sites as part of a plan approved by the State Board for the county. (Section 6 of the bill.)

3. **Conform deadline for sick/disabled absentee voting with One-Stop deadline.** Under current law, there is one special category of absentee voter who is allowed to vote after the deadline a week before the election: The voter whose excuse is illness or other disability. The voter is allowed to apply up till 5 p.m. the day before the election. *The bill would require that the voter or a near relative or guardian request the ballots in person before 5 p.m. on the Friday before the election—the same deadline as for One-Stop voting. (Section 10 of the bill.) The effect is to remove one business day from the illness/disability period. But the bill would expand the definition of "near relative," now spouse, brother, sister, parent, grandparent, child, or grandchild, to include mother-in-law, father-in-law, daughter-in-law, son-in-law step-parent, or step-child. (Section 10 of the bill.)*

4. **Streamline the process by which a county elections board approves absentee ballots and applications in the following ways:**

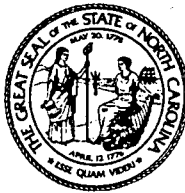
- * *Allow a 4-step process for all off-site absentee voting: (1) A written request for absentee voting is accepted, (2) A numbered and recorded package containing an application (on the outside of an envelope) and a ballot is sent to the voter, and (3) the voter marks the ballot in the presence of witnesses, fills out the application and sends the ballot back, and (4) the board approves the application at its next meeting. (Sections 9 and 10 of the bill.)* That is essentially the process now if the request is mailed in by the voter. But if the request comes not from the voter but from the voter's near relative or guardian, an extra step is now required: the application must be sent to the voter separate from the ballot, the voter must fill out the application and send it back in, the board approves the application in a meeting, and only then does the ballot go out to the voter. The State Board of Elections feels that this extra step is a vestige of the past that inconveniences voters and burdens boards of elections with paperwork but does little to address fraud problems.
- * *Reduce the number of required meetings boards of elections must hold to approve absentee applications.* Current law requires all board of elections to hold the following meetings to approve absentee applications: From the 50th day to the 30th day before an election, one meeting a week. After the 30th day, two meetings a week, one on Tuesday at 10 a.m. and one on Friday at 10 a.m. It must also hold meetings at 10 a.m. on the eighth, sixth, fourth days and also on the day before an election. *The bill would replace this elaborate schedule with a requirement that a board must hold one meeting a week at 5 p.m. Tuesdays for the last three weeks before an election., but may meet more often. (Sections 9 and 10 of the bill.)* Since the lack of approval of an application will no longer delay the transmission of an application or ballot to a voter, the State Board of Elections feels that the county boards ought to have flexibility in holding the meetings. If the board does not approve an application, the ballot, which has been marked by the voter and is stored in a numbered envelope, is simply not counted.

SENATE BILL 568

Page 3

- * ***Reduce the complexity of the package sent to the voter, and lets the State Board design the application.*** Currently, the statutes require the voter to be sent a package with two envelopes to for the voter to return to the board. This results in confusion for some voters. Also, the statute spells out what the application form shall look like. The State Board would like for the voter to have only one envelope to deal with, the one with the application form on it. The State Board would also like to have the flexibility to design the application form. ***The bill would make those changes.*** (Sections 8 and 10 of the bill.)
- * ***Increase options for a voter in returning a voted ballot to the board of elections.*** Now it must be done by mail only. ***The bill would allow commercial courier service as well. Either would be at the voter's expense.*** (Section 11 of the bill.) ***A military or overseas voter would be allowed to fax or e-mail registration applications and absentee ballot applications, as well as receive and send actual ballots by fax or e-mail.***
- 5. **Allow a candidate to witness the absentee voting of a near relative.** (Sections 21 and 22 of the bill.) Now, a candidate may not be a witness to anybody's absentee ballot.
- 6. **Give emergency powers to the Executive Secretary Director of the State Board of Elections in case of natural disaster, extremely inclement weather, or armed conflict.** (Section 23 of the bill.)

The bill would be effective January 1, 2000.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 568

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

S568-ARR-004

Date _____, 1999

Comm. Sub. [YES]
Amends Title [YES]
S568-PCSRR-002

Representative Justus

1 moves to amend the bill on page 1, line 5,
2 by inserting after the comma the following language: "TO EXPEDITE
3 VOTING AND PREVENT FRAUD,"; and

4

5 on page 6, line 8,
6 by inserting after the period the following:

7

8 "A voter shall show one of the following types of identification:

- 9 (1) A voter registration card issued under G.S. 163-82.8
10 if that card contains an identification number for the
11 voter;
12 (2) A drivers license;
13 (3) A special identification card issued under G.S. 20-
14 37.7;
15 (4) A passport;
16 (5) An identification card issued by the U.S. Department
17 of Defense; or
18 (6) A social security card and one other type of
19 identification showing the name and a picture of the
20 voter.

21 A voter who does not show one of those types of identification
22 shall be allowed to mark a ballot. That ballot shall be sealed in an
23 envelope on which it shall be noted that the voter did not display
24 identification in compliance with the statute. The county board of
25 elections shall determine if the voter is eligible to cast the
26 ballot and, if so, shall count it, and if not, shall not count it.
27 The State Board of Elections shall promulgate rules to include
28 instructions for county boards of elections in methods to determine



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 568

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 2 of _____

S568-ARR-004

1 the eligibility of persons who apply to vote by absentee ballot
2 under this section."; and

3
4 on page 24, line 16,
5 by inserting after that line the following:

6
7 "Section 24. G.S. 163-82.8 reads as rewritten:

8 '\$ 163-82.8. Voter registration cards.

9 (a) Authority to Issue Card. -- ~~With the approval of the board of~~
10 ~~county commissioners, the~~ The county board of elections may shall
11 issue to each voter in the county a voter registration card, or may
12 issue cards to all voters registered after January 1, 1995. card not
13 later than July 1, 2000.

14 (b) Content and Format of Card. -- At a minimum, the voter
15 registration card shall:

- 16 (1) List the voter's name, address, and voting place;
17 (2) Contain the address and telephone number of the county
18 board of elections, along with blanks to report a
19 change of address within the county, change of name,
20 and change of party affiliation; and
21 (3) Be wallet size- size; and
22 (4) Contain an identification number for the voter.

23 No voter registration card may be issued by a county board of
24 elections unless the State Board of Elections has approved the
25 format of the card.

26 (c) Ways County Board and Registrant May Use Card. -- ~~If the~~
27 ~~county board of elections issues voter registration cards, the~~ The
28 county board may use that card as a notice of tentative approval of
29 the voter's application pursuant to G.S. 163-82.7(c), provided that
30 the mailing contains the statements and information required in that
31 subsection. The county board may also satisfy the requirements of
32 G.S. 163-82.15(b), 163-82.16(b), or 163-82.17(b) by sending the
33 registrant a replacement of the voter registration card to verify
34 change of address, change of name, or change of party affiliation. A
35 registrant may use the card to report a change of address, change of
36 name, or change of party affiliation, satisfying G.S. 163-82.15,
37 163-82.16, or 163-82.17.

38 (d) Card as Evidence of Registration. -- A voter registration
39 card shall be evidence of registration but shall not preclude a
40 challenge as permitted by law.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 568

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 3 of ____

S568-ARR-004

- 1 ~~(e) Display of Card May Not Be Required to Vote. -- No county~~
2 ~~board of elections may require that a voter registration card be~~
3 ~~displayed in order to vote.~~
4 Section 25. G.S. 163-150(a) reads as rewritten:
5 "(a) Checking Registration. -- A person seeking to vote shall
6 enter the voting enclosure at the voting place through the
7 appropriate entrance and shall at once state his name and place of
8 residence to one of the judges of election. A voter shall show one
9 of the following types of identification:
10 (1) A voter registration card issued under G.S. 163-82.8
11 if that card contains an identification number for the
12 voter;
13 (2) A drivers license;
14 (3) A special identification card issued under G.S. 20-
15 37.7;
16 (4) A passport;
17 (5) An identification card issued by the U.S. Department
18 of Defense; or
19 (6) A social security card and one other type of
20 identification showing the name and a picture of the
21 voter.
22 A voter who does not show one of those types of identification
23 shall be allowed to mark a provisional ballot. The provisional
24 ballot shall be sealed in an envelope on which the voter shall sign
25 an affidavit attesting to identity and eligibility to vote the
26 ballot. The county board of elections shall determine if the voter
27 is eligible to cast the ballot and, if so, shall count it, and if
28 not, shall not count it. The State Board of Elections shall
29 promulgate rules for provisional ballot procedures to include
30 instructions for county boards of elections in methods to determine
31 the eligibility of persons who vote a provisional ballot under this
32 subsection. In a primary election, the voter shall also state the
33 political party with which he affiliates and in whose primary he
34 desires to vote, or if the voter is an unaffiliated voter permitted
35 to vote in the primary of a particular party under G.S. 163-116,
36 163-119, the voter shall state the name of the authorizing political
37 party in whose primary he wishes to vote. The judge to whom the
38 voter gives this information shall announce the name and residence



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 568

AMENDMENT NO. _____
(to be filled in by _____
Principal Clerk)
Page 4 of _____

S568-ARR-004

1 of the voter in a distinct tone of voice. After examining the
2 precinct registration records, the chief judge shall state whether
3 the person seeking to vote is duly registered.'"; and
4
5 by renumbering any subsequent sections of the bill accordingly.
6

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 568

S568-ARR-008

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

Date _____, 1999

Comm. Sub. [YES]
Amends Title []
S568-PCSRR-002

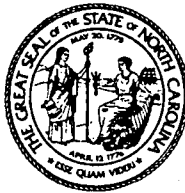
Representative

1 moves to amend the bill on page 8, line 42,
2 by inserting after the period the following: "Any site other than
3 the county board of elections office shall be in any building or
4 part of a building that the county board of elections is entitled
5 under G.S. 163-129 to demand and use as a voting place.".
6

SIGNED Martin Vesilind
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 568

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

S568-ARR-005

Date _____, 1999

Comm. Sub. [YES]
Amends Title []
S568-PCSRR-002

Representative Pope

- 1 moves to amend the bill on page 8, line 40,
2 by inserting after the word "elections" the following language: "by
3 unanimous vote of ~~all its members~~".
4

SIGNED Pope
Amendment Sponsor

the members present
gar

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 568

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

S568-ARR-005

Date _____, 1999

Comm. Sub. [YES]
Amends Title []
S568-PCSRR-002

Representative Pope

- 1 moves to amend the bill on page 8, line 40,
2 by inserting after the word "elections" the following language: "by
3 unanimous vote of all its members".
4

SIGNED Pope
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

S.B. 568

SESSION LAW _____

ID H 724

A BILL TO BE ENTITLED

Remove THE EXCUSE REQUIREMENT FROM ONE-STOP ABSENTEE VOTING
AND TO
AN ACT TO PERMIT COUNTY BOARDS OF ELECTIONS TO DESIGNATE ADDITIONAL SITES FOR
ONE-STOP ABSENTEE VOTING. (H)

Introduced by Senator(s)

Kinnaird

Kinnaird

Lee

Buel SB

Principal Clerk's Use Only

FILED MAR 25 1999

PASSED 1st READING

MAR 29 1999

AND REFERRED TO COMMITTEE

Judiciary II

The Committee on *Judiciary II* to whom this bill
was referred, a majority being present and
voting, has carefully considered the same and
recommended that it do ☒ pass.

Buel SB
For the Committee

FILED FAVORABLY APR 8 1999

PASSES 2nd READING

34-11

APR 12 1999

AND PLACES ON THE
CALENDAR

*fiscal note requested
4/12/99*

WITH UNANIMOUS CONSENT
WITHDRAWN FROM

Calendar

APR 18 1999

PLACED ON CALENDAR FOR

4/21/99

FISCAL NOTE ATTACHED 4/21/99

SENATOR *Rucko*

AMENDMENT NO. *1*

APR 21 1999

Adopted 50-0

CHANGES TITLE

SENATOR *Rucko*

AMENDMENT NO. *2*

APR 21 1999

*Failed 15-35
15 (CORR)*

PASSED 3rd
READING

35-15
APR 21 1999

ORDERED SENT TO
HOUSE OF REPRESENTATIVE

Janet Pruitt

PASSED 1st READING

APR 23 1999

AND REFERRED TO COMMITTEE

ON Election Law and

Campaign Finance Reform

file

Reskett

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Alexander and Bonner** for the Committee on **ELECTION LAW
AND CAMPAIGN FINANCE REFORM.**

- ☐ Committee Substitute for
S.B. 568 A BILL TO BE ENTITLED AN ACT TO REMOVE THE EXCUSE
REQUIREMENT FROM ONE-STOP ABSENTEE VOTING AND TO PERMIT COUNTY
BOARDS OF ELECTIONS TO DESIGNATE ADDITIONAL SITES FOR ONE-STOP
ABSENTEE VOTING.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ .
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ .
- ☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title,
unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- ☒ With a favorable report as to House committee substitute bill (#), ☒ which changes
the title, unfavorable as to Senate bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

VISITOR REGISTRATION SHEET

ELECTION LAWS COMMITTEE

6-30-99

THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON HUMAN RESOURCES

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
1. Lu-Ann Coe	FFF
2. Natalie English	NC Ag. Business
3. Nic Heinke	UNC CHAPEL HILL
4. JEFF NIEMAN	UNC BOARD OF GOVERNORS
5. Debra Reed	Acad
6. Carol Love	Common Cause NC
7. Johnnie McLean	St. Bd. of Elections
8. Gary Bartlett	" " "
9. [Signature]	" " "
10. Susan Childs	A.G.'s Office
11. Chris City	ACU
22. Jan M...	Spur A
23. Bob Hall	Democracy Smith
24.	
25.	
26.	
27.	
28.	
29.	
30.	
31.	

ATTENDANCE

ELECTION LAW AND CAMPAIGN REFORM

[illegible]

AGENDA

**HOUSE COMMITTEE
ON**

ELECTION LAW AND CAMPAIGN FINANCE REFORM

July 7, 1999

**Room 1228/1327
11:00a.m.**

Presiding: Representative Donald A. Bonner, Chair

OPENING REMARKS:

Representative Donald A. Bonner, Chair

DISCUSSION:

Senate Bill 881

COMMENTS FROM COMMITTEE

ADJOURNMENT

**MINUTES OF THE MEETING
ELECTION LAW AND CAMPAIGN FINANCE REFORM**

**JULY 7, 1999
11:00 AM**

The meeting was called to order by the presiding co-chair, Rep. Martha Alexander, who recognized the pages.

Sen. Gulley was introduced to the committee to present and review the Proposed Committee Substitute for SB 881, Campaign Reform Act of 1999, attached hereto as Exhibit 1. Sen. Gulley reviewed the bill section by section and then entertained questions. Section 1 of the bill, "Stand By Your Ad" encourages personal responsibility and support for the ad and candidate. Section 2 distinguishes between issue advertising and political advertising and guidelines for both to protect issue advertising. Section 3 deals with extending the statute of limitations. Section 4 deals with anonymous contributions or contributions given in the name of another. Section 5 deals with the State Board of Elections. Section 6 deals with lobbyists and their participation in campaigning/contributing. Sections 7 and 8 deal with technical administrative matters.

Discussion followed. Rep. Hensley questioned the use of *prima facie*, and staff counsel explained the reason behind using the term is so that the State must have enough evidence to bring forward the case. Rep. Justus questioned who oversees the Board of Elections as they render decisions. Sen. Gulley responded that The General Assembly does. Rep. Michaux questioned the constitutionality of the *prima facie* language. Rep. Pope raised the question of identifying the sender and recipient of paid advertising. Rep. Insko brought out that all catalogued elements must be met to be beyond the bounds of proper advertising. Rep. Nesbitt questioned the need for a five year statute of limitations for prosecution. He then recommended appointing a subcommittee to craft a bill can be dealt with this session. Rep. Michaux asked if issue advocacy groups still have to form PACs? Sen. Gulley responded the same legal standard is still in place for listing expenditures for paid advertising that characterizes a candidate and targets electorate for that candidate. Rep. Wilson questioned the court's definition of "express advocacy" and rulings based on that definition and whether the bill meets the standard. Rep. Thompson noted a \$25,000 allocation to the Board of Elections. Sen. Gulley responded that it was available for the purpose of this bill.

Public comment followed.

Sam Brown, Common Cause of North Carolina – clean up language and go forward;

Deborah Ross, ACLU NC – *prima facie* language is novel and free speech is guaranteed; sure to cause court challenge and litigation;

Bob Hall, Democracy South – the magic words "vote for" or "vote against" are not necessary for express advocacy; extended statute of limitations needed

Carol Love, Common Cause – legality of non-specific, non-directed advertising.

Sen. Gulley responded that issue advertising is the largest loophole in present election law. It cannot be stopped, just regulated. What is the intent of the advertising – to put forth positions or solicit certain vote? To whom is the advertising directed? Is it usual publication directed to usual recipients?

A subcommittee made up of Reps. Pope, Wilson, Hensley, Nesbitt, Insko, and Goodwin was appointed to deal with SB 881 as a whole and report to the Committee on July 8. Rep. Nesbitt was appointed chair.

The meeting was adjourned until July 8 after session.

Respectfully submitted,

Rep. Martha Alexander



Rep. Donald Bonner

Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 881

Judiciary I Committee Substitute Adopted 6/2/99

Third Edition Engrossed 6/16/99

Proposed House Committee Substitute S881-PCS8626-RR

Short Title: Campaign Reform Act of 1999.

(Public)

Sponsors:

Referred to:

April 13, 1999

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH THE CAMPAIGN REFORM ACT OF 1999.

2 The General Assembly of North Carolina enacts:

3 Section 1. This act shall be called "The Campaign Reform Act of 1999."

4 -- STAND BY YOUR AD.

5 Section 2.(a) Article 22A of Chapter 163 of the General Statutes is
6 amended by adding a new Part to read:

7 "Part 1A. Disclosure Requirements for Media Advertisements.

8 "§ 163-278.39. Basic disclosure requirements for all political campaign advertisements.

9 (a) Basic Requirements. -- It shall be unlawful for any sponsor to sponsor an
10 advertisement in the print media or on radio or television that constitutes an
11 expenditure or contribution required to be disclosed under this Article unless all the
12 following conditions are met:

13 (1) It bears the legend or includes the statement: 'Paid for by
14 [Name of candidate, candidate campaign committee,
15 political party organization, political action committee, referendum
16 committee, individual, or other sponsor].' In television
17 advertisements, this disclosure shall be made by visual legend.

18 (2) The name used in the labeling required in subdivision (1) of this
19 subsection is the name that appears on the statement of
20 organization as required in G.S. 163-278.7(b)(1).
21

- 1 (3) The sponsor states in the advertisement its position for or against
2 the candidate, provided that this subdivision applies only if the
3 advertisement supports or opposes the nomination or election of
4 one or more clearly identified candidates.
- 5 (4) The sponsor states in the advertisement its position for or against a
6 ballot measure, provided that this subdivision applies only if the
7 advertisement is made for or against a ballot measure.
- 8 (5) In a print media advertisement supporting or opposing the
9 nomination or election of one or more clearly identified
10 candidates, the sponsor states whether it is authorized by a
11 candidate. The visual legend in the advertisement shall state either
12 'Authorized by [name of candidate], candidate for [name of
13 office]' or 'Not authorized by a candidate.' This subdivision does
14 not apply if the sponsor of the advertisement is the candidate the
15 advertisement supports or that candidate's campaign committee.
- 16 (6) In a print media advertisement that identifies a candidate the
17 sponsor is opposing, the sponsor discloses in the advertisement the
18 name of the candidate who is intended to benefit from the
19 advertisement. This subdivision applies only when the sponsor
20 coordinates or consults about the advertisement or the expenditure
21 for it with the candidate who is intended to benefit.

22 If an advertisement described in this section is jointly sponsored, the disclosure
23 statement shall name all the sponsors.

24 (b) Size Requirements. -- In a print media advertisement covered by subsection (a)
25 of this section, the height of all disclosure statements required by that subsection shall
26 constitute at least five percent (5%) of the height of the printed space of the
27 advertisement, provided that the type shall in no event be less than 12 points in size.
28 If a single advertisement consists of multiple pages, folds, or faces, the disclosure
29 requirement of this section applies only to one page, fold, or face. In a television
30 advertisement covered by subsection (a) of this section, the visual disclosure legend
31 shall constitute 32 scan lines in size. In a radio advertisement covered by subsection
32 (a) of this section, the disclosure statement shall last at least three seconds.

33 (c) Misrepresentation of Authorization. -- Notwithstanding G.S. 163-278.27(a), any
34 candidate, candidate campaign committee, political party organization, political
35 action committee, referendum committee, individual, or other sponsor making an
36 advertisement in the print media or on radio or television bearing any legend
37 required by subsection (a) of this section that misrepresents the sponsorship or
38 authorization of the advertisement is guilty of a Class 1 misdemeanor.

39 "§ 163-278.39A. Disclosure requirements for television and radio advertisements
40 supporting or opposing the nomination or election of one or more clearly identified
41 candidates.

42 (a) Expanded Disclosure Requirements. -- In addition to the basic disclosure
43 requirements in G.S. 163-278.39, any political campaign advertisement on radio or

1 television shall comply with the expanded disclosure requirements set forth in this
2 section.

3 (b) Disclosure Requirements for Television. --

4 (1) Candidate advertisements on television. -- Television
5 advertisements purchased by a candidate or by a candidate
6 campaign committee supporting or opposing the nomination or
7 election of one or more clearly identified candidates shall include a
8 disclosure statement spoken by the candidate and containing at
9 least the following words: 'I am (or "This is...") [name of
10 candidate], candidate for [name of office], and I (or "my
11 campaign...") sponsored this ad.'

12 (2) Political party advertisements on television. -- Television
13 advertisements purchased by a political party organization
14 supporting or opposing the nomination or election of one or more
15 clearly identified candidates shall include a disclosure statement
16 spoken by the chair, executive director, or treasurer of the political
17 party organization and containing at least the following words:
18 'The [name of political party organization] sponsored this ad
19 opposing/supporting [name of candidate] for [name of office].' The
20 disclosed name of the political party organization shall include the
21 name of the political party as it appears on the ballot.

22 (3) Political action committee advertisements on television. --
23 Television advertisements purchased by a political action
24 committee supporting or opposing the nomination or election of
25 one or more clearly identified candidates shall include a disclosure
26 statement spoken by the chief executive officer or treasurer of the
27 political action committee and containing at least the following
28 words: 'The [name of political action committee] political action
29 committee sponsored this ad opposing/supporting [name of
30 candidate] for [name of office].' The name of the political action
31 committee used in the advertisement shall be the name that
32 appears on the statement of organization as required in G.S. 163-
33 278.7(b)(1).

34 (4) Advertisements on television by an individual. -- Television
35 advertisements purchased by an individual supporting or opposing
36 the nomination or election of one or more clearly identified
37 candidates shall include a disclosure statement spoken by the
38 individual and containing at least the following words: 'I am
39 [individual's name], and I sponsored this advertisement
40 opposing/supporting [name of candidate] for [name of office].'

41 (5) Advertisements on television by another sponsor. -- Television
42 advertisements purchased by a sponsor other than a candidate, a
43 candidate campaign committee, a political party organization, a
44 political action committee, or an individual which supports or

opposes the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: '[Name of sponsor] sponsored this ad.'

(6) All advertisements on television. -- In any television advertisement described in subdivisions (1) through (4) of this subsection, an unobscured, full-screen picture containing the disclosing individual, either in photographic form or through the actual appearance of the disclosing individual on camera, shall be featured throughout the duration of the disclosure statement.

(c) Disclosure Requirements for Radio. --

(1) Candidate advertisements on radio. -- Radio advertisements purchased by a candidate or by a candidate campaign committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the candidate and containing at least the following words: 'I am (or "This is...") [name of candidate], candidate for [name of office], and this ad was paid for (or "sponsored" or "furnished") by [name of candidate campaign committee that paid for the advertisement].'

(2) Political party advertisements on radio. -- Radio advertisements purchased by a political party organization supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chair, executive director, or treasurer of the political party organization and containing at least the following words: 'This ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by [name of political party].' The disclosed name of the political party organization shall include the name of the political party as it appears on the ballot.

(3) Political action committee advertisements on radio. -- Radio advertisements purchased by a political action committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive officer or treasurer of the political action committee and containing at least the following words: 'This ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by [name of political action committee] political action committee.' The name of the political action committee used in the advertisement shall be the name that appears on the statement of organization as required by G.S. 163-278.7(b)(1).

- 1 (4) Advertisements on radio by an individual. -- Radio advertisements
2 purchased by an individual supporting or opposing the nomination
3 or election of one or more clearly identified candidates shall
4 include a disclosure statement spoken by the individual and
5 containing at least the following words: 'I am [individual's name],
6 and this ad opposing/supporting [name of candidate] for [name of
7 office] was paid for (or "sponsored" or "furnished") by me.'
- 8 (5) Advertisements on radio by another sponsor. -- Radio
9 advertisements purchased by a sponsor other than a candidate, a
10 candidate campaign committee, a political party organization, a
11 political action committee, or an individual which supports or
12 opposes the nomination or election of one or more clearly
13 identified candidates shall include a disclosure statement spoken by
14 the chief executive or principal decision maker of the sponsor and
15 containing at least the following words: '[Name of sponsor] paid
16 for (or "sponsored" or "furnished") this ad.'
- 17 (d) Placement of Disclosure Statement in Television and Radio Advertisements. --
18 In advertisements on television, a sponsor may place the disclosure statement
19 required by this section at any point during the advertisement, except if the duration
20 of the advertisement is more than five minutes, the disclosure statement shall be
21 made both at the beginning and end of the advertisement. The sponsor may provide
22 the oral disclosure statement required by this section at the same time as the visual
23 disclosure required under the Communications Act of 1934, 47 U.S.C. §§ 315 and
24 317, is shown. But any visual disclosure legend shall be at least 32 scan lines in size.
25 For advertisements on radio, the placement of the oral disclosure statement shall
26 comply with the requirements of the Communications Act of 1934, 47 U.S.C. §§ 315
27 and 317.
- 28 (e) Choice of Supporting or Opposing a Candidate. -- In its oral disclosure
29 statement, a sponsoring political party organization, political action committee,
30 individual, or other noncandidate sponsor shall choose either to identify an
31 advertisement as supporting or opposing the nomination or election of one or more
32 clearly identified candidates.
- 33 (e1) Joint Sponsors. -- If an advertisement described in this section is jointly
34 sponsored, the disclosure statement shall name all the sponsors and the disclosing
35 individual shall be one of those sponsors. If a candidate is one of the sponsors, that
36 candidate shall be the disclosing individual, and if more than one candidate is the
37 sponsor, at least one of the candidates shall be the disclosing individual.
- 38 (f) Legal Remedy. -- Pursuant to the conditions established in subdivisions (1), (2),
39 and (3) of this subsection, a candidate for an elective office who complied with the
40 television and radio disclosure requirements throughout that candidate's entire
41 campaign shall have a monetary remedy in a civil action against (i) an opposing
42 candidate or candidate committee whose television or radio advertisement violates
43 these disclosure requirements and (ii) against any political party organization,

political action committee, individual, or other sponsor whose advertisement for that elective office violates these disclosure requirements:

(1) Any plaintiff candidate in a statewide race in an action under this section shall complete and file a Notice of Complaint Regarding Failure to Disclose on Television or Radio Campaign Advertising with the State Board of Elections after the airing of the advertisement but no later than the first Friday after the Tuesday on which the election occurred. Candidates in nonstatewide races may file the notice during the same time period with one county board of elections within the electoral area in which they are candidates. The timely filing of this notice preserves the candidate's right to bring an action in superior court any time within 90 days after the election. A candidate shall bring the civil action in the county where the candidate filed the notice.

(2) Upon receiving a favorable verdict in accordance with existing law, the plaintiff candidate shall receive a monetary award of actual damages. The price of actual damages shall be calculated as the total dollar amount of television and radio advertising time that was aired and that the plaintiff candidate correctly identifies as being in violation of the disclosure requirements of this section.

The plaintiff candidate shall also receive an award that trebles the amount of actual damages if:

- a. The plaintiff candidate can establish having notified or attempted to notify the sponsor of the advertisement properly by return-receipt mail about the failure of a particular advertisement or advertisements to comply with the disclosure requirements of this section, and
- b. After the notice or attempted notice, the advertisement continued to be aired.

The treble damages shall be calculated from the date on which the return-receipt notice was accepted or rejected by a defendant sponsoring candidate or candidate committee, political party organization, political action committee, or individual. The plaintiff candidate or candidate committee shall send a copy of any return-receipt mailing to the relevant board of elections as provided in subdivision (1) of this subsection within five days after the notice is returned to the possession of the candidate or candidate committee.

The court shall award reasonable attorneys' fees to a plaintiff candidate who prevails in an action under this section. The plaintiff candidate may bring the civil action personally or authorize his or her candidate campaign committee to bring the civil action.

(3) A candidate who violates the disclosure requirements of State law in this section and that candidate's campaign committee shall be jointly and severally liable for the payment of damages and attorneys' fees. If the candidate is held personally liable for any payment of damages or attorneys' fees, the candidate shall not use or be reimbursed by funds from the candidate's campaign committee in paying any amount.

(g) Relation to the Communications Act of 1934. -- Television advertisements by a sponsor supporting or opposing the nomination or election of one or more clearly identified candidates shall comply with the oral disclosure requirements under State law in this section. Those advertisements shall also comply with disclosure requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 by use of visual legends. The content of those visual legends is specified by the Communications Act of 1934, 47 U.S.C. §§ 315 and 317, and G.S. 163-278.39(a)(1). The size of those visual legends is determined by G.S. 163-278.39(b), which satisfies requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317. In the case of radio advertisements, the oral disclosure requirements under State law in this section incorporate the content requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

(h) No Additional Liability of Television or Radio Outlets. -- Television or radio outlets shall not be liable under this section for carriage of political advertisements that fail to include the disclosure requirements provided for in this section.

(i) No Criminal Liability. -- Nothing in this section regarding the disclosure requirements in subsections (b) and (c) of this section shall be relied upon or otherwise interpreted to create criminal liability for any person.

"§ 163-278.39B. Definitions.

As used in this Part:

(1) 'Advertisement' means any message appearing in the print media, on television, or on radio that constitutes a contribution or expenditure under this Article.

(2) 'Candidate' means any individual who, with respect to a public office listed in G.S. 163-278.6(18), has filed a notice of candidacy or a petition requesting to be a candidate, or has been certified as a nominee of a political party for a vacancy, or has otherwise qualified as a candidate in a manner authorized by law, or has filed a statement of organization under G.S. 163-278.7 and is required to file periodic financial disclosure statements under G.S. 163-278.9.

(3) 'Candidate campaign committee' means any political committee organized by or under the direction of a candidate.

(4) 'Full-screen' means the only picture appearing on the television screen during the oral disclosure statement contains the disclosing person, that the picture occupies all visible space on the television

screen, and that the image of the disclosing person occupies at least fifty percent (50%) of the vertical height of the television screen.

(5) 'Print media' means billboards, cards, newspapers, newspaper inserts, magazines, mass mailings, pamphlets, fliers, periodicals, and outdoor advertising facilities. A 'mass mailing' is a mailing with more than 500 pieces.

(6) 'Political action committee' has the same meaning as 'political committee' in G.S. 163-278.6(14), except that 'political action committee' does not include any political party or political party organization.

(7) 'Political party organization' means any political party executive committee or any political committee that operates under the direction of a political party executive committee or political party chair.

(8) 'Radio' means any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

(9) 'Scan line' means a standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.

(10) 'Sponsor' means a candidate, candidate committee, political party organization, political action committee, referendum committee, individual, or other entity that purchases an advertisement.

(11) 'Television' means any television broadcast station, cable television system, wireless-cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

(12) 'Unobscured' means the only printed material that may appear on the television screen is a visual disclosure statement required by law, and nothing is blocking the view of the disclosing person's face.

"§ 163-278.39C. Scope of disclosure requirements.

The disclosure requirements of this Part apply to any sponsor of an advertisement in the print media or on radio or television the cost or value of which constitutes an expenditure or contribution required to be disclosed under this Article, except that the disclosure requirements of this Part:

(1) Do not apply to an individual who makes uncoordinated independent expenditures aggregating less than one thousand dollars (\$1,000) in a political campaign; and

(2) Do not apply to an individual who incurs expenses with respect to a referendum.

The disclosure requirements of this Part do not apply to any advertisement the expenditure for which is required to be disclosed by G.S. 163-278.12A alone and by no other law."

Section 2.(b) G.S. 163-278.16, as amended by Section 4(b) of Session Law 1999-31, reads as rewritten:

"§ 163-278.16. Regulations regarding ~~contributions, expenditures and media advertising.~~ timing of contributions and expenditures.

(a) Except as provided in G.S. 163-278.12, no contribution may be received or expenditure made by or on behalf of a candidate, political committee, or referendum committee:

(1) Until the candidate, political committee, or referendum committee appoints a treasurer and certifies the name and address of the treasurer to the Board; and

(2) Unless the contribution is received or the expenditure made by or through the treasurer of the candidate, political committee, or referendum committee.

(b) to (e) Repealed by Session Laws 1975, c. 565, s. 2.

~~(f) No media advertisement of any kind may be made by a treasurer, candidate, political committee, referendum committee or individual unless~~

~~(1) It bears the legend or includes the statement: "Paid for by (or Sponsored by)..... (Name of candidate, political committee, referendum committee, individual)";~~

~~(2) The name used in the labeling required in subdivision (1) of this subsection is the name that appears on the statement of organization as required in G.S. 163-278.7(b)(1), provided that this subdivision applies only if the sponsor is a political committee or referendum committee;~~

~~(3) The sponsor states in the media advertisement its position:
a. For or against the candidate; or
b. For or against an opposing candidate
provided that this subdivision applies only if the media advertisement is made for or against a candidate; and~~

~~(4) The sponsor states in the media advertisement its position for or against the ballot measure; provided this subdivision applies only if the media advertisement is made for or against a ballot measure.~~

~~The requirements of subdivisions (3) and (4) of this subsection do not apply to any print advertisement less than two inches by two inches in size, or to any radio or television advertisement of less than 20 seconds in length.~~

~~The media shall not publish or broadcast any political advertisement unless it bears the legend or includes the statement required herein. For purposes of this subsection, "media" means broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, and newspaper inserts.~~

~~(g) All printed matter from a political party or political committee which opposes the nomination or election of a clearly identified candidate shall indicate in type smaller than 12 point the name of the political party or political committee and the name of the candidate that is intended to benefit from the printed matter."~~

Section 2.(c) G.S. 163-278.27(a) reads as rewritten:

"(a) Any individual, candidate, political committee, referendum committee, treasurer, person or media who violates the applicable provisions of G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.14, 163-278.16, 163-278.17, 163-278.18, 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D or 163-278.40E is guilty of a Class 2 misdemeanor."

Section 2.(d) This section becomes effective January 1, 2000, and applies to all contributions and expenditures made or accepted on or after that date.

-- EVIDENCE THAT COMMUNICATIONS ARE "TO SUPPORT OR OPPOSE ONE OR MORE CLEARLY IDENTIFIABLE CANDIDATES."

Section 3.(a) Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-278.14A. Evidence that communications are 'to support or oppose the nomination or election of one or more clearly identified candidates.'

(a) Any of the following shall be means, but not necessarily the exclusive or conclusive means, of proving that an individual or other entity acted 'to support or oppose the nomination or election of one or more clearly identified candidates':

(1) Evidence of financial sponsorship of communications to the general public that use phrases such as 'vote for', 'reelect', 'support', 'cast your ballot for', '(name of candidate) for (name of office)', '(name of candidate) in (year)', 'vote against', 'defeat', 'reject', 'vote pro-(policy position)' or 'vote anti-(policy position)' accompanied by a list of candidates clearly labeled 'pro-(policy position)' or 'anti-(policy position)', or communications of campaign words or slogans, such as posters, bumper stickers, advertisements, etc., which say '(name of candidate)'s the One', '(name of candidate) '98', '(name of candidate)!', or the names of two candidates joined by a hyphen or slash.

(2) Evidence of financial sponsorship of communications whose essential nature expresses electoral advocacy to the general public and goes beyond a mere discussion of public issues in that they direct voters to take some action to nominate, elect, or defeat a candidate in an election. If the course of action is unclear, contextual factors such as the language of the communication as a whole, the timing of the communication in relation to events of the day, the distribution of the communication to a significant number of registered voters for that candidate's election, and the cost of the communication may be considered in determining whether the action urged could only be interpreted by a reasonable person as advocating the nomination, election, or defeat of that candidate in that election.

(3) Evidence that an entity financially sponsors communications whose essential nature expresses electoral advocacy to the general public concerning a clearly identified candidate in an election and the entity or agent for that entity has made a statement admissible in a

1 court of law that one of the entity's purposes is to support or
2 oppose that clearly identified candidate in that election.

3 (b) Notwithstanding the provisions of subsection (a) of this section, a
4 communication shall not be subject to regulation as a contribution or expenditure
5 under this Article if it:

6 (1) Appears in a news story, commentary, or editorial distributed
7 through the facilities of any broadcasting station, newspaper, or
8 magazine, unless those facilities are owned or controlled by any
9 political party, or political committee;

10 (2) Is distributed by a corporation solely to its stockholders and
11 employees; or

12 (3) Is distributed by any organization, association, or labor union
13 solely to its members or to subscribers or recipients of its regular
14 publications, or is made available to individuals in response to
15 their request, including through the Internet."

16 Section 3.(b) This section is effective when this act becomes law.

17 -- PRESUMPTIONS.

18 Section 3.1.(a) G.S. 163-278.34A, as enacted by Session Law 1999-31,
19 reads as rewritten:

20 "**§ 163-278.34A. Presumptions.**

21 In any proceeding brought pursuant to this Article in which a presumption arises
22 from the proof of certain facts, the ~~defendant has the burden of offering some~~
23 ~~evidence to rebut the presumption. The presumption shall be rebuttable, but the~~
24 State bears the ultimate burden of proving the essential elements of its case."

25 Section 3.1.(b) This section is effective when this act becomes law.

26 -- CORRECTING LOOPHOLE CONCERNING 'GIVING IN THE NAME OF
27 ANOTHER.'

28 Section 4.(a) G.S. 163-278.14(a) reads as rewritten:

29 "(a) No individual, political committee, or other entity shall make any contribution
30 anonymously, except as provided in G.S. 163-278.8(d), or in the name of another. No
31 candidate, political committee, referendum committee, political party, or treasurer
32 shall knowingly accept any contribution made by any individual or person in the
33 name of another individual or person or made anonymously except as provided in
34 G.S. 163-278.8(d). If a candidate, political committee, referendum committee,
35 political party, or treasurer receives ~~any such contributions,~~ anonymous contributions
36 or contributions determined to have been made in the name of another, he shall pay
37 the money over to the Board, by check, and all such moneys received by the Board
38 shall be deposited in the general fund of the State of North Carolina."

39 Section 4.(b) This section becomes effective December 1, 1999, and
40 applies to offenses committed on and after that date.

41 -- GRANTING THE STATE BOARD OF ELECTIONS MORE FLEXIBILITY
42 UNDER THE ADMINISTRATIVE PROCEDURE ACT.

43 Section 5.(a) G.S. 150B-21.1. is amended by adding a new subsection:

"(a4) Notwithstanding the provisions of subsection (a) of this section, the State Board of Elections may adopt a temporary rule after prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical for one or more of the following:

(1) In accordance with the provisions of G.S. 163-22.2.

(2) To implement any provisions of state or federal law for which the State Board of Elections has been authorized to adopt rules.

(3) The need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process.

When the State Board of Elections adopts a temporary rule pursuant to this subsection, it must submit the reference to this subsection as its statement of need to the Codifier of Rules."

Section 5.(b) G.S. 163-278.23 reads as rewritten:

"§ 163-278.23. Duties of Executive Secretary-Director of Board.

The Executive Secretary-Director of the Board shall inspect or cause to be inspected each statement filed with the Board under this Article within 30 days after the date it is filed. The Executive Secretary-Director shall advise, or cause to be advised, no more than 30 days and at least five days before each report is due, each candidate or treasurer whose organizational report has been filed, of the specific date each report is due. He shall immediately notify any individual, candidate, treasurer, political committee, referendum committee, or media required to file a statement under this Article if:

(1) It appears that the individual, candidate, treasurer, political committee, referendum committee or media has failed to file a statement as required by law or that a statement filed does not conform to this Article; or

(2) A written complaint is filed under oath with the Board by any registered voter of this State alleging that a statement filed with the Board does not conform to this Article or to the truth or that an individual, candidate, treasurer, political committee, referendum committee or media has failed to file a statement required by this Article.

The Executive Secretary-Director of the Board of Elections shall issue written ~~rulings~~ opinions to candidates and may issue written ~~rulings~~ opinions to the communications media, political committees, and referendum committees upon request, regarding filing procedures and compliance with this Article. Any such ~~ruling~~ opinion so issued shall specifically refer to this paragraph. If the candidate, communications media, political committees, or referendum committees rely on and comply with the ~~ruling~~ opinion of the Executive Secretary-Director of the Board of Elections, then prosecution or civil action on account of the procedure followed pursuant thereto and prosecution for failure to comply with the statute inconsistent with the written ruling of the Executive Secretary-Director of the Board of Elections issued to the candidate or committee involved shall be barred. Nothing in this

1 paragraph shall be construed to prohibit or delay the regular and timely filing of
2 reports. The Executive Secretary-Director shall file all opinions issued pursuant to
3 this section with the Codifier of Rules to be published unedited in the North Carolina
4 Register and the North Carolina Administrative Code."

5 Section 5.(c) This section is effective when this act becomes law and
6 applies to rules adopted by the State Board of Elections on or after that date.

7 -- PROHIBIT FUND-RAISING FROM LOBBYISTS AND RELATED POLITICAL
8 COMMITTEES.

9 Section 6.(a) G.S. 163-278.13B(c) reads as rewritten:

10 "(c) Prohibited Contributions. -- While the General Assembly is in regular session:

- 11 (1) No limited contributor shall make or offer to make a contribution
12 to a limited contributee.
- 13 (2) No limited contributor shall make a contribution to any candidate,
14 officeholder, or political committee, directing or requesting that the
15 contribution be made in turn to a limited contributee.
- 16 (3) No limited contributor shall transfer any amount of money or
17 anything of value to any entity, directing or requesting that the
18 entity use what was transferred to contribute to a limited
19 contributee.
- 20 (4) No limited contributee shall accept a contribution from a limited
21 contributor.
- 22 (5) No limited contributor shall solicit a contribution from any
23 individual or political committee on behalf of a limited
24 contributee. This subdivision does not apply to a limited
25 contributor soliciting a contribution on behalf of a political party
26 executive committee if the solicitation is solely for a separate
27 segregated fund kept by the political party limited to use for
28 activities that are not candidate-specific, including generic voter
29 registration and get-out-the-vote efforts, pollings, mailings, and
30 other general activities and advertising that do not refer to a
31 specific individual candidate."

32 Section 6.(b) This section becomes effective October 1, 1999, and applies
33 to all contributions made, accepted, or solicited on or after that date.

34 -- REQUIRING MONTHLY REPORTS TO BOARDS OF ELECTIONS OF
35 DEATHS AND FELONY CONVICTIONS.

36 Section 7.(a) G.S. 163-82.14(b) reads as rewritten:

37 "(b) Death. -- The Department of Health and Human Services, on or before the
38 fifteenth day of ~~March, June, September, and December~~, every month, shall furnish
39 free of charge to each county board of elections a certified list of the names of
40 deceased persons who were residents of that county. The Department of Health and
41 Human Services shall base each list upon information supplied by death certifications
42 it received during the preceding ~~quarter~~, month. Upon the receipt of the certified list,
43 the county board of elections shall remove from its voter registration records any

1 person the list shows to be dead. The county board need not send any notice to the
2 address of the person so removed."

3 Section 7.(b) G.S. 163-82.14(c)(1) reads as rewritten:

4 "(1) Report of Conviction Within the State. -- The clerk of superior
5 court, on or before the fifteenth day of ~~March, June, September,~~
6 ~~and December~~ of every ~~year,~~ month, shall report to the county
7 board of elections of that county the name, county of residence,
8 and residence address if available, of each individual against whom
9 a final judgment of conviction of a felony has been entered in that
10 county in the preceding calendar ~~quarter.~~ month. Any county
11 board of elections receiving such a report about an individual who
12 is a resident of another county in this State shall forward a copy of
13 that report to the board of elections of that county as soon as
14 possible."

15 Section 7.(c) This section becomes effective January 1, 2000.

16 -- EXPANDING THE "RACE" CATEGORY ON THE VOTER REGISTRATION
17 FORM.

18 Section 8.(a) G.S. 163-82.4(a) reads as rewritten:

19 "(a) Information Requested of Applicant. -- The form required by G.S. 163-
20 82.3(a) shall request the applicant's:

- 21 (1) Name,
- 22 (2) Date of birth,
- 23 (3) Residence address,
- 24 (4) County of residence,
- 25 (5) Date of application,
- 26 (6) Gender,
- 27 (7) Race,
- 28 (7a) Ethnicity,
- 29 (8) Political party affiliation, if any, in accordance with subsection (c)
30 of this section,
- 31 (9) Telephone number (to assist the county board of elections in
32 contacting the voter if needed in processing the application),

33 and any other information the State Board finds is necessary to enable officials of the
34 county where the person resides to satisfactorily process the application. The form
35 shall require the applicant to state whether currently registered to vote anywhere, and
36 at what address, so that any prior registration can be cancelled. The portions of the
37 form concerning race and ethnicity shall include as a choice any category shown by
38 the most recent decennial federal census to compose at least one percent (1%) of the
39 total population of North Carolina. The county board shall make a diligent effort to
40 complete for the registration records any information requested on the form that the
41 applicant does not complete, but no application shall be denied because an applicant
42 does not state race, ethnicity, gender, or telephone number. The application shall
43 conspicuously state that provision of the applicant's telephone number is optional. If
44 the county board maintains voter records on computer, the free list provided under

1 this subsection shall include telephone numbers if the county board enters the
2 telephone number into its computer records of voters."

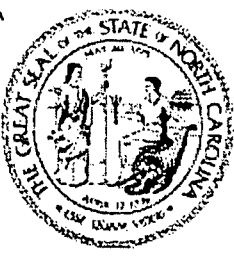
3 Section 8.(b) This section becomes effective January 1, 2002.

4 Section 9. This act becomes effective only if the sum of twenty-five
5 thousand dollars (\$25,000) for the 1999-2000 fiscal year is appropriated from the
6 General Fund to the State Board of Elections for the purpose of meeting its
7 additional responsibilities under Sections 2, 3, 5, and 6 of this act. This act does not
8 obligate the General Assembly to appropriate funds.

9 Section 10. Prosecutions for, or sentences based on, offenses occurring
10 before the relevant effective date in this act are not abated or affected by this act, and
11 the statutes that would be applicable to those prosecutions or sentences but for the
12 provisions of this act remain applicable to those prosecutions or sentences.

13 Section 11. The provisions of this act are severable. If any section,
14 subsection, subdivision, sub-subdivision, phrase, or word of this act or of any statute
15 that it amends is held invalid by a court of competent jurisdiction, the invalidity does
16 not affect any other portion or portions of this act that can be given effect without the
17 invalid provision.

18 Section 12. This act is effective when it becomes law.



SENATE BILL 881: Campaign Reform Act of 1999.

BILL ANALYSIS

Committee: House Election Law and
Campaign Finance Reform

Date: June 30, 1999

Version: Third Edition

Introduced by: Senator Gulley

Summary by: William R. Gilkeson
Staff Attorney

SUMMARY: *Senate Bill 881, as passed by the Senate, would make these changes to the election laws:*

1. *Section 1 of the bill simply states the bill's title: "The Campaign Reform Act of 1999." (p.1)*
2. *Requires sponsors of radio and TV political ads to accept responsibility for the ads' contents through personal appearances in the ads. This part of the bill, called "Stand by Your Ad," passed the Senate in 1997. (pp. 1-10)*
3. *Sets out 3 ways in which a prima facie case could be made that someone "supports or opposes the nomination or election of one or more clearly identified candidates." That phrase is the key to campaign finance regulation under the statutes as amended by House Bill 921 in April. (pp. 10-11)*
4. *Extends from 2 to 5 years the statute of limitations for campaign finance misdemeanors. (p. 11)*
- 4.1 *Prohibits making, as well as accepting, contributions made anonymously or in the name of another. (p. 11-12)*
5. *Exempts the State Board of Elections from many of the requirements of the Administrative Procedure Act. (p. 12-14)*
6. *Clarifies that lobbyists and lobbyist-connected PACs are prohibited, not only from contributing to legislative candidates during legislative sessions, but also from soliciting contributions on those candidates' behalf. (p. 14)*
7. *Requires monthly, rather than quarterly, reports to the county boards of elections of felony convictions and deaths. (pp. 14-15)*
8. *Requires that voter registration forms after the 2000 Census will ask registrants not only for race, but also ethnicity. The race and ethnicity categories would be the same as those used by the Census Bureau. (p. 15)*

1. Title: "Campaign Reform Act of 1999."

2. **Stand by Your Ad.** The bill requires any sponsor of an ad supporting or opposing the nomination or election of one or more clearly identified candidates to disclose in the ad whether the ad is authorized by a candidate. This would be in addition to basic disclosure requirements already in place. In a radio or television ad supporting or opposing a candidate, the sponsor of the ad would have to speak the required disclosure statements personally. In a television ad supporting or opposing a candidate, the sponsor's face would have to appear on the screen the whole time the sponsor was speaking the required disclosure.

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Current Law. Current State law requires that every "media ad" must contain the identification "Paid for by (or "Sponsored by) ... [the name of the sponsor]." If the sponsor is a political committee or referendum committee, the I.D. must use the name that it is required to use, identifying the parent entity of the committee (corporation, labor union, professional association) or the economic interest of the committee, if identifiable. And the I.D. must also state whether the sponsor supports or opposes a candidate or ballot measure. Current law defines "media" to include broadcast, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, and newspaper inserts. The duty is one for the media as well as the sponsor. The penalty is a Class 2 misdemeanor.

Current federal law places the following disclosure restrictions on radio and television outlets licensed by the Federal Communications Commission:

- Any ad must disclose the name of the person sponsoring the ad, or the person on behalf of whom the ad is sponsored. The disclosure shall fully and fairly disclose the true identity of that person.
- Any political ad on television must show the sponsor identification for a least 4 seconds in letters that take up at least 4% of the vertical picture height.

In addition, a candidate is entitled to the "lowest unit charge" of a broadcast station if that candidate makes a personal appearance, by face or voice, during the ad. Through the Federal Communications Act, the federal government has pre-empted regulation of what television and radio must do, although the 1983 Fifth Circuit U.S. Court of Appeals decision in *KVUE v. Moore* says that there can be aspects of the way radio and TV outlets handle advertising that federal law doesn't address and therefore the States can regulate. What the federal law does not do is regulate the behavior of State candidates and political committees. They are under the jurisdiction of State law. The bill seeks to fill that gap, requiring candidates and other State-regulated political sponsors, rather than the federally regulated broadcasters, to put certain disclosures in their ads.

The bill contains two sets of requirements:

1. Basic Requirements for any advertisement relating to an election or referendum, if the sponsor of the ad is a candidate, party, PAC, or individual required to file a financial report, except that individuals would not be covered who spent less than \$1,000 per election on an ad.
2. Expanded Requirements for ads on TV and radio that support or oppose a candidate.

The Basic Requirements repeat current law, with these changes:

- If a print media ad supports or opposes a candidate, the ad must say whether or not it is authorized by a candidate.
- "Print media" is defined so as to include not only newspapers, periodicals, and billboards, but also pamphlets and cards.
- The bill removes a statement in current law that makes the print media liable for what appears in its ads.
- The disclosure statement on a print media ad must take up at least 10% of the face of the ad (or 10% of one page of a multi-page ad).
- Misrepresentation by a sponsor in the disclosure statement is raised to a Class 1 misdemeanor.

The Expanded Requirements state that on television and radio ads the sponsor of an ad supporting or opposing a candidate or candidates must appear in person and acknowledge sponsorship of the ad.:

- If the sponsor is a candidate, the candidate must appear. On television and radio, that means the candidate must speak the words "I am Candidate X and I sponsored this ad." On television, when the candidate is speaking, a picture of that candidate must fill the screen.

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- If the sponsor is a political party organization, or political action committee, the chair, executive director, or treasurer of the party must speak the words, "This ad supporting/opposing Candidate X for Office Y was paid for by the Z Party (or Z political action committee)." Again, on television, the speaker's picture must fill the screen while he or she is talking. The sponsor must choose whether the ad supports or opposes a candidate.
- If the sponsor is an individual other than the candidate, that individual must speak the words, "I am So-and-So, and this ad supporting/opposing Candidate X for Office Y was paid for by me." Again, there is the same visual requirement for television, and the same choice of whether the ad supports or opposes.

If there is a visual legend accompanying the picture of the talking sponsor, it must be 32 scan lines (a TV technical term) in height.

Enforcement of Expanded Requirements. For violating the Expanded Requirements, the bill does not place any liability in addition to federal law on TV or radio outlets. On sponsors, the bill places no criminal liability, but it establishes a monetary civil remedy for a candidate who has complied with the requirements against an opposing candidate or other sponsor who has violated them. Damages would be the value of the ads that were in violation. If the plaintiff can show that he or she notified the sponsor that an ad was in violation and the sponsor continued to run the ad, the damages can be trebled.

3. **Prima Facie Case That a Communication "Supports or Opposes the Nomination or Election of One or More Clearly Identified Candidates."** The definitions of "political committee" and "expenditure" in House Bill 921 (ratified last month) are pegged to the term "supporting or opposing the nomination or election of a clearly identified candidate." The draft sets out three sets of facts that raise a presumption that a sponsor is "supporting or opposing the nomination or election of one or more clearly identified candidates":

1. Evidence that the sponsor has used typical words of advocacy. A non-inclusive list is set out of phrases such as "vote for," "elect," and "defeat."
2. Evidence that the sponsor has done a communication "whose essential nature expresses electoral advocacy to the general public and goes beyond mere discussion of public issues in that" the sponsor has done five things:
 - Has put in the ad a reference to a clearly identified candidate.
 - Has targeted the electorate the candidate faces in the election.
 - Has communicated through various kinds of public media.
 - Has spent more than \$3,000.
 - Has done the communication within 60 days of an election in which the candidate is running.
3. Evidence that the sponsor has met the first 4 of the 5 things listed above, but although the ad is not in the last 60 days, the sponsor or its agent has stated that one of its purposes is to support or oppose a candidate in an election. The statement must be admissible in a court of law.

The sponsor could rebut the evidence by showing it had a contrary intent. (The PCS contains, in Section 3.(b), a revision suggested in Senate Judiciary I in April of the language about presumptions that was ratified in House Bill 921.)

Specific exceptions are set out for news stories, commentaries and editorials in media of general circulation, for communications distributed by a corporation to its stockholders or employees or by an association or union to its members or to subscribers or recipients of its regular publications.

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4. **Five-Year Statute of Limitations.** Under current law, most campaign finance offenses are Class 2 misdemeanors. The statute of limitations on most misdemeanors is two years. The bill would extend the statute of limitations on campaign finance misdemeanors to five years.
 - 4.1. **Closing Loophole in "Giving in the Name of Another."** Current law has a misdemeanor statute dealing with anonymous contributions and contributions given in the name of another. But the statute only prohibits accepting contributions given anonymously or in the name of another; it does not prohibit giving. The bill would also prohibit making such contributions. Effective December 1, 1999.
5. **Exemption from the APA.** The bill would substantially exempt the State Board of Elections from the Administrative Procedure Act. The State Board would still be required to follow the notice and hearing procedures for rulemaking that are set out in the APA, but its rules would not be subject to approval by the Rules Review Commission. In addition, the bill would require the Executive Director of the State Board to submit the rulings (opinions) he now makes on campaign matters to the Codifier of Rules for publication in the North Carolina Register and the N.C. Administrative Code.
6. **Lobbyist Fundraising for Legislative Candidates.** Current law prohibits lobbyists and lobbyist-connected political committees from making contributions to candidates for the General Assembly or the Council of State. That law has been upheld by the U.S. 4th Circuit Court of Appeals against a First Amendment challenge in *N.C. Right to Life, Inc. vs. Bartlett*. But it is not clear that the law prohibits lobbyists and their political committees from soliciting contributions on behalf of those candidates from others – "fundraising" for them. This section would make clear that such activity would be against the law.
7. **Requiring Monthly Reports to Board of Elections of Deaths and Felony Convictions.** Current law requires the State Department of Health and Human Services to report quarterly to each county board of elections a list of the certified deceased persons who were residents of that county. The clerks of court are required to report quarterly to the county board of elections a list of all felony convictions in that county. This section would increase the frequency of both reports from quarterly to monthly. The section would go into effect January 1, 2000.
8. **Race and Ethnicity on the Voter Registration Form.** Currently the statute requires the State Board of Elections to develop a standard voter registration application form. One of the items of information the statute says the form shall request of the applicant is "Race." The statute now offers no further guidance to the board on that matter. The current form contains a Race box with the following choices:
 - White,
 - Black,
 - Am. Indian,
 - Other.The bill would change the statute to direct the State Board to put on the form choices for both "Race" and "Ethnicity." It would require the State Board to list as choices any race or ethnicity category that the most recent U.S. Census shows composes at least 1% of the total population of North Carolina. For the 2000 Census, the Census Bureau plans to use the following categories for "Race":
 - White
 - Black or African American.
 - American Indian or Alaska Native.
 - Asian.

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- Native Hawaiian or Other Pacific Islander.

The Census Bureau plans to use the following categories for "Ethnicity":

- Hispanic or Latino.
- Not Hispanic or Latino.

(The bill would not require that the State Board use the same names for the categories that the Census Bureau uses.) This section of the bill would go into effect after the return of the 2000 Census data.

Section 9 of the bill states that the bill becomes effective only if the State Board of Elections receives an appropriation of \$25,000 for 1999-2000 fiscal year to meet its additional responsibilities under the act.

VISITOR REGISTRATION SHEET

Election Law & Camp. Fin. July 7, 1999
 Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

<i>Doug Jones</i>	Lt. Gov.
<i>Jack Kiin</i>	ALU
<i>Gordon Taylor</i>	Gov. Office
<i>Susan Nichols</i>	A.G.'s office
<i>Ballard Everett</i>	-
<i>John Kutz</i>	NCFPE
<i>Mark [unclear]</i>	<i>Robert Van [unclear]</i>
<i>Pamie Moore</i>	N.C. Democratic Party
<i>Johnnie McLean</i>	SBE
<i>Lu-Ann Cole</i>	F ³
<i>Deborah Rox</i>	AKU
<i>Gary O. Bartlett</i>	SBE
<i>Yvonne L. Southerland</i>	SBE
<i>J.B. [unclear]</i>	SBE
<i>Bob Hall</i>	Democracy South
<i>Sam Brown Common Cause - NC</i>	

ATTENDANCE

ELECTION LAW AND CAMPAIGN REFORM

(Name of Committee)

DATES	3/10	3/17	3/24	3/31	4/7	4/14	4/21 ^{AM}	4/21 ^{PM}	4/23	5/5	4/16	4/23	6/30	7/1	7/8
ALEXANDER, MARTHA CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BONNER, DONALD CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BERRY, CHERIE	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
DECKER, MICHAEL					✓	✓	✓	✓	✓	✓	✓	✓	✓		
DEDMON, ANDREW	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
GOODWIN, WAYNE	✓	✓	✓	✓	✓	✓		✓		✓	✓		✓	✓	✓
HENSLEY, BOB			✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓
INSKO, VERLA		✓	✓	✓	✓	✓					✓	✓	✓	✓	✓
JUSTUS, LARRY	✓	✓		✓		✓	✓	✓		✓		✓	✓	✓	✓
KISER, JOE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
LUEBKE, PAUL		✓	✓	✓		✓	✓	✓			✓		✓	✓	✓
MELTON, MAX	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
MICHAUX, H.M.		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
NEELY, CHARLES / Pope, Art	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NESBITT, MARTIN		✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓
ROGERS, GENE	✓	✓	✓	✓	✓	✓	✓			✓			✓	✓	✓
THOMPSON, GREGORY	✓	✓			✓		✓	✓		✓	✓	✓	✓	✓	
WILSON, CONNIE	✓			✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Ex-officio															
Baddour, Phil				✓	✓	✓									
Cunningham, Pete			✓			✓	✓		✓	✓	✓				
Hackney, Joe							✓								

AGENDA

**HOUSE COMMITTEE
ON**

ELECTION LAW AND CAMPAIGN FINANCE REFORM

**July 8, 1999
Room 1228/1327
4:00 p.m.**

Presiding: Representative Donald A. Bonner, Chair

OPENING REMARKS:

Representative Donald A. Bonner, Chair

DISCUSSION:

Senate Bill 881

COMMENTS FROM COMMITTEE

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON

ELECTION LAW AND CAMPAIGN REFORM

JULY 9, 1999

Representative Alexander , Presiding

The House Committee on Election Law and Campaign Reform met on Wednesday, April 21, 1999. The following members were present: Chairman Donald A. Bonner, Co-Chair Representative Alexander Representatives, Berry, Decker, Dedmon, Kiser, Justus, Luebke, Melton, Michaux, Pope, Nesbitt, Rogers, Thompson, Wilson Ex-officio Cunningham and Hackney, Staff Attorney Bill Gilkeson was present, as well as committee clerks Ann Faust and Lucy Johnson. A Visitor Registration list is attached and made part of these minutes.

The Chairman called the meeting to order to begin the Agenda of the day. The first item was the introduction of all visitors as well as committee assistants, pages and Sgt. At Arms.

Representative Martha Alexander explained the House Bill 1074 to the body. Asking questions on the Bill were Representatives Justus, Kiser, Pope and Michaux. Also, Mr. Gary Bartlett, State Board of Elections was recognized to come forward to explain and entertain any questions on the Bill. Representative Pope made a motion to accept the Bill as written; properly seconded by Representative Michaux

Representative Nesbitt was recognized to introduce and explain Senate Bill 881 now know as a House Bill Substitute. Senator Gully was present and spoke on his Bill. Questions were asked by Representatives Michaux, Goodwin and Kiser. Representative Pope sent forth an amendment that passed. Representative C. Wilson sent forth an amendment; Staff was called on to explain the Amendment, the amendment was passed.

The final vote gave an unfavorable report as to original Bill, favorable as to House Committee Substitute with Amendments rolled in.

The meeting was ajourned.

Respectively Submitted:

Representative Donald A. Bonner
Chairman

Lucy B. Johnson
Committee Assistant

Attachments

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Alexander and Bonner** for the Committee on **Election Law and Campaign Finance Reform**.

☒ Committee Substitute for

S.B. 881 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE CAMPAIGN
REFORM ACT OF 1999

- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .
- ☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)
- ☒ With a favorable report as to House committee substitute bill (~~#~~), ~~☐ which changes the title,~~ unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

3

SENATE BILL 881
Judiciary I Committee Substitute Adopted 6/2/99
Third Edition Engrossed 6/16/99

Short Title: Campaign Reform Act of 1999.

(Public)

Sponsors:

Referred to:

April 13, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE CAMPAIGN REFORM ACT OF 1999.
3 The General Assembly of North Carolina enacts:
4 Section 1. This act shall be called "The Campaign Reform Act of 1999."
5 -- STAND BY YOUR AD.
6 Section 2.(a) Article 22A of Chapter 163 of the General Statutes is
7 amended by adding a new Part to read:
8 "Part 1A. Disclosure Requirements for Media Advertisements.
9 "§ 163-278.39. Basic disclosure requirements for all political campaign advertisements.
10 (a) Basic Requirements. -- It shall be unlawful for any sponsor to sponsor an
11 advertisement in the print media or on radio or television that constitutes an
12 expenditure or contribution required to be disclosed under this Article unless all the
13 following conditions are met:
14 (1) It bears the legend or includes the statement: 'Paid for by
15 [Name of candidate, candidate campaign committee,
16 political party organization, political action committee, referendum
17 committee, individual, or other sponsor].' In television
18 advertisements, this disclosure shall be made by visual legend.
19 (2) The name used in the labeling required in subdivision (1) of this
20 subsection is the name that appears on the statement of
21 organization as required in G.S. 163-278.7(b)(1).

(3) The sponsor states in the advertisement its position for or against the candidate, provided that this subdivision applies only if the advertisement supports or opposes the nomination or election of one or more clearly identified candidates.

(4) The sponsor states in the advertisement its position for or against a ballot measure, provided that this subdivision applies only if the advertisement is made for or against a ballot measure.

(5) In a print media advertisement supporting or opposing the nomination or election of one or more clearly identified candidates, the sponsor states whether it is authorized by a candidate. The visual legend in the advertisement shall state either 'Authorized by [name of candidate], candidate for [name of office]' or 'Not authorized by a candidate.' This subdivision does not apply if the sponsor of the advertisement is the candidate the advertisement supports or that candidate's campaign committee.

(6) In a print media advertisement that is not an independent expenditure and that identifies a candidate the sponsor is opposing, the sponsor discloses in the advertisement the name of the candidate who is intended to benefit from the advertisement.

If an advertisement described in this section is jointly sponsored, the disclosure statement shall name all the sponsors.

(b) Size Requirements. -- In a print media advertisement covered by subsection (a) of this section, the height of all disclosure statements required by that subsection shall constitute at least five percent (5%) of the height of the printed space of the advertisement, provided that the type shall in no event be less than 12 points in size. If a single advertisement consists of multiple pages, folds, or faces, the disclosure requirement of this section applies only to one page, fold, or face. In a television advertisement covered by subsection (a) of this section, the visual disclosure legend shall constitute 32 scan lines in size. In a radio advertisement covered by subsection (a) of this section, the disclosure statement shall last at least three seconds.

(c) Misrepresentation of Authorization. -- Notwithstanding G.S. 163-278.27(a), any candidate, candidate campaign committee, political party organization, political action committee, referendum committee, individual, or other sponsor making an advertisement in the print media or on radio or television bearing any legend required by subsection (a) of this section that misrepresents the sponsorship or authorization of the advertisement is guilty of a Class 1 misdemeanor.

"§ 163-278.39A. Disclosure requirements for television and radio advertisements supporting or opposing the nomination or election of one or more clearly identified candidates.

(a) Expanded Disclosure Requirements. -- In addition to the basic disclosure requirements in G.S. 163-278.39, any political campaign advertisement on radio or television shall comply with the expanded disclosure requirements set forth in this section.

(b) Disclosure Requirements for Television. --

- (1) Candidate advertisements on television. -- Television advertisements purchased by a candidate or by a candidate campaign committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the candidate and containing at least the following words: 'I am (or "This is...") [name of candidate], candidate for [name of office], and I (or "my campaign...") sponsored this ad.'
- (2) Political party advertisements on television. -- Television advertisements purchased by a political party organization supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chair, executive director, or treasurer of the political party organization and containing at least the following words: 'The [name of political party organization] sponsored this ad opposing/supporting [name of candidate] for [name of office].' The disclosed name of the political party organization shall include the name of the political party as it appears on the ballot.
- (3) Political action committee advertisements on television. -- Television advertisements purchased by a political action committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive officer or treasurer of the political action committee and containing at least the following words: 'The [name of political action committee] political action committee sponsored this ad opposing/supporting [name of candidate] for [name of office].' The name of the political action committee used in the advertisement shall be the name that appears on the statement of organization as required in G.S. 163-278.7(b)(1).
- (4) Advertisements on television by an individual. -- Television advertisements purchased by an individual supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the individual and containing at least the following words: 'I am [individual's name], and I sponsored this advertisement opposing/supporting [name of candidate] for [name of office].'
- (5) Advertisements on television by another sponsor. -- Television advertisements purchased by a sponsor other than a candidate, a candidate campaign committee, a political party organization, a political action committee, or an individual which supports or opposes the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and

1 containing at least the following words: '[Name of sponsor]
2 sponsored this ad.'

- 3 (6) All advertisements on television. -- In any television advertisement
4 described in subdivisions (1) through (4) of this subsection, an
5 unobscured, full-screen picture containing the disclosing individual,
6 either in photographic form or through the actual appearance of
7 the disclosing individual on camera, shall be featured throughout
8 the duration of the disclosure statement.

9 (c) Disclosure Requirements for Radio. --

- 10 (1) Candidate advertisements on radio. -- Radio advertisements
11 purchased by a candidate or by a candidate campaign committee
12 supporting or opposing the nomination or election of one or more
13 clearly identified candidates shall include a disclosure statement
14 spoken by the candidate and containing at least the following
15 words: 'I am (or "This is...") [name of candidate], candidate for
16 [name of office], and this ad was paid for (or "sponsored" or
17 "furnished") by [name of candidate campaign committee that paid
18 for the advertisement].'

- 19 (2) Political party advertisements on radio. -- Radio advertisements
20 purchased by a political party organization supporting or opposing
21 the nomination or election of one or more clearly identified
22 candidates shall include a disclosure statement spoken by the chair,
23 executive director, or treasurer of the political party organization
24 and containing at least the following words: 'This ad
25 opposing/supporting [name of candidate] for [name of office] was
26 paid for (or "sponsored" or "furnished") by [name of political
27 party].' The disclosed name of the political party organization shall
28 include the name of the political party as it appears on the ballot.

- 29 (3) Political action committee advertisements on radio. -- Radio
30 advertisements purchased by a political action committee
31 supporting or opposing the nomination or election of one or more
32 clearly identified candidates shall include a disclosure statement
33 spoken by the chief executive officer or treasurer of the political
34 action committee and containing at least the following words: 'This
35 ad opposing/supporting [name of candidate] for [name of office]
36 was paid for (or "sponsored" or "furnished") by [name of political
37 action committee] political action committee.' The name of the
38 political action committee used in the advertisement shall be the
39 name that appears on the statement of organization as required by
40 G.S. 163-278.7(b)(1).

- 41 (4) Advertisements on radio by an individual. -- Radio advertisements
42 purchased by an individual supporting or opposing the nomination
43 or election of one or more clearly identified candidates shall
44 include a disclosure statement spoken by the individual and

1 containing at least the following words: 'I am [individual's name],
2 and this ad opposing/supporting [name of candidate] for [name of
3 office] was paid for (or "sponsored" or "furnished") by me.'

4 (5) Advertisements on radio by another sponsor. -- Radio
5 advertisements purchased by a sponsor other than a candidate, a
6 candidate campaign committee, a political party organization, a
7 political action committee, or an individual which supports or
8 opposes the nomination or election of one or more clearly
9 identified candidates shall include a disclosure statement spoken by
10 the chief executive or principal decision maker of the sponsor and
11 containing at least the following words: '[Name of sponsor] paid
12 for (or "sponsored" or "furnished") this ad.'

13 (d) Placement of Disclosure Statement in Television and Radio Advertisements. --
14 In advertisements on television, a sponsor may place the disclosure statement
15 required by this section at any point during the advertisement, except if the duration
16 of the advertisement is more than five minutes, the disclosure statement shall be
17 made both at the beginning and end of the advertisement. The sponsor may provide
18 the oral disclosure statement required by this section at the same time as the visual
19 disclosure required under the Communications Act of 1934, 47 U.S.C. §§ 315 and
20 317, is shown. But any visual disclosure legend shall be at least 32 scan lines in size.
21 For advertisements on radio, the placement of the oral disclosure statement shall
22 comply with the requirements of the Communications Act of 1934, 47 U.S.C. §§ 315
23 and 317.

24 (e) Choice of Supporting or Opposing a Candidate. -- In its oral disclosure
25 statement, a sponsoring political party organization, political action committee,
26 individual, or other noncandidate sponsor shall choose either to identify an
27 advertisement as supporting or opposing the nomination or election of one or more
28 clearly identified candidates.

29 (e1) Joint Sponsors. -- If an advertisement described in this section is jointly
30 sponsored, the disclosure statement shall name all the sponsors and the disclosing
31 individual shall be one of those sponsors. If a candidate is one of the sponsors, that
32 candidate shall be the disclosing individual, and if more than one candidate is the
33 sponsor, at least one of the candidates shall be the disclosing individual.

34 (f) Legal Remedy. -- Pursuant to the conditions established in subdivisions (1), (2),
35 and (3) of this subsection, a candidate for an elective office who complied with the
36 television and radio disclosure requirements throughout that candidate's entire
37 campaign shall have a monetary remedy in a civil action against (i) an opposing
38 candidate or candidate committee whose television or radio advertisement violates
39 these disclosure requirements and (ii) against any political party organization,
40 political action committee, individual, or other sponsor whose advertisement for that
41 elective office violates these disclosure requirements:

42 (1) Any plaintiff candidate in a statewide race in an action under this
43 section shall complete and file a Notice of Complaint Regarding
44 Failure to Disclose on Television or Radio Campaign Advertising

1 with the State Board of Elections after the airing of the
2 advertisement but no later than the first Friday after the Tuesday
3 on which the election occurred. Candidates in nonstatewide races
4 may file the notice during the same time period with one county
5 board of elections within the electoral area in which they are
6 candidates. The timely filing of this notice preserves the
7 candidate's right to bring an action in superior court any time
8 within 90 days after the election. A candidate shall bring the civil
9 action in the county where the candidate filed the notice.

10 (2) Upon receiving a favorable verdict in accordance with existing law,
11 the plaintiff candidate shall receive a monetary award of actual
12 damages. The price of actual damages shall be calculated as the
13 total dollar amount of television and radio advertising time that
14 was aired and that the plaintiff candidate correctly identifies as
15 being in violation of the disclosure requirements of this section.

16 The plaintiff candidate shall also receive an award that trebles
17 the amount of actual damages if:

18 a. The plaintiff candidate can establish having notified or
19 attempted to notify the sponsor of the advertisement
20 properly by return-receipt mail about the failure of a
21 particular advertisement or advertisements to comply with
22 the disclosure requirements of this section, and

23 b. After the notice or attempted notice, the advertisement
24 continued to be aired.

25 The treble damages shall be calculated from the date on which the
26 return-receipt notice was accepted or rejected by a defendant
27 sponsoring candidate or candidate committee, political party
28 organization, political action committee, or individual. The
29 plaintiff candidate or candidate committee shall send a copy of any
30 return-receipt mailing to the relevant board of elections as
31 provided in subdivision (1) of this subsection within five days after
32 the notice is returned to the possession of the candidate or
33 candidate committee.

34 The court shall award reasonable attorneys' fees to a plaintiff
35 candidate who prevails in an action under this section. The
36 plaintiff candidate may bring the civil action personally or
37 authorize his or her candidate campaign committee to bring the
38 civil action.

39 (3) A candidate who violates the disclosure requirements of State law
40 in this section and that candidate's campaign committee shall be
41 jointly and severally liable for the payment of damages and
42 attorneys' fees. If the candidate is held personally liable for any
43 payment of damages or attorneys' fees, the candidate shall not use

1 or be reimbursed by funds from the candidate's campaign
2 committee in paying any amount.

3 (g) Relation to the Communications Act of 1934. -- Television advertisements by a
4 sponsor supporting or opposing the nomination or election of one or more clearly
5 identified candidates shall comply with the oral disclosure requirements under State
6 law in this section. Those advertisements shall also comply with disclosure
7 requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 by
8 use of visual legends. The content of those visual legends is specified by the
9 Communications Act of 1934, 47 U.S.C. §§ 315 and 317, and G.S. 163-278.39(a)(1).
10 The size of those visual legends is determined by G.S. 163-278.39(b), which satisfies
11 requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317. In
12 the case of radio advertisements, the oral disclosure requirements under State law in
13 this section incorporate the content requirements under the Communications Act of
14 1934, 47 U.S.C. §§ 315 and 317.

15 (h) No Additional Liability of Television or Radio Outlets. -- Television or radio
16 outlets shall not be liable under this section for carriage of political advertisements
17 that fail to include the disclosure requirements provided for in this section.

18 (i) No Criminal Liability. -- Nothing in this section regarding the disclosure
19 requirements in subsections (b) and (c) of this section shall be relied upon or
20 otherwise interpreted to create criminal liability for any person.

21 "§ 163-278.39B. Definitions.

22 As used in this Part:

23 (1) 'Advertisement' means any message appearing in the print media,
24 on television, or on radio that constitutes a contribution or
25 expenditure under this Article.

26 (2) 'Candidate' means any individual who, with respect to a public
27 office listed in G.S. 163-278.6(18), has filed a notice of candidacy
28 or a petition requesting to be a candidate, or has been certified as
29 a nominee of a political party for a vacancy, or has otherwise
30 qualified as a candidate in a manner authorized by law, or has
31 filed a statement of organization under G.S. 163-278.7 and is
32 required to file periodic financial disclosure statements under G.S.
33 163-278.9.

34 (3) 'Candidate campaign committee' means any political committee
35 organized by or under the direction of a candidate.

36 (4) 'Full-screen' means the only picture appearing on the television
37 screen during the oral disclosure statement contains the disclosing
38 person, that the picture occupies all visible space on the television
39 screen, and that the image of the disclosing person occupies at least
40 fifty percent (50%) of the vertical height of the television screen.

41 (5) 'Print media' means billboards, cards, newspapers, newspaper
42 inserts, magazines, mass mailings, pamphlets, fliers, periodicals, and
43 outdoor advertising facilities. A 'mass mailing' is a mailing with
44 more than 500 pieces.

- (6) 'Political action committee' has the same meaning as 'political committee' in G.S. 163-278.6(14), except that 'political action committee' does not include any political party or political party organization.
- (7) 'Political party organization' means any political party executive committee or any political committee that operates under the direction of a political party executive committee or political party chair.
- (8) 'Radio' means any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and 317.
- (9) 'Scan line' means a standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.
- (10) 'Sponsor' means a candidate, candidate committee, political party organization, political action committee, referendum committee, individual, or other entity that purchases an advertisement.
- (11) 'Television' means any television broadcast station, cable television system, wireless-cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 U.S.C. §§ 315 and 317.
- (12) 'Unobscured' means the only printed material that may appear on the television screen is a visual disclosure statement required by law, and nothing is blocking the view of the disclosing person's face.

"§ 163-278.39C. Scope of disclosure requirements.

The disclosure requirements of this Part apply to any sponsor of an advertisement in the print media or on radio or television the cost or value of which constitutes an expenditure or contribution required to be disclosed under this Article, except that the disclosure requirements of this Part:

- (1) Do not apply to an individual who makes uncoordinated independent expenditures aggregating less than one thousand dollars (\$1,000) in a political campaign; and
- (2) Do not apply to an individual who incurs expenses with respect to a referendum.

The disclosure requirements of this Part do not apply to any advertisement the expenditure for which is required to be disclosed by G.S. 163-278.12A alone and by no other law."

Section 2.(b) G.S. 163-278.16 reads as rewritten:

"§ 163-278.16. Regulations regarding ~~contributions, expenditures and media advertising.~~ timing of contributions and expenditures.

(a) Except as provided in G.S. 163-278.12, no contribution may be received or expenditure made by or on behalf of a candidate, political committee, or referendum committee:

- 1 (1) Until the candidate, political committee, or referendum committee
2 appoints a treasurer and certifies the name and address of the
3 treasurer to the Board; and
4 (2) Unless the contribution is received or the expenditure made by or
5 through the treasurer of the candidate, political committee, or
6 referendum committee.

7 (b) to (e) Repealed by Session Laws 1975, c. 565, s. 2.

8 ~~(f) No media advertisement of any kind may be made by a treasurer, candidate,~~
9 ~~political committee, referendum committee or individual unless~~

- 10 (1) ~~It bears the legend or includes the statement: "Paid for by (or~~
11 ~~Sponsored by)..... (Name of candidate, political~~
12 ~~committee, referendum committee, individual)";~~
13 (2) ~~The name used in the labeling required in subdivision (1) of this~~
14 ~~subsection is the name that appears on the statement of~~
15 ~~organization as required in G.S. 163-278.7(b)(1), provided that this~~
16 ~~subdivision applies only if the sponsor is a political committee or~~
17 ~~referendum committee;~~
18 (3) ~~The sponsor states in the media advertisement its position:~~
19 ~~a. For or against the candidate; or~~
20 ~~b. For or against an opposing candidate~~
21 ~~provided that this subdivision applies only if the media~~
22 ~~advertisement is made for or against a candidate; and~~
23 (4) ~~The sponsor states in the media advertisement its position for or~~
24 ~~against the ballot measure; provided this subdivision applies only if~~
25 ~~the media advertisement is made for or against a ballot measure.~~

26 ~~The requirements of subdivisions (3) and (4) of this subsection do not apply to any~~
27 ~~print advertisement less than two inches by two inches in size, or to any radio or~~
28 ~~television advertisement of less than 20 seconds in length.~~

29 ~~The media shall not publish or broadcast any political advertisement unless it bears~~
30 ~~the legend or includes the statement required herein. For purposes of this subsection,~~
31 ~~"media" means broadcasting stations, carrier current stations, newspapers, magazines,~~
32 ~~periodicals, outdoor advertising facilities, billboards, and newspaper inserts.~~

33 ~~(g) All printed matter for a political purpose from a political party or political~~
34 ~~committee which identifies a candidate that party or committee is opposing shall~~
35 ~~indicate in type no smaller than 12 point the name of the political party or political~~
36 ~~committee and the name of the candidate that is intended to benefit from the printed~~
37 ~~matter."~~

38 Section 2.(c) G.S. 163-278.27(a) reads as rewritten:

39 "(a) Any individual, candidate, political committee, referendum committee,
40 treasurer, person or media who violates the applicable provisions of G.S. 163-278.7,
41 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.14, 163-278.16,
42 163-278.17, 163-278.18, 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C,
43 163-278.40D or 163-278.40E is guilty of a Class 2 misdemeanor."

1 Section 2.(d) This section becomes effective January 1, 2000, and applies
2 to all contributions and expenditures made or accepted on or after that date.
3 -- PRIMA FACIE EVIDENCE THAT COMMUNICATIONS ARE "TO SUPPORT
4 OR OPPOSE ONE OR MORE CLEARLY IDENTIFIABLE CANDIDATES."

5 Section 3.(a) Article 22A of Chapter 163 of the General Statutes is
6 amended by adding a new section to read:

7 "§ 163-278.14A. Prima facie evidence that communications are 'to support or oppose
8 the nomination or election of one or more clearly identified candidates.'

9 (a) Any of the following three patterns of evidence shall constitute a prima facie
10 case that an individual or other entity acted 'to support or oppose the nomination or
11 election of one or more clearly identified candidates':

12 (1) Evidence of financial sponsorship of communications to the
13 general public that use phrases such as 'vote for', 'reelect',
14 'support', 'cast your ballot for', '(name of candidate) for (name of
15 office)', '(name of candidate) in (year)', 'vote against', 'defeat',
16 'reject', 'vote pro-(policy position)' or 'vote anti-(policy position)'
17 accompanied by a list of candidates clearly labeled 'pro-(policy
18 position)' or 'anti-(policy position)', or communications of
19 campaign words or slogans, such as posters, bumper stickers,
20 advertisements, etc., which say '(name of candidate)'s the One',
21 '(name of candidate) '98', '(name of candidate)!', or the names of
22 two candidates joined by a hyphen or slash.

23 (2) Evidence of financial sponsorship of communications whose
24 essential nature expresses electoral advocacy to the general public
25 and goes beyond a mere discussion of public issues in that they: ✓

- 26 a. Contain words of belief, opinion, or characterization
27 directed at a clearly identified candidate in an election;
28 b. Are targeted to the electorate for that election;
29 c. Occur through a paid advertisement distributed by any
30 broadcasting station, newspaper, magazine, or outdoor
31 advertising facility, or occur through a direct mailing or
32 telephone campaign;
33 d. Involve payment of more than three thousand dollars
34 (\$3,000) to communicate, provided that all communications
35 making up the total cost refer to the same candidate and
36 target the candidate's electorate; and
37 e. Are made within 60 days before an election in which the
38 candidate is running.

39 (3) Evidence that an entity or agent for that entity made a statement
40 admissible in a court of law that one of the entity's purposes is to
41 support or oppose a clearly identified candidate in an election and
42 the entity financially sponsors communications to the general
43 public that; support a specific candidate

- 1 a. Contain references to that candidate in which the candidate
2 is clearly identified;
3 b. Are targeted to the electorate for that election;
4 c. Occur through a paid advertisement distributed by any
5 broadcasting station, newspaper, magazine, or outdoor
6 advertising facility, or occur through a direct mailing or
7 telephone campaign; and
8 d. Involve payment of more than three thousand dollars
9 (\$3,000) to communicate, provided that all communications
10 making up the total cost refer to the same candidate and
11 target the candidate's electorate.

12 In rebutting the prima facie case, the defendant may offer evidence that the actions
13 were not intended to support or oppose the nomination or election of one or more
14 clearly identified candidates.

15 (b) Notwithstanding the provisions of subsection (a) of this section, a
16 communication shall not be subject to regulation if it:

- 17 (1) Appears in a news story, commentary, or editorial distributed
18 through the facilities of any broadcasting station, newspaper, or
19 magazine, unless those facilities are owned or controlled by any
20 political party, or political committee;
21 (2) Is distributed by a corporation solely to its stockholders and
22 employees; or
23 (3) Is distributed by any organization, association, or labor union
24 solely to its members or to subscribers or recipients of its regular
25 publications."

26 Section 3.(b) G.S. 163-278.34A reads as rewritten:

27 "**§ 163-278.34A. Presumptions.** *Hand & Sales*

28 In any proceeding brought pursuant to this Article in which a presumption arises
29 from the proof of certain facts, the ~~defendant has the burden of offering some~~
30 ~~evidence to rebut the presumption.~~ The presumption shall be rebuttable, but the
31 State bears the ultimate burden of proving the essential elements of its case."

32 Section 3.(c) This section is effective when it becomes law.

33 -- SETTING STATUTE OF LIMITATIONS AT FIVE YEARS FOR CAMPAIGN
34 FINANCE MISDEMEANORS.

35 Section 4.(a) Article 22A of Chapter 163 of the General Statutes is
36 amended by adding a new section to read:

37 "**§ 163-278.27A. Five-year statute of limitations.**

38 Prosecution for a misdemeanor brought under this Article shall be barred after five
39 years have expired from the date the violation occurred."

40 Section 4.(b) This section becomes effective December 1, 1999, and
41 applies to offenses occurring on and after that date.

42 -- CORRECTING LOOPHOLE CONCERNING 'GIVING IN THE NAME OF
43 ANOTHER.'

44 Section 4.1.(a) G.S. 163-278.14(a) reads as rewritten:

"(a) No individual, political committee, or other entity shall make any contribution anonymously, except as provided in G.S. 163-278.8(d), or in the name of another. No candidate, political committee, referendum committee, political party, or treasurer shall knowingly accept any contribution made by any individual or person in the name of another individual or person or made anonymously except as provided in G.S. 163-278.8(d). If a candidate, political committee, referendum committee, political party, or treasurer receives ~~any such contributions~~, anonymous contributions or contributions determined to have been made in the name of another, he shall pay the money over to the Board, by check, and all such moneys received by the Board shall be deposited in the general fund of the State of North Carolina."

Section 4.1.(b) This section becomes effective December 1, 1999, and applies to offenses committed on and after that date.

-- CHANGING THE STATE BOARD OF ELECTIONS'S STATUS UNDER THE ADMINISTRATIVE PROCEDURE ACT.

Section 5.(a) G.S. 150B-1(c) reads as rewritten:

"(c) Full Exemptions. -- This Chapter applies to every agency except:

- (1) The North Carolina National Guard in exercising its court-martial jurisdiction.
- (2) The Department of Health and Human Services in exercising its authority over the Camp Butner reservation granted in Article 6 of Chapter 122C of the General Statutes.
- (3) The Utilities Commission.
- (4) The Industrial Commission.
- (5) The Employment Security Commission.
- (6) The State Board of Elections and the Executive Secretary-Director of the State Board of Elections, provided that, when promulgating rules they shall follow the procedures in subsections (a) through (g) and subsection (i) of G.S. 150B-21.2."

Section 5.(b) G.S. 163-278.23 reads as rewritten:

"§ 163-278.23. Duties of Executive Secretary-Director of Board.

The Executive Secretary-Director of the Board shall inspect or cause to be inspected each statement filed with the Board under this Article within 30 days after the date it is filed. The Executive Secretary-Director shall advise, or cause to be advised, no more than 30 days and at least five days before each report is due, each candidate or treasurer whose organizational report has been filed, of the specific date each report is due. He shall immediately notify any individual, candidate, treasurer, political committee, referendum committee, or media required to file a statement under this Article if:

- (1) It appears that the individual, candidate, treasurer, political committee, referendum committee or media has failed to file a statement as required by law or that a statement filed does not conform to this Article; or
- (2) A written complaint is filed under oath with the Board by any registered voter of this State alleging that a statement filed with the

1 Board does not conform to this Article or to the truth or that an
2 individual, candidate, treasurer, political committee, referendum
3 committee or media has failed to file a statement required by this
4 Article.

5 The Executive Secretary-Director of the Board of Elections shall issue written
6 ~~rulings~~ opinions to candidates and may issue written ~~rulings~~ opinions to the
7 communications media, political committees, and referendum committees upon
8 request, regarding filing procedures and compliance with this Article. Any such
9 ~~ruling~~ opinion so issued shall specifically refer to this paragraph. If the candidate,
10 communications media, political committees, or referendum committees rely on and
11 comply with the ~~ruling~~ opinion of the Executive Secretary-Director of the Board of
12 Elections, then prosecution or civil action on account of the procedure followed
13 pursuant thereto and prosecution for failure to comply with the statute inconsistent
14 with the written ruling of the Executive Secretary-Director of the Board of Elections
15 issued to the candidate or committee involved shall be barred. Nothing in this
16 paragraph shall be construed to prohibit or delay the regular and timely filing of
17 reports. The Executive Secretary-Director shall file all opinions issued pursuant to
18 this section with the Codifier of Rules to be published unedited in the North Carolina
19 Register and the North Carolina Administrative Code."

20 Section 5.(c) G.S. 163-278.34(a1) reads as rewritten:

21 "(a1) The State Board shall calculate and assess the amount of the civil penalty
22 due under subsection (a) of this section and shall notify the person who is assessed
23 the civil penalty of the amount. The notice of assessment shall be served by any
24 means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay
25 the assessment or to contest the assessment within 30 days by filing a ~~petition for a~~
26 ~~contested case under Article 3 of Chapter 150B of the General Statutes.~~ protest or
27 request for waiver of the penalty with the State Board of Elections. If a violator does
28 not pay a civil penalty assessed by the Board within 30 days after it is due, the Board
29 shall request the Attorney General to institute a civil action to recover the amount of
30 the assessment. The civil action may be brought in the superior court of any county
31 where the report was due to be filed or any county where the violator resides or
32 maintains an office. A civil action must be filed within three years of the date the
33 assessment was due. An assessment that is not contested is due when the violator is
34 served with a notice of assessment. An assessment that is contested is due at the
35 conclusion of the administrative and judicial review of the assessment. Consistent
36 with G.S. 115C-437, the State Controller shall pay the clear proceeds of civil
37 penalties collected under this section to the County School Fund in the county in
38 which the person charged with the violation resides. The State Controller shall
39 reduce the monies collected by the enforcement costs and the collection costs to
40 determine the clear proceeds payable to the County School Fund. Monies set aside
41 for the costs of enforcement and the costs of collection shall be credited to accounts
42 of the State Board of Elections."

43 Section 5.(d) This section is effective when this act becomes law. The
44 exemptions set forth in subsection (a) of this section apply to any rules promulgated

1 by the State Board of Elections at any time and to any contested case commenced on
2 or after the date this act becomes law.

3 -- PROHIBIT FUND-RAISING FROM LOBBYISTS AND RELATED POLITICAL
4 COMMITTEES.

5 Section 6.(a) G.S. 163-278.13B(c) reads as rewritten:

6 "(c) Prohibited Contributions. -- While the General Assembly is in regular session:

- 7 (1) No limited contributor shall make or offer to make a contribution
8 to a limited contributee.
9 (2) No limited contributor shall make a contribution to any candidate,
10 officeholder, or political committee, directing or requesting that the
11 contribution be made in turn to a limited contributee.
12 (3) No limited contributor shall transfer any amount of money or
13 anything of value to any entity, directing or requesting that the
14 entity use what was transferred to contribute to a limited
15 contributee.
16 (4) No limited contributee shall accept a contribution from a limited
17 contributor.
18 (5) No limited contributor shall solicit a contribution from any
19 individual or political committee on behalf of a limited
20 contributee."

21 Section 6.(b) This section becomes effective October 1, 1999, and applies
22 to all contributions made, accepted, or solicited on or after that date.

23 -- REQUIRING MONTHLY REPORTS TO BOARDS OF ELECTIONS OF
24 DEATHS AND FELONY CONVICTIONS.

25 Section 7.(a) G.S. 163-82.14(b) reads as rewritten:

26 "(b) Death. -- The Department of Health and Human Services, on or before the
27 fifteenth day of ~~March, June, September, and December~~, every month, shall furnish
28 free of charge to each county board of elections a certified list of the names of
29 deceased persons who were residents of that county. The Department of Health and
30 Human Services shall base each list upon information supplied by death certifications
31 it received during the preceding ~~quarter~~, month. Upon the receipt of the certified list,
32 the county board of elections shall remove from its voter registration records any
33 person the list shows to be dead. The county board need not send any notice to the
34 address of the person so removed.

35 Section 7.(b) G.S. 163-82.14(c)(1) reads as rewritten:

36 "(1) Report of Conviction Within the State. -- The clerk of superior
37 court, on or before the fifteenth day of ~~March, June, September,~~
38 ~~and December~~ of every ~~year~~, month, shall report to the county
39 board of elections of that county the name, county of residence,
40 and residence address if available, of each individual against whom
41 a final judgment of conviction of a felony has been entered in that
42 county in the preceding calendar ~~quarter~~, month. Any county
43 board of elections receiving such a report about an individual who
44 is a resident of another county in this State shall forward a copy of

1 that report to the board of elections of that county as soon as
2 possible."

3 Section 7.(c) This section becomes effective January 1, 2000.

4 -- EXPANDING THE "RACE" CATEGORY ON THE VOTER REGISTRATION
5 FORM.

6 Section 8.(a) G.S. 163-82.4 reads as rewritten:

7 "(a) Information Requested of Applicant. -- The form required by G.S. 163-
8 82.3(a) shall request the applicant's:

9 (1) Name,

10 (2) Date of birth,

11 (3) Residence address,

12 (4) County of residence,

13 (5) Date of application,

14 (6) Gender,

15 (7) Race,

16 (7a) Ethnicity.

17 (8) Political party affiliation, if any, in accordance with subsection (c)
18 of this section,

19 (9) Telephone number (to assist the county board of elections in
20 contacting the voter if needed in processing the application),

21 and any other information the State Board finds is necessary to enable officials of the
22 county where the person resides to satisfactorily process the application. The form
23 shall require the applicant to state whether currently registered to vote anywhere, and
24 at what address, so that any prior registration can be cancelled. The portions of the
25 form concerning race and ethnicity shall include as a choice any category shown by
26 the most recent decennial federal census to compose at least one percent (1%) of the
27 total population of North Carolina. The county board shall make a diligent effort to
28 complete for the registration records any information requested on the form that the
29 applicant does not complete, but no application shall be denied because an applicant
30 does not state race, ethnicity, gender, or telephone number. The application shall
31 conspicuously state that provision of the applicant's telephone number is optional. If
32 the county board maintains voter records on computer, the free list provided under
33 this subsection shall include telephone numbers if the county board enters the
34 telephone number into its computer records of voters."

35 Section 8.(b) This section becomes effective January 1, 2002.

36 Section 9. This act becomes effective only if the sum of twenty-five
37 thousand dollars (\$25,000) for the 1999-2000 fiscal year is appropriated from the
38 General Fund to the State Board of Elections for the purpose of meeting its
39 additional responsibilities under Sections 2, 3, 5, and 6 of this act. This act does not
40 obligate the General Assembly to appropriate funds.

41 Section 10. Prosecutions for, or sentences based on, offenses occurring
42 before the relevant effective date in this act are not abated or affected by this act, and
43 the statutes that would be applicable to those prosecutions or sentences but for the
44 provisions of this act remain applicable to those prosecutions or sentences.

1 Section 11. The provisions of this act are severable. If any section,
2 subsection, subdivision, sub-subdivision, phrase, or word of this act or of any statute
3 that it amends is held invalid by a court of competent jurisdiction, the invalidity does
4 not affect any other portion or portions of this act that can be given effect without the
5 invalid provision.

6 Section 12. This act is effective when it becomes law.

ELECTION LAW AND CAMPAIGN FINANCE REFORM 7-8, 1999

Date _____

NAME

Johnnie McLean	St. Bd. of Elections
Long D. Bartlett	SBoE
Yvonne Sutherland	SBoE
Bob Hall	Democracy South
Carol Love	Common Cause / NC
Ann Orr	RPM HL
Jacks Kline	ACU
Jim Wilson	NCAI-CT
Chris Porter	Zone & Associates
Susan Nichols	Dep't of Justice
Jeanne Bonds	AUC
John Phelps	NCLM
George Reed	NC Council of Churches
John West	NCFPC
Mike Carpenter	NCHBA
Lee-Ann Cole	F3
Ben Williams	NCHBA
Mark Mason	Capital Group
Walter English	NAC
Alan Miles	Barby & Dixon
Wally Huff	A & O
Ann Wilson	NCNW

ATTENDANCE

ELECTION LAW AND CAMPAIGN REFORM

(Name of Committee)

AM PM

DATES	3/10	3/17	3/24	3/31	4/7	4/14	4/21	4/21	4/23	5/5	5/16	5/23	6/30	7/7	7/8
ALEXANDER, MARTHA CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BONNER, DONALD CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BERRY, CHERIE	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
DECKER, MICHAEL					✓	✓	✓	✓	✓	✓	✓	✓	✓		
DEDMON, ANDREW	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
GOODWIN, WAYNE	✓	✓	✓	✓	✓	✓		✓		✓	✓		✓	✓	✓
HENSLEY, BOB			✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓
INSKO, VERLA		✓	✓	✓	✓	✓					✓	✓	✓	✓	✓
JUSTUS, LARRY	✓	✓		✓		✓	✓	✓		✓		✓	✓	✓	✓
KISER, JOE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
LUEBKE, PAUL		✓	✓	✓		✓	✓	✓			✓		✓	✓	✓
MELTON, MAX	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
MICHAUX, H.M.		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
NEELY, CHARLES / Bpc, Art	✓	✓	✓	✓	✓	(R)	✓	✓	✓	✓	✓	✓	✓	✓	✓
NESBITT, MARTIN		✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓
ROGERS, GENE	✓	✓	✓	✓	✓	✓	✓			✓			✓	✓	✓
THOMPSON, GREGORY	✓	✓			✓		✓	✓		✓	✓	✓	✓	✓	
WILSON, CONNIE	✓			✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Ex-officio															
Baddour, Phil				✓	✓	✓									
Cunningham, Pete			✓			✓	✓		✓	✓	✓				
Hackney, Joe							✓								

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1999-2000 Biennium		HOUSE: ELECTION LAW AND CAMPAIGN FINANCE REFORM		Valid Through 21-JUL-1999	
BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 98	SUTTON	FOUR YEAR TERMS	*H -RE-REF COM ON RULES	02-17-99	04-22-99
H 175	NESBITT	ABSENTEE VOTING CHANGES	H -REF TO COM ON ELECLAW	03-01-99	
H 248	ALEXANDER	PRECINCT BOUNDARIES/MUNIC. REDISTRIC	*R -CH. SL 99-0227	03-04-99	03-31-99
H 248	ALEXANDER	PRECINCT BOUNDARIES/MUNIC. REDISTRIC	*R -CH. SL 99-0227	06-09-99	
H 421	MORRIS	PARTY ALIGNMENT ROTATED	H -RE-REF COM ON ELECLAW	04-21-99	
H 642	INSKO	CHAPEL HILL CAMPAIGN DISCLOSURE	H -REF TO COM ON ELECLAW	03-29-99	
H 724=	INSKO	ONE-STOP VOTING SITES	H -REF TO COM ON ELECLAW	03-30-99	
H 921=	BADDOUR	CAMPAIGN FINANCE CHANGES	*R -CH. SL 99-0031	04-05-99	04-15-99
H 930	GOODWIN	QUALIFICATIONS/CONSISTENCY	S -REF TO COM ON RULES &	04-06-99	04-22-99
H1023	RAYFIELD	STATEWIDE ELECTIONS/FUNDING	H -REF TO COM ON ELECLAW	04-14-99	
H1072	ALEXANDER	ELECTION LAW CLEANUP	*H -PRES. TO GOV. 07-13	04-15-99	04-21-99
H1074	ALEXANDER	ELECTION LAW CHANGES - 1	*H -PRES. TO GOV. 07-14	04-21-99	04-23-99
H1074	ALEXANDER	ELECTION LAW CHANGES - 1	*H -PRES. TO GOV. 07-14	07-08-99	07-09-99
H1091	WOOD	PRESIDENTIAL PRIMARY CHANGED	HF-REPTD UNFAV	04-15-99	05-05-99
H1161	WOOD	GUBERNATORIAL TEAM TICKET - 2	H -REF TO COM ON ELECLAW	04-15-99	
H1179	ELLIS	INDEPENDENT REDISTRICTING COMMN. - 2	H -REF TO COM ON ELECLAW	04-15-99	
H1180	ELLIS	TERM LIMITS	H -REF TO COM ON ELECLAW	04-15-99	
H1181	ELLIS	REDISTRICTING CRITERIA	H -REF TO COM ON ELECLAW	04-15-99	
H1402	ALEXANDER	NC CLEAN ELECTION ACT	H -REF TO COM ON ELECLAW	04-29-99	
S 568=	KINNAIRD	ONE-STOP VOTING SITES	*HA-CONF REPORT ADOPTED	04-23-99	07-01-99
S 881	GULLEY W	CAMPAIGN REFORM ACT	*S -CONCURRED IN H/COM SUB	06-21-99	07-09-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.

* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.

BOLDDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

Going beyond 'clean elections' for N.C.

By LEE MORTIMER

DURHAM — Civic and political participation has been in a steady decline for years. A new level of disengagement was reached in 1996, when less than half of voting-age Americans showed up for a presidential election.

Many people believe their vote is rendered meaningless by the power of money in politics. Scandals at the state and national levels dramatize the corrosive effect that money is having on politics and policy making.

The "N.C. Clean Elections Act" now before the General Assembly would offer public financing to state candidates who pledge to limit what they raise and spend from private campaign sources. To qualify, candidates must demonstrate that they have support by collecting a required number of small contributions from voters.

Described as a "clean money alternative" to the current system of chasing after private campaign dollars, public financing would be a giant step forward in reassuring the public that political leaders are not beholden to wealthy special-interest contributors.

As essential as the Clean Elections Act is to restoring public trust, "leveling the playing field" for candidates and "putting voters in charge of elections" will require more than any

single reform can deliver. The problem goes beyond whether money "buys elections." (It usually doesn't.) The real problem is that "winner-take-all" elections are structurally noncompetitive.

Legislative results demonstrate how noncompetitive elections are in North

Carolina. Of 340 legislative elections in 1996 and 1998, 274 contests (81 percent) were won by 10 percentage points or more, usually much more — 20, 30, 40 points. In 129 elections, the winner didn't even have a major-party opponent.

The Center for Voting and Democracy in Washington, D.C., analyzed selected 1996 congressional elections and concluded that a well-funded campaign can add about 4 percentage points to a candidate's final vote, compared to a campaign that's underfunded.

But when elections are decided by 20, 30, 40 or more points, no amount of "clean-money" financing can make them competitive.

Candidates don't win because they have more money. They have more money because the contributors know in advance who the winners are going to be.

Most voters are predisposed to vote for the Democratic or Republican nominee. Party affiliation influences voters more than anything they hear in campaign speeches or TV commercials. Gerrymandering is often used to create artificial partisan majorities. But elections are just as predictable from the partisan composition of voters who happen to

live in voting jurisdiction.

Rather than invest in noncompetitive general elections, public financing should be reserved for elections where the opposition-party challenger has a realistic chance of winning. "Competitive" elections would be those decided by less than 10 percentage points, averaged over two election cycles. That would avoid unproductive taxpayer financing in four-fifths of legislative elections.

But the place to concentrate public financing is in party primaries.

In a primary, voters can't make partisan comparisons, because the candidates are in the same party. Since differences between the candidates may be more subtle, spending to build name recognition can do much more to help a primary challenger.

The parties could institute their own "level playing field" by reforming party rules. They could impose spending limits for primaries and require that private contributions to the party be equally available to all qualifying candidates — a kind of party "public financing." Either party could implement such changes unilaterally and be at no disadvantage in the general election.

The Clean Elections Act is essential to restore public faith in politics. But to energize and empower voters requires a range of reforms, including election-day voter registration, longer and more convenient voting times, easier ballot access, an independent redistricting commission and proportional representation as an alternative to noncompetitive winner-take-all elections.

POINT OF VIEW

Lee Mortimer is a founding member of the Center for Voting and Democracy and served on the General Assembly's Election Laws Reform Committee.

See other side

Non-competitive elections in North Carolina

1996

Senate (50 elections)	House (120 elections)	House & Senate (170 elections)	% 170 elections
36 won by +10%	95 won by +10%	131 won by +10%	77%
27 won by +16%	81 won by +16%	108 won by +16%	64%
20 won by +26%	64 won by +26%	84 won by +26%	49%
13 won by +40%	53 won by +40%	66 won by +40%	39%
10 unopposed	44 unopposed	54 unopposed	32%

1998

Senate (50 elections)	House (120 elections)	House & Senate (170 elections)	% 170 elections
39 won by +10%	104 won by +10%	143 won by +10%	84%
33 won by +16%	86 won by +16%	119 won by +16%	70%
27 won by +26%	70 won by +26%	97 won by +26%	57%
21 won by +40%	60 won by +40%	81 won by +40%	48%
18 unopposed	57 unopposed	75 unopposed	44%

1996 & 1998

Senate (100 elections)	House (240 elections)	House & Senate (340 elections)	% 340 elections
75 won by +10%	199 won by +10%	274 won by +10%	81%
60 won by +16%	167 won by +16%	227 won by +16%	67%
47 won by +26%	134 won by +26%	181 won by +26%	53%
34 won by +40%	113 won by +40%	147 won by +40%	43%
28 unopposed	101 unopposed	129 unopposed	38%

('Unopposed' elections are those without a major-party opponent)

SUBMITTED TO:

HOUSE OF REPRESENTATIVES
ELECTION LAW AND CAMPAIGN FINANCE
REFORM COMMITTEE

Hearings on the
CLEAN ELECTION ACT

June 23, 1999

*A Sample of Statements of Support
from Across North Carolina*

North Carolina  Voters for Clean Elections

ROBERT B. MORGAN

Attorney at Law

**Attorney General, State of North Carolina
1969-1975**

**United States Senator
1975-1981**

**Director, State Bureau of Investigation
1985-1992**

MEMORANDUM

To: The Honorable Martha Alexander, Co-Chair, Election Law & Campaign Finance Reform Comm.
The Honorable Donald Bonner, Co-Chair, Election Law & Campaign Finance Reform Comm.

Date: June 16, 1999

Re: House Bill 1402, the N.C. Clean Election Act

I had wanted to speak directly to members of the General Assembly about HB 1402 and its counterpart in the Senate, SB 882, but scheduling problems prevent me from appearing in person. The Clean Election Act has merit, and I hope that after due consideration, members of the Committee will approve it overwhelmingly.

I do feel very strongly that the influence of money and the emphasis on contributions in political campaigns have caused the great majority of citizens to believe there no longer is any effective role for them to play in the electoral process. As a result, we have seen interest and involvement in political activities plummet and cynicism about the political system increase alarmingly.

Within a recent eight-day period, I received invitations to political fundraisers totaling \$5,000. Last night, there were events for two good candidates whom I would have been pleased to support. However, the price of attendance was such that I simply felt that I could not afford it. If we intend to remain a democracy, we have to find a way for the great mass of the people to be involved. We do not accomplish that goal when most campaign events are expensive fundraisers that exclude all but a very few; that ensure access to those who can give; and that cause all others to doubt that their voices will ever be heard.

I recently wrote a guest column on the subject of campaign finance that was printed in many North Carolina newspapers. It expresses in much more detail my feelings on this matter that I consider of great importance to the future health of our state, nation and political system. I have asked that you be provided with a copy.

In my opinion, we have put off for far too long the hard decisions on the matter of campaign financing. The bill before you today offers a chance to begin correcting the ills that most of us admit exist. I comment it to you.

MORGAN, REEVES AND GILCHRIST PO Box 1057 101 East Front Street Lillington, NC 27546
Telephone (910) 893-5131 Fax (910) 893-4608

Money chase threatens democracy

Public financing of campaigns offers the best way to ensure fair elections

By Robert B. Morgan

GUEST COLUMNIST

It's time to sound the alarm. Unless we take action now, I fear we risk losing our democracy. High-cost elections and wealthy special interests are literally pricing out the ordinary citizen. If Jane or John Doe can't afford to be a candidate, or even a constituent, we can no longer claim to have government of, for and by the people.

I have run in 18 primary and general elections, from clerk of Superior Court to U.S. senator, and I confess that I wouldn't have the nerve to run for public office today because of the tremendous amount of money required to win.

Some candidates for the General Assembly now raise three times what I spent for a statewide race for attorney general. I can understand why talented people, with a desire to serve the public, do not feel like running for office. They are simply driven away by the prospect that to succeed they must spend a great deal of time chasing after large donations.

There is a second way the average person is squeezed out by this money chase. I do not believe a candidate who receives a sizable campaign contribution is selling his or her vote. But I've been there. I've held office in Raleigh and in Washington, and I know that it is hard not to listen to the contributor's representatives whenever they come calling. I also know that most citizens do not have that kind of access to a legislator.

People see that the cash constituent counts more than the voting constituent, and it doesn't just make them mad. It makes them feel powerless and, in too many cases, it pushes them away from politics altogether. It turns hopeful voters into cynical nonvoters. As the amount of money spent on elections has sky-rocketed, voter participation has actually declined.

What can be done to weaken the grip of big money over politics and put voters back in the center of our democracy? The U.S. Supreme



ROBERT MORGAN: He says elections should belong to the voters.

amount of campaign money from a publicly funded clean-election fund.

Yes, this is public financing of campaigns. I don't like the idea of tax money paying for elections, but I find no other solution. We pay for the balloting process with our taxes, and if we want a fair election system, we must also pay for a program that gives candidates who voluntarily reject special-interest donations a fair chance to succeed.

In the past month, more than 50 members of the General Assembly have sponsored a bill to set up such a program under the N.C. Clean Election Act. This diverse group of legislators includes conservatives, moderates and liberals who all recognize that the money chase is threatening the integrity of fair elections in North Carolina.

They include Reps. Martha Alexander, Alma Adams, Walter Church, Beverly Earle, Wayne Goodwin, Dewey Hill, Mary Jarrell, Maggie Jeffus, Martin Nesbitt, Pete Oldham, Ronnie Smith, Larry Womble and Doug Yongue as well as Sens. Wib Gulley, Kay Hagan, Ellie Kinnaird, Howard

Court says we can't just shut off the supply of special-interest cash or put a mandatory lid on how much candidates can raise and spend.

But we can create an alternative supply of "clean money" to reward the candidates who spend their time soliciting support from ordinary citizens instead of from wealthy contributors. If enough voters agree, the candidate can get a competitive

Lee, Bill Martin, Beverly Perdue, Jim Phillips, William Purcell and Ed Warren.

These lawmakers deserve our thanks. They aren't just saying there is a problem; they are taking the initiative to support innovative solutions. The N.C. Clean Election Act gives voters veto power over who can receive their tax money. It makes the candidate work hard to get hundreds of registered voters to donate \$15 to \$75 apiece, as evidence that they approve releasing public money. The candidate must also sign a legally binding pledge to take no special-interest money and accept strict spending limits.

This program offers hope for our democracy — a way for voters to have real ownership of elections and for candidates to free themselves from the grip of wealthy, special-interest donors. Other states have begun similar programs. I wish we could put one in place in North Carolina right away and reduce the threat of big-money politics. But I know it will be a hard fight.

Of course, nobody said defending democracy would be easy. In fact, its vitality depends on our alert action. Let's get more involved, not squeezed out.

■ *Morgan, an attorney in Lillington, has served North Carolina as a state legislator, attorney general, U.S. senator and director of the State Bureau of Investigation.*

This column has appeared in numerous other newspapers across the state. The paragraph with names of legislative sponsors was changed to highlight local members of the General Assembly.

**Wednesday
June 9, 1999**

NAACP Backs Clean Election Act, Predatory Lending Bill

Raleigh -- Members of the N.A.A.C.P. came to the General Assembly today to promote bills they support.

The 50 members of the civil rights organization pressed lawmakers to regulate unfair lending practices aimed at poor people. They also want additional funding to help remedial children if so-called social promotions are eliminated from schools.

Also on their agenda is the passage of the Clean Election Act, a bill to provide public financing for election campaigns of candidates who receive

The Rev. George Allison, executive director of the state N.A.A.C.P. said, "Too often the best students are not able to advance to graduate school simply because they don't have the money. Wealth has increasingly become a barrier in the political arena as well. Too often the best candidates – those with real support in their districts – can't even run for office because they lack access to the funds needed to mount an effective campaign.

"We effectively have a 'wealth primary' today that excludes candidates of modest means from serving their communities. This must end," he said.

Date: Mon, 14 Jun 1999

To:

Rep. Donald Bonner, Rep. Martha Alexander, Co-chairs
House Election Law and Campaign Finance Committee
General Assembly
Raleigh 27601

Dear Sir and Madam,

I fervently believe that the only way to effect truly representative democracy is to enact campaign reform legislation that is comprehensive, able to withstand constitutional tests, and that can be held up as a model to the nation. Please do all in your power to enact campaign reform legislation.

Sincerely,

John Parton
118 W. Lynch St.
Durham, NC 27701
jparton@mindspring.com

Barbara Coulson
1001 Reemes Cove Rd.
Marshall, NC 28753
June 21, 1999

Representatives Martha Alexander, Donald Bonner, Phil Baddour and the Election Law and
Campaign Finance Reform Committee
North Carolina General Assembly
Raleigh, NC 27601

Dear Ms. Alexander, Mr. Baddour, and Mr. Bonner:

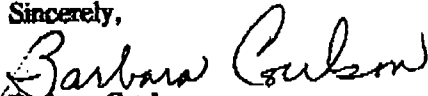
Having followed campaign finance reform efforts Nationally and by states for over 10 years, I
am vitally interested in The North Carolina Clean Elections Act, HR 1402, and hopeful for its
passage.

Though the Clean Elections Act is a voluntary measure so we do not infringe on 'free speech', I
believe the voters will look more favorably on a candidate who abides by measures that can give
each of us a voice in our Government, a voice that is now being denied by special interests'
money. Four other states have voted for a Clean Elections Act. We should too.

Please work to restore integrity to the financing of campaigns. Let us be hopeful once again that
the candidate we vote for and elect is one who looks out for the interests of the citizens and the
State itself, rather than for a select few who rob us of our tax dollars to pay for their tax breaks
and, in the process, discourage voter participation.

Thank you for your consideration.

Sincerely,


Barbara Coulson

To:

Rep. Martha Alexander
Rep. Donald Bonner
Co-Chairmen
Committee on Election Law
And Campaign Reform
General Assembly,
Raleigh, N.C. 27601

June 22, 1999

Dear Representatives,

I wish to speak out in strong support for the proposal for election law and campaign reform before your committee. My view also reflects the opinion of so many of my associates.

Sincerely, Larry T. Queen
4018 Watauga drive
Greensboro, N.C. 27410
Phone (336) 299-7041

TO: Co-Chairs Martha Alexander and Donald Bonner and members of the NC House
Election Law and Campaign Finance Reform Committee
From: Gene Messick, 213 Birdie Lane, Shelby NC 28150 (704) 487-7505

RE: PUBLIC HEARING on CLEAN ELECTIONS ACT: June 23, 1999

Please accept this message as my Formal Submission to your Committee.

North Carolina's opportunity for leadership in establishing Clean
Election Reform

Each of you in this last session of the General Assembly of this century has the unique opportunity to make a bold statement about democracy for our State well into the next millennium.

Who does our government belong to?

Are we to be a government of the people? Or are we to be a government controlled by special interests and big money?

The Clean Election Act before you for consideration will not cure all the ills of an election system which--during our lifetimes--has come under domination of those with the ability to purchase candidates of their choice by heaping ever increasing financial contributions into their campaigns. But the Clean Election Act is a far-reaching--and essential--first step.

I'm 58, older than some of you, a little younger than others. I grew up in a North Carolina public school and public university system which taught me that our government belongs to me and you and every citizen of our State. This summer my Shelby High School graduating class will celebrate its 40th reunion.

Planning for this event has given me pause to look back to see what my generation has to be proud of--and there is a lot we have accomplished.

But the saddest recognition is to understand also where we have failed.

As an individual citizen, I have handed out campaign materials, hung posters, and helped raise funds from other individual citizens for candidates at local, state and federal levels. I felt that I was part of a great and valuable grassroots process, exercising one of the most important aspects of citizenship.

Now I come toward an election at the end of this century where I have serious doubts whether my efforts as a citizen matters any more. Where did we go wrong?

When did I vote for "non-natural persons" in the form of corporations to take control of my elections? How have we come to allow these "legal fictions" to have more guaranteed rights than I have as an individual citizen? Will everything in the next century be available for sale to the highest bidder, including our governments? As supranational corporations with more financial resources than most cities, counties, states and nations on our planet flex their muscles to see who can become the most powerful, where do I fit in as an individual citizen with a single vote?

You were elected by me, and my fellow citizens across North Carolina--not only to "represent" me--but to protect my rights and my sovereignty as a citizen. That is the essence of representative democracy. And yet you are sorely tempted at each election to listen most to those who give you the most. Where did we go wrong?

I still live in a democracy. You are still elected to represent me. But unless sweeping changes take place, all of us are at risk. We celebrate the wars we fought to relive oppression from tyrants and dictators. Have we ever faced such a formidable enemy to our democracy as we do now?

Please have the courage to vote FOR the individual citizens of our State by supporting the Clean Election Act.

From: Mkentcurti@aol.com

Date: Fri, 11 Jun 1999

To Sen. Phil Baddour, Sen. Donald Bonner, Sen. Martha Alexander, and Members of the House Election Law Committee:

Dear Committee Members,

I am writing to urge you to support the public finance bill for state elections now before you. There are 4 main reasons I support this bill.

First, we have a crisis of democratic legitimacy in which 3/4ths of respondents regularly tell pollsters our government is democratic in name only because special interests run things. This is a grave concern. The influence of money on elections is a major reason for this disaffection.

Second, as a teacher of Constitutional Law and Free Speech at Wake Forest School of Law I know that this reform is one of the few truly significant reforms that can be enacted under the Court's current reading of the First Amendment. Disclosure alone is important, but not enough.

Third, the campaign finance system limits free speech because it tends to keep basic issues off the agenda--those which would be most upsetting to large contributors.

Fourth, there is a basic trust relation between our representatives and the people. By democratic theory representatives represent the people--all of them. For politicians to be forced to raise more and more cash from a small segment of the electorate, threatens this fiduciary relation. Increasingly politicians are forced to spend time with big contributors and begin to think that their world view is that of most people, which of course is false.

This bill will not cure all our ills. The problem will require sustained attention for many years. We did not sink to our present low point overnight, and we will not quickly recover. Other problems need to be addressed, and new ones will become apparent. It is an important step in the right direction however.

I very much hope the members of the committee know the degree of cynicism and distrust that currently pervades our citizens. This is so among members of all social classes and all parties.

Thank you for your service to the public.

Best wishes,

Michael Kent Curtis

Date: Tue, 15 Jun 1999

To

Rep. Donald Bonner and Rep. Martha Alexander and members of
the Election Law and Campaign Finance Reform Committee
Gen. Assembly, Raleigh, NC 27601

I would like to add my voice to those who urge you to support the "Clean
Elections Act".

Hermann Heyge
907 McDowell Dr.
Greensboro, NC 27408

Dear Members of the House Election Law and Senate Judiciary I Committees:

Our political system is being increasingly dominated by big money. I am concerned that we don't have a level playing field, that our system of checks and balances is being thrown out of balance and too often dominated by wealthy special interests, and that we are on a slippery slope toward a shift in power and influence that will be bad for democracy, bad for politicians, and bad for North Carolina.

As a member of Common Cause, the Sierra Club and the US Public Interest Research Group I am concerned about the power that narrow special interests have to get loopholes into law, loopholes that often penalize the environment while lining the pockets of the few. Loopholes shift costs of cleanups, health care, or environmental degradation (quality of life) from the corporations responsible to the people. Loopholes can also shift valuable public resources to the private sector at below market rates, limit the ability of local government to successfully plan and control the growth of their communities (e.g. development impact fees), or provide a government funded resource that makes a potentially environmentally harmful industry practice more economical (e.g. state roads on state property used by logging companies).

I am concerned about the lack of enforcement, oversight, and funding of existing laws to protect the environment that, again, line the pockets of the few while penalizing the environment.

As legislators responsible for environmental legislation, you have to balance the profit-based interests of the few with the interests of the people. In so doing, I think there is a key question to ask about campaign financing:

"If a publicly elected official accepts money from a special interest donor, even with no strings attached, is it corruption or serendipity if and when that special interest benefits from a law passed by that public official?"

I believe that even the appearance of corruption subverts our system of government. It makes people question the motives and integrity of their public officials, and suspect them of doing a dirty deal, even when there may be nothing untoward happening. Our current system too often puts legislators in a situation where their integrity, on the face of it, is compromised. We must have a system that allows qualified candidates to run for office without having to ask wealthy special interests for money; without having to sell access to the highest bidder; without having to raise large sums of money just to have their message heard by the voters.

The Clean Election Act is not a panacea, but it is a step in the right direction. For less than \$4 per voter in NC, we could have a system that allows politicians to spend more time doing their job instead of having to spend ever more time on fund raising. It also helps to even the playing field, restoring to the candidate the ability to be heard by the voters without having to be beholden to a wealthy few. It is voluntary and, most importantly, it says to each citizen in NC: "Your worth as a citizen is not equal to your net worth."

Thank you for listening.

Peter van Dorsten
Raleigh, NC 27615
pvandors@us.ibm.com

Date: Thu, 10 Jun 1999

Subject: Clean Election Act

I urge a favorable consideration and support for the CLEAN ELECTION ACT. I consider it critical to restoring a fair and sane election process.

Earl Trevathan, MD.

Greenville, NC

E-Mail Address: etrev@ecu.campuswix.net

The Honorable Representative Donald Bonner
The Honorable Representative Martha Alexander
The Honorable Representative Phil Baddour
State Legislative Building
Raleigh, NC 27611

Dear Representatives:

I am very concerned about the negative role that money plays in the electoral process in North Carolina. I believe that we in North Carolina need true campaign finance reform such as was recently accomplished in Maine through referendum. Since we are not able to use referendum in North Carolina, I am asking you to strongly support and be an advocate for legislation to implement campaign finance reform. I am looking forward to hearing from you on this important matter.

Respectfully yours,

John Highfill

Representatives Phil Baddour, Martha Alexander, and Donald Bonner
and the Election Law and Campaign Finance Reform Committee
North Carolina General Assembly
Raleigh, North Carolina 27601

Dear Mr. Baddour, Ms. Alexander, and Mr. Bonner,

As North Carolina citizens, tax-paying residents and voters, we strongly urge you to support the Clean Elections Act. The needs of the citizens of this State must have political representation and response equal to the well-financed PAC's, corporations, and other special interests.

Sincerely,

Lewis M. and Margaret S. Miles
412 Sharon Road
Chapel Hill, NC 27514

Date: Wed, 16 Jun 1999

To: Rep. Phil Baddour, Rep. Martha Alexander, Rep. Donald Bonner, and
members of the Election Law and Campaign Finance Reform
Committee, and
Sen. Roy Cooper and members of the Judiciary I Committee

From: Mary Kiesau, Durham, North Carolina

Re: WE NEED CLEAN ELECTIONS AND CAMPAIGN FINANCE
REFORM NOW

Campaign Finance Reform could be the single biggest thing to bringing
"public" policy making back to the people. For years, BIG money and
back-door politics have increasingly taken the power to govern and do
public good "out" of the hands of our elected leaders and the voting
citizenry and put *into* the deep pockets of every kind of industry and
business that wanted to buy elections and votes.

This is serious business and it is corrupting every ounce of democracy our
state government, state agencies and local governments try to uphold.

The Clean Elections Act contains some simple ways to publicly provide
some consistency and fairness to elections, and to give more information and
power to the people (where it belongs).

Please support, promote and work to pass the Clean Elections Act this
session. It is long over-due.

Thank you.
Mary Kiesau
66 Crystal Oaks Ct
Durham, NC 27707

Date: Wed, 16 Jun 1999
Subject: Clean Elections Act

Rep. Alexander and Rep. Bonner, co-chairs, and
Members of the Election Law and Campaign Finance Reform Committee

Please give your full support to the Clean Election Act. Not doing so perpetuates a system that lends itself to, if not corrupt, at least to practices that pave the way for favoritism and unhealthy associations. I want to believe that elected officials can represent all of the people fairly and honestly. Clean elections are possible, just as doing the right thing has always been possible.

Rosella Z. Wolbarsht
(rwolbar@duke.edu)

Date: Wed, 16 Jun 1999

Rep. D. Bonner and Rep. M. Alexander
State Legislative Building
Raleigh, North Carolina 27601

Dear Rep. Bonner and Rep. Alexander,

Now is the time for campaign finance reform. As a voter I feel increasingly powerless when it comes to having my voice heard. The current system favors special interests who have the money to turn law makers heads.

I am but a tradesman with limited resources, I count on my vote to speak for me. Who should run our state? Voters or special interests. Please make our

Jon Vanderglas
Raleigh, NC.

Date: Wed, 16 Jun 1999

Attention:

REPRESENTATIVES PHIL BADDOUR, MARTHA ALEXANDER, &
DONALD BONNER,
SENATOR ROY COOPER

The present 'system' in which the playing field is tilted in favor of the richest candidate is making a bad joke of the concepts which empowered the wonderful people who wrote our Constitution.

You have an opportunity to show the nation that we don't want to be the showpiece of injustice - let's hope that the next Bill Moyers show will demonstrate that North Carolina isn't accepting the dollar as the ballot.

Yours truly,

Joe W. Straley, Facilitator of Witness For Peace
- Chapel Hill

Date: Tue, 15 Jun 1999

To: Members of Election Law and Campaign Finance Reform Committee,
Rep. Mary Alexander and Rep. Donald Bonner, co-chairs
Members of Senate Judiciary I Committee, Sen. Roy Cooper, chair

The North Carolina Clean Elections Act stands as a model of the kind of real reform that many North Carolinians wish to see enacted. Public financing of campaigns is sometimes perceived as "welfare for politicians." But what we the voters and taxpayers of North Carolina must realize is that we already have a system which funnels tax money, our tax money, through the campaign system and out to special interest donors. This is the way we are now paying for the campaign system, tax dollars are not being collected from the biggest donors who are often either wealthy individuals or connected to wealthy corporations. If a person wants to run for a public office but does not have a hundred thousand dollars to spend and refuses to accept money from wealthy special interest groups, then we have a responsibility as a democracy to help that person be competitive even with the wealthiest of opponents.

Please help make the electoral system in North Carolina one which is responsive to the vast majority of our citizens who desire only that their concerns be heard as loudly as those with large checkbooks and hopes of making them even larger.

Very truly yours
Dr. James H. Shelly
1008 Bayfield Drive
Raleigh, NC 27606-1702
Senate Dist. 14, House Dist. 63

Date: Tue, 15 Jun 1999

Subject: Clean Elections Act

Representative Martha Alexander and Representative Donald Bonner:

I wish to support SB 882/HB1402.

Elections in a free society presuppose an informed electorate. Groups like Farmers for Fairness subvert the goal of informing the electorate, and huge sums of money subvert the process of governing. The Clean Election Act will offer a candidate some alternative to raising funds. Representing all of the people is problematic when one set of voters can contribute \$318,323, and in another zip code the contribution is \$15,925. It would be very difficult not to pay more attention to the contributors in the higher zip. Money does buy attention and access.

June M. Kimmel

POB 595

Davidson, NC 28036

(My Representative is Drew Saunders; my Senator is Fountain Odom.)

Date: Tue, 15 Jun 1999

Dear Rep. Bonner and Rep. Alexander:

I am following the campaign finance reform discussion closely, for I believe that the role of large cash donations by special interests pervert our democratic process. What a cancer is to a person, so is the influence of special interest money in a democracy. When money measures the worth of ideas, we are surely on the road to tyranny.

Have courage, exercise leadership and be responsible. Get yourself, your colleagues and the rest of us out from under the thumb of big money.

Most sincerely,

Leo Briere

Date: Tue, 15 Jun 1999

Representative Martha Alexander
Representative Donald Bonner
General Assembly
Raleigh, NC 27601

Dear Representatives,

We believe that campaign finance reform is the most important issue before the General Assembly. Please support efforts such as those put forward by Democracy South to put campaign financing in the hands of the people and not large donors such as corporations.

We will not be able to be there on Thursday, June 17. Hope this reaches you.

Thank you,

Jim and Helen Jett
PO Box 662
Clayton, NC 27520
919-553-0281

Love Your Computer

Putting the 'Personal' Back In Personal Computers

Chapel Hill, NC
Telephone: 919-988-7787
WWW: <http://www.loveyourcomputer.com>

E-mail: lyc@digital4all.com

Fax: 919-942-8626

June 15, 1999

To the Members of the General Assembly,

I am writing to express my very strong support for the NC Clean Elections Act, and to urge you to lend your support to this important bill.

As a small business owner, I am keenly aware of the power money has to help communicate your ideas.

In the marketplace of business, this is as it should be. However, when it comes to our democracy, money's power and influence is not appropriate. This is one forum where all voices should be heard equally.

Under the current system this is not the case. I am sure that you are all painfully aware of the high costs of running a campaign. Not only does this put candidates without access to private wealth at a great disadvantage, it also affords those who are footing the bill for the campaigns -- large campaign donors -- an unfair advantage in the realm of politics and legislation.

The Clean Elections system is great because it provides a meaningful alternative to the current system. Because it is a voluntary program that would exist along side the current system of campaign financing, it is eminently fair. Those who do not want to participate may do so. However, for those who do participate, it will have a great deal of meaning indeed.

I ask you to pass this law, and give the voters of this great state a choice -- a choice they deserve. Give us all a fair chance at running a campaign that seeks the support of the voters without the time consuming money chase. Give us all a fair chance to vote for candidates that we would never question, never wonder if some of those big campaign checks made a bigger difference in a vote than our letters.

There is nothing to lose, and very much to gain. Right now you are all a part of this system, and are doing your best to work within it with honor and integrity. It is your place in history to be the ones to provide an alternative, a choice that will mean a great deal for generations to come.

Thank you,

Paul Rosenberg
616 Carl Drive
Chapel Hill, NC 27516

NORTH CAROLINA



for a SANE world

P.O. Box 10384
Raleigh, North Carolina 27605
(919) 469-0831

formerly SANE/FREEZE

June 15, 1999

Honorable Roy Cooper
Majority Leader
State Senate
NC General Assembly
Raleigh, NC 27601

Honorable Patrick Ballantine
Minority Leader
State Senate
NC General Assembly
Raleigh, NC 27601

Honorable Phil Baddour
Majority Leader
State House
NC General Assembly
Raleigh, NC 27601

Honorable Richard Morgan
Minority Leader
State House
NC General Assembly
Raleigh, NC 27601

Dear Gentlemen:

On behalf of North Carolina Peace Action (NCPA), I write in support of SB-882 and HB-1042, the NC Clean Election Act. NCPA is a state affiliate of Peace Action, the largest national grass-roots peace organization, established in 1957.

You may wonder why NCPA support campaign finance reform at the state level. The answer is simple: we are most concerned about increased military spending and the growing power of the military-industrial complex which is fueled by the contributions of corporations benefiting from military spending. Our current system, at both the national and state levels, has turned wealth into the most influential factor in determining public policy and the allocation of public resources.

As leaders of the General Assembly, we urge you to take a stand to level the playing field in our state which in turn, will facilitate reform efforts at the national level.

The current election system rewards those who have resources and access to wealth and marginalizes the everyday citizen whose vote has become less important than the money supplied by corporation and the wealthy. This undermines our democracy.

The Clean Elections Act will help free candidates from a never-ending chase for money and help ensure all voters have a more equal voice in their government at all levels.

Sincerely,

William H. Towe

William H. Towe
NCPA Board
National Board Co-Chair

Sen. Roy Cooper and members of the Judiciary I Committee
and
Rep. Phil Baddour and members of the Election Law
and Campaign Finance Reform Committee

Dear Gentlemen:

We write to support SB 882 and HB ¹⁴⁰²~~1042~~.

There are so many reasons for supporting the Clean Elections Act that we hardly know where to begin, but let us emphasize just one of those reasons.

We'd be very happy if our elected representatives could devote full time to examining public policy issues and determining what's best for all the people of North Carolina. And we're confident that's exactly what members of the General Assembly would also prefer to do.

It's discouraging, then, for us to realize that our elected officials have to devote so much of their time and effort to conducting their election campaigns. We understand that legislators have to begin raising money for their next campaigns almost the day after being elected! That places a terrible burden on lawmakers – one we're sure they'd prefer not to have.

Therefore, we'd like to think of the Clean Elections Act as a Free Our Lawmakers to Do Their Real Business Act, and we urge you to do everything you possibly can to ensure its passage. Thank you.

Sincerely,

Jim and Shirley Jensen
207 Govan Lane
Cary, NC 27511

June 15, 1999

Senator Roy Cooper
NC General Assembly
Raleigh NC 27601

Dear Senator Cooper:

Citizens across North Carolina who follow public policy are convinced that the time is right for passage of SB 882. The hidden costs of special interest money affects every part of our society and threatens the premises of a sound democracy.

Please exercise your proven leadership and support this legislation. North Carolina needs campaign finance reform, and SB 882 addresses problem areas. It will help control the spiraling costs of campaigns. It will encourage broad based citizen support for those candidates qualifying for public funds. It will free candidates to talk about the issues rather than continually chase campaign contributions.

SB 882 deserves advancement to the Appropriations Committee. Please help it along!

Sincerely,

A handwritten signature in black ink, appearing to read "Betty Ellerbee", written in a cursive style.

Betty Ellerbee
6220 Lookout Loop
Raleigh NC 27612

David Potorti
937 Pamlico Drive
Cary, North Carolina 27511
(919) 461-2336
e-mail: reepo@earthlink.net

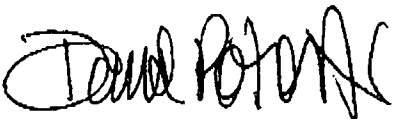
6/15/99

I urge you to support The Clean Elections Act.

Democracy works only when the people are involved--and only when elected officials are involved with the people. The big money chase in which politicians like you must participate to remain competitive demands that you spend more time raising funds than identifying and dealing with public concerns. I imagine this must be as frustrating to you as it is to me.

I appreciate your experience and professionalism, and want your skills to be directed where they will do the most good--serving the interests of the people who elected you. As a voter, I have a right to expect nothing less. And after all, isn't this the reason you went into politics in the first place?

Please support The Clean Elections Act now.

A handwritten signature in black ink, appearing to read "David Potorti". The signature is stylized with a large, looped initial "D" and a long, sweeping underline.

I support the N. C. Clean Election Act because I am a great believer in DEMOCRACY, in giving the voter a voice in our elections. Spending such enormous percentages of our time and money (resources) on campaigning and getting elected as is necessary today is just not good STEWARDSHIP. It is not who we are and what we should be about.

Carmen M. Hiott

Carmen M. Hiott
June 10, 1999

ELLEN W. GERBER, *Attorney at Law*

4202 Cilgerran Ct. High Point, NC 27265 ☎ 336-869-7340

June 10, 1999

Representatives Donald Bonner and Martha Alexander, Co-Chairs
Election Law and Campaign Finance Reform Committee
NC House of Representatives

Re: HB 1402 - The Clean Election Act

Dear Representatives:

With great urgency, I write to urge you to support the Clean Elections Act. Nothing is more dangerous to our democracy than the corruption that has resulted from the need to buy and sell candidates.

This is a national problem and it is a North Carolina problem. The other night I watched the PBS show hosted by Bill Moyers that demonstrated clearly the ways in which money subverts the democratic process. Unfortunately, North Carolina provided him with an obvious example, the case of Cindy Watson.

Over the years I have worked on behalf of various candidates. Therefore I have become aware that each election cycle requires greater and greater sums for seats in the NC House and Senate. The only way to get enough money to run is to be rich or to take the money from the special interests who in turn expect special consideration. This state of affairs is just plain wrong.

The Clean Elections Act may not be perfect, but it will go a long way towards solving the problem. We must begin someplace. Please support The Clean Elections Act, and please convey this message to other members of your committee.

Yours,

Ellen W. Gerber

Date: Tue, 15 Jun 1999

Representative Martha Alexander
Representative Donald Bonner
General Assembly
Raleigh, NC 27601

Dear Ms. Alexander and Mr. Bonner:

I support the Clean Election Act, and I believe strongly that it is the answer to the problem of big money in politics. We need to reclaim democracy from the special interests that currently have the ability to control elections. Thank you for your support of this vital legislation.

Joan Walsh, PhD
Durham, NC

Date: Fri, 11 Jun 1999

Subject: Clean Elections Act

To: Rep.s Baddour, Bonner and Alexander and members of the Election
Law and Campaign Finance Reform Committee
Sen. Roy Cooper and members of the Judiciary Committee

From: Barbara Clawson
3208C Regents Park Lane
Greensboro, NC 27455

I strongly support the Clean Election Act. I hope you will support this bill which ensures more adequate regulation of issue ads and better enforcement of election laws as well as an alternative way to finance campaigns. It is time to take action about campaign financing so that the voices of all citizens are heard in the election process.

Resolution

Whereas spending on political campaigns for legislative and state-wide races in North Carolina has skyrocketed in recent years;

Whereas the high costs of campaigning acts as a barrier to exclude many qualified candidates;

Whereas the increasing importance of private money in campaigns gives wealthy donors and special interests an unfair advantage over ordinary voters and diminishes the rule of "one person, one vote";

Whereas big donors can use their advantage to win public policies that sometimes harm the public good and add substantial costs for taxpayers;

Now, Therefore, Be It Resolved that we urge the N.C. General Assembly and Governor to enact a Clean Election program similar to those in states as diverse as Arizona and Massachusetts. Such a program provides a competitive amount of campaign money to state candidates who voluntarily (a) demonstrate broad support from registered voters in the relevant district, (b) accept strict limits on private fundraising, and (c) agree to strict campaign spending limits. Such a program should be funded by closing tax loopholes or other means that result in no tax increase for the average taxpayer.

Approved by

(include agency or organization name, address & contact, if appropriate)

NC Ass'n of Educators (NCAE)

P.O. Box 27347, Raleigh, NC 27611

Contact: Bill Wilson

On this day

18 June 1999

(return to N.C. Voters for Clean Elections, PO Box 1077, Carrboro, NC 27510 or fax to 919-967-7595)

Resolution

Whereas spending on political campaigns for legislative and state-wide races in North Carolina has skyrocketed in recent years;

Whereas the high costs of campaigning acts as a barrier to exclude many qualified candidates;

Whereas the increasing importance of private money in campaigns gives wealthy donors and special interests an advantage over ordinary voters and diminishes the rule of "one person, one vote";

Whereas public policies influenced by the advantage and access of big donors can result in substantial added costs for taxpayers;

Now, Therefore, Be It Resolved that we urge the N.C. General Assembly and Governor to enact a Clean Election program similar to those in states as diverse as Arizona and Massachusetts. Such a program provides a competitive amount of campaign money to state candidates who voluntarily (a) take no significant private donations, (b) demonstrate broad support from registered voters in the relevant district, and (c) agree to strict campaign spending limits. Such a program should be funded by closing tax loopholes or other means that result in no new cost to the average taxpayer.

Approved by

(include agency or organization name, address & contact, if appropriate)

Penny Faulkner, President

Carteret County Democratic Women (104 members)

3607 Justin Ct. Morehead City, NC 28557

On this day

23rd day of February, 1999

Resolution

Whereas spending on political campaigns for legislative and state-wide races in North Carolina has skyrocketed in recent years;

Whereas the high costs of campaigning acts as a barrier to exclude many qualified candidates;

Whereas the increasing importance of private money in campaigns gives wealthy donors and special interests an unfair advantage over ordinary voters and diminishes the rule of "one person, one vote";

Whereas big donors can use their advantage to win public policies that sometimes harm the public good and add substantial costs for taxpayers;

Now, Therefore, Be It Resolved that we urge the N.C. General Assembly and Governor to enact a Clean Election program similar to those in states as diverse as Arizona and Massachusetts. Such a program provides a competitive amount of campaign money to state candidates who voluntarily (a) take no significant private donations, (b) demonstrate broad support from registered voters in the relevant district, and (c) agree to strict campaign spending limits. Such a program should be funded by closing tax loopholes or other means that result in no tax increase for the average taxpayer.

Approved by

(include agency or organization name, address & contact, if appropriate)

Mitchell K. Huggins, Pres. L 959

United Steelworkers Local 959

280 McCloskey Road, Fayetteville, NC 28311

On this day

June 16, 1999

(return to N.C. Voters for Clean Elections, PO Box 1077, Carrboro, NC 27510 or fax to 919-967-7595)

Resolution

Whereas spending on political campaigns for legislative and state-wide races in North Carolina has skyrocketed in recent years;

Whereas the high costs of campaigning acts as a barrier to exclude many qualified candidates;

Whereas the increasing importance of private money in campaigns gives wealthy donors and special interests an advantage over ordinary voters and diminishes the rule of "one person, one vote";

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Now, Therefore, Be It Resolved that we urge the N.C. General Assembly and Governor to enact a Clean Election program similar to those in states as diverse as Arizona and Massachusetts. Such a program provides a competitive amount of campaign money to state candidates who voluntarily (a) take no significant private donations, (b) demonstrate broad support from registered voters in the relevant district, and (c) agree to strict campaign spending limits. Such a program should be funded by closing tax loopholes or other means that result in no new cost to the average taxpayer.

Approved by

(include agency or organization name, address & contact, if appropriate)

Albert Stein Rembo Lodge of Bnai B'rith

by: Harry Rulnick, DPP

PO Box 58351, Fayetteville, N.C. 28305-8351

On this day

MAY 5, 1999

Support Campaign Finance Reform

***It makes
good
"cents"!***



**League of
Women
Voters of
Charlotte-
Mecklenburg**

***WHY? BECAUSE COST OF CAMPAIGNING FOR OFFICE IS SKYROCKETING
AND WE'RE ALL PAYING FOR IT. According to Democracy South here's how:***

Increased cost of state elections - -

The 170 winners of the 1998 election for State House and Senate spent a record \$12 million to win their seats - - three times what was spent in 1992.

Fewer candidates are running for the state legislature - -

In the 1998 general election 35% of the candidates for the 170 seats for state House and Senate had no opposition.

More access for big contributors - -

"I don't think there's any way of getting around the fact. Legislators do respond to contributors, especially the larger contributors," Former Rep. Nick Jeralds (D-Cumberland)

Time spent raising money is not spent doing the people's business - -

Under the current system, successful candidates for governor in N.C. will have to raise well over \$6 million or about \$60,000 a week for the two years before the election - - \$10,000 a day, excluding Sundays.

The voters, candidates and democracy all lose - -

Voter turnout has decreased at the same time that big money has overwhelmed elections.

HERE'S WHAT YOU CAN DO.

- 1. Put a penny in an envelope.**
- 2. Write "Support campaign finance reform. It makes good "cents", on the outside.**
- 3. Mail the envelope with the penny inside to your legislator.**

**For information: Althea Callaway, LWVCM 311, Wingrave, Charlotte, NC 28270,
704-442-0860, Fx:704-442-0960. Member N.C. Voters for Clean Elections Coalition.**

Resolution in Support of the NC Clean Election Act

Whereas spending on political campaigns for legislative and state-wide races in North Carolina has skyrocketed in recent years;

Whereas the high costs of campaigning acts as a barrier to exclude many qualified candidates;

Whereas the increasing importance of private money in campaigns gives wealthy donors and special interests an advantage over ordinary voters and diminishes the rule of "one person, one vote";

Whereas public policies influenced by the advantage and access of big donors can result in substantial added costs for taxpayers;

Now, Therefore, Be It Resolved that we urge the N.C. General Assembly and Governor to enact a Clean Election program similar to those in states as diverse as Arizona and Massachusetts.

Such a program provides a competitive amount of campaign money to state candidates who voluntarily:

- (a) take no significant private donations,
- (b) demonstrate broad support from registered voters in the relevant district, and
- (c) agree to strict campaign spending limits. Such a program should be funded by closing tax loopholes or other means that result in no tax increase for the average tax payer.

Approved by Listening and Diversity Project
(include agency or organization name, address & contact, if appropriate)

278 White Oak Creek Rd.
Burnsville, NC 28714

On this day 3-29-99

If you would like to help make this vision of a cleaner campaign system a reality for North Carolina, please ask your local governments, churches and civic organizations and friends to adopt this resolution and return it to Common Cause/North Carolina at the address below.

Your contributions to Common Cause/NC so that we may continue to work for this and other good government issues are always welcome.

COMMON CAUSE/NORTH CAROLINA
Box 482, Raleigh NC, 27602, 919/834-4509
Contact the Executive Director, Carol Love, at carolove@aol.com.

Resolution

Whereas spending on political campaigns for legislative and state-wide races in North Carolina has skyrocketed in recent years;

Whereas the high costs of campaigning acts as a barrier to exclude many qualified candidates;

Whereas the increasing importance of private money in campaigns gives wealthy donors and special interests an advantage over ordinary voters and diminishes the rule of "one person, one vote";

Whereas public policies influenced by the advantage and access of big donors can result in substantial added costs for taxpayers;

Now, Therefore, Be It Resolved that we urge the N.C. General Assembly and Governor to enact a Clean Election program similar to those in states as diverse as Arizona and Massachusetts. Such a program provides a competitive amount of campaign money to state candidates who voluntarily (a) take no significant private donations, (b) demonstrate broad support from registered voters in the relevant district, and (c) agree to strict campaign spending limits. Such a program should be funded by closing tax loopholes or other means that result in no new cost to the average taxpayer.

Approved by

(include agency or organization name, address & contact, if appropriate)

Centreville Co. Retired School Personnel

(82 members)

Arnold V. Charities, V. P.

On this day

P.O. Box 430

Newport, NC 28570

Resolution in Support of the NC Clean Election Act

Whereas spending on political campaigns for legislative and state-wide races in North Carolina has skyrocketed in recent years;

Whereas the high costs of campaigning acts as a barrier to exclude many qualified candidates;

Whereas the increasing importance of private money in campaigns gives wealthy donors and special interests an advantage over ordinary voters and diminishes the rule of "one person, one vote";

Whereas public policies influenced by the advantage and access of big donors can result in substantial added costs for taxpayers;

Now, Therefore, Be It Resolved that we urge the N.C. General Assembly and Governor to enact a Clean Election program similar to those in states as diverse as Arizona and Massachusetts.

Such a program provides a competitive amount of campaign money to state candidates who voluntarily:

- (a) take no significant private donations,
- (b) demonstrate broad support from registered voters in the relevant district, and
- (c) agree to strict campaign spending limits. Such a program should be funded by closing tax loopholes or other means that result in no tax increase for the average tax payer.

Approved by Peace and Social Concerns Committee
(include agency or organization name, address & contact, if appropriate)

Chapel Hill Friends Meeting
531 Raleigh Rd., Chapel Hill, NC 27514

On this day 4-25-99

If you would like to help make this vision of a cleaner campaign system a reality for North Carolina, please ask your local governments, churches and civic organizations and friends to adopt this resolution and return it to Common Cause/North Carolina at the address below.

Your contributions to Common Cause/NC so that we may continue to work for this and other good government issues are always welcome.

COMMON CAUSE/NORTH CAROLINA
Box 482, Raleigh NC, 27602, 919/834-4509
Contact the Executive Director, Carol Love, at carolove@aol.com.

Thursday, June 17, 1999

NORTH CAROLINA
NCCC
CONSUMERS COUNCIL

North Carolina Consumers Council, Inc.

Post Office Box 3401
Chapel Hill, NC 27515-3401

www.rtpnet.org/~nccc

Members
Election Law and Campaign Finance Reform Committee
North Carolina House of Representatives

New Address (May 1999):

P.O. Box 10214
RALEIGH NC 27605-0214

Consumers --- who are mostly taxpayers --- **are already paying for election campaigns** in two ways:

1. Through the higher prices of what we buy from utilities, banks, manufacturers, businesses, trade groups and yes, corporate hog farms, who pay their owners and executives enough extra so that major political contributions can be made by those persons.

2. Through the special legislation, often involving tax concessions, that is sought and gained by these interests.

Consumers are not getting anything out of this indirect funding of political campaigns.

It is simply **not reasonable for consumers to believe** that elected officials receive large contributions from people with large amounts of money **and do nothing in return**. At least, such officials listen carefully when their sponsors call. At worst, officials work hard promoting legislation favorable to their few contributors and adverse to the many persons who voted to elect them. (At present in North Carolina, one percent of the people gives 90% of the campaign donations.)

Clean Elections mean consumers would get elections at a lower total cost, with a wider range of candidates from which to choose.

Clean Elections, with public funding, would cost less than one-tenth of one percent of the General Fund.

Clean Elections mean a strong start on cutting the egregious rate at which election costs have been escalating in North Carolina in the past decade and more. (1998 General Assembly elections costs were nearly five times those of the 1992 elections after adjustment for inflation.)

Consumers want and need **a credible elections system and a credible legislature**.

Clean elections mean **a better way to fund election campaigns in North Carolina**.

The North Carolina Consumers Council, Inc. endorses passage of The Clean Elections Act (S 882) and asks your support to accomplish that passage. It is your vote for consumers.

Sincerely yours,

Michael v. E. Rulison

Michael v.E. Rulison, President
dn4nccc@mindpring.com

We stand up for your consumer interests.

Resolution in Support of the NC Clean Election Act

Whereas spending on political campaigns for legislative and state-wide races in North Carolina has skyrocketed in recent years;

Whereas the high costs of campaigning acts as a barrier to exclude many qualified candidates;

Whereas the increasing importance of private money in campaigns gives wealthy donors and special interests an advantage over ordinary voters and diminishes the rule of "one person, one vote";

Whereas public policies influenced by the advantage and access of big donors can result in substantial added costs for taxpayers;

Now, Therefore, Be It Resolved that we urge the N.C. General Assembly and Governor to enact a Clean Election program similar to those in states as diverse as Arizona and Massachusetts.

Such a program provides a competitive amount of campaign money to state candidates who voluntarily:

- (a) take no significant private donations,
- (b) demonstrate broad support from registered voters in the relevant district, and
- (c) agree to strict campaign spending limits. Such a program should be funded by closing tax loopholes or other means that result in no tax increase for the average tax payer.

Approved by Charlotte Friends Meeting Denny Fernald, Clerk
(include agency or organization name, address & contact, if appropriate)

P.O. Box 561293 - 370 W. Rocky River Rd.
Charlotte, NC 28256-1793

On this day March 27, 1999

If you would like to help make this vision of a cleaner campaign system a reality for North Carolina, please ask your local governments, churches and civic organizations and friends to adopt this resolution and return it to Common Cause/North Carolina at the address below.

Your contributions to Common Cause/NC so that we may continue to work for this and other good government issues are always welcome.

COMMON CAUSE/NORTH CAROLINA -
Box 482, Raleigh NC, 27602, 919/834-4509
Contact the Executive Director, Carol Love, at carolove@aol.com.

Resolution

Whereas spending on political campaigns for legislative and state-wide races in North Carolina has skyrocketed in recent years;

Whereas the high costs of campaigning acts as a barrier to exclude many qualified candidates;

Whereas the increasing importance of private money in campaigns gives wealthy donors and special interests an unfair advantage over ordinary voters and diminishes the rule of "one person, one vote";

Whereas big donors can use their advantage to win public policies that harm the public good and add substantial costs for taxpayers;

Now, Therefore, Be It Resolved that we urge the N.C. General Assembly and Governor to enact a Clean Election program similar to those in states as diverse as Arizona and Massachusetts. Such a program provides a competitive amount of campaign money to state candidates who voluntarily (a) take no significant private donations, (b) demonstrate broad support from registered voters in the relevant district, and (c) agree to strict campaign spending limits. Such a program should be funded by closing tax loopholes or other means that result in no tax increase for the average taxpayer.

Approved by

(include agency or organization name, address & contact, if appropriate)

Moore County Chapter 2564
Robert E. Edwards Pres.

On this day

Feb. 16, 1999

RESOLUTION FOR CLEAN ELECTIONS
IN NORTH CAROLINA

Whereas spending on political campaigns for legislative and statewide races in North Carolina has skyrocketed in recent years;

Whereas the high costs of campaigning acts as a barrier to exclude many qualified candidates;

Whereas the increasing importance of private money in campaigns gives wealthy donors and special interests an advantage over ordinary voters and diminishes the rule of "one person, one vote";

Whereas public policies influenced by the advantage and access of big donors can sometimes result in substantial added costs for taxpayers;

Now, Therefore, Be It Resolved that we urge the N.C. General Assembly and Governor to enact a Clean Election program similar to those in states as diverse as Arizona and Massachusetts. Such a program provides a competitive amount of campaign money to state candidates who voluntarily (a) demonstrate broad support by gathering hundreds of small donations from registered voters in the relevant district, (b) take no other private donations, including none from wealthy special interests, and (c) agree to strict campaign spending limits. Such a program should be funded by closing tax loopholes or other means that result in no tax increase for the average taxpayer.

Approved by Margaret R. Jones President

(include agency or
organization name,
address & contact,
if appropriate) Save Our Rivers, Inc.
P.O. Box 122
Franklin, NC 28744

On this day June 15, 1999

Return to N.C. Voters for Clean Election, PO Box 1077, Carrboro, NC 27510 or fax to 919-967-7595



I advise and enjoin those who direct the paper in the tomorrows never to advocate any cause for personal profit or preferment. I would wish it always to be "the tocsin" and to devote itself to the policies of equality and justice to the underprivileged. If the paper should at any time be the voice of self-interest or become the spokesman of privilege or selfishness it would be untrue to its history.

— from the will of Josephus Daniels, Editor and Publisher 1894-1948

Cleaning up elections

A proposal that would help put the financing of North Carolina elections back in the hands of ordinary citizens seems likely to get a close look. As it stands, money from private contributors can play an undue role.

North Carolina's 1998 elections offered many examples of the influence of big money and the outrageous cost of running for office. So it's good to see that Democratic state Sen. Wib Gulley of Durham — emboldened by his party's success at the polls — plans to revive a reform effort involving public financing of campaigns.

Public financing — in which taxpayers cover most costs for candidates who voluntarily agree to spending and contributions limits — would not solve all the problems related to special interests' influence on elected officials, but it would be a good start. With voters in Massachusetts and Arizona having just approved similar measures, four states now have acted to shore up ordinary citizens' proper role in elections. North Carolina ought to take a close look at developments in those states with an eye toward applying the best aspects of their plans here.

Gulley's so-called clean-elections proposal would cost Tar Heel taxpayers on the order of \$12 million a year, but there's money to be saved in reducing the ability of corporations and special interests to wangle tax breaks and lax regulations. Public financing (envisioned initially for statewide and legislative offices) also could make a real difference in helping people without access to huge amounts of private money run for office. And by requiring candidates who chose to accept public funds to gather a set number of small donations from individuals, it would pro-

mote face-to-face interaction between vote-seekers and citizens, possibly re-engaging many in a process they dropped out of long ago.

Unfortunately, that seems to be the last thing some politicians want. Witness state Rep. David Miner, a recently re-elected Cary Republican who brags that he didn't knock on a single constituent's door during his campaign. Thanks to developers, business leaders and others who poured money into his campaign coffers, Miner was able to avoid pounding the pavement by sinking almost \$320,000 into saturating the airwaves with ads and the mail with fliers. And that was just as of the most recent reporting deadline.

Meanwhile, Miner's Democratic opponent, Linda Gunter, who raised only about \$43,000, wore herself out shaking hands and listening to voters. Most likely she developed a better understanding of voters' concerns — but it didn't matter against Miner, who almost seems to hold the electorate in contempt.

Gulley's clean-elections proposal wouldn't directly address the high cost of media campaigning that played such a role in that race, but it would help equalize the kind of financial imbalance that hindered Gunter. Along with a ban on unregulated contributions to political parties, better disclosure of campaign gifts and other elements of reform, it would go a long way toward restoring public confidence and participation in the electoral process — and thus strengthen Tar Heel democracy. . .

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BLADEN DAILY
JOURNAL
ELIZABETHOWN, N. C.

JAN 29 99

Campaign spending is getting out of control; changes needed

An Associated Press story out of Raleigh brought some shocking news about the apparent cost of getting elected to the North Carolina General Assembly.

The story, citing a study of campaign finance record, told us that the 170 legislators who took the oath of office Wednesday for new terms spent over \$12 million getting elected. That amount, according to Democracy South, a campaign finance research and advocacy group, is more than triple the \$3.9 million spent on campaigns in 1992.

The average winner of a House seat, says the study, spent \$53,090 in 1998, while the average Senate winner spent \$112,172. That compares to 1996 averages of \$41,982 for a House seat and \$81,288 for a Senate seat.

Thirty-six lawmakers spent more than \$100,000 on their campaigns, compared with 23

in 1996 and only two in 1992.

You have to wonder, first, where that kind of money comes from, and second, what are people really after who are willing to divvy it up, including both the legislators and their money donors.

"This is serious money," said Bob Hall of Democracy South.

"It's the kind of money that chases away good candidates and gives an advantage to wealthy donors who have a very narrow interest that often is not the same as the public interest."

Hall thinks that the continuing escalation of campaign costs—and the public disclosure of it—should prompt further calls for public financing of campaigns.

"It is time for a change," he said. "It's out of control."

We agree, on both counts.

ASHEVILLE CITIZEN-TIMES

*Dedicated to the Upbuilding of Western North Carolina
1870-1999*

A GANNETT NEWSPAPER

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Tuesday, May 18, 1999

EDITORIAL

Clean Elections Act a needed reform for coming millennium

Disillusioned, disenfranchised, disinterested. That's how millions of Americans have come to feel about their government.

Voters are staying away from the polls in droves. According to the non-profit, non-partisan research group, the Committee for the Study of the American Electorate, since 1960 in Presidential elections and 1966 in mid-term elections, voter participation has fallen more than 25 percent nationally and more the 30 percent outside the South. It's the largest and longest such slide in the nation's history. Twenty-five million Americans who used to vote don't anymore, according to the committee.

And it's not just voters, but potential candidates, as well, who are turning their backs on the political process.

Many qualified, principled candidates never seek office above the lowest levels because they are unwilling to sell their votes to the highest bidder. But without special interest contributions they know they would not have the money to buy the advertising and the exposure they would need to win.

Something must be done to change the way campaigns are financed if voters are to become convinced their participation in an election makes a difference.

State Rep. Martin Nesbitt, D-Buncombe, is one of the four main sponsors of the N.C. Clean Elections Act, a bill that will change the way elections are financed in North Carolina if it becomes law. The bill is similar to a senate bill introduced by Sen. Wib Gulley, D-Durham.

The bill would provide state funding for candidates who agree to run as clean election candidates. Such candidates would have to raise a minimum number of \$15 donations from individual donors - 250 for the state House, 500 for the state Senate, 2,750 for Council of State, 4,000 for lieutenant governor or attorney general, 7,000 for governor. (The program would only be open to candidates for those offices.) If successful, the candidate would receive from the state coffers an average of the amount the two top vote getters spent in the last two elections for that office.

The cost per election to the state would be under \$14 million, less than 1/1000th of the state budget, according to the the state's fiscal staff.

The candidates would agree to raise no private funds beyond the qualifying donations; accept a total spending limit; use the funds only for campaign purposes; return any unused funds to the Clean Election Fund.

In other words, candidates would be financed by voters and taxpayers instead of special interests.

The bill has 33 sponsors in the House and 18 in the Senate, including Sens. Charles Carter and Steve Metcalf, both Buncombe County Democrats. It's unlikely to become law this year, but if passed during the 2000 short session, would affect the 2002 elections.

It's important to let your legislators know that you want this bill to become law. It's time to stop being a government of special interests and return to being a government of the people.

NOV 15 '98

Public funds for campaigns will ensure public service

Under the present system, candidates are either wealthy or dependent on those who are

With control of the N.C. House changing from Republican to Democratic hands, a few high-minded legislators feel the time may now be right to push for real and meaningful campaign-finance reform. I hope they're right.

In 1996, candidates for the General Assembly spent \$14.1 million on their campaigns — up 76 percent from what was spent in 1994. The numbers for the most recent election aren't in yet, but spending this year is expected easily to exceed the 1996 total. Gov. Jim Hunt spent \$10.4 million to win his fourth term in 1996.

You don't have to be a careful political observer to know that the "Golden Rule" trumps all other considerations in Raleigh. The cozy relationship between big-money lobbyists and our elected officials borders on bribery. Look at who pays for political campaigns, and you'll see plenty of bankers, road pavers, construction contractors and hog farmers — folks with direct financial interests in the decisions made by the politicians who take their money.

Sen. Wib Gulley, a Durham Democrat, sponsored legislation two years ago to provide public financing to candidates who agree to limit their campaign spending. The bill eventually led to tougher standards for disclosure of contributions, but public financing died fast. Gulley, who sees the Nov. 3 election results as a mandate for change, held a press conference Monday to announce that he plans to try again.

The current system allows only two options for candidates who need money — soliciting private contributions and personal wealth. Gulley's proposal, based in large part on systems used in states such as Maine, Vermont, Minnesota and Massachusetts, would provide an alternative source for funds to candidates who choose not to be beholden to special interests.



Michael
Biesecker

Because of the U.S. Supreme Court's ruling that campaign cash is a form of constitutionally protected free speech, there is no way to outlaw private financing, even if there is a naked expectation of *quid pro quo*. But given the choice, many officeholders would undoubtedly turn their backs on lobbyists if there were another option. The trick is to make public funding more attractive than private funding.

To qualify for public money under Gulley's proposal, a candidate would have to collect a fixed number of signatures and \$5 contributions to demonstrate public support for his candidacy. Candidates who choose to take public money would be required to limit their campaign spending to a pre-determined "average" cost for the race and not accept private contributions. If a publicly funded candidate is outspent by a privately funded candidate, some additional funds will be made available to level the playing field.

SUCH A SYSTEM would enable any qualified citizen to run for state-level elected office without wealthy contributors or special-interest money. It would also ensure a more diverse ballot.

Some people will no doubt find the prospect of paying for political campaigns with tax dollars distasteful — I certainly did.

But why would some of our state legislators spend upwards of \$400,000 to win a job that pays \$13,000 in salary? Campaign "donations" are bought and paid for with special favors that cost us far more than what it'll cost to fund campaigns.

With a state budget of more than \$12 billion, it would cost less than a tenth of 1 percent of the total budget to publicly fund every state-level political campaign. Considering the money that might be saved once financially independent legislators start cutting special-interest pork out of the budget, funding campaigns could be a bargain for taxpayers. A recent poll of 400 North Carolina voters suggests that a majority of citizens would be behind such a system if it cleaned up politics — 61 percent said public financing of political campaigns would be a "good idea."

No longer would the decisions of where to build new roads be made by those who send tribute to the governor. Legislators wouldn't make decisions that affect our daily lives over a \$25 steak bought by a lobbyist. They'd be no motivation to award government contracts only to generous campaign contributors.

Buying back our government from big-money special interests will be expensive, but if it rocks the politics-as-usual *status quo*, it'll be worth every penny.

And the prospect of a needy politician, hat in hand, knocking on my door for five bucks and a John Hancock doesn't sound half bad. Such a grass-roots reliance on the public might finally ensure a representative democracy that represents people like me.

■ Biesecker is the Journal's editorial assistant.

DEC 29 98

In Raleigh, a new chance to clean up campaigning

● Campaign finance reform is more urgent than ever.

Like their counterparts in Congress, Republican leaders in the state House of Representatives did their best over the past two years to kill campaign finance reform and keep the big bucks flowing in state politics. But Republicans lost their hold on the House in last month's elections, and the fortunes of politics now favor reform.

When lawmakers reconvene next month in Raleigh, they must seize the moment and begin cleaning up an election system increasingly beholden to the special interests bankrolling state campaigns.

Two solid proposals for reform await legislators.

The first would cut in half the amount of money contributors may give to state political campaigns. It also would ban "soft money" — the unlimited contributions that special interests pour into political parties to circumvent limits on giving to individual candidates. The state Senate, under Democratic control, passed that measure twice in the past two years — only to watch it die in the House.

The second proposal, called the "Clean Elections Act," would offer public money to candidates who agree to accept strict spending limits, take no significant private contributions and demonstrate strong support in their districts by raising a certain number of

small donations from voters. Last month, voters in both Arizona and Massachusetts passed their own versions of that initiative. Two other states — Maine and Vermont — approved publicly funded campaigns earlier.

Some legislators dismiss the Clean Elections Act as "welfare for politicians." That's a cute sound bite, but it distorts the issue. Funding campaigns with public money would help keep state government clean and responsive — and that's a wise investment for ordinary taxpayers.

Hog feeders, bankers, insurance companies and other special interests don't give to candidates out of the goodness of their hearts. They expect a return on the investment — special access to lawmakers, expensive tax breaks, legislative favors.

Public campaign financing comes with no strings attached. Candidates are beholden first and last to the taxpayers. That's the way it ought to be.

The current system for financing campaigns in North Carolina is eroding the integrity of the legislature. It's pushing the cost of campaigning higher with each election, putting public office farther and farther out of the reach of ordinary working people. It's giving special interests greater and greater influence over the political process, allowing them to drown out the voices of ordinary voters.

Next month, legislators get another chance to change it, and they must not let it pass them by.



I advise and enjoin those who direct the paper in the tomorrows never to advocate any cause for personal profit or preferment. I would wish it always to be "the tocsin" and to devote itself to the policies of equality and justice to the underprivileged. If the paper should at any time be the voice of self-interest or become the spokesman of privilege or selfishness it would be untrue to its history.

— from the will of Josephus Daniels, Editor and Publisher 1894-1948

Right time for reform

The numbers clearly show that big money's influence on political races in North Carolina is way out of hand. Democrats' newly won control of the General Assembly gives them a golden chance to rein it in.

In laying out their agenda for 1999, state legislators might take some direction from a new report out of Chapel Hill. Its message — that the unseemly link between big bucks and political victory is stronger than ever — isn't novel, but the General Assembly's new Democratic majority gives lawmakers an unusual and valuable opportunity to respond.

According to the watchdog group Democracy South, legislative candidates outdid themselves last year in building — and using — campaign treasuries. All together, winning candidates spent a record \$12 million on their bids for office — three times the amount spent in 1992. Winners' average expenditure was \$53,090 in the House and a formidable \$112,172 in the Senate.

Fierce competition between the parties fueled the financial arms race, which also seems to reflect the Mount Everest syndrome: A big reason politicians raise so much money is that it's there. Unburdened by regulations on contributions to political parties and committees, wealthy individuals and special-interest groups eagerly spread their riches around, often in the well-founded hope that the favor will be returned.

Incumbents usually benefit the most, since re-election is the norm and since they already have legislative leverage. Candidates' increased reliance on high-priced political consultants also drives campaign costs ever higher, as does their dependence on expensive television advertising.

Every year the self-perpetuating cycle

of raising and spending money occupies more of politicians' time, distracting them from the work they were elected to do. It also prevents many people who would be excellent public servants but don't have access to piles of money from entering politics. Finally — and understandably — it sours citizens on the political process: It's hard for many to believe that democracy is really working, and that their vote makes a difference, when money dominates elections.

For each of big money's corrosive effects, however, there's a remedy. The one North Carolina (and the country) needs most acutely is a ban, or at least a limit, on unregulated, soft-money gifts to political parties and committees.

Unless the U.S. Supreme Court revisits its problematic 1976 ruling equating campaign spending with free speech, incentives may be the only way to bring those expenditures under control. A "clean elections" bill championed by Sen. Wib Gulley, a Durham Democrat, would provide public money to candidates who voluntarily observe spending and contributions caps. Voters in several other states have approved similar arrangements; North Carolina should be next.

Far-reaching campaign-reform proposals like Gulley's bill didn't stand a chance as long as Republicans controlled the state House. But now, with both chambers of the General Assembly in the hands of Democrats, who are generally more supportive, prospects have never been better for reform. Legislators ought not let that chance slip away

The Charlotte Observer

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EDITORIALS

Campaigns out of control

Escalating cost of N.C. legislative seats must be reined in

Two-party politics has brought some good things to North Carolina — fresh ideas, new blood, a different way of doing things and the assurance that when the majority does anything amiss, there will be a vigorous watchdog barking from the sidelines.

This new competition has an ugly side, too: It has driven the cost of state legislative seats beyond imagination. No so long ago, a candidate with \$100,000 could mount a successful campaign for Congress. Nowadays, it can easily take that much to win a legislative seat in Raleigh, according to an analysis of 1998 spending practices by Democracy South, a group that monitors election campaigns.

The group found that the cost of winning a seat in the legislature increased by nearly one-third over 1996 — and has tripled since 1992. In 1998, winners of House seats spent an average of \$53,090, while winners of Senate seats spent \$112,172. In 1998, 36 legislative winners spent more than \$100,000, compared with 23 just two years earlier. Democracy South found that every candidate who spent at least \$150,000 won. That sets the bar for the 2000 legislative races: If you want to win, plan on raising and spending at least that much money.

This development ought to alarm every citizen who thought this state retained a citizens' legislature. If it takes a ton of money to win a seat, only those candidates who have a ton of money, or who can raise it, can afford to be a member. Who looks out for the ordinary citizen in a system where the corrosive influence of

money controls the legislative membership?

North Carolina needs to reform its campaign finance practices. Unless state legislators come up with a practical and constitutional way to do so, the General Assembly will become the province solely of the high rollers.

Fortunately, 1999 ought to be a productive year for campaign finance reform. Both Senate President Pro Tem Marc Basnight, D-Dare, and House Speaker Jim Black, D-Mecklenburg, promise a fair hearing. Good. In the last session, only the Senate was interested in taking bold steps. The House, which improved campaign finance disclosure requirements in 1997, did not want to go further last year.

Among the proposals the legislature will consider is a voluntary program for public financing of campaigns. Candidates who agree to limit their fund-raising would be eligible for significant public funding. Other proposals include reducing the maximum amount of individual campaign contributions to match the \$1,000 limits in federal elections, and reducing the influence of soft money — huge contributions funneled to candidates through political parties.

The issue is complicated because of a pending federal case testing North Carolina's way of regulating campaigns. That decision in the 4th Circuit Court of Appeals in Richmond may be issued soon, and will help legislative leaders focus their strategy. They should start planning now. When legislative seats require North Carolinians to spend a fortune to win, democracy loses out to moneyed interests.



THE NEWS & OBSERVER

SUNDAY, MAY 9, 1999

I advise and enjoin those who direct the paper in the tomorrows never to advocate any cause for personal profit or preferment. I would wish it always to be "the tocsin" and to devote itself to the policies of equality and justice to the underprivileged. If the paper should at any time be the voice of self-interest or become the spokesman of privilege or selfishness it would be untrue to its history.

— from the will of Josephus Daniels, Editor and Publisher 1894-1948

Return to sender

A controversy over campaign gifts from a former rest home mogul points to North Carolina's need for stricter rules on political contributions, and for public financing of campaigns.

As owner of the state's largest rest home chain, A. Stephen Pierce kept a close watch on government regulation and doubtless wanted to make sure his industry's side was heard when the time came to set the rules for rest homes. So he did what many other business leaders do: He doled out campaign contributions to influential lawmakers and office-holders.

But Forsyth County District Attorney Thomas Keith says that Pierce, who sold his chain in October 1997, was a little too generous when it came to some politicians, specifically Governor Hunt, Lieutenant Governor Wicker and state Sens. Betsy Cochrane of Advance and Beverly Perdue of New Bern. State law permits individuals to make contributions of up to \$4,000 for each election in a cycle — primary, runoff and general — and Keith says a State Bureau of Investigation probe showed that Pierce had used family members, friends and his employees to donate his money to campaigns in their names. Keith issued a warrant for Pierce's arrest in March of last year (Pierce lives in Forsyth County) based on information about his contributions to Perdue, though a trial has not been held.

In letters to these officials, as reported in The News & Observer, Keith has notified them that they should forfeit slightly more than \$100,000 in contributions (all told) that the district attorney alleges were illegal gifts. Wicker was asked for \$55,000, Perdue for about

\$20,000, Hunt for \$16,000 and Cochrane for \$11,000. The money would go to the State Board of Elections for the state's General Fund. Each official intends to comply with the request.

Perdue, who has ambitions to be lieutenant governor, went further: "This shows," she said, "the problems we're going to have with raising so much money for our campaigns. There has to be some type of different ways to fund campaigns." She was speaking of some form of public financing.

Though Keith was careful to say that none of the four "knowingly received" illegal contributions, the fact is that Perdue's reference to the big money needed for statewide campaigns implies the obvious: The more money that is raised, the greater the likelihood that problems and questions will arise over contributions.

A public financing system in some form clearly would lessen the risk of such problems, though it's an idea to which powerful incumbents with name recognition among political action committees (read that: deep-pocket contributors) tend to be dragged kicking and screaming. More and more, money is the premium fuel for political campaigns, and that inevitably leads the average citizen to feel that those "premium" contributors have almost exclusive influence with elected officials. Public financing — campaigns running on regular, so to speak — would give the average citizen more of a voice.

JEFFERSON POST
WEST JEFFERSON, N.C.

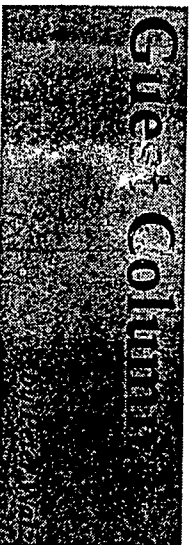
MAR 02 99

Campaign finance issue needs attention

On February 24 I attended a speech by State Senator Wib Gulley on campaign finance reform.

He spoke about the problems involved in our campaign finance system and about a solution he has proposed, the North Carolina Clean Elections Act. The problems is obvious, to be able to mount a reasonable campaign for public office one must either be wealthy or indebted to wealthy individuals and corporations through campaign donations. And the cost of running a campaign in North Carolina has gone up 300% since 1992.

We've had to read about the disgusting influence of campaign money in Governor Hunt's infamous DOT scandal. We've heard on end about how North Carolina's banks receive \$54 million each year in a tax loophole, all the while pumping \$1 million annually into political campaigns. Can we honestly believe that corporations and wealthy campaign donors give thousands upon thousands of dollars



each year and yet are getting nothing in return?

How can the average person, who can't put thousands of dollars into a campaign and refuses to take money from wealthy donors, possibly mount a serious campaign for political office? With passage of Senator Gulley's Clean Elections Act it would be possible, and perhaps we could begin to lure back some of the disconnected and disgusted voters.

Senator Gulley's proposal is to provide the public financing of political campaigns in North Carolina after a candidate can show a reasonable base of support through small private donations. Wealthy special interests have bought

our political system out from under us, and now we must buy it back - and let our money insure that North Carolina's voter will be a politician's only special interest.

Charlotte Observer

FOR THE RECORD

12/9/98

Reform campaign finance

From a column by state Sen. Wib Gulley, D-Durham:

Last month, voters sent a strong message: They want elected officials to be more accountable to them and less dependent on the special-interest donors.

In North Carolina, John Edwards beat U.S. Sen. Lauch Faircloth with a promise to serve ordinary citizens and "never take a dime from a PAC or Washington lobbyist." In Wisconsin, voters rewarded U.S. Sen. Russ Feingold's courageous decision to limit his campaign spending and reject support from "soft money" donors. His opponent vastly outspent him, but by making campaign finance reform a central issue, he won.



Gulley

In Florida, voters added their public-financing system for statewide candidates to their constitution, giving it greater stability and a permanent source of money.

Finally, in Arizona and Massachusetts, voters approved ballot measures that will create Clean Elections programs similar to the ones already approved in Maine and Vermont. Candidates can receive a set amount of money from a publicly financed Clean Election Fund if they accept strict spending limits, demonstrate strong support from their districts' voters, and agree to take no significant private donations.

People are tired of seeing wealthy contributors get tax breaks, subsidies, and enhanced access to elected officials. They see the cost of political campaigns going up, and don't like the results — more negative ads, fewer successful candidates with modest incomes, and bigger checks written by contributors who expect a return on their "investment."

More and more people recognize that they could actually save tax money with a program that offers public funds to qualified candidates who do not rely on special-interest donors to get elected.

A national polling firm asked N.C. voters their opinion. By big majorities, North Carolinians favored strong measures to regulate bogus "issue ads" and close a loophole that allows unlimited "soft money" donations to influence elections. They also endorsed the basic principles of the proposed N.C. Clean Election Act. Candidates who enroll in this voluntary program, as the wording in the poll states, "would no longer raise money from private sources" and "would be limited [to spend only] a set amount of money from a publicly financed election fund."

The U.S. Supreme Court has ruled it is unconstitutional to force candidates to limit their campaign spending; however, the court also said states can offer incentives to encourage candidates to accept limits voluntarily.

Over the past 25 years, state and federal lawmakers have tried many ways to limit or contain the big private money flowing into our elections. These efforts have one thing in common — they all failed. Spending on elections is higher than ever, yet voter turnout is at historic lows.

This situation will not change until we offer candidates a way to voluntarily limit their spending and reject the lure of special-interest money. As a state, we must establish a program that gives candidates a real alternative — the option of running a clean campaign with clean money.

That's why I will again introduce the N.C. Clean Election Act in the General Assembly in 1999. The message from November is loud and clear.

House Committee on Election Law and Campaign Finance Reform.

Meeting.

11 a.m. – June 14, 2000
Room 1228 – State Legislative Building

Discussion of House Bill 1402 – Clean Election Act.

1. Opening Remarks by Co-Chairs, Rep. Martha Alexander and Rep. Donald Bonner.
2. Senator Wib Gulley.
3. Chris Heagarty, Executive Director of North Carolina Center for Voter Education.
4. John Hood, President of John Locke Foundation.
5. Thomas Coulson, President of N.C. Voters for Clean Elections.
6. Adjournment.

**HOUSE COMMITTEE ON ELECTION LAW & CAMPAIGN FINANCE
REFORM**

JUNE 14, 2000

11:00 A.M.

ROOM 1228

MINUTES

Opening remarks were made by the chairs Representative Donald Bonner and Senator Wib Gulley. Present were Representatives Bonner, Berry, Decker, Dedmon, Goodwin, Hensley, Insko, Justus, Kiser, Luebke, Melton, Michaux, Pope, Rogers, Thompson, and Wilson.

Senator Gulley called on Staff Counsel Bill Gilkeson to explain House Bill 1402 – The CLEAN ELECTION ACT. The purpose of the Clean Election Act is to ensure the vitality and fairness of democratic elections in North Carolina. Mr. Wilkerson also, explained funding, participation, qualification, non-A. Participants, enforcement of the Act. Representatives asking questions was Representatives Justus, Kiser, Michaux, Goodwin, Hensley and Dedmon. Making comments was Representatives Berry, Pope, Justus and Wilson.

The questions and discussion took up most of the hour and the Chair apologized to participants who did not get a chance to speak to the body; he asked Mr. Chris Heagarty, Executive Director of North Carolina Center for Voted Education, Mr. John Hood, President of John Locke Foundation and Mr. Thomas Coulson, President of NC Voters for Clean Election if they would present their information at the next meeting; they graciously accepted

The meeting was adjourned at 12:20 p.m.


Donald A. Bonner, Chair


Lucy Johnson, Committee Clerk

Clean Election Act

House Bill 1402

William R. Gilkeson, Staff Attorney, Legislative Services Office.

What is the Purpose?	"... to ensure the vitality and fairness of democratic elections in North Carolina, to the end that any citizen of this State can realistically choose to seek and run for public office. ...also ... to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent in North Carolina to influence the outcome of elections. . ."
Where Does Funding Come From?	<ul style="list-style-type: none">• Money distributed to participating candidates but then returned unspent.• Leftover money from Candidates Financing Fund (built up since that Fund was created in 1988).• Voluntary contributions made on State Income Tax Return or otherwise.• Appropriations by the General Assembly.
Who May Participate?	Candidate for Governor, Lt. Gov. or other Council of State office, State Senate or State House who: <ul style="list-style-type: none">• Files a declaration of intent to participate and to abide by the spending limits during the campaign;• Raises the required amount in "qualifying contributions."
What Are Qualifying Contributions and How Much Must a Candidate Raise in Qualifying Contributions to Be Certified?	<p>A qualifying contribution is a check or money order payable to the candidate by a registered voter who is eligible to vote for the office the candidate is seeking. It can be no less than \$15 and no more than \$75. It must be raised during a period ending with the candidate filing deadline and beginning 120 days earlier for legislative candidates and 270 days earlier for the statewide candidates.</p> <p>To be certified for Clean Election Act funds, the candidates must raise qualifying contributions from the following numbers of registered voters:</p> <ul style="list-style-type: none">• Governor 7,000 registered voters.• Lt. Gov. or Attorney General, 4,000 registered voters.• Other Council of State office, 2,750 registered voters.• State Senator 500 registered voters.• State Representative 250 registered voters. <p>Candidate may keep qualifying contributions, but any excess raised over the threshold will reduce candidate's public funding.</p>
What Else Must a Participating Candidate Do?	<ul style="list-style-type: none">• Report spending according to a schedule set by the Commn.• Accept no private contributions (other than qualifying contributions and contributions from candidate's party if the party contributions do not exceed 10% of Clean Act funds).• Spend only from public funds, qualifying contribs, or party \$

When Are Funds Distributed?	<ul style="list-style-type: none"> • Within 3 business days after end of filing period for candidates certified for the primary. • Within 3 business days after the primary or 3 business days after the first general election opposition otherwise appears, for candidates certified for general election.
How Much Is Distributed?	<p><u>For contested primaries</u>, the average amount spent by the two highest vote-getting candidates in contested primaries for the office for the past 2 election cycles.</p> <p><u>For uncontested primaries</u>, the average amount spent by the candidates in uncontested primaries for the office for the past 2 election cycles, or by contested primary elections if that is lesser.</p> <p><u>For contested gen. elections</u>, the average amount spent by 2 highest candidates in all contested races for the office in past 2 gen. elections.</p> <p><u>For uncontested general elections</u>, no distribution at all.</p> <p>The above amount is reduced by the amount of any qualifying contributions the candidate received above the qualifying threshold.</p>
What Must Non-Participants Do?	<p>Give an estimate of last-minute expenditures to the Commission 20 days before the election. Report within 24 hours any transaction over the Clean Act candidate's limit.</p> <p>Suspend fundraising in last 21 days before gen. election, if opponent is Clean Act candidate who has not maxed out on matching funds.</p>
What Happens If Participants Are Outspent by Non-Participants?	<p>If expenditures by opposing candidate exceed what the Clean Act candidate can spend, Clean Act candidate receives from the Fund additional money to match the excess, up to 100% of the normal funding for primary or general.</p>
How Is the Act Enforced?	<p>By a new N.C. Commission on Election Practices with 5 members. They would be appointed by Governor to 4-year terms, subject to confirmation by the General Assembly. No more than 2 from same party. Governor shall consider nominees put forth by the public and by organizations, but is not limited to them. No elected official or candidate is eligible for appointment.</p> <p>The Commission would be placed administratively under the State Board of Elections, which would provide staffing. Violations are subject to a civil penalty of up to \$10,000. Candidate may also be required to return all Fund money.</p> <p>Class I felony for willful and knowing violations and for knowing false statements made on Clean Act reports.</p>

VISITOR REGISTRATION SHEET

ELECTION LAWS & CAMPAIGN

JUNE 14, 2000

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Beth Blackwood	Democracy South Chapel Hill, NC
Kate Rhodes	Democracy South Charlotte, NC
Melissa Siebert	Democracy South Chapel Hill NC
Nancy Mueller	LWV - Chapel Hill Area
Margaret Halton	LWV - Area Chapel Hill, NC 27514
Wiana Phillips	President, League of Women Voters of NC
Tom Cowles	PRES N.C. VOTERS FOR CLEAN ELECTIONS
Cheryl Coughlin	LWV NC
Susan Markham	NCVCE
Adam Sotak	Democracy South
Dorothy Greenwood	LWV Moore County
Jacqueline Weston	LWV Pinelands - Moore Cty
Sharon Woodward	LWV Durham
Kay Hunt	LWV Chatham
Jackie Hammond	LWV Piedmont Triad
Carolyn O'Leary	LWV Moore County
Kim Hassell	CC/NC Hargett Street, #1601
Brenda Summers	NC Equality
Ann McCracken	Common Cause Inc Sanford, NC 27330
Harry Hutson	Common Cause Durham 27713
Sarah Brown	Common Cause - Raleigh
Ed Reegan	N.C. Assoc. of Co. Commissioners
Freddie Johnson	NC Fair Share
Sen. Stanley	NC Voters for Clean Elections
Matt Jones	Democracy South Chapel Hill NC
Mary Liz Mann	Democracy South, Chapel Hill, NC
Jonathan Horowitz	ACLU-NC

VISITOR REGISTRATION SHEET

ELECTION LAWS & CAMPAIGN

JUNE 14, 2000

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS[illegible]

AGENDA

**HOUSE COMMITTEE
ON**

ELECTION LAW AND CAMPAIGN FINANCE REFORM

June 30, 2000

**Room 1228/1327
12:00 noon**

Presiding: Representative Martha Alexander, Chair

OPENING REMARKS:

Representative Donald A. Bonner, Chair

DISCUSSION:

Senate Bill 1290

COMMENTS and Questions FROM the COMMITTEE

ADJOURNMENT

**ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING**

JUNE 30, 2000

Room 1228

12:00 noon

The meeting was called to order by presiding Chair, Representative Donald Bonner. Committee members present at the meeting were: Representatives Alexander, Baddour, Bonner, Berry, Cunningham, Decker, Dedmon, Goodwin, Hackney, Hensley, Insko, Justus, Kiser, Melton, , Pope, Rogers, Thompson, Wilson.

Senate Bill 1290 was introduced by Representative Alexander for Senator Clodfelter. (The Senate was in session.) The primary purpose of the bill is to prohibit members of the county, municipal and state Boards of Elections from making statements intended for distribution to the public at large, supporting or opposing the nomination or election of candidates who are on the ballot within that territory which they cover.

Bill Gilkeson, staff counsel, was called on to present the bill in more detail. He explained that the bill prohibited the making of certain public statements by members of municipal, county or state boards of election with regard to candidates for nomination or election or referenda on the ballot in the territory covered by the jurisdiction of that board. It also prohibits making statement intended for general distribution or dissemination to the public at large in support of or opposition to the passage of any referendum on the ballot covered by the jurisdiction. And there is a prohibition against soliciting contributions for a candidate, political committee, or referendum committee.

Private, individual expressions of opinion, support or opposition not intended for the general public are not prohibited.

This is a report from the Election Law Revision Study Commission. A Senate member of the Study Commission asked the opinion of the Attorney General as to the constitutionality of SB 1290. The Attorney General believed it was constitutional because it was narrowly tailored. There is no criminal penalty in the bill. A violation of the statute may be grounds for dismissal under statutes already enacted.

Representative Insko asked if a member of her local board of election could serve on her campaign committee, have their name on an invitation for a fund raiser or volunteer to put out signs for her? Mr. Gilkeson replied that a name on an invitation to a fund raiser would be a violation of Section (3) dealing with soliciting contributions for a candidate. The member could come to the party and make a personal contribution.

Mr. Gilkeson said that under current law a member of any board of elections could not serve as campaign manager or treasurer for a candidate. He does not know whether serving as a member of a campaign committee would be visible enough to be prohibited.

Representative Insko asked about putting out yard signs. Mr. Gilkeson doubted that putting out the signs was making a public statement.

Representative Kiser disagreed, saying that erecting signs for a particular candidate was a very public statement of support for the individual. Rep. Baddour pointed out the “intent” aspect of the bill as clarification.

Rep. Wilson asked about issue advocacy. Mr. Gilkeson responded that he thought it would not be covered if the issue advocacy committee were not engaged in supporting or opposing the nomination or election of a candidate or if the kind of speech the election board member engaged in with respect to the issue advocacy committee were not of that sort. The bill uses the term “supporting or opposing the nomination or election of one or more clearly identified candidates.” This bill is tagged to last year’s bill that deals with express advocacy.

Representative Bonner announced that a vote would be taken on the bill at this meeting.

Representative Justus, speaking as a former member of an election board, commented that the bill absolutely suppressed the free speech rights of election board members. There are questions asked of election board members that by answering, the member would be in violation of the provisions of this bill. Representative Justus asked whether the constitutionality of the bill has been evaluated. Mr. Gilkeson replied that the opinion rendered by the Attorney General’s office said, “We believe the legislation is narrowly tailored to advance state interest, and, as such, would be constitutional if enacted.” The basis for the opinion is that the bill does not prohibit a member of a board of election from saying anything about an election that is not on the ballot in their area. It does not prohibit private statements in any case. The explanation is similar to that involving judges. Because of the quasi-judicial role of the board of elections in dealing with questions before it, they shall not endorse or oppose candidates.

Representative Thompson asked if members of boards of elections could be delegates to district, county or state conventions. Mr. Gilkeson responded that the bill covers that issue. Page 2, line 8 states, “Nothing in this Article shall prohibit participation in a political party convention as a delegate.”

Representative Berry asked what background or history prompted the bill? Mr. Gilkeson responded that there was an incident in Mecklenburg County where a member of the Board of Elections wrote an Op Ed piece for the newspaper calling for the defeat of members of the School Board.

Representative Goodwin questioned whether “statement” should be defined?

Representative Cunningham moved for a favorable report at the appropriate time.

Representative Decker offered an amendment clarifying “statement” as “written or oral” statement.

Representative Kiser raised the question of a board member putting up signs, which he saw as a flagrant violation of the bill. Representative Baddour noted that Representative Decker's amendment does not include putting up signs. Representative Kiser agreed with his interpretation, but believed it should be a violation.

Representative Cunningham agreed with Representative Kiser.

Representative Rogers questioned whether, in some cases, people were hired to put up signs – clearly without allegiance to any candidate.

Representative Justus was concerned about members of election boards answering questions of information from individuals. Mr. Gilkeson pointed out that line 6 on page 2 said "Individual expressions of opinion, support, or opposition not intended for general public distribution shall not be deemed a violation of this Article." The decision to enforce this bill would be made by the appointing authority of the board members who have the authority, under other statutes, to remove them "for cause". Representative Justus saw many problems with people with grudges taking a statement made in the correct context and filing a claim with the State Board of Elections alleging an improper statement. The member could have no idea what the basis for the claim was. This would burden the State Board of Elections. Anyone who wanted to disrupt an election could easily do so.

Representative Thompson asked about bumper stickers on cars of members of boards of elections? Would the board member be in violation? The consensus was it would be a violation.

Representative Kiser asked for a definitive answer to the question of putting up signs.

Representative Decker explained his amendment – adding "oral or written" before the word "statement" on page 1 line 19 and page 2 line 1. Again, "intent" was the governing word. Representative Goodwin asked whether a hand printed yard for one's own yard would be a violation.

Representative Insko asked Representative Justus how far a member of the board of elections could go in expressing a personal opinion not to have free speech repressed. Representative Justus replied it was a matter of ethical judgment of the member.

Representative Hensley raised the possibility of a third party spreading a private conversation with a member of the board of elections, with attribution, making it a public statement.

Representative Kiser proposed an amendment, adding the words "the distribution or display of political campaign materials" at the end of line 10 on page 2.

Oral vote was taken on Representative Decker's amendment, a copy of which is attached to these minutes. The amendment passed.

Representative Wilson stated that in Charlotte contributions made to a candidate often are published, which is a very strong statement of support. Should contributions by board members be allowed? Mr. Gilkeson thought that contributing was covered by the "intent" language of the bill. She would like a clarification.

Representative Thompson asked if the language would prohibit a member of any board of elections from commenting publicly on the UNC Bond Referendum in the fall. Mr. Gilkeson responded it would since it is on the statewide ballot.

Senator Clodfelter was introduced to speak on the bill.

The real goal of the bill is narrow. Active public campaigning on behalf of or against candidates is not consistent with the idea that impartial people are supposed to oversee elections and often sit as judges on contested matters about candidacy, residency, qualifications to vote, or the outcome of the election. The statutes on the books now prohibit a wide range of conduct by election board members. The gap in current law allows public endorsement of candidates. This bill does not muzzle board members who are free to have and express opinions, but may not disseminate those to the general public. They may not actively campaign.

Representative Goodwin opposed banning contributions by members of boards of elections on constitutional grounds.

Representative Pope suggested a "conflict of interest" statement might surmount the free speech problem. A member could recuse himself if an issue or candidate on which he had expressed an opinion came before the board.

Representative Justus said to Senator Clodfelter that NC has among the worst election laws in the nation. About ten years ago, there was discussion about rewriting those laws, and nothing has been done.

He would like lines 9 and 10 on page 2 allowing contributions removed and prepared such an amendment. Senator Clodfelter would not object to those lines being removed.

A vote was taken on Representative Kiser's amendment, adding the following sentence on page 2 following line 10: "This Article applies to the distribution or display of political campaign materials." A vote by show of hands was taken. The amendment failed.

Representative Baddour spoke on Representative Justus' amendment. He was afraid the language makes the bill unconstitutional and should be defeated. Representative Goodwin added that it eliminated attending any function that required purchasing a ticket.

Representative Justus explained his amendment, eliminating lines 9 and 10 on page 2 which allow contributions by members of boards of elections.

A vote was taken on the amendment by show of hands. The amendment was defeated.

Representative Wilson made the following comment. The contribution element was critical to the perception of impartiality, and she would hate to go before a board knowing that a member had given money to an opposing candidate or issue.

Representative Thompson called for the ayes and no's on the vote on the bill.

The clerk called the roll; the bill passed.

Representative Baddour requested another meeting of the Committee as soon as possible.

The meeting was adjourned at 1:15 p.m.

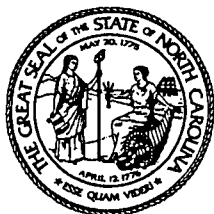
Martha B. Alexander

Donald A. Bonner
Donald A. Bonner

Ann Faust
Ann Faust, Committee Clerk

Attachments:

SB 1290
Summary
Amendment 1
Amendment 2
Amendment 3
Roll Call Vote
Visitors Roster



SENATE BILL 1290: Election Board Conduct.

BILL ANALYSIS

Committee: House Election Law and
Campaign Finance Reform

Date: July 5, 2000

Version: Second Edition

Introduced by: Senators Clodfelter and Gulley

Summary by: William R. Gilkeson
Staff Attorney

SUMMARY: *The Senate-passed version of Senate Bill 1290 would prohibit members of county, municipal, and State boards of elections from making statements intended for general distribution to the public at large supporting or opposing the nomination or election of candidates on the ballot within the territory covered by the board. The same would apply for statements by board members supporting or opposing the passage of referendum proposals. The bill was recommended by the Election Laws Revision Commission.*

CURRENT LAW: Current law takes party affiliation into account in the process by which members of State, county, and municipal boards of elections are appointed. The law places campaign-related limitations on board members in terms of their qualifications. But current law does not prohibit board members from endorsing candidates or soliciting contributions.

Appointment. Currently, State and county board of elections members are appointed from lists of nominees put forth by the State Chairs of the political parties. State Board members are appointed by the Governor. County board members are appointed by the State Board. Municipal board members are appointed by the city council. No more than a simply majority of any of the three kinds of boards may be of the same party. Municipal boards, however, may only exist in cities that have nonpartisan city elections, and the appointment process of municipal boards does not have a formal role for the party Chairs. In all three kinds of boards, the members are appointed for a set term.

Qualifications. Current law says State and county board members may not be elected officials, candidates for elective office, an officer in a political party organization, or a campaign manager or political treasurer. County board of elections members have the additional requirement of not being related to a candidate for office in the county as spouse, son, son-in-law, daughter, daughter-in-law, parent-in-law, sister-in-law, brother-in-law, aunt, uncle, niece, or nephew. The county board statute has a proviso that serving as a party convention delegate is permitted. Municipal board of elections members may not hold or be candidates for elective office or be campaign manager for a candidate, but nothing is said about being a treasurer and nothing is said about party activity. All those limitations are stated as qualifications for the office rather than as limitations on activity. The county board statute actually says that if a member fails to meet one of those qualifications, the office becomes vacant.

Removal. There are roughly parallel provisions in the statutes for all three kinds of boards giving the appointing authority the right to remove a board member for good cause.

SENATE BILL 1290

Page 2

BILL ANALYSIS: Senate Bill 1290 would create a new Article in Chapter 163, the Election Law, setting out uniform limitations on the political activity of members of State, county, and municipal boards of elections. None would be able to make "statements intended for general distribution or dissemination to the public at large" supporting or opposing the nomination or election of candidates or the passage of referendum proposals. This would apply only to candidates or referenda on the ballot in the territory covered by the board. Board members would also be prohibited from soliciting contributions for those candidates or referendum proposals, or for committees supporting them. The prohibitions would not apply to serving as a delegate to a political convention, or to *making* contributions, as opposing to *soliciting* them.

A violation of the Article would be grounds for removal under the current statutes that allow removal for cause. It would not involve any criminal liability.

The bill says terms in the new Article, such as "candidate," "support or oppose the nomination or election of a candidate," and "contribution" have the same meaning as in Article 22A, the Campaign Finance Act.

The bill would become effective January 1, 2001.

BACKGROUND: The Election Laws Revision Commission voted to endorse this Legislative Proposal at its April 13, 2000, meeting after hearing from Sen. Daniel Clodfelter of Mecklenburg County. Sen. Clodfelter recounted an incident in which a member of the Mecklenburg County Board of Elections wrote and signed letters and articles published in *The Charlotte Observer* advocating the defeat of members of the Charlotte-Mecklenburg School Board. When a citizen complained about this to the State Board of Elections, she was told that nothing prohibited the board member's statements. Sen. Clodfelter noted that the N.C. Code of Judicial Conduct prohibits such conduct by judges as being inappropriate to their office, and he noted that boards of elections sit in a quasi-judicial capacity. The initial draft of a bill Sen. Clodfelter presented to the Commission was patterned closely after the Code of Judicial Conduct, but members of the Commission suggested changes before they endorsed the proposal. Notably, the Commission removed from the draft a prohibition against board members making contributions.

Cunningham: moved & favorable report -

Decker: written or oral statement -

① p 1 l 19 - Decker: oral or written } passed
p 2 l 1 - oral or written }

② Kiser: distribution of political / campaign materials
amend. (4) p 2 l 10

③ Justus: amend remove l 9 & 10 after delegate.

Sen. Clodfelter

**2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Alexander and Bonner** for the Committee on **ELECTION LAW
AND CAMPAIGN FINANCE REFORM.**

☒ Committee Substitute for

S.B. 1290 A BILL TO BE ENTITLED AN ACT TO PROHIBIT CERTAIN POLITICAL
ACTIVITIES BY BOARD OF ELECTIONS MEMBERS.

- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title,
unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- ☒ With a favorable report as to House committee substitute bill (#), ☐ which changes
~~the title~~, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

ELECTION LAWS AND FINANCE REFORM

COMMITTEE MEETING

JULY 5, 2000

ROOM 1228

AGENDA

REPRESENTATIVE DONALD A. BONNER CO-CHAIR PRESIDING

OPENING REMARKS CO-CHAIR BONNER

BUSINESS OF THE DAY

SENATE BILL 767 – THE LOBBYIST WAITING PERIOD

QUESTIONS FROM COMMITTEE MEMBERS

DISCUSSION

COMMITTEE PROCEDURE

ADJOURNMENT



SENATE BILL 767: Lobbyist Fundraising, etc.

BILL ANALYSIS

Committee: House Election Law and
Campaign Finance Reform
Date: July 5, 2000
Version: S767-PCSR-005

Introduced by: Senator Miller
Summary by: William R. Gilkeson
Staff Attorney

SUMMARY: *The proposed committee substitute for Senate Bill 767 would do 2 things:*

1. *Change North Carolina's limit on lobbyist-related fundraising during legislative sessions. The changes would remove some language held unconstitutional by a recent court decision and would attempt to strengthen the statute without defying that decision.*
2. *Require the State Board of Elections to study the designation, operation, and funding of multiple one-stop absentee voting sites and report its findings and recommendations to the General Assembly by April 1, 2001.*

LOBBYIST-RELATED FUNDRAISING: The first section of the bill is a response to the recent decision of the N.C. Court of Appeals in the case of *Winborne v. Easley*, 523 S.E. 2d. 149 (1999). That decision, which the N.C. Supreme Court chose not to review, held unconstitutional a portion of North Carolina's statute limiting political fundraising by legislators from lobbyists while the General Assembly is in session.¹ The statute generally prohibits legislators from accepting or soliciting contributions during session.

The *Winborne* court said the statute was valid except for the part that also prohibited fundraising by political committees whose purpose was to support legislators. Since the statute was restricting a First Amendment right, the court said, it must be narrowly tailored to serve a compelling state interest. When the statute went beyond telling *legislators* they couldn't accept or solicit contributions from lobbyists, and said *political committees supporting legislators* also couldn't do so, the court said the statute went too far.

The bill does 3 things to the lobbyist-related fundraising statute, all designed to conform the statute to the *Winborne* decision and to shore up the statute's strength without defying that decision:

1. Remove the Invalidated Language. The bill would clean up the definition of "limited contributee" by removing the political committee language that the court found overbroad.
2. Prohibit Acceptance by Anyone Who Can't Solicit. The bill would prohibit anyone who is prohibited from *soliciting* a contribution from a lobbyist during session from also *accepting* one. The statute – the part of it that the court held valid – prohibits solicitation during session by a legislator or that

¹ The statute in question, G.S. 163-278.13B, has several detailed definitions and provisions. Whenever "legislator" appears in this summary, please read it as shorthand for legislator, legislative candidate, or member or candidate for the Council of State. Whenever "lobbyist" appears, please read that as shorthand for a registered lobbyist, the principal of a lobbyist, or a political committee established by a lobbyist's principal. The prohibitions apply to all those entities in the same way. Whenever "session" appears, please read that as shorthand for regular session, that is, the long or short sessions, but not extra sessions.

SENATE BILL 767

Page 2

legislator's "real or purported agent." This provision would apply that same formula to accepting. Therefore, a political committee supporting a legislator could accept a contribution only if it was not so close to the legislator as to be an agent. Unlike the pre-Winborne statute, this provision would not prohibit all lobbyist contributions during session to political committees that support a legislator. Political parties, for example, would clearly not be agents of a legislator and could accept contributions. However, a political committee whose treasurer acts on behalf of and under the control of the legislator would be an agent and would fall under the ban on accepting contributions as well as soliciting them. The bill also would not make the lobbyist responsible for knowing who was and wasn't the legislator's agent: Only acceptance by an agent would be prohibited. Making a contribution to an agent would not be.

3. Shore Up the Ban on Indirect Solicitations. Even after Winborne, the statute retains strong prohibitions against legislators soliciting lobbyists. A legislator's real or purported agent may not solicit a lobbyist to contribute to that legislator or to any other candidate or political committee. A legislator may not solicit a third party (such as a political committee), requesting that the third party directly or indirectly relay to the lobbyist the legislator's request for a contribution. The bill takes that last sentence and strengthens it by adding that the legislator may not request that the third party directly or indirectly *solicit a contribution from a lobbyist*. That language goes a step further than saying the legislator may not ask the third party *to relay the legislator's request*. "Relaying the legislator's request" might be narrowly interpreted to mean saying to the lobbyist, "Senator X would like for you to contribute." The language of the bill would prohibit the legislator from asking the third party to say to the lobbyist, "Please contribute."

STUDY OF MULTIPLE ONE-STOP VOTING SITES. The PCS would direct the State Board of Elections to study the designation, operation, and funding of multiple One-Stop absentee voting sites. The 1999 General Assembly permitted county boards of elections, by a unanimous vote, to submit to the State Board a plan for multiple One-Stop sites. The PCS would require the State Board to study issues related to the designation, operation, and funding of the sites. It would report its findings and recommendations to the General Assembly by April 1, 2001. *Section 2 of the bill.*

The bill would be effective upon its becoming law. (It would, of course, not be enforceable until precleared under Section 5 of the Voting Rights Act.)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 767
Judiciary II Committee Substitute Adopted 4/19/99
Proposed Committee Substitute -- S767-PCSRR-005

Short Title: Lobbyist Fundraising, etc.

(Public)

Sponsors:

Referred to:

April 6, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE LIMITATION ON LOBBYIST-RELATED FUNDRAISING
3 TO STRENGTHEN THE ACT AND TO COMPLY WITH A COURT DECISION; AND
4 TO DIRECT THE STATE BOARD OF ELECTIONS TO STUDY AND REPORT ON
5 THE DESIGNATION, OPERATION, AND FUNDING OF MULTIPLE ONE-STOP
6 ABSENTEE VOTING SITES BY COUNTY BOARD OF ELECTIONS AND THE
7 FUNDING OF SUCH SITES.
8 The General Assembly of North Carolina enacts:
9 Section 1. G.S. 163-278.13B reads as rewritten:
10 "§ 163-278.13B. Limitation on fund-raising during legislative
11 session.
12 (a) Definitions. -- For purposes of this section:
13 (1) 'Limited contributor' means a lobbyist registered
14 pursuant to Article 9A of Chapter 120 of the
15 General Statutes, that lobbyist's agent, that
16 lobbyist's principal as defined in G.S. 120-
17 47.1(7), or a political committee that employs or
18 contracts with or whose parent entity employs or
19 contracts with a lobbyist registered pursuant to
20 Article 9A of Chapter 120 of the General Statutes.
21 (2) 'Limited contributee' means a member of or
22 candidate for the Council of State, a member of or

1 candidate for the General Assembly, ~~or a political~~
2 ~~committee the purpose of which is to assist a~~
3 ~~member or members of or candidate or candidates for~~
4 ~~the Council of State or General Assembly.~~

5 (3) The General Assembly is in 'regular session' from
6 the date set by law or resolution that the General
7 Assembly convenes until the General Assembly either
8 adjourns sine die or recesses or adjourns for more
9 than 10 days.

10 (4) A contribution is 'made' during regular session if
11 the check or other instrument is dated during the
12 session, or if the check or other instrument is
13 delivered to the limited contributee during
14 session, or if the limited contributor pledges
15 during the session to deliver the check or other
16 instrument at a later time.

17 (5) A contribution is 'accepted' during regular session
18 if the check or other instrument is dated during
19 the session, or if the limited contributee receives
20 the check or other instrument during session and
21 does not return it within 10 days, or agrees during
22 session to receive the check or other instrument at
23 a later time.

24 (b) Prohibited Solicitations. -- While the General Assembly is
25 in regular session, no limited contributee or the real or
26 purported agent of a limited contributee shall:

27 (1) Solicit a contribution from a limited contributor
28 to be made to that limited contributee or to be
29 made to any other candidate, officeholder, or
30 political committee; or

31 (2) Solicit a third party, requesting or directing that
32 the third party directly or indirectly solicit a
33 contribution from a limited contributor or relay to
34 the prohibited limited contributor the prohibited
35 limited contributee's solicitation of a
36 contribution.

37 (c) Prohibited Contributions. -- While the General Assembly is
38 in regular session:

39 (1) No limited contributor shall make or offer to make
40 a contribution to a limited contributee.

41 (2) No limited contributor shall make a contribution to
42 any candidate, officeholder, or political
43 committee, directing or requesting that the

- 1 contribution be made in turn to a limited
2 contributee.
- 3 (3) No limited contributor shall transfer any amount of
4 money or anything of value to any entity, directing
5 or requesting that the entity use what was
6 transferred to contribute to a limited contributee.
- 7 (4) No ~~limited contributee~~ entity prohibited from
8 solicitation by subsection (b) of this section
9 shall accept a contribution from a limited
10 contributor.
- 11 (5) No limited contributor shall solicit a contribution
12 from any individual or political committee on
13 behalf of a limited contributee. This subdivision
14 does not apply to a limited contributor soliciting
15 a contribution on behalf of a political party
16 executive committee if the solicitation is solely
17 for a separate segregated fund kept by the
18 political party limited to use for activities that
19 are not candidate-specific, including generic voter
20 registration and get-out-the-vote efforts,
21 pollings, mailings, and other general activities
22 and advertising that do not refer to a specific
23 individual candidate.
- 24 (d) Exception. -- The provisions of this section do not apply
25 with regard to a limited contributee during the three weeks prior
26 to the day of a second primary if that limited contributee is a
27 candidate who will be on the ballot in that second primary.
- 28 (e) Prosecution. -- A violation of this section is a Class 2
29 misdemeanor."
- 30 Section 2. The State Board of Elections shall study the
31 following topics concerning multiple one-stop voting sites that
32 are allowed to be designated pursuant to G.S. 163-227.2(g):
- 33 a. The process by which county boards of elections
34 decide whether multiple sites are to be designated.
- 35 b. The criteria used to select the sites.
- 36 c. Any technical or management issues concerning the
37 operation of multiple sites.
- 38 d. Any issues of funding the operation of multiple
39 sites.
- 40 The State Board of Elections shall make a report to the General
41 Assembly by April 1, 2001, of its findings and recommendations
42 concerning those topics.
- 43 Section 3. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

Election Law & Campaign Reform
Name of Committee

Date July 5, 2000

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John Phelps	NCLM
Miss Porter	Board of Trustees
Richard Morris	Gen. Office
W. F. F.	W. F. F.
W. F. F.	W. F. F.
Kenith Hand	Gen. Office

AGENDA

**HOUSE COMMITTEE
ON**

ELECTION LAW AND CAMPAIGN FINANCE REFORM

July 6, 2000

**Room 1228/1327
10:00a.m.**

Presiding: Representative Donald A. Bonner, Chair

OPENING REMARKS:

Representative Donald A. Bonner, Chair

DISCUSSION:

Continuation of Senate Bill 767

COMMENTS and Questions FROM the COMMITTEE

ADJOURNMENT

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

MINUTES

JULY 6, 2000

ROOM 1228

12:00 NOON

The Election Law and Campaign Finance Reform Committee continued deliberations from the July 5, 2000 meeting on July 6, 2000. Representative Martha Alexander Co-Chair called the meeting to order at 10:00 AM. Present were Representatives Alexander, Bonner, Berry, Decker, Dedmon, Goodwin, Hensley, Insko, Justus, Kiser, Luebke, Melton, Michaux, Pope, Rogers, Thompson, Wilson and Ex-Officio Members Representatives Baddour, Cunningham, and Hackney.

Representative Alexander called on Representative Baddour to explain changes in the House Bill Substitute for Senate Bill 767. Representative Baddour called attention to the changes – being: Page 2 and Page 3 lines 12 and 14. Representatives Michaux (2), Goodwin, Hensley (2) Connie Wilson (2), Justus, Berry, Pope (2), Thompson (2), and Dedmon asked questions.

The Chair recognized Representative Connie Wilson to send forth an amendment to remove the word directly from page 2, line 42. The Amendment passed. The Chair recognized Representative Art Pope to send forth an Amendment; the Amendment did not pass.

The vote was called for the House Bill Committee Substitute. Representative Mickey Michaux made a motion to pass the Committee Substitute (with Amendment #1 rolled in) as a favorable report and an unfavorable as to the original Bill. Representative Wayne Goodwin seconded the Motion and the motion was carried.

The Hour for adjournment having passed the Chair adjourned the meeting.

Donald A. Bonner, Chair

Lucy Johnson, Committee Clerk

VISITOR REGISTRATION SHEET

Election LAW & CAMPAIGN Reform
 Name of Committee

7/6/2000
 Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

FRED TAYLOR

WKRL-TV

Greg Robinson

NYTRNG

Mindy Beam

Capital Group

Joe Smith

NO. 111

Travis Hill

Lt. Gov's office

Greg Owens

ACUWNC

Letta Nye

AP

Deborah Fox

ACUW

Jim Cotton

NCAE

25/

George J. Whitman

Kelli Culina

Duke

Andy Romenet

NCLM

Katy Duvall

Bruce Pierce

Bobby Huckabee

A+E Dist. - Wilmington

**2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **ALEXANDER AND BONNER** for the Committee on **ELECTION
LAW AND CAMPAIGN FINANCE REFORM.**

- ☒ Committee Substitute for
S.B. 767 A BILL TO BE ENTITLED AN ACT TO PROVIDE A ONE-YEAR WAITING
PERIOD BEFORE FORMER LEGISLATORS MAY BECOME LOBBYISTS
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ .
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ .
- ☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title,
unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- ☒ With a favorable report as to House committee substitute bill (#), ☒ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

ROLL CALL VOTE

$$\frac{10}{\text{YES}} + \frac{7}{\text{NO}} = 17 \text{ (TOTAL)}$$

HB# _____
SB# 1290

HOUSE STANDING COMMITTEE ON Election Law and Campaign Finance Reform

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Alexander	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bonner	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Berry	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Decker	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Dedmon	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Goodwin	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Hensley	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Insko	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Justus	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Kiser	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	Luebke	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Melton	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	Michaux	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	Nesbitt	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pope	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rogers	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Thompson	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	C. Wilson	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>		Ex officio Members		
<input type="checkbox"/>	<input type="checkbox"/>	Hackney	<input type="checkbox"/>	<input type="checkbox"/>	Speaker Pro Tem
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Baddour	<input type="checkbox"/>	<input type="checkbox"/>	Majority Leader
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cunningham	<input type="checkbox"/>	<input type="checkbox"/>	Earle

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

S

2

SENATE BILL 1290*
Judiciary I Committee Substitute Adopted 6/27/00

Short Title: Election Bd. Conduct.

(Public)

Sponsors:

Referred to:

May 31, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT CERTAIN POLITICAL ACTIVITIES BY BOARD OF
3 ELECTIONS MEMBERS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 163 of the General Statutes is amended by adding a
6 new Article to read:

7 "ARTICLE 4A.

8 "Political Activities by Board of Elections Members.

9 "§ 163-38. Applicability of Article.

10 This Article applies to members of the State Board of Elections and of each county
11 and municipal board of elections. With regard to prohibitions in this Article
12 concerning candidates, referenda, and committees, the prohibitions do not apply if
13 the candidate or referendum will not be on the ballot in an area within the
14 jurisdiction of the board, or if the political committee or referendum committee is not
15 involved with an election or referendum that will be on the ballot in an area within
16 the jurisdiction of the board.

17 "§ 163-39. Limitation on political activities.

18 No individual subject to this Article shall:

19 (1) Make statements intended for general distribution or dissemination
20 to the public at large supporting or opposing the nomination or
21 election of one or more clearly identified candidates for public
22 office.

(2) Make statements intended for general distribution or dissemination to the public at large supporting or opposing the passage of one or more clearly identified referendum proposals.

(3) Solicit contributions for a candidate, political committee, or referendum committee.

Individual expressions of opinion, support, or opposition not intended for general public distribution shall not be deemed a violation of this Article. Nothing in this Article shall be deemed to prohibit participation in a political party convention as a delegate. Nothing in this Article shall be deemed to prohibit a board member from making a contribution to a candidate, political committee, or referendum committee.

"§ 163-40. Violation may be ground for removal.

A violation of this Article may be a ground to remove a State Board of Elections member under G.S. 143B-16, a county board of elections member under G.S. 163-22(c), or a municipal board of elections member under G.S. 163-280(i). No criminal penalty shall be imposed for a violation of this Article.

"§ 163-40.1. Definitions.

The provisions of Article 22A of this Chapter apply to the definition and proof of terms used in this Article."

Section 2. This act becomes effective January 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

2

SENATE BILL 767
Judiciary II Committee Substitute Adopted 4/19/99

Short Title: Lobbyist Waiting Period.

(Public)

Sponsors:

Referred to:

April 6, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A ONE-YEAR WAITING PERIOD BEFORE FORMER
3 LEGISLATORS MAY BECOME LOBBYISTS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article 9A of Chapter 120 of the General Statutes is amended
6 by adding a new section to read:

7 "§ 120-47.5A. Waiting period before former State legislators may lobby.

8 No person who has served as a member of the General Assembly may act as a
9 lobbyist as defined in this Article within one year after the individual leaves office."

10 Section 2. G.S. 120-47.2(b) reads as rewritten:

11 "(b) The form of the registration shall be prescribed by the Secretary of State and
12 shall include the registrant's full name, firm, and complete address; the registrant's
13 place of business; the full name and complete address of each person by whom the
14 registrant is employed or retained; an indication of whether the registrant has served
15 as a member of the General Assembly and the period served; and a general
16 description of the matters on which the registrant expects to act as a lobbyist."

17 Section 3. This act is effective when it becomes law and applies to
18 individuals who leave office on or after that date.