2001

HOUSE
ELECTION LAW &
CAMPAIGN FINANCE
REFORM

MINUTES

Member	Assistant	Phone	Room	House seat
Alexander, Martha, Chair	Ann Faust, Comm. Asst.	3-5807	2208	32
Michaux, Mickey, Vice chair	Anita Wilder	3-5772	1325	57
Nesbitt, Martin, Vice chair	Jan Lee	5-3001	420	20
Arnold, Gene	Mary Hayes	3-5802	604	102
Blue, Dan	Lin Threatt	5-2528	1227	80
Bonner, Donald	Lucy Johnson	3-5803	1313	83
Church, Walter	Joyce Fuller	3-5805	1311	33
Daughtry, Leo	Bernice Bullard	3-5868	510	42
Decker, Michael	Linda Hines	3-5988	1021	87
Goodwin, Wayne	Kristin Corbett	3-5849	503	81
Justus, Larry	Carolyn Justus	3-5872	2204	13
Kiser, Joe	Marilyn Holder	3-5782	1317	100
Luebke, Paul	Joyce Harris	3-7663	529	44
Morris, Mia	Joy Feagin	3-5741	1315	65
Rayfield, John	Brenda Olls	3-5607	609	61
Redwine, David	Nancy Brantley	3-5829	635	19
Rogers, Gene	Sally Gillis	5-3023	416A	35
Starnes, Edgar	Pattie Fleming	5-9664	617	112
Thompson, Gregg	Edna Sykes	3-5828	1002	38

Weatherly, John	**Nancy Garriss**	**3-4838**	**502**	**93**
Weiss, Jennifer	**Susan Doty**	**3-5781**	**2221**	**16**

At Large

Baddour, Phil	**Elizabeth Kirkland**	**5-0850**	**2301**	**31**
Cunningham, Pete	**Valerie Rustin**	**3-5778**	**541**	**7**
Dedmon, Andy	**Donna Abu Harb**	**3-5732**	**2213**	**12**
Earle, Beverly	**Ann Raeford**	**3-5747**	**535**	**95**
Joe Hackney	**Emily Freeman**	**3-5752**	**2207**	**69**

Staff

Erika Churchill	**3-2578**	**545**	
Bill Gilkeson	**3-2578**	**545**	

ATTENDANCE

Election Law and Campaign Finance Reform

(Name of Committee)

DATES	5/2	5/9	5/16	5/23	6/6	6/13	6/20	6/27	7/11	7/18	7/25	8/1	8/15	8/22	9/12	10/10	10/24
Alexander, Martha	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Michaux, Mickey	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Nesbitt, Martin	✓		✓		✓	✓			✓	✓		✓	✓	✓	✓	✓	
Arnold, Gene	✓	✓	✓	✓	✓	✓	✓		✓				✓	✓	✓		
Blue, Dan	✓			✓		✓	✓	✓		✓		✓	✓	✓		✓	
Bonner, Donald	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
Church, Walter	✓	✓	✓	✓	EX			✓				✓				✓	✓
Daughtry, Leo	✓	EX	EX	✓	✓	✓	✓	EX	✓	✓	✓	✓	✓	✓	✓		
Decker, Michael	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓			✓	✓	
Goodwin, Wayne	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Justus, Larry	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		
Kiser, Joe	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Luebke, Paul			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		EX	EX	
Morris, Mia	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓			
Rayfield, John	✓	✓	✓	✓	✓	EX	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Redwine, David			✓								✓	✓					
Rogers, Gene	✓			✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Starnes, Edgar	✓	✓	✓		✓	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓
Thompson, Gregg	✓		✓										✓				
Weatherly, John	✓	✓	✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Weiss, Jennifer	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Baddour, Phil				✓							✓		✓				
Cunningham, Pete			✓	✓	✓		✓		✓	✓	✓	✓			✓		
Dedmon, Andy				✓	✓		✓		✓	✓	✓						
Earle, Beverly			✓		✓		✓				✓						
Hackney, Joe			✓	✓	✓		✓		✓			✓	✓				

ATTENDANCE

Election Law and Campaign Finance Reform

(Name of Committee)

DATES	2/21	2/28	3/7	3/14	3/21	3/28	4/4	4/11	4/12	4/16	4/18 1:00	4/18 4:30	4/19 1:00	4/19 4:45	4/23 2:00	4/24 7:30
Alexander, Martha	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ ✓
Michaux, Mickey	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓		✓
Nesbitt, Martin	✓	✓	✓	✓	✓	✓	✓	✓	✓	OA	✓	✓ late		✓		✓
Arnold, Gene		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓			✓
Blue, Dan	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Bonner, Donald	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓		✓	✓
Church, Walter	✓	✓	✓	✓	✓	✓	✓		✓	OA		✓		✓	EA	✓ ✓
Daughtry, Leo	OA	✓	✓	✓	✓	✓	✓	OA	✓	OA ✓	✓	OA	✓	✓	✓	✓
Decker, Michael	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓					
Goodwin, Wayne	✓	✓	✓	✓	✓	✓	✓	✓	✓	late ✓	✓	late ✓	✓	OA	late ✓	✓
Justus, Larry	✓	✓	✓	OA	✓	✓	✓			✓	✓	✓	✓	✓	✓	
Kiser, Joe	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ ✓
Luebke, Paul	✓	✓	OA	✓		EA	✓	✓	✓		✓	✓	✓	✓	EA	OA ✓
Morris, Mia	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
Rayfield, John	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	OA	EA	✓ ✓
Redwine, David	NA	✓		✓	✓	✓	✓	✓	✓	OA	✓			✓	✓	✓ ✓
Rogers, Gene	✓	✓	OA	✓	✓					✓	✓	✓	✓	✓	✓	
Starnes, Edgar	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓		✓ ✓
Thompson, Gregg	NA	✓	✓	✓			✓	✓	✓		✓	✓	✓	✓	✓	✓
Weatherly, John	✓	✓	✓	✓	✓			✓	✓	✓					✓	✓ ✓
Weiss, Jennifer	✓	✓	OA	✓	✓	✓ late	✓ late	✓	✓	✓	✓	✓		✓	✓	✓
Baddour, Phil											✓					✓
Cunningham, Pete		✓	✓													✓
Dedmon, Andy		✓		✓												
Earle, Beverly		✓														
Hackney, Joe		✓														

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

February 21, 2001

Room 1228
11:00 a.m.

The meeting was called to order by Representative Martha Alexander, Chair. She welcomed all members who then introduced themselves. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Blue, Bonner, Church, Decker, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Rogers, Starnes, Weatherly, and Weiss.

Representative Alexander recognized Committee Assistant, Ann Faust, Staff Counsel, Bill Gilkeson and Erika Churchill. She recognized the Sergeants at Arms and Pages and thanked them for their assistance. The visitors introduced themselves. A list of visitors is attached to the minutes.

Mr. Gilkeson was introduced. He handed out the list of bills assigned to the Committee and election bills introduced in the Senate. He handed out and reviewed the Interim Report from the Election Laws Revision Commission. The Report includes the beginning of the re-writing of Chapter 163 of the General Statutes among other things.

Representative Alexander introduced Gary Bartlett, the Director of the North Carolina Board of Elections for a presentation.

Mr. Bartlett provided an *Executive Report 1999 – 2000 Elections* from which most of his remarks and figures came. The *Report* is attached to the minutes. He also provided each committee member with a copy of Chapter 163 of The General Statutes and a 2001 election calendar of events.

The State Board of Elections is a bi-partisan, independent, quasi-judicial agency with five members; the Governor's party has three members, and the opposing party has two. They appoint various County Boards with three members. There are 100 Directors.

There are 5.2 million voters registered in North Carolina, but the rolls are going to be culled soon. No Excuse, One Stop Voting and additional voting sites outside of the Board of Elections offices were instituted for this election. (Refer to the *Executive Report* for other facts and figures.) Education and training has been stepped up. A data base for all counties is being implemented to ensure uniform standards.

Representative Goodwin asked when all counties would have the data base system in operation. Mr. Bartlett responded that by June, 2001, 93 counties would be on the statewide software system. Wake, Forsyth, Guilford, Mecklenburg, Vance, Columbus, and Lenoir counties have special data bases for information particular to their needs. Records can now be audited across county lines. 93,000 duplicates have been found thus far.

Representative Decker asked what authority the State Board of Elections has to straighten out duplicate or questionable registrations. Mr. Bartlett said that Chapter 163 Article 7 outlines the procedure and gives investigative powers to the Board.

Mr. Weatherly asked if registration lists could be purged for inactivity. Mr. Bartlett said that under the Voter Registration Act of 1993 non-voting is not a reason for purging. However, if for two General Election cycles, there has been no contact with a voter, the County can correspond with the person to verify existing information, and the person can be put on an inactive list through two more General Election cycles if there is no response. 902,000 inactive voters will be put on the list before the next election. The historical voting average has not varied substantially in recent years.

Representative Kiser wanted to know about the number of inactive voters who voted in the past election. Mr. Bartlett said he could supply that information. They agreed it was a very small number.

Representative Luebke asked why names could stay on in two counties. Does not state law require the new county of registration to notify the previous county to cancel their registration? Mr. Bartlett said that there are several reasons for the inaccuracies – lost mail, incomplete forms, lack of communication between Boards, and agency registration.

Representative Justus asked why an incomplete registration form is accepted and if the registrant could be questioned about previous registration. Mr. Bartlett explained that according to law only four things are required: name, address, age and signature. Although the applicant may be asked, the law would have to be changed to require previous registration information.

Representative Rayfield was interested in how many agencies could now register voters. Mr. Bartlett replied there are about 900 different offices offering voter registration applications. Any agency receiving public funding participates, and he can get the number. Representative Rayfield asked if there is a standard cost for an agency to register a voter and who pays the cost? Mr. Bartlett said the agency bears the burden. He has no precise figure.

Mr. Bartlett explained that maintenance and assistance programs are being updated. Focus groups on budget, streamlining, and voting accessibility are planned. The Board hopes to set up policy studies on accuracy of information, common misconceptions of elections, model budgets, service to the public, directors and overtime and to expand training through Community Colleges and The Institute of Government.

He asked the Committee to consider strengthening the position of director by considering standards for hiring, salary and training to attract quality candidates. The Board would like to have workshops for political parties, media, and candidates, and they want to put more information on the Website.

Representative Nesbitt stated that he and last year's committee put a lot of trust in the Board to carry through the legislated changes, and he commended the Board for their outstanding performance. He said The State Board of Elections has been a "steady deal" over the years and very fair regardless of the party in power.

The meeting was adjourned at 11:52.

Martha Alexander, Chair

Ann G. Faust, Committee Assistant

Attachments:
Visitors' roster
Lists of bills
Final Report from The Election Laws Revision Commission
Executive Report
State Board of Elections calendar of events

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

February 21, 2001
11:00 a.m.
Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

INTRODUCTIONS

PRESENTATION: Gary Bartlett, Executive Secretary, Director
State Board of Elections

STAFF: Bill Gilkeson
Erika Churchll

VISITOR REGISTRATION SHEET

Election Law & Campaign Finance Reform
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Don Wright	NC State Board of Elections
Mary H Dixon	visitor
Tiffany Hilliard	NC Home Builders Assn
Christina Prasnikar	Friend of Jim Blackburn
Gary O. Bartlett	State Board of Elections
Yvonne Southerland	" " " "
Gerri Poucher	Wake County " " "
Johnnie McLean	SBE
Deb Ross	ACLU
John Blust	NC House
Crissy Parker Porter	Bone and Associates
Bob Ray	State Board of Elections
Steve Woodson	NCFB
JOHN GOODMAN	CINWOOD MERCER & ASSOC.
Tammy Lester	OSBPM

NCGA Bill Inquiry Results

Session:	2001 - 2002 Session
Sorted By:	Bill Number
Total Bills Returned:	6

P/L = Public/Local Bill | $ = Affects Appropriations
* = Bill Text Has Changed

H 17 **Voter I.D.**

P

Prime Sponsor(s): Larry T. Justus.

Last Action: 01/30/2001

Status: [H] Ref To Com On Election Law and Campaign Finance Reform

Detailed Bill Information

No Fiscal Note

H 31 **Presidential Elector Challenge.**

P

Prime Sponsor(s): G. Wayne Goodwin.

Last Action: 02/01/2001

Status: [H] Ref To Com On Election Law and Campaign Finance Reform

Detailed Bill Information

No Fiscal Note

H 32 **Faithless Elector Penalty Increased.**

P

Prime Sponsor(s): G. Wayne Goodwin.

Last Action: 02/01/2001

Status: [H] Ref To Com On Election Law and Campaign Finance Reform

Detailed Bill Information

No Fiscal Note

H 33 **Presidential Electors by District.** (= S 70)

P

Prime Sponsor(s): G. Wayne Goodwin.

Last Action: 02/01/2001

Status: [H] Ref To Com On Election Law and Campaign Finance Reform

Detailed Bill Information

No Fiscal Note

H 34 **Ban Butterfly and Punch Card Ballots.**

P

Prime Sponsor(s): G. Wayne Goodwin.

Last Action: 02/01/2001

Status: [H] Ref To Com On Election Law and Campaign Finance Reform

Detailed Bill Information

No Fiscal Note

H 57 **LABELING CAMPAIGN ADS.**

P

Prime Sponsor(s): Rex L. Baker.

OVER→

Last Action: 02/07/2001 **Status:** [H] Ref To Com On Election Law and Campaign Finance Reform

Detailed Bill Information **No Fiscal Note**

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NCGA Bill Inquiry Results

Session:	2001 - 2002 Session
Sorted By:	Bill Number
Total Bills Returned:	21

P/L = Public/Local Bill | $ = Affects Appropriations
* = Bill Text Has Changed

S 2 **Gubernatorial Team Ticket**
P * **Prime Sponsor(s):** Tony Rand.
Last Action: 02/20/2001 **Status:** [SA] Reptd Fav Com Substitute
Detailed Bill Information **No Fiscal Note**

S 8 **Soft Money Control.**
P **Prime Sponsor(s):** Wib Gulley.
Last Action: 01/29/2001 **Status:** [S] Ref To Com On Judiciary I
Detailed Bill Information **No Fiscal Note**

S 10 **Ballot Access Changes.**
P **Prime Sponsor(s):** Wib Gulley.
Last Action: 01/29/2001 **Status:** [S] Ref To Com On Judiciary I
Detailed Bill Information **No Fiscal Note**

S 11 **Election Changes-Misc.**
P **Prime Sponsor(s):** Wib Gulley.
Last Action: 01/29/2001 **Status:** [S] Ref To Com On Judiciary I
Detailed Bill Information **No Fiscal Note**

S 14 **Election Rewrite/Counting And Canvassing**
P **Prime Sponsor(s):** Wib Gulley.
Last Action: 01/29/2001 **Status:** [S] Ref To Com On Judiciary I
Detailed Bill Information **No Fiscal Note**

S 16 **Municipal Election Bds.**
P **Prime Sponsor(s):** Wib Gulley.
Last Action: 01/29/2001 **Status:** [S] Ref To Com On Judiciary I
Detailed Bill Information **No Fiscal Note**

S 17 **Election Rewrite/Ballots And Voting**
P **Prime Sponsor(s):** Wib Gulley.
Last Action: 01/29/2001 **Status:** [S] Ref To Com On Judiciary I
Detailed Bill Information **No Fiscal Note**

S 24 **West Norman Incorporation.**
L **Prime Sponsor(s):** T. LaFontine Odom, Sr..
Last Action: 02/01/2001 **Status:** [S] Ref To Com On State and Local Government
Detailed Bill Information **No Fiscal Note**

S 31 **Single-Member Districts.**
P **Prime Sponsor(s):** Virginia Foxx.
Last Action: 02/05/2001 **Status:** [S] Ref To Com On Rules and Operations of the Senate
Detailed Bill Information **No Fiscal Note**

S 70 **Presidential Electors by District.** (= H 33)
P **Prime Sponsor(s):** Howard N. Lee.
Last Action: 02/06/2001 **Status:** [S] Ref To Com On Judiciary II
Detailed Bill Information **No Fiscal Note**

S 87 **Local Sales Tax/Harnett and Cumberland.** (= H 67)
L **Prime Sponsor(s):** Oscar N. Harris.
Last Action: 02/07/2001 **Status:** [S] Ref To Com On Finance
Detailed Bill Information **No Fiscal Note**

S 90 **Local Option Homestead Relief.** (= H 50)
P **Prime Sponsor(s):** David W. Hoyle.
Last Action: 02/07/2001 **Status:** [S] Ref To Com On Finance
Detailed Bill Information **No Fiscal Note**

S 94 **Implement 4-Year Terms.** (= H 84)
P **Prime Sponsor(s):** David F. Weinstein.
Last Action: 02/07/2001 **Status:** [S] Ref To Com On Judiciary I
Detailed Bill Information **No Fiscal Note**

S 96 **Four-Year Terms.** (= H 83)
P **Prime Sponsor(s):** David F. Weinstein.
Last Action: 02/07/2001 **Status:** [S] Ref To Com On Judiciary I
Detailed Bill Information **No Fiscal Note**

S 103 **Nominating Board of Governors/University of Nort**
P **Prime Sponsor(s):** Walter H. Dalton.

Last Action: 02/07/2001 **Status:** [S] Ref To Com On Education/Higher Education
Detailed Bill Information **No Fiscal Note**

S 104 **Session Length Limits.**
P **Prime Sponsor(s):** David W. Hoyle.
Last Action: 02/08/2001 **Status:** [S] Ref To Com On Judiciary I
Detailed Bill Information **No Fiscal Note**

S 119 **District Court Elections Nonpartisan.**
P **Prime Sponsor(s):** Walter H. Dalton.
Last Action: 02/12/2001 **Status:** [S] Ref To Com On Judiciary II
Detailed Bill Information **No Fiscal Note**

S 120 **Fair Election Act.**
P **Prime Sponsor(s):** Robert A. Rucho.
Last Action: 02/12/2001 **Status:** [S] Ref To Com On Judiciary II
Detailed Bill Information **No Fiscal Note**

S 121 **Electioneering Near Polls Restricted.**
P **Prime Sponsor(s):** Hugh Webster.
Last Action: 02/12/2001 **Status:** [S] Ref To Com On Judiciary II
Detailed Bill Information **No Fiscal Note**

S 122 **Polls Close at 9 P.M.**
P **Prime Sponsor(s):** Hugh Webster.
Last Action: 02/12/2001 **Status:** [S] Ref To Com On Judiciary II
Detailed Bill Information **No Fiscal Note**

S 130 **Kids Voting NC Funds.** (= H 165)
P $ **Prime Sponsor(s):** Tony Rand.
Last Action: 02/13/2001 **Status:** [S] Ref To Com On Appropriations/Base Budget
Detailed Bill Information **No Fiscal Note**

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ELECTION LAWS REVISION COMMISSION

FINAL REPORT TO THE
2001 SESSION OF THE
2001 GENERAL ASSEMBLY
OF NORTH CAROLINA

STATE BOARD OF ELECTIONS
6400 Mail Service Center • Raleigh, NC 27699-6400

GARY O. BARTLETT
Director

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Executive Report
1999 - 2000 Elections
February 2001

Mission
To promote among the citizens of North Carolina confidence in the integrity of the free election process through the consistent administration and equal application of all election and campaign finance laws, rules, and regulations.

Executive Summary
For the first time in North Carolina's history, over three million voters participated in the November 2000 General Election. For the first time in North Carolina's history, the State implemented a "No-Excuse" Absentee One-Stop voting provision that enabled 393,152 voters to exercise their voting right on a date more convenient to them than the day of the election (over 469,000 total absentee votes were cast). In the weeks prior to the November General Election through the days following it, thousands of e-mail messages and phone calls from voters were individually answered by the staff of the State Board of Elections. Public inquiry to the State Board office, especially by electronic means, more than quadrupled from any previous election.

For the first time in the history of the State Board of Elections, natural disasters and other events led to the need for the State Board staff to assist distressed counties in the conduct of their elections, causing essential personnel to be off site for extended periods of time, agency resources to be used, and the State Board staff members who remained on site to be critically impacted.

The following list provides a notable summary of facts pertaining to the 1999 – 2000 election cycle:

- Implemented No Excuse Absentee One-Stop voting that was utilized by 393,152 voters
- Conducted One-Stop voting at 159 locations across the State

Location: 506 North Harrington Street • Raleigh, North Carolina 27603

- Audited operations at 86 One-Stop voting sites (59 additional sites and 27 county board offices)
- Investigated 50 detailed cases of allegations of election law violations
- Completed 10 audits of operations of county board of elections; 6 received State Board implemented remediation
- Generated $414,711 in revenues for the State
- Utilized emergency powers given to the Executive Secretary-Director as a result of Hurricane Floyd
- Heard 27 election protests in 1999 – 2000
- Supervised two successfully conducted statewide recounts
- Conducted training programs for 700 county board members and staff
- Produced three training videos for use by county board members and other election officials
- Processed 1,629,695 voter registration applications
- Facilitated the increase of voter registration by 40.1% in the last six years
- Distributed nearly 2,000,000 voter registration/change forms in 1999 – 2000
- Evaluated over 2500 polling places for accessibility under the Americans with Disabilities Act Accessibility Guidelines
- Processed and maintained approximately 8,000 financial disclosure reports involving 1,400 active committees and $150 million in 1999 – 2000 election cycle
- Implemented first state-developed, statewide voter registration database

Through integrity and ingenuity, the State Board of Elections and its staff made strides in ensuring accuracy in all processes and areas of election administration and worked to provide high quality service to the citizens of the State.

GENERAL OVERVIEW

Agency Functions

Overall, the State Board of Elections is responsible for administering the elections process and campaign finance disclosure in the State. The five member Board, appointed by the Governor, is the only statutory, bi-partisan, quasi-judicial directory board in State government. The office is comprised of three functional units:

- Administration
  - Including general supervision of 100 county boards of elections and 48 municipal boards of elections in administering elections and related laws, certifying election results, voter outreach, voter registration, absentee voting, education/training, investigations/audits, and legal matters
- Campaign Reporting
  - Including public education; assistance to candidates, political committee treasurers and county/municipal boards of elections and staff; investigating complaints, conducting research and preparing analyses in preparation for the State to hold evidentiary hearings, providing for electronic filing, and conducting training
- Information Systems
  - Including implementing and maintaining a state election information management system (SEIMS), providing assistance to counties, and statewide election data to the public

The State Board of Elections serves the public by supervising all primary and general elections held in the State. To this end, the State Board of Elections enforces election laws and promulgates reasonable rules and regulations governing the conduct of primaries and elections in the State.

General Supervisory

The State Board hears complaints arising from public concerns regarding the conduct of a county board of elections or a county board member. Upon a proper hearing, the State Board may remove any county board member for incompetence, neglect or failure to perform duties, fraud, or any other satisfactory cause. The Executive Secretary-Director may terminate the employment of any director of elections upon a determination that such action is warranted by majority petition by the county board of elections.

The State Board investigates, when necessary or advisable, the administration of election laws and any potential fraud or irregularities in elections. To fulfill this mandate, the State Board of Elections staff has conducted investigations, performed audits of distressed county election offices and performed wellness checks offered for preventive

maintenance to election offices across the State. In some situations, the State employs consultants and temporary staff to complete essential processes to ensure that election laws are being followed in non-compliant counties. County boards of elections found to be non-compliant are put through a rehabilitation process by staff of the State Board to ensure that upcoming elections are conducted with integrity and according to law. During certain times, the State Board office has had to pitch in and has had to employ consulting and temporary help in Harnett County, Durham County, in certifying election results, in auditing campaign finance disclosure reports, and in assisting counties in the use of the State Election Information Management System.

Listed below is a summary of the work that was accomplished in 1999 – 2000 in efforts to ensure that election laws were applied equally across the State. Appendix A represents a copy of the tool staff investigators use to evaluate county boards of elections.

1999-2000 Investigations

Number	Assignment/Investigation/Task	Status
1	Investigation of allegation of violation of campaign reporting laws.	Closed
2	Investigation of alleged deceased voter registration.	Active
3	Investigation of complaints by the Avery County Commissioners concerning the operations of the Avery County Board of Elections and the Director.	Closed
4	Investigation of a complaint concerning the conduct of no-excuse one-stop voting.	Closed
5	Investigation of One-Stop electioneering complaint.	Closed
6	Investigation of election day complaint of illegal signs posted in polling site.	Closed
7	Investigation into alleged violation of campaign reporting laws.	Investigation complete, pending final review.
8	Investigation of allegation of violation of campaign reporting laws.	Closed
9	Administrative investigation of allegations of an anonymous mailing from an unidentified group.	No evidence found to support allegation at this time.
10	Investigation into convicted felon elected to office.	Forwarded to District Attorney for disposition.
11	Investigation of alleged forgery of signatures of petition.	Completed – Case heard before the State Board of Elections.
12	Investigation of allegations of election day misdirecting/confusing documents being disseminated at polling site.	Closed

13	Investigation of allegation of violations of election law concerning absentee ballots at a nursing home.	Closed
14	Worked with the District Attorney for Duplin County to conclude an extensive investigation into apparent election fraud in Duplin County.	Closed
15	Investigation into complaint of illegal solicitation of funds.	Closed
16	Investigation of irregularities surrounding the May 2000 primary.	Closed
17	Investigation of allegations concerning a Gaston County Board of Elections Board member.	Closed
18	Investigation of complaint concerning the allegations of campaign reporting violations by the Committee for Clean Water.	Closed
19	Investigation of complaint by Graham County Commissioners concerning the operations of the Graham County Board of Elections.	Closed
20	Investigation of complaint of intimidation of an election official.	Closed
21	Investigation of anonymous allegation of Campaign Reporting law violation.	No evidence found to support allegation at this time.
22	Absentee Ballot Fraud – To date, in conjunction with the State Bureau of Investigation and the District 11 District Attorney, two arrests have been made. State Board of Elections staff provided investigative assistance.	Active
23	Investigation of an allegation of a deceased person voting.	Closed
24	Investigation and follow-up concerning office running out of ballots and the informal complaints associated.	Completed
25	Investigation concluded concerning alleged absentee ballot fraud.	Active - Sent to District Attorney for disposition.
26	Investigation of alleged illegal activities surrounding the Christian Coalition. Case close to conclusion.	Pending State Board of Elections review.
27	Investigation of allegation of candidate misuse of funds.	Closed
28	Administrative investigation of an unregistered referendum committee.	Investigation complete, pending final review.
29	Investigation into alleged violation of campaign reporting laws.	Investigation complete, pending final review.
30	Investigation of allegation of violation of campaign reporting laws.	Closed
31	Investigation into the political action committee EMPAC and allegations of expenditures made with employee contributions from SEANC. Resolved through settlement.	Closed – Presented to the State Board of Elections.
32	Investigation of alleged violation of campaign reporting laws concerning media disclosure.	Closed

33	Investigation of e-mail fraud concerning the 2000 General Election. Identified originator and forwarded the investigation to the State Bureau of Investigation.	Referred to SBI
34	Investigation of telephone fraud concerning the 2000 General Election. Forwarded to Federal Bureau of Investigation and State Bureau of Investigation for investigation.	Referred to FBI, SBI
35	Investigated election day complaint of voter allegedly voting absentee and his name was still on the poll list.	Closed
36	Investigation of complaint concerning one-stop procedure violations.	Closed
37	Investigation of elections protest for St. Helena. Investigations regarding non-resident voters voting in municipal election.	Closed
38	Investigation of voter registration fraud complaint.	Closed
39	Investigation of allegations of election fraud concerning forgery of signatures on new voter registrations.	Closed
40	Investigation of allegations of Campaign Reporting violations.	Closed
41	Investigation of allegation of violation of campaign reporting laws.	Closed
42	Investigation into complaint of anonymous campaign documents dispersed throughout the community.	Closed
43	Investigation of allegation of illegal mailing violation of Campaign Reporting laws.	Active
44	Investigation into alleged campaign reporting violations in Fuquay-Varina.	Closed
45	Investigation of complaint concerning the allegations of campaign reporting violations by Citizens for Truth in Elections.	Closed.
46	Investigation of complaint concerning the allegation that an individual absentee voted in the name of another.	Closed
47	Investigation of election day complaint concerning voter accessibility in precincts.	Closed
48	Investigation of election day complaint concerning electioneering.	Closed
49	Investigation of alleged election equipment that was stolen and files missing.	Completed
50	Investigation into the alleged irregularities surrounding the 2000 General Election.	Completed

1999-2000 Audits/Wellness Checks

County Audited	Year of Review	Assistance from State	# of SBE staff	Length of assistance	CBE met/exceeded standards
Duplin	1999	Yes	8	8 months	
Harnett	2000	Yes	3 (1 temp)	6 weeks	
Lenoir*	2000	No	3	--	✓
Wayne*	2000	No	2	--	✓
Craven*	2000	No	3	--	✓
Mecklenburg*	2000	No	4	--	✓
Durham	2000	Yes	1	4 weeks	
Avery	2000	No**	2	--	
Graham	2000	No	2	--	
Clay	2000	No**	2	--	

** State wellness check resulted in favorable review of county board of elections operations*
***State will assist these counties by providing intensive on-site training followed by a re-evaluation*

The State Board conducts hearings of alleged violations of election laws and regulations and may request that the State Bureau of Investigation conduct investigations of alleged criminal election fraud. The Board reports purported criminal violations to the Attorney General and the appropriate district attorney or prosecutor of the district for further investigation and potential prosecution.

The State Board of Elections is empowered to order a new election upon the vote of no less than four of the five members of the Board that sufficient evidence exists that alleged election irregularities, fraud, or violations of election laws have occurred and may have affected the outcome of the election. The State Board can also grant other relief that the circumstance might require.

The State Board of Elections office also received revenues for the following in the 1999 – 2000 election cycle:

- $304,761 received from candidates filing for office
- $7,950.00 received for fines & penalties
- $102,000 from settlement of improper campaign contributions
- **$414,711 total to State *(not to SBE)***

APPEALS

The State Board of Elections office works diligently to provide comprehensive training of election officials in efforts to reduce the number of appeals received by the State Board and consequently, the number of new elections ordered. Appeals consume staff time in their own right as well as increasing public interest and inquiry, at times in excess of a thousand e-mail messages and phone calls. The following outlines appeals to the State Board of Elections.

1999 Municipal Election Year: Thirteen appeals were filed with the State Board following the municipal elections. Some were related to events following the flood after Hurricane Floyd, some were the usual types of complaints from disappointed candidates, and a few required significant staff and State Board time. Following hearings the State Board ultimately ordered four new elections to be conducted. Two of the municipalities contracted with the county boards of elections for the conduct of all future elections.

2000 General Election Year: The State Board heard over fourteen election appeals and ordered one new election. In addition, the Board heard others matters that were not limited to election appeals. Some more notable election protests and other matters are as follows:

Steve Forbes

The Presidential Election Year began with candidates seeking access to the Presidential Preference Primary ballot. Steve Forbes was unable to qualify by petition (as did George W. Bush) and cited problems related to the "blizzard" of January 2000, and requested an extension of the statutory date for filing the petitions. The request was denied. No further action was taken by Forbes, who withdrew as an active candidate.

Capitol Broadcasting Company

A complaint was filed by Marshall Hurley against Capitol Broadcasting Company and contended that the air time provided to certain Gubernatorial Candidates was a corporate contribution to each candidate, an action prohibited by the Campaign Reporting Act. The State Board of Elections held a preliminary hearing to determine whether or not to conduct a hearing on the matter. The Board voted unanimously to deny the request of Mr. Hurley, stating that when the General Assembly enacted G.S. 163-278.14A(b), the intent was to highlight that the State Board could not apply corporate contribution laws to the news media. A State Board member suggested to WRAL-TV

(Capitol Broadcasting Company) that they should re-evaluate how the station describes the giving of its air time to candidates.

CARE

The complainants, Common Cause Members and Cary Residents, alleged that CARE, Community Alliance for Responsible Environment, was opposing the election of Glen Lang, a candidate for mayor in Cary without filing as a political committee and without complying with the reporting requirements under North Carolina's laws governing campaign financing. After reviewing the complaint, testimony, and materials submitted before and during the evidentiary hearing, the State Board found 28 facts and concluded that CARE is a political committee under G.S. 163-278.6(14) in that it is an entity of two of more persons that made expenditures to oppose the election of Glen Lang, and a major purpose of the group was to oppose the election of Glen Lang. The State Board ordered CARE to make the necessary filing required under Chapter 163 for a political committee. The filings were to include the disclosure of all contributions and expenses since the group was formed. Any corporate contributions to CARE must be returned to the donors to the extent the funds were not expended as of January 21, 2000. All contributions to CARE after January 21, 2000, may only be from individuals or political committees that are subject to the $4,000 per election limitations. This matter is now being litigated in federal court.

Green Party

The Brennan Center for Justice at NYU School of Law requested an extension to the statutory deadline for Ralph Nader to qualify as the Green Party nominee for President of the United States. Following several hearings and federal court proceedings, the State's petition requirements were upheld and the Green Party's complaint was dismissed.

Reform Party

The Reform Party qualified by petition as a recognized political party. The national convention was held and became the lead story on the evening news for several weeks. A split in the convention resulted in two Reform Party nominees for President and Vice President. After a State Board hearing and appearances in Wake County Superior Court, the State Board's ruling that Pat Buchanan was the Reform Party nominee was upheld. The Court of Appeals did not issue an injunction to prevent the printing of ballots, and on September 18, 2000, the date absentee ballots were to be available for mail requests, the State Board issued a directive to the 100 county boards of elections to begin the printing of ballots for the General Election with Mr. Buchanan as the Reform Party Presidential nominee.

House District 23

The primary election for House District 23's three seats was appealed to the State Board on the grounds that precinct lines were moved after the statutory deadline and voters were not informed of the new polling place location, resulting in some voters being essentially disenfranchised. After hearing the arguments and presentations, the State Board denied the request for a new election in that the error would not have affected the outcome of the Primary. However, as a result of this incident, the Durham County Director of Elections was terminated upon the recommendation of the majority of the Durham County Board of Elections.

Senate District 23

The Board heard and dismissed a complaint from a losing State Senate candidate in Senate District 23 that the winning candidate failed to qualify to run for the State Senate because he had not resided in District 23 a year prior to his election. The losing candidate appealed the State Board's decision, but the Courts did not intervene in the winning candidate's certification and he has been sworn into office.

Daniel Boyce

A complaint of illegal campaign tactics was made against successful Attorney General candidate Roy Cooper by a losing candidate for that position, Daniel Boyce. After a hearing on the merits the Board, without dissent, voted to dismiss the complaint. Mr. Boyce did not appeal the Board's action, but filed a separate and new action against Attorney General Cooper in the General Court of Justice.

Democracy South

In a complaint brought by Democracy South, the State Board found some violations of North Carolina campaign reporting laws by the National Democratic and Republican Parties. However the complaint gave the State Board the opportunity to make findings that informed the public that recent amendments to GS § 163-278.13(e) had allowed the national political parties to funnel unlimited "soft money" to the state parties. This situation created a great deal of concern and calls for corrective legislation. This corrective legislation is now before the 2001 General Assembly.

ADMINISTRATION

The State Board of Elections determines the form and content of ballots, instruction sheets, poll books, tally sheets, abstract and return forms, certificates of election, and other forms to be used in the conduct of primary and general elections. The State Board prints and distributes to the counties certain ballots as required by law. The State Board certifies all district, state, and elections for federal office. Additionally, the Board studies and certifies all voting equipment for use in the State. The Board is apprised of all new developments in voting systems technology by staff reports and staff participation in seminars and task forces.

For the November 2000 election, the State Board of Elections implemented the ENRS, Election Night Reporting Software. Mandating the electronic format of election results greatly reduced the amount of paper and number of staff used for validating results by precinct. The number of errors were reduced due to the data only being keyed in once at the county level, and then compiled for review by the State Board of Elections staff. This methods departs from the previous method that required that State Board staff and temporary staff re-enter all elections data by hand.

Standardized forms have been integrated into the SEIMS system (State Election Information Management System) relating to absentee voting, voter registration, and reporting mechanisms that ensure all counties are current on laws and regulations relating to the conduct of elections and information provided to the public.

The following table reflects election day, one-stop and other absentee voting data from the 2000 general election:

Total voters in 2000 General	**# of Precinct officials**	**Cost**
3,015,964	18,218+	$5,390,133

Past Turnout/Like Year Comparisons	**1996: *2,513,357***	**1992: *2,611,850***

2000 General Election Data

Absentee Civilian Request	**Absentee Civilian Returns**	**Military Absentee Requests**	**Military Absentee Returns**
83,279	72,447	6,652	3,766

Total One-Stop	**One-Stop Dem**	**One-Stop Rep**	**One-Stop Unaffiliateds**	**One-Stop Lib**	**One-Stop Reform**
393,152	181,538	149,916	61,246	431	21
Total absentee ballot processed in 2000 General Election: 469,365					

The State Board also ensured the successful conduct of two statewide recounts for Commissioner of Labor and Court of Appeals.

Absentee Voting

The 1999 North Carolina General Assembly passed laws to amend the absentee voting process. N.C. Gen. Stat. § 163.227.2(al) was amended to allow voters to cast an Absentee One-Stop ballot in the general election in even numbered years (i.e., 2000, 2002, 2004, etc.) without having to provide an excuse.

Generally speaking, absentee voting is comprised of two methods by which registered voters may cast ballots other than the traditional method of appearing in person and casting a ballot on the day of the election. These methods are absentee by mail and absentee one-stop either in the office of the county board of elections, or in another location within the county designated as an Absentee One-Stop voting site.

Absentee One-Stop voting has been available in county board of elections offices for years. The one-stop voting process permits qualified voters to vote absentee in person at the county board of elections. For the November 2000 General Election, voting by Absentee One-Stop no longer required an excuse. One-stop voting begins on the first business day after the voter registration deadline and ends at 5:00 P.M. on the Friday before the election.

Additional Absentee One-Stop Voting Sites

North Carolina voters overwhelmingly took advantage of having the ability to vote by Absentee One-Stop, with no excuse, at all county boards of elections offices, during regular office hours, for the three-week one-stop absentee voting period. For the November 2000 General Election, many county boards of elections offered one-stop absentee voting at other locations within the counties. While there were a few bumps in the road, the process was successful overall, especially for its first implementation. The absentee voting law was amended to provide for "one or more sites in that county for absentee ballots to be applied for and cast," N.C. Gen. Stat. § 163-227.2(g).

Each county board of elections was responsible for the operation of each of its Absentee One-Stop Voting sites. County boards of elections were required to submit a Plan for Implementation to the State Board of Elections for approval. The State Board's criteria for approved plans ensured that each additional site had:

- Location in a public building
- Adequate training for staff
- Access to registration records

- A method for verifying voter registration
- Ensure against duplicate voting by a voter
- Adequate ballot supply and styles
- Ballots with identifiers for retrievability
- Accurate set up of the voting enclosure
- Observance of the 50 foot boundary for electioneering
- Provisions for political party observers in place
- A plan and affidavits for curbside voting
- Provisions for voter assistance
- Adequate supply of challenge forms
- Implementation of a security plan

Political parties were able to designate two observers to be present at each one-stop site. While written challenges to a voter's registration could have been entered against a voter at a one-stop site by the election official or by another registered voter who resides in the same precinct as the voter being challenged or at certain times on election day, the State Board office received no reports of any challenges filed against any absentee one-stop voters.

Plans for the security of the one-stop sites, the ballots, the voting equipment and registration records were developed by each county board of elections providing additional one-stop sites and approved by the State Board of Elections. The State Board mandated these plans so that if a challenge to an absentee ballot was sustained or if an irregularity was proven, the integrity of the election remained intact.

Voting "No Excuse" Absentee One-Stop

The State Board of Elections considered multiple One-Stop site proposals at two meetings, September 14 and September 29, 2000. At the first meeting, one of the five State Board members was absent. Nine plans failed at that meeting to win approval, four of them by two-two tie votes. At the September 29 meeting, where all 5 State Board members were present, five of the nine denied counties re-submitted their proposals, and all five were approved.

The following is a list of statistics about the One-Stop plans:

- 31 county plans were proposed.
- 27 were approved by the State Board.
- 25 were approved by the State Board with no dissenting vote (final votes).

- Only two plans were approved by the State Board on a divided vote: Durham and Edgecombe.
- 23 were proposed unanimously by all 3 members of the county boards of elections (24 if Forsyth is counted where there were only two board members, a Democrat and Republican, at the time of the vote).
- A core of 21 plans were proposed unanimously by the county boards and approved without dissent by the State Board (22 with Forsyth).
- 4 plans were denied approval by the State Board without a dissenting vote.
- Of the 4 plans the State Board did not approve, 2 were unanimously proposed by the county board of elections and 2 were not.
- Of the 27 plans approved by the State Board, 21 were unanimously proposed by the county boards and 6 were not (Again, 22 and 5, if Forsyth is counted as unanimous).
- The 27 approved plans contained 59 additional One-Stop sites. One-Stop voting was available at 161 sites in North Carolina in 2000: All 100 county board of elections offices, 59 additional sites, and 2 additional sites in Guilford and Orange Counties (Guilford County has a second office in High Point and 1983-84 local legislation required the Orange County Board to provide for One-Stop voting in Chapel Hill-Carrboro, in addition to their location in Hillsborough).
- Of the 59 additional sites, 27 were in public libraries, 7 were on college or community college campuses, 6 were in town halls, 5 were in fire or rescue stations, and 3 were in high schools. The other 11 were in public use buildings such as community centers, extension offices, training centers, county courthouses, and county office complexes.

The State Board of Elections approved $173,407 in grants to counties, out of the $250,000 appropriated by the General Assembly for that purpose. Because the 2000 legislation directed the State Board to award grants "no later than September 15, 2000," the State Board took the position that it could not award grants after that date. Therefore, the five counties whose petitions were denied September 14 and then approved on September 29 were awarded no grant money.

State Board of Elections oversight

Staff of the State Board of Elections monitored the additional Absentee One-Stop Voting sites across the State to ensure that required procedures were followed. Staff evaluated every additional One-Stop site once and, in many cases, twice during the Absentee One-Stop voting period. The tool used to evaluate the sites for compliance is included as Appendix B.

EDUCATION AND TRAINING

The State Board of Elections appoints, trains, and supervises approximately 400 county board members and directors, an additional 300 county-level staff, and has oversight and training of approximately 48 municipal boards and supervisors. While training is offered to all boards of elections, very few municipal boards take advantage of State training. Further, the State Board supervises the appointment and training of precinct officials and other election-day staff in excess of 20,000 people.

The North Carolina State Board of Elections Certification in Elections Program has been a work in progress for many years. The State Board of Elections officially created the program in June 1995 and appointed the Certification Board, assigning the designation "Certified Elections Administrator" to directors and staff in boards of elections office and "Certified Elections Official" to boards of elections members. The first "class" certified was in December 1996. The program is voluntary for most elections professionals; the exception is that certification is required of directors hired after May 1995.

The program is a means of enhancing election expertise, providing uniformity and equal application of election laws throughout the state, raising the level of professionalism of elections officials, and encouraging them to expand their election knowledge through continuing education. Central to the program are 11 "core" courses, which include topics such as budget preparation, voter registration, election laws and campaign finance reporting requirements. There are stringent requirements before one becomes certified, including completion of a requisite number of "core" courses and electives; attending continuing education through the State Board of Elections training seminars and Institute of Government seminars; and successful completion of a written examination. Once certified for the initial 2-year period, officials and administrators must complete continuing education to maintain certification.

To date, those that number among the active certified elections administrators and officials are 74 directors, 32 deputy directors and 13 staff members for a total of 119 Certified Elections Administrators; and 18 chairmen, 8 secretaries and 9 members of county boards of elections, for a total of 35 Certified Elections Officials. The program boasts the total of 154 active certified members, many of whom have renewed certification at least once.

The Certification in Elections Program continues to grow and expand, with added "core" courses and the possibility of branching out to include precinct officials as a certified group. The topic of election law is being presented to North Carolina State Bar Association as part of a

Continuing Legal Education (CLE) Course for NC attorneys and other interested persons. Continuous technical training in the use of SEIMS occurs weekly in the office of the State Board of Elections. Technical training will be expanded to include use of the Campaign Reporting Software and Geographic Information Systems. The State Board periodically hosts courses for new directors of elections and offers refresher courses to seasoned veteran directors. There is a need for new directors to receive more intensive training than is currently provided. To reduce the cost of travel and subsistence, on-line courses are being developed by the staff of the State Board of Elections.

The State Board of Elections office produced three training videos this year. *Nine Steps to a Successful Hearing* is a 30-minute production that outlines the hearing process in elections and offers specific instruction to board members on their duties and responsibilities. *Maintaining the Public's Trust* is a 19-minute production that outlines special issues that arise at the polling place and offers special instruction to precinct officials on how to solve those problems. A sensitivity training video entitled *Accessible Precincts Mean Accessible Elections* was produced for precinct officials and outlines how to best help voters with special needs. A companion piece is being produced entitled *How to Set Up a Precinct.*

Voter Registration

The State Board of Elections compiles and issues voter registration statistics and other reports and certifies election results. The State Board administers all voter registration laws and is the agency responsible for coordinating and maintaining compliance with the National Voter Registration Act of 1993 (NVRA) and the State's compliance legislation. Prior to these laws, bringing newly registered voters into the process was largely a function of the political parties and duly elected or appointed election officials. While election officials still retain final authority for administering voter registration, current practices now bring in the majority of new registrations and changes of information in other government offices and locations. Most notably, drivers license offices, public assistance offices, employment offices, libraries, high schools, and colleges serve as the locations at which most voter registration applications and changes originate. This has resulted in both State and County Boards of Elections finding themselves to be large-scale data administrators, in addition to election administrators. To ensure the proper administration of the State's various voter registration programs, the State Board supervises and coordinates the conduct of the programs at approximately 800+ agency-based voter registration sites statewide. Additionally, the State Board of Elections has found itself immersed in a tidal wave of data that includes voter database updates from the counties, delivery of list maintenance information to counties, and uploading voter histories as well as providing a variety of selected reports to the public. On the output and reporting side of the State Board office's functions, the public expects that the information is current, accurate, and accessible. The public further expects to have the data delivered in a variety of formats; from paper, diskette, tape, CD-ROM, and over the Internet.

Voter registration activity

As of December 31, 2000, there are a total of 5,206,051 registered voters in the State. In the past two years (1999-2000) 1,629,695 applications have been generated and processed by county boards of elections. Of that number, approximately 600,000 new registrants have been added to the State's voter lists. The balance of the total number of applications represent those determined to be duplicates, updates of personal information for registered voters, or invalid applications.

The State experienced a 10.5% increase in voter registration from 1995 - 1996 and a 6.3% increase last year (1999 – 2000). It is noteworthy that the State experienced a 40.1% increase in voter registration in the last six years.

Voter registration application form usage

The State Board of Elections is responsible for printing and distributing voter registration applications/ change of voting information forms throughout the State.

- In 1999, over 609,600 forms were shipped to either agencies conducting voter registration (excluding DMV), county boards of elections, voter registration drives, or libraries, high schools, and institutions of higher learning.
- In 2000, well over 1,165,000 forms were requested and shipped across the State.
- By December 2000, over 20,000 Spanish language voter registration forms had been shipped to Hispanic/Latino areas.
- The Higher Education Act as amended by Congress in 1998 requires the State Board of Elections to provide a voter registration application form to every student enrolled and physically present in every institute of higher learning in the State—including, but not limited to, UNC system schools, NC Community Colleges, barber schools, and nursing schools. In addition to the 16 UNC System Schools and the 59 NC Community Colleges, the Federal Election Commission has provided us with a list of over 160 institutions that are required to comply with this Act. In 2000, the State Board of Elections shipped 197,000 forms in the Fall.

The State Board is responsible for providing forms to any person, group, or business that requests them, therefore ample supplies are necessary to ensure that all groups have equal access to voter registration opportunities. The State Board must have an adequate supply available to provide on demand. Past experience has shown that the supply must be substantially greater than the projected use (2 – 3 times).

Maintenance of the voter list

The National Voter Registration Act of 1993 and Article 7A, Chapter 163 of the North Carolina General Statutes mandate that the State must conduct list maintenance in the year immediately following the year of the presidential election. Some concern has arisen over inflated voter rolls. Due to the counties' inability to "purge" the voter rolls as they did prior to the NVRA, a systematic procedure was adopted and precleared by the United States Department of Justice that is based on 1) only targeting individuals for removal who have had no contact with an election office or an extension of the office (such as voter registration agencies) and 2) after establishing an inactive group of voters, leaving them on the rolls as inactive through two federal general elections prior to removing them. The first year that list maintenance was conducted under these guidelines was 1997. Due to that fact, the first time that these individuals could be removed is the first quarter of 2001. There

are over 800,000 voters who should be removed in the first quarter of 2001. Federal law prohibited the "purge" in 1996 and the rolls were inflated for the time period between 1996 and 2000. When voter rolls are inflated with records of individuals who are no longer eligible to vote in a jurisdiction, it has a negative impact on the perceived voter turnout. In the past few years there has been some media attention regarding the decline in voter turnout and some speculation as to "voter apathy." It is difficult to determine whether or not the percentage of those voting as compared to the rolls is actually declining when the rolls themselves are inflated.

Improving removal programs with technology

- Duplicates-- Beginning in 2001, the State Board of Elections is providing statewide reports to county boards of elections consisting of records of voters who are on the registration books in more than one county. There are approximately 92,323 potential duplicates in the State (voters who may be registered in more than one county). Most of these individuals are inadvertently on the list in more than one county and are not voting in more than one county. However, these reports are being reviewed thoroughly and any instances of voting irregularities will be investigated. Some of the names listed as duplicates may not be duplicates at all, but individuals with similar names and dates of birth. Some voters may be on the rolls in more than one county because the mail may have been lost and the cancellation was never sent to the previous county of registration, the voter may have forgotten that he/she was registered to vote in a previous jurisdiction of residence. There are several legitimate administrative reasons why an individual may be on the list in more than one county.
- Death listings—New electronic statewide reports are being provided to county election offices. In the past there have been breakdowns in the system because people often are born and die in counties different than the ones they lived in and are registered to vote in. To rectify this problem, the State Board staff take the monthly death listing and compare it to the state database of registered voters. Those potential matches are compiled and provided to the counties electronically.
- Felony listings—Provisions for electronic transmission of felony data used to remove voters who have lost their citizenship status to due a final adjudgment of a felony convictions have not been finalized. These reports continue to be provided on paper from the Courts. A method not dissimilar to the one for death listings is under development.

Bilingual voter registration forms

The Voting Rights Act of 1965 requires election entities to ensure that racial or ethnic minorities have equal access and opportunity to participate in elections. Jackson County, North Carolina currently complies with the Act by providing election-related documents in English and Cherokee languages.

It was called to the attention of the State Board of Elections the growth in the population of Hispanic/Latino Americans in North Carolina. Much of North Carolina's population growth is being attributed to immigration. Where once the numerical majority in the South was made up of whites, blacks, and Native Americans—the racial and ethnic composition of the region has become much more diverse due to immigration.

After the conduct of the 2000 Census, it is anticipated that the Hispanic/Latino minority will be recognized by the United States Department of Justice as qualifying under Section 5 of the Act. With that in mind, the State Board of Elections office has taken steps to be proactive rather than reactive in this endeavor.

According to recent reports, five of the thirty U.S. counties that experienced the most rapid growth in their Hispanic population between 1990 and 1996 were located in North Carolina—Wake, Mecklenburg, Forsyth, Guilford, and Durham (in order of percentage growth, highest first). The most current population estimates, compiled by the U.S. Census Bureau, indicate that North Carolina's Hispanic population increased by 95 percent between 1990 and 1997, from 76,726 to 149,390. During the same period, the Hispanic population of the entire United States and of the South increased by 31 percent and 35 percent, respectively. Moreover, North Carolina's total population increased by only 12 percent.

From 1980 to 1997 the state's Hispanic population increased by 164 percent. By comparison the state's white, black, Native American, and total populations grew by only 26 percent, 25 percent, 48 percent, and 26 percent, respectively. The rates of Hispanic population change for the nation and for the South were 101 percent and 105 percent, respectively, during the time span. According to U.S. Census estimates, in 1997 nearly 150,000 Hispanics were living in North Carolina. However, some believe the U.S. Census Bureau's history of under-counting minority and inner-city populations and undocumented aliens lead to their statistics greatly underestimating the size of North Carolina's Hispanic population. The estimates derived by the Division of Women and Children's Health, North Carolina Department of Health and Human Services are considered more accurate than the U.S. Census Bureau's estimates. On the basis of a survey conducted by that division at the time of the rubella

outbreak in the state in 1996, the department estimated that the state's Hispanic population totaled nearly 230,000. Other recent estimates place North Carolina's Hispanic population at 315,000.

"Motor Voter" Issues

According to records with the State's Division of Motor Vehicles, there are approximately 110,000 driver examinations administered in Spanish per year. With drivers license examiners processing so many Spanish-speaking drivers and also fulfilling the federal and state mandate requiring them to provide voter registration opportunities to their clients, some difficulties have been experienced with some individuals not understanding the qualifications and applying to register to vote although they do not meet the citizenship requirement. To provide needed clarification, 250,000 voter registration application forms were printed in Spanish for use at DMV and throughout the State by other means. This serves as preventative maintenance that would help non-citizens to not become a party to fraud or perjury. With approximately 200,000 Hispanic/Latino North Carolinians meeting the citizenship requirement, printing 250,000 Spanish forms was reasonable. Additionally, State Board of Elections office has made available the instructions for completing the form in Spanish.

Additionally other election-related documents have been translated in Spanish and are available on the State Board of Elections' website at www.sboe.state.nc.us. The State Board office also provided assistance in preparing ballot instructions in Spanish, especially in communities greatly affected by Hispanic American immigration such as Fayetteville, Goldsboro, Jacksonville, and New Bern. These communities house a large number of military personnel. Many military personnel are Puerto Rican, Spanish-speaking U.S. Citizens.

Elections Accessibility

The issues surrounding equal access to elections for all voters became a topic of intense national interest in 1999 when Senate Bill 511 was introduced in Congress (sponsored by Senators Harkin and McCain). S511 proposed to make changes to the Elderly and Handicapped Voting Act of 1984 to require voting places and voting methods to be completely accessible to all people with all disabilities and sought to impose fines and legal fees on governmental divisions and subdivisions who failed to meet these stringent requirements. Prior to S511 there were several lawsuits filed in the states by disabilities advocacy groups and the State of Texas became a defendant in one of the most successful suits filed under the Americans with Disabilities Act. The North Carolina State Board of Elections staff became involved on a national level in response to these issues.

Three federal laws are specific to disabled and elderly voters. The first is the Voting Rights Act of 1965, as amended, which provides that any voter requiring assistance may receive it from a person of the voter's choice, other than the voter's employer or officer or agent of the voter's union.

The second is the federal Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. subsection 1973ee, enacted in 1984. It requires "access for elderly and handicapped individuals to registration facilities and polling places in federal elections." This law contains a very specific process that must be followed before alternative voting arrangements can be considered.

The third law is Title II of the Americans with Disabilities Act of 1990 (ADA). The ADA requires public entities to provide auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in a program or activity conducted by a public entity.

Studies conducted by researchers from Rutgers University show that participation in elections among citizens with disabilities is about 20% lower than participation among citizens without disabilities. From information provided by the State Division of Vocational Rehabilitation and the State Division of Services for the Blind, approximately 19% of North Carolinians suffer from some sort of disabling condition. Some reports show that nearly ½ million North Carolinians with disabilities are of voting age.

In a survey conducted last year, the State Board of Elections office learned that over 80% of North Carolina's polling places were accessible. The agency staff later learned that the percentage of compliant polling places dropped dramatically when they were examined under federal accessibility guidelines. Aware that there is a great need to improve our State's compliance with regard to physical access to polling places and standards with regard to voting equipment, an extensive education and training effort was put forth by the State Board staff. Nearly all 2,810 polling places were evaluated prior to the November 2000 election and the results will be published on the State Board of Elections Website. Surveys are in the process of being provided to the municipal boards of elections and those data will also be compiled and published. The process of evaluating polling places is an ongoing one and requires both State and county staff time and resources. However, it is a necessary component in complying with the aforementioned federal laws.
As previously mentioned, a training video was developed by the State Board of Elections staff to assist in training precinct officials in providing services to voters with special needs.

Campaign Reporting

The Campaign Reporting division is responsible for educating and assisting the public, candidates and political committee treasurers, and county and municipal boards of election and staff. The Campaign Reporting office is also responsible for investigating complaints, conducting research, and preparing analyses in preparation for the State Board to hold evidentiary hearings, training seminars. The Campaign Reporting office provides fiscal and budgetary information and makes recommendations to the General Assembly.

Article 22B

The Campaign Reporting staff administers the distribution of appropriations from the North Carolina Political Parties Financing Fund. The checkoff fund accumulates from designations by taxpayers on their North Carolina tax returns, is invested by the Treasurer, and distributed by the State Board according to the requirements of Article 22B. The amortization of the fund and the interest earned is manually prepared by staff.

Article 22C

The Candidates Financing Fund was established in 1988 and amended in 1991 to be effective in 1996 to provide campaign funds to candidates for Governor provided certain qualifications are met. The Fund is administered by the Campaign Reporting staff and even though no applications were received in 1996 or 2000, procedures and instructional materials must be developed and responses to inquiries made.

Article 22

The administration of Article 22, Chapter 163 of the North Carolina General Statutes is assigned to the State Board of Elections and, in case of criminal violations, the district attorneys. The Campaign Reporting division responds to complaints regarding the conduct of campaigns by candidates and individual voters.

Central Depository

The Campaign Reporting Office is the depository for campaign financial disclosure reports filed by candidates for statewide office, the General Assembly, Judicial offices, the political parties, and political action committees. Until January 1, 2000, copies of the campaign financial disclosure reports by candidates for federal office, national political parties, and federal political actions committees in North Carolina were also filed at the office of the State Board of Elections. Effective January 1, 2000, North Carolina began participation in the Federal Election Commission's new on-line disclosure program, which eliminates the requirement for federal committees to file copies of reports at the State Board of Elections. Instead, the Public Viewing Area has a computer

work station dedicated to FEC's website for use by the public. Any visitor may view the reports and/or print copies of the reports filed by federal candidates and committees.

The following table shows financial disclosure for the 1999-2000 election cycle to date. The reports received to-date show contributions in excess of $149 million and expenditures in excess of $147 million.

1999-2000 Election Cycle Financial Disclosure

Type of Campaigns	**Number**	Total Receipts	Total Disbursements
Judicial	247	$ 6,036,257.62	$ 5,867,399.36
NC Senate	108	9,595,012.88	9,016.121.32
NC House	273	13,517,144.37	13,084,589.91
Gov, Lt Gov, Council of State	59	39,944,005.83	41,332,363.63
US Senate	7	883,168.28	366,326.35
US House	43	11,631,661.33	9,896,934.96
President	5	13,367,352.36	11,068,876.85
Misc Campaigns	5	22,780.57	29,285.39
State PACs	274	7,946,944.86	7,670,243.33
Federal PACs	115	867,537.23	4,309,830.96
Political Parties	297	41,138,631.57	41,005,545.15
Referendums	3	4,265,690.65	3,827,737.33
Totals	**1436**	**$149,216,187.55**	**$ 147,475,254.54**

Processing Reports

Upon receipt, reports are reviewed for compliance and recorded into a database containing basic committee information such as the dollar amounts of contributions, loans, expenditures, and outstanding obligations. This database is used to determine who must file, to record reports received, and to determine who has not filed a report.

It is the policy of the State Board of Elections that the public must have access to the information on campaign financial disclosure reports within eight hours of receipt in the Campaign Reporting office. Immediately after recording, the paper copies of the reports are placed in the public viewing area. Information recorded in the campaign reporting database is used to respond to electronic and telephonic inquires.

Reporting deadline notices are sent no more than 30 days, but at least 5 days, before a report is due. A mailing usually consists of 1,500 to 2,000 pieces. Quarterly reports were required for the first time in 1998 and continued in 1999 and 2000. Additionally, new political committees file Organizational Reports and closing committees file a final report. Approximately 8,000 financial disclosure reports were filed at the Campaign Reporting Office for the 1999-2000 election cycle.

The following table offers a sample of the change in the number of candidates, amount of money spent for NC General Assembly candidates, and minimum number of reports due from those candidates between 1990 and 2000. Note that the number of Campaign Reporting staff has increased by 1 full-time position since 1990.

	Number	Receipts	Loan Balance	Disbursements	Minimum # of Reports Due	*Campaign Rep. Staff FTE*
1990 Election Cycle						
NC Senate	122	$2,573,764.23	$108,569.46	$2,614,095.31	488	
NC House	92	$3,801,524.36	$195,041.18	$3,784,252.94	368	3
1992 Election Cycle						
NC Senate	152	$2,761,583.36	$34,795.33	$2,704,746.33	608	
NC House	309	$3,651,073.52	$245,009.88	$3,795,459.91	1,236	4
1994 Election Cycle						
NC Senate	119	$3,191,972.88	$419,444.58	$3,219,120.78	476	
NC House	258	$5,127,151.95	$243,715.87	$4,785,206.92	1,032	4
1996 Election Cycle						
NC Senate	164	$4,891,569.18	$531,617.14	$4,692,089.59	656	
NC House	316	$6,232,687.79	$369,156.19	$5,539,023.77	1,264	4
1998 Election Cycle						
NC Senate	142	$7,985,125.14		$7,446,632.03	710	
NC House	284	$9,880,877.35		$8,919,456.12	1,420	4
2000 Election Cycle						
NC Senate	108	$9,595,012.88		$9,016,121.32	530	
NC House	273	13,517,144.37		$13,084,589.91	1,911	4

- *1998 and 2000 Election Loan balances were included with receipt and disbursement totals*
- *Note: Candidates under threshold are not required to file disclosure reports.*

Delinquent Process

The Campaign Reporting office maintains the delinquent follow-up for reports not filed, assesses penalties, and makes reports to the district attorneys for all candidate, political party, and political action committees that have not filed or paid a penalty assessed.

Notices of Noncompliance (NON) and **Notices of Termination (NOT)** of active status are sent by certified mail with return receipt requested to political committees that have failed to file a report. If the report is not received, the political committee and the treasurer are reported to the appropriate **District Attorney (DA)** for prosecution. Effective in 1998, the **Penalty Assessment (PA)** is a civil penalty paid to the County School Fund in the county in which the person charged with the violation resides. Failure to pay results in a civil action instituted by the Attorney General. The changes in the laws included the responsibility and authority to the State Board of Elections to waive a late penalty if it determines there is reasonable cause.

The following table is a summary of the delinquent follow-up letters written for the 1999-2000 Election Cycle.

REPORTS	NON	NOT	DA	AG	PA	PW*
1998 Fourth Quarter	49	8	3	0	13	66
2000 Organizational	14	4	1	0	13	95
1999 Mid Year Semi-Annual	62	15	5	1	55	37
1999 Year End Semi-Annual	36	6	0	0	13	76
2000 First Quarter Plus	40	3	0	0	11	34
2000 Second Quarter	20	9	3	0	7	51
2000 Third Quarter Plus	24	4	0	0	5	24
2000 Fourth Quarter **	0	0	0	0	0	0
2000 Mid Year Semi-Annual	10	0	0	0	1	9
2000 Year End Semi-Annual **	0	0	0	0	0	0
1999, 2000 Annual (Municipal Candidates)	0	0	0	0	0	0
Total	255	49	12.	1	118	392

*The State Board of Elections pursuant authority in G.S. 163-278.34(b) directed a one-time conditional penalty waiver to filers for the 2000 Election Cycle. The filer must agree to a probation period and accept the waiver on the condition that a second late report will result in a penalty assessment for that report plus the penalty assessed for the first late report.
**Due dates for delinquent follow-up for the Fourth Quarter and 2000 Year End Semi-Annual Reports are in the future.

Auditing

Once the reports are received, they are entered into a database and audited by staff. Contributions in excess of $100 are entered into the database by date, name and address, amount and election sum-to-date for the contributor. The job title or profession and the employer's name or the specific field of occupation of the contributor is required on the reports filed February 1, 1998, or later. All expenditures are entered. The database is used for balancing reports. This process requires two staff members and two temporary employees working for more than four months to complete all reports. The law allows for an audit and review within four months after the election. Discrepancies found on the reports are brought to the attention of the candidate or treasurer. The records are updated as discrepancies are corrected. Once complete, the balanced information is made available to the public. In 2000, the database of entered raw information (unaudited) has been made available to the public through the system software at work stations in Campaign Reporting on a daily basis. The database of raw information has been placed on the State Board website on a monthly basis as well.

The following table shows the audit letters written to-date about the 2000 Election Cycle reports by report type. The full audit analysis will be prepared by May 1, 2001.

REPORT	AUDIT LETTERS ABOUT REPORT
1998 Fourth Quarter	218
2000 Organizational	84
1999 Mid Year Semi-Annual	121
1999 Year End Semi-Annual	23
2000 First Quarter Plus	115
2000 Second Quarter	141
2000 Third Quarter Plus	178
2000 Fourth Quarter **	0
2000 Mid Year Semi-Annual	15
2000 Year End Semi-Annual **	0
Final	31
Inactive and/or Threshold	96
Total	1,022

* The full audit analysis for all reports filed for the 2000 Election Cycle will be prepared by May 1, 2001.
**Due dates for delinquent follow-up for the Fourth Quarter and 2000 Year End Semi-Annual Reports are in the future.

Analyzing
After all reports are line item entered and audited, an analysis is prepared by type of committee, office, district, and candidate. This provides a comparison of funds for all candidates for each office for the Election Cycle. A second analysis called the "All Record" is prepared by candidate in alphabetical order. It compares the current election cycle to previous election cycles for the past 20 years. This report is helpful to the public and political researchers in tracking the political activities of a particular candidate back to the effective date of campaign finance laws.

Data from the 1999-2000 election cycle:
- 1,904 committees registered with the Campaign Reporting Office
  - 929 Candidate Campaign Committees
  - 583 Political Party Committees
  - 389 State and Federal Political Action Committees
  - 3 Referendum Committees

- Contributions
  - General Assembly Campaigns – $23,112,157.25
  - Gov, Lt Gov, Council of State - $39,944,005.83
  - Judicial Campaigns – $6,036,257.62
  - NC Candidates for US Senate - $883,168.28
  - NC Candidates for US House - $11,631,661.33
  - Political Party Committees - $41,138,631.57

- NC Political Action Committees - $7,946,944.86
- Federal PAC contributions to NC Candidates and Committees - $867,537.23

There were **468** In-State Candidates and Political Party Committees that certified as inactive or under an intent to receive and expend no more than $3,000 and no amounts are included for their campaign receipts and expenditures. These committees are registered and their files contain all information except financial disclosure reports.

Electronic Filing

In 2000, for the first time, campaigns, political parties, and political action committees were able to file electronically, and committees filing reports that showed in excess of $5,000 in contributions, in expenditures, or in loans were required to file electronically:

- Candidates for statewide office
- State, district, county or precinct executive political party committees (if the committee makes contributions or independent expenditures in excess of $5,000 for contests for statewide office)
- Political committees (if the committee makes contributions in excess of $5,000 or independent expenditures to candidates for statewide office)

A limited number of campaigns, political party and other political committees filed reports that required electronic filing. Few voluntary electronic filings were received.

The filer software made available to treasurers at no cost January 1, 1999, and the Campaign Finance Reporting System online in the Campaign Reporting Office were updated in 1999 and 2000 to incorporate changes in the law and to ensure compatibility.

Presently, compatibility and incorporation of the Campaign Finance Reporting System (CFRS) into the State Elections Information Management System (SEIMS) is being implemented. County boards of elections will be able to maintain campaign reporting records for county and municipal candidates and those candidates can file electronically.

Web Development/ Internet Access

Detailed historical databases of reports are available in delimited ASCII format for downloading at www.sboe.state.nc.us. The State Board of Elections homepage has served as a retrieval site for the databases since 1995. The homepage site has been renovated to allow visitors to download portions of an election cycle.

A new campaign reporting website and tutorial are being developed to provide viewing, printing, or downloading by candidate, by report. Reports or searches on election databases of the past 10 years are being developed as well. Development is underway that will allow for the public to view data electronically from the State Board of Elections Website without having to download large files.

The electronic filing process has allowed for the development of real-time data retrieval immediately after filing. Electronic filing and a more modern and convenient Internet accessing module has been incorporated into the State Election Information Management System and is currently undergoing testing for accuracy and ease of use.

Information Systems

Article 7A, Chapter 163 of the North Carolina General Statutes requires the State Board of Elections to develop and implement a statewide computerized voter registration system to facilitate voter registration and to provide a central database containing voter registration information for each county. This system, entitled State Election Information Management System (SEIMS) is nearing completion of its implementation phase.

The State Board of Elections employs four full-time information systems staff—an information systems director, a help-desk operator, a database administrator, and an application developer. Information Systems staff assist in SEIMS management, establishment, and on-going support. The staff members provide full assistance to the staff of the State Board of Elections and maintain the agency's presence on the World Wide Web. Additionally, State ITS contracts with a number of contractors who provide critical assistance with further development of the software, training, management, and support.

As the project nears completion, there is a need for timely and user-friendly help-desk operators, as well as knowledgeable education and training staff to provide critical assistance in the ongoing management and maintenance of SEIMS.

SEIMS staff ultimately have the responsibility of maintaining the State software and the State central database which will involve responding to requests for reports and other information and providing information regarding voter status to the county boards of elections from the Division of Motor Vehicles, Administrative Office of the Courts, and Vital Records Division of DHHS. The electronic flow of information will assist in ensuring removal of ineligible voters and provide more accurate voter lists.

The State Board is aggressive in seeking out ways to improve the accuracy of information regarding all aspects of elections, but especially with regard to the voter file. One of the ways the software system assures that voters are assigned to correct voting districts is through the use of a street file or "geocode" system. When implementation began, there were approximately 40 distinct voter registration systems within the 100 counties. Of the 40 systems, only about 5 systems had street files and used the information to assign voter jurisdictions by residence address. (One of the 5 systems was used by approximately 50 counties, leaving about 40 with no street file). The other systems allowed county

override, which has sometimes resulted in voter jurisdictional assignments being different from street jurisdictional assignments.

The improvement in data quality has been the primary focus from the onset and during the conversion process staff and contractors found data anomalies in all counties' legacy data. Some of the common anomalies noted among county data include:

- Misspelled street names or street types. For example, Maple Ridge Lane might be also listed as Maple Lane, Maple, Mapple Ridge Rd, etc. This creates multiple entries in the street file where a single entry is correct.
- Missing city, state and zip codes on voter records. Most counties have had at least one instance of an active or inactive voter with this missing information.
- Missing residence address information. Several counties have had multiple instances of voters with city, state and zip, but no residence address.
- Overlapping street file records for a single address. This is usually caused by creating a street record to preserve voter jurisdictional information when it disagrees with the street file (see Legacy Systems, above). For counties with no street file, the vendor reverse-engineers street file records and collapses common ranges. If a voter (or several) voters' addresses fall within the range, but their jurisdictional information does not match, a singular street file record is created, causing overlapping ranges in the house numbers. Examples of these problems include:
- Multiple entries for the same voter (in the legacy data). One particular system (Kidd and Kidd) has had several cases where the same voter registration number is listed twice in the active voter file. (To eliminate this error, the record with the most recent update-date is retained as active.)
- Erroneous city/zip combinations on voter records. This results in erroneous street file records (reverse-engineered by the vendor).

All of the counties converted to SEIMS had one or more of the problems listed above. Some counties started the conversion process with very accurate data. For example, Lincoln and Cabarrus had only a few errors in the legacy data that was converted. Other counties such as Pitt and Wayne counties worked very diligently to clean up the data after the conversion. These counties now have accurate records in the database. Duplin and Harnett both had a significant number of data problems when they first converted to SEIMS, including most of the problems above. Duplin County has spent a great deal of effort since then on correcting the county data and the data accuracy has increased. Harnett

County has cleaned up some of the data and is continuing their cleanup process. Durham County has several issues with data cleanup that the SBE is providing advice and assistance in rectifying.

Counties that had legacy systems with street files had more accurate data than those migrating from systems without street files. Of the counties whose data has been processed to this point, thirty-four counties did not have street files. The data for these counties had errors in approximately fifty percent of the records or more. Fifty-two counties had street files. These counties had approximately ten percent to thirty percent of the records in error. None of the counties were error free.

Information the State Board of Elections provides will be vital to the issues affecting redistricting. Upgrades to the Election Night Reporting module, Campaign Reporting Software, Petition Check module and other reporting capabilities will take time. The precinct management, absentee management, and voter registration components to the software are all working well, according to the county boards of elections who are using them.

The completion of the implementation phase means that SBE will be responsible for supporting 93 remote database servers and the SEIMS application on 450 workstations in the counties.

As of the date of this report,

- 93 counties have been trained at least once in the use of SEIMS,
- 100 counties have had their data converted at least once,
- 34 counties currently have SEIMS in production as their primary database source, and
- 11 counties run a "parallel" system.

Litigation and Legal Matters

The State Board employs a General Counsel who advises staff, handles inquiries from the public and county boards, represents the State Board as to Board hearings, and aids in the development of policies and new laws/regulations as needed. As required by law, the North Carolina Department of Justice provides counsel for the State Board as to matters in the courts of North Carolina and the Federal Courts. General Counsel aids the Attorney General in the preparation and defense of these cases.

The State Board has made a commitment to defend legal attacks upon the campaign reporting laws of North Carolina (GS § 163 Article 22A). There are two current Federal litigations where the State Board is defending the constitutionality of GS § 163-278-12A (reporting of political contributions and donors by alleged political committees). These cases are North Carolina Right to Life. Inc. v. Leake, Eastern District of NC, US District Court, and Bartlett v. Perry; Farmers for Fairness, 231 F.3d 155 (4th Cir.2000) (currently on a petition for a Writ of Certiorari to the US Supreme Court). In CARE v. Leake, Eastern District of NC, US District Court, GS § 163-278.14 A (as to what is a political committee and disclosure requirements for donors to such committees) is being challenged. Even though the State Board does not pay for the Attorney General's legal services, it is responsible for any liability for costs that might be awarded against it. Recently, the State Board had to pay $30,000 in costs to the opposing party in the Farmers for Fairness case. If the State Board does not defend the campaign laws passed by the General Assembly, both the General Assembly and the State Board would lose creditability and the people of North Carolina would lose the benefit of election laws that their elected representatives thought were in their best interests. It is significant to note that the State Board of Elections has no line item in its budget for paying off court cases.

Litigation filed by the Nader campaign in 2000, to gain access to the NC ballot, as a named candidate, without following the statutory requirements, failed. A lawsuit that was filed to prevent early one-stop voting was dismissed. There was also litigation filed against the State Board by the anti-Buchanan faction of the Reform Party to prevent the placement of Buchanan as the Reform Party Presidential candidate. That action upheld the decision of the State Board to place Buchanan on the ballot.

The State Board will seek compromise and not litigation where it serves the interest of the citizens of North Carolina. An example of this is a December 2000 settlement agreement between the State Board and the State Employees Association of North Carolina (SEANC) where a

campaign violation complaint was resolved between the parties by certain reimbursements to SEANC by SEANC PAC.

The recent election dispute in Florida is generating a great volume of election litigation on a national basis. Currently, there are several lawsuits against states (not NC at this time) that are using an argument that the use of certain voting systems may deny voters equal protection of the law. There is a class action that has been filed against the makers and service vendors of punch hole voting systems that, if successful, will bar their use nationwide. The State Board is following the political reactions in Raleigh and Washington, D.C. to this current crisis in the integrity of the American Electoral System and the lawsuits it is spinning off. There will be more, not less, litigation filed in the near future as to election voting systems. Also there are a growing number of lawsuits that have been recently filed regarding accessibility to polling places by voters. This agency is and will be keeping track of these litigations.

Reviewing Milestones from 1999-2000

Assistance to counties: The staff of the SBE provided on-site assistance to Duplin, Durham, and Harnett counties. Additionally, Hurricane Floyd destroyed homes and displaced voters in parts of Eastern North Carolina and staff of the SBE provided election day assistance to Edgecombe County's FEMA trailer parks. Assistance is to be provided in the near future to Clay, Graham, and Avery Counties. It is particularly noteworthy that **emergency powers** were given to the **Executive Secretary-Director** of the State Board of Elections and that those powers were required in the aftermath of Hurricane Floyd. The Kinston municipal primary was postponed twice and an election in Edgecombe County for the School Board was postponed.

It is important to note that staff of the State Board of Elections provided full assistance in 1999 to the Edgecombe County Board of Elections in the conduct of the Rocky Mount municipal elections. The Edgecombe County Board of Elections was temporarily moved to Rocky Mount when its office was under water in the aftermath of Hurricane Floyd.

More full-time county offices: More county board of elections offices became full time due to legislative changes in 1999 when the threshold was lowered.

Moving the State Board of Elections office: The State Board of Elections moved in August 2000 from its location at 133 Fayetteville Street Mall to 506 N. Harrington Street in downtown Raleigh. It is particularly noteworthy that this move was required in the month prior to the beginning of a Presidential Election voting period. The agency ultimately seeks permanent relocation to state office property. Currently there is no state property available to the SBE, however, should it become available the agency would move in an effort to save taxpayer money.

Modernization of county offices: 98% of directors have email accounts, SEIMS software was upgraded to include election night reporting software.

Absentee voting reforms: In 2000, the "simultaneous issuance" changes in the law resulted in the usage of less paper and quicker turnaround to the voters who requested absentee ballots by mail. This was of critical importance because the SBE was in Court with the Reform Party and Ralph Nader regarding ballot access suits, so the printing of ballots had to be delayed. Some counties did not receive ballots until the first day of one-stop absentee voting. Many absentee by mail voters would have had little opportunity to cast their votes under the previous

procedures under law. State Board staff evaluated every additional one-stop site in the State.

State Database of Registered Voters: The first state-owned, state-established statewide database of registered voters and related information was compiled and prepared for distribution in Fall 2000. The data are under considerable review by SBE staff to ensure accuracy and county compliance with voter registration laws.

SEIMS rollout: As of February 12, 2001, 34 counties are using the state software for managing their voter registration list and other election processes. Twenty-six counties are using the system in conjunction with their existing software systems. Thirty-eight counties have deferred to install this Spring. Seven counties have opted to not use SEIMS for local processing.

New forms designed: For ease of use and integration into SEIMS, new voter registration application forms were designed, printed, and distributed in 1999 – 2000. Additionally, new DMV voter registration application forms were designed for use with updated printers in November 2000. In order to be prepared for bilingual printing requirements under Section 5 of the Voting Rights Act of 1965 as amended, voter registration forms were designed and printed in Spanish and distributed across the State.

Other publications: A *Guide to Conducting Voter Drives* was published to assist drive and other grassroots coordinators in understanding their responsibilities under law with regard to voter registration. Additionally, three training videos were produced by the State Board of Elections: *Nine Steps to a Successful Hearing, Maintaining the Public's Trust: A Common Sense Guide to Solving Special Problems, and Accessible Precincts Mean Accessible Elections.* Additionally, the State Board of Elections' Website was redesigned prior to the 2000 General Election to assist in obtaining information regarding elections. Other publications made available in 1999 – 2000 include: A revised and more comprehensive Election and Related Laws law book, SEIMS User Manual, Precinct Training Materials, Campaign Reporting Brochures, Manuals, and Notices to Committees.

Campaign Reporting Office: Electronic filing software was upgraded and the campaign reporting filer software was distributed and used. The software is available at no cost on the agency Website. Additionally, Campaign Reporting software is being provided to the county boards of elections at no cost to them to assist them with campaign finance disclosure reports. The 1999 – 2000 election cycle saw the effective implementation of "Stand By Your Ad."

Citizens Awareness Month: In compliance with the Governor's Proclamation of September as Citizens Awareness Month, a statewide effort was undertaken to educate members of the public in the use of voting machines, a statewide voter registration drive was conducted, and school-age children and their families across the State took part in the NC Student/Parent Mock Election on November 2, 2000. Over 20,000 school-age children participated in this civic education event.

Investigations: Multiple investigations were conducted related to the conduct of elections, election offices, or campaigns; one-stop absentee voting locations were evaluated; assistance was provided to counties; and wellness checks/audits were conducted in counties across the State.

Accessibility: In response to pending federal legislation, Gary Bartlett co-chaired a national task force on the issue of accessible elections. Michelle Mrozkowski served as a member of the task force and produced a 35-minute digital video explaining the issues faced by voters with disabilities and the issues faced by election administrators in ensuring that all polling places are accessible. Nearly 100% of all polling places in the State were surveyed for compliance with the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Bartlett and Mrozkowski were nominated by the American Foundation for the Blind for the Access 2000 Award for their leadership and creative problem solving on a national level.

Education and Training: The Certification program expanded the number of certified and tests were administered via email. To date, those that number among the active certified elections administrators and officials are 74 directors, 32 deputy directors and 13 staff members for a total of 119 Certified Elections Administrators; and 18 chairmen, 8 secretaries and 9 members of county boards of elections, for a total of 35 Certified Elections Officials. The program boasts the total of 154 active certified members, many of whom have renewed certification at least once.

Additionally, the SBE helped to reduce its cost and costs to counties by holding seminars at lower-cost locations and conducting video teleconference training that reduced travel and subsistence costs.

National Task Force on Election Reform: North Carolina is represented on the National Task Force on Election Reform by Gary O. Bartlett (SBE), Johnnie McLean (SBE), Glenda Clendenin (Moore), and George Gilbert (Guilford).

Goals for Increased Accuracy and Service in 2001 – 2002

Voter list maintenance: North Carolina could provide assistance in rectifying problems related to inaccuracies in the State voter list by conducting statewide list maintenance. This service could be provided to the counties by allowing the State Board of Elections to run reports and generate mailings to registered voters. It would then be incumbent upon the county boards to process any returned mailings, however it would help to ensure that the federal mandates were being followed.

Precinct Official Certification: Recommended expansions of the Certification Program include a **Certification Program for Precinct Officials**. While the State Board staff has worked hard to provide materials to county boards that will assist in the training of precinct workers, precinct officials continue to be the "weak link" in the elections process. The State Board office would work with the NC Community College System and the Institute of Government to develop a curriculum and mechanisms for providing Certification for Precinct Officials. Some ideas for implementing this program would be to work within the State Community College system and hold "train the trainer" seminars, and subsequently begin offering regional courses across the State. Certification for Precinct Officials would be granted after taking a course and passing a written examination. The precinct official would then gain the title of "Certified NC Precinct Official." The purpose is twofold: to increase the level of expertise of current precinct officials and to spark interest across the State in serving as a precinct official.

Another recommended expansion of the education and training division of the State Board of Elections office would include **Workshops for Political Parties/Campaign Managers/Media**. Campaign finance laws, rules and regulations have proven to be difficult to understand and this type of workshop offering could assist. Additionally, **Continuing Legal Education** Courses (CLE) in Elections could be sponsored by this agency.

Current Cost Savings: The State Board of Elections has changed the environments in which it conducts its training. Statewide training is held in educational settings such as North Carolina State University's McKimmon Center and the Friday Center and the Institute of Government, both in Chapel Hill. The State Board's new location at 506 N. Harrington Street also is used for smaller training sessions.

However, due to the high cost of travel and subsistence to counties and the State, the State Board of Elections has been utilizing teleconferencing technology to conduct many of its training classes.

Training Courses Planned: Three symposia have been held as post-election workshops and information-gathering sessions for boards of elections and two more are scheduled. The following courses are planned for the ensuing year:
1) Budget Preparation, 2) New Director Training, 3) Refresher Courses, 4) Voter Registration Part II, Accuracy of Information, 5) Continuous SEIMS training, 6) Map Reading/Redistricting, 7) New Legislation, 8) Trials and Tribulations of Elections, 9) New Board Member Orientation, and 10) Laws Governing Municipal Elections.

Informing and teaching through technology: As technology places more information at the public's fingertips, and as expectations of information access increase in the new economy, the State Board of Elections staff has five new initiatives to increase the quality of service to the public and the county boards of elections by using cost-effective measures.

- e-learning and on-line courses: The Certification Board is conducting a pilot on-line certification course. Results from the pilot will be used in determining the feasibility of continued use of the Internet to conduct distance learning more affordably.
- On-line election law library: The State Board of Elections staff is working to provide all statutes related to the conduct of elections as well as current advisory opinions on the Web in a virtual library setting.
- Website redesign: The State Board of Elections staff is discussing plans to redesign the current Website to be a portal for federal, state, and county officials, campaign treasurers and committee treasurers, candidates for office, researchers and the general public.
- Campaign Reporting new tutorial: In the next few weeks a new site for the Campaign Reporting office will be launched that offers ease of use and navigation. All information relating to the Campaign Reporting Act is presented in a clear, more easily searchable format.
- CRO plans to offer real-time searches on electronically submitted reports.
- Information Technology staff will continue to provide on-site, hands-on training in the use of the SEIMS system for all county directors and staff.
- Statewide database on-line: As state and county staff continue to upgrade and improve the quality and accuracy of voter registration data across the State, efforts and considerations are being made to place the database on line for downloading. Ultimately the goal is to provide real-time searching capabilities as well as an ability to put an address into the search field and locate the polling place location that corresponds to the address.

Focus Groups: Budget Issues: In many instances, State Board staff found some county boards of elections poorly equipped, inadequately staffed, and without sufficient funding. The State Board office recommends conducting focus group meetings that consist of directors, county board members, Institute of Government representatives, county commissioners, and county managers to come up with models for counties with less than 6500 registered voters; 6,500 – 25,000; 25,000 – 90,000; and 90,000 – 200,000+. The focus group meetings would result in recommendations regarding funding for equipment, personnel, and education for staff and precinct officials. It would also address voter outreach and campaign reporting needs for local offices.

No excuse absentee one-stop voting: Focus groups on good practices for the administration of this provision would serve to assist counties in sharing ideas and improving practices. The State Board staff recognizes a need to recommend time between close of registration books and beginning of one-stop absentee voting for administrative preparation. County boards of elections cannot process voter registration applications that arrive timely after the close of books, conduct one-stop in the office and staff additional one-stop sites. The administrative overload of those three weeks was stressful and tiring for all boards. In the future, any additional one-stop absentee voting sites should have on-line direct access with the county board of elections. Methods for voting need to be explored that include voting on equipment rather than on paper. The volume of ballots was overwhelming and extremely difficult for county boards of elections to manage. A compilation of "good practices" could result from managed focus groups.

Ensuring Equal Access to Voting: Now that current problems have been identified, it is critical to move to an action phase for all issues that have not been resolved. Focus groups with county managers, community disability advocacy leaders, and election administrators would help to encourage collaboration and creative problem solving with regard to ways to best ensure equal access to voting for all voters—with and without disabilities.

Policy studies: Policy studies will be published on the following topics: 1) Accuracy of Information in Elections, 2) Model Budgets, 3) Common Misperceptions of Irregularities in Elections, 4) Serving the Public: The Role of the Elections Office, and 5) County Election Directors and Overtime Pay

Media Workshops: Holding an annual workshop for members of the media could assist in relationship-building and educating members of

the media on common misperceptions of alleged election irregularities and methods of deciphering complicated policy requirements.

Awards: Awards could be given to voters for participating in elections. Pennsylvania presents a "Voter Hall of Fame" award to an outstanding voter of more than 50 years. This is believed to provide for positive reinforcements within the community in participating in the electoral process. Awards could also be provided to "Director of the Year," "Board Member of the Year," and "Staffer of the Year."

Appendices

- Appendix A—Wellness Check
- Appendix B—One-Stop Evaluation Sheet by County
- Appendix C—NVRA Two-Year Report
- Appendix D—Accessibility Survey Tools
- Appendix E—Accessibility of Polling Places/Methods Spreadsheet
- Appendix F—2000 Voting and Voter Registration Statistics
- Appendix G—Voter Registration Manuals: Policies and Procedures and Agency-Based
- Appendix H—Certification Program for Election Officials/Administrators
- Appendix I—SEIMS Report
- Appendix J—Guide to Voter Registration Drives

2/21/01

STATE BOARD OF ELECTIONS
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WELLNESS CHECK CHECKLIST

This is Appendix A to the February 2001 Executive Report of the North Carolina Board of Elections.

General Information:

County:	
Date of Audit:	
Director's Name:	
# of full-time staff:	
Names and job descriptions of full-time staff:	
# of part-time staff:	
Names and job descriptions of part-time staff:	
Mailing address:	
Physical address:	
Telephone Number:	
Fax Number:	
E-mail Address:	
# of registered voters:	
Hours of operation:	
Is above in accordance with Chapter 5, N.C. Administrative Code?	
Description of office arrangement:	
# of rooms:	
Has Board adopted its own personnel policy **or** has Board adopted the county personnel policy?	

Interview with Director:

Describe in as much detail as possible the working relationship between board members, office staff, and you.	
Short-term vision/plans for office:	
Long-term vision for office:	
How best could the State Board office assist in achieving those goals?	
What is your office's best practice?	
What are the strong points of your agency?	
What are your perceived areas needing improvement?	
What voter outreach or specialty programs does your agency take part in to provide service to the voters?	
Any additional information from director:	

Reference Materials:

Are the following documents accessible?

Election and Related Laws and rules and Regulations of North Carolina	
1996 Edition with 1997 Supplement:	
Administration of Voter Registration: Policies and Procedures Manual	
Have updated procedures been inserted?	
Numbered Memoranda from State Board office	
Campaign Reporting Act Manual	
NC Regulation of Election Campaigns	
Instructions regarding Campaign Reporting from	

State Board office	
Various forms regarding Campaign Reporting required by State Board	
Campaign Finance/Disclosure Reports	
Voter Registration Application Forms (06, 07, and 08)	**Visual**
No. on hand:	
No. of Federal forms on hand:	
Map of precinct boundaries displayed (N.C. Gen. Stat. 163-128)?	**Were there any recent changes to precinct lines?**
A Public Trust (Video)	
Protecting the Voice of Democracy (Video)	
Minutes from County Board Meetings	
Duties and responsibilities of the Director adopted by Board	**Copy**
Tarheel Election Journal (Periodical)	
The Campaign Reporter (Periodical)	
Fact sheets on running for office?	**Copy**
Information sheets for groups conducting voter registration drives?	**Copy**
Brochures regarding the registration of voters?	**Copy**
Copies of local Acts pertaining to elections on file in office?	**Visual**
Any partisan information on display in office?	

Voting Equipment and Supplies:

Location of voting equipment:	**1. Tabulators** **2. Ballot Boxes** **3. Other Supplies**
Is voting equipment secure (Chapter 4, N.C. Administrative Code)?	
Voting equipment/supplies maintained according to N.C. Gen. Stat. 163-33(7)?	
Voting machines tested before last election according to N.C. Gen. Stat. 163-33.2?	**Copy of the Board meeting minutes concerning the serial numbers of machines for the May primary.**
How many machines were tested by board members/staff?	**Total number of machines?** **Total number Tested?**
Maintenance agreement with anyone?	
If yes, who is the maintenance agreement with?	
How many machines were tested (before last election) by maintenance company?	
Do you use optical scan or mark sense voting equipment?	
If yes, provide the name of the company that prints the ballots:	

Notices:

Public notices posted according to N.C. Gen. Stat. 163-33(8) with 20 day requirement?	**Copy**
Are candidates notified regarding campaign reporting requirements?	**Procedure**
Proper notice given to board members of meetings?	**Procedure**

Proper notice given to media and members of the public?	**Procedure and Who**
Compliance with open meetings law?	**Copies of the minutes from the last 3 Board meeting.**

Voter Registration:

Does the office demonstrate the following:

All forms described in N.C. Gen. Stat. 163-82.3 are accepted according to N.C. Gen. Stat. 163-82.6(a)?	
Applications and changes on file are authorized by the voter's signature according to N.C. Gen. Stat. 163-82.6(b)?	**Physical Audit**
Are records maintained in uniform and secure manner?	
Do selected records contain necessary information?	**Physical Audit**
Do the hard copy records reflect the electronic record?	**Physical Audit**
Are records of removed voters or inactive voters placed in a separate file?	
Are notices generated in the time frame set by law?	**What is the schedule?** **How many days does it take to mail a new voter registration card?** **How many days does it take to process a change of information/update?**
Upon receipt of an application for voter registration, is the verification notice sent compliant with N.C. Gen. Stat. 163-82.7(a)?	
Was the verification notice approved by the State Board office as per N.C. Gen. Stat. 163-82.8(b)?	**Copy**
Are denial notices sent to ineligible applicants?	
Do the denial notices comply with N.C. Gen. Stat. 163-82.7(b)?	
Issues voter identification cards (N.C. Gen. Stat. 163-82.8)?	
Is a sample of the voter identification card included in this report?	**Copy**
Complies with N.C. Gen. Stat. 163-82.9 in sending notices of cancellation to other jurisdictions?	**Procedures Used?**
Contains up to date addresses for other county boards?	
Contains up to date addresses for other states/jurisdictions?	
Sends out of state DMV cancellations to the State Board office?	**Procedures used?**
Maintains custody of official records according to N.C. Gen. Stat. 163-82.10?	**Visual Inspection**
Are they secured?	
Provides free lists to the political parties?	**Procedures used?**
Provides selective lists to anyone?	**How are hard copy requests processed?**
Cost of lists, labels, or data on magnetic media in accordance with N.C. Gen. Stat. 163-82.10?	
Followed N.C. Gen. Stat. 163-82.14(a) in	**Plans?**

conducting 4-Year List Maintenance Program?	**Procedures?**
Records from Vital Records and Registrar of Deeds maintained?	**Visual Inspection.**
Deceased persons removed from the list according to N.C. Gen. Stat. 163-82.14(b)?	**Visual inspection of records.** **Procedures used.**
Records from AOC and Federal Courts maintained?	**Visual inspection.**
Felons removed from the list according to N.C. Gen. Stat. 163-82.14(c)?	**Visual inspection.** **Procedures used for removal.**
Are notices sent to felons as prescribed in N.C. Gen. Stat. 163-82.14(c)(3)?	**Procedures?**
Confirmation notices sent according to N.C. Gen. Stat. 163-82.14(d)?	**Procedures used?** **Is this an automated process?**
Confirmation procedures followed and status and reasons assigned to voter record according to Administration of Voter Registration manual?	**Procedures used?** **Is this an automated process?**
N.C. Gen. Stat. 163-82.19 - 23: Have local contact with agency personnel?	**Procedures used?**
Are computer printouts from DMV in office from 1995 - present?	
Are DMV printouts used as cross-reference **or** only for provisional voters?	
Confidentiality requirement adhered to?	**Audit of records.**
Record-keeping requirements adhered to (Administration manual)? **Page XIII-1**	**Is there a schedule?** **Procedures used?**
New registrations tracked by source?	**Does the voter registration program track this?**
Changes of information tracked by source?	**Does the voter registration program track this?**
Duplicates tracked by source?	**Does the voter registration program track this?**
Verification mailings tracked?	**Does the voter registration program track this?**
Confirmation mailings tracked?	**Does the voter registration program track this?**
Agency declinations tracked?	**Method of tracking?**
State Board training attended according to N.C. Gen. Stat. 163-82.24?	**Is there a list of training attended?**
Participated in Statewide voter registration drive (N.C. Gen. Stat. 163-82.25)?	**Copy of written outreach plan?**
Does the office have a log book for voter application sign-outs?	

Challenges/Complaints:

Proper challenge forms available as prescribed in Article 8?	**Copy**
Last challenge filed in county properly executed?	**Inspect**
Proper forms for election complaints?	**Copy**
Last hearing re-election complaint was either transcribed or audiotaped?	**Inspect**

Petitions:

Explain the procedures used to verify petitions in order to ensure compliance.	

Precincts:

Do all precincts comply with ADA requirements	

and Title 8, Chapter 8,	
N.C. Administrative Code?	
Does county have precinct official instructional manual?	
Instructional manual complies (attach copy for office)?	**Copy of entire manual.**
Appointment of precinct officials complies with N.C. Gen. Stat. 163-41?	**Are all positions filled?**
Has training of precinct officials been conducted according to requirements?	
% participation of precinct officials in last required training?	
Are vacancies filled according to law?	
In last election, how many split shift workers?	
In last election, how many emergency precinct officials were appointed?	
In last election, how many precinct officials served who were outside the precinct?	

Election records:

Is traditional pollbook **or** voter authorization slips used?	
If voter authorization is used, is approval letter from SBE on file?	
Obtain sample for SBE records	**Copy**
Are voters asked to provide signature at the polls?	
Have ballots been locked, sealed, and preserved for specified time period? N.C. Gen. Stat. 153-171	**Inspect**
Method of reporting results to public compliant with N.C. Gen. Stat. 163-173?	**Procedures**
On what date the board canvassed the last election?	
Was pollbook kept according to law in the last primary election?	
Is the records and retention schedule followed?	

Budget and Training:

Board, director and staff provided with adequate travel and subsistence funding?	
Board of elections housed within adequate office space to perform duties?	
Have county board members attended State Board training?	
Has director attended required training?	
Is County Board of Elections satisfied with approved budget?	
Is overtime authorized by board for director and staff?	
Board members active or passive on budget preparation and/or approval?	
Is adequate coverage provided for times when the director is out (1 person offices)?	
Do board minutes authorize a board member to act as an employee of the board?	

Absentee:

Applications reflect current law (addition of religious observance as reason)?	**Copy**
One-stop provisions comply? Adequate space?	
Absentee pollbook from last election complies with Article 20?	**Inspect**
Absentee ballots, container-return envelopes, and instruction sheets comply with N.C. Gen. Stat. 163-129?	**Copy**
Procedures for simultaneous issuance followed?	
Minutes from absentee meetings kept and contain no irregularities?	**Copy of Last 3**
In last election, how many emergency absentee ballots were issued after 5 pm on Friday?	
Is board consistent in considering absentee ballots? (example: board consistently approves or denies with missing pieces of information.	

Municipalities: (USED FOR MUNICIPAL BOE's)

Does county board conduct training for municipal board of elections?	
Is county board voting equipment used by municipal board of elections?	
Are there procedures for properly notifying newly annexed areas?	
Is there a memorandum of understanding between municipal board and co. board?	
If municipality is in two separate counties, is there a memorandum of understanding between the county boards regarding the conduct of the election?	
Is adequate funding request/provided for the conduct of municipal elections?	
Are municipal boards charged for actual cost of conduct? Or for profit?	
Is copy of itemized bill for last municipal election available (if so attach to audit)?	
Are precincts combined for municipal elections?	
Does municipal board have different precincts for municipal elections?	

Campaign Reporting:

List of active candidates and committees maintained?	**Copy**
Notices sent to each candidate, campaign, or political committee registered there, no more than 30 days but no less than 5 days before a report is due? (no more that 15 day but no less than 5 days for municipal elections)	**Sample Copy of Letter**
Financial disclosure reports received and recorded?	
Initial review of reports performed?	
Are reports made available to the public within 8 hours of receipt?	

How are these reports presented?	
Are copies provided?	
What are the costs?	
Late reports certified to the CRO for penalty assessments?	
Mail or call committee three days after due date re noncompliant reports?	
CRO notified five days after due date for noncompliant reports?	
Audit reports within four months of the election?	
Correspond with committee treasurers regarding audit discrepancies?	
If no response (see above) certify to CRO?	
Provides instructional materials to citizens, candidates, media?	**Copy if other than information provided by State Board of Elections.**
Provides for initial filing of candidates? (Notice of Candidacy/Candidate Statement of Organization)	
Provides record of CR activities of each candidate who filed for office?	
How is record maintained? (in what manner--notebook, etc., and information provided):	

Other:

Provides for public viewing of disclosure reports (includes Candidate Statement of Organization)?	
Provides filing system for the reports received--accessible to the public?	
Provides for a five (5) year retention of campaign reports and records?	

January 2001

SUN	MON	TUE	WED	THU	FRI	SAT
	1 New Year's Day	2	3	4	5	6
7 Final Report from Referendum Committee due in Campaign Reporting office	8	9 Elections Task Force Meeting in Washington, DC	10 2000 Fourth Quarter Report due; SEIMS training in Raleigh	11 SEIMS training in Raleigh ; Election Center– Joint Election Officials Liaison Committee Meeting, Washington, DC	12 Election Center– Joint Election Officials Liaison Committee Meeting, Washington, DC	13
14	15 Martin Luther King, Jr. Birthday Celebration; NVRA report due	16 State Certification Board meets in Raleigh	17 SEIMS training in Raleigh	18 SEIMS training in Raleigh	19	20
21	22	23	24	25	26 Year End Semi-Annual Report due to Campaign Reporting Office	27
28	29	30 Post Election Symposium held in Moore County	31 Post Election Symposium held in New Hanover County; SEIMS training in Asheville			

SCHEDULE OF EVENTS

- **Monday, January 1** New Year's Day
- **Sunday, January 7** Final Report from Referendum Committee due in Campaign Reporting office (GS 163-278.9A(3))
- **Tuesday, January 9** Elections Task Force Meeting in Washington, DC
- **Wednesday, January 10** 2000 Fourth Quarter Report due to Campaign Reporting Office
- **Wednesday and Thursday, January 10-11** SEIMS training in Raleigh for Lee, Alexander, Wilkes, Randolph, Brunswick, Macon, and Person counties
- **Thursday and Friday, January 11-12** Election Center– Joint Election Officials Liaison Committee Meeting, Washington, DC
- **Monday, January 15** Martin Luther King, Jr. Birthday Celebration; NVRA report due. Covers period from October 1– December 31, 2000
- **Tuesday, January 16** State Certification Board meets in Raleigh
- **Wednesday and Thursday, January 17-18** SEIMS training in Raleigh for Montgomery, Rockingham, and Union counties
- **Friday, January 26** Year End Semi-Annual Report due to Campaign Reporting Office (GS 163-278.9(6))
- **Tuesday, January 30** Post Election Symposium held in Moore County
- **Wednesday, January 31** Post Election Symposium held in New Hanover County; SEIMS training in Asheville for Buncombe, Henderson, and Madison counties

February 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1 Post-Election Symposium held in Martin County; SEIMS training in Asheville	2 NASED Winter Meeting in Washington, DC	3 NASED Winter Meeting in Washington, DC
4 NASED Winter Meeting in Washington, DC	5	6 SEIMS training in Raleigh	7 SEIMS training in Raleigh; Election Center Task Force for Election Reform–Savannah, GA	8 Election Center Special Workshop in Savannah, Georgia	9 Election Center Special Workshop in Savannah, Georgia	10 PEP Course: Course #1: Intro to Elections; PEP Course: Course #7: Facilitating Voter Participation, Savannah, Georgia
11 PEP Course: Course #1: Intro to Elections; PEP Course: Course #7: Facilitating Voter Participation, Savannah, Georgia	12	13	14	15	16	17
18	19	20 SEIMS training in Raleigh	21 SEIMS training in Raleigh	22	23	24
25	26	27 Budget Training Video Conference	28 SEIMS Training for SBOE Staff			

Schedule of Events

- **Thursday, February 1** Post-Election Symposium held in Martin County; SEIMS training in Asheville continued from January 31
- **Friday, Saturday and Sunday, February 2–4** NASED Winter Meeting in Washington, DC
- **Tuesday and Wednesday, February 6–7** SEIMS training in Raleigh for Dare, Edgecombe, Northhampton, and Pamlico counties
- **Wednesday, February 7** Election Center Task Force for Election Reform held / Savannah, GA
- **Thursday and Friday, February 8-9** Election Center Special Workshop in Savannah, Georgia
- **Saturday and Sunday, February 10-11** PEP Course: Course #1: Intro to Elections; PEP Course: Course #7: Facilitating Voter Participation, Savannah, Georgia
- **Tuesday and Wednesday, February 20-21** SEIMS training in Raleigh for Beaufort, Caswell, Currituck, Halifax, and Davie counties
- **Tuesday, February 27** Budget Training Video Conference
- **Wednesday, February 28** SEIMS Training for SBOE Staff

March 2001

SUN	MON	TUE	WED	THU	FRI	SAT
				1 SEIMS Training for SBOE Staff	2	3
4	5	6	7 SEIMS Training in Raleigh	8 SEIMS Training in Raleigh	9 Election Center– *New Not So New* Seminar held in Houston, Texas	10 Election Center– *New Not So New* Seminar held in Houston, Texas, Task Force for Election Reform
11 Election Center– *New Not So New* Seminar held in Houston, Texas; Task Force for Election Reform	12 Election Center– *New Not So New* Seminar held in Houston, Texas	13 *New Not So New Refresher Course* by SBOE staff in Raleigh by invitation only.	14 *New Not So New Refresher Course* by SBOE staff in Raleigh by invitation only.	15 *New Not So New Refresher Course* by SBOE staff in Raleigh by invitation only.	16	17
18	19	20	21 SEIMS Training in Raleigh	22 SEIMS Training in Raleigh	23	24
25	26 NCADE Conference begins at the Hilton in Wilmington, NC	27 Certification Core Course #9 : Part II Voter Registration Core Course held in Wilmington, NC	28	29	30	31

SCHEDULE OF EVENTS

- **Thursday, March 1** SEIMS Training for SBOE Staff
- **Wednesday and Thursday, March 7-8** SEIMS Training in Raleigh for Camden, Hoke, Hyde, and Pender counties
- **Friday, Saturday, Sunday and Monday, March 9-12** Election Center– *New Not So New* Seminar held in Houston, Texas
- **Saturday and Sunday, March 10-11** Task Force for Election Reform
- **Tuesday, Wednesday, and Thursday, March 13-15** *New Not So New Refresher Course* by SBOE staff in Raleigh by invitation only. Course will begin at noon on Tuesday and end at noon on Thursday.
- **Wednesday and Thursday, March 21-22** SEIMS Training in Raleigh for Nash, Sampson, and Yadkin counties
- **Monday, March 26** NCADE Conference begins at the Hilton in Wilmington, NC
- **Tuesday, March 27** Certification Core Course #9: Part II Voter Registration Core Course held in Wilmington, NC

April 2001

SUN	MON	TUE	WED	THU	FRI	SAT
1	2	3	4 SEIMS Training in Raleigh	5 SEIMS Training in Raleigh	6	7
8	9 SBOE Refresher Course in Raleigh	10 SBOE Refresher Course in Raleigh	11	12	13 Good Friday	14
15 Easter NVRA Report due	16	17	18 SEIMS Training in Raleigh	19 SEIMS Training in Raleigh	20	21 PEP Course: Course #3: Planning and Budgeting; PEP Course: course #8: Implementation of New Programs
22 PEP Course: Course #3: Planning and Budgeting; PEP Course: course #8: Implementation of New Programs	23 Election Center Special Workshop- "Challenged Ballots and Recounts"/Portland, OR; SBOE Refresher Course in Raleigh	24 Election Center Special Workshop- "Challenged Ballots and Recounts"/Portland, OR; SBOE Refresher Course in Raleigh	25 SEIMS Training in Orange County	26 SEIMS Training in Orange County	27	28
29	30 Campaign Reporting Information and Teaching Session in Raleigh					

SCHEDULE OF EVENTS

- **Wednesday and Thursday, April 4-5** SEIMS Training in Raleigh for Davidson, Iredell, and Wilson counties
- **Monday and Tuesday, April 9-10** SBOE Refresher Course in Raleigh
- **Friday, April 13** Good Friday
- **Sunday, April 15** Easter; NVRA Report due which covers January 1– March 31, 2001
- **Wednesday and Thursday**, April 18-19 SEIMS Training in Raleigh for Carteret, Moore, and Richmond counties
- **Saturday and Sunday, April 21-22** PEP Course: Course #3: Planning and Budgeting; PEP Course: Curse #8: Implementation of New Programs
- **Monday and Tuesday, April 23-24** Election Center Special Workshop- "Challenged Ballots and Recounts"/ Portland, OR
- **Monday and Tuesday, April 23-24** SBOE Refresher Course in Raleigh (only for those on waiting list for April 9-10 course)
- **Wednesday and Thursday, April 25-26** SEIMS Training in Orange County for Alamance and Orange counties
- **Monday, April 30** Campaign Reporting Information and Teaching Session in Raleigh

May 2001

SUN	MON	TUE	WED	THU	FRI	SAT
		1 Term for State Board Members begins	2 SEIMS Training in Burke County	3 SEIMS Training in Burke County	4	5
6	7	8	9	10 Core Course #11: Residency Issues and Challenges/ Hearing Process in Raleigh	11	12
13 Mother's Day	14	15 Term for Executive Secretary-Director Begins	16 SEIMS Training in Raleigh	17 SEIMS Training in Raleigh	18	19
20	21 Elective: Pending Legislation, Trends in Elections, and Recommendation of various task forces—Raleigh	22	23	24	25	26
27	28 Memorial Day	29 Focus Group on One-Stop Absentee Voting in Raleigh	30 SEIMS Training in Raleigh; Focus Group on One-Stop Absentee Voting in Raleigh	31 SEIMS Training in Raleigh		

SCHEDULE OF EVENTS

- **Tuesday, May 1** Term for State Board Members begins (GS 163-19)
- **Wednesday and Thursday, May 2-3** SEIMS Training in Burke County for Ashe, Avery, and Burke counties
- **Thursday, May 10** Core Course #11: Residency Issues and Challenges/Hearing Process in Raleigh
- **Sunday, May 13** Mother's Day
- **Tuesday, May 15** Term for Executive Secretary-Director Begins (GS 163-27)
- **Wednesday and Thursday, May 16-17** SEIMS Training in Raleigh for Greene, New Hanover, and Robeson counties
- **Monday, May 21** Elective: Pending Legislation, Trends in Elections, and Recommendations of Various Task Forces—Raleigh
- **Monday, May 28 Memorial Day**
- **Tuesday and Wednesday, May 29-30** Focus Group on One-Stop Absentee Voting in Raleigh
- **Wednesday and Thursday May 30-31** SEIMS Training in Raleigh for Johnston County

June 2001

SUN	MON	TUE	WED	THU	FRI	SAT
					1 Term for Municipal Board Members begins	2
3	4 Core Course #2: Ballot Preparation , Notice of Candidacy, and Voting Equipment—Raleigh	5	6	7	8	9
10	11	12	13 SEIMS Training in Raleigh	14 SEIMS Training in Raleigh	15	16 IACREOT 30th Annual Conference and Trade Show held at the Holiday Inn in Billings, Montana
17 Father's Day IACREOT 30th Annual Conference and Trade Show held at the Holiday Inn in Billings, Montana	18 IACREOT 30th Annual Conference and Trade Show held at the Holiday Inn in Billings, Montana	19 IACREOT 30th Annual Conference and Trade Show held at the Holiday Inn in Billings, Montana	20 IACREOT 30th Annual Conference and Trade Show held at the Holiday Inn in Billings, Montana	21 IACREOT 30th Annual Conference and Trade Show held at the Holiday Inn in Billings, Montana	22	23
24	25 Elective Course: Elections Management 101—Raleigh	26 County Board Members are appointed	27 SEIMS Training in Raleigh	28 SEIMS Training in Raleigh	29	30

SCHEDULE OF EVENTS

- **Friday, June 1** Term for Municipal Board Members begins (GS 163-280)
- **Monday, June 4** Core Course #2: Ballot Preparation , Notice of Candidacy, and Voting Equipment—Raleigh
- **Wednesday and Thursday, June 13-14** SEIMS Training in Raleigh for Bladen, McDowell, Mitchell, and Yancey counties
- **Saturday, Sunday, Monday, Tuesday, Wednesday, and Thursday, June 16-21** IACREOT 30th Annual Conference and Trade Show held at the Holiday Inn in Billings, Montana
- **Sunday, June 17** Father's Day
- **Monday, June 25** Elective Course: Elections Management 101—Raleigh
- **Tuesday, June 26** County Board Members are appointed (GS 163-30)
- **Wednesday and Thursday, June 27-28** SEIMS Training in Raleigh for Craven, Granville, and Perquimans counties

July 2001

SUN	MON	TUE	WED	THU	FRI	SAT
1	2 Post Election Symposium held in Forsyth County	3	4 Independence Day	5	6 Filing Period opens at 12 noon for candidates seeking party nomination for municipal or district office	7
8	9 Post Election Symposium held in Buncombe County	10	11	12	13 Focus Group on Budget held in Raleigh	14
15 NVRA report due	16	17 County Board members take oath of office at noon	18	19 SBOE Training Seminar held at the Friday Center in Chapel Hill	20 SBOE Training Seminar held at the Friday Center in Chapel Hill	21
22	23 Filing date for candidates seeking party nomination for municipal or district office on a district basis no earlier than 12 noon	24	25	26	27 Semi-Annual report due in Campaign Reporting Office; SBOE Staff to visit County Commissioners Association in Dare County	28 SBOE Staff to visit County Commissioners Association in Dare County
29	30	31				

SCHEDULE OF EVENTS

- **Monday, July 2** Post Election Symposium held in Forsyth County
- **Wednesday, July 4** Independence Day
- **Friday, July 6** Filing Period opens at 12 noon for candidates seeking party nomination for municipal or district office that do not elect members of its governing board on a district basis, or requires that candidates reside in a district in order to run (GS 163-291 and GS 163-294(c)
- **Monday, July 9** Post Election Symposium held in Buncombe County
- **Friday, July 13** Focus Group on Budget held in Raleigh (Could we have chosen a more appropriate date for this discussion?)
- **Sunday, July 15** NVRA report due in SBOE office for second quarter covering April 1, 2001-June 30, 2001
- **Tuesday, July 17** County Board members take oath of office at noon. (GS 163-31)
- **Thursday and Friday, July 19-20** SBOE Training Seminar held at the Friday Center in Chapel Hill. Agenda will include Core Course #5: Duties and Responsibilities; Core Course #6 Education and Training of Precinct Officials/Election Day Activity; Core Course #7: Election laws outside G.S. 163, Municipal Elections; and Core Course #8 Public Relations.
- **Monday, July 23** Filing date for candidates 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 noon (GS 163-291(2)(a) and GS 163-294(c))
- **Friday, July 27** Semi-Annual report due in Campaign Reporting Office. Report covers from January 1 through June 30, 2001 (GS 163-278.9(a)(6))
- **Friday and Saturday, July 27-28** SBOE Staff to visit County Commissioners Association in Dare County

August 2001

SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3 **Filing period ends at noon for candidates seeking municipal office that do not elect on a district basis**	4
5	6	7	8	9	10 **Filing period ends at noon for candidates seeking municipal office on a district basis ;**	11 **Last day to post and furnish first notice of partisan primary (including notice of when registration closes); Last day to publish change of a precinct or voting place**
12	13 **Municipal Board appoints precinct chief judges and judges for 1st Partisan Primary**	14 ***Three Days of Learning* conducted by the SBOE in Raleigh.**	15 ***Three Days of Learning* conducted by the SBOE in Raleigh.**	16 ***Three Days of Learning* conducted by the SBOE in Raleigh.**	17	18
19	20	21 **County Board appoints precinct chief judges and judges; PEP Course : Communication; PEP Course #9: Leadership; PEP Course #11 History I**	22 **PEP Course #6: communication; PEP Course #9: Leadership; PEP Course #11: History I**	23 **Election Center National Conference**	24 **Election Center National Conference**	25
26 **Absentee ballots shall be required for absentee voting for Partisan Primary Election**	27 **Municipal Board appoints precinct chief judges and judges for non-partisan primary**	28	29	30	31 **Last day to register to vote in partisan primary election**	

SCHEDULE OF EVENTS

- **Friday, August 3** Filing period ends at noon for candidates seeking municipal office that do not elect members or its governing board on a district basis, or requires that candidates reside in a district in order to run (GS 163-294.2(c) and GS 163-291)
- **Friday, August 10** Filing period ends at noon for 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 (GS 163-294.2(c)(1) and GS 163-291)
- **Saturday, August 11** Last day to post and furnish first notice of partisan primary (including notice of when registration closes) (GS 163-33(8)); Last day to publish change of a precinct or voting place (GS 163-128)
- **Monday, August 13** Municipal Board appoints precinct chief judges and judges for 1st Partisan Primary (GS 163-280(c))
- **Tuesday, Wednesday, and Thursday, August 14-16** *Three Days of Learning* conducted by the SBOE in Raleigh. Agenda to include Electives on Movies, Trials and Tribulations, and Policy Papers **(Formerly held at the Institute of Government)**
- **Tuesday, August 21** County Board appoints precinct chief judges and judges (GS 163-41(a))
- **Tuesday and Wednesday, August 21-22** PEP Course #6: communication; PEP Course #9: Leadership; PEP Course #11: History I
- **Thursday and Friday, August 23-24** Election Center National Conference
- **Sunday August 26** Absentee ballots shall be required for absentee voting for Partisan Primary Election (GS 163-302 (b))
- **Monday, August 27** Municipal Board appoints precinct chief judges and judges for non-partisan primary (GS 163-280(c))
- **Friday, August 31** Last day to register to vote in partisan primary election (GS 163-82.6(c))

September 2001

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3 Labor Day see below	4 see below	5 see below	6	7	8 see below
9 see below	10	11 see below	12	13	14 see below	15
16	17 see below	18 see below	19 see below	20 see below	21 see below	22 see below
23	24 see below	25 Partisan Primary Election	26 see below	27	28 see below	29
30						

SCHEDULE OF EVENTS

- **Monday, September 3** Labor Day
- **Monday, September 3** One-Stop Absentee voting begins for 1st Partisan Primary (GS 163-227.2(b) **(If BOE is open for business)**
- **Monday, September 3** County Board office operating under a modified plan and having a partisan primary must be open five days each week, until 5 p.m. on Friday prior to primary and election (GS 163-227.2(f)) (**If municipalities permit absentee voting)**
- **Tuesday, September 4** County Boards meet at 5 p.m. to consider absentee ballot applications (GS 163-230.1(c1))
- **Wednesday, September 5** In counties using punch card systems, sample ballots must be placed on display in board office. (NC Administrative Code Title 8, Chapter 4.0204 (e))
- **Saturday, September 8** Elective Courses offered for New Board Members —Teleconference from Raleigh
- **Sunday, September 9** Absentee voting begins for non-partisan primary (GS 163-302(b))
- **Tuesday, September 11** County Board Meets at 5 p.m. to consider absentee ballot applications; Last day to adopt alternative hour for counting absentees for 1st Partisan Primary Election (GS 163-234 (2))
- **Friday, September 14** Last day to register to vote in non-partisan primary and election with runoff (GS 163-82.6 (c))
- **Monday, September 17** Pre-Primary Campaign Report due for Partisan Primary (GS 163-278.40B) ; One-Stop absentee voting begins for non-partisan primary (GS 163-227.2(b)); County Board office operating under a modified plan and having a non-partisan primary must be open five days each week, until 5 p.m. on Friday prior to primary and election (GS 163-227.2(f)) **(If municipalities permit absentee voting)**
- **Tuesday, September 18** County Board meets at 5 p.m. to consider absentee applications; After 5 p.m. voter or voter's near relative or verifiable legal guardian may make written request in person for absentee ballots to County Board of Elections due to absence for sickness or physical disability (GS 163-230.1(a1); Last day to request absentee ballots by mail (must be received no later than 5 p.m.) (GS 163-230.1(a))
- **Wednesday, September 19** Counties using punch card systems must place sample ballots on display in board office for Non-Partisan Primary or Election (NC Administrative Code, Title 8 Chapter 4.0204(e))
- **Thursday, September 20** County party chairperson must submit names of observers for party primary by 10:00 a.m. for Partisan Primary .(GS 163-45)
- **Friday, September 21** One stop Absentee Voting ends at 5:00 p.m. for Partisan Primary (GS 163-227.2(b)); Petitions to qualify as unaffiliated candidate must be filed by noon (GS 163-296)
- **Saturday, September 22** Last day to deliver ballots, ballot boxes, and voting equipment to each precinct for Partisan Primary. (GS 163-142, 143, NC Administrative Code Title 8 Chapter 4.0106)
- **Monday, September 24** Municipal Boards appoint precinct chief judge and judges for November 6 election (163-280(c)); Voted Absentee Ballots must be received by 5:00 p.m. for Partisan Primary (GS 163-231(b)); No absentee ballots issued after 5:00 p.m. for Partisan Primary. (GS 163-230.1(a1); Persons eligible to vote by military absentee ballot may vote one-stop until 5:00 p.m. for Partisan Primary. (GS 163-255)
- **Tuesday, September 25 Partisan Primary Election** Precinct officials must be at polling place at 6:00 a.m. (GS 163-148); Polls open at 6:30 a.m. (GS 163-2); Absentee voter list must be mailed to State Board by 10:00 a.m. (GS 163-232, 251(b); Absentee list must be delivered to polling place by 10:00 a.m. (GS 163-232); Challenge to absentee ballot may be made at polling place between noon and 5:00 p.m. or by Chief Judge until poll closing (GS 163-89 (a)); Military personnel who are entitled to vote absentee may register and vote (GS 163-254); Counting of absentee ballots can begin between 2:00 p.m. and 5:00 p.m. (GS 163-234(2); Polls close at 7:30 p.m. (GS 163-2); County Board meets at 5:00 p.m. to consider absentee ballot applications (GS 163-230(2)(a)); Last day to adopt resolution for alternate hour to begin counting absentee ballots and publish copy once weekly for two weeks prior to election (GS 163-234(2))
- **Wednesday, September 26** County Board staffs begin audit of election results
- **Friday, September 28** Canvass begins at 11:00 a.m. (GS 163-175); Hearings held on challenges to absentee ballots made at polls (GS 163-89(e)); Last day for Chief Judge to return spoiled and unused ballots and complete reconciliation of ballots issued (GS 163-142, 144)

October 2001

SUN	MON	TUE	WED	THU	FRI	SAT
	1 See below	2 See below	3	4	5 See below	6 See below
7	8 See below	9 Non-Partisan Primary or Election (if runoff method used)	10 See below	11	12 See below	13
14	15 See below	16 See below	17 See below	18	19	20
21	22 See below	23 See below	24	25	26	27
28	29 See below	30 See below	31 Halloween			

SCHEDULE OF EVENTS

- **Monday, October 1** Pre-Election Campaign Report due for Non-Partisan Primary or Election with Run-off; Written request for second primary by eligible candidate must be made to the County Board of Elections by noon (GS 163-291(6)); Written complaints concerning elections or counting votes must be made by 6:00 p.m.. (NC Admin Code 8:2.0001(e)(1))

- **Tuesday, October 2** County Board of Elections to meet at 5 p.m. to consider absentee ballot applications (GS 163-230(2)(a)); Last day to request absentee ballots by mail for non-partisan election (must be received no later than 5 p.m.) (GS 163-230.1(a)); After 5 p.m. voter or voter's near relative or verifiable legal guardian may make written request in person for absentee ballots to County BOE due to absence for sickness or physical disability for Non-Partisan Primary (GS 163-230.1(a1))

- **Friday, October 5** One-Stop Absentee period for non-partisan election ends at 5:00 p.m. (GS 163-227.2 (b)

- **Saturday, October 6** Last day to deliver ballots, ballot boxes, and voting equipment to each precinct (GS 163-142, 143, NC Administrative Code Title 8 Chapter 4.0106)

- **Monday, October 8** Pre-Election Report due for those candidates involved in the Second Partisan Primary (GS 163-278.40B); Voted Absentee ballots must be received by 5:00 p.m. for Non-Partisan Election (GS 163-231(b)); No absentee ballots issued after 5:00 p.m. for Non-Partisan Primary or election (GS 163-230.1(a1)); Persons eligible to vote by military absentee ballot may vote one-stop until 5:00 p.m. (GS 163-255)

- **Tuesday, October 9 Non-Partisan Primary or Election** if run-off method used– Precinct officials must be at polling place at 6:00 a.m. (GS 163-148); Polls open at 6:30 am (GS 163-2); Absentee voter list must be mailed to State Board by 10:00 a.m. (GS 163-232, 251(b)); Absentee list must be delivered to polling place by 10:00 a.m. (GS 163-232); Challenge to absentee ballot may be made at polling place between noon and 5:00 p.m. or by Chief Judge until poll closing (GS 163-89(a)); Military personnel who are entitled to vote absentee may register and vote (GS 163-254); Counting of absentee ballots can begin between 2:00 p.m. and 5:00 p.m. (GS 163-234(2); Polls close at 7:30 p.m. (GS 163-2); County Board meets at 5:00 p. m. to consider absentee ballot applications (GS 163-230(2)(A));

- **Wednesday, October 10** County Boards staff begin audit of election results

- **Friday, October 12** Canvass begins at 11:00 a.m. (GS 163-175); A complaint concerning the manner in which votes were counted or the results were tabulated at the precinct must be filed before the beginning of the meeting of the county board to canvass the results of the election. However, a complaint of this nature may be filed as late as 6 p.m. of the second day after the completion of the canvass and the declaration of the results, if the complaint states good cause for delay. (NC Administrative Code 8:2.0001(e)(1)); Hearings held on challenges to absentee ballots made at polls (GS 163-89(e)); Last day for precinct officials to return spoiled and unused ballots and complete reconciliation of ballots issued (GS 163-142, 144); Last day to register for November election (GS 163-82.6(c))

- **Sunday, October 14** Written complaints regarding conduct of elections must be filed by 6 p.m. for good cause (NC Admin Code 8:2.0001(e)(2), (f))

- **Monday, October 15** Written complaints regarding conduct of elections must be filed by 6 p.m. for good cause (NC Admin Code 8:2.0001(e)(2), (f)); One-Stop Absentee Voting begins for November election (GS 163-227.2(b)); County Board office operating under a modified plan and having a November election must be open five days each week , until 5 p.m. on Friday prior to election (GS 163-227.2(f)); NVRA report due. Covers period from July 1– September 30, 2001.

- **Tuesday, October 16 Second Partisan Primary (if needed)** **Note: Dates associated with Second Partisan Primary are not included on this calendar)** County Board meets at 5 p.m. to consider absentee ballot applications

- **Wednesday, October 17** In counties using punch-card systems, sample ballots must be placed on display in board office for November election. (NC Admin Code 8:4.0204(e)); First day County Board of Elections may issue certificate of election (GS 163-301)

- **Monday, October 22** Last day County Board of Elections may issue certificate of election (barring complaints, etc) (GS 163-301)

- **Tuesday, October 23** County Board meets to consider absentee ballot applications

- **Monday, October 29** Pre-election Campaign Report due for November election (GS 163-278.40B, 163-278.40D)

- **Tuesday,, October 30** Last day to request absentee ballots by mail for November election (must be received no later than 5 p.m.) (GS 163-230.1(a)); County Board meets at 5 p.m. to consider absentee applications

November 2001

SUN	MON	TUE	WED	THU	FRI	SAT
				1 See below	2 See below	3 See below
4	5 See below	6 Election Day	7 See below	8	9 See below	10 See below
11 See below Veteran's Day	12 See below Veteran's Day Observed	13 See below	14 See below	15	16	17
18	19 See below	20	21	22 Thanksgiving	23	24
25	26	27	28	29	30	

SCHEDULE OF EVENTS

- **Thursday, November 1** County party chairperson must submit names of observers for November Partisan election by 10 a.m. (GS 163-45)
- **Friday, November 2** One-Stop Absentee voting ends at 5 p.m. (GS 163-163-227.2(b))
- **Saturday, November 3** Last day to deliver ballots, ballot boxes, and voting equipment to each precinct (GS 163-142, NC Administrative Code Title 8 Chapter 4.0106)
- **Monday, November 5** Voted absentee ballots must be received by 5:00 p.m. (GS 163-231(b)); No absentee ballots issued after 5 p.m. (GS 163-230.1(a1); Persons eligible to vote by military absentee ballot may vote one-stop until 5 p.m. (GS 163-255)
- **Tuesday, November 6 Election Day-** Precinct officials must be at polling place at 6 a.m. (GS 163-148); Polls open at 6:30 am (GS 163-2); Absentee voter list must be mailed to State Board by 10 a.m. (GS 163-232, 251(b)); Absentee list must be delivered to polling place by 10 a.m. (GS 163-232); Challenge to absentee ballot may be made at polling place between noon and 5:00 p.m. or by Chief Judge until poll closing (GS 163-89(a)); Military personnel who are entitled to vote absentee may register and vote (GS 163-254); Counting of Absentee ballots can begin between 2 p.m. and 5 p.m. (GS 163-234(2)); Polls close at 7:30 p.m. (GS 163-2)
- **Wednesday, November 7** County Board staffs begin audit of election results.
- **Friday, November 9** Canvass begins at 11 a. m. (GS 163-175); A complaint concerning the manner in which votes were counted or the results were tabulated at the precinct must be filed before the beginning of the meeting of the county board to canvass the results of the election. However, a complaint of this nature may be filed as late as 6 p.m. of the second day after the completion of the canvass and the declaration of the results, if the complaint states good cause for delay. (NC Administrative Code 8:2.0001(e)(1)) Hearings held on challenges to absentee ballots made at the polls (GS 163-89 (e)); Last day for Chief Judge to return spoiled and unused ballots and complete reconciliation of ballots issued (GS 163-142, 144)
- **Saturday, November 10** Last day to mail abstracts to the State Boar d of Elections (GS 163-300)
- **Monday, November 12 Veteran's Day Observed;** Written complaints concerning elections or counting votes must be made by 6 p. m. (NC Admin Code 8:2.0001(e)(1), (f)); **(If BOE office is open, if not due on Tuesday, Nov. 13)**
- **Tuesday, November 13 If BOE office was not open on Monday,** written complaints concerning elections or counting votes must be made by 6 p.m. (NC Admin Code 8:2.0001(e) (1), (f))
- **Wednesday, November 14** First day County Board of Elections may issue certificate of election (GS 163-180)
- **Monday, November 19** Last day County Board of Elections may issue certificate of election (Barring complaints, etc) (GS 163-180)

December 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25 Christmas	26	27	28	29
30	31					

Schedule of Events

- **Tuesday, December 25** Christmas

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

February 28, 2001
11:00 a.m.
Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

CONSIDERATION: HB 33 – PRESIDENTIAL ELECTORS BY DISTRICT
Representative Wayne Goodwin

STAFF: Bill Gilkeson
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

February 28, 2001

Room 1228
11:00 a.m.

The meeting of the House Committee on Election Law and Campaign Finance Reform was called to order by Representative Martha Alexander, Chair. She welcomed two new members, Representatives Redwine and Thompson. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Arnold, Blue, Bonner, Church, Daughtry, Decker, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Redwine, Rogers, Starnes, Thompson, Weatherly, and Weiss and Cunningham, Dedmon, Earle and Hackney, *ex officio members*.

Representative Alexander recognized the Sergeants at Arms and pages.

Representative Goodwin was recognized to explain HOUSE BILL 33, AN ACT TO PROVIDE FOR THE ELECTION OF TWO PRESIDENTIAL ELECTORS AT LARGE AND ONE FROM EACH CONGRESSIONAL DISTRICT. After discussion, Representative Goodwin moved for a favorable report on the bill. Representative Daughtry called for the AYES and NAYS. The motion for a favorable report passed by a 14 to 10 vote.

There being no further business, the Chair adjourned the meeting at 11:50 a.m.

Representative Martha B. Alexander

Ann G. Faust, Committee Assistant

Attachments:
Agenda
Handouts
Record of the Vote
Visitors Roster

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report~~(s)~~ from standing committee~~(s)~~ is/~~are~~ presented:
By Representative~~(s)~~ **Alexander** (Chair/~~Chairs~~) for the Committee on **Election Law and Campaign Finance Reform.**

☐ Committee Substitute for
H.B. 33 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE ELECTION OF TWO PRESIDENTIAL ELECTORS AT LARGE AND ONE FROM EACH CONGRESSIONAL DISTRICT

☒ 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)

2/15/01

ROLL CALL VOTE

14 YES 10 NO =24 (TOTAL) HB# 33 SB# ____

HOUSE STANDING COMMITTEE ON Election Law and Campaign Finance Reform

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		Alexander			
✓		Michaux			
✓		Nesbitt			
	✓	Arnold			
✓		Blue			
✓		Bonner			
✓		Church			
	✓	Daughtry			
	✓	Decker			
✓		Goodwin			
	✓	Justus			
	✓	Kiser			
✓		Luebke			
	✓	Morris			
	✓	Rayfield			
✓		Redwine			
✓		Rogers			
	✓	Starnes			
	✓	Thompson			
	✓	Weatherly			
✓		Weiss			
			Ex officio Members		
		Majority Leader: Baddour	✓		Majority Whip: Dedmon
✓		Cunningham			Majority Whip: Earle
			✓		Speaker Pro Tem: Hackney

HOUSE BILL 33:
Presidential Electors by District.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Goodwin.
Date:	February 28, 2001	**Summary by:**	William R. Gilkeson Committee Counsel
Version:	First Edition		

SUMMARY: ***House Bill 33 would change North Carolina's method of choosing presidential electors so the winner of the statewide popular vote would receive two electoral votes, and the remaining electoral votes would be distributed to winners of the popular vote in each congressional district.***

CURRENT LAW: Currently, North Carolina gives all the State's 14 electoral votes to the presidential ticket that wins the popular vote statewide.

The U.S. Constitution provides in Article II that each state has the same number of presidential electors as members of the U.S. Senate and U.S. House. North Carolina now has 2 Senators and 12 House members. Subject to the U.S. courts' decision in *Utah v. Evans*, the State will soon have 13 House members. It will therefore have 15 electors.

N.C. law already provides that, in the selection of its slate of electors, a political party shall nominate 2 from the State at large and 1 from each congressional district. *G.S. 163-1(c).* The parties must do that in convention. So the parties now choose residents of each congressional district to be their electors. The entire slate of a party's electors, however, is chosen based on the presidential vote statewide, without regard to district-by-district vote.

Unaffiliated candidates for President are not required to nominate their electors by congressional district.

If a presidential elector fails to vote for the Presidential nominee of the party that nominated the elector, the penalty is a $500 fine and forfeiture of the office. *G.S. 163-212.* North Carolina is one of 29 states that require electors to vote for their party nominees.

BILL ANALYSIS: House Bill 33 would provide that each political party and unaffiliated candidate nominate 2 presidential electors from the State at large and nominate 1 elector from each congressional district. The presidential popular vote statewide would elect the 2 statewide electors. The presidential popular vote in each congressional district would elect that district's elector.

The bill would not change the penalty against electors who attempt to vote for a Presidential or Vice Presidential candidate other than the nominee of the party that nominated the elector. A "faithless elector" would still pay the fine and forfeit the office. Electors nominated by different parties, however, might be elected, depending on the popular vote in each congressional district.

BACKGROUND: In the early days of the United States, it was relatively common for states to choose presidential electors by popular vote in congressional district. North Carolina used that method in the 1796, 1800, 1804, and 1808 elections. Another common method in the early days was to have the legislature choose the elector. North Carolina used that method in 1792 and 1812. By the 1830s, however, the popular vote statewide winner-take-all system became the predominant one, and when South Carolina adopted it after the Civil War, it became the exclusive system.

Not until the late 20th century did popular vote by district begin to reappear. In 1969, what is is proposed in HB 33 was adopted by Maine. In 1991, Nebraska followed suit.

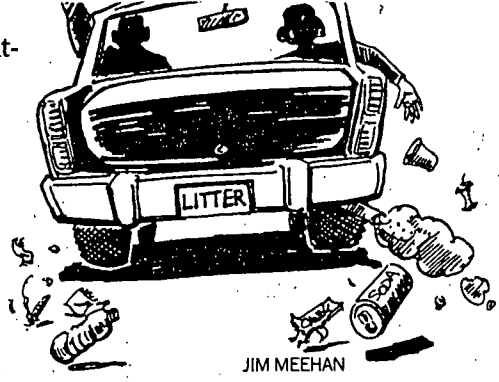
In 1999 a bill was proposed in New York to adopt the district system, but it did not pass. In Washington State, a bill to choose electors according to the proportion of the statewide popular vote also did not pass.

EFFECTIVE DATE: The bill would be effective upon becoming law. It would of course not be used until the 2004 presidential election.

ing litter.

"Only two things will stop litter," says county anti-litter coordinator Brenda Barger. "Don't do it, and clean it up.

"We've been receiving a lot of complaints from people how bad the county and are looking."



JIM MEEHAN

In Raleigh, legislators will consider requiring trucks of all sorts to cover their loads with tarps. "We've passed laws that haven't had a lot of effect," says state Sen. Charlie Albertson, D-Duplin, chairman of the Senate Agriculture, Environment and Natural Resources Committee. N.C Department of Transportation: "Population's growing, and traffic is heavier."

Also at issue are personal responsibility and plain old cleanliness. It's just a shame for the highways and byways of this beautiful state to look like the approach road to a landfill. We like Dr. Traffic's word for the people who toss the trash: "Slobs."

FOR THE RECORD

North Carolina and the Electoral College

By WAYNE GOODWIN
Special to the Observer

After the Florida fiasco, election law reformers have focused on the Electoral College.

Since the days of Madison, Congress has considered hundreds of bills seeking to abolish the Electoral College. North Carolina can do its part to reform the presidential election system without amending the Constitution and without violating the framers' intent.

House Bill 33 proposes changing our system of selecting presidential electors by awarding our Electoral College votes using the district system.


Goodwin

This system awards one electoral vote to the presidential ticket receiving the most votes in each congressional district, and awards the remaining two electoral votes to the ticket receiving the most votes statewide. Maine and Nebraska use this plan already; others are considering it.

Detractors incorrectly argue it second-guesses the framers. In fact, the Constitution nowhere requires states to provide electors on a "winner-take-all" basis, reserving this issue for individual states. North Carolina, like other states, did not adopt such a system until 40 years (1816) after the nation's birth, using the district method instead.

Would the district system weaken a state's influence? Probably not. For example, a candidate who leads or trails considerably in any state would probably put campaign resources elsewhere because he would receive all the electoral votes. On the other hand, notwithstanding state size, a candidate who has the chance to win even one electoral vote under this proposal will develop a campaign presence there. That's good for democracy.

It also prevents voter disenfranchisement. After all, winner-take-all systems completely erase the losing candidate's votes even if the candidate lost by only one vote statewide – a result that is anathema to representative democracy.

Moreover, the results of the district system better reflect the true will of a state's voters – here, a more accurate reflection of whom Tar Heels want as their commander-in-chief.

Some opponents suggest it would dramatically impact North Carolina's electoral slate. An examination of the last five presidential races indicates otherwise: Reagan's electors would have remained the same; Dukakis would have received one; Clinton, six and four; and Gore, three. Even if every state had relied upon this proposal, Bush-Gore would have still been a nail-biter.

Could this bill pass the General Assembly? Legislative history suggests it could. In 1989 the same bill passed the House, but never came to a vote in the Senate. This year Sen. Howard Lee, D-Orange, has filed a companion bill, thus enhancing passage possibilities.

In sum, North Carolina has the opportunity to give citizens an even greater voice in presidential elections. While the electorate still has reforms on its radar, let us act. Failure to act now greatly diminishes the lessons learned from the Florida election fiasco. We avoid that debate at our own peril.

State Rep. Wayne Goodwin, a Democrat from Richmond County and a member of the House elections and congressional redistricting committees, is sponsoring legislation (House Bill 33) to reform the way North Carolina awards its presidential electors.

CORRECTION

An editorial in Monday's Observer should have said that Dale Earnhardt Jr. finished second at Daytona.

Earnhardt deserves final winner's circle

Earnhardt was tough - In the years I worked wi was chewed up, spit out a few things I'd be reluctan with my Sunday school t was also buddied and eve on occasion. The man w what he seemed to be: i honest.

Many of you may not ing in the highest regard. sider an icon you hold de own world – in your prof sports, in your family. T moment and pause alon rest of us. Dale Earnha mighty presence in our r day, for his family and fri fans, allow Dale Earnh spotlight. He deserves it.

Goodbye, my man.

JO

Sorensen's right; c of love is too high

In response to "Domin acy should be safer sp 19):

"When race car drive write that they died dc they love. We should st it. Doing what you love cost you your life."

I'm not a motorsport that may have been th lead Tom Sorensen has ten.

DAVID BRO

Restrictor-plate ra puts drivers in peri

The death of Dale was forecast long ago himself. He warned that plate racing at Daytona dega placed cars perilo together for long p NASCAR was concer cars becoming airborne, should raise the fence.

Dale Earnhardt shoul died. NASCAR should e tor-plate racing before other driver.

JAMES S.

U.S. flags at half-s go against code

I can understand the of emotion over the dea Earnhardt, the extra ai impromptu memorials. not agree with the Un

Charlotte Observer 2/20/2001

	1984	1988
NC 1	57-43 Reagan	54-46 Bush
NC 2	53-47 Reagan	50-49 Dukakis
NC 3	61-39 Reagan	58-42 Bush
NC 4	60-40 Reagan	55-44 Bush
NC 5	64-36 Reagan	60-40 Bush
NC 6	65-35 Reagan	61-39 Bush
NC 7	57-43 Reagan	51-48 Bush
NC 8	65-35 Reagan	62-38 Bush
NC 9	65-35 Reagan	61-39 Bush
NC 10	69-30 Reagan	65-34 Bush
NC 11	63-37 Reagan	59-40 Bush

North Carolina			
First District	1996		1992
Clinton	100,650	Clinton	101,721
Dole	66,342	Bush	63,738
Perot	8,295	Perot	20,083
Second District			
Dole	104,762	Clinton	95,609
Clinton	97,055	Bush	93,498
Perot	12,215	Perot	30,263
Third District			
Dole	86,289	Bush	76,714
Clinton	62,941	Clinton	61,183
Perot	11,550	Perot	26,048
Fourth District			
Clinton	142,650	Clinton	130,489
Dole	121,839	Bush	102,945
Perot	13,356	Perot	35,758
Fifth District			
Dole	134,379	Bush	118,496
Clinton	86,437	Clinton	92,933
Perot	16,203	Perot	34,517
Sixth District			
Dole	105,779	Bush	98,088
Clinton	88,812	Clinton	89,441
Perot	15,484	Perot	32,498
Seventh District			
Clinton	93,133	Clinton	94,597
Dole	90,758	Bush	80,214
Perot	13,699	Perot	29,970
Eighth District			
Dole	77,564	Clinton	77,838
Clinton	77,269	Bush	72,958
Perot	12,729	Perot	22,931
Ninth District			
Dole	124,907	Bush	125,214
Clinton	81,994	Clinton	77,088
Perot	13,839	Perot	33,986

Tenth District			
Dole	120,378	Bush	116,435
Clinton	74,648	Clinton	82,515
Perot	18,365	Perot	34,183
Eleventh District			
Dole	109,629	Bush	106,119
Clinton	95,273	Clinton	102,905
Perot	21,255	Perot	35,325
Twelfth District			
Clinton	97,435	Clinton	103,634
Dole	71,166	Bush	76,684
Perot	10,475	Perot	26,438

2000 Presidential Race Results by Congressional District

Actual Results for Areas Falling Completely within one Congressional District or Another

USHouse	Gore	Bush	Browne	Buchanan	McReynolds
1	97,967	72,741	348	325	38
2	102,364	129,521	943	495	468
3	65,371	106,585	716	628	158
4	156,689	143,584	2,069	502	1,295
5	83,449	141,064	826	898	87
6	76,806	147,145	845	902	29
7	104,208	117,564	836	611	53
8	85,841	113,108	810	630	288
9	83,606	133,499	1,116	572	214
10	76,960	156,621	951	893	196
11	106,829	158,394	2,976	1,411	286
12	98,877	59,016	542	406	62
Total Votes	1,257,692	1,631,163	13,891	8,874	3,370
Known Totals	1,138,967	1,478,842	12,978	8,273	3,174
Total to be Estimated	118,725	152,321	913	601	196

Estimated Results for Areas Divided by US House District Lines

US House	Gore	Bush	Browne	Buchanan	McReynolds
1	10,580	13,609	60	54	10
2	8,274	9,253	79	37	61
3	8,908	12,454	56	43	4
4	11,819	13,970	138	61	104
5	7,571	11,379	53	44	0
6	15,693	21,613	96	95	0
7	4,706	4,407	21	19	0
8	2,832	2,812	13	13	0
9	20,661	25,294	164	70	11
10	3,428	5,753	39	26	0
11	0	0	0	0	0
12	24,304	31,845	189	139	6
Total to be Estimated	118,725	152,321	913	601	196

Estimated Totals	118,776	152,388	909	601	196
Difference	-51	-67	4	0	0
Rounding Error	-0.043%	-0.044%	0.445%	-0.062%	0.000%

Combined

US House	Gore	Bush	Browne	Buchanan	McReynolds
1	108,547	86,350	408	379	48
2	110,638	138,774	1,022	532	529
3	74,279	119,039	772	671	162
4	168,508	157,554	2,207	563	1,399
5	91,020	152,443	879	942	87
6	92,499	168,758	941	997	29
7	108,914	121,971	857	630	53
8	88,673	115,920	823	643	288
9	104,267	158,793	1,280	642	225
10	80,388	162,374	990	919	196
11	106,829	158,394	2,976	1,411	286
12	123,181	90,861	731	545	68

A new approach for NC — Thad Beyle — 11/28/00

While we can't be sure of just when we will know the name of our new president, we can be sure of something else. There will be a slew of bills introduced in Congress and state legislatures across many of the states aiming at reforming how our elections are conducted. There is one change in how the Electoral College votes are determined that is already being used in Maine and Nebraska that merits some consideration as a potential reform in other states.

Under our current Electoral College voting system, each state gets the number of votes equivalent to their Washington, DC representation – two for their US senators and one for each of their members of the US House of Representatives. So, whoever wins the statewide popular vote gets all of the state's EC votes. Maine and Nebraska have changed this to have only two of the EC votes determined by the statewide vote - those tied to our statewide elected US senators. The remaining EC votes would be determined by which presidential candidate wins the vote in each congressional district.

This breaks with the original theory of the EC, a group of white, male property owners – the political elite then – meeting in state capitals to determine the next president. As our society has grown more diverse and matured politically so there is considerably wider participation in voting, we need to think how this can be best manifested in the EC. Those states approach is a step in that direction.

What would happen in NC under such a change? First, we would see the end of the "winner take all" rule in the statewide vote as has been the rule. There would be the opportunity for the state's EC vote to be split between more than one candidate. For example, in the 1992 and 1996 elections Republicans George Bush I and Bob Dole carried the state and won all 14 EC votes. But Democrat Bill Clinton carried five of the state's congressional districts in 1992 and three of the state's congressional districts in 1996 yet received no EC votes. Under this new approach, the state's EC votes would have been 9 to 5 in 1992 for Bush over Clinton and 11 to 3 in 1996 for Dole over Clinton.

We don't yet know how the candidates did across the 12 congressional districts in 2000. But, based on the 1996 election my best guess is there was a similar 11 to 3 EC vote split. Bush II won the statewide vote and probably 9 of the 12 congressional district votes, while Gore probably won in Eva Clayton's 1st District, David Price's 4th District, and in Mel Watt's 12th District. If this new approach had been in place for the 2000 election here, the Florida debacle would not be as critical as the 3 EC votes Gore would have received in NC would have made him the winner with 270 of the 538 EC votes.

Probably the most important reason for making such a change is to reduce the impact of the exit polls and the media's need to report who is winning. Currently, exit polls are taken on a statewide basis through a sampling process that project results representative of what the final vote count will be. That will still work in those states with only one congressional seat and it might also work in those states with only two congressional seats. But, once the number of congressional seats in a state get beyond 3 or more, the costs of conducting exit polls will become much greater and there will probably be quite a few congressional district EC votes that are "too close to call."

On Election night I worked at the Associated Press helping call the various elections in the state. At about 7:15 that evening, the head of the Raleigh Bureau got a call from the Washington AP office indicating they were going to call Bush the winner in NC as soon as the polls closed at 7:30. Ten minutes later they called and said they were going to call Democrat Mike Easley the winner in the governor's race, still before the polls closed and any votes had been counted. That became a bit difficult a few minutes later as the early returns showed Republican Richard Vinroot leading Easley for at least one-half an hour or so while Easley was being called the winner.

These early exit poll driven calls in the Eastern and Mid-Western time-zone states have been a problem over many of the recent presidential elections. Once it becomes clear that the states in those two time zones have elected the next president, voting becomes less of a need in the Western time-zone states. While the media has tried to control for this impact, we still saw the Florida vote "called" early for Gore

before the polls had closed in the western Panhandle counties of that state. Besides the "call" being wrong as the election in that state was too close to call, it violated the unwritten rule against calling the election in a state before the polls close.

A state legislator in Wisconsin is going to propose that the 2004 presidential vote in his state not be tabulated and reported until after the polls close on the west coast. This would help alleviate the above noted time-zone problems. That might work but the drive to find out just who is winning is almost too great to overcome by instituting such a rule. There are too many individuals involved in the election process that could leak information to the anxious media and political actors.

Why not just make it all a bit more complex just like the country we live in has become. Make the EC vote consist of the 100 votes from the 50 statewide results and the 438 votes from individual congressional districts and DC. We can take a step in that direction here in NC.



It isn't that Gentle George is anti-family or anti-woman, staff members hastened to explain. He fervently hopes that more employers will voluntarily grant leaves to workers with newborns or adoptive children or whose children or parents are stricken with a dread disease. But, an Office of Management and Budget document declared, "this objective can be best achieved voluntarily through the normal collective bargaining process . . . not by the federal government mandating employee benefits."

Well, that would be true if the labor movement were healthy and strong. But it is not, so someone else has got to guarantee minimally humane working conditions for people. That someone has got to be the government. That's the way it is in most of the civilized world and even in a few places that aren't always so civilized. In Chile, for example, employees are guaranteed 18 weeks of parental leave with 100% other "mandated benefits" such as Social Security and Occupational Safety and Health.

The productivity/competitiveness argument doesn't make sense either, oft-repeated though it was by lobbyists for the U.S. Chamber of Commerce and opponents of the bill on the House floor. Since when do Japan and Germany do things that are anti-competitive? More likely, they calculate that employees work more efficiently when they aren't terrified by the idea that they will be unemployed if they take care of a dying parent.

The Republican Party has done its best to seize the "family" issue from Democrats. . . . But sometimes the values of "family" clash with . . . the special interests of corporate America. With Bush, when the campaign is over and a policy choice must be made, the family finishes second.

This editorial appeared in The New Republic.

A Revolutionary Named Skip Wants To Remake Electoral College

Washington Post Writers Group

WASHINGTON — The revolutionary has a disarming name: Skip Roberts. ("Skip" Lenin? Somehow, no.) Do not be deceived. He means to topple civilization or, what is much the same thing, the Electoral College as it currently functions.



George F. Will

He is head of the Electoral Fairness Project. He wants states to legislate an end to the custom of winner-take-all allocations of states' electoral votes. Instead, they would award one vote to a presidential candidate for each congressional district she or he carried. The two additional votes each state has would go to the candidate who has the most votes statewide.

Many Americans will be startled to learn that the current system, under which a candidate receiving a majority or even just a plurality of a state's votes gets all that state's electoral votes, is not a constitutional requirement. This practice, so central to the success of our constitutional arrangements, is only a custom.

Maine Leads The Way

In 1968, Maine abandoned this system in favor of the idea Roberts favors (others have favored it, perhaps even James Madison). So far the results in Maine have been just what the old system would have produced. In 1988, for example, Bush beat Dukakis in Maine 55.3% to 43.9%, but won all four votes because he carried both congressional districts.

So, as Maine goes, so shall go the nation? A reasonable first reaction is, Heaven forfend! America's system for electing an executive is the most successful in the world. And this is the rule of life: Most improvements make matters worse. But hear Roberts out, even if he is a Democrat and open to the charge that losers try to change rules. (From time to time Republicans have flirted with Roberts' idea.)

If Roberts' rules had obtained in 1988, Dukakis would still have been trounced, but probably would have won at least 155 rather than 112 electoral votes. One cannot say for sure, because both candidates would have campaigned quite differently — which is Roberts' point.

He says his reform would increase voter interest and activism by multiplying the number of contested constituencies in which both candidates could consider themselves competitive. In many presidential years, the outcome in many states — sometimes in more than half of them — is not seriously in doubt by September. Naturally, voter interest and turnout decline. But within many such states, some districts might be hotly contested under Roberts' plan.

He notes that the Dukakis campaign shut down in Florida on Sept. 10. But there are eight Florida districts that generally vote Democratic in national elections. Dukakis only (and barely) carried one. But, then, under the winner-take-all system, with Florida's statewide result a forgone conclusion, he had no reason to "cherry pick" for electoral votes in promising districts.

Roberts thinks his reform would diminish candidates' dependence on television and increase reliance on grass-roots organization. For example, he says Democrats are usually competitive in four of the eight districts in Houston's expensive media market. Democrats would have an incentive to use on-the-ground activism to target those districts, rather than saturate the area with expensive over-the-air campaigning.

If so, his reform would counter what he considers an unfortunate effect of public financing of campaigns. "You get nominated and some GS-16 shows up with a check for $50 million," thereby underscoring the irrelevance of party organizations.

Furthermore, Roberts says, his reform would encourage interweaving of presidential and congressional campaigns, thus producing more coherent mandates. Perhaps.

Change Might Hurt Democrats

But perhaps his idea would injure the Democratic Party today. Suddenly Jesse Jackson, who is never going to be the Democratic nominee, would hope to pluck electoral votes with an independent candidacy. Such a candidacy would siphon votes from the Democratic ticket.

True, only 14 of the 435 congressional districts have black majorities. But 25 districts are more than 40% black, 86 more than 20% black. Jackson could have jolly fun in a three-person race.

Roberts says don't worry. He notes that John Anderson's third-party effort did not carry a single district in 1980. But Roberts is assuming the continuance of traditions of political temperance that are partly a product of the system he is trying to tamper with.

By discouraging ideological and charismatic fragmentation, the statewide winner-take-all practice makes for moderate majorities. And it usefully magnifies the decisiveness of elections when popular vote totals are close (as in 1960, 1968, 1976).

N.C. House Approved It

The lower houses of the legislatures in Connecticut and North Carolina have passed Roberts' plan. They did so over the objection of politicians who argued that by making their electoral votes divisible, the less populous states will become less interesting to presidential campaigns.

If these and a few more states (Roberts is targeting New Jersey and Louisiana) take the plunge, they will be laboratories testing whether Roberts' idea produces the political churning he desires. And Democrats will have to figure out how to lose under a new system.

George Will is a Pulitzer Prize-winning syndicated columnist.

VISITOR REGISTRATION SHEET

Election Law/Campaign — 02/28/01
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Richard Whitehead	UTU
Doris Weaver	NC CWA Political Council
Glenn Lamm	United Transportation Union
Don Wright	State Bd. of Elections
John Rust	NCFPC
Sam Brower	Common Cause
Ann Phillips McCaskill	Common Cause
Jesse Rutledge	NC Center for Voter Education
Wm W. Murphy	COMMON CAUSE/NC ALLIANCE FOR DEM.
John Bowdish	Alley Associates
Kiki Dunton	N.C. PIRG
Chris Hayes	Center for Voter Education.
Kim Harrell	Common Cause/NC
Erin Byrd	NCVCE
Helen Lyman	Mecklenburg Co.
Vivian Sansoum	Rep. Luebke's Intern
Maria Jones	GSK
Carol Lauver	EGHS
Tommy Burleson	Avery Co. P.O. Box 596 Newland 28657
Cason Avery	BPMHL
Brian Francis	MCG
Mary Carmelia	REBIC
Deb Ross	ACLU

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

March 7, 2001
11:00 a.m.
Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

CONSIDERATION: HB 31– PRESIDENTIAL ELECTOR CHALLENGE
Representative Goodwin
HB 32- FAITHLESS ELECTOR PENALTY INCREASED
Representative Goodwin
HB 34 – BAN BUTTERFLY AND PUNCH-CARD BALLOTS
Representative Goodwin

STAFF: Bill Gilkeson
Erika Churchill

#32

Staines - tie

Blue - 1969 - Const. Req. agst. / from binding / Fed or St
Gilk - Fed - elections have ind-p. auth - St can't take away to do -
Blue - no body ever challenged
Michaux - const. doesn't req. elector to vote & cand. of pty.
Is it pty function?
Does the St. have auth?

Leo -
Westbury -
Kiser -
Quattrone - class H felony? how many yrs. - crim act? Postpone vote
Michaux - const. prob

#31

Gilk
Leo. has ever happened? - Gilk me -/
Os or Ga?
Goodwin. learning for 1st
Morris -
Arnold -
Kiser - put process in hand
Blue - put much aim to keep cert. elections -
Goodwin - Michaux -
Rayfield -
Leo -
Quattrone - Fed Statute reps?
Bill - another case - "may" direct / choose either way

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

March 7, 2001

Room 1228
11:00 a.m.

The meeting was called to order by Representative Martha Alexander, Chair. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Arnold, Blue, Bonner, Church, Daughtry, Decker, Goodwin, Justus, Kiser, Morris, Rayfield, Starnes, Thompson, Weatherly, and Cunningham, *ex officio* member.

Representative Alexander recognized the Sergeants at Arms and pages and introduced honorary page, Eric Stewart of Charlotte, and thanked them for their assistance.

Representative Goodwin was recognized to explain House Bill 32, AN ACT TO DOUBLE THE PENALTY FOR PRESIDENTIAL ELECTORS WHO REFUSE OR FAIL TO VOTE FOR THE CANDIDATES OF THE PARTY WHICH NOMINATED THAT ELECTOR. After discussion and a request for further information, the committee agreed to postpone a vote on the bill.

Representative Goodwin was then recognized to explain House Bill 31, AN ACT TO PROVIDE FOR SELECTION OF PRESIDENTIAL ELECTORS BY THE GENERAL ASSEMBLY IF THE ELECTION RESULTS HAVE NOT BEEN CERTIFIED BY THE DATE PROVIDED BY FEDERAL LAW. Following discussion, Mr. Goodwin offered to re-work some of the bill's language, and no vote was taken.

The meeting was adjourned at 11:54 am.

Representative Martha Alexander, Chair

Ann Faust, Committee Assistant

HOUSE BILL 32:
Faithless Elector Penalty

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Goodwin
		Summary by:	William R. Gilkeson Committee Counsel
Date:	March 7, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 32 would increase from $500 to $1,000 the penalty for a "faithless" Presidential Elector, i.e., one who failed to attend the December meeting of the Electors and to vote for the Presidential ticket of that Elector's party.***

CURRENT LAW: North Carolina is one of 29 states that have some law binding Presidential Electors to vote for the candidates of their party. North Carolina's statute says an Elector who fails to attend the federally required December meeting of the Electors and to vote for the nominees of that Elector's party shall pay a fine of $500. Perhaps more stringent is the statute's provision that failure to vote for the party's nominees constitutes resignation as an Elector. That forced resignation would create a vacancy, which would be filled by the remaining Electors.

BILL ANALYSIS: House Bill 32 would increase the penalty from $500 to $1,000.

BACKGROUND: The sanctions in North Carolina law for stray voting were enacted in 1969. The previous year, the State had given its popular vote to the Republican ticket of Nixon and Agnew, but Dr. Lloyd Bailey, a Republican Elector from Rocky Mount, had cast his electoral vote instead for third-party candidate George Wallace. Before 1969, the statute simply had a $500 penalty for failing to show up and vote.

Although some constitutional authorities have argued that the State laws binding Electors would not withstand a challenge, no successful challenge has apparently be made.

EFFECTIVE DATE: The bill would be effective when it becomes law. There could not, of course, be occasion to enforce it until the 2004 Presidential election.

National Conference of State Legislatures

LEGISBRIEF

Briefing Papers on the Important Issues of the Day

February 2001 Vol. 9, No. 12

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RESEARCH DIVISION

The Electoral College

By Jennifer Drage

Each state has a number of electoral votes equal to the combined total of its congressional delegation.

The electoral college was established by the U.S. Constitution and modified by the 12th and 23rd Amendments. It includes a total of 538 members: one for each senator and representative, and three additional electors representing the District of Columbia. Each state has a number of electoral votes equal to the combined total of its congressional delegation. In 2000, the Electoral College process worked like this:

November 7, 2000—General election. The voters in each state chose their electors.

December 18, 2000—Meeting of the electors. The electors in each state cast their votes on "certificates of vote," signed the certificates, and forwarded them to the president of the Senate, the archivist of the United States, and other federal and state officials. Dec. 27, 2000, was the deadline for receipt of the certificates of vote.

January 6, 2000—Counting of electoral votes. Congress met in a joint session to count the electoral votes. Any member of Congress may challenge any electoral vote. If this occurs, the House and Senate must vote on whether to accept or reject the vote. A simple majority vote of both chambers is required to reject an electoral vote.

Generally, parties select members known for their loyalty and service.

Nomination of Electors. The Constitution does not specify procedures for the nomination of candidates to the office of presidential elector. The two most common methods states have adopted are nomination by state party convention and by state party committee. Generally, the parties select members known for their loyalty and service, such as party leaders, state and local elected officials and party activists. In some states, the electors' names appear on the ballot along with the names of the candidates for president and vice president.

Maine and Nebraska are the only states currently using the district system.

Selection of Electors by Voters. In 48 states and the District of Columbia, all electoral votes are awarded to the slate that receives the most popular votes in the state. This is known as the winner-take-all system. Maine and Nebraska are currently the only states where one electoral vote is awarded to the presidential and vice presidential candidates receiving the most votes in each of the congressional districts, and the remaining two electoral votes are awarded to the candidates receiving the most votes statewide. This is known as the district system.

There is no federal law requiring electors to vote as they have pledged.

"Faithless Electors." There is no federal law requiring electors to vote as they have pledged, and over the years a number of electors have voted against the instructions of the voters. Twenty-nine states and the District of Columbia have laws binding electors to the popular vote winners, but most constitutional scholars believe that electors remain free agents and that such laws would not survive constitutional challenge. Most of the laws state that an elector shall cast his vote for the candidates who won a majority of the popular vote in the state, or for the candidate of the party that nominated the elector.

National Conference of State Legislatures

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Several laws go further and impose sanctions on electors who violate the law binding their votes:

Several state laws impose sanctions on electors who violate the law binding their votes.

- In **New Mexico** it is a fourth degree felony for an elector to vote for a candidate other than the one who received the highest number of votes in the state.
- In **North Carolina**, an elector who fails to vote for the candidate of his party forfeits the office of elector and is subject to a fine of $500.
- If an elector in **Oklahoma** violates his oath to vote for his party's candidates, it constitutes a misdemeanor and he can be fined up to $1,000.
- In **South Carolina**, if an elector does not vote for the candidate he declared, he is guilty of a criminal violation of election laws.
- In **Washington**, an elector who votes for a person not nominated by his party is subject to a civil penalty of up to $1,000.
- In **Michigan** and **Utah**, failure to vote for the candidates of the party that nominated the elector constitutes resignation from the office of elector, the elector's vote is not recorded, and the remaining electors must fill the vacancy.

Recent Legislation. Lawmakers in Pennsylvania, Ohio, Washington, New York and Nebraska have seen legislation to change or abolish the electoral college in the last few years. None of the proposals, however, became law.

Abolishing the Electoral College. Abolishing the Electoral College requires an amendment to the U.S. Constitution. There are two ways to do that:

Abolishing the Electoral College requires an amendment to the U.S. Constitution.

1. Congress can propose an amendment by a two-thirds vote of both chambers. The amendment then has to be ratified by the legislatures of three-fourths (38) of the states. All existing amendments to the Constitution were made in this manner.

2. The legislatures of two-thirds of the states can petition Congress to convene a Constitutional Convention. At that, any part of the Constitution could be amended; action is not restricted to the sections governing the electoral college or any other part of the Constitution. Again, any proposed amendment would have to be ratified by three-fourths of the states. This method has never been invoked.

Selected References

Federal Election Commission: http://www.fec.gov/pages/ecmenu2.htm

Glennon, Michael J. *When No Majority Rules: The Electoral College and Presidential Succession.* CQ Press, 2000. Available online at http://books.cqpress.com/nomajority/index.html.

National Archives and Records Administration: http://www.nara.gov/fedreg/elctcoll/index.html

Contacts for More Information

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NCSL—Denver
(303) 830-2200, ext. 277
jennie.drage@ncsl.org

HOUSE BILL 31:
Presidential Elector Challenge.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Goodwin
		Summary by:	William R. Gilkeson Committee Counsel
Date:	March 7, 2001		
Version:	First Edition		

SUMMARY: House Bill 31 would give to the General Assembly the authority to select North Carolina's Presidential Electors if the presidential election results have not been certified by the 6th day before the Electors must meet.

CURRENT LAW:

1. Election Day. A federal statute provides for each state to select its Presidential Electors on the Tuesday after the first Monday in November every four years, i.e., on "Election Day." In 2000, that fell on November 7. *3 USC § 1.*
2. Day for Electors to Meet and Vote. Another federal statute says that those Electors shall meet on the first Monday after the second Wednesday in December after Election Day, i.e., on "Meeting Day," to cast their votes. *3 USC § 7.* In 2000 that was December 18.
3. Choosing Electors if None Chosen by Meeting Day. If a State held an election but failed to choose Presidential Electors on Election Day, another federal statute provides that Electors may be appointed on a subsequent day "in such a manner as the legislature of such State may direct." *3 USC § 2.*
4. Secretary of State to Certify N.C. Electors. A North Carolina statute gives to the Secretary of State the duty to certify the names of Presidential Electors to the Governor, after the Secretary's receipt of election abstracts from the State Board of Elections. *G.S. 163-210.*
5. Pre-Election Settlement Method Conclusive if Used 6 Days Before Meeting Day. A rather convoluted federal statute says that if a State has enacted a method of settling an election dispute about Presidential Electors, the decision made under that method shall be conclusive if the decision is made at least six days before Meeting Day. But that is only true if the State enacted the settlement method before Election Day. *3 USC § 5.*

BILL ANALYSIS: House Bill 31 would add to North Carolina law a provision that if the election of Presidential Electors was not certified by the sixth day before Meeting Day, the General Assembly would be empowered to select them.

BACKGROUND: According to the National Conference of State Legislatures, the only State that has enacted a specific mechanism to settle a disputed Presidential election is Massachusetts. Its statute is as follows:

> **Chapter 54: Section 138. Presidential electors; proceedings upon failure to elect.**
>
> Section 138. If, upon examination of the copies of the records of votes for presidential electors, it appears that a majority of the whole number of electors has not been chosen, the governor shall forthwith, by proclamation, call together the general court; and the senators and representatives assembled in joint convention shall by ballot choose electors to complete the full number.
>
> If the whole number of electors has not been chosen when the electors meet on the date fixed under federal law, or if an elector has died or is then absent, the electors present shall forthwith choose electors from the citizens of the commonwealth to complete the full number.

The absence of such a statute in Florida after the 2000 Presidential election may have contributed to uncertainty.

EFFECTIVE DATE: The bill would become effective upon becoming law.

Auto-Cite®: Cases and annotations referred to herein can be further researched through the Auto-Cite® computer-assisted research service. Use Auto-Cite to check citations for form, parallel references, prior and later history, and annotation references.

§ 1. Time of appointing electors

The electors of President and Vice President shall be appointed, in each State, on the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President.
(June 25, 1948, ch 644, § 1, 62 Stat. 672.)

CROSS REFERENCES

This section is referred to in 18 USCS §§ 871, 1751.

RESEARCH GUIDE

Am Jur:
77 Am Jur 2d, United States § 43.

INTERPRETIVE NOTES AND DECISIONS

1. Validity of state laws regulating election
2. Punishment for election offenses

1. Validity of state laws regulating election

State law providing for election of presidential electors by congressional districts is not invalid. McPherson v Blacker (1892) 146 US 1, 36 L Ed 869, 13 S Ct 3.

State statute relating to voting by members of military forces of United States, is unconstitutional insofar as it purports to extend beyond election day, time within which voters' ballots could be received by election officials for election of presidential electors. Maddox v Board of State Canvassers (1944) 116 Mont 217, 149 P2d 112.

2. Punishment for election offenses

State court has jurisdiction to punish for illegal and fraudulent voting for presidential electors, Congress has never acted to regulate conduct of such elections; or to punish any voting fraud involved. Re Green (1890) 134 US 377, 33 L Ed 951, 10 S Ct 586.

Electors are state, not federal officers, so indictment based on federal statute prohibiting conspiracy to injure citizen in right secured by federal Constitution or laws and charging conspiracy to injure citizens in their right to vote for presidential electors and have their votes counted as cast did not charge crime. Walker v United States (1937, CA8 Mo) 93 F2d 383, cert den (1938) 303 US 644, 82 L Ed 1103, 58 S Ct 642, reh den (1938) 303 US 668, 82 L Ed 1124, 58 S Ct 755.

§ 2. Failure to make choice on prescribed day

Whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the legislature of such State may direct.
(June 25, 1948, ch 644, § 1, 62 Stat. 672.)

RESEARCH GUIDE

Am Jur:
77 Am Jur 2d, United States § 43.

INTERPRETIVE NOTES AND DECISIONS

Election of ineligible candidate constitutes failure to elect required number of electors, not vacancy. Re Corliss (1876) 11 RI 638.

§ 3. Number of electors

The number of electors shall be equal to the number of Senators and Representatives to which the several States are by law entitled at the time when the President and Vice President to be chosen come into office; except, that where no apportionment of Representatives has been made after any enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of Senators and Representatives.

(June 25, 1948, ch 644, § 1, 63 Stat. 672.)

RESEARCH GUIDE

Am Jur:
77 Am Jur 2d, United States § 43.

§ 4. Vacancies in electoral college

Each State may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote.

(June 25, 1948, ch 644, § 1, 62 Stat. 673.)

RESEARCH GUIDE

Am Jur:
77 Am Jur 2d, United States § 43.

INTERPRETIVE NOTES AND DECISIONS

1. Validity of state law
2. Electors as state officers
3. Election of disqualified candidate

1. Validity of state law

State statute setting out method of selecting electors is not invalid for failure to specifically provide method of filling vacancy created by death of both elector and alternate. McPherson v Blacker (1892) 146 US 1, 36 L Ed 869, 13 S Ct 3.

2. Electors as state officers

Electors are state officers within meaning of Kentucky constitutional provision specifying manner of filling vacancies in elective offices. Todd v Johnson (1896) 99 Ky 548, 36 SW 987.

3. Election of disqualified candidate

Election of disqualified candidate is failure to elect required number of electors on prescribed day, not vacancy; resignation of ineligible candidate who received highest number of votes for presidential elector does not create vacancy to be filled by state statutory method for filling vacancies; only resignation of lawfully elected individual creates vacancy. Re Corliss (1876) 11 RI 638.

CISIONS

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of lawfully elected individual
Corliss (1876) 11 RI 638.

§ 5. Determination of controversy as to appointment of electors

If any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned. (June 25, 1948, ch 644, § 1, 62 Stat. 673.)

CROSS REFERENCES

This section is referred to in 3 USCS § 15.

RESEARCH GUIDE

Am Jur:
77 Am Jur 2d, United States § 43.

§ 6. Credentials of electors; transmission to Archivist of the United States and to Congress; public inspection

It shall be the duty of the executive of each State, as soon as practicable after the conclusion of the appointment of the electors in such State by the final ascertainment, under and in pursuance of the laws of such State providing for such ascertainment, to communicate by registered mail under the seal of the State to the Archivist of the United States a certificate of such ascertainment of the electors appointed, setting forth the names of such electors and the canvas or other ascertainment under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast; and it shall also thereupon be the duty of the executive of each State to deliver to the electors of such State, on or before the day on which they are required by section 7 of this title [3 USCS § 7] to meet, six duplicate-originals of the same certificate under the seal of the State; and if there shall have been any final determination in a State in the manner provided for by law of a controversy or contest concerning the appointment of all or any of the electors of such State, it shall be the duty of the executive of such State, as soon as practicable after such determination, to communicate under the seal of the State to the Archivist of the United States a certificate of such determination in form and manner as the same shall have been made; and the certificate or certificates so received by the Archivist of the United States shall be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection; and the Archivist of the United States at the first meeting of Congress thereafter shall transmit to the two Houses of Congress copies in full of each and every such certificate so received at the National Archives and Records Administration.

(June 25, 1948, ch 644, § 1, 62 Stat. 673; Oct. 31, 1951, ch 655, § 6, 65 Stat. 711; Oct. 19, 1984, P. L. 98-497, Title I, § 107(e)(1) in part, (2)(A), 98 Stat. 2291.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1951. Act Oct. 31, 1951, in the catchline, substituted "Administrator of General Services" for "Secretary of State"; in the text, substituted "Administrator of General Services" for "Secretary of State of the United States" and "Secretary of State" and substituted "General Services Administration" for "State Department".

1984. Act Oct. 19, 1984 (effective 4/1/85, as provided by § 301 of such Act, which appears as 44 USCS § 2102 note) substituted the catchline for one which read: "§ 6. Credentials of electors; transmission to Administrator of General Services and to Congress; public inspection"; and, in the section text, substituted "Archivist of the United States" for "Administrator of General Services" each place it appears, and substituted "National Archives and Records Administration" for "General Services Administration".

CROSS REFERENCES

This section is referred to in 3 USCS § 15.

RESEARCH GUIDE

Am Jur:

77 Am Jur 2d, United States § 43.

INTERPRETIVE NOTES AND DECISIONS

There is no merit in contention that 3 USCS § 6 conflicts with Twelfth Amendment because § 6 refers to certification of identity of electors, while Twelfth Amendment refers to transmittal to seat of government of results of electoral vote. Penton v Humphrey (1967, SD Miss) 264 F Supp 250.

§ 7. Meeting and vote of electors

The electors of President and Vice President of each State shall meet and give their votes on the first Monday after the second Wednesday in December next following their appointment at such place in each State as the legislature of such State shall direct.

(June 25, 1948, ch 644, § 1, 62 Stat. 673.)

CROSS REFERENCES

Day of voting by electors, USCS Constitution, Art. II § 1, cl. 3.

Voting by electors, USCS Constitution, Amendment XII.

This section is referred to in 3 USCS § 6.

RESEARCH GUIDE

Am Jur:

77 Am Jur 2d, United States § 43.

INTERPRETIVE NOTES AND DECISIONS

Provision of state statute fixing different date for meeting of electors has to yield to provision of federal statute fixing date, but that conflict does not render remainder of state statute inoperative. McPherson v Blacker (1892) 146 US 1, 36 L Ed 869, 13 S Ct 3.

North Carolina General Statute

§ 163-210. Governor to proclaim results; casting State's vote for President and Vice-President.

Upon receipt of the abstracts prepared by the State Board of Elections and delivered to him in accordance with G.S. 163-192, the Secretary of State, under his hand and the seal of his office, shall certify to the Governor the names of the persons elected to the office of elector for President and Vice-President of the United States as stated in the abstracts of the State Board of Elections. Thereupon, the Governor shall immediately issue a proclamation setting forth the names of the electors and instructing them to be present in the old Hall of the House of Representatives in the State Capitol in the City of Raleigh at noon on the first Monday after the second Wednesday in December next after their election, at which time the electors shall meet and vote on behalf of the State for President and Vice-President of the United States. The Governor shall cause this proclamation to be published in the daily newspapers published in the City of Raleigh. 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 Secretary of State is responsible for making the actual arrangements for the meeting, preparing the agenda, and inviting guests.

Before the date fixed for the meeting of the electors, the Governor shall send by registered mail to the Archivist of the United States, either three duplicate original certificates, or one original certificate and two authenticated copies of the Certificates of Ascertainment, under the great seal of the State setting forth the names of the persons chosen as presidential electors for this State and the number of votes cast for each. These Certificates of Ascertainment should be sent as soon as possible after the election, but must be received before the Electoral College meeting. At the same time he shall deliver to the electors six duplicate originals of the same certificate, each bearing the great seal of the State. At any time prior to receipt of the certificate of the Governor or within 48 hours thereafter, any person elected to the office of elector may resign by submitting his resignation, written and duly verified, to the Governor. Failure to so resign shall signify consent to serve and to cast his vote for the candidate of the political party which nominated such elector.

In case of the absence, ineligibility or resignation of any elector chosen, or if the proper number of electors shall for any cause be deficient, the first and second alternates, respectively, who were nominated under G.S. 163-1(c), shall fill the first two vacancies. If the alternates are absent, ineligible, resign, or were not chosen, or if there are more than two vacancies, then the electors present at the required meeting shall forthwith elect from the citizens of the State a sufficient number of persons to fill the deficiency, and the persons chosen shall be deemed qualified electors to vote for President and Vice-President of the United States. (1901, c. 89, s. 81; Rev., s. 4374; 1917, c. 176, s. 2; C.S., ss. 5916, 6012; 1923, c. 111, s. 12; 1927, c. 260, s. 17; 1933, c. 165, s. 11; 1935, c. 143, s. 2; 1967, c. 775, s. 1; 1969, c. 949, ss. 1, 2; 1981, c. 35, s. 1; 1989, c. 93, s. 5; 1993 (Reg. Sess., 1994), c. 738, s. 1.)

VISITOR REGISTRATION SHEET

House Election Law & Campaign Finance Reform 3/7/01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Glenn Lawrence	United Transportation Union
[illegible] James	Teamster Local 391
Doris Weaver	NC CWA Political Council
Richard Westbrook	United Transportation Union
Gary O. Bartlett	State Board of Elections
Yvonne Sutherland	State Board of Elections
Jesse Rutledge	NC Center for Voter Education
[illegible]	NC Center for Voter Education
Mark Seaton	Capitol Group
Sam Brown	Common Cause
Dagan C. Noonan	R.F.P. Justus' Intern
Don Wright	State Bd. of Elections
[illegible]	CO
Lynn Bonner	N&O
Bob Ross	Ch
Mike Okun	NC State AFL-CIO
[illegible]	NC PBA
Carol Lauden	EGHS

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

March 14, 2001

Room 1228
11:00 a.m.

The meeting was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Arnold, Blue, Church, Daughtry, Decker,Dedmon, Goodwin, Kiser, Luebke, Morris, Rayfield, Redwine, Rogers, Starnes, Thompson, Weatherly, and Weiss.

Representative Goodwin was recognized to present and explain a PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL 34, AN ACT TO BAN BUTTERFLY AND PUNCH-CARD BALLOTS. Following discussion and a brief overview of voting procedures used in North Carolina by Gary Bartlett, Director of the State Board of Elections, Representative Thompson introduced an Amendment, attached to these minutes, which passed on voice vote. Following further discussion, no vote was taken on the bill.

Representative Alexander appointed a subcommittee of Representatives Nesbitt, Michaux, Justus, Daughtry and Goodwin, as chair to consider HB 31, Presidential Elector Challenge.

The meeting was adjourned at 11:53.

Martha Alexander, Chair

Ann Faust, Committee Assistant

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(~~s~~) from standing committee(~~s~~) is/~~are~~ presented:
By Representative(~~s~~) **Alexander** (Chair/~~Chairs~~) for the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM.**

☐ Committee Substitute for
H.B. 34 A BILL TO BE ENTITLED AN ACT TO BAN BUTTERFLY AND PUNCH-CARD BALLOTS

☐ 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)

2/15/01

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

March 14, 2001
11:00 a.m.
Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

HB 34 – BAN BUTTERFLY AND PUNCH-CARD BALLOTS
Representative Goodwin

STAFF: Bill Gilkeson
Erika Churchill

HB 34:
Ban Butterfly and Punch-Card Ballots.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Goodwin
Date:	March 7, 2001	**Summary by:**	R. Erika Churchill Committee Counsel
Version:	H34-CSST-2 v.7		

SUMMARY: ***The bill would statutorily eliminate the use of punch card ballots in all elections conducted in North Carolina, and gives those counties and the municipal boards located therein currently using punch card equipment until January 1, 2004 to obtain other equipment. The bill would also statutorily eliminate the use of the butterfly style of ballot arrangement effective immediately.***

CURRENT LAW: The use of punch card ballots and the "butterfly" style ballot is not prohibited by statute in North Carolina elections. The "butterfly" style of ballot arrangement is one in which there are two parallel sets of columns with political party candidates in each column. A punch card ballot is one in which the voter must punch out a hole with a stylus or other tool to indicate for which candidate the voter is voting. The punch card ballot with a butterfly style of arrangement was used in Palm Beach County, Florida during the 2000 general election for President.

BILL ANALYSIS: The bill would prohibit the use of punch card ballots in all North Carolina general elections, primary elections, and municipal elections immediately. However, the bill's application in the 8 counties using punch card voting equipment in the 2000 General Election would be delayed until January 1, 2004. The 8 counties and the municipal boards located therein with a delayed effective date are: Cabarrus, Duplin, Forsyth, McDowell, Mitchell, Onslow, Vance, and Watauga.

The bill would prohibit the use of the butterfly style of ballot arrangement effective immediately.

BACKGROUND: Eight North Carolina counties used a punch card ballot voting system for the 2000 General election. They are: Cabarrus, Duplin, Forsyth, McDowell, Mitchell, Onslow, Vance, and Watauga. (See attachment for all types of voting equipment in North Carolina.) The State Board of Elections, who oversees ballot development by the counties and cities, does not approve the butterfly ballot style of ballot arrangement for use.

EFFECTIVE DATE: The act would be effective when it becomes law. However, the application of the statutory prohibition on the use of punch card voting systems would be delayed until January 1, 2004, in the counties of Cabarrus, Duplin, Forsyth, McDowell, Mitchell, Onslow, Vance, and Watauga, and any municipal board of election located in that county.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 34
PROPOSED COMMITTEE SUBSTITUTE H34-CSST-2 [v.7]

3/14/2001 9:33:30 AM

Short Title: Ban Butterfly and Punch Card Ballots. (Public)

Sponsors:

Referred to:

February 1, 2001

A BILL TO BE ENTITLED

AN ACT TO BAN BUTTERFLY AND PUNCH-CARD BALLOTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163.140.2. Punch Card Ballots.**

No ballot may be used which requires the voter to punch out a hole with a stylus or other tool in any election."

SECTION 2. Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163.140.3. Butterfly Ballots.**

No ballot may have two parallel sets of columns with some of the parties in one column and the other parties in the second column."

SECTION 3. Section 1 of this act becomes effective when it becomes law, and applies to elections conducted on or after that date except in the counties, and the municipalities located therein, of: Cabarrus, Duplin, Forsyth, McDowell, Mitchell, Onslow, Vance, and Watauga. In those counties and municipalities, Section 1 of this act becomes effective January 1, 2004, and applies to elections conducted on or after that date. Section 2 of this act is effective when it becomes law.

PLEASE PRESS HARD - 5 COPIES

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 34 DATE 3-14-01

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) THOMPSON
)
Sen.)

moves to amend the bill on page 1, line 17 and 18

( ) WHICH CHANGES THE TITLE

by deleting the langunge "In those counties and municipalities," and "JANUARY 1, 2004," AND adding after the word 'effective'

"in those counties and municipalities when funds are appropriated to replace punch card systems in use. Nothing in this act shall obligate the General Assembly to appropriate funds to implement this act."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

BOARD OF ELECTIONS

Mrs. Charles A. Cardwell, Jr.
CHAIRPERSON

Garry Whitaker
SECRETARY

Nat Swanson
MEMBER



Kathie Chastain Cooper
DIRECTOR OF ELECTIONS

MEMORANDUM

TO: Representative G. Wayne Goodwin

FROM: Kathie Chastain Cooper

SUBJECT: Punch Card Voting

DATE: March 14, 2001

Forsyth County began a search to replace punch card voting approximately five years ago. In the winter of 1999-2000, the Forsyth County Board of County Commissioners allowed us to issue an RFP for new voting equipment. Our specifications were for DRE (Direct Record Electronic) voting equipment. After review of the RFP's, we realized that the vendors could not deliver in the time required. We had to recommend to the County Commissioners to reject all bids, as they did not meet the specifications. We did not have funding in the Board of Elections budget for voting equipment during this time. However, our understanding was that the County would have financed any purchase.

I understand that there is a bill to ban punch card ballots in North Carolina. If this bill is approved, I think that it needs to be effective no later than the 2002 elections. I have a real concern about using punch card ballots in any future election. The public has lost confidence in punch card voting after the 2000 election and the problems that occurred in Florida. The 2002 election has a federal office on the ballot, which is even more of a reason to prohibit the use of punch card voting for that election. County Board of Elections and the public need time to become comfortable with a new voting system before they have to use it in a presidential election.

North Carolina needs more modern and accurate voting equipment and the sooner the better. The Forsyth County Board of Elections has scheduled demonstrations of voting equipment this month and is continuing their pursuit of an improved voting system for Forsyth County.

If you need more information or would like for me to appear before the committee, please let me know.

Faxed to 919 733-3113

680 W. Fourth Street • Winston-Salem, North Carolina 27101-2730 • 336/727-2162 • Fax: 336/727-2893
http://www.co.forsyth.nc.us/boe

Linda C. Grist
Director of Elections

Ruby J. Aldridge
Chairman

Carol Link Soles
Secretary

John R. Boger, Jr.
Member

Cabarrus County Board of Elections
P.O. Box 1315
53 Corban Avenue, SE
Concord, NC 28026-1315
Phone 704-788-9860 Fax 704-788-9831

March 14, 2001

To: Rep. Wayne Goodwin

From: Linda C. Grist, Director
Cabarrus County Board of Elections

Dear Rep. Goodwin,

Thank you for your call concerning the election bills coming before your committee. As discussed with you on the telephone today, Cabarrus County Board of Elections has initiated a Capital Improvement Plan requesting our tabulating machines be replaced in 2004. This is only a request from our Election Board and was made prior to the Florida problems with punch-cards. This request was made due to our tabulators no longer being manufactured by the venders, not due to any problems we were having with our equipment. At this time, no funding has been identified to pursue this request.

Prior to the 2000 General Election, Cabarrus County did purchase additional tabulating machines so that we would be able conduct elections until such time as the State Board of Elections certified equipment we should use, venders updated their products, and money becomes available to the county. The County has invested an enormous amount of money in our equipment to date (our tabulators were purchased in 1990) and it will cost us in excess of 1 ½ million dollars to replace. We want to make absolutely sure the equipment we buy is state of the art and certified by the State Board of Elections.

We are also aware, that if there is a "run" on equipment purchases by all states, that it may be impossible to actually purchase new equipment during a specific period.

Again, thank you for your call and, if you have any questions, please do not hesitate to contact us.

NORTH CAROLINA
COUNTY VOTING EQUIPMENT

January 4, 2001

GASTON	DRE Accu-Vote	Direct Record Electronic (DRE)
PITT	DRE AVC	
UNION	DRE AVC	
BUNCOMBE	DRE AVC Advantage	
BLADEN	DRE Electronic 1242	
CHEROKEE	DRE Electronic 1242	
HENDERSON	DRE Electronic 1242	
LENOIR	DRE Electronic 1242	
MADISON	DRE Electronic 1242	
MOORE	DRE Electronic 1242	
WILSON	DRE Electronic 1242	
ALLEGHANY	DRE EV2000	
SURRY	DRE EV2000	
GUILFORD	DRE Microvote	
MECKLENBURG	DRE Microvote	
DAVIDSON	DRE Microvote 464	
CASWELL	DRE MicroVote Infinity	
PENDER	DRE Microvote Infinity	
ALAMANCE	DRE MicroVote MV464	
BURKE	DRE Patriot Touchscreen	
CARTERET	DRE Patriot Touchscreen	
MACON	DRE Electronic 1242	
BRUNSWICK	DRE Votronic	
CRAVEN	DRE Votronic	
DAVIE	DRE Votronic	
GREENE	DRE Votronic	
PAMLICO	DRE Votronic	
PASQUOTANK	DRE Votronic	
PERQUIMANS	DRE Votronic	
POLK	DRE Votronic	
RUTHERFORD	DRE Votronic	
STANLY	DRE Votronic	
TRANSYLVANIA	DRE Votronic	
CHOWAN	L AVM	Lever Machines
HOKE	L AVM	
JACKSON	L AVM	
SWAIN	L AVM	
SCOTLAND	L AVM	
BERTIE	L Shoup	

NORTH CAROLINA
COUNTY VOTING EQUIPMENT

ANSON	OSM Accu-Vote
ASHE	OSM Accu-Vote
COLUMBUS	OSM Accu-Vote
DARE	OSM Accu-Vote
EDGECOMBE	OSM Accu-Vote
FRANKLIN	OSM Accu-Vote
HALIFAX	OSM Accu-Vote
HARNETT	OSM Accu-Vote
HERTFORD	OSM Accu-Vote
IREDELL	OSM Accu-Vote
NORTHAMPTON	OSM Accu-Vote
ROBESON	OSM Accu-Vote
ROWAN	OSM Accu-Vote
YANCEY	OSM Accu-Vote
WASHINGTON	OSM Accu-Vote ES2000
MARTIN	OSM Accu-Vote ES-2000
MONTGOMERY	OSM Accu-Vote ES-2000
RICHMOND	OSM Accu-Vote ES-2000
CAMDEN	OSM Air/Mac 210
JONES	OSM ATS Optical Scan
LEE	OSM GTA 1000 ABC
CURRITUCK	OSM Optech I
NEW HANOVER	OSM Optech II
GRANVILLE	OSM Optech II
GATES	OSM Optech III
GRAHAM	OSM Optech III
PERSON	OSM Optech III
STOKES	OSM Optech III
BEAUFORT	OSM Optech IIIP
CLEVELAND	OSM Optech IIIP
CUMBERLAND	OSM Optech IIIP
NASH	OSM Optech IIIP
ROCKINGHAM	OSM Optech IIIP
WARREN	OSM Optech IIIP
CHATHAM	OSM Optech IIIP
ALEXANDER	OSM Optech IIIPE
CALDWELL	OSM Optech IIIPE
CATAWBA	OSM Optech IIIPE
DURHAM	OSM Optech IIIPE
JOHNSTON	OSM Optech IIIPE
LINCOLN	OSM Optech IIIPE
ORANGE	OSM Optech IIIPE

Optical Scan: Mark-Sense

NORTH CAROLINA
COUNTY VOTING EQUIPMENT

RANDOLPH	OSM Optech IIIPE	Optical Scan: Mark-Sense
SAMPSON	OSM Optech IIIPE	
WAKE	OSM Optech IIIPE	
WAYNE	OSM Optech IIIPE	
WILKES	OSM Optech IIIPE	
YADKIN	OSM Optech IIIPE	
HAYWOOD	OSM Optech IIIPE	
AVERY	OSM Optical Scan	
DUPLIN	OSP PBC IIID	Optical Scan: Punchcard
MCDOWELL	OSP GTA 1000	
MITCHELL	OSP GTA 1000	
WATAUGA	OSP GTA 1000	
CABARRUS	OSP PBC IIID	
FORSYTH	OSP PBC IIID	
ONSLOW	OSP PBC IIID	
VANCE	OSP PBC IIID	
CLAY	PB Paper Ballots	Hand-Counted Paper Ballots
HYDE	PB Paper Ballots	
TYRRELL	PB Paper Ballots	

NORTH CAROLINA
COUNTY VOTING EQUIPMENT

January 4, 2001

GASTON	DRE Accu-Vote
PITT	DRE AVC
UNION	DRE AVC
BUNCOMBE	DRE AVC Advantage
BLADEN	DRE Electronic 1242
CHEROKEE	DRE Electronic 1242
HENDERSON	DRE Electronic 1242
LENOIR	DRE Electronic 1242
MADISON	DRE Electronic 1242
MOORE	DRE Electronic 1242
WILSON	DRE Electronic 1242
ALLEGHANY	DRE EV2000
SURRY	DRE EV2000
GUILFORD	DRE Microvote
MECKLENBURG	DRE Microvote
DAVIDSON	DRE Microvote 464
CASWELL	DRE MicroVote Infinity
PENDER	DRE Microvote Infinity
ALAMANCE	DRE MicroVote MV464
BURKE	DRE Patriot Touchscreen
CARTERET	DRE Patriot Touchscreen
MACON	DRE Electronic 1242
BRUNSWICK	DRE Votronic
CRAVEN	DRE Votronic
DAVIE	DRE Votronic
GREENE	DRE Votronic
PAMLICO	DRE Votronic
PASQUOTANK	DRE Votronic
PERQUIMANS	DRE Votronic
POLK	DRE Votronic
RUTHERFORD	DRE Votronic
STANLY	DRE Votronic
TRANSYLVANIA	DRE Votronic

Direct Record Electronic (DRE)

CHOWAN	L AVM
HOKE	L AVM
JACKSON	L AVM
SWAIN	L AVM
SCOTLAND	L AVM
BERTIE	L Shoup

Lever Machines

NORTH CAROLINA
COUNTY VOTING EQUIPMENT

ANSON	OSM Accu-Vote
ASHE	OSM Accu-Vote
COLUMBUS	OSM Accu-Vote
DARE	OSM Accu-Vote
EDGECOMBE	OSM Accu-Vote
FRANKLIN	OSM Accu-Vote
HALIFAX	OSM Accu-Vote
HARNETT	OSM Accu-Vote
HERTFORD	OSM Accu-Vote
IREDELL	OSM Accu-Vote
NORTHAMPTON	OSM Accu-Vote
ROBESON	OSM Accu-Vote
ROWAN	OSM Accu-Vote
YANCEY	OSM Accu-Vote
WASHINGTON	OSM Accu-Vote ES2000
MARTIN	OSM Accu-Vote ES-2000
MONTGOMERY	OSM Accu-Vote ES-2000
RICHMOND	OSM Accu-Vote ES-2000
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JONES	OSM ATS Optical Scan
LEE	OSM GTA 1000 ABC
CURRITUCK	OSM Optech I
NEW HANOVER	OSM Optech II
GRANVILLE	OSM Optech II
GATES	OSM Optech III
GRAHAM	OSM Optech III
PERSON	OSM Optech III
STOKES	OSM Optech III
BEAUFORT	OSM Optech IIIP
CLEVELAND	OSM Optech IIIP
CUMBERLAND	OSM Optech IIIP
NASH	OSM Optech IIIP
ROCKINGHAM	OSM Optech IIIP
WARREN	OSM Optech IIIP
CHATHAM	OSM Optech IIIP
ALEXANDER	OSM Optech IIIPE
CALDWELL	OSM Optech IIIPE
CATAWBA	OSM Optech IIIPE
DURHAM	OSM Optech IIIPE
JOHNSTON	OSM Optech IIIPE
LINCOLN	OSM Optech IIIPE
ORANGE	OSM Optech IIIPE

Optical Scan: Mark-Sense

NORTH CAROLINA
COUNTY VOTING EQUIPMENT

RANDOLPH	OSM Optech IIIPE
SAMPSON	OSM Optech IIIPE
WAKE	OSM Optech IIIPE
WAYNE	OSM Optech IIIPE
WILKES	OSM Optech IIIPE
YADKIN	OSM Optech IIIPE
HAYWOOD	OSM Optech IIIPE
AVERY	OSM Optical Scan
DUPLIN	OSP PBC IIID
MCDOWELL	OSP GTA 1000
MITCHELL	OSP GTA 1000
WATAUGA	OSP GTA 1000
CABARRUS	OSP PBC IIID
FORSYTH	OSP PBC IIID
ONSLOW	OSP PBC IIID
VANCE	OSP PBC IIID
CLAY	PB Paper Ballots
HYDE	PB Paper Ballots
TYRRELL	PB Paper Ballots

Optical Scan: Mark-Sense

Optical Scan: Punchcard

Hand-Counted Paper Ballots

VISITOR REGISTRATION SHEET

Election Law & Campaign Finance Reform - 3/14/01
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chris Heagarty	NC Coalition for Voter Ed.
Jesse Rutledge	"
Kiki Burton	NCPIRG
Joy Barbour	C.B.A./A.B.A.T.E. of N.C.
Mike Hodges	C.B.A./A.B.A.T.E. of N.C.
Rory Ingerick	United Transportation Union
Glenn Lamm	United Transportation Union
Richard Westbrook	UTU
Tom Coley	CWA
Doris Weaver	CWA
Johnnie McLean	SBE
Gary Bartlett	"
Don Wright	"
George Everett	Duke Energy
David Rice	W-S Journal
Vivien Sansour	Rep. Luebke's Intern
William Shirley	Student
Ronnie Moore	N.C. Democratic Party
Mark Brown	Capitol Group
Don Wright	State Board of Elections
NC State AFL-CIO	NC State AFL-CIO
Bob Hall	Democracy South
Jerry Wilson	NC Retail Assn.
R. Paul Williams	NCHBA
Tom Sola	Dist 65
Betty Wickham	
Steve Halstead	GMAC Insurance
Dennis Jamieson	GMAC Insurance

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

March 21, 2001

Room 1228
11:00 a.m.

The meeting was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Arnold, Blue, Bonner, Church, Daughtry, Decker, Goodwin, Justus, Kiser, Morris, Rayfield, Redwine, Rogers, Starnes, Weatherly, and Weiss.

Representative Goodwin was recognized to present and explain a PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL 34, AN ACT TO BAN BUTTERFLY AND PUNCH-CARD BALLOTS. Representative Justus moved that the Committee Substitute be accepted for discussion. Following discussion, Representative Goodwin moved for a Favorable Report on the Proposed Committee Substitute, Unfavorable as to Original Bill. The bill passed on voice vote.

Representative Goodwin then presented and explained a PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL 31, AN ACT TO PROVIDE FOR SELECTION OF PRESIDENTIAL ELECTORS BY THE GENERAL ASSEMBLY IF THE ELECTION RESULTS HAVE NOT BEEN CERTIFIED BY THE SIXTH DAY BEFORE ELECTORS ARE TO MEET, AND BY THE GOVERNOR IF ELECTORS HAVE NOT BEEN SELECTED BY THE DATE ELECTORS ARE TO MEET. After discussion, Representative moved Representative Goodwin moved for a Favorable Report on the Proposed Committee Substitute, Unfavorable as to Original Bill. Vote was taken by show of hands, and the ayes were 10, the nays, 8. The motion passed.

There being no further business, the meeting was adjourned at 11:55.

Representative Martha Alexander, Chair

Ann Faust, Committee Assistant

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

March 21, 2001
11:00 a.m.
Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

HB 34 – BAN BUTTERFLY AND PUNCH-CARD BALLOTS
Representative Goodwin

HB 31 - PRESIDENTIAL ELECTOR CHALLENGE
Representative Goodwin

STAFF: Bill Gilkeson
Erika Churchill

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 34
PROPOSED COMMITTEE SUBSTITUTE H34-CSST-2 [v.9]

3/20/2001 11:38:18 AM

Short Title: Ban Butterfly and Punch Card Ballots. (Public)

Sponsors:

Referred to:

February 1, 2001

A BILL TO BE ENTITLED

AN ACT TO BAN BUTTERFLY AND PUNCH-CARD BALLOTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163.140.2. Punch Card Ballots.**

No ballot may be used which requires the voter to punch out a hole with a stylus or other tool in any election."

SECTION 2. Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163.140.3. Butterfly Ballots.**

No ballot may have two parallel sets of columns with some of the parties in one column and the other parties in the second column."

SECTION 3. Section 1 of this act becomes effective when it becomes law, and applies to elections conducted on or after that date except in the counties, and the municipalities located therein, of: Cabarrus, Duplin, Forsyth, McDowell, Mitchell, Onslow, Vance, and Watauga. Section 1 of this act becomes effective in those counties and municipalities when federal, state, or applicable local funds are appropriated to replace the punch card systems in use. Nothing in this act shall obligate the General Assembly to appropriate funds to implement this act. Section 2 of this act is effective when it becomes law.

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(~~s~~) from standing committee(~~s~~) is/~~are~~ presented:
By Representative(~~s~~) **Alexander** (Chair/~~Chairs~~) for the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM.**

☐ Committee Substitute for
H.B. 34 A BILL TO BE ENTITLED AN ACT TO BAN BUTTERFLY AND PUNCH-CARD BALLOTS

☐ 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)

2/15/01

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 31
PROPOSED COMMITTEE SUBSTITUTE H31-CSRR-7 [v.2]

3/20/2001 11:01:09 PM

Short Title: Presidential Elector Challenge. (Public)

Sponsors:

Referred to:

February 1, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR SELECTION OF PRESIDENTIAL ELECTORS BY THE GENERAL ASSEMBLY IF THE ELECTION RESULTS HAVE NOT BEEN CERTIFIED BY THE SIXTH DAY BEFORE ELECTORS ARE TO MEET, AND BY THE GOVERNOR IF ELECTORS HAVE NOT BEEN SELECTED BY THE DATE ELECTORS ARE TO MEET.

The General Assembly of North Carolina enacts:

SECTION 1. Article 18 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-213. Selection of Presidential Electors by General Assembly in certain circumstances, by the Governor in certain other circumstances.**

(a) Selection by General Assembly if No Certification by Six Days Before Electors' Meeting Day. -- As permitted by 3 U.S.C. § 2, whenever the election of one or more Presidential Electors has not been certified under G.S. 163-210 before noon on the date for settling controversies specified by 3 U.S.C. § 5, the General Assembly shall meet in special session to select those Presidential Electors the Secretary of State has been unable to certify. Any Presidential Electors whose selection can be certified under G.S. 163-210 before the date for settling controversies specified in 3 U.S.C. § 2 shall not be selected by the General Assembly.

(b) Selection by Governor if No Selection by Electors' Meeting Day. – If one or more Presidential Electors has not been selected by noon on the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then the Governor shall select the Presidential Electors who have not been selected by that time.

(c) Certification by Secretary of State Before Electors' Meeting Day Controls. – If the certification of any Presidential Elector under G.S. 163-210 is made any time before noon on the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then that certification shall control."

SECTION 2. This act is effective when it becomes law.

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Alexander** (Chair/Chairs) for the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM.**

☐ Committee Substitute for
H.B. 31 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR SELECTION OF PRESIDENTIAL ELECTORS BY THE GENERAL ASSEMBLY IF THE ELECTION RESULTS HAVE NOT BEEN CERTIFIED BY THE DATE PROVIDED BY FEDERAL LAW.

☐ 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)

2/15/01

VISITOR REGISTRATION SHEET

Room 1228 Election Law & Campaign Reform 3/21/2001
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BRUCE THOMPSON	POYNER ADAMS & BORNSTEIN
Charles Cromer	NCATL
Deb Ross	ACLU
Corey Mebane	
Chris Heagarty	NC Center for Voter Education
Edward Caesar	United Transportation Union
Katie A. Yarn	ACLU
Gary O. Bartlett	State Board of Elections
D. Jarvis A. Hall	NC Central University
Chris Tanks ☺	NC Central University
Kimberly Baldwin	NC Central University
Kia Chavious	NC Central University
Kenyatta Hood	NC Central University
Betta V. Caesar	NC Central University
Eric Miller	NC Central University
Richard Whitfield	UTU
RICE	W-S Journal
Carole Lauver	EGHS
Lillian Shirley	Student
Vivien Sansour	Rep. Luebke's Intern

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

March 28, 2001
11:00 a.m.
Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: **Representative Alexander**

HB 32 – FAITHLESS ELECTOR PENALTY INCREASED
Representative Goodwin

STAFF: **Bill Gilkeson**
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

March 28, 2001

Room 1228
11:00 a.m.

The meeting was called to order by the Vice Chair, Representative Mickey Michaux. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Blue, Bonner, Church, Daughtry, Decker, Goodwin, Justus, Kiser, Morris, Rayfield, Redwine, Starnes, and Weiss.

Representative Michaux recognized and welcomed the pages and thanked the Sergeants at Arms for their assistance.

Representative Goodwin was recognized to present and explain a PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL 32, A BILL TO BE ENTITLED AN ACT TO DOUBLE THE PENALTY FOR PRESIDENTIAL ELECTORS WHO REFUSE OR FAIL TO VOTE FOR THE CANDIDATES OF THE PARTY WHICH NOMINATED THAT ELECTOR. Representative Goodwin handed out a letter from the Attorney General's office which referenced the only reported decision dealing with "faithless electors," *Ray v. Blair,* 343 U.S. 214 (1952). After discussion, Representative Justus moved to amend the bill by raising the penalty to $10,000. The motion passed. Following further discussion, Representative Goodwin moved for a favorable report of the Committee Substitute as amended, unfavorable as to original bill. The motion passed, 10 ayes, 6 nays, on a vote by show of hands.

There being no further business, the meeting was adjourned at 11:30 am.

Mickey Michaux, Vice Chair

Ann Faust

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Alexander** (Chair/Chairs) for the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM.**

☐ Committee Substitute for
H.B. 32 A BILL TO BE ENTITLED AN ACT TO DOUBLE THE PENALTY FOR PRESIDENTIAL ELECTORS WHO REFUSE OR FAIL TO VOTE FOR THE CANDIDATES OF THE PARTY WHICH NOMINATED THAT ELECTOR.

☐ 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)

2/15/01

ROY COOPER
ATTORNEY GENERAL

State of North Carolina
Department of Justice
P. O. Box 629
RALEIGH
27602-0629

REPLY TO: Edwin M. Speas, Jr.
Chief Deputy Attorney General
(919) 716-6400
FAX: (919) 716-6750

March 23, 2001

Inter-Office Mail

Representative G. Wayne Goodwin
The North Carolina General Assembly
Room 502, Legislative Office Building
Raleigh, North Carolina

Re: "Faithless Electors"; G.S. § 163-212

Dear Representative Goodwin:

I am writing on behalf of the Attorney General in response to your recent inquiry about the validity of our "faithless elector" statute, G.S. § 163-212. As you know that statute was enacted by the General Assembly in 1969 in response to the decision by Lloyd W. Bailey, a 1968 elector for then President-elect Nixon, to cast his vote for George W. Wallace. To prevent "faithlessness" among future electors, the General Assembly declared that the act of casting a "faithless vote" will be treated as an immediate resignation by the elector and that the faithless vote should not be recorded. In addition to nullifying the vote of the faithless elector, this statute also imposes a $500.00 penalty.

Numerous questions have been raised about "faithless elector" statutes generally. Does the Constitution forbid any limitations on the discretion of electors? If not, does the authority to impose limitations rest with Congress or the states or both? There is no consensus about the answers to these questions among legal scholars and they disagree about the scope and continuing vitality of the only reported decision of which we are aware that sheds light on these questions. That decision, *Ray v. Blair*, 343 U.S. 214 (1952), does suggest that the states may impose requirements on electors intended to assure their faithfulness.

Absent more recent and more definitive guidance from the courts, we cannot reach any firm conclusion with respect to the validity of G.S. § 163-212. However, in light of *Ray v. Blair* and the

rule that statutes are presumed constitutional, we would certainly defend the statute were it to be challenged. Moreover, we believe that simply increasing the $500.00 penalty would not affect the statute's validity.

Very truly yours,

Edwin M. Speas, Jr.
Chief Deputy Attorney General

EMSjr/sp

343 U.S. 214

RAY v. BLAIR.

No. 649.

Argued March 31, 1952.

Decided April 15, 1952.

Motion to Retax Costs Denied May 5, 1952.

See 72 S.Ct. 1034.

Mandamus proceeding by Edmund Blair against Ben F. Ray, as Chairman of the State Democratic Executive Committee of Alabama, to compel respondent to certify to the Secretary of State of Alabama as a candidate for nomination as a presidential and vice-presidential elector in Democratic primary the name of petitioner, though he had stricken from his declaration of candidacy part of the prescribed pledge to support nominees of the Democratic National Convention. A judgment of the Circuit Court of Jefferson County, awarding the writ, was affirmed by the Supreme Court of Alabama, 57 So.2d 395, and respondent brought certiorari. The United States Supreme Court, 343 U.S. 154, 72 S.Ct. 598, reversed the judgment and in a subsequent supplemental opinion by Mr. Justice Reed, held that constitutional provisions governing election of President and Vice-President of the United States did not bar political party from requiring a pledge from candidates in its primary to support nominees of its national convention.

Judgment reversed.

Mr. Justice Jackson and Mr. Justice Douglas, dissented.

1. United States ⇐25

Constitutional provisions governing election of President and Vice-President of the United States do not forbid a party to require from candidates in its primary a pledge of political conformity with the aims of the party. U.S.C.A.Const. art. 2, § 1; Amend. 12.

2. Elections ⇐18

In facilitating the effective operation of democratic government, a state might reasonably classify voters or candidates according to party affiliations.

3. Constitutional Law ⇐211, 253

Requirement that candidates of a political party in a primary election pledge support to party's nominees does not deny equal protection or due process.

4. Constitutional Law ⇐20

The long-continued practical interpretation of the constitutional propriety of an implied or oral pledge of his ballot by a candidate for elector as to his vote in the electoral college weighs heavily in considering the constitutionality of a pledge required by a party of its candidates in the primary to support the nominees of the party. U.S.C.A.Const. art. 2, § 1; Amend. 12.

5. United States ⇐25

Constitutional provisions governing election of President and Vice-President of the United States by members of electoral college do not bar a political party from requiring candidates for nomination in its primary election to support nominees of national convention of party when state authorizes party to choose nominees for elector in a party primary and to fix qualifications for the candidates. U.S.C.A.Const. art. 2, § 1; Amend. 12; Code Ala.1940, Tit. 17, §§ 336, 337, 339, 341, 343, 344, 347, 348, 350.

215

Messrs. Marx Leva, Washington, D. C., Harold M. Cook, Birmingham, Ala., for petitioner.

Mr. Horace C. Wilkinson, Birmingham, Ala., for respondent.

Mr. Justice REED delivered the opinion of the Court.

The Supreme Court of Alabama upheld a peremptory writ of mandamus requiring the petitioner, the chairman of that state's Executive Committee of the Democratic Party, to certify respondent Edmund Blair, a member of that party, to the Secretary of State of Alabama as a candidate for Presidential Elector in the Democratic Primary to be held May 6, 1952. Respondent Blair was admittedly qualified as a candidate except that he refused to include the following quoted words in the pledge required of party candidates—a pledge to aid and support "the nominees of the National Convention of the Democratic Party for President and Vice-President of the United States." The

chairman's refusal of certification was based on that omission.

The mandamus was approved on the sole ground that the above requirement restricted the freedom of a federal elector to vote in his Electoral College for his choice for President. Ala.Sup., 57 So.2d 395. The pledge was held void as unconstitutional under the Twelfth Amendment

216

of the Constitution of the United States.[1] Because the mandamus was based on this federal right specially claimed by respondent, we granted certiorari. 28 U.S.C. § 1257(3), 28 U.S.C.A. § 1257(3); 343 U.S. 901, 72 S.Ct. 637.

On account of the limited time before the primary election date, this Court ordered prompt argument on March 31, 1952, after granting certiorari and handed down a *per curiam* decision on April 3, 343 U.S. 154, 72 S.Ct. 598, stating summarily our conclusion on the federal constitutional issue that determined the Alabama judgment. This opinion is to supplement that statement. Our mandate issued forthwith.

The controversy arose under the Alabama laws permitting party primaries. Title 17 of the Code of Alabama, 1940, as amended, provides for regular optional primary elections in that state on the first Tuesday in May of even years by any political party, as defined in the

217

chapter, at state cost. §§ 336, 337, 340, 343. They are subject to the same penalties and punishment provisions as regular state elections. § 339. Parties may select their own committee in such manner as the governing authority of the party may desire. § 341. Section 344 provides that the chairman of the state executive committee shall certify the candidates other than those who are candidates for county offices to the Secretary of State of Alabama. That official, within not less than 30 days prior to the time of holding the primary elections, shall certify these names to the probate judge of any county holding an election.

Every state executive committee is given the power to fix political or other qualifications of its own members. It may determine who shall be entitled and qualified to vote in the primary election or to be a candidate therein. The qualifications of voters and candidates may vary.[2]

Section 348 requires a candidate to file his declaration of candidacy with the executive committee in the form prescribed by the

1. U.S.Const., Amend. XII:
"The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. * * *"

2. Ala.Code 1940, Tit. 17, § 347:
"All persons who are qualified electors under the general laws of the State of Alabama, and who are also members of a political party entitled to participate in such primary election, shall be entitled to vote therein and shall receive the official primary ballot of that political party, and no other; but every state executive committee of a party shall have the right, power and authority to fix and prescribe the political or other qualifications of its own members, and shall, in its own way, declare and determine who shall be entitled and qualified to vote in such primary election, or to be candidates therein, or to

governing body of the party. There is a provision, § 350, which reads as follows:

"At the bottom of the ballot and after the name of the last candidate shall
218
be printed the following, *viz*: 'By casting this ballot I do pledge myself to abide by the result of this primary election and to aid and support all the nominees thereof in the ensuing general election.'"

On consideration of these sections in other cases the Supreme Court of Alabama has reached conclusions generally conformable to the current of authority. Section 347 has been said by the Supreme Court of Alabama in Ray v. Garner, 57 So.2d 824, 826, to give full power to the state executive committee to determine "who shall be entitled and qualified to vote in primary elections or be candidates or otherwise participate therein * * * just so such Committee action does not run afoul of some statutory or constitutional provision."

The Garner case involved a pledge adopted by the State Democratic Executive Committee for printing on the primary ballot, reading as follows:

"By casting this ballot I do pledge myself to abide by the result of this Primary Election and to aid and support all the nominees thereof in the ensuing General Elections. I do further pledge myself to aid and support the nominees of the National Convention of the Democratic Party for President and Vice-President of the United States." 57 So.2d 825.

This is substantially the same pledge that created the controversy in this present case. The court also called attention approvingly to Lett v. Dennis, 221 Ala. 432, 433, 129 So. 33, 34, a case that required a candidate in the primary to follow a party requirement and make a public oath as to his vote in the past general election, where it was declared "a test by a political organization of party affiliation and party fealty is reasonable and proper to be prescribed for those participating in its primary elections
219
for nomination of candidates for office".[3] As to the power to prescribe tests for participation in primary elections, it was added in the Garner case [57 So.2d 826] that "in Alabama this prerogative is vested in the State Party Executive Committee, acting through its duly elected or chosen members. Smith v. McQueen [232 Ala. 90, 166 So. 788]."[4] 57 So.2d 826. The McQueen case involved the
220
selection of delegates to a national political convention. It was also

otherwise participate in such political parties and primaries; and the qualifications of electors entitled to vote in such primary election shall not necessarily be the same as the qualifications for electors entitled to become candidates therein; * * *."

3. See Merriam & Overacker, Primary Elections (1928), pp. 69–73, 124, 125. Cf. State ex rel. Curyea v. Wells, 92 Neb. 337, 138 N.W. 165, 41 L.R.A.,N.S., 1088; Francis v. Sturgill, 163 Ky. 650, 174 S.W. 753.

4. This was not a unique delegation. In 1928 Merriam and Overacker cited ten other states which delegate to the party authorities the right to prescribe such qualifications, with or without a statutory statement of minimum qualifications; these ten were Delaware, Idaho, and the remainder of the "solid South," except North Carolina. See Merriam and Overacker, supra, note 3, at pp. 72–73. In 1948 Penniman reports the continued existence of these delegations in all these states except Idaho, which now apparently requires only that the candidate "represent the principles" of the party and be duly registered in the appropriate precinct. 6 Idaho Code (Bobbs-Merrill 1948) §§ 34–605, 34–606, 34–614. See Penniman, Sait's American Parties and Elections (4th ed. 1948) p. 431. However, the situation has changed in several of those states: the South Carolina legislature apparently no longer regulates the conduct of primaries at all, see Acts S.C.1944, p. 2323, No. 810; and Texas and Florida have repealed their election Codes and enacted new ones which appear to lack any comparable provision, see The New Election Code, Vernon's Annotated Texas Statutes Service (1951), effective January 1, 1952; Fla. Laws 1951, c. 26870, F.S.A. § 97.01 et seq. In both Texas and Florida, the primary is open to party "members"; the extent to which the party itself may prescribe membership qualifications is

said in Ray v. Garner concerning the voter's pledge that:

"Primarily, the pledge must be germane to party membership and party elections and, while the last clause of the pledge pertains to the national party, the party in Alabama will be a part of it by sending delegates to participate in the national convention, the Executive Committee having ordered their election and the party thereby having signified its intention to become a member of the national party. Therefore, it was within the competency of the Committee to adopt the resolution so binding the voters in the primary."[5] 57 So.2d 826.

As is well known political parties in the modern sense were not born with the Republic. They were created by necessity, by the need to organize the rapidly increasing

221

population, scattered over our Land, so as to coordinate efforts to secure needed legislation and oppose that deemed undesirable. Compare Bryce, Modern Democracies, p. 546. The party conventions of locally chosen delegates, from the county to the national level, succeeded the caucuses of self-appointed legislators or other interested individuals. Dissatisfaction with the manipulation of conventions caused that system to be largely superseded by the direct primary. This was particularly true in the South because, with the predominance of the Democratic Party in that section, the nomination was more important than the election. There primaries are generally, as in Alabama, optional.[6] Various tests of party allegiance for candidates in direct primaries are found in a number of states.[7] The requirement of a pledge from the candidate participating in primaries to support the nominee is not unusual.[8] Such a provi-

not explicitly set forth. But cf. §§ 103.-111(3) and 103.121, Fla.Laws, 1951, F.S.A.

For provisions in the remaining states bearing on this delegation, see 2 Ark. Stat.Ann. (Bobbs-Merrill, 1947) § 3-205; 12 Ga.Code Ann. (Harrison, 1936) § 34-3218.2; Va.Code 1950 (Michie, 1949) §§ 24-367, 24-369; 3 Miss.Code Ann. (Harrison, 1943), § 3129; Del.Laws 1944-1945, c. 150, amending Rev.Code Del.1935, c. 58, 1782, § 14; La.Rev.Stat. 1950, Tit. 18, §§ 306, 309, LSA-R.S. 18:306, 18:309; La.Const.Ann. (Bobbs-Merrill, 1932) Art. 8, § 4.

5. Such a holding integrates the state and national party. See Cannon's Democratic Manual (1948):

"The Democratic National Committee is the permanent agency authorized to act in behalf of the party during intervals between Conventions. It is the creature of the National Convention and therefore subordinate to its control and direction. Between Conventions the Committee exercises such powers and authority as have been delegated specifically to it and is subject to the directions and instructions imposed by the Convention which created it." P. 4.

"Duties and Powers of the Committee

"The duties and powers of the National Committee are derived from the Convention creating it, and while subject to variation as the Convention may provide, ordinarily include:

* * * * *

"8. Provision for the National Convention, involving:

* * * * *

"b. Authorization of call and determination within authority granted by last National Convention of representation from States, Territories and Districts; * * *." Pp. 7-8.

6. See Penniman, supra, n. 4, cc. XIII, XVIII, especially at pp. 300, 416; Merriam and Overacker, supra, n. 3, at pp. 92-93.

7. Penniman, supra, pp. 425-426; Merriam and Overacker, supra, pp. 129-133.

8. E. g., § 4, c. 109, N.D.Laws of 1907, pp. 151, 153, discussed in State ex rel. McCue v. Blaisdell, 18 N.D. 55, 118 N.W. 141, 24 L.R.A.,N.S., 465. See 7 Fla.Stat. Ann. (Harrison & West, 1943) § 99.021 (pkt pt); Fla.Laws 1951, c. 26870, § 99.-021, amending 7 Fla.Stat.Ann. (Harrison & West, 1943) § 102.29, discussed in Mairs v. Peters, Fla., 52 So.2d 793. Cf. 3 Miss.Code Ann.1942 (Harrison, 1943) § 3129; Ruhr v. Cowan, 146 Miss. 870, 112 So. 386. Cf. Va.Code 1950 (Michie, 1949) §§ 24-367, 24-369. See Westerman v. Mims, 111 Tex. 29, 227 S.W. 178, discussing Art. 3096 of Tex.Rev.Stat. of 1911, Vernon's Ann.Civ.St. art. 3110;

sion protects a party from intrusion
222
by
those with adverse political principles.[9] It was under the authority of § 347 of the Alabama Code, note 2, supra, that the State Democratic Executive Committee of Alabama adopted a resolution on January 26, 1952, requiring candidates in its primary to pledge support to the nominees of the National Convention of the Democratic Party for President and Vice-President. It is this provision in the qualifications required by the party under § 347 which the Supreme Court of Alabama held unconstitutional in this case.

The opinion of the Supreme Court of Alabama concluded that the Executive Committee requirement violated the Twelfth Amendment, note 1, supra. It said:

"We appreciate the argument that from time immemorial, the electors selected to vote in the college have voted in accordance with the wishes of the party to which they belong. But in doing so, the effective compulsion has been party loyalty. That theory has
223
generally been taken for granted, so that the voting for a president and vice-president has been usually formal merely. But the Twelfth Amendment does not make it so. The nominees of the party for president and vice-president may have become disqualified, or peculiarly offensive not only to the electors but their constituents also. They should be free to vote for another, as contemplated by the Twelfth Amendment."[10] 57 So.2d 398.

cf. Love v. Wilcox, 119 Tex. 256, 28 S.W.2d 515, 70 A.L.R. 1484.

For an example of a pledge specifically directed toward primary candidates for the office of presidential elector, see the resolutions of the State Democratic Committee of Texas discussed in Carter v. Tomlinson, 149 Tex. 7, 227 S.W.2d 795; see also Love v. Taylor, Tex.Civ.App., 8 S.W.2d 795; McDonald v. Calhoun, 149 Tex. 232, 231 S.W.2d 656; cf. Seay v. Latham, 148 Tex. 1, 182 S.W.2d 251, 155 A.L.R. 180. See also the pledge required by the Democratic Party of Arkansas, discussed in Fisher v. Taylor, 210 Ark. 380, 196 S.W.2d 217.

Similar pledges, of course, are frequently exacted of voters in the primaries. See, e. g., State ex rel. Adair v. Drexel, 74 Neb. 776, 105 N.W. 174; Morrow v. Wipf, 22 S.D. 146, 115 N.W. 1121; Ladd v. Holmes, 40 Or. 107, 66 P. 714. See Penniman, supra, note 4, at p. 481; Merriam and Overacker, supra, note 4, at pp. 124–129.

9. See Seay v. Latham, 148 Tex. 1, 182 S.W.2d 251, 155 A.L.R. 180. This was a Texas case that allowed the Democratic Party of Texas to withdraw its nomination of presidential electors when they announced their determination to vote against the nominees of the party as made by the National Convention. The names of others were substituted. The court said:

"A political party is a voluntary association, instituted for political purposes. It is organized for the purpose of effectuating the will of those who constitute its members, and it has the inherent power of determining its own policies." 148 Tex. at page 5, 182 S.W.2d at page 253. See Carter v. Tomlinson, 149 Tex. 7, 227 S.W.2d 795, 798; 29 Tex.L.Rev. 878.

10. The court found support for its conclusion in the reasoning of an Opinion of the Justices in answer to questions propounded by the Governor of Alabama in 1948. Opinion of the Justices, 250 Ala. 399, 34 So.2d 598. One question was "Would an elector chosen at the general election in November 1948 have a discretion as to the persons for whom he could cast his ballot for President and Vice-President?" Alabama had amended § 226 of Title 17 of its Code, relating to the meeting and balloting of its electoral college, by adding "and shall cast their ballots for the nominee of the national convention of the party by which they were elected." That opinion said:

"The language of the Federal Constitution clearly shows that it was the intention of the framers of the Federal Constitution that the electors chosen for the several states would exercise their judgment and discretion in the performance of their duty in the election of the president and vice-president and in determining the individuals for whom they would cast the electoral votes of the states. History supports this interpretation without controversy." Id., 250 Ala.

In urging a contrary view the dissenting Alabama justices, in supporting the right of the Committee to require this candidate to pledge support to the party nominees, said:

"Any other view, it seems, would destroy effective party government and would privilege any candidate, regardless of his political persuasion, to enter a primary election as a candidate for elector and fix his

224

own qualifications for such candidacy. This is contrary to the traditional American political system." 57 So.2d 403.

[1] The applicable constitutional provisions on their face furnish no definite answer to the query whether a state may permit a party to require party regularity from its primary candidates for national electors.[11] The presidential electors exercise a federal function in balloting for President and Vice-President but they are not federal officers or agents any more than the state elector who votes for congressmen. They act by authority of the state that

225

in turn receives its authority from the federal constitution.[12] Neither the language of Art. II, § 1, nor that of the Twelfth Amendment forbids a party to require from candidates in its primary a pledge of political conformity with the aims of the party. Unless such a requirement is implicit, certainly neither provision of the Constitution requires a state political party, affiliated with a national party through acceptance of the national call to send state delegates to the national convention, to accept persons as candidates who refuse to agree to abide by the party's requirement.[13]

The argument against the party's power to exclude as candidates in the primary those unwilling to agree to aid and support the national nominees runs as follows: The constitutional method for the selection of

at page 400, 34 So.2d at page 600. See McPherson v. Blacker, 146 U.S. 1, 36, 13 S.Ct. 3, 11, 36 L.Ed. 869. See also Willbern, Discretion of Presidential Electors, 1 Ala.L.Rev. 40.

On this review the right to a place on the primary ballot only is in contest.

11. As both constitutional provisions long antedated the party primary system, it is not to be expected that they or their legislative history would illumine this issue. They do not. Discussion in the Constitutional Convention as to the manner of election of the President resulted in the arrangement by which presidential electors were chosen by the state as its legislature might direct. McPherson v. Blacker, 146 U.S. 1, 28, 13 S.Ct. 3, 8, 36 L.Ed. 869.

The Twelfth Amendment was brought about as the result of the difficulties caused by the procedure set up under Art. II, § 1. Under that procedure, the electors of each state did not vote separately for President and Vice-President; each elector voted for two persons, without designating which office he wanted each person to fill. If all the electors of the predominant party voted for the same two men, the election would result in a tie, and be thrown into the House, which might or might not be sympathetic to that party. During the John Adams administration, we had a President and Vice-President of different parties, a situation which could not commend itself either to the Nation or to most political theorists.

The situation was manifestly intolerable. Accordingly the Twelfth Amendment was adopted, permitting the electors to vote separately for presidential and vice-presidential candidates. Under this procedure, the party electors could vote the regular party ticket without throwing the election into the House. Electors could be chosen to vote for the party candidates for both offices, and the electors could carry out the desires of the people, without confronting the obstacles which confounded the elections of 1796 and 1800. See 11 Annals of Congress 1289–1290, 7th Cong., 1st Sess. (1802).

12. U.S.Const., Art. II, § 1:

"* * * Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector. * * *"

Twelfth Amendment, note 1, supra; In re Green, 134 U.S. 377, 379, 10 S.Ct. 586, 587, 33 L.Ed. 951; Burroughs v. U. S., 290 U.S. 534, 54 S.Ct. 287, 78 L.Ed. 484.

13. The Supreme Court of Alabama has just said that the Democratic Party of

the President and Vice-President is for states to appoint electors who shall in turn vote for our chief executives. The intention of the Founders was that those electors should exercise their judgment in voting for President and Vice-President. Therefore this requirement of a pledge is a restriction in substance, if not in form, that interferes with the performance of this constitutional duty to select the proper persons to head the Nation, according to the best judgment of the elector. This interference with the

226

elector's freedom of balloting for President relates directly to the general election and is not confined to the primary, it is contended, because under United States v. Classic, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368, and Smith v. Allwright, 321 U.S. 649, 659, 64 S.Ct. 757, 762, 88 L.Ed. 987, the Alabama primary is an integral part of the general election. See Schnell v. Davis, 336 U.S. 933, 69 S.Ct. 749, 93 L.Ed. 1093. Although Alabama, it is pointed out, requires electors to be chosen at the general election by popular vote, Ala.Code 1940, Tit. 17, § 222, the real election takes place in the primary. Limitation as to entering a primary controls the results of the general election.[14]

[2, 3] First we consider the impact of the Classic and Allwright cases on the present issues. In the former case, we dealt with the power of Congress to punish frauds in the primaries "[w]here the state law has made the primary an integral part of the procedure of choice". [313 U.S. 399, 61 S.Ct. 1039.] We held that Congress had such power because the primary was a necessary step in the choice of candidates for election as federal representatives. Therefore the sanctions of §§ 19 and 20 of the Old Criminal Code, subsequently revised

227

as 18 U.S.C. §§ 241 and 242, 18 U.S.C.A. §§ 241, 242, which forbade injury to constitutionally secured rights, applied to the right to vote in the primary. 313 U.S. at 317–321, 61 S.Ct. 1038–1040. In the latter, the problem was the constitutionality of the exclusion of citizens by a party as electors in a party primary because of race. We held, on consideration of state participation in the regulation of the primary, that the party exclusion was state action and such state action was unconstitutional because the primary and general election were a single instrumentality for choice of officers. The Fifteenth Amendment's prohibition of abridgment by a state of the right to vote on account of race made the exclusion unconstitutional. Consequently, under 8 U.S.C. §§ 31 and 43, 8 U.S.C.A. §§ 31, 43, an injured party might sue one injuring him. 321 U.S. 649, 660–664, 64 S.Ct. 757, 763–765, 88 L.Ed. 987.

In Alabama, too, the primary and general elections are a part of the state-controlled elective process. The issue here, however, is quite different from the power of Congress to punish criminal conduct in a primary or to allow damages for wrongs to rights secured by the Constitution. A state's or a political party's exclusion of candidates from a party primary because they will not pledge to support the party's nominees is a method of securing party can-

that state was thus affiliated with the national organization. See the excerpt from Ray v. Garner, in the text at note 5, supra.

14. There is also a suggestion that, since the Alabama primary is an integral part of the general election, the Fourteenth Amendment, which among other prohibitions forbids a state to exclude voters on account of their color, also forbids a state to exclude candidates because they refuse to pledge their votes. The answer to this suggestion is that the requirement of this pledge, unlike the requirement of color, is reasonably related to a legitimate legislative objective—namely, to protect the party system by protecting the party from a fraudulent invasion by candidates who will not support the party. See note 9, supra. In facilitating the effective operation of democratic government, a state might reasonably classify voters or candidates according to party affiliations, but a requirement of color, as we have pointed out before, is not reasonably related to any legitimate legislative objective. Nixon v. Herndon, 273 U.S. 536, 47 S.Ct. 446, 71 L.Ed. 759. This requirement of a pledge does not deny equal protection or due process.

Furthermore, the Fifteenth Amendment directly forbids abridgment on account of color of the right to vote.

didates in the general election, pledged to the philosophy and leadership of that party. It is an exercise of the state's right to appoint electors in such manner, subject to possible constitutional limitations, as it may choose. U.S.Const., Art. II, § 1. The fact that the primary is a part of the election machinery is immaterial unless the requirement of pledge violates some constitutional or statutory provision. It was the violation of a secured right that brought about the Classic and Allwright decisions. Here they do not apply unless there was a violation of the Twelfth Amendment by the requirement to support the nominees of the National Convention.

228

[4] Secondly, we consider the argument that the Twelfth Amendment demands absolute freedom for the elector to vote his own choice, uninhibited by a pledge. It is true that the Amendment says the electors shall vote by ballot. But it is also true that the Amendment does not prohibit an elector's announcing his choice beforehand, pledging himself. The suggestion that in the early elections candidates for electors—contemporaries of the Founders—would have hesitated, because of constitutional limitations, to pledge themselves to support party nominees in the event of their selection as electors is impossible to accept. History teaches that the electors were expected to support the party nominees.[15] Experts in the history of government recognize the longstanding

229

practice.[16] Indeed, more than twenty states do not print the names of the candidates for electors on the

15. 11 Annals of Congress 1289–1290, 7th Cong., 1st Sess. (1802):

"Under the Constitution electors are to vote for two persons, one of whom does not reside in the State of the electors; but it does not require a designation of the persons voted for. Wise and virtuous as were the members of the Convention, experience has shown that the mode therein adopted cannot be carried into operation; for the people do not elect a person for an elector who, they know, does not intend to vote for a particular person as President. Therefore, practically, the very thing is adopted, intended by this amendment."

S.Rep.No.22, 19th Cong., 1st Sess. (1826), p. 4:

"In the first election held under the constitution, the people looked beyond these agents [electors], fixed upon their own candidates for President and Vice President and took pledges from the electoral candidates to obey their will. In every subsequent election, the same thing has been done. Electors, therefore, have not answered the design of their institution. They are not the independent body and superior characters which they were intended to be. They are not left to the exercise of their own judgment: on the contrary, they give their vote, or bind themselves to give it, according to the will of their constituents. They have degenerated into mere agents, in a case which requires no agency, and where the agent must be useless, if he is faithful, and dangerous, if he is not." See 2 Story on the Constitution, § 1463 (5th ed., 1891).

16. McPherson v. Blacker, 146 U.S. 1, 36, 13 S.Ct. 3, 11, 36 L.Ed. 869:

"Doubtless it was supposed that the electors would exercise a reasonable independence and fair judgment in the selection of the chief executive, but experience soon demonstrated that, whether chosen by the legislatures or by popular suffrage on general ticket or in districts, they were so chosen simply to register the will of the appointing power in respect of a particular candidate."

III Cyclopedia of American Government (Appleton, 1914) Presidential Elections by Albert Bushnell Hart, p. 8:

"In the three elections of 1788–89, 1792 and 1796 there was a liberal scattering of votes, 13 persons receiving votes in 1796; but in 1800 there were only five names voted on. As early as 1792 an understanding was established between the electors in some of the different states that they should combine on the same man; and from 1796 on there were always, with the exception of the two elections of 1820 and 1824, regular party candidates. In practice most of the members of the electoral colleges belonged to a party, and expected to support it; and after 1824 it became a fixed principle that the electors

general election ballot. Instead in one form or another they allow a vote for the presidential candidate of the national conventions to be counted as a vote for his party's nominees for the electoral college.[17] This long-continued practical interpretation of the constitutional propriety of an implied or oral pledge of his ballot by a candidate

230

for elector as to his vote in the electoral college weighs heavily in considering the constitutionality of a pledge, such as the one here required, in the primary.

However, even if such promises of candidates for the electoral college are legally unenforceable because violative of an assumed constitutional freedom of the elector under the Constitution, Art. II, § 1, to vote as he may choose in the electoral college, it would not follow that the requirement of a pledge in the primary is unconstitutional. A candidacy in the primary is a voluntary act of the applicant. He is not barred, discriminatorily, from participating but must comply with the rules of the party. Surely one may voluntarily assume obligations to vote for a certain candidate. The state offers him opportunity to become a candidate for elector on his own terms, although he must file his declaration before the primary. Code of Ala., Tit. 17, § 145. Even though the victory of an independent candidate for elector in Alabama cannot be anticipated the state does offer the opportunity for the development of other strong political organizations where the need is felt for them by a sizable block of voters. Such parties may leave their electors to their own choice.

231

[5] We conclude that the Twelfth Amendment does not bar a political party from requiring the pledge to support the nominees of the National Convention. Where a state authorizes a party to choose its nominees for elector in a party primary and to fix the qualifications for the candidates, we see no federal constitutional objection to the requirement of this pledge.

Reversed.

Mr. Justice BLACK took no part in the consideration or decision of this case.

Mr. Justice FRANKFURTER, not having heard the argument, owing to illness, took no part in the disposition of the case.

Mr. Justice JACKSON, with whom Mr. Justice DOUGLAS joins, dissenting.

The Constitution and its Twelfth Amendment allow each State, in its own way, to name electors with such personal qualifications, apart from stated disqualifications,

offered themselves for the choice of the voters or legislatures upon a pledge to vote for a predesignated candidate."

17. E. g., Massachusetts:
Annotated Laws of Massachusetts, c. 54:
"§ 43. Presidential electors, arrangement of names of candidates, etc.—The names of the candidates for presidential electors shall not be printed on the ballot, but in lieu thereof the surnames of the candidates of each party for president and vice president shall be printed thereon in one line under the designation 'Electors of president and vice president' and arranged in the alphabetical order of the surnames of the candidates for president, with the political designation of the party placed at the right of and in the same line with the surnames. A sufficient square in which each voter may designate by a cross (X) his choice for electors shall be left at the right of each political designation."
See S.Doc.No.240, 78th Cong., 2d Sess. (1944), containing a summary of the state laws relating to nominations and election of presidential electors.
See Library of Congress, Legislative Reference Service, Proposed Reform of the Electoral College, 1950; Edward Stanwood, A History of the Presidency from 1788 to 1897 (1912), pp. 47, 48, 50, 51. The author shows the practice of an elector's announcing his preference and gives an alleged instance of violation.
See the comments on instruction of electors in State Law on the Nomination, Election and Instruction of Presidential Electors by Ruth C. Silva, 42 Amer.Pol. Science Rev. 523.

as the State prescribes. Their number, the time that they shall be named, the manner in which the State must certify their ascertainment and the determination of any contest are prescribed by federal law. U.S.Const., Art. II, § 1, 3 U.S.C. §§ 1–7, 3 U.S.C.A. §§ 1–7. When chosen, they perform a federal function of balloting for President and Vice President, federal law prescribing the time of meeting, the manner of certifying "all the votes given by them," and in detail how such certificates shall be transmitted and counted. U. S. Const., Amend. XII, 3 U.S.C. §§ 9–20, 3 U.S.C.A. §§ 9–20. But federal statute undertakes no control of their votes beyond providing "The electors shall vote for President and Vice President, respectively, in the manner directed

232

by the Constitution", 3 U.S.C. § 8, 3 U.S.C.A. § 8, and the Constitution requires only that they "vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves". U.S.Const., Amend. XII. No one faithful to our history can deny that the plan originally contemplated, what is implicit in its text, that electors would be free agents, to exercise an independent and nonpartisan judgment as to the men best qualified for the Nation's highest offices.* Certainly under that plan no state law could control the elector in performance of his federal duty, any more than it could a United States Senator who also is chosen by, and represents, the State.

This arrangement miscarried. Electors, although often personally eminent, independent, and respectable, officially became voluntary party lackeys and intellectual nonentities to whose memory we might justly paraphrase a tuneful satire:

> They always voted at their Party's call
> And never thought of thinking for themselves at all.

As an institution the Electoral College suffered atrophy almost indistinguishable from *rigor mortis*.

233

However, in 1948, Alabama's Democratic Party Electors refused to vote for the nominee of the Democratic National Convention. To put an end to such party unreliability the party organization, exercising state-delegated authority, closed the official primary to any candidate for elector unless he would pledge himself, under oath, to support any candidate named by the Democratic National Convention. It is conceded that under long-prevailing conditions this effectively forecloses any chance of the State being represented by an unpledged elector. In effect, before one can become an elector for Alabama, its law requires that he must pawn his ballot to a candidate not yet named, by a convention not yet held, of delegates not yet chosen. Even if the nominee repudiates the platform adopted by the same convention, as Democratic nominees have twice done in my lifetime (1904, 1928), the elector is bound to vote for him. It will be seen that the State has sought to achieve control of the electors' ballots. But the balloting cannot be constitutionally subjected to any such control because it was intended to be free, an act performed after all functions of the electoral process left to the States have been

* See The Federalist No. 68 (Earle ed. 1937), pp. 441–442:

> "It was desirable that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided. This end will be answered by committing the right of making it, not to any preëstablished body, but to men chosen by the people for the special purpose, and at the particular conjuncture.
>
> "It was equally desirable, that the immediate election should be made by men most capable of analyzing the qualities adapted to the station, and acting under circumstances favorable to deliberation, and to a judicious combination of all the reasons and inducements which were proper to govern their choice. A small number of persons, selected by their fellow-citizens from the general mass, will be most likely to possess the information and discernment requisite to such complicated investigations."

complicted. The Alabama Supreme Court held that such a requirement violates the Federal Constitution, and I agree.

It may be admitted that this law does no more than to make a legal obligation of what has been a voluntary general practice. If custom were sufficient authority for amendment of the Constitution by Court decree, the decision in this matter would be warranted. Usage may sometimes impart changed content to constitutional generalities, such as "due process of law," "equal protection," or "commerce among the states." But I do not think powers or discretions granted to federal officials by the Federal Constitution can be forfeited by the Court for disuse. A political practice which has its origin in custom must rely upon custom for its sanctions.

234

The demise of the whole electoral system would not impress me as a disaster. At its best it is a mystifying and distorting factor in presidential elections which may resolve a popular defeat into an electoral victory. At its worst it is open to local corruption and manipulation, once so flagrant as to threaten the stability of the country. To abolish it and substitute direct election of the President, so that every vote wherever cast would have equal weight in calculating the result, would seem to me a gain for simplicity and integrity of our governmental processes.

But the Court's decision does not even move in that direction. What it is doing is to entrench the worst features of the system in constitutional law and to elevate the perversion of the forefathers' plan into a constitutional principle. This judicial overturn of the theory that has come down to us can not plead the excuse that it is a practical remedy for the evils or weaknesses of the system.

The Court is sanctioning a new instrument of power in the hands of any faction that can get control of the Democratic National Convention to make it sure of Alabama's electoral vote. When the party is in power this will likely be the administration faction and when not in power no one knows what group it will be. This device of prepledged and oath-bound electors imposes upon the party within the State an oath-bound regularity and loyalty to the controlling element in the national party. It centralizes party control and, instead of securing for the locality a share in the central management, it secures the central management in dominance of the local vote in the Electoral College. If we desire free elections, we should not add to the leverage over local party representatives always possessed by those who enjoy the prestige and dispense the patronage of a national administration.

The view of many that it is the progressive or liberal element of the party that will presently advantage from this device does not prove that the device itself has any

235

proper place in a truly liberal or progressive scheme of government. Who will come to possess this weapon and to whose advantage it will prove in the long run I am not foresighted enough to predict. But party control entrenched by disfranchisement and exclusion of nonconforming party members is a means which to my mind can not be justified by any end. In the interest of free government, we should foster the power and the will to be independent even on the part of those we may think to be independently wrong.

Candidates for elector, like those for Senator, of course, may announce to their constituents their policies and preferences, and assume a moral duty to carry them out if they are chosen. Competition in the primary between those of different views would forward the representative principle. But this plan effects a complete suppression of competition between different views within the party. All who are not ready to follow blindly anyone chosen by the national convention are excluded from the primary, and that, in practice, means also from the election.

It is not for me, as a judge, to pass upon the wisdom or righteousness of the political

revolt this measure was designed to suppress. For me it is enough that, be it ever so benevolent and virtuous, the end cannot justify these means.

I would affirm the decision of the Supreme Court of Alabama.



343 U.S. 924

ON LEE v. UNITED STATES of America.

No. 543.

Decided April 21, 1952.

On Motion for Leave to File Brief as *Amici Curiae*.

See also 193 F.2d 306; 342 U.S. 941, 72 S.Ct. 560.

Motion for leave to file brief of Joseph Steinberg and Donald Steinberg as *amici curiae* denied.

Memorandum of Mr. Justice FRANKFURTER.

The rule governing the filing of *amici* briefs clearly implies that such briefs should be allowed to come before the Court not merely on the Court's exercise of judgment in each case. On the contrary, it presupposes that the Court may have the aid of such briefs if the parties consent. For the Solicitor General to withhold consent automatically in order to enable this Court to determine for itself the propriety of each application is to throw upon the Court a responsibility that the Court has put upon all litigants, including the Government, preserving to itself the right to accept an *amicus* brief in any case where it seems unreasonable for the litigants to have withheld consent. If all litigants were to take the position of the Solicitor General, either no *amici* briefs (other than those that fall within the exceptions of Rule 27, 28 U.S.C.A.) would be allowed, or a fair sifting process for dealing with such applications would be nullified and an undue burden cast upon the Court. Neither alternative is conducive to the wise disposition of the Court's business. The practice of the Government amounts to an endeavor, I am bound to say, to transfer to the Court a responsibility that by the rule properly belongs to the Government. The circumstances of the application in this case illustrate the unfairness resulting from persisting in the Government's practice, in disregard of Rule 27.

Mr. Justice BLACK concurs in the foregoing views, but desires to state that he is of the opinion that the Court's rule regarding the filing of briefs *amici curiae* should be liberalized.



343 U.S. 922

RICHFIELD OIL CORPORATION, Appellant, v. UNITED STATES.

No. 395.

Argued April 1 and 2, 1952.

Decided April 21, 1952.

Rehearing Denied May 26, 1952.

See 343 U.S. 958, 72 S.Ct. 1049.

On appeal from the United States District Court for the Southern District of California.

Mr. Robert E. Paradise, Los Angeles, Cal., for appellant.

Mr. H. Graham Morison, Washington, D. C., for appellee.

PER CURIAM.

The Court is of the opinion that the issues raised by this appeal are substantially the same as those decided in Standard Oil Co. of Cal. v. United States, 1949, 337 U.S. 293, 69 S.Ct. 1051, 93 L.Ed. 1371. Accordingly, the judgment of the District Court, 99 F.Supp. 280, is affirmed.

Affirmed.

THE CHIEF JUSTICE, Mr. Justice DOUGLAS, Mr. Justice JACKSON and

VISITOR REGISTRATION SHEET

Election Laws and Campaign Finance Reform
Name of Committee

3/28/01
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Chris Heagarty	NCCUE
Jesse Rutledge	NCCUE
Ross M. Smith	PCS Phosphate
Katherine Joyce	NC Assoc. of Electric Cooperatives
Paul Stock	NC Bankers
Beverly Ward	Ever-Ready Glass
William Williford	Ever Ready Glass
John Webb	Deals Auto Glass Service Inc
Doug Pfaff	Auto Glass by Pfaff's
Kim Harrell	Common Cause NC
Gary Bartlett	State Board of Elections
[illegible]	Moore & Van Allen
Vicki Dutton	NCPIRG
[illegible]	Charlotte Observer
[illegible]	Moore & Van Allen
Paula L. Hopper	Moore Van Allen

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

April 4, 2001
11:00 a.m.
Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: **Representative Alexander**

HB 565 - ELECTIONS ADMIN. PROCEDURE
Representative Alexander

STAFF: **Bill Gilkeson**
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

April 4, 2001

Room 1228
11:00 a.m.

The meeting was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Arnold, Blue, Bonner, Church, Daughtry, Decker, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Redwine, Starnes, Thompson and Weiss.

Representative Alexander recognized and welcomed the pages and thanked the Sergeants at Arms for their assistance.

She introduced Larry Leake, Chairman of the State Board of Elections for a few general remarks.

Representative Alexander turned the meeting over to Vice Chair, Representative Michaux who recognized Representative Alexander to present and explain House Bill 565, A BILL TO BE ENTITLED AN ACT TO EXEMPT THE STATE BOARD OF ELECTIONS FROM THE ADMINISTRATIVE PROCEDURE ACT. After a brief introduction, Representative Alexander called on Mr. Leake to explain the relationship of the Board of Elections to the APA and the request of the Board of Elections relative to that status. After extended discussion about the merits and shortcomings of being subject to the APA and the reasons for exemption of other agencies, Representative Justus moved to send the bill to a study committee. The motion did not pass.

After further discussion, the meeting was adjourned at 11:55 am.

Representative Martha Alexander

Representative Mickey Michaux

Ann Faust, Committee Assistant

HOUSE BILL 565:
Election Administrative Procedure.

BILL ANALYSIS

Committee: House Election Law and Campaign Finance Reform
Date: April 4, 2001
Version: First Edition

Introduced by: Representative Alexander
Summary by: William R. Gilkeson
Committee Co-Counsel

SUMMARY: ***House Bill 565 would add the State Board of Elections and its Executive Secretary-Director to the list of agencies that are exempt from the Administration Procedure Act.***

CURRENT LAW: The Administrative Procedure Act (the APA) is found in Chapter 150B of the General Statutes. It governs the rulemaking and adjudicatory functions of agencies in the executive branch of government.

Rulemaking. The APA requires that rules adopted by a covered agency must be submitted for approval to the Rules Review Commission, which determines whether the agency has the statutory authority to promulgate those rules. Moreover, the APA requires that a permanent rule cannot go into effect the 31st day of the next regular General Assembly session after the Commission approves the rule (or the adjournment of that session, if the session last less than 31 days). To count in that formula, the session must begin at least 25 days after the Commission approves the rule. The effect of that delaying provision is to give the General Assembly an opportunity to overturn the proposed rule if it sees fit.

Under certain conditions, the APA allows an agency to adopt temporary rules prior to approval by the Rules Review Commission and without the delays required for permanent rules. In 1999, in reponse to a legislative effort to exempt the State Board of Elections from the APA, the General Assembly gave the State Board of Elections broader-than-usual authority to adopt temporary rules. The State Board may adopt a temporary rule "[to] implement any provisions of state or federal law for which [it] has been authorized to adopt rules" or because of the "need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process." A temporary rule cannot last longer than 270 days after adoption.

Adjudication. The contested-case provisions of the APA give a party a right to have an administrative decision by an agency reviewed by an administrative law judge under the Office of Administrative Hearings.

The most common contested case the State Board of Elections handles, the disputed election result, is subject to its own statutory procedures under Chapter 163 and so is not governed by APA contested-case provisions.

Three agencies have full exemptions from the APA, the Utilities Commission, the Industrial Commission, and the Employment Security Commission. Two others, the National Guard and the Department of Health and Human Services, have exemptions for certain limited functions only.

BILL ANALYSIS: House Bill 565 would make the State Board of Elections the fourth State agency with a full exemption from the APA. The exemption would provide, however, that when adopting rules, the State Board would be required to follow the notice and hearing requirements that covered agencies would have to follow. The exemption would also require the State Board to provide to parties procedural rights equivalent to those in the APA.

The bill also exempts the Executive Secretary-Director of the State Board from the APA.

BACKGROUND: The State Board of Elections has named exemption from the APA as one of its top legislative priorities. At the State Board's urging, the Election Laws Revision Commission endorsed the exemption, but did not include a draft bill in its report to the 2001 General Assembly.

EFFECTIVE DATE: The act is effective when it becomes law. It exempts rules adopted at any time, and contested cases commenced on or after the effective date of the act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 565

Short Title:	Elections Admin. Procedure.	(Public)
Sponsors:	Representatives Alexander; and Goodwin.	
Referred to:	Election Law and Campaign Finance Reform.	

March 12, 2001

A BILL TO BE ENTITLED

AN ACT TO EXEMPT THE STATE BOARD OF ELECTIONS FROM THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. 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 adopting rules, they shall follow the procedures in subsections (a) through (g) and subsection (i) of G.S. 150B-21.2, and provided that, in contested cases, equivalent procedural rights to those provided in Articles 3A and 4 of this Chapter are afforded to the parties."

SECTION 2. G.S. 150B-21.1(a5) is repealed.

SECTION 3. G.S. 163-132.5B is repealed.

SECTION 4. G.S. 163-256 reads as rewritten:

"**§ 163-256. Regulations of State Board of Elections.**

The State Board of Elections shall adopt rules and regulations to carry out the intent and purpose of G.S. 163-254 and 163-255, and to ensure that a proper list of persons voting under said sections shall be maintained by the boards of elections, and to ensure

proper registration ~~records, and such rules and regulations shall not be subject to the provisions of G.S. 150B-9.~~ records."

SECTION 5. G.S. 163-278.34(a1) reads as rewritten:

"(a1) The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a ~~petition for a contested case under Article 3 of Chapter 150B of the General Statutes.~~ protest or request for waiver of the penalty with the State Board of Elections. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. Consistent with G.S. 115C-437, the State Controller shall pay the clear proceeds of civil penalties collected under this section to the County School Fund in the county in which the person charged with the violation resides. The State Controller shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the County School Fund. Monies set aside for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board of Elections."

SECTION 6. This act is effective when it becomes law. The exemptions set forth in Section 1 of this act apply to any rules adopted by the State Board of Elections at any time and to any contested case commenced on or after the date this act becomes effective.

CHAPTER 150B
OF THE
GENERAL STATUTES OF NORTH CAROLINA

[The following excerpt contains the statutory provisions of the Administrative Procedure Act as amended by House Bill 1539 effective 6/30/2000; House Bill 1819 effective 7/1/2000; House Bill 968 effective 1/1/2001; Senate Bill 1284 effective 7/1/2000; Senate Bill 1335 effective 7/13/2000. OAH Revised 8/14/2000.]

Article 1.
General Provisions.

§ 150B-1. Policy and scope.

(a) Purpose. -- This Chapter establishes a uniform system of administrative rule making and adjudicatory procedures for agencies. The procedures ensure that the functions of rule making, investigation, advocacy, and adjudication are not all performed by the same person in the administrative process.

(b) Rights. -- This Chapter confers procedural rights.

(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.

(d) Exemptions From Rule Making. -- Article 2A of this Chapter does not apply to the following:

(1) The Commission.

(2) Repealed effective July 1, 2000.

(3) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-13 and G.S. 130B-14.

(4) The Department of Revenue, with respect to the notice and hearing requirements contained in Part 2 of Article 2A.

(5) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.

(6) The Department of Correction, with respect to matters relating solely to persons in its custody or under its supervision, including prisoners, probationers, and parolees.

(7) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in administering the provisions of Parts 2 and 3 of Article 3 of Chapter 135 of the General Statutes.

(e) Exemptions From Contested Case Provisions. -- The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

(1) The Department of Health and Human Services and the Department of Environment and Natural Resources in complying with the procedural safeguards mandated by Section 680 of Part H of Public Law 99-457 as amended (Education of the Handicapped Act Amendments of 1986).

(2) Repealed by Session Laws 1993 c. 501, s. 29, effective July 23, 1993.

(3) The North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.

(4) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.

(5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law 93-122), as amended and federal regulations promulgated thereunder. G.S. 150B-51(a) is considered a contested case hearing provision that does not apply to these hearings.

(6) The Department of Revenue.

(7) The Department of Correction.

(8) The Department of Transportation, except as provided in G.S. 136-29.

(9) The Occupational Safety and Health Review Board.

(10) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.

(11) Hearings that are provided by the Department of Health and Human Services regarding the eligibility and provision of services for digible assaultive and violent children, as defined in G.S. 122C-3(13aa) shall be conducted pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7.

(f) Exemption for the University of North Carolina. -- Except as provided in G.S. 143-135.3, no Article in this Chapter except Article 4 applies to the University of North Carolina.

§ 150B-2. Definitions.

As used in this Chapter,

(01) "Administrative law judge" means a person appointed under G.S. 7A-752, 7A-753, or 7A-757.

(1) "Agency" means an agency or an officer in the executive branch of the government of this State and includes the Council of State, the Governor's Office, a board, a commission, a department, a division, a council, and any other unit of government in the executive branch. A local unit of government is not an agency.

(1a) "Adopt" means to take final action to create, amend, or repeal a rule.

(1b) "Codifier of Rules" means the Chief Administrative Law Judge of the Office of Administrative Hearings or a designated representative of the Chief Administrative Law Judge.

(1c) "Commission" means the Rules Review Commission.

(2) "Contested case" means an administrative proceeding pursuant to this Chapter to resolve a dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty. "Contested case" does not include rulemaking, declaratory rulings, or the award or denial of a scholarship, a grant, or a loan.

(2a) Repealed by Session Laws 1991, c. 418, s. 3, effective October 1, 1991.

(2b) "Hearing officer" means a person or group of persons designated by an agency that is subject to Article 3A of this Chapter to preside in a contested case hearing conducted under that Article.

(3) "License" means any certificate, permit or other evidence, by whatever name called, of a right or privilege to engage in any activity, except licenses issued under Chapter 20 and Subchapter I of Chapter 105 of the General Statutes and occupational licenses.

(4) "Licensing" means any administrative action issuing, failing to issue, suspending, or revoking a license or occupational license. "Licensing" does not include controversies over whether an examination was fair or whether the applicant passed the examination.

(4a) "Occupational license" means any certificate, permit, or other evidence, by whatever name called, of a right or privilege to engage in a profession, occupation, or field of endeavor that is issued by an occupational licensing agency.

(4b) "Occupational licensing agency" means any board, commission, committee or other agency of the State of North Carolina which is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within a particular profession, occupation or field of endeavor, and which is authorized to issue and revoke licenses. "Occupational licensing agency" does not include State agencies or departments which may as only a part of their regular function issue permits or licenses.

(5) "Party" means any person or agency named or admitted as a party or properly seeking as of right to be admitted as a party and includes the agency as appropriate. This subdivision does not permit an agency that makes a final decision, or an officer or employee of the agency, to petition for initial judicial review of that decision.

(6) "Person aggrieved" means any person or group of persons of common interest directly or indirectly affected substantially in his or its person, property, or employment by an administrative decision.

(7) "Person" means any natural person, partnership, corporation, body politic and any unincorporated association, organization, or society which may sue or be sued under a common name.

(8) "Residence" means domicile or principal place of business.

(8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:

a. Statements concerning only the internal management of an agency or group of agencies within the same principal office or department enumerated in G.S. 143A-11 or 143B-6, including policies and procedures manuals, if the statement does not directly or substantially affect the procedural or substantive rights or duties of a person not employed by the agency or group of agencies.

b. procedures issued by the Director of the Budget, by the head of a department, as defined by G.S. 143A-2 or G.S. 143B-3, by an occupational licensing board, as defined by G.S. 93B-1, or by the State Board of Elections.

c. Nonbinding interpretive statements within the delegated authority of an agency that merely define, interpret, or explain the meaning of a statute or rule.

d. A form, the contents or substantive requirements of which are prescribed by rule or statute.

e. Statements of agency policy made in the context of another proceeding, including:

1. Declaratory rulings under G.S. 150B-4.
2. Orders establishing or fixing rates or tariffs.

f.Requirements, communicated to the public by the use of signs or symbols, concerning the use of public roads, bridges, ferries, buildings, or facilities.

g.Statements that set forth criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections; in settling financial disputes or negotiating financial arrangements; or in the defense, prosecution, or settlement of cases.

h.Scientific, architectural, or engineering standards, forms, or procedures, including design criteria and construction standards used to construct or maintain highways, bridges, or ferries.

i. Job classification standards, job qualifications, and salaries established for positions under the jurisdiction of the State Personnel Commission.

j. Establishment of the interest rate that applies to tax assessments under G.S. 105-241.1 and the variable component of the excise tax on motor fuel under G.S. 105-449.80.

(8b) "Substantial evidence" means relevant evidence a reasonable mind might accept as adequate to support a conclusion.

(9) Repealed by Session Laws 1991, c. 418 s. 3, effective October 1, 1991.

§ 150B-3. Special provisions on licensing.

(a) When an applicant or a licensee makes a timely and sufficient application for issuance or renewal of a license or occupational license, including the payment of any required license fee, the existing license or occupational license does not expire until a decision on the application is finally made by the agency, and if the application is denied or the terms of the new license or occupational license are limited, until the last day for applying for judicial review of the agency order. This subsection does not affect agency action summarily suspending a license or occupational license under subsections (b) and (c) of this section.

(b) Before the commencement of proceedings for the suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of any license other than an occupational license, the agency shall give notice to the licensee, pursuant to the provisions of G.S. 150B-23. Before the commencement of such proceedings involving an occupational license, the agency shall give notice pursuant to the provisions of G.S. 150B-38. In either case, the licensee shall be given an opportunity to show compliance with all lawful requirements for retention of the license or occupational license.

(c) If the agency finds that the public health, safety, or welfare requires emergency action and incorporates this finding in its order, summary suspension of a license or occupational license may be ordered effective on the date specified in the order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and effective during the proceedings. The proceedings shall be promptly commenced and determined.

Nothing in this subsection shall be construed as amending or repealing any special statutes, in effect prior to February 1, 1976, which provide for the summary suspension of a license.

(d) This section does not apply to the following:

(1) Revocations of occupational licenses based solely on a court order of child support delinquency or a Department of Health and Human Services determination of child support delinquency issued pursuant to G.S. 110-142, 110-142.1, 110-142.2.

(2) Refusal to renew an occupational license pursuant to G.S. 87-10.1, 87-22.2, 87-44.2 or 89C-18.1, based solely on a Department of Revenue determination that the licensee owes a delinquent income tax debt.

§ 150B-4. Declaratory rulings.

(a) On request of a person aggrieved, an agency shall issue a declaratory ruling as to the validity of a rule or as to the applicability to a given state of facts of a statute administered by the agency or of a rule or order of the agency, except when the agency for good cause finds issuance of a ruling undesirable. The agency shall prescribe in its rules the circumstances in which rulings shall or shall not be issued. A declaratory ruling is binding on the agency and the person requesting it unless it is altered or set aside by the court. An agency may not retroactively change a declaratory ruling, but nothing in this section prevents an agency from prospectively changing a declaratory ruling. A declaratory ruling is subject to judicial review in the same manner as an order in a contested case. Failure of the agency to issue a declaratory ruling on the merits within 60 days of the request for such ruling shall constitute a denial of the request as well as a denial of the merits of the request and shall be subject to judicial review.

(b) Repealed by SB 187 effective April 30, 1997.

§§ 150B-5 through 150B-8: Reserved for future codification purposes.

Article 2.
Rule Making.

§§ 150B-9 through 150B-16: Repealed by Session Laws 1991, c. 481, s. 5, effective October 1, 1991.

§ 150B-17: Recodified as § 150B-4 by Session Laws 1991, c. 418, s. 4, effective October 1, 1991.

Article 2A.
Rules.
Part 1. General Provisions.

§ 150B-18. Scope and effect.

This Article applies to an agency's exercise of its authority to adopt a rule. A rule is not valid unless it is adopted in substantial compliance with this Article.

§ 150B-19. Restrictions on what can be adopted as a rule.

An agency may not adopt a rule that does one or more of the following:

(1) Implements or interprets a law unless that law or another law specifically authorizes the agency to do so.

(2) Enlarges the scope of a profession, occupation, or field of endeavor for which an occupational license is required.

(3) Imposes criminal liability or a civil penalty for an act or omission, including the violation of a rule, unless a law specifically authorizes the agency to do so or a law declares that violation of the rule is a criminal offense or is grounds for a civil penalty.

(4) Repeats the content of a law, a rule, or a federal regulation. A brief statement that informs the public of a requirement imposed by law does not violate this subdivision and satisfies the "reasonably necessary" standard of review set in G.S. 150B-21.9(a)(3).

(5) Establishes a fee or other charge for providing a service in fulfillment of a duty unless a law specifically authorizes the agency to do so or the fee or other charge is for one of the following:

a. A service to a State, federal, or local governmental unit.
b. A copy of part or all of a State publication or other document, the cost of mailing a document, or both.
c. A transcript of a public hearing.
d. A conference, workshop, or course.
e. Data processing services.

(6) Allows the agency to waive or modify a requirement set in a rule unless a rule establishes specific guidelines the agency must follow in determining whether to waive or modify the requirement.

§ 150B-20. Petitioning an agency to adopt a rule.

(a) Petition. -- A person may petition an agency to adopt a rule by submitting to the agency a written rule-making petition requesting the adoption. A person may submit written comments with a rule-making petition. If a rule-making petition requests the agency to create or amend a rule, the person must submit the proposed text of the requested rule change and a statement of the effect of the requested rule change. Each agency must establish by rule the procedure for submitting a rule-making petition to it and the procedure the agency follows in considering a rule-making petition.

(b) Time. -- An agency must grant or deny a rule-making petition submitted to it within 30 days after the date the rule-making petition is submitted, unless the agency is a board or commission. If the agency is a board or commission, it must grant or deny a rule-making petition within 120 days after the date the rule-making petition is submitted.

(c) Action. -- If an agency denies a rule-making petition, it must send the person who submitted the petition a written statement of the reasons for denying the petition. If an agency grants a rule-making petition, it must inform the person who submitted the rule-making petition of its decision and must initiate rule-making proceedings. When an agency grants a rule-making petition, the notice of rule-making proceedings it publishes in the North Carolina Register may state that the agency is initiating rule-making proceedings as the result of a rule-making petition and state the name of the person who submitted the rule-making petition. If the rule-making petition requested the creation or amendment of a rule, the notice of text the agency publishes after the notice of rule-making proceedings may set out the text of the requested rule change submitted with the rule-making petition and state whether the agency endorses the proposed text.

(d) Review. -- Denial of a rule-making petition is a final agency decision and is subject to judicial review under Article 4 of this Chapter. Failure of an agency to grant or deny a rule-making petition within the time limits set in subsection (b) is a denial of the rule-making petition.

(e) Repealed by Session Laws 1995 c. 18 s. 7, effective August 3, 1996.

§ 150B-21. Agency must designate rule-making coordinator; duties of coordinator.

(a) Each agency must designate one or more rule-making coordinators to oversee the agency's rule-making functions. The coordinator shall serve as the liaison between the agency, other agencies, units of local government, and the public in the rule-making process. The coordinator shall report directly to the agency head.

(b) The rule-making coordinator shall be responsible for the following:

(1) Preparing notices of public hearings.
(2) Coordinating access to the agency's rules.
(3) Screening all proposed rule actions prior to publication in the North Carolina Register to assure that an accurate fiscal note has been completed as required by G.S. 150B-21.4(b).
(4) Consulting with the North Carolina Association of County Commissioners and the North Carolina League of Municipalities to determine which local governments would be affected by any proposed rule action.
(5) Providing the North Carolina Association of County Commissioners and the North Carolina League of Municipalities with copies of all fiscal notes required by G.S. 150B-21.4(b), prior to publication in the North Carolina Register of the proposed text of a permanent rule change.
(6) Coordinating the submission of proposed rules to the Governor as provided by G.S. 150B-21.26.

(c) At the earliest point in the rule-making process and in consultation with the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, and with samples of county managers or city managers, as appropriate, the rule-making coordinator shall lead the agency's efforts in the development and drafting of any rules or rule changes that could:

(1) Require any unit of local government, including a county, city, school administrative unit, or other local entity funded by or through a unit of local government to carry out additional or modified responsibilities;
(2) Increase the cost of providing or delivering a public service funded in whole or in part by any unit of local government; or
(3) Otherwise affect the expenditures or revenues of a unit of local government.

(d) The rule-making coordinator shall send to the Office of State Budget, Planning, and Management for compilation a copy of each final fiscal note prepared pursuant to G.S. 150B-21.4(b).

(e) The rule-making coordinator shall compile a schedule of the administrative rules and amendments expected to be proposed during the next fiscal year. The coordinator shall provide a copy of the schedule to the Office of State Budget, Planning, and Management in a manner proposed by that Office.

(f) Whenever an agency proposes a rule that is purported to implement a federal law, or required by or necessary for compliance with federal law, or on which the receipt of federal funds is conditioned, the rule-making coordinator shall:

(1) Attach to the proposed rule a certificate prepared by the rule-making coordinator identifying the federal law requiring adoption of the proposed rule. The certification shall contain a statement setting forth the reasons for why the proposed rule is required by law. If all or part of the proposed rule is not required by federal law or exceeds the requirements of federal law,

then the certification shall state the reasons for that opinion. No comment or opinion shall be included in the certification with regard to the merits of the proposed rule; and

(2) The rule-making coordinator shall maintain a copy of the federal law and shall provide to the Office of State Budget, Planning, and Management for compilation the citation to the federal law requiring or pertaining to the proposed rule.

Part 2. Adoption of Rules.

§ 150B-21.1. Procedure for adopting a temporary rule.

(a) Adoption. -- An agency may adopt a temporary rule without prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical when it finds that adherence to the notice and hearing requirements of this Part would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

(1) A serious and unforeseen threat to the public health, safety, or welfare.
(2) The effective date of a recent act of the General Assembly or the United States Congress.
(3) A recent change in federal or State budgetary policy.
(4) A federal regulation.
(5) A court order.
(6) The need for the rule to become effective the same date as the State Medical Facilities Plan approved by the Governor, if the rule addresses a matter included in the State Medical Facilities Plan.

An agency must prepare a written statement of its findings of need for a temporary rule. The statement must be signed by the head of the agency adopting the rule.

(a1) Notwithstanding the provisions of subsection (a) of this section, the Wildlife Resources Commission may adopt a temporary rule after prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical to protect the public health, safety, or welfare, conserve wildlife resources, or provide for the orderly and efficient operation of game lands by establishing any of the following:

(1) No wake zones;
(2) Hunting or fishing seasons;
(3) Hunting or fishing bag limits;
(4) Management of public game lands as defined in G.S. 113-129(8a).

When the Wildlife Resources Commission 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.

(a2) Notwithstanding the provisions of subsection (a) of this section, the Secretary of State may adopt temporary rules to implement the certification technology provisions of Article 11A of Chapter 66 of the General Statutes. After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Secretary shall:

(1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule;
(2) Accept oral and written comments on the proposed temporary rule; and
(3) Hold at least one public hearing on the proposed temporary rule.

When the Secretary adopts a temporary rule pursuant to this subsection, the Secretary must submit a reference to this subsection as the Secretary's statement of need to the Codifier of Rules.

Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Secretary in accordance with this subsection.

(a3) Notwithstanding the provisions of subsection (a) of this section, the Commissioner of Insurance may adopt a temporary rule to implement the provisions of G.S. 58-2-205 after prior notice or hearing or upon any abbreviated notice or hearing. When the Commissioner adopts a temporary rule pursuant to this subsection, the Commissioner must submit the reference to this subsection as the Commissioner's statement of need to the Codifier of Rules.

(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.

(a4) (Effective January 1, 2000) Notwithstanding the provisions of subsection (a) of this section, the Secretary of commerce may adopt temporary rules to implement the information technology procurement provisions of Part 16 of Article 10 of Chapter 143B of the General Statutes. After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Secretary shall:

(1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule;
(2) Accept oral and written comments on the proposed temporary rule; and
(3) Hold at least one public hearing on the proposed temporary rule.

When the Secretary adopts a temporary rule pursuant to this subsection, the Secretary must submit a reference to this subsection as the Secretary's statement of need to the Codifier of Rules.

Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Secretary in accordance with this subsection."

(a7) Notwithstanding the provisions of subdivision (a)(2) of this section, an agency may adopt a temporary rule to implement the provisions of any of the following acts until all rules necessary to implement the provisions of the act have become effective as either temporary or permanent rules:

(1) The North Carolina Rural Redevelopment Authority Act, Part 2D of Article 10 of Chapter 143B of the General Statutes.

[150B-21.1(a7)(1) is repealed effective July 1, 2002.]

(2) Article 34B of Chapter 115C of the General Statutes, relating to qualified zone academy bonds.

[150B-21.1(a7)(2) is repealed effective July 1, 2003.]

(b) Review. -- When an agency adopts a temporary rule it must submit the rule and the agency's written statement of its findings of the need for the rule to the Codifier of Rules. Within one business day after an agency submits a temporary rule, the Codifier of Rules must review the agency's written statement of findings of need for the rule to determine whether the statement of need meets the criteria listed in subsection (a) or (a1) of this section. In reviewing the statement, the Codifier of Rules may consider any information submitted by the agency or another person. If the Codifier of Rules finds that the statement meets the criteria, the Codifier of Rules must notify the head of the agency and enter the rule in the North Carolina Administrative Code.

If the Codifier of Rules finds that the statement does not meet the criteria, the Codifier of Rules must immediately notify the head of the agency. The agency may supplement its statement of need with additional findings or submit a new statement. If the agency provides additional findings or submits a new statement, the Codifier of Rules must review the additional findings or new statement within one business day after the agency submits the additional findings or new statement. If the Codifier of Rules again finds that the statement does not meet the criteria listed in subsection (a) or (a1) of this section, the Codifier of Rules must immediately notify the head of the agency.

If an agency decides not to provide additional findings or submit a new statement when notified by the Codifier of Rules that the agency's findings of need for a rule do not meet the required criteria, the agency must notify the Codifier of Rules of its decision. The Codifier of Rules must then enter the rule in the North Carolina Administrative Code on the sixth business day after receiving notice of the agency's decision.

(c) Standing. -- A person aggrieved by a temporary rule adopted by an agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes. In the action, the court shall determine whether the agency's written statement of findings of need for the rule meets the criteria listed in subsection (a) or (a1) of this section and whether the rule meets the standards in G.S. 150B-21.9 that apply to review of a permanent rule. The court shall not grant an ex parte temporary restraining order.

Filing a petition for rule making or a request for a declaratory ruling with the agency that adopted the rule is not a prerequisite to filing an action under this subsection. A person who files an action for declaratory judgment under this subsection must serve a copy of the complaint on the agency that adopted the rule being contested, the Codifier of Rules, and the Commission.

(d) Effective Date and Expiration. -- A temporary rule becomes effective on the date specified in G.S. 150B-21.3. A temporary rule expires on the earliest of the following dates:

(1) The date specified in the rule.

(2) The effective date of the permanent rule adopted to replace the temporary rule, if the Commission approves the permanent rule.

(3) The date the Commission returns to an agency a permanent rule the agency adopted to replace the temporary rule.

(4) The effective date of an act of the General Assembly that specifically disapproves a permanent rule adopted to replace the temporary rule.

(5) 270 days from the date the temporary rule was published in the North Carolina Register, unless the permanent rule adopted to replace the temporary rule has been submitted to the Commission.

(e) Publication. -- When the Codifier of Rules enters a temporary rule in the North Carolina Administrative Code, the Codifier must publish the rule in the North Carolina Register. Publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings for a permanent rule if the permanent rule is substantially the same as the published temporary rule, unless the agency published a notice of rule-making proceedings at least 60 days before it adopted the temporary rule.

§ 150B-21.2. Procedure for adopting a permanent rule.

(a) Steps. -- Before an agency adopts a permanent rule, it must take the following actions:

(1) Publish a notice of rule-making proceedings in the North Carolina Register, unless the proposed rule is substantially the same as a temporary rule published in the North Carolina Register.

(2) When required by G.S. 150B-21.4, prepare or obtain a fiscal note for the proposed rule.

(3) Publish the text of the proposed rule in the North Carolina Register.

(4) When required by subsection (e) of this section, hold a public hearing on the proposed rule after publication of the proposed text of the rule.

(5) Accept oral or written comments on the proposed rule as required by subsection (f) of this section.

(b) Notice of Rule-Making Proceedings. -- A notice of rule-making proceedings published in the North Carolina Register must include all of the following:

(1) A statement of the subject matter of the proposed rule making.

(2) A short explanation of the reason for the proposed action.

(3) A citation to the law that gives the agency the authority to adopt a rule on the subject matter of the proposed rule making.

(4) The person to whom questions or written comments may be submitted on the subject matter of the proposed rule making.

Publication in the North Carolina Register of an agency's rule-making agenda satisfies the requirements of this subsection

if the agenda includes the information required by this subsection.

(c) Text After Notice of Rule-Making Proceedings. -- A notice of the proposed text of a rule must include all of the following:

(1) The text of the proposed rule.
(2) A short explanation of the reason for the proposed rule.
(3) A citation to the law that gives the agency the authority to adopt the rule.
(4) The proposed effective date of the rule.
(5) The date, time, and place of any public hearing scheduled on the rule.
(6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) of this section requires the agency to hold a public hearing on the proposed rule when requested to do so.
(7) The period of time during which and the person to whom written comments may be submitted on the proposed rule.
(8) If a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency.

An agency shall not publish the proposed text of a rule until at least 60 days after the date the notice of rule-making proceedings for the proposed rule was published in the North Carolina Register.

(d) Mailing List. -- An agency must maintain a mailing list of persons who have requested notice of rule making. When an agency publishes in the North Carolina Register a notice of rule-making proceedings or the text of a proposed rule, it must mail a copy of the notice or text to each person on the mailing list who has requested notice of rule-making proceedings on the subject matter described in the notice or the rule affected. An agency may charge an annual fee to each person on the agency's mailing list to cover copying and mailing costs.

(e) Hearing. -- An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and all the following apply:

(1) The notice of text does not schedule a public hearing on the proposed rule.
(2) The agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published.
(3) The proposed text is not a changed version of proposed text the agency previously published in the course of rule-making proceedings but did not adopt.

An agency may hold a public hearing on a proposed rule in other circumstances. When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date of a public hearing held after the agency publishes notice of the hearing in the North Carolina Register must be at least 15 days after the date the notice is published.

(f) Comments. -- An agency must accept comments on a notice of proposed rule-making proceedings published in the North Carolina Register until the text of the proposed rule that results from the notice is published. An agency must accept comments on the text of a proposed rule that is published in the North Carolina Register and that requires a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must accept comments on the text of any other proposed rule published in the North Carolina Register for at least 30 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must consider fully all written and oral comments received.

(g) Adoption. -- An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and shall not adopt a rule if more than 12 months have elapsed since the end of the time for commenting on the proposed text of the rule. An agency shall not adopt a rule that differs substantially from the text of a proposed rule published in the North Carolina Register unless the agency publishes the text of the proposed different rule in the North Carolina Register and accepts comments on the proposed different rule for the time set in subsection (f) of this section.

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

(1) Affects the interests of persons who, based on either the notice of rule-making proceedings or the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.
(2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.
(3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.

When an agency adopts a rule, it shall not take subsequent action on the rule without following the procedures in this Part.

(h) Explanation. -- An agency must issue a concise written statement explaining why the agency adopted a rule if, within 30 days after the agency adopts the rule, a person asks the agency to do so. The explanation must state the principal reasons for and against adopting the rule and must discuss why the agency rejected any arguments made or considerations urged against the adoption of the rule.

(i) Record. -- An agency must keep a record of a rule-making proceeding. The record must include all written comments received, a transcript or recording of any public hearing held on the rule, and any written explanation made by the agency for adopting the rule.

§ 150B-21.3. Effective date of rules.

(a) Temporary Rule. -- A temporary rule becomes effective on the date the Codifier of Rules enters the rule in the North Carolina Administrative Code.

(b) Permanent Rule. -- A permanent rule approved by the Commission becomes effective on the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a

different effective date applies under this section. If a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule specifies a later effective date than the date that would otherwise apply under this subsection, the later date applies. A permanent rule that is not approved by the Commission or that is specifically disapproved by a bill ratified by the General Assembly before it becomes effective does not become effective.

A bill specifically disapproves a rule if it contains a provision that refers to the rule by appropriate North Carolina Administrative Code citation and states that the rule is disapproved. Notwithstanding any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove a rule that has been approved by the Commission and that either has not become effective or has become effective by executive order under subsection (c) of this section.

(c) Executive Order Exception. – The Governor may, by executive order, make effective a permanent rule that has been approved by the Commission and has not become effective under subsection (b) of this section upon finding that it is necessary that the rule become effective in order to protect public health, safety, or welfare. A rule made effective by executive order becomes effective on the date the order is issued or at a later date specified in the order. When the Codifier of Rules enters in the North Carolina Administrative Code a rule made effective by executive order, the entry must reflect this action.

A rule that is made effective by executive order remains in effect unless it is specifically disapproved by the General Assembly in a bill ratified on or before the day of adjournment of the regular session of the General Assembly that begins at least 25 days after the date the executive order is issued. A rule that is made effective by executive order and that is specifically disapproved by a bill ratified by the General Assembly is repealed as of the date specified in the bill. If a rule that is made effective by executive order is not specifically disapproved by a bill ratified by the General Assembly within the time set by this subsection, the Codifier of Rules must note this in the North Carolina Administrative Code.

(d) Legislative Day and Day of Adjournment. – As used in this section:

(1) A "legislative day" is a day on which either house of the General Assembly convenes in a regular session.

(2) The "day of adjournment" of a regular session held in an odd-numbered year is the day the General Assembly adjourns by joint resolution for more than 10 days.

(3) The "day of adjournment" of a regular session held in an even-numbered year is the day the General Assembly adjourns sine die.

(e) OSHA Standard. – A permanent rule concerning an occupational safety and health standard that is adopted by the Occupational Safety and Health Division of the Department of Labor and is identical to a federal regulation promulgated by the Secretary of the United States Department of Labor becomes effective on the date the Division delivers the rule to the Codifier of Rules, unless the Division specifies a later effective date. If the Division specifies a later effective date, the rule becomes effective on that date.

(f) Technical change. – A permanent rule for which no notice or hearing is required under G.S. 150B-21.5(a)(1) through (a)(5) or G.S. 150B-21.5(b) becomes effective on the first day of the month following the month the rule is approved by the Rules Review Commission.

§ 150B-21.4. Fiscal notes on rules.

(a) State Funds. – Before an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would require the expenditure or distribution of funds subject to the Executive Budget Act, Article 1 of Chapter 143, it must submit the text of the proposed rule change and a fiscal note on the proposed rule change to the Director of the Budget and obtain certification from the Director that the funds that would be required by the proposed rule change are available. The fiscal note must state the amount of funds that would be expended or distributed as a result of the proposed rule change and explain how the amount was computed. The Director of the Budget must certify a proposed rule change if funds are available to cover the expenditure or distribution required by the proposed rule change.

(b) Local Funds. – Before an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would affect the expenditures or revenues of a unit of local government, it must submit the text of the proposed rule change and a fiscal note on the proposed rule change to the Office of the Governor as provided by G.S. 150B-21.26, the Fiscal Research Division of the General Assembly, the Office of State Budget, Planning, and Management, the North Carolina Association of County Commissioners, and the North Carolina League of Municipalities. The fiscal note must state the amount by which the proposed rule change would increase or decrease expenditures or revenues of a unit of local government and must explain how the amount was computed.

(b1) Substantial Economic Impact. – Before an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would have a substantial economic impact and that is not identical to a federal regulation that the agency is required to adopt, the agency must obtain a fiscal note for the proposed rule change from the Office of State Budget, Planning, and Management or prepare a fiscal note for the proposed rule change and have the note approved by that Office. If an agency requests the Office of State Budget, Planning, and Management to prepare a fiscal note for a proposed rule change, that Office must prepare the note within 90 days after receiving a written request for the note. If the Office of State Budget, Planning, and Management fails to prepare a fiscal note within this time period, the agency proposing the rule change may prepare a fiscal note. A fiscal note prepared in this circumstance

does not require approval of the Office of State Budget, Planning, and Management.

If an agency prepares the required fiscal note, the agency must submit the note to the Office of State Budget, Planning, and Management for review. The Office of State Budget, Planning, and Management must review the fiscal note within 14 days after it is submitted and either approve the note or inform the agency in writing of the reasons why it does not approve the fiscal note. After addressing these reasons, the agency may submit the revised fiscal note to that Office for its review. If an agency is not sure whether a proposed rule change would have a substantial economic impact, the agency may ask the Office of State Budget, Planning, and Management to determine whether the proposed rule change has a substantial economic impact.

As used in this subsection, the term "substantial economic impact" means an aggregate financial impact on all persons affected of at least five million dollars ($5,000,000) in a 12-month period.

(b2) Content. -- A fiscal note required by subsection (b1) of this section must contain the following:

(1) A description of the persons who would be affected by the proposed rule change.

(2) A description of the types of expenditures that persons affected by the proposed rule change would have to make to comply with the rule and an estimate of these expenditures.

(3) A description of the purpose and benefits of the proposed rule change.

(4) An explanation of how the estimate of expenditures was computed.

(c) Errors. -- An erroneous fiscal note prepared in good faith does not affect the validity of a rule.

§ 150B-21.5. Circumstances when notice and rule-making hearing not required.

(a) Amendment. -- An agency is not required to publish a notice of rule-making proceedings or a notice of text in the North Carolina Register or hold a public hearing when it proposes to amend a rule to do one of the following:

(1) Reletter or renumber the rule or subparts of the rule.

(2) Substitute one name for another when an organization or position is renamed.

(3) Correct a citation in the rule to another rule or law when the citation has become inaccurate since the rule was adopted because of the repeal or renumbering of the cited rule or law.

(4) Change information that is readily available to the public, such as an address or a telephone number.

(5) Correct a typographical error in the North Carolina Administrative Code.

(6) Change a rule in response to a request or an objection by the Commission.

(b) Repeal. -- An agency is not required to publish a notice of rule-making proceedings or a notice of text in the North Carolina Register or hold a public hearing when it proposes to repeal a rule as a result of any of the following:

(1) The law under which the rule was adopted is repealed.

(2) The law under which the rule was adopted or the rule itself is declared unconstitutional.

(3) The rule is declared to be in excess of the agency's statutory authority.

(c) OSHA Standard. -- The Occupational Safety and Health Division of the Department of Labor is not required to publish a notice of rule-making proceedings or a notice of text in the North Carolina Register or hold a public hearing when it proposes to adopt a rule that concerns an occupational safety and health standard and is identical to a federal regulation promulgated by the Secretary of the United States Department of Labor. The Occupational Safety and Health Division is not required to submit to the Commission for review a rule for which notice and hearing is not required under this subsection.

§ 150B-21.6. Incorporating material in a rule by reference.

An agency may incorporate the following material by reference in a rule without repeating the text of the referenced material:

(1) Another rule or part of a rule adopted by the agency.

(2) All or part of a code, standard, or regulation adopted by another agency, the federal government, or a generally recognized organization or association.

(3) Repealed by SB 187 effective April 30, 1997.

In incorporating material by reference, the agency must designate in the rule whether or not the incorporation includes subsequent amendments and editions of the referenced material. The agency can change this designation only by a subsequent rule-making proceeding. The agency must have copies of the incorporated material available for inspection and must specify in the rule both where copies of the material can be obtained and the cost on the date the rule is adopted of a copy of the material.

A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(b) is a statement that the rule does not include subsequent amendments and editions of the referenced material. A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(c) is a statement that the rule includes subsequent amendments and editions of the referenced material.

§ 150B-21.7. Effect of transfer of duties or termination of agency on rules.

When a law that authorizes an agency to adopt a rule is repealed and another law gives the same or another agency substantially the same authority to adopt a rule, the rule remains in effect until the agency amends or repeals the rule. When a law that authorizes an agency to adopt a rule is repealed and another law does not give the same or another agency substantially the same authority to adopt a rule, a rule adopted under the repealed law is repealed as of the date the law is repealed.

When an executive order abolishes part or all of an agency and transfers a function of that agency to another agency, a rule concerning the transferred function remains in effect until the agency to which the function is transferred amends or repeals the rule. When an executive order abolishes part or all of an agency and does not transfer a function of that agency to another agency, a rule concerning a function abolished by the executive order is repealed as of the effective date of the executive order.

The Director of Fiscal Research of the General Assembly must notify the Codifier of Rules when a rule is repealed under this section. When notified of a rule repealed under this section, the Codifier of Rules must enter the repeal of the rule in the North Carolina Administrative Code.

Part 3. Review by Commission.

§ 150B-21.8. Review of rule by Commission.

(a) Temporary Rule. -- The Commission does not review a temporary rule.

(b) Permanent Rule. -- An agency must submit a permanent rule adopted by it to the Commission before the rule can be included in the North Carolina Administrative Code. The Commission reviews a permanent rule in accordance with the standards in G.S. 150B-21.9 and follows the procedure in this Part in its review of a permanent rule.

(c) Scope. -- When the Commission reviews an amendment to a rule, it may review the entire rule that is being amended. The procedure in G.S. 150B-21.12 applies when the Commission objects to a part of a rule that is within its scope of review but is not changed by a rule amendment.

§ 150B-21.9. Standards and timetable for review by Commission.

(a) Standards. -- The Commission must determine whether a rule meets all of the following criteria:

(1) It is within the authority delegated to the agency by the General Assembly.

(2) It is clear and unambiguous.

(3) It is reasonably necessary to fulfill a duty delegated to the agency by the General Assembly, when considered in light of the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed and the legislative intent of the General Assembly in delegating the duty.

The Commission may determine if a rule submitted to it was adopted in accordance with Part 2 of this Article. The Commission may ask the Office of State Budget, Planning, and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget, Planning, and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

The Commission must notify the agency that adopted the rule if it determines that a rule was not adopted in accordance with Part 2 of this Article and must return the rule to the agency. Entry of a rule in the North Carolina Administrative Code after review by the Commission is conclusive evidence that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. -- The Commission must review a rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month.

§ 150B-21.10. Commission action on permanent rule.

At the first meeting at which a permanent rule is before the Commission for review, the Commission must take one of the following actions:

(1) Approve the rule, if the Commission determines that the rule meets the standards for review.

(2) Object to the rule, if the Commission determines that the rule does not meet the standards for review.

(3) Extend the period for reviewing the rule, if the Commission determines it needs additional information on the rule to be able to decide whether the rule meets the standards for review.

In reviewing a new rule or an amendment to an existing rule, the Commission may request an agency to make technical changes to the rule and may condition its approval of the rule on the agency's making the requested technical changes.

§ 150B-21.11. Procedure when Commission approves permanent rule.

When the Commission approves a permanent rule, it must notify the agency that adopted the rule of the Commission's approval, deliver the approved rule to the Codifier of Rules, and include the text of the approved rule and a summary of the rule in its next report to the Joint Legislative Administrative Procedure Oversight Committee.

If the approved rule will increase or decrease expenditures or revenues of a unit of local government, the Commission must also notify the Governor of the Commission's approval of the rule and deliver a copy of the approved rule to the Governor by the end of the month in which the Commission approved the rule.

§ 150B-21.12. Procedure when Commission objects to a permanent rule.

(a) Action. -- When the Commission objects to a permanent rule, it must send the agency that adopted the rule a written statement of the objection and the reason for the objection. The agency that adopted the rule must take one of the following actions:

(1) Change the rule to satisfy the Commission's objection and submit the revised rule to the Commission.

(2) Submit a written response to the Commission indicating that the agency has decided not to change the rule.

(b) Time Limit. -- An agency that is not a board or commission must take one of the actions listed in subsection (a) of this section within 30 days after receiving the Commission's statement of objection. A board or commission must take one of these actions within 30 days after receiving the Commission's statement of objection or within 10 days after the board or commission's next regularly scheduled meeting, whichever comes later.

(c) Changes. -- When an agency changes a rule in response to an objection by the Commission, the Commission must determine whether the change satisfies the Commission's objection. If it does, the Commission must approve the rule. If it does not, the Commission must send the agency a written statement of the Commission's continued objection and the reason for the continued objection.

(d) Return of Rule. -- A rule to which the Commission has objected remains under review by the Commission until the agency that adopted the rule decides not to satisfy the Commission's objection and makes a written request to the Commission to return the rule to the agency. When the Commission returns a rule to which it has objected, it must notify the Codifier of Rules of its action and must send a copy of the

record of the Commission's review of the rule to the Joint Legislative Administrative Procedure Oversight Committee in its next report to that Committee. If the rule that is returned would have increased or decreased expenditures or revenues of a unit of local government, the Commission must also notify the Governor of its action and must send a copy of the record of the Commission's review of the rule to the Governor. The record of review consists of the rule, the Commission's letter of objection to the rule, the agency's written response to the Commission's letter, and any other relevant documents before the Commission when it decided to object to the rule.

§ 150B-21.13. Procedure when Commission extends period for review of permanent rule.

When the Commission extends the period for review of a permanent rule, it must notify the agency that adopted the rule of the extension and the reason for the extension. After the Commission extends the period for review of a rule, it may call a public hearing on the rule. Within 70 days after extending the period for review of a rule, the Commission must decide whether to approve the rule, object to the rule, or call a public hearing on the rule.

§ 150B-21.14. Public hearing on a rule.

The Commission may call a public hearing on a rule when it extends the period for review of the rule. At the request of an agency, the Commission may call a public hearing on a rule that is not before it for review. Calling a public hearing on a rule not already before the Commission for review places the rule before the Commission for review. When the Commission decides to call a public hearing on a rule, it must publish notice of the public hearing in the North Carolina Register.

After a public hearing on a rule, the Commission must approve the rule or object to the rule in accordance with the standards and procedures in this Part. The Commission must make its decision of whether to approve or object to the rule within 70 days after the public hearing.

§ 150B-21.15: Repealed by Session Laws 1995, c. 507, s. 27.8(i), effective December 1, 1995.

§ 150B-21.16. Report to Joint Legislative Administrative Procedure Oversight Committee.

The Commission must make monthly reports to the Joint Legislative Administrative Procedure Oversight Committee. The reports are due by the last day of the month. A report must include the rules approved by the Commission at its meeting held in the month in which the report is due and the rules the Commission returned to agencies during that month after the Commission objected to the rule. A report must include any other information requested by the Joint Legislative Administrative Procedure Oversight Committee. When the Commission sends a report to the Joint Legislative Administrative Procedure Oversight Committee, the Commission must send a copy of the report to the Codifier of Rules.

Part 4. Publication of Code and Register.

§ 150B-21.17. North Carolina Register.

(a) Content. -- The Codifier of Rules must publish the North Carolina Register. The North Carolina Register must be published at least two times a month and must contain the following:

(1) Temporary rules entered in the North Carolina Administrative Code.

(1a) Notices of rule-making proceedings, the text of proposed rules, and the text of permanent rules approved by the Commission.

(2) Notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165.

(3) Executive orders of the Governor.

(4) Final decision letters from the United States Attorney General concerning changes in laws that affect voting in a jurisdiction subject to section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H.

(5) Orders of the Tax Review Board issued under G.S. 105-241.2.

(6) Other information the Codifier determines to be helpful to the public.

(b) Form. -- When an agency publishes notice in the North Carolina Register of the proposed text of a new rule, the Codifier of Rules must publish the complete text of the proposed new rule. In publishing the text of a proposed new rule, the Codifier must indicate the rule is new by underlining the proposed text of the rule.

When an agency publishes notice in the North Carolina Register of the proposed text of an amendment to an existing rule, the Codifier must publish the complete text of the rule that is being amended unless the Codifier determines that publication of the complete text of the rule being amended is not necessary to enable the reader to understand the proposed amendment. In publishing the text of a proposed amendment to a rule, the Codifier must indicate deleted text with overstrikes and added text with underlines.

When an agency publishes notice in the North Carolina Register of the proposed repeal of an existing rule, the Codifier must publish the complete text of the rule the agency proposes to repeal unless the Codifier determines that publication of the complete text is impractical. In publishing the text of a rule the agency proposes to repeal, the Codifier must indicate the rule is to be repealed.

§ 150B-21.18. North Carolina Administrative Code.

The Codifier of Rules must compile all rules into a Code known as the North Carolina Administrative Code. The format and indexing of the Code must conform as nearly as practical to the format and indexing of the North Carolina General Statutes. The Codifier must publish printed copies of the Code and may publish the Code in other forms. The Codifier must keep the Code current by publishing the Code in a loose-leaf format and periodically providing new pages to be substituted for outdated pages, by publishing the Code in volumes and periodically publishing cumulative supplements, or by another means. The Codifier may authorize and license the private indexing, marketing, sales, reproduction, and distribution of the Code. The Codifier must keep superseded rules.

§ 150B-21.19. Requirements for including rule in Code.

To be acceptable for inclusion in the North Carolina Administrative Code, a rule must:

(1) Cite the law under which the rule is adopted.

(2) Be signed by the head of the agency or the rule-making coordinator for the agency that adopted the rule.
(3) Be in the physical form specified by the Codifier of Rules.
(4) Have been approved by the Commission, if the rule is a permanent rule.

§ 150B-21.20. Codifier's authority to revise form of rules.

(a) Authority. -- After consulting with the agency that adopted the rule, the Codifier of Rules may revise the form of a rule submitted for inclusion in the North Carolina Administrative Code within 10 business days after the rule is submitted to do one or more of the following:

(1) Rearrange the order of the rule in the Code or the order of the subsections, subdivisions, or other subparts of the rule.
(2) Provide a catch line or heading for the rule or revise the catch line or heading of the rule.
(3) Reletter or renumber the rule or the subparts of the rule in accordance with a uniform system.
(4) Rearrange definitions and lists.
(5) Make other changes in arrangement or in form that do not change the substance of the rule and are necessary or desirable for a clear and orderly arrangement of the rule.
(6) Omit from the published rule a map, a diagram, an illustration, a chart, or other graphic material, if the Codifier of Rules determines that the Office of Administrative Hearings does not have the capability to publish the material or that publication of the material is not practicable. When the Codifier of Rules omits graphic material from the published rule, the Codifier must insert a reference to the omitted material and information on how to obtain a copy of the omitted material.

(b) Effect. -- Revision of a rule by the Codifier of Rules under this section does not affect the effective date of the rule or require the agency to readopt or resubmit the rule. When the Codifier of Rules revises the form of a rule, the Codifier of Rules must send the agency that adopted the rule a copy of the revised rule. The revised rule is the official rule, unless the rule was revised under subdivision (a)(6) of this section to omit graphic material. When a rule is revised under that subdivision, the official rule is the published text of the rule plus the graphic material that was not published.

§ 150B-21.21. Publication of rules of North Carolina State Bar and exempt agencies.

(a) State Bar. -- The North Carolina State Bar must submit a rule adopted or approved by it and entered in the minutes of the North Carolina Supreme Court to the Codifier of Rules for inclusion in the North Carolina Administrative Code. The State Bar must submit a rule within 30 days after it is entered in the minutes of the Supreme Court. The Codifier of Rules must compile, make available for public inspection, and publish a rule included in the North Carolina Administrative Code under this subsection in the same manner as other rules in the Code.

(b) Exempt Agencies. -- Notwithstanding G.S. 150B-1, the North Carolina Utilities Commission must submit to the Codifier of Rules those rules of the Utilities Commission that are published from time to time in the publication titled "North Carolina Utilities Laws and Regulations." The Utilities Commission must submit a rule required to be included in the Code within 30 days after it is adopted.

Notwithstanding G.S. 150B-1, an agency other than the Utilities Commission that is exempted from this Article by that statute must submit a temporary or permanent rule adopted by it to the Codifier of Rules for inclusion in the North Carolina Administrative Code. These exempt agencies must submit a rule to the Codifier of Rules within 30 days after adopting the rule.

(c) Publication. -- A rule submitted to the Codifier of Rules under this section must be in the physical form specified by the Codifier of Rules. The Codifier of Rules must compile, make available for public inspection, and publish a rule submitted under this section in the same manner as other rules in the North Carolina Administrative Code.

§ 150B-21.22. Effect of inclusion in Code.

Official or judicial notice can be taken of a rule in the North Carolina Administrative Code and shall be taken when appropriate.

§ 150B-21.23. Rule publication manual.

The Codifier of Rules must publish a manual that sets out the form and method for publishing a notice of rule-making proceedings and a notice of text in the North Carolina Register and for filing a rule in the North Carolina Administrative Code.

§ 150B-21.24. Free copies of Register and Code.

(a) Register. -- The Codifier of Rules must distribute copies of the North Carolina Register as soon after publication as practical, without charge, to the following:

(1) A person who receives a free copy of the North Carolina Administrative Code.
(2) Upon request, one copy to each member of the General Assembly.

(b) Code. -- The Codifier of Rules must distribute copies of the North Carolina Administrative Code as soon after publication as practical, without charge, to the following:

(1) One copy to the board of commissioners of each county, to be placed at the county clerk of court's office or at another place selected by the board of commissioners.
(2) One copy to the Commission.
(3) One copy to the Clerk of the Supreme Court and to the Clerk of the Court of Appeals of North Carolina.
(4) One copy to the Supreme Court Library and one copy to the library of the Court of Appeals.
(5) One copy to the Administrative Office of the Courts.
(6) One copy to the Governor.
(7) Five copies to the Legislative Services Commission for the use of the General Assembly.
(8) Upon request, one copy to each State official or department to whom or to which copies of the appellate division reports are furnished under G.S. 7A-343.1.
(9) Five copies to the Division of State Library of the Department of Cultural Resources pursuant to G.S. 125-11.7.

§ 150B-21.25. Paid copies of Register and Code.

A person who is not entitled to a free copy of the North Carolina Administrative Code or North Carolina Register may obtain a copy by paying a fee set by the Codifier of Rules. The Codifier must set separate fees for the North Carolina Register and the North Carolina Administrative Code in amounts that cover publication, copying, and mailing costs. All monies received under this section must be credited to the General Fund.

Part 5. Rules Affecting Local Governments.

§ 150B-21.26. Governor to conduct preliminary review of certain administrative rules.

(a) Preliminary Review. -- At least 30 days before an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would affect the expenditures or revenues of a unit of local government, the agency must submit all of the following to the Governor for preliminary review:

(1) The text of the proposed rule change.

(2) A short explanation of the reason for the proposed change.

(3) A fiscal note stating the amount by which the proposed rule change would increase or decrease expenditures or revenues of a unit of local government and explaining how the amount was computed.

(b) Scope. -- The Governor's preliminary review of a proposed permanent rule change that would affect the expenditures or revenues of a unit of local government shall include consideration of the following:

(1) The agency's explanation of the reason for the proposed change.

(2) Any unanticipated effects of the proposed change on local government budgets.

(3) The potential costs of the proposed change weighed against the potential risks to the public of not taking the proposed change.

§ 150B-21.27. Minimizing the effects of rules on local budgets.

In adopting permanent rules that would increase or decrease the expenditures or revenues of a unit of local government, the agency shall consider the timing for implementation of the proposed rule as part of the preparation of the fiscal note required by G.S. 150B-21.4(b). If the computation of costs in a fiscal note indicates that the proposed rule change will disrupt the budget process as set out in the Local Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General Statutes, the agency shall specify the effective date of the change as July 1 following the date the change would otherwise become effective under G.S. 150B-21.3.

§ 150B-21.28. Role of the Office of State Budget, Planning, and Management.

The Office of State Budget, Planning, and Management shall:

(1) Compile an annual summary of the projected fiscal impact on units of local government of State administrative rules adopted during the preceding fiscal year.

(2) Compile from information provided by each agency schedules of anticipated rule actions for the upcoming fiscal year.

(3) Provide the Governor, the General Assembly, the North Carolina Association of County Commissioners, and the North Carolina League of Municipalities with a copy of the annual summary and schedules by no later than March 1 of each year.

Article 3.
Administrative Hearings.

§ 150B-22. Settlement; contested case.

It is the policy of this State that any dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty, should be settled through informal procedures. In trying to reach a settlement through informal procedures, the agency may not conduct a proceeding at which sworn testimony is taken and witnesses may be cross-examined. If the agency and the other person do not agree to a resolution of the dispute through informal procedures, either the agency or the person may commence an administrative proceeding to determine the person's rights, duties, or privileges, at which time the dispute becomes a "contested case."

§ 150B-23. Commencement; assignment of administrative law judge; hearing required; notice; intervention.

(a) A contested case shall be commenced by filing a petition with the Office of Administrative Hearings and, except as provided in Article 3A of this Chapter, shall be conducted by that Office. The party who files the petition shall serve a copy of the petition on all other parties and, if the dispute concerns a license, the person who holds the license. A party who files a petition shall file a certificate of service together with the petition. A petition shall be signed by a party or a representative of the party and, if filed by a party other than an agency, shall state facts tending to establish that the agency named as the respondent has deprived the petitioner of property, has ordered the petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced the petitioner's rights and that the agency:

(1) Exceeded its authority or jurisdiction;

(2) Acted erroneously;

(3) Failed to use proper procedure;

(4) Acted arbitrarily or capriciously; or

(5) Failed to act as required by law or rule.

The parties in a contested case shall be given an opportunity for a hearing without undue delay. Any person aggrieved may commence a contested case hereunder.

A local government employee, applicant for employment, or former employee to whom Chapter 126 of the General Statutes applies may commence a contested case under this Article in the same manner as any other petitioner. The case shall be conducted in the same manner as other contested cases under this Article, except that the State Personnel Commission shall enter final decisions only in cases in which it is found that the employee, applicant, or former employee has been subjected to discrimination prohibited by Article 6 of Chapter 126 of the General Statutes or in any case where a binding decision is required by applicable federal standards. In these cases, the State Personnel Commission's decision shall be binding on the

local appointing authority. In all other cases, the final decision shall be made by the applicable appointing authority.

(a1) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1022, s. 1(9).

(a2) An administrative law judge assigned to a contested case may require a party to the case to file a prehearing statement. A party's prehearing statement must be served on all other parties to the contested case.

(b) The parties to a contested case shall be given a notice of hearing not less than 15 days before the hearing by the Office of Administrative Hearings. If prehearing statements have been filed in the case, the notice shall state the date, hour, and place of the hearing. If prehearing statements have not been filed in the case, the notice shall state the date, hour, place, and nature of the hearing, shall list the particular sections of the statutes and rules involved, and shall give a short and plain statement of the factual allegations.

(c) Notice shall be given personally or by certified mail. If given by certified mail, it shall be deemed to have been given on the delivery date appearing on the return receipt. If giving of notice cannot be accomplished either personally or by certified mail, notice shall then be given in the manner provided in G.S. 1A-1, Rule 4(j1).

(d) Any person may petition to become a party by filing a motion to intervene in the manner provided in G.S. 1A-1, Rule 24. In addition, any person interested in a contested case may intervene and participate in that proceeding to the extent deemed appropriate by the administrative law judge.

(e) All hearings under this Chapter shall be open to the public. Hearings shall be conducted in an impartial manner. Hearings shall be conducted according to the procedures set out in this Article, except to the extent and in the particulars that specific hearing procedures and time standards are governed by another statute.

(f) Unless another statute or a federal statute or regulation sets a time limitation for the filing of a petition in contested cases against a specified agency, the general limitation for the filing of a petition in a contested case is 60 days. The time limitation, whether established by another statute, federal statute, or federal regulation, or this section, shall commence when notice is given of the agency decision to all persons aggrieved who are known to the agency by personal delivery or by the placing of the notice in an official depository of the United States Postal Service wrapped in a wrapper addressed to the person at the latest address given by the person to the agency. The notice shall be in writing, and shall set forth the agency action, and shall inform the persons of the right, the procedure, and the time limit to file a contested case petition. When no informal settlement request has been received by the agency prior to issuance of the notice, any subsequent informal settlement request shall not suspend the time limitation for the filing of a petition for a contested case hearing.

§ 150B-23.1. Mediated settlement conferences.

(a) Purpose. -- This section authorizes a mediation program in the Office of Administrative Hearings in which the chief administrative law judge may require the parties in a contested case to attend a prehearing settlement conference conducted by a mediator. The purpose of the program is to determine whether a system of mediated settlement conferences may make the operation of the Office of Administrative Hearings more efficient, less costly, and more satisfying to the parties.

(b) Definitions. -- The following definitions apply in this section:

(1) Mediated settlement conference. -- A conference ordered by the chief administrative law judge involving the parties to a contested case and conducted by a mediator prior to a contested case hearing.

(2) Mediator. -- A neutral person who acts to encourage and facilitate a resolution of a contested case but who does not make a decision on the merits of the contested case.

(c) Conference. -- The chief administrative law judge may order a mediated settlement conference for all or any part of a contested case to which an administrative law judge is assigned to preside. All aspects of the mediated settlement conference shall be conducted insofar as possible in accordance with the rules adopted by the Supreme Court for the court-ordered mediation pilot program under G.S. 7A-38.

(d) Attendance. -- The parties to a contested case in which a mediated settlement conference is ordered, their attorneys, and other persons having authority to settle the parties' claims shall attend the settlement conference unless excused by the presiding administrative law judge.

(e) Mediator. -- The parties shall have the right to stipulate to a mediator. Upon the failure of the parties to agree within a time limit established by the presiding administrative law judge, a mediator shall be appointed by the presiding administrative law judge.

(f) Sanctions. -- Upon failure of a party or a party's attorney to attend a mediated settlement conference ordered under this section, the presiding administrative law judge may impose any sanction authorized by G.S. 150B-33(b)(8) or (10).

(g) Standards. -- Mediators authorized to conduct mediated settlement conferences under this section shall comply with the standards adopted by the Supreme Court for the court-ordered mediation pilot program under G.S. 7A-38.

(h) Immunity. -- A mediator acting pursuant to this section shall have judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice.

(i) Costs. -- Costs of a mediated settlement conference shall be paid one share by the petitioner, one share by the respondent, and an equal share by any intervenor, unless otherwise apportioned by the administrative law judge.

(j) Inadmissibility of Negotiations. -- All conduct or communications made during a mediated settlement conference are presumed to be made in compromise negotiations and shall be governed by Rule 408 of the North Carolina Rules of Evidence.

(k) Right to Hearing. -- Nothing in this section restricts the right to a contested case hearing.

§ 150B-24. Venue of hearing.

(a) The hearing of a contested case shall be conducted:

(1) In the county in this State in which any person whose property or rights are the subject matter of the hearing maintains his residence;

(2) In the county where the agency maintains its principal office if the property or rights that are the subject matter of the hearing do not affect any person or if the subject matter of the hearing is the property or rights of residents of more than one county; or

(3) In any county determined by the administrative law judge in his discretion to promote the ends of justice or better serve the convenience of witnesses.

(b) Any person whose property or rights are the subject matter of the hearing waives his objection to venue by proceeding in the hearing.

§ 150B-25. Conduct of hearing; answer.

(a) If a party fails to appear in a contested case after proper service of notice, and if no adjournment or continuance is granted, the administrative law judge may proceed with the hearing in the absence of the party.

(b) Repealed by Session Laws 1991, c. 35, s. 2, effective October 1, 1991.

(c) The parties shall be given an opportunity to present arguments on issues of law and policy and an opportunity to present evidence on issues of fact.

(d) A party may cross-examine any witness, including the author of a document prepared by, on behalf of, or for use of the agency and offered in evidence. Any party may submit rebuttal evidence.

§ 150B-26. Consolidation.

When contested cases involving a common question of law or fact or multiple proceedings involving the same or related parties are pending, the Director of the Office of Administrative Hearings may order a joint hearing of any matters at issue in the cases, order the cases consolidated, or make other orders to reduce costs or delay in the proceedings.

§ 150B-27. Subpoena.

After the commencement of a contested case, subpoenas may be issued and served in accordance with G.S. 1A-1, Rule 45. In addition to the methods of service in G.S. 1A-1, Rule 45, a State law enforcement officer may serve a subpoena on behalf of an agency that is a party to the contested case by any method by which a sheriff may serve a subpoena under that Rule. Upon a motion, the administrative law judge may quash a subpoena if, upon a hearing, the administrative law judge finds that the evidence the production of which is required does not relate to a matter in issue, the subpoena does not describe with sufficient particularity the evidence the production of which is required, or for any other reason sufficient in law the subpoena may be quashed.

Witness fees shall be paid by the party requesting the subpoena to subpoenaed witnesses in accordance with G.S. 7A-314. However, State officials or employees who are subpoenaed shall not be entitled to witness fees, but they shall receive their normal salary and they shall not be required to take any annual leave for the witness days. Travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in G.S. 138-6.

§ 150B-28. Depositions and discovery.

(a) A deposition may be used in lieu of other evidence when taken in compliance with the Rules of Civil Procedure, G.S. 1A-1. Parties in contested cases may engage in discovery pursuant to the provisions of the Rules of Civil Procedure, G.S. 1A-1.

(b) On a request for identifiable agency records, with respect to material facts involved in a contested case, except records related solely to the internal procedures of the agency or which are exempt from disclosure by law, an agency shall promptly make the records available to a party.

§ 150B-29. Rules of evidence.

(a) In all contested cases, irrelevant, immaterial and unduly repetitious evidence shall be excluded. Except as otherwise provided, the rules of evidence as applied in the trial division of the General Court of Justice shall be followed; but, when evidence is not reasonably available under the rules to show relevant facts, then the most reliable and substantial evidence available shall be admitted. On the judge's own motion, an administrative law judge may exclude evidence that is inadmissible under this section. The party with the burden of proof in a contested case must establish the facts required by G.S. 150B-23(a) by a preponderance of the evidence. It shall not be necessary for a party or his attorney to object at the hearing to evidence in order to preserve the right to object to its consideration by the administrative law judge in making a decision, by the agency in making a final decision, or by the court on judicial review.

(b) Evidence in a contested case, including records and documents, shall be offered and made a part of the record. Factual information or evidence not made a part of the record shall not be considered in the determination of the case, except as permitted under G.S. 150B-30. Documentary evidence may be received in the form of a copy or excerpt or may be incorporated by reference, if the materials so incorporated are available for examination by the parties. Upon timely request, a party shall be given an opportunity to compare the copy with the original if available.

§ 150B-30. Official notice.

Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the agency. The noticed fact and its source shall be stated and made known to affected parties at the earliest practicable time, and any party shall on timely request be afforded an opportunity to dispute the noticed fact through submission of evidence and argument.

§ 150B-31. Stipulations.

(a) The parties in a contested case may, by a stipulation in writing filed with the administrative law judge, agree upon any fact involved in the controversy, which stipulation shall be used as evidence at the hearing and be binding on the parties thereto. Parties should agree upon facts when practicable.

(b) Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default, or other method agreed upon by the parties.

§ 150B-32. Designation of administrative law judge.

(a) The Director of the Office of Administrative Hearings shall assign himself or another administrative law judge to preside over a contested case.

(a1) Repealed by Session Laws 1985 (Reg. Session 1986), c. 1022, s. 1(15), effective July 15, 1986.

(b) On the filing in good faith by a party of a timely and sufficient affidavit of personal bias or disqualification of an administrative law judge, the administrative law judge shall determine the matter as a part of the record in the case, and this determination shall be subject to judicial review at the conclusion of the proceeding.

(c) When an administrative law judge is disqualified or it is impracticable for him to continue the hearing, the Director shall assign another administrative law judge to continue with the case unless it is shown that substantial prejudice to any party will result, in which event a new hearing shall be held or the case dismissed without prejudice.

§ 150B-33. Powers of administrative law judge.

(a) An administrative law judge shall stay any contested case under this Article on motion of an agency which is a party to the contested case, if the agency shows by supporting affidavits that it is engaged in other litigation or administrative proceedings, by whatever name called, with or before a federal agency, and this other litigation or administrative proceedings will determine the position, in whole or in part, of the agency in the contested case. At the conclusion of the other litigation or administrative proceedings, the contested case shall proceed and be determined as expeditiously as possible.

(b) An administrative law judge may:

(1) Administer oaths and affirmations;

(2) Sign, issue, and rule on subpoenas in accordance with G.S. 150B-27 and G.S. 1A-1, Rule 45;

(3) Provide for the taking of testimony by deposition and rule on all objections to discovery in accordance with G.S. 1A-1, the Rules of Civil Procedure;

(3a) Rule on all prehearing motions that are authorized by G.S. 1A-1, the Rules of Civil Procedure;

(4) Regulate the course of the hearings, including discovery, set the time and place for continued hearings, and fix the time for filing of briefs and other documents;

(5) Direct the parties to appear and confer to consider simplification of the issues by consent of the parties;

(6) Stay the contested action by the agency pending the outcome of the case, upon such terms as he deems proper, and subject to the provisions of G.S. 1A-1, Rule 65;

(7) Determine whether the hearing shall be recorded by a stenographer or by an electronic device; and

(8) Enter an order returnable in the General Court of Justice, Superior Court Division, to show cause why the person should not be held in contempt. The Court shall have the power to impose punishment as for contempt for any act which would constitute direct or indirect contempt if the act occurred in an action pending in Superior Court.

(9) Determine that a rule as applied in a particular case is void because (1) it is not within the statutory authority of the agency, (2) is not clear and unambiguous to persons it is intended to direct, guide, or assist, or (3) is not reasonably necessary to enable the agency to fulfill a duty delegated to it by the General Assembly.

(10) Impose the sanctions provided for in G.S. 1A-1 or Chapter 3 of Title 26 of the North Carolina Administrative Code for noncompliance with applicable procedural rules.

(11) Order the assessment of reasonable attorneys' fees and witnesses' fees against the State agency involved in contested cases decided under Chapter 126 where the administrative law judge finds discrimination, harassment, or orders reinstatement or back pay.

§ 150B-34. Decision of administrative law judge.

(a) Except as provided in G.S. 150B-36(c), and subsection (c) of this section, in each contested case the administrative law judge shall make decision that contains findings of fact and conclusions of law and return the decision to the agency for a final decision in accordance with G.S. 150B-36. The administrative law judge shall decide the case based upon the preponderance of the evidence, giving due regard to the demonstrated knowledge and expertise of the agency with respect to facts and inferences within the specialized knowledge of the agency. All references in this Chapter to the administrative law judge's decision shall include orders entered pursuant to G.S. 150B-36(c).

(b) Repealed by Session Laws 1991, c. 35, s. 6, effective October 1, 1991.

(c) Notwithstanding subsection (a) of this section, in cases arising under Article 9 of Chapter 131E of the General Statutes, the administrative law judge shall make a recommended decision or order that contains findings of fact and conclusions of law. A final decision shall be made by the agency in writing after review of the official record as defined in G.S. 150B-37(a) and shall include findings of fact and conclusions of law. The final agency decision shall recite and address all of the facts set forth in the recommended decision. For each finding of fact in the recommended decision not adopted by the agency, the agency shall state the specific reason, based on the evidence, for not adopting the findings of fact and the agency's findings shall be supported by substantial evidence admissible under G.S. 150B-29(a), 150B-30, or 150B-31. The provisions of G.S. 150B-36(b), (b1), (b2), (b3), and (d), and G.S. 150B-51 do not apply to cases decided under this subsection.

(d) Except for the exemptions contained in G.S. 150B-1(c) and (e), and subsection (c) of this section, the provisions of this section regarding the decision of the administrative law judge shall apply only to agencies subject to Article 3 of this Chapter, notwithstanding any other provisions to the contrary relating to recommended decisions by administrative law judges.

§ 150B-35. No ex parte communication; exceptions.

Unless required for disposition of an ex parte matter authorized by law, neither the administrative law judge assigned to a contested case nor a member or employee of the agency making a final decision in the case may communicate, directly or indirectly, in connection with any issue of fact, or question of law, with any person or party or his representative, except on notice and opportunity for all parties to participate.

§ 150B-36. Final decision.

(a) Before the agency makes a final decision, it shall give each party an opportunity to file exceptions to the decision made by

the administrative law judge, and to present written arguments to those in the agency who will make the final decision or order. If a party files in good faith a timely and sufficient affidavit of personal bias or other reason for disqualification of a member of the agency making the final decision, the agency shall determine the matter as a part of the record in the case, and the determination is subject to judicial review at the conclusion of the case.

(b) Except as provided in G.S. 150B-34(c) or subsection (d) of this section, a final decision in a contested case shall be made by the agency in writing after review of the official record as defined in G.S. 150B-37(a) and shall include findings of fact and conclusions of law. The agency shall adopt each finding of fact contained in the administrative law judge's decision unless the finding is clearly contrary to the preponderance of the admissible evidence, giving due regard to the opportunity of the administrative law judge to evaluate the credibility of witnesses. For each finding of fact not adopted by the agency and each finding of fact made by the agency that is not contained in the administrative law judge's decision, the agency shall follow the procedures set forth in subsections (b1) and (b2) of this section.

(b1) For each finding of fact not adopted by the agency, the agency shall set forth separately and in detail the following:

(1) The reasons for not adopting the findings of fact.

(2) The evidence in the record relied upon by the agency in not adopting the finding of fact contained in the administrative law judge's decision.

Any finding of fact not specifically rejected as required by this subsection shall be deemed accepted for purposes of judicial review of the final decision pursuant to Article 4 of this Chapter.

(b2) For each finding of fact made by the agency that is not contained in the administrative law judge's decision, the agency shall set forth separately and in detail the evidence in the record relied upon by the agency in making the finding of fact. Any new finding of fact made by the agency shall be supported by a preponderance of the admissible evidence in the record. The agency shall not make any new finding of fact that is inconsistent with a finding of fact contained in the administrative law judge's decision unless the finding of fact in the administrative law judge's decision is not adopted as required by subsection (b1) of this section.

(b3) Except as provided in G.S. 150B-34(c), the agency shall adopt the decision of the administrative law judge unless the agency demonstrates that the decision of the administrative law judge is clearly contrary to the preponderance of the admissible evidence in the record. If the agency does not adopt the administrative law judge's decision as its final decision, the agency shall set forth its reasoning for the final decision in light of the findings of fact and conclusions of law in the final decision, including any exercise of discretion by the agency. The agency may consider only the official record prepared pursuant to G.S. 150B-37 in making a final decision A copy of the decision shall be served upon each party personally or by certified mail addressed to the party at the latest address given by the party to the agency, and a copy shall be furnished to his attorney of record and the Office of Administrative Hearings.

(c) The following decisions made by administrative law judges in contested cases are final decisions appealable directly to superior court under Article 4 of this Chapter:

(1) A determination that the Office of Administrative Hearings lacks jurisdiction.

(2) An order entered pursuant to the authority in G.S. 7A-759(e).

(3) An order entered pursuant to a written prehearing motion that either dismisses the contested case for failure of the petitioner to prosecute or grants the relief requested when a party does not comply with procedural requirements.

(4) An order entered pursuant to a prehearing motion to dismiss the contested case in accordance with G.S. 1A-1, Rule 12(b) when the order disposes of all issues in the contested case.

(d) An administrative law judge may grant judgment on the pleadings, pursuant to a motion made in accordance with G.S. 1A-1, Rule 12(c), or summary judgment, pursuant to a motion made in accordance with G.S. 1A-1, Rule 56, that disposes of all issues in the contested case. Notwithstanding subsection (b) of this section, a decision granting a motion for judgment on the pleadings or summary judgment need not include findings of fact or conclusions of law, except as determined by the administrative law judge to be required or allowed by G.S. 1A-1, Rules 12(c) or Rule 56. For any decision by the administrative law judge granting judgment on the pleadings or summary judgment that disposes of all issues in the contested case, the agency shall make a final decision. If the agency does not adopt the administrative law judge's decision, it shall set forth the basis for failing to adopt the decision and shall remand the case to the administrative law judge for hearing. The party aggrieved by the agency's decision shall be entitled to immediate judicial review of the decision under Article 4 of this Chapter.

§ 150B-37. Official record.

(a) In a contested case, the Office of Administrative Hearings shall prepare an official record of the case that includes:

(1) Notices, pleadings, motions, and intermediate rulings;

(2) Questions and offers of proof, objections, and rulings thereon;

(3) Evidence presented;

(4) Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose; and

(5) Repealed by Session Laws 1987, c. 878, s. 25, effective August 14, 1987.

(6) The administrative law judge's decision or order.

(b) Proceedings at which oral evidence is presented shall be recorded, but need not be transcribed unless requested by a party. Each party shall bear the cost of the transcript or part thereof or copy of said transcript or part thereof which said party requests, and said transcript or part thereof shall be added to the official record as an exhibit.

(c) The Office of Administrative Hearings shall forward a copy of the official record to the agency making the final decision and shall forward a copy of the administrative law judge's decision to each party.

Article 3A.
Other Administrative Hearings.

§ 150B-38. Scope; hearing required; notice; venue.

(a) The provisions of this Article shall apply to the following agencies:

(1) Occupational licensing agencies;

(2) The State Banking Commission, the Commissioner of Banks, the Savings Institutions Division of the Department of Commerce, and the Credit Union Division of the Department of Commerce; and

(3) The Department of Insurance and the Commissioner of Insurance.

(4) The Department of Commerce in the administration of the provisions of Part 16 of Article 10 of Chapter 143B of the General Statutes.

(b) Prior to any agency action in a contested case, the agency shall give the parties in the case an opportunity for a hearing without undue delay and notice not less than 15 days before the hearing. Notice to the parties shall include:

(1) A statement of the date, hour, place, and nature of the hearing;

(2) A reference to the particular sections of the statutes and rules involved; and

(3) A short and plain statement of the facts alleged.

(c) Notice shall be given personally or by certified mail. If given by certified mail, notice shall be deemed to have been given on the delivery date appearing on the return receipt. If notice cannot be given personally or by certified mail, then notice shall be given in the manner provided in G.S. 1A-1, Rule 4(j1).

(d) A party who has been served with a notice of hearing may file a written response with the agency. If a written response is filed, a copy of the response must be mailed to all other parties not less than 10 days before the date set for the hearing.

(e) All hearings conducted under this Article shall be open to the public. A hearing conducted by the agency shall be held in the county where the agency maintains its principal office. A hearing conducted for the agency by an administrative law judge requested under G.S. 150B-40 shall be held in a county in this State where any person whose property or rights are the subject matter of the hearing resides. If a different venue would promote the ends of justice or better serve the convenience of witnesses, the agency or the administrative law judge may designate another county. A person whose property or rights are the subject matter of the hearing waives his objection to venue if he proceeds in the hearing.

(f) Any person may petition to become a party by filing with the agency or hearing officer a motion to intervene in the manner provided by G.S. 1A-1, Rule 24. In addition, any person interested in a contested case under this Article may intervene and participate to the extent deemed appropriate by the agency hearing officer.

(g) When contested cases involving a common question of law or fact or multiple proceedings involving the same or related parties are pending before an agency, the agency may order a joint hearing of any matters at issue in the cases, order the cases consolidated, or make other orders to reduce costs or delay in the proceedings.

(h) Every agency shall adopt rules governing the conduct of hearings that are consistent with the provisions of this Article.

§ 150B-39. Depositions; discovery; subpoenas.

(a) A deposition may be used in lieu of other evidence when taken in compliance with the Rules of Civil Procedure, G.S. 1A-1. Parties in a contested case may engage in discovery pursuant to the provisions of the Rules of Civil Procedure, G.S. 1A-1.

(b) Upon a request for an identifiable agency record involving a material fact in a contested case, the agency shall promptly provide the record to a party, unless the record relates solely to the agency's internal procedures or is exempt from disclosure by law.

(c) In preparation for, or in the conduct of, a contested case subpoenas may be issued and served in accordance with G.S. 1A-1, Rule 45. Upon a motion, the agency may quash a subpoena if, upon a hearing, the agency finds that the evidence, the production of which is required, does not relate to a matter in issue, the subpoena does not describe with sufficient particularity the evidence the production of which is required, or for any other reason sufficient in law the subpoena may be quashed. Witness fees shall be paid by the party requesting the subpoena to subpoenaed witnesses in accordance with G.S. 7A-314. However, State officials or employees who are subpoenaed shall not be entitled to any witness fees, but they shall receive their normal salary and they shall not be required to take any annual leave for the witness days. Travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in G.S. 138-6.

§ 150B-40. Conduct of hearing; presiding officer; ex parte communication.

(a) Hearings shall be conducted in a fair and impartial manner. At the hearing, the agency and the parties shall be given an opportunity to present evidence on issues of fact, examine and cross-examine witnesses, including the author of a document prepared by, on behalf of or for the use of the agency and offered into evidence, submit rebuttal evidence, and present arguments on issues of law or policy.

If a party fails to appear in a contested case after he has been given proper notice, the agency may continue the hearing or proceed with the hearing and make its decision in the absence of the party.

(b) Except as provided under subsection (e) of this section, hearings under this Article shall be conducted by a majority of the agency. An agency shall designate one or more of its members to preside at the hearing. If a party files in good faith a timely and sufficient affidavit of the personal bias or other reason for disqualification of any member of the agency, the agency shall determine the matter as a part of the record in the case, and its determination shall be subject to judicial review at the conclusion of the proceeding. If a presiding officer is disqualified or it is impracticable for him to continue the hearing, another presiding officer shall be assigned to continue with the case, except that if assignment of a new presiding officer will cause substantial prejudice to any party, a new hearing shall be held or the case dismissed without prejudice.

(c) The presiding officer may:

(1) Administer oaths and affirmations;
(2) Sign and issue subpoenas in the name of the agency, requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence;
(3) Provide for the taking of testimony by deposition;
(4) Regulate the course of the hearings, set the time and place for continued hearings, and fix the time for filing of briefs and other documents;
(5) Direct the parties to appear and confer to consider simplification of the issues by consent of the parties; and
(6) Apply to any judge of the superior court resident in the district or presiding at a term of court in the county where a hearing is pending for an order to show cause why any person should not be held in contempt of the agency and its processes, and the court shall have the power to impose punishment as for contempt for acts which would constitute direct or indirect contempt if the acts occurred in an action pending in superior court.

(d) Unless required for disposition of an ex parte matter authorized by law, a member of an agency assigned to make a decision or to make findings of fact and conclusions of law in a contested case under this Article shall not communicate, directly or indirectly, in connection with any issue of fact or question of law, with any person or party or his representative, except on notice and opportunity for all parties to participate. This prohibition begins at the time of the notice of hearing. An agency member may communicate with other members of the agency and may have the aid and advice of the agency staff other than the staff which has been or is engaged in investigating or prosecuting functions in connection with the case under consideration or a factually-related case. This section does not apply to an agency employee or party representative with professional training in accounting, actuarial science, economics or financial analysis insofar as the case involves financial practices or conditions.

(e) When a majority of an agency is unable or elects not to hear a contested case, the agency shall apply to the Director of the Office of Administrative Hearings for the designation of an administrative law judge to preside at the hearing of a contested case under this Article. Upon receipt of the application, the Director shall, without undue delay, assign an administrative law judge to hear the case.

The provisions of this Article, rather than the provisions of Article 3, shall govern a contested case in which the agency requests an administrative law judge from the Office of Administrative Hearings.

The administrative law judge assigned to hear a contested case under this Article shall sit in place of the agency and shall have the authority of the presiding officer in a contested case under this Article. The administrative law judge shall make a proposal for decision, which shall contain proposed findings of fact and proposed conclusions of law.

An administrative law judge shall stay any contested case under this Article on motion of an agency which is a party to the contested case, if the agency shows by supporting affidavits that it is engaged in other litigation or administrative proceedings, by whatever name called, with or before a federal agency, and this other litigation or administrative proceedings will determine the position, in whole or in part, of the agency in the contested case. At the conclusion of the other litigation or administrative proceedings, the contested case shall proceed and be determined as expeditiously as possible.

The agency may make its final decision only after the administrative law judge's proposal for decision is served on the parties, and an opportunity is given to each party to file exceptions and proposed findings of fact and to present oral and written arguments to the agency.

§ 150B-41. Evidence; stipulations; official notice.

(a) In all contested cases, irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Except as otherwise provided, the rules of evidence as applied in the trial division of the General Court of Justice shall be followed; but, when evidence is not reasonably available under such rules to show relevant facts, they may be shown by the most reliable and substantial evidence available. It shall not be necessary for a party or his attorney to object to evidence at the hearing in order to preserve the right to object to its consideration by the agency in reaching its decision, or by the court of judicial review.

(b) Evidence in a contested case, including records and documents shall be offered and made a part of the record. Other factual information or evidence shall not be considered in determination of the case, except as permitted under G.S. 150B-30. Documentary evidence may be received in the form of a copy or excerpt or may be incorporated by reference, if the materials so incorporated are available for examination by the parties. Upon timely request, a party shall be given an opportunity to compare the copy with the original if available.

(c) The parties in a contested case under this Article by a stipulation in writing filed with the agency may agree upon any fact involved in the controversy, which stipulation shall be used as evidence at the hearing and be binding on the parties thereto. Parties should agree upon facts when practicable. Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default, or other method agreed upon by the parties.

(d) Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the agency. The noticed fact and its source shall be stated and made known to affected parties at the earliest practicable time, and any party shall on timely request be afforded an opportunity to dispute the noticed fact through submission of evidence and argument. An agency may use its experience, technical competence, and specialized knowledge in the evaluation of evidence presented to it.

§ 150B-42. Final agency decision; official record.

(a) After compliance with the provisions of G.S. 150B-40(e), if applicable, and review of the official record, as defined in subsection (b) of this section, an agency shall make a written final decision or order in a contested case. The decision or order shall include findings of fact and conclusions of law. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit

statement of the underlying facts supporting them. A decision or order shall not be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party to the proceeding and shall be supported by substantial evidence admissible under G.S. 150B-41. A copy of the decision or order shall be served upon each party personally or by certified mail addressed to the party at the latest address given by the party to the agency and a copy shall be furnished to his attorney of record.

(b) An agency shall prepare an official record of a hearing that shall include:

(1) Notices, pleadings, motions, and intermediate rulings;
(2) Questions and offers of proof, objections, and rulings thereon;
(3) Evidence presented;
(4) Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose;
(5) Proposed findings and exceptions; and
(6) Any decision, opinion, order, or report by the officer presiding at the hearing and by the agency.

(c) Proceedings at which oral evidence is presented shall be recorded, but need not be transcribed unless requested by a party. Each party shall bear the cost of the transcript or part thereof or copy of said transcript or part thereof which said party requests.

Article 4.
Judicial Review.

§ 150B-43. Right to judicial review.

Any person who is aggrieved by the final decision in a contested case, and who has exhausted all administrative remedies made available to him by statute or agency rule, is entitled to judicial review of the decision under this Article, unless adequate procedure for judicial review is provided by another statute, in which case the review shall be under such other statute. Nothing in this Chapter shall prevent any person from invoking any judicial remedy available to him under the law to test the validity of any administrative action not made reviewable under this Article.

§ 150B-44. Right to judicial intervention when decision unreasonably delayed.

Unreasonable delay on the part of any agency or administrative law judge in taking any required action shall be justification for any person whose rights, duties, or privileges are adversely affected by such delay to seek a court order compelling action by the agency or administrative law judge. An agency that is subject to Article 3 of this Chapter and is not a board or commission has 60 days from the day it receives the official record in a contested case from the Office of Administrative Hearings to make a final decision in the case. This time limit may be extended by the parties or, for good cause shown, by the agency for an additional period of up to 60 days. An agency that is subject to Article 3 of this Chapter and is a board or commission has 60 days from the day it receives the official record in a contested case from the Office of Administrative Hearings or 60 days after its next regularly scheduled meeting, whichever is longer, to make a final decision in the case. This time limit may be extended by the parties or, for good cause shown, by the agency for an additional period of up to 60 days. If an agency subject to Article 3 of this Chapter has not made a final decision within these time limits, the agency is considered to have adopted the administrative law judge's decision as the agency's final decision. Failure of an agency subject to Article 3A of this Chapter to make a final decision within ~~180~~ 120 days of the close of the contested case hearing is justification for a person whose rights, duties, or privileges are adversely affected by the delay to seek a court order compelling action by the agency or, if the case was heard by an administrative law judge, by the administrative law judge.

§ 150B-45. Procedure for seeking review; waiver.

To obtain judicial review of a final decision under this Article, the person seeking review must file a petition in the Superior Court of Wake County or in the superior court of the county where the person resides.

The person seeking review must file the petition within 30 days after the person is served with a written copy of the decision. A person who fails to file a petition within the required time waives the right to judicial review under this Article. For good cause shown, however, the superior court may accept an untimely petition.

§ 150B-46. Contents of petition; copies served on all parties; intervention.

The petition shall explicitly state what exceptions are taken to the decision or procedure and what relief the petitioner seeks. Within 10 days after the petition is filed with the court, the party seeking the review shall serve copies of the petition by personal service or by certified mail upon all who were parties of record to the administrative proceedings. Names and addresses of such parties shall be furnished to the petitioner by the agency upon request. Any party to the administrative proceeding is a party to the review proceedings unless the party withdraws by notifying the court of the withdrawal and serving the other parties with notice of the withdrawal. Other parties to the proceeding may file a response to the petition within 30 days of service. Parties, including agencies, may state exceptions to the decision or procedure and what relief is sought in the response.

Any person aggrieved may petition to become a party by filing a motion to intervene as provided in G.S. 1A-1, Rule 24.

§ 150B-47. Records filed with clerk of superior court; contents of records; costs.

Within 30 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the agency that made the final decision in the contested case shall transmit to the reviewing court the original or a certified copy of the official record in the contested case under review together with: (i) any exceptions, proposed findings of fact, or written arguments submitted to the agency in accordance with G.S. 150B-36(a); and (ii) the agency's final decision or order. With the permission of the court, the record may be shortened by stipulation of all parties to the review proceedings. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for such additional costs as may be occasioned by the refusal. The court may require or permit

subsequent corrections or additions to the record when deemed desirable.

§ 150B-48. Stay of decision.

At any time before or during the review proceeding, the person aggrieved may apply to the reviewing court for an order staying the operation of the administrative decision pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper and subject to the provisions of G.S. 1A-1, Rule 65.

§ 150B-49. New evidence.

An aggrieved person who files a petition in the superior court may apply to the court to present additional evidence. If the court is satisfied that the evidence is material to the issues, is not merely cumulative, and could not reasonably have been presented at the administrative hearing, the court may remand the case so that additional evidence can be taken. If an administrative law judge did not make a decision in the case, the court shall remand the case to the agency that conducted the administrative hearing. After hearing the evidence, the agency may affirm or modify its previous findings of fact and final decision. If an administrative law judge made a decision in the case, the court shall remand the case to the administrative law judge. After hearing the evidence, the administrative law judge may affirm or modify his previous findings of fact and decision. The administrative law judge shall forward a copy of his decision to the agency that made the final decision, which in turn may affirm or modify its previous findings of fact and final decision. The additional evidence and any affirmation or modification of decision of the administrative law judge or final decision shall be made part of the official record.

§ 150B-50. Review by superior court without jury.

The review by a superior court of agency decisions under this Chapter shall be conducted by the court without a jury.

§ 150B-51. Scope and standard of review.

(a) In reviewing a final decision in a contested case in which an administrative law judge made a recommended decision and the State Personnel Commission made an advisory decision in accordance with G.S. 126-37(b1), the court shall make two initial determinations. First, the court shall determine whether the applicable appointing authority heard new evidence after receiving the recommended decision. If the court determines that the applicable appointing authority heard new evidence, the court shall reverse the decision or remand the case to the applicable appointing authority to enter a decision in accordance with the evidence in the official record. Second, if the applicable appointing authority did not adopt the recommended decision, the court shall determine whether the applicable appointing authority's decision states the specific reasons why the applicable appointing authority did not adopt the recommended decision. If the court determines that the applicable appointing authority did not state specific reasons why it did not adopt a recommended decision, the court shall reverse the decision or remand the case to the applicable appointing authority to enter the specific reasons.

(a1) In reviewing a final decision in a contested case in which an administrative law judge made a decision, in accordance with G.S. 150B-34(a), and the agency adopted the administrative law judge's decision, the court shall determine whether the agency heard new evidence after receiving the decision. If the court determines that the agency heard new evidence, the court shall reverse the decision or remand the case to the agency to enter a decision in accordance with the evidence in the official record. The court shall also determine whether the agency specifically rejected findings of fact contained in the administrative law judge's decision in the manner provided by G.S. 150B-36(b1) and made findings of fact in accordance with G.S. 150B-36(b2). If the court determines that the agency failed to follow the procedure set forth in G.S. 150B-36, the court may take appropriate action under subsection (b) of this section.

(b) Except as provided in subsection (c) of this section, in reviewing a final decision, the court may affirm the decision of the agency or remand the case to the agency or to the administrative law judge for further proceedings. It may also reverse or modify the agency's decision, or adopt the administrative law judge's decision if the substantial rights of the petitioners may have been prejudiced because the agency's findings, inferences, conclusions, or decisions are:

(1) In violation of constitutional provisions;
(2) In excess of the statutory authority or jurisdiction of the agency;
(3) Made upon unlawful procedure;
(4) Affected by other error of law;
(5) Unsupported by substantial evidence admissible under G.S. 150B-29(a), 150B-30, or 150B-31 in view of the entire record as submitted; or
(6) Arbitrary, capricious, or an abuse of discretion.

(c) In reviewing a final decision in a contested case in which an administrative law judge made a decision, in accordance with G.S. 150B-34(a), and the agency does not adopt the administrative law judge's decision, the court shall review the official record, de novo, and shall make findings of fact and conclusions of law. In reviewing the case, the court shall not give deference to any prior decision made in the case and shall not be bound by the findings of fact or the conclusions of law contained in the agency's final decisions. The court shall determine whether the petitioner is entitled to the relief sought in the petition, based upon its review of the official record. The court reviewing a final decision under this subsection may adopt the administrative law judge's decision; may adopt, reverse, or modify the agency's decision; may remand the case to the agency for further explanations under G.S 150B-36(b1), 150B-36(b2), or 150B-36(b3), or reverse or modify the final decision for the agency's failure to provide the explanations; and may take any other action allowed by law.

(d) In reviewing a final agency decision allowing judgment on the pleadings or summary judgment, or in reviewing an agency decision that does not adopt an administrative law judge's decision allowing judgment on the pleadings or summary judgment pursuant to G.S. 150B-36(d), the court may enter any order allowed by G.S. 1A-1, Rule 12(c) or Rule 56. If the order of the court does not fully adjudicate the case, the court shall remand the case to the administrative law judge for such further proceedings as are just.

§ 150B-52. Appeal; stay of court's decision.

A party to a review proceeding in a superior court may appeal to the appellate division from the final judgment of the superior

court as provided in G.S. 7A-27. The scope of review to be applied by the appellate court under this section is the same as it is for other civil cases. In cases reviewed under G.S. 150B-51(c), the court's findings of fact shall be upheld if supported by substantial evidence. Pending the outcome of an appeal, an appealing party may apply to the court that issued the judgment under appeal for a stay of that judgment or a stay of the administrative decision that is the subject of the appeal, as appropriate.

§§ 150B-53 through 150B-57: Reserved for future codification purposes.

Article 5.
Publication of Administrative Rules.

§§ 150B-58 through 150B-64: Repealed by Session Laws 1991, c. 418, s. 5, effective October 1, 1991.

VISITOR REGISTRATION SHEET

Election Law & Campaign Law
Name of Committee

4/4/01
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chris Heagarty	NC Center for Voter Education
Bob Hall	Democracy South
Christy Rutan	NCSU
Amanda Todd	NCSU
Crystal Wooden	NCSU
Brian Sprouse	NCSU
GREG HOFFMAN	NCSU
[illegible]	[illegible]
Dr. Elaine Yarbrough	N.C. State Univ.
DANIEL NIENDORF	NCSU
Jonathan Chase	NCSU
Justin Lane	NCSU
Gary O. Bartlett	SBE
[illegible]	Ch., State Board of Elections
Katherine McLean	SBE
Don Wright	SBOE

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

April 11, 2001
11:00 a.m.
Room 1228 LB

Representative Martha Alexander, Chair

Representative Martin Nesbitt, Presiding

CALL TO ORDER: **Representative Nesbitt**

HB 831 – Election Changes
Representative Alexander

HB 57 - Labeling Campaign Ads – Representative Baker

HB573 – Eliminate Campaign Report Notarization
Representative Allred

STAFF: Bill Gilkeson
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

April 11, 2001

Room 1228
11:00 a.m.

The meeting was called to order by Representative Martin Nesbitt, Vice Chair. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Arnold, Blue, Bonner, Decker, Goodwin, Kiser, Luebke, Rayfield, Starnes, Thompson, Weatherly, and Weiss.

Representative Nesbitt recognized Representative Rex Baker to present HB 57 AN ACT TO PROVIDE REASONABLE AND PRACTICAL REQUIREMENTS FOR THE LABELING OF CAMPAIGN ADS. Representative Luebke moved acceptance of the Committee Substitute for discussion. Handouts of type-size were distributed, and discussion followed about basic disclosure and Stand By Your Ads laws. Representative Blue put forth an amendment absolving radio and television stations of additional liability if ads fail to include proper disclosure requirements and changing the title to reflect that language. The amendment passed. Representative Michaux moved to roll the amendment into a committee substitute and for a favorable report of the committee substitute, unfavorable as to the original bill. The motion passed.

Representative Alexander was recognized to present HB 831 AN ACT TO MAKE CHANGES IN THE ADMINISTRATION OF ELECTIONS and moved accepting the Committee Substitute for discussion. The bill would create the process by which the State Board of Elections could initiate proceedings to terminate a county elections director and grant the Executive Director the authority to suspend the county elections director in an emergency situation. Currently, only the county board has that authority to file a petition with the Executive Director. Also the State Board would provide four weeks of training for directors and for certification of election officials. A polling place would be allowed outsides a precinct. A pilot program allowing two polling places in one precinct would be instituted. The one stop voting period would be shortened, and electronic transfer of registration from the Department of Motor Vehicles put in place. Write in candidates for Superior Court judges would have to declare their candidacy. The bill clarifies that forfeited illegal campaign funds would go to the school fund rather that the general fund. The bill would change the title of the "Executive Secretary Director of the State Board of Elections" to "Executive Director." Johnnie McLean, Deputy Director for Administration of the State Board of Election was presented to speak on the bill. She said that changes in the laws have made voting easier for the voter and the Boards of Elections. Representative Starnes questioned assigning voters to one of two polling places within a precinct. Ms. McLean said that assigning would keep a voter from voting in two places. In some instances a precinct cannot be divided when it becomes too large. Changes in a polling place must be posted 45 days

prior to an election, and chairmen of political parties within a county must be notified. The State BOE also mails notices to voters. Representative Kiser questioned whether there would be two sets of books, and a voter could vote twice undetected. Ms. McLean said each polling place would have a book recording the voters assigned to that location.

Representative Arnold asked why termination powers were being given to the State Board, not the County Board of Elections. Representative Alexander responded that it is in response to previous problems that needed a quick resolve. The county board could still terminate. This is in addition if the county board would not decide. There was discussion about the requirement for majority votes, not unanimous vote. Representative Decker asked about the suspension power and cause. After discussion, Ms. Churchill, staff attorney, said that suspension authority lies at the Director at the state level and is for a period of up to five days in an emergency situation. Further action by the county board or state board could lead to termination. There is no political cause of action. Don Wright, General Counsel for the State Board of Elections, said that the necessity to remove a person from office is to protect the integrity of voting/registration records and access to computers. No vote was taken.

The next meeting will be held on April 12 at 1:00.

The meeting was adjourned at 12:00.

Representative Martin Nesbitt, Vice Chair

Ann Faust, Committee Assistant

HOUSE BILL 57:
Labeling Campaign Ads

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Baker
Date:	April 11, 2001	**Summary by:**	William R. Gilkeson Committee Counsel
Version:	First Edition		

SUMMARY: ***House Bill 57 would make 2 changes in the statute that requires labeling of campaign ads: It would create an exception to the requirement that the required disclosure statement on a print ad must be at least 5% of its height. And instead of requiring that the disclosure statement on a radio ad must last 3 seconds, it would require that it be spoken at a normal rate.***

CURRENT LAW: North Carolina statutes require that a campaign ad for or against a candidate's election must contain a disclosure statement. The simplest statement required is "Paid for by [the sponsor]." But for some ads, more information in the statement is required. *G.S. 163-278.39(a).*

For ads in the "print media," the height of the disclosure statement must constitute at least 5% of the height of the printed space of the ad. The statement, however, may be no smaller than 12 point type. *G.S. 163-278.39(b).* ***(The body type of this summary is 12 point.)*** The law defines "print media" as billboards, cards, newspapers, newspaper inserts, magazines, mass mailings (more than 500 pieces), pamphlets, fliers, periodicals, and outdoor advertising facilities. *G.S. 163-278.39B(7).*

For radio ads, the disclosure statement must, of course, be oral. The law requires that the statement last at least 3 seconds. *G.S. 163-278.39(b).*

BILL ANALYSIS: House Bill 57 would make two changes:

1. For print media ads, it would leave in place the general rule that the disclosure statement must be at least 5% of the height of the printed space of the ad. But it would add the proviso that if the type of the statement is at least 28 points, it need not meet the 5% requirement except on a billboard.

This sentence is printed in 28 point type.

2. For radio ads, it would change the 3-second minimum time for the statement, and replace it with the requirement that the statement "be spoken at a normal speed."

BACKGROUND: The 5% rule and the 3-second rule were enacted in 1999 in the same bill that established "Stand by Your Ad," the requirement that sponsors of campaign ads must make a personal appearance in radio or TV ads and claim responsibility for them. House Bill 57 does not disturb Stand by Your Ad.

EFFECTIVE DATE: The bill is effective when it becomes law.

A

PRIMER

on

Media Advertisement

DISCLOSURE

For Candidates,
Parties,
PACS,
And Other Sponsors

Published for 2000 Elections

Campaign Reporting Office
State Board of Elections

Basic Disclosure for Media Advertisements

Pages
Evidence of Political Advertisements.....3
Definitions.....3-4
Basic Disclosure for Print, Radio ,TV.....5
Examples
Print, Radio, TV Ads.....6-9

Expanded Disclosure for Radio and TV Ads

Pages
Expanded Disclosure for Radio, TV.....10
Examples
Radio and TV Ads.....11-12
Legal Remedy after Compliance
Remedy Explained.....13
Form
Notice of Complaint.....14

Evidence that communications are to "support or oppose the nomination or election of one or more clearly identified candidates." N.C.G.S. 163-278.14A

The following are means of proving that an act was "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.

A communication shall not be subject to regulation as a contribution or expenditure if it:

(1) Appears in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, or magazine, unless those facilities are owned or controlled by an political party, or political committee;
(2) Is distributed by a corporation solely to its stockholders and employees; or
(3) Is distributed by any organization, association, or labor union solely to its members or is made available to individuals in response to their request, including through the Internet.

Disclosure Requirements for Media Advertisements N.C.G.S. 163-278 §§ 39, 39A, 39B, and 39C

The new law is made up of two parts, definitions, and the scope of disclosure requirements: the first part is basic requirements for all media advertisements; the second part is expanded disclosure requirements for television and radio advertisements.

Definitions

"Advertisement" means any message appearing in the print media, on television, or on radio that constitutes a contribution or expenditure under the Campaign Reporting Act.

"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.

"Radio" means any radio broadcast station that is subject to the provisions of 47 U.S.C §§ 315 and 317.

"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 §§ 315 and 317.

"Scan line" means a standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.

"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.

"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.

"Sponsor" means a candidate, candidate committee, political party organization, political action committee, referendum committee, individual, or other entity that purchases an advertisement.

"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.

"Candidate campaign committee" means any political committee organized by or under the direction of a candidate.

" 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.

"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.

Basic Disclosure Print, Radio,TV

- Every advertisement appearing in the print media, on television or on radio that constitutes a contribution or expenditure under the Campaign Reporting Act must state who paid for the ad. TV ads require a visual legend.

- The name that is used in saying who paid for an ad must be the formal name. The name that appears on the statement of organization filed with the Board of Elections when the committee was formed.

- The "sponsor" must clearly state in the ad their position for or against a candidate.

- A sponsor must state whether or not an ad is authorized by a candidate if the ad is not paid for by the candidate or the candidate's committee and the ad supports or opposes a candidate. If the ad is not authorized by the candidate or the candidate's committee, the sponsor must say so.

- **If the sponsor of the advertisement is the candidate the ad supports or that candidate's campaign committee an authorization statement is not required.**

- If an ad identifies a candidate the sponsor is opposing the sponsor must also disclose in the ad, the name of the candidate who is intended to benefit from the advertisement.

- This also applies if the sponsor of the ad coordinated or consults with the candidate who is intended to benefit.

- If an ad is jointly sponsored, the disclosure statement must name all the sponsors.

- In a print media ad, the height of all disclosure statements must constitute at least 5% of the height of the printed space on the ad, provided that the type shall be at lease 12 points in size. (This is 12 points in size.)

- In a television ad the visual disclosure legend must constitute 32 scan lines in size.

- In a radio ad the disclosure statement shall last at least three seconds.

- In television and radio ads the candidate must speak the disclosure statement.

- **The candidate must speak the disclosure statement only when the advertisement mentions the name of, shows the picture of, transmits the voice of, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate.**

- Political party advertisements must include a disclosure statement spoken by the chair, executive director, or treasurer of the party organization.

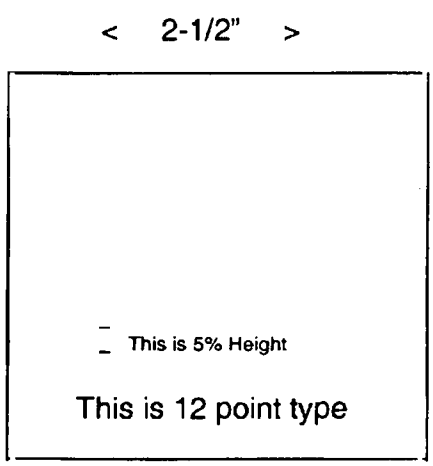
- The same disclosure must be included when the sponsor is a political action committee, individual, or any sponsor.

- Misrepresentation of sponsorship or authorization is a Class 1 misdemeanor.

MEDIA EXAMPLES

BASIC REQUIREMENT EXAMPLES FOR PRINT MEDIA, OR RADIO, OR TV ADS

Print Media



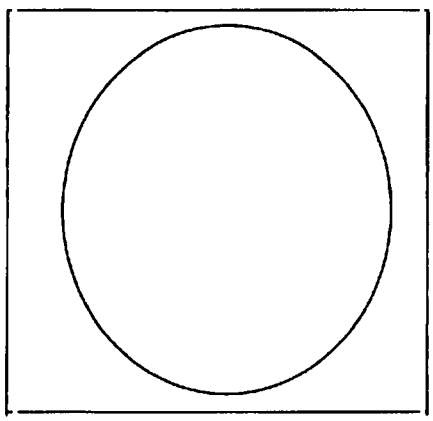
Disclosure must appear only once if more than one page, fold or face in the ad.

Disclosure or sponsorship must be at least 5% of the height of the ad.

Disclosure statement must be at least 12 point type.

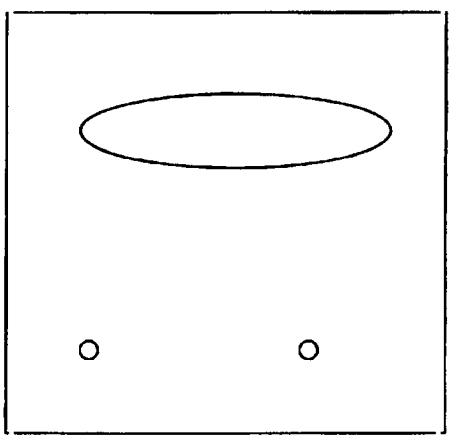
Or, whichever is greater.

Television



Disclosure statement must be 32 scan lines.

Radio



Disclosure must last at least 3-seconds.

ADVERTISEMENTS THAT SUPPORT CANDIDATES

Ads must clearly state whether ad supports or opposes candidate named.

Campaign Sponsored

Vote for
John Smith
for Governor

Paid for by Smith for Gov Campaign

Political ads must have disclosure stating who paid for the ad.

PAC Sponsored

Vote for
John Smith
For Governor

Paid for by ABC Corp.
Good Govt Committee

Political ads must have disclosure stating who paid for the ad and list the same name shown on Organizational Statement of Committee

Party Sponsored

Vote for
John Smith
For Governor

Paid for by NC Republican Party

Political ads must have disclosure stating who paid for the ad and list the same name shown on Organizational Statement of Committee.

Individual Sponsored

Vote for
John Smith
For Governor

Paid for by Jack Jones

Political ads must have disclosure stating who paid for the ad.

Joint Sponsored

Vote for
John Smith
for Governor

Paid for by Jack Jones
and James Brown

Political Ads must have disclosure stating who paid for the ad listing each when paid for by more than one individual or person.

OPPOSING ADVERTISEMENTS NOT COORDINATED WITH CANDIDATE

Ads must clearly state whether ad supports or opposes candidate named. Also, requires who is being supported if arrangements for ad are coordinated with the candidate or the candidate's campaign.

Campaign Sponsored

Don't Vote
for John Smith
for Governor

Paid for by the Mary Jones Campaign
Supporting Mary Jones for Governor

Campaign Ads must have disclosure stating who paid for the ad and the candidate the sponsor supports.

PAC Sponsored

Don't Vote
For John Smith
For Governor

Paid for by CBS Corp. Good Govt
Supporting John Smith for Governor

PAC ads must have disclosure stating who paid for the ad and who the sponsor supports, and list the PAC name shown on the Statement of Organization.

Party Sponsored

Don't Vote
for John Smith
For Governor

Paid for by NC Democratic Party

Party ads must have disclosure stating who paid for the ad and who the sponsor supports, and list the Party name shown on the Statement Of Organization.

Individual Sponsored

Don't Vote for
John Smith
for Governor

Paid for by Susie Brown

Individual ads must have disclosure stating who paid for the ad and who the sponsor supports.

Joint Sponsored

Vote for
John Smith
for Governor

Paid for by Jack Jones
And James Brown

Political Ads must have disclosure stating who paid for the ad listing each when paid for by more than one individual or person.

OPPOSING ADVERTISEMENTS COORDINATED WITH CANDIDATE

Ads must clearly state whether ad supports or opposes candidate named. If coordinated must state "Authorized by (name of candidate), candidate for (name of office."

Campaign Sponsored

Don't Vote for John Smith for Governor Paid for by the Mary Jones Campaign	Campaign Ads must have disclosure stating who paid for the ad and the candidate the sponsor supports.

PAC Sponsored

Don't Vote For John Smith For Governor Paid for by CBS Corp. Good Govt Authorized by Mary Jones for Governor	PAC ads must have disclosure stating who paid for the ad, list the PAC name shown on the Statement of Organization. If coordinated, must state "Authorized by (name of candidate), candidate for (name of office)"

Party Sponsored

Don't Vote John Smith For Governor Paid for by NC Democratic Party Authorized by Mary Jones for Governor	Party ads must have disclosure stating who paid for the ad, list the Party name shown on the Statement of Organization. If coordinated, must state "Authorized by (name of candidate), candidate For (name of office)."

Individual Sponsored

Don't Vote for John Smith for Governor Paid for by Susie Brown Authorized by Mary Jones for Governor	Individual ads must have disclosure stating who paid for the ad and who the sponsor supports.If coordinated, must state "Authorized by (name of candidate), candidate for (name of office)."

Joint Sponsored

Don't Vote for John Smith for Governor Paid for by Jack Jones and James Brown Authorized by Mary Jones for Governor	Political ads must have disclosure stating who paid for the ad, listing each when more than one individual pay. "Authorized by (name of candidate), candidate for (name of office)."

EXPANDED DISCLOSURE FOR RADIO AND TELEVISION

In addition to the basic disclosure requirements, RADIO/TV advertisements must abide by the following requirements.

The candidate must speak the disclosure statement, "I am _____candidate for _____office, and I (or my campaign) sponsored this ad." This required only when the advertisement mentions the name of, shows the picture of, transmits the voice of, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate.

Political party advertisements must include a disclosure statement spoken by the chair, executive director, or treasurer of the party organization. "The _____Party organization sponsored this ad opposing/supporting _____candidate for_____office." The party name shall be as it appears on the ballot.

Political action committee advertisements must include a disclosure statement spoken by the chief executive officer or treasurer of the political action committee. "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.

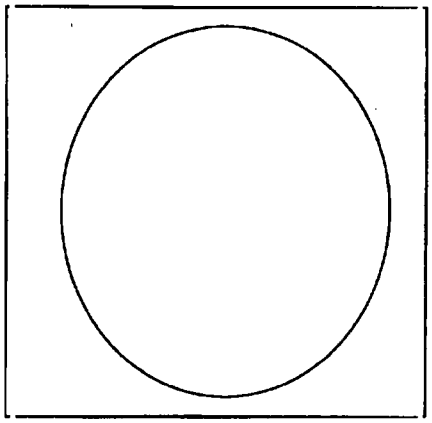
Advertisements on television purchased by an individual supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the individual and containing at lest the following words: "I am (individual's name) and I sponsored this advertisement opposing/supporting (name of candidate) for (name of office).

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 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.

The television advertisements described above require an unobscured, full-screen picture containing the disclosing individual, either in photographic form or through the actual appearance of the disclosing individual on camera, that is featured throughout the duration of the disclosure statement.

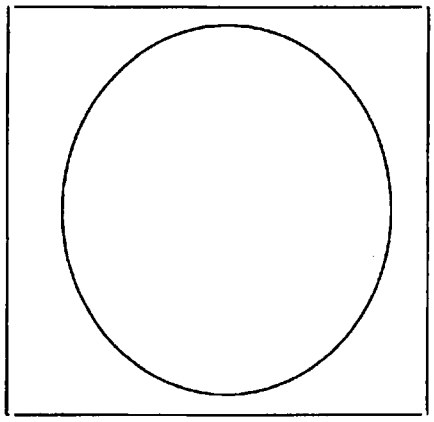
Placement of Disclosure Statement in Television and Radio Advertisements-
The disclosure may be at any point during a TV advertisement, except if the duration of the advertisement is more than five minutes, the disclosure statement shall be made both at the beginning and end of the advertisement. The oral disclosure may be provided at the same time as the visual disclosure required by FCC is shown, provided the visual disclosure legend must be at least 32 scan lines in size. For radio ads, the placement of the oral disclosure statement shall comply with FCC requirements.

Television



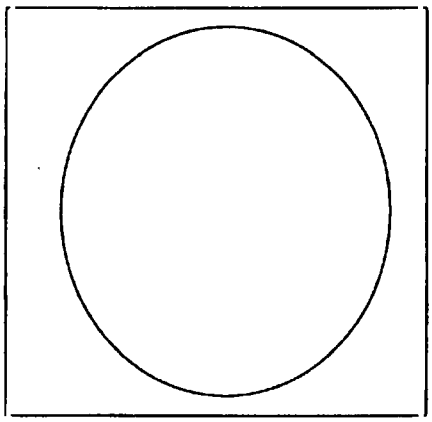
Disclosure statement must be 32 scan lines. Person making the disclosure statement must appear in a full-screen image, using either a photograph or actual appearance. This picture must be seen throughout the disclosure.

Television



A sponsoring candidate must disclose her/his Name and office for which she/he is running for any ad paid for by the candidate or the candidate's committee in which an opposing candidate for the same office is mentioned, heard, seen or otherwise referred to.

Television

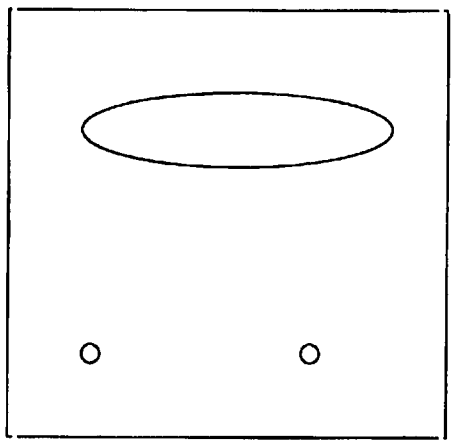


A sponsor may place the disclosure statement at anytime during the ad, except if the duration of the ad is more than 5 minutes, the statement shall be made both at the beginning and end of the advertisement. Placement of the visual disclosure must comply with the Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

EXPANDED DISCLOSURE FOR RADIO

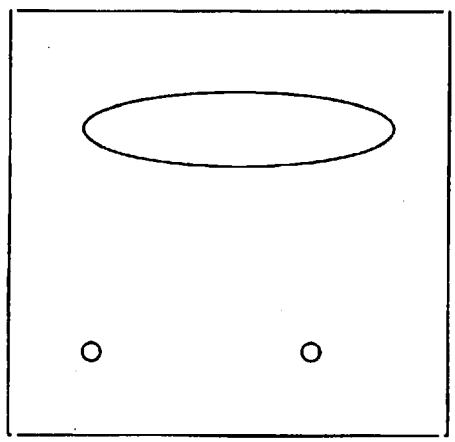
In addition to the basic disclosure requirements, radio advertisements must abide by the following requirements.

Radio



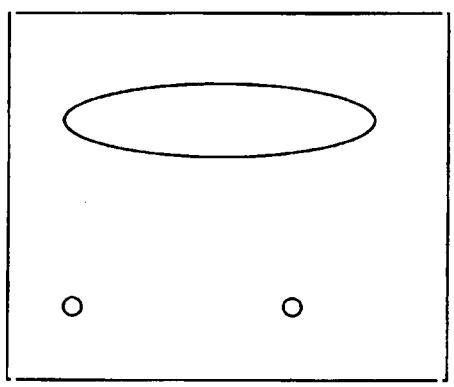
Disclosure is verbal and must last at least 3 –seconds.

Radio



A sponsoring candidate must disclose her/his name and office for which she/he Is running for any ad paid for by the candidate or the candidate's committee In which an opposing candidate for the Same office is mentioned, heard, seen or or otherwise referred to.

Radio



A sponsor may place the disclosure statement at any time during the ad, except if the duration of the ad is more than 5 minutes, the statement shall be made both at the beginning and end of the advertisement. Placement of the oral disclosure must comply with the Communi-cations Act of 1934, 47 U.S.C. §§ 315 and 317.

LEGAL REMEDY FOR NONCOMPLIANT RADIO, TV ADS

A candidate who complies throughout the entire campaign has a monetary remedy in a civil action against an opposing candidate or candidate committee whose television or radio ad violates the disclosure requirements or against any political party or pac, individual, or sponsor whose ad for that office violates the requirements

The plaintiff candidate files a *Notice of Complaint Regarding Failure to Disclose on Television or Radio Campaign Advertising* with the appropriate Board of Elections after the airing of the ad but no later than the first Friday after the Tuesday on which the election occurred.

Statewide candidates file at the State Board of Elections and nonstatewide candidates file at a county board of elections in the electoral district 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 within90 days after the election. The civil action will be brought in the county where the candidate filed the notice.

A favorable verdict receives a monetary award of actual damages. Actual damages is calculated as the total dollar amount of television and radio advertising time that was aired and that has been correctly identified as being in violation of the disclosure requirements.

The award trebles if:

The plaintiff candidate can establish having notified or attempted to notify the sponsor of the ad by return-receipt mail about the failure of an ad or ads to comply with the disclosure requirements, and if after the notice or attempted notice, the ad continued to be aired.

Nothing in these requirements creates any criminal liability for any person.

_____Board of Elections

_____Date Received

_____Time Received

NOTICE OF COMPLAINT

Failure to Disclose on Television or Radio Campaign Advertising

Plaintiff Candidate filing this form:_____

Address: _____

_____

Telephone:_____

Date of Filing:_____

Name of candidate or group who sponsored advertisement that is in violation: _____

_____

Describe the advertisement that is in violation:_____

_____

_____

_____

When did you see or hear the advertisement?_____

_____

Was this a statewide wave or electoral area? _____

Has defendant been given notice of complaint?_____

When and how was defendant given notice of complaint?_____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 57 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Blue
Sen.)

moves to amend the bill on page 1, line 17

( ) WHICH CHANGES THE TITLE

by inserting after that line the following:

"Section 2. G.S. 163-278.39A(b) reads as rewritten:

"(b) No Additional Liability of Television or Radio Outlets. — Television or radio outlets shall not be liable under ~~this section~~ Part for carriage of political advertisements that fail to include the disclosure requirements provided for in the ~~section~~ Part."; and

on p. 1, line 3

by inserting after "AD" the language "AND TO CLARIFY MEDIA LIABILITY."; and

by renumbering any subsequent sections.

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

HOUSE BILL 831: Election Changes.

BILL ANALYSIS

Committee:	House Election Laws and Campaign Finance Reform	**Introduced by:**	Representative Alexander
Date:	April 11, 2001	**Summary by:**	R. Erika Churchill and William R. Gilkeson
Version:	H831-CSST-12 v.1		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 831 would make miscellaneous changes to the election laws relating to the administration of elections.***

BILL ANALYSIS: The changes, and the current law are listed below, organized by basic category.

1. **County Directors of Election.**
   a. **Termination.** The bill would establish a process by which the State Board of Elections could initiate proceedings to terminate a county election director. As part of that process, the bill would grant the Executive Director the authority to suspend a county election director in an emergency situation. CURRENTLY, only the county board of elections may initiate the removal of a county director. The county board must file a petition with the Executive Director, who makes the determination for termination. Effective January 1, 2002.
   b. **Training and Certification.** The bill would codify a requirement that the State Board of Elections provide 4 weeks of training for new county directors. In addition, a new county director hired after May 1995 would have to complete the State Board of Elections certification program within 3 years of employment. CURRENTLY, the State Board offers the training and certification program, and most new directors attend. However, it is not required. Effective January 1, 2002.
2. **Certification of election officials.** The bill would make statutory the State Board's current program of Certification of election officials. Effective when it becomes law.
3. **Polling places outside a precinct.** The bill would remove a sunset from a 1999 statute allowing the State Board to approve a polling place outside a precinct. The law will expire January 1, 2002 absent action. Effective when it becomes law.
4. **3-County Pilot Program.** The bill would make a pilot program allowing the State Board to approve the temporary use of 2 polling places per precinct applicable statewide. The bill would require a county to submit a proposal to the Executive Director setting forth its request to have an additional polling place in a precinct and receive approval from the Executive Director prior to opening a second polling place. The bill would also remove the sunset on the pilot program. Effective when it becomes law.
5. **Early Voting.** The bill would shorten the one-stop (early voting) period from 3 to 2 weeks by eliminating the first week, and allowing the State Board to authorize a county board not to conduct early voting at the county board office if other sites provide adequate coverage. The bill would also make it possible for county board's to conduct early voting on two Saturdays during the shortened early voting period. Effective January 1, 2002.
6. **Voter Registration Applications.** The bill would provide for the automatic electronic transfer of voter registration applications from the Department of Motor Vehicles (DMV) to county elections boards. CURRENTLY, the DMV transfers paper documents to the county boards of elections periodically. Effective January 1, 2002.
7. **Voter Registration Updates.** The bill would make statutory the current federally approved practice for updating voter registration lists. CURRENTLY, the federally approved practice is to send a notice to every

voter not otherwise heard from after each congressional election and, if the voter does not respond, dropping the voter from the books after 2 additional congressional elections. Effective when it becomes law.

8. **Write-In Candidacy.** The bill would require write-in candidates for Superior Court judge to declare their candidacy in accordance with G.S. 163-123. The candidate must file a declaration of intent and a petition signed by qualified voters prior to the general election if the candidate wishes to have write-in votes counted. CURRENTLY, the office of Superior Court Judge is excluded from this provision. Effective when it becomes law.
9. **Fines and Forfeitures.** The bill would clarify that forfeited illegal campaign contributions go to the school fund rather than the general fund. Effective when it becomes law.
10. **Title Change.** The bill would change the title of the Executive Secretary-Director of the State Board of Elections to "Executive Director." Effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 831
PROPOSED COMMITTEE SUBSTITUTE H831-CSST-12 [v.3]

4/11/2001 9:49:33 AM

Short Title: Election Changes. (Public)

Sponsors:

Referred to:

March 28, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES IN THE ADMINISTRATION OF ELECTIONS.

The General Assembly of North Carolina enacts:

--CHANGES CONCERNING COUNTY ELECTION DIRECTORS.

SECTION 1.(a) G.S. 163-35(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Secretary-Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Secretary-Director of the State Board of Elections the termination of the employment of the county board's director of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Secretary-Director shall forward a copy of ~~same~~ the petition by certified mail, return receipt requested, to the county director of elections involved. The county director of elections may reply to ~~said~~ the petition within 15 days of receipt thereof. Within 20 days of receipt of the county director of elections' reply or the expiration of the time period allowed for the filing of ~~said~~ the reply, the State Executive Secretary-Director shall render a decision as to the termination or retention of the county director of elections. The decision of the Executive Secretary-Director of the State Board of Elections shall be final unless ~~such~~ the decision ~~shall,~~ is, within 20 days from the official date on which it was made, ~~be~~ deferred by the State Board of ~~Elections,~~ Elections. ~~in which event a public hearing shall be conducted by State Board or any single member designated by the remaining four members, in the county seat of the~~

~~county involved. Following the conduct of public hearing and a decision by the State Board of Elections, the chairman of said Board shall notify the Executive Secretary-Director of the State Board of Elections, in writing, of the decision resulting from the public hearing.~~ If the State Board defers the decision, then the State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard and to present witnesses and information to the State Board, and then notify the Executive Secretary-Director of its decision in writing. If the decision, rendered by the State Board of Elections, results in concurrence with the decision entered by the Executive Secretary-Director, the decision becomes final. If the decision rendered by the Board is contrary to that entered by the Executive Secretary-Director, then the Executive Secretary-Director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board of Elections. ~~The employment of any director of elections presently employed or hereafter employed shall not be terminated except in compliance with the procedures herein prescribed. For the purposes of this subsection the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23.~~

Upon majority vote on the recommendation of the Executive Secretary-Director, the State Board of Elections may initiate proceedings for the termination of a county director of elections for just cause. If the State Board votes to initiate proceedings for termination, the State Board shall state the reasons for the termination in writing and send a copy by certified mail, return receipt requested, to the county director of elections. The director has 15 days to reply in writing to the notice. The State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard, present witnesses and information to the State Board.

A county director of elections may be suspended, with pay, without warning for causes relating to personal conduct detrimental to service to the county or to the State Board of Elections, pending the giving of written reasons, in order to avoid the undue disruption of work or to protect the safety of persons or property or for other serious reasons. Any suspension may be initiated by the Executive Secretary-Director but may not be for more than 5 days. Upon placing a county director of elections on suspension, the Executive Secretary-Director shall as soon as possible reduce to writing the reasons for the suspension and forward copies to the county director of elections, the members of county board of elections, and the State Board of Elections. If no action for termination has been taken within 5 days, the county director of elections shall be fully reinstated.

Termination of any county director of elections shall comply with this subsection. For the purposes of this subsection the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23."

SECTION 1.(b) G.S. 163-35 is amended by adding a new subsection to read:

"(e) Training and Certification. – The State Board of Elections shall conduct a training program consisting of four weeks for each new county director of elections. The director shall complete that program. Each director appointed after May 1995 shall successfully complete a certification program as provided in G.S. 163-82.24(b) within three years after appointment or by January 1, 2003, whichever occurs later."

SECTION 1.(c) This section becomes effective January 1, 2002.

--CERTIFICATION OF ELECTION OFFICIALS.

SECTION 2.(a) G.S. 163-82.24 reads as rewritten:

"**§ 163-82.24. Statewide training and certification for election officials.**

(a) Training. -- The State Board of Elections shall conduct training programs in election law and procedures. Every county elections director shall receive training conducted by the State Board at least as often as required in the following schedule:

(1) Once during each odd-numbered year before the municipal election held in the county;

(2) Once during each even-numbered year before the first partisan primary; and

(3) Once during each even-numbered year after the partisan primaries but before the general election.

Every member of a county board of elections shall receive training conducted by the State Board at least once during the six months after the member's initial appointment and at least once again during the first two years of the member's service. The State Board of Elections shall promulgate rules for the training of precinct officials, which shall be followed by the county boards of elections.

(b) Certification. – The State Board of Elections shall conduct a program for certification of election officials. The program shall include training in election law and procedures. Before issuing certification to an election official, the State Board shall administer an examination designed to determine the proficiency of the official in election law and procedures. The State Board shall set adequate standards for the passage of the examination."

SECTION 2.(b) This section is effective when this act becomes law.

--REMOVE SUNSET FROM OUT-OF-PRECINCT VOTING PLACE PROVISION.

SECTION 3.(a) Section 3(b) of S.L. 1999-426 reads as rewritten:

"Section 3.(b) This section is effective when this act becomes ~~law and expires January 1, 2002.~~ law."

SECTION 3.(b) This section is effective when this act becomes law.

--REMOVE SUNSET AND 3-COUNTY PILOT LIMITATION FROM 2-VOTING-PLACE-PER-PRECINCT PROVISION.

SECTION 4.(a) G.S. 163-130.2 reads as rewritten:

"**§ 163-130.2. Temporary use of two voting places for certain ~~precincts; pilot program.~~ precincts.**

A county board of elections, by unanimous vote of all its members, may propose to designate two voting places to be used temporarily for the same precinct. The temporary designation of a voting place shall continue only for the term of office of the county board of elections making the designation. For any precinct that is temporarily given two voting places, the county board shall assign every voter to one or the other of those voting places.

The county board's proposal is subject to approval by the Executive Secretary-Director of the State Board of Elections. The county board shall submit its proposal in writing to the Executive Secretary-Director. ~~The Executive Secretary-Director may approve a proposal under this section in not more than three counties, to be a pilot program.~~ The Executive Secretary-Director shall approve that proposal only if it finds all of the following:

(1) That the precinct has more registered voters than can adequately be accommodated by any single potential voting place available for the precinct.

(2) That no boundary line that complies with Article 12A of this Chapter can be identified that adequately divides the precinct.

(3) That the county board can account for, by street address number, the location of every registered voter in the precinct and fix that voter's residence with certainty on a map.

(4) That no more than three other precincts in the same county will have two voting places.

(5) That both voting places for the precinct would have adequate facilities for the elderly and disabled.

(6) That the proposal provides adequately for security against fraud.

(7) That the proposal does not unfairly favor or disfavor voters with regard to race or party affiliation.

The county board shall designate a full set of precinct officials, in the manner set forth in Article 5 of this Chapter, for each voting place designated for the precinct."

SECTION 4.(b) Section 4(b) of S.L. 1999-426 reads as rewritten:

"Section 4.(b) This section becomes effective January 2, ~~2000, and expires January 2, 2002.~~ 2000. The Executive Secretary-Director of the State Board of Elections shall study the operation and consequences of the pilot program created by this section and report findings and recommendations to the 2001 General Assembly by February 1, 2001."

SECTION 4.(c) This section is effective when this act becomes law.

--CHANGES CONCERNING ONE-STOP VOTING.

SECTION 5.(a) G.S. 163-227.2(b) reads as rewritten:

"(b) Not earlier than the first ~~business~~ day after the ~~twenty-fifth~~ eighteenth day before an election, in which absentee ballots are authorized, in which 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, except as provided

in subsection ~~(f1)~~ (g) 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 authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person."

SECTION 5.(b) G.S. 163-227.2(g) reads as rewritten:

"(g) 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. By unanimous vote of all its members, a county board of elections may propose in its Plan not to offer one-stop voting at the county board of elections office but to rely exclusively on the other sites; the State Board shall approve that proposal in a Plan only if it finds that the other sites provide adequate coverage of the county's electorate. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board of Elections to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board of Elections may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county."

SECTION 5.(c) This section becomes effective January 1, 2002.

--ELECTRONIC TRANSFER OF DMV REGISTRATIONS.

SECTION 6.(a) G.S. 163-82.19 reads as rewritten:

"**§ 163-82.19. Voter registration at drivers license offices.**

The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate county board of elections."

SECTION 6.(b) This section becomes effective January 1, 2002.

--UPDATING OF VOTER REGISTRATION LIST-MAINTENANCE PROVISION TO REFLECT CURRENT FEDERALLY APPROVED PRACTICE.

SECTION 7.(a) G.S. 163-82.14(d) reads as rewritten:

"(d) Change of Address. – A county board of elections shall conduct a systematic program to remove from its list of registered voters those who have moved out of the

county, and to update the registration records of persons who have moved within the county. The county board shall remove a person from its list if the registrant:

(1) Gives confirmation in writing of a change of address for voting purposes out of the county. "Confirmation in writing" for purposes of this subdivision shall include:

a. A report to the county board from the Department of Transportation or from a voter registration agency listed in G.S. 163-82.20 that the voter has reported a change of address for voting purposes outside the county;

b. A notice of cancellation received under G.S. 163-82.9; or

c. A notice of cancellation received from an election jurisdiction outside the State.

(2) Fails to respond to a confirmation mailing sent by the county board in accordance with this subdivision and does not vote or appear to vote in an election beginning on the date of the notice and ending on the day after the date of the second general election for the United States House of Representatives that occurs after the date of the notice. A county board sends a confirmation notice in accordance with this subdivision if the notice:

a. Is a postage prepaid and preaddressed return card, sent by forwardable mail, on which the registrant may state current address;

b. Contains or is accompanied by a notice to the effect that if the registrant did not change residence but remained in the county, the registrant should return the card not later than the deadline for registration by mail in G.S. 163-82.6(c)(1); and

c. Contains or is accompanied by information as to how the registrant may continue to be eligible to vote if the registrant has moved outside the county.

A county board shall send a confirmation mailing in accordance with this subdivision ~~if the~~ to every registrant ~~remains on the list, the registrant has not voted in two successive presidential elections or in any election in between, and~~ after every congressional election if the county board has not confirmed the registrant's address by another means. ~~The county board may send a confirmation mailing in accordance with this subdivision if the registrant has been identified as residing outside the county through change-of-address information supplied by the Postal Service through its licensees.~~"

SECTION 7.(b) This section is effective when this act becomes law.

--APPLYING WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS.

SECTION 8.(a) G.S. 163-123(g) reads as rewritten:

"(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan ~~elections.~~elections except for superior court judge elections under Article 25 of this Chapter."

SECTION 8.(b) This section is effective when this act becomes law.

--CORRECTING REFERENCE TO FUND FOR RETURNING ILLEGAL CONTRIBUTIONS.

SECTION 9.(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 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~~ Civil Penalty and Forfeiture Fund of the State of North Carolina."

SECTION 9.(b) This section is effective when this act becomes law.

SECTION 10. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SECTION 11. The Reviser of Statutes shall change the term "Executive Secretary-Director" and the term "State Executive Secretary-Director" to "Executive Director" wherever it appears in the General Statutes.

SECTION 12. Except as otherwise provided in each section, this act is effective when it becomes law.

VISITOR REGISTRATION SHEET

Election LAWS & CAMPAIGN FINANCE Reform 4/11/01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kim Harrell	Comm on Cancer/NC
Nat Mund	Consumer Council of NC
Tom Coley	CWA
Doris Treaver	NC CWA Political Council
GLENN LAMM	UNITED TRANSPORTATION UNION
Charles Cromer	NCATL
[illegible]	[illegible]
Katherine McLean	SBE
Dan Wright	SBOE
MICHAEL CROWELL	LAWYER, RALEIGH
[illegible]	
Vernell C Thomas	Henrys Body Shop
William R Currin	Suburban Body Shop
Gary Capps	BPMHL
Hal Miller	NCACCT
Mike Okun	NC SCHAFL-CIO
Bill Wilson	NCATL
Beth Melcher	NAMI NC
Melissa Suarez	CJ
Jack Cozart	Parker Poe
Joe/Jack	NC House
Insurance Monitor	
Lynn Jarman	visitor
Ann Mackney	visitor
JAY & MARY Rivers	Diamond's Body Shop

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

April 12, 2001
1:00 p.m.
Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: **Representative Alexander**

HB 831 – Election Changes
Representative Alexander

HB573 – Eliminate Campaign Report Notarization
Representative Allred

STAFF: **Bill Gilkeson**
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

April 12, 2001

Room 1228
1:00 p.m.

The meeting of the House Committee on Election Law and Campaign Finance Reform was called to order by Representative Nesbitt, Vice Chair. Those present at the meeting were Representatives Alexander, Vice Chair; Nesbitt, Vice Chair, Arnold, Blue, Church, Daughtry, Decker, Goodwin, Kiser, Luebke, Morris, Rayfield, Redwine, Starnes, Thompson, Weatherly, and Weiss.

Representative Nesbitt presented HB 831, introduced by Representative Alexander, for continued discussion. Representative Rayfield questioned voting sites being outside of the designated precinct. Would that be an additional voting place and who would staff that site? Gary Bartlett, Executive Director of the State Board of Elections, responded that the site would be the only voting place but would be necessary only for those precincts that were so large that no location within the precinct was available for a site. This would be a temporary solution until a site could be located. There was further discussion about having two voting places within one precinct. This would be necessary particularly in some mountain areas where ridgelines not accepted by the census determine precincts. Representative Starnes asked if there would be twice as many precinct workers if there were two voting sites within one precinct. The response was "yes." There was discussion about electronic transfer of voter information from DMV to the county boards of elections. Mr. Bartlett responded that the transfer would be paperless and less susceptible to error. A non-forwardable letter to the registrant would verify the address. Representative Arnold questioned the process of notifying residents of their polling places, particularly when changes are made. Mr. Bartlett responded that county commissioners must fund voter cards, and not every county provides voter cards. The only requirement is that changes must be posted in newspapers (or on the courthouse door). Representative Alexander added that SB11, which has passed the Senate, has a 30 day notification provision in it. Representative Daughtry asked who would decide the location of a second polling place. Mr. Bartlett responded that would be the county board of elections by unanimous vote. Representative Weatherly ascertained that the split precinct would be a short-term solution. Mr. Bartlett concurred. Representative Alexander added that in any county there could be only three split precincts. Representative Decker asked what difference a large voting population (such as college students), as opposed to resident population, would have. Mr. Bartlett responded that rapid growth might necessitate two voting places in a precinct before new precincts can be drawn. A plan submitted to the State Board for approval and is good for only one election. There is a 30 day notification period. Representative Redwine asked where fines and forfeitures go? Mr. Crowell, chair of the Election Laws Revision Commission, responded that they would continue to go to the public schools through the Civil Fines and Forfeitures Fund. Representative Alexander sent forth an amendment on page 8 lines

23-25. Section 11 will read: "The revisor of statutes is authorized to change the term "Executive Secretary-Director" and the term *State Executive Director* to *Executive Director*" wherever it appears in the General Statutes in reference to the State Board of Elections Executive Secretary-Director." Representative Luebke moved adoption of the amendment, and the motion passed. Representative Blue asked about language directing to whom mailing notifications/confirmations were sent. Mr. Gilkeson said that the National Voter Registration Act of 1993 makes it clear that voting rolls are not to be purged for not voting. The county board of elections sends a confirmation mailing to everybody not heard from by some method every two years. There is then a waiting period of four years before a voter may be removed from the voter list. Representative Kiser reminded that there are two voter lists, active and inactive. If an inactive voter turns out to vote, the voter is eligible. He asked if this bill eliminated the inactive list. It does not. Representative Starnes asked if the notification time could be changed to after every presidential election, instead of every two years. Representative Alexander answered that whatever can be done to keep the records current is helpful to everyone. In response to a question about purging from death notices, Mr. Bartlett answered that it is being done. Representative Luebke moved for a favorable report as to the Committee Substitute, unfavorable as to original bill. The motion passed.

Martin Nesbitt, Vice chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 831

Committee Substitute Favorable 4/16/01

PROPOSED COMMITTEE SUBSTITUTE H831-CSRR-16 [v.7]

4/19/2001 12:13:54 PM

Short Title: Election Changes. (Public)

Sponsors:

Referred to:

March 28, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A GREATER ROLE FOR THE STATE BOARD OF ELECTIONS IN PERSONNEL DECISIONS CONCERNING COUNTY ELECTION DIRECTORS; TO ENHANCE THE CERTIFICATION PROGRAM FOR ELECTION OFFICIALS; TO REMOVE LIMITATIONS ON TWO PROVISIONS CONCERNING PRECINCTS; TO CHANGE THE LENGTH OF THE ONE-STOP VOTING PERIOD; TO ALLOW COUNTY BOARDS OF ELECTIONS, WITH STATE BOARD APPROVAL, TO USE OTHER ONE-STOP SITES INSTEAD OF THE COUNTY BOARD OFFICE; TO ALLOW LATER ACCEPTANCE OF VOTER REGISTRATION APPLICATIONS; TO PROVIDE FOR ELECTRONIC TRANSFER OF VOTER REGISTRATION APPLICATIONS TO FROM THE DIVISION OF MOTOR VEHICLES; TO UPDATE THE STATUTES CONCERNING VOTER REGISTRATION LIST-MAINTENANCE; TO APPLY THE WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS; TO CORRECT A REFERENCE IN THE CAMPAIGN FINANCE LAW; AND TO RENAME THE EXECUTIVE SECRETARY-DIRECTOR OF THE STATE BOARD OF ELECTIONS THE "EXECUTIVE DIRECTOR."

The General Assembly of North Carolina enacts:

--CHANGES CONCERNING COUNTY ELECTION DIRECTORS.

SECTION 1.(a) G.S. 163-35(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Secretary-Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county

board of elections. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Secretary-Director of the State Board of Elections the termination of the employment of the county board's director of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Secretary-Director shall forward a copy of ~~same~~ the petition by certified mail, return receipt requested, to the county director of elections involved. The county director of elections may reply to ~~said~~ the petition within 15 days of receipt thereof. Within 20 days of receipt of the county director of elections' reply or the expiration of the time period allowed for the filing of ~~said~~ the reply, the State Executive Secretary-Director shall render a decision as to the termination or retention of the county director of elections. The decision of the Executive Secretary-Director of the State Board of Elections shall be final unless ~~such~~ the decision ~~shall,~~ is, within 20 days from the official date on which it was made, ~~be~~ deferred by the State Board of ~~Elections,~~ Elections. ~~in which event a public hearing shall be conducted by State Board or any single member designated by the remaining four members, in the county seat of the county involved. Following the conduct of public hearing and a decision by the State Board of Elections, the chairman of said Board shall notify the Executive Secretary-Director of the State Board of Elections, in writing, of the decision resulting from the public hearing.~~ If the State Board defers the decision, then the State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard and to present witnesses and information to the State Board, and then notify the Executive Secretary-Director of its decision in writing. If the decision, rendered by the State Board of Elections, results in concurrence with the decision entered by the Executive Secretary-Director, the decision becomes final. If the decision rendered by the Board is contrary to that entered by the Executive Secretary-Director, then the Executive Secretary-Director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board of Elections. ~~The employment of any director of elections presently employed or hereafter employed shall not be terminated except in compliance with the procedures herein prescribed. For the purposes of this subsection the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23.~~

Upon majority vote on the recommendation of the Executive Secretary-Director, the State Board of Elections may initiate proceedings for the termination of a county director of elections for just cause. If the State Board votes to initiate proceedings for termination, the State Board shall state the reasons for the termination in writing and send a copy by certified mail, return receipt requested, to the county director of elections. The director has 15 days to reply in writing to the notice. The State Board shall make a final decision on the termination after giving the county director of

elections an opportunity to be heard, present witnesses, and information to the State Board.

A county director of elections may be suspended, with pay, without warning for causes relating to personal conduct detrimental to service to the county or to the State Board of Elections, pending the giving of written reasons, in order to avoid the undue disruption of work or to protect the safety of persons or property or for other serious reasons. Any suspension may be initiated by the Executive Secretary-Director but may not be for more than five days. Upon placing a county director of elections on suspension, the Executive Secretary-Director shall as soon as possible reduce to writing the reasons for the suspension and forward copies to the county director of elections, the members of the county board of elections, and the State Board of Elections. If no action for termination has been taken within five days, the county director of elections shall be fully reinstated.

Termination of any county director of elections shall comply with this subsection. For the purposes of this subsection the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23."

SECTION 1.(b) G.S. 163-35 is amended by adding a new subsection to read:

"(e) Training and Certification. – The State Board of Elections shall conduct a training program consisting of four weeks for each new county director of elections. The director shall complete that program. Each director appointed after May 1995 shall successfully complete a certification program as provided in G.S. 163-82.24(b) within three years after appointment or by January 1, 2003, whichever occurs later."

SECTION 1.(c) This section becomes effective January 1, 2002.

--CERTIFICATION OF ELECTION OFFICIALS.

SECTION 2.(a) G.S. 163-82.24 reads as rewritten:

"**§ 163-82.24. Statewide training and certification for election officials.**

(a) Training. – The State Board of Elections shall conduct training programs in election law and procedures. Every county elections director shall receive training conducted by the State Board at least as often as required in the following schedule:

(1) Once during each odd-numbered year before the municipal election held in the county;

(2) Once during each even-numbered year before the first partisan primary; and

(3) Once during each even-numbered year after the partisan primaries but before the general election.

Every member of a county board of elections shall receive training conducted by the State Board at least once during the six months after the member's initial appointment and at least once again during the first two years of the member's service. The State Board of Elections shall promulgate rules for the training of precinct officials, which shall be followed by the county boards of elections.

(b) Certification. – The State Board of Elections shall conduct a program for certification of election officials. The program shall include training in election law and procedures. Before issuing certification to an election official, the State Board shall administer an examination designed to determine the proficiency of the official in election law and procedures. The State Board shall set adequate standards for the passage of the examination."

SECTION 2.(b) This section is effective when this act becomes law.

--REMOVE SUNSET FROM OUT-OF-PRECINCT VOTING PLACE PROVISION.

SECTION 3.(a) Section 3(b) of S.L. 1999-426 reads as rewritten:

"Section 3.(b) This section is effective when this act becomes ~~law and expires January 1, 2002.~~ law."

SECTION 3.(b) This section is effective when this act becomes law.

--REMOVE SUNSET AND 3-COUNTY PILOT LIMITATION FROM 2-VOTING-PLACE-PER-PRECINCT PROVISION.

SECTION 4.(a) G.S. 163-130.2 reads as rewritten:

"**§ 163-130.2. Temporary use of two voting places for certain ~~precincts; pilot program.~~ precincts.**

A county board of elections, by unanimous vote of all its members, may propose to designate two voting places to be used temporarily for the same precinct. The temporary designation of a voting place shall continue only for the term of office of the county board of elections making the designation. For any precinct that is temporarily given two voting places, the county board shall assign every voter to one or the other of those voting places.

The county board's proposal is subject to approval by the Executive Secretary-Director of the State Board of Elections. The county board shall submit its proposal in writing to the Executive Secretary-Director. ~~The Executive Secretary-Director may approve a proposal under this section in not more than three counties, to be a pilot program.~~ The Executive Secretary-Director shall approve that proposal only if it finds all of the following:

(1) That the precinct has more registered voters than can adequately be accommodated by any single potential voting place available for the precinct.

(2) That no boundary line that complies with Article 12A of this Chapter can be identified that adequately divides the precinct.

(3) That the county board can account for, by street address number, the location of every registered voter in the precinct and fix that voter's residence with certainty on a map.

(4) That no more than three other precincts in the same county will have two voting places.

(5) That both voting places for the precinct would have adequate facilities for the elderly and disabled.

(6) That the proposal provides adequately for security against fraud.
(7) That the proposal does not unfairly favor or disfavor voters with regard to race or party affiliation.

The county board shall designate a full set of precinct officials, in the manner set forth in Article 5 of this Chapter, for each voting place designated for the precinct."

SECTION 4.(b) Section 4(b) of S.L. 1999-426 reads as rewritten:

"Section 4.(b) This section becomes effective January 2, ~~2000, and expires January 2, 2002.~~ 2000. The Executive Secretary-Director of the State Board of Elections shall study the operation and consequences of the pilot program created by this section and report findings and recommendations to the 2001 General Assembly by February 1, 2001."

SECTION 4.(c) This section is effective when this act becomes law.

--CHANGES CONCERNING ONE-STOP VOTING.

SECTION 5.(a) G.S. 163-227.2(b) reads as rewritten:

"(b) Not earlier than the ~~first business day after the twenty-fifth day~~ third Thursday before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than ~~5:00~~ 1:00 p.m. on the ~~Friday prior to~~ last Saturday before that election, the voter shall appear in person only at the office of the county board of elections, except as provided in subsection ~~(f1)~~ (g) of this section. A county board of elections shall conduct one-stop voting on the last Saturday before the election until 1:00 p.m. and may conduct it until 5:00 p.m. on that Saturday. 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 authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person."

SECTION 5.(b) G.S. 163-227.2(f) reads as rewritten:

"(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. on the Friday prior to that election ~~or primary.~~ and shall also

be open on the last Saturday before the election. The boards of county commissioners shall provide necessary funds for the additional operation of the office during that time."

SECTION 5.(c) G.S. 163-227.2(g) reads as rewritten:

"(g) 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. A county board of elections may propose in its Plan not to offer one-stop voting at the county board of elections office but to rely exclusively on the other sites; the State Board shall approve that proposal in a Plan only if it finds that the other sites provide adequate coverage of the county's electorate. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board of Elections to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board of Elections may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county."

SECTION 5.(d) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

---LATER REGISTRATION DEADLINE ON FINAL DAY.

SECTION 6.(a) G.S. 163-82.6(c) reads as rewritten:

"(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

(1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,

(2) If submitted in person, must be received by the county board of elections by ~~5:00 p.m.~~ a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election,

except as provided in subsection (d) of this section."

SECTION 6.(b) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--ELECTRONIC TRANSFER OF DMV REGISTRATIONS.

SECTION 7.(a) G.S. 163-82.19 reads as rewritten:

"**§ 163-82.19. Voter registration at drivers license offices.**

The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate county board of elections."

SECTION 7.(b) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--UPDATING OF VOTER REGISTRATION LIST-MAINTENANCE PROVISION TO REFLECT CURRENT FEDERALLY APPROVED PRACTICE.

SECTION 8.(a) G.S. 163-82.14(d) reads as rewritten:

"(d) Change of Address. – A county board of elections shall conduct a systematic program to remove from its list of registered voters those who have moved out of the county, and to update the registration records of persons who have moved within the county. The county board shall remove a person from its list if the registrant:

(1) Gives confirmation in writing of a change of address for voting purposes out of the county. "Confirmation in writing" for purposes of this subdivision shall include:

a. A report to the county board from the Department of Transportation or from a voter registration agency listed in G.S. 163-82.20 that the voter has reported a change of address for voting purposes outside the county;

b. A notice of cancellation received under G.S. 163-82.9; or

c. A notice of cancellation received from an election jurisdiction outside the State.

(2) Fails to respond to a confirmation mailing sent by the county board in accordance with this subdivision and does not vote or appear to vote in an election beginning on the date of the notice and ending on the day after the date of the second general election for the United States House of Representatives that occurs after the date of the notice. A county board sends a confirmation notice in accordance with this subdivision if the notice:

a. Is a postage prepaid and preaddressed return card, sent by forwardable mail, on which the registrant may state current address;

b. Contains or is accompanied by a notice to the effect that if the registrant did not change residence but remained in the county, the registrant should return the card not later than the deadline for registration by mail in G.S. 163-82.6(c)(1); and

c. Contains or is accompanied by information as to how the registrant may continue to be eligible to vote if the registrant has moved outside the county.

A county board shall send a confirmation mailing in accordance with this subdivision ~~if the~~ to every registrant ~~remains on the list, the registrant has not voted in two successive presidential elections or in any election in between, and~~ after every congressional election if the county board has not confirmed the registrant's address by another means. ~~The county board may send a confirmation mailing in accordance with this subdivision if the registrant has been identified as~~

~~residing outside the county through change of address information supplied by the Postal Service through its licensees.~~"

SECTION 8.(b) This section is effective when this act becomes law.

--APPLYING WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS.

SECTION 9.(a) G.S. 163-123(g) reads as rewritten:

"(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan ~~elections.~~elections except for superior court judge elections under Article 25 of this Chapter."

SECTION 9.(b) This section is effective when this act becomes law.

--CORRECTING REFERENCE TO FUND FOR RETURNING ILLEGAL CONTRIBUTIONS.

SECTION 10.(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 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~~ Civil Penalty and Forfeiture Fund of the State of North Carolina."

SECTION 10.(b) This section is effective when this act becomes law.

---NAME CHANGE TO EXECUTIVE DIRECTOR.

SECTION 11. The Reviser of Statutes is authorized to change the term "Executive Secretary-Director" and the term "State Executive Secretary-Director" to "Executive Director" wherever it appears in the General Statutes in reference to the State Board of Elections Executive Secretary-Director.

SECTION 12. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SECTION 13. Except as otherwise provided in each section, this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 831

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H831-AST-6 [v.1]

Date April 12 ,2001

Comm. Sub. [YES]
Amends Title [NO]
H831-CSST-12

Representative

moves to amend the bill on page 8, lines 23-25 by rewriting the lines to read:
"**SECTION 11.** The Reviser of Statutes is authorized to change the term "Executive Secretary-Director" and the term "State Executive Secretary-Director" to "Executive Director" wherever it appears in the General Statutes in reference to the State Board of Elections Executive Secretary-Director.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Election Laws — 4/12/01

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dan Wright	SBOE
Dave O. Bartlett	"
Ken Westbrook	"
Johnnie McLean	"
MICHAEL CROWELL	LAWYER, RALEIGH
[illegible]	[illegible]
[illegible]	[illegible]
Patricia Hale	Clerk - Rep. Starnes
Will Jordan	Rep. Grubbs's Intern

Ann Faust (Rep. Alexander)

From: Ann Faust (Rep. Alexander)
Sent: Friday, April 13, 2001 4:38 PM
Subject: Election Law meeting notice for 4/16

REVISED

ADDED BILL SPONSOR NAME

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Monday, April 16, 2001**

TIME: **3:00pm – 5:00 pm**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 980 Children in Voting Enclosure - Representative Lucas

HB 1041 Ballot Instruction in Spanish - Representative Lucas

HB 260 Election Laws Revision - Representative Alexander

HB 1046 Data by Precinct - Representative Alexander

HB 1047 Voter Safety - Representative Alexander

HB 1188 Protection of Rolls – Representative Blue

HB 1186 Voter Reg. by Fax – Representative Blue

HB 1193 Address Change by Fax – Representative Blue

HB 1194 Board Office Closing Time on Registration Deadline Representative Blue

HB 1185 No Excuse Absentee Request Deadline – Representative Blue

HB 912 Cary Campaign Disclosures - Representative Weiss

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **9:30 pm, on April 16, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust (Committee Assistant)

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

April 16, 2001

Room 1228
3:00 p.m.

The meeting was called to order by the Chair, Representative Alexander. Those present at the meeting were Representatives Alexander, Arnold, Bonner, Daughtry, Goodwin, Justus, Kiser, Morris, Rayfield, Rogers, Weatherly and Weiss.

Representative Lucas was introduced to present HB 980, AN ACT TO ALLOW CHILDREN OF A VOTER TO ACCOMPANY THE VOTER INTO THE VOTING ENCLOSURE, and HB 1041 AN ACT TO REQUIRE THAT BALLOT INSTRUCTIONS BE PRINTED IN SPANISH AS WELL AS ENGLISH. Representative Lucas explained that HB 980 would allow voters (parents or guardians) who must bring their minor children into the voting booth while voting. The intent of the bill is to make legal what is common practice in most voting places. Replying to a question from Representative Kiser, Ms. Churchill said minor is under 18 according to the bill. The role of the minor is not to assist in voting. Representative Bonner put forth an amendment on page 1 line 17 to read "minor children *under the age of 12 of the voter or minor children under the age of 12 in the care of the voter, but only while accompanying the voter* and ...." The bill does not require legal proof. The amendment passed. Representative Morris moved that the amendment be rolled into a committee substitute, favorable as to committee substitute, unfavorable as to original bill. The motion passed.

Representative Lucas reviewed HB 1041 which is designed to assist Spanish speaking voters. Instructions would be printed in Spanish as well as English. There is no fiscal note. Mr. Bartlett, Executive Director of the State Board of Elections, reported that 25 – 30 counties had instructions printed in Spanish on how to mark a ballot in the last election. The county would bear the minimal cost of printing. Discussion followed concerning federal threshold population requirements – 3% or greater – and the need for the Spanish speaking population to be able to conduct their affairs in English as they become citizens. Federal law has ultimate jurisdiction, but the fact that a county has a 5% minority population group speaking a foreign language does not automatically put that county under federal jurisdiction. Representative Rogers moved to remove the bill from consideration at this meeting, to be heard at a later meeting. The motion passed.

Representative Weiss was introduced to present HB 912 CARY CAMPAIGN DISCLOSURES. The bill would allow the Cary Town Council, for town elections, to set limits lower that the state limits for contributions and disclosure of contributions. State law limits contributions to $4,000 per donor per candidate and requires reporting all contributions of more than $100. The Cary town council asked to lower the contribution amount and require more disclosure of contributions, similar to legislation previously enacted on behalf of Chapel Hill. Discussion followed concerning giving to Cary races. Deborah Ross, speaking for the ACLU,

said that Chapel Hill's ordinance was challenged when reporting every contribution was required, but when the level was raised to $20 to protect the rights of very low donors, there was no challenge. Representative Justus questioned whether local actions could be legislated under the State Constitution. Michael Crowell, chair of the Election Laws Revision Commission, said that under the State Constitution there is no problem since Cary came to the General Assembly asking for authority. The issue of free speech was discussed. The bill was tabled so that staff could ascertain whether a municipality other than Chapel Hill has this limiting authority, to clarify the bill title.

With Representative Bonner presiding, Representative Alexander was called upon to present HB 1046 AN ACT TO IMPROVE THE ACCURACY AND UNDERSTANDABILITY OF PRECINCT DATA. The bill would require that voting data from early voting, one stop voting absentee voting, provisional and curbside ballots be compiled by precinct and included in the final precinct tally to ensure more accurate records and help determine the need for new precincts. Representative Alexander introduced Dan Frey, who is working with census data for the General Assembly to develop a redistricting systems database and has determined there is no way to ascertain the precinct identity of some voters under current law, so they are being excluded from the totals. County boards of elections would report the precinct total to the State Board of Election for each precinct, wherever the vote took place. Discussion followed about the need to preserve the secret ballot and the need for knowing how a precinct voted and, ultimately, the need for the bill. It was explained that total voter information is necessary for redistricting. The bill was removed from consideration for additional work.

With Representative Rogers presiding, Alexander was recognized to present and explain HB 1047 AN ACT TO PROVIDE PROTECTION FOR REGISTERED VOTERS TO ADDRESS SAFETY MEASURES. The Board of Elections would keep the address of the voter confidential upon the voter's signing a statement that making the voter's address public would jeopardize the voter's/family member's physical safety. There are three counties who now have voter information on the Internet, and the question arose as to the process of removing address data from the online record. Discussion followed as how to challenge a voter who does not live within the precinct where he voted. The name of the voter would still be on the precinct register without address. Representative Morris moved for a favorable on the bill. The motion passed.

Representative Alexander then presented HB 260 AN ACT TO CREATE THE ELECTION LAWS REVISION COMMISSION. Representative Daughtry moved that the bill receive a favorable report and be re-referred to the Committee on Rules, Calendar and Operations of the House. The motion passed.
The meeting was adjourned.

Martha Alexander, Committee Chair

Ann Faust, Committee Assistant

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

April 16, 2001
3:00 p.m.
Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: **Representative Alexander**

HB 980 – Children in Voting Enclosure – Representative Lucas

HB 1041 – Ballot Instruction in Spanish - Representative Lucas

HB 260 - Election Laws Revision – Representative Alexander

HB 1046 – Data by Precinct - Representative Alexander

HB 1047 – Voter Safety - Representative Alexander

HB 1188 – Protection of Rolls – Representative Blue

HB 1186 – Voter Reg. By Fax - Representative Blue

HB 1193 - Address Change by Fax - Representative Blue

HB 1194 – Board Office Closing Time on Registration Deadline - Representative Blue

HB 1185 – No Excuse Absentee Request Deadline - Representative Blue

HB 912 - Cary Campaign Disclosures – Representative Weiss

STAFF: **Bill Gilkeson**
Erika Churchill

HOUSE BILL 980:
Children in Voting Enclosure.

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Representative Lucas
Date:	April 16, 2001	**Summary by:**	R. Erika Churchill
Version:	First Edition		Committee Counsel

SUMMARY: ***The bill would allow a minor child of the voter to enter the voting enclosure with the voter, provided the minor child is under the control of the voter, effective when it becomes law.***

CURRENT LAW: The voting enclosure is that area of the voting place in which voting takes place. G.S. 163-146. While the polls are open to voting, only the following persons are permitted inside the voting enclosure:

- Officers of the election.
- Voters.
- A near relative of the voter, if that near relative is assisting the voter in the act of voting.
- Any voter of the precinct called upon to assist another voter in the act of voting.
- Municipal policemen.
- Voters participating in a challenge.
- Appointed observers.
- Persons, including minors, participating in a simulated election for minors.

BILL ANALYSIS: The bill would permit minors to enter the voting enclosure with a voter, even if no simulated election is being conducted. The minor would have to accompany the voter, and remain under the control of the voter while in the voting enclosure.

EFFECTIVE DATE: The bill would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

HOUSE BILL 980

Short Title:	Children in Voting Enclosures.	(Public)
Sponsors:	Representatives Lucas; Adams, Alexander, Baddour, Barefoot, Bonner, Boyd-McIntyre, Church, Coates, Culpepper, Cunningham, Dedmon, Earle, Easterling, Edwards, Fox, Goodwin, Hackney, Haire, Hall, Holliman, Hurley, Jeffus, Luebke, McAllister, McLawhorn, Michaux, Nesbitt, Oldham, Owens, Rogers, Shubert, Smith, Sutton, Tolson, Underhill, Wainwright, Walker, Warner, Warwick, West, Womble, and Yongue.	
Referred to:	Election Law and Campaign Finance Reform.	

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO ALLOW CHILDREN OF A VOTER TO ACCOMPANY THE VOTER INTO THE VOTING ENCLOSURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-153 reads as rewritten:

"**§ 163-153. Access to voting enclosure.**

In all counties, only the following persons shall be allowed within the voting enclosure while the polls are open to voting:

(1) Officers of election, that is, members of the State Board of Elections, members of the county board of elections, directors of elections, and the precinct chief judge, precinct judges of election, and assistants appointed for the precinct under the provisions of G.S. 163-42.

(2) Voters in the act of voting.

(3) A near relative of a voter, but except as provided in subdivision (3a) of this section only while assisting the voter as authorized in G.S. 163-152.

(3a) A minor child of the voter, but only while accompanying the voter and while under the control of the voter.

(4) Any voter of the precinct called upon to assist another voter, but only while assisting him as authorized in G.S. 163-152.

(5) Municipal policemen assigned by the municipal authorities to keep the peace at a voting place located within the municipality, but only when

requested to come within the voting enclosure by the chief judge and judges for the purpose of preventing disorder; at the request of the chief judge and judges, they shall withdraw from the voting enclosure and remain at least 10 feet from its entrance.

(6) Any voter of the precinct while entering and explaining a challenge, and any voter of the county who has challenged a voter in that precinct if the challenge is heard at the polls under G.S. 163-87 and 163-88, while entering and explaining a challenge.

(7) Observers appointed under the provisions of G.S. 163-45.

(8) Persons working at, supervising, or voting in a simulated election for persons ineligible to vote because of their age."

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

HOUSE BILL 1041

Short Title:	Ballot Instructions in Spanish.	(Public)
Sponsors:	Representatives Lucas; Adams, Bell, Bonner, Buchanan, Coates, Cunningham, Earle, Goodwin, Hackney, Hall, Luebke, McAllister, McLawhorn, Michaux, Morris, Oldham, Rogers, Tolson, Wainwright, Warner, West, and Womble.	
Referred to:	Election Law and Campaign Finance Reform.	

April 10, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT BALLOT INSTRUCTIONS BE PRINTED IN SPANISH AS WELL AS ENGLISH.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-140.2. Ballot instructions in English and Spanish.**

All instructions to the voter on ballots shall be printed in both English and Spanish. The State Board of Elections shall prepare a Spanish translation of ballot instructions for county boards of elections."

SECTION 2. This act becomes effective January 1, 2002.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1041

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1041-ALB-40 [v.1]

Date _____,2001

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative Lucas

moves to amend the bill on page 1, line 8, by deleting "All", and substituting "In every county where the Hispanic population exceeds 6.00%, in accordance with the most recent decennial federal census, all".

SIGNED M. W. Lucas
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

COUNTY	PAGES
Alexander	2
Alamance	3
Buncombe	1
Cumberland	2
Durham	2
Forsyth	3
Guilford	1
Harnett	2
Haywood	2
Henderson	2
Lee	3
Lincoln	4
Mecklenburg	5
Randolf	1
Robeson	2
Sampson	2
Wake	2
Wayne	2

I cant remember if I send them all a copy of the Higher Education bond.
This is the number of pages I have in the computer.

BOLETA ELECTORAL OFICIAL PARA CARGOS FEDERALES,
ESTATALES Y DE LOS CONDADOS

INSTRUCCIONES PARA EL VOTANTE

a) Para votar por todos los candidatos de un solo partido político (boleta de un solo partido), complete la flecha a la derecha del partido político al que pertenecen los candidatos por quienes usted desea votar.

b) Para hacer un voto dividido, no complete la flecha a la derecha del partido político sino la flecha que está a la derecha del nombre de cada uno de los candidatos por quienes usted desea votar.

c) También puede hacer un voto dividido completando la flecha a la derecha del partido político y luego completando la flecha a la derecha del nombre del candidato de otro partido político que usted elija. En cualquier candidatura múltiple en que se complete la flecha de un partido político, **también deberá** completar la flecha a la derecha del nombre de cualquier candidato que usted elija en esa candidatura del partido político para el que haya completado la flecha, para asegurarse que su voto cuente.

d) Si rompe, deteriora o marca la boleta electoral equivocadamente, devuélvala y tome otra.

PARA BOLETAS DE UN SOLO PARTIDO POLITICO

(Puede votar por UN SOLO partido político)

BOLETA ELECTORAL OFICIAL PARA CARGOS NO PARTIDARIOS

Los siguientes cargos no están incluidos en la boleta de un solo partido político.
SE DEBERÁ VOTAR POR ELLOS SEPARADAMENTE.

INSTRUCCIONES PARA EL VOTANTE

a) Para votar por el candidato cuyo nombre esta impreso en la boleta electoral, complete la flecha a la derecha del candidato por quien usted desea votar.

b) Marque únicamente con el lapicero proporcionada por el precinto oficial o un lápiz #2.

c) Si rompe, deteriora o marca la boleta electoral equivocadamente, devuélvala y tome otra.

(En cada uno de los siguientes cargos puede votar UNICAMENTE POR UNO)

BOLETA ELECTORAL OFICIAL PARA LAS ELECCIONES GENERALES DEL CONDADO DE LINCOLN, CAROLINA DEL NORTE
7 DE NOVIEMBRE DEL 2,000

Para votar complete la(s) flecha(s) que apuntan a su elección(es) así: – →
Marque con un lápiz #2 ó el lapicero que le proporcione el precinto oficial.
LEA LAS INSTRUCCIONES CUIDADOSAMENTE ANTES DE VOTAR!

BOLETA ELECTORAL OFICIAL PARA PRESIDENTE Y VICE-PRESIDENTE DE LOS ESTADOS UNIDOS

INSTRUCCIONES PARA EL VOTANTE

a) Para votar por este cargo, complete la flecha a la derecha del partido político al que pertenecen los candidatos por quienes usted desea votar.

b) Un voto por los nombres de los candidatos a Presidente y Vice-Presidente de un partido político es un voto por los representantes de dicho partido, cuyos nombres están registrados en los archivos del Secretario de Estado.

a) Si rompe, deteriora o marca la boleta electoral equivocadamente, devuélvala y tome otra.

VOTE SEPARADAMENTE POR PRESIDENTE Y VICE-PRESIDENTE
(Puede votar únicamente por UN partido)

HOUSE BILL 912:
Cary Campaign Disclosures

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Weiss (By Request)
Date:	April 16, 2001	**Summary by:**	William R. Gilkeson Committee Counsel
Version:	First Edition		

SUMMARY: ***House Bill 912 would allow the Cary Town Council, for town elections, to set limits lower than the statewide limits for contributions and for disclosure of contributions.***

CURRENT LAW: The State Campaign Finance Act sets the limit on political contributions at $4,000 per donor per donee per election. *G.S. 163-278.13* It says candidates and political committees must report names and other information about all contributors, except for those who give $100 or less. *G.S. 163-278.8.*

Another provision in the law excuses candidates and political party committees from making reports of contributions and expenditures if they do not raise or spend more than $3,000 in their campaigns. *G.S. 163-27810A.*

BILL ANALYSIS: House Bill 912 would allow the Cary Town Council, for town elections, to set lower limits than the statewide ones for both contributions and disclosure of contributions.

In addition, the bill would remove candidates for Cary town offices from the $3,000 threshold on reporting.

EFFECTIVE DATE: The bill would be effective upon becoming law.

BACKGROUND: In 1999, the General Assembly gave virtually identical authority to the Town Council of Chapel Hill.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 912

Short Title:	Cary Campaign Disclosures.	(Local)
Sponsors:	Representative Weiss (By Request).	
Referred to:	Election Law and Campaign Finance Reform.	

March 29, 2001

A BILL TO BE ENTITLED

AN ACT GRANTING TO THE CARY TOWN COUNCIL AUTHORITY TO REQUIRE DISCLOSURE OF THE NAMES OF CONTRIBUTORS TO TOWN ELECTION CAMPAIGNS, AND TO LIMIT THE AMOUNTS OF SUCH CONTRIBUTIONS, AS HAS PREVIOUSLY BEEN GRANTED TO OTHER MUNICIPALITIES.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Cary, being Chapter 868 of the Session Laws of 1971 as amended, is further amended by adding the following new sections to Article IV, Election Procedure:

"Section 4.12. Disclosure of Contributors.

(a) The Town Council may by ordinance require the disclosure by candidates (and their political committees) for elective town office of the names of all contributors to their campaigns. The ordinance may exempt from disclosure contributions below a monetary amount set in the ordinance.

(b) The ordinance shall apply regardless of the total amount of contributions, loans, or expenditures by the campaigns.

(c) G.S. 163-278.10A does not apply to municipal elections in the Town of Cary.

Section 4.13. Limitation on Contributions. Except as provided by G.S. 163-278.13(c), the Town Council may by ordinance limit the amount of contributions which any individual, person, or political committee may contribute to any candidate for town office or to any political committee of that candidate. The ordinance may not set a limitation which has a dollar amount greater than the dollar amount set in the general law which would apply to elective office in the town.

Section 4.14. Definitions. The definitions in Article 22A of Chapter 163 of the General Statutes apply to Sections 4.12 and 4.13 of this Charter."

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1046

Short Title:	Data by Precinct.	(Public)
Sponsors:	Representatives Alexander; and Wainwright.	
Referred to:	Election Law and Campaign Finance Reform.	

April 10, 2001

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE ACCURACY AND UNDERSTANDABILITY OF PRECINCT DATA.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-132.5G. Voting data maintained by precinct.**

Each county board of elections shall maintain voting data by precinct so that precinct returns for each item on the ballot shall include the votes cast by all residents of the precinct, including transfer voters and those who voted by provisional ballot, by curbside ballot, and by absentee ballot, both mail and one-stop. The State Board of Elections shall promulgate rules for the enforcement of this section so that its provisions are put into effect without compromising the secrecy of the ballot."

SECTION 2. Article 12A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-132.5H. State Board of Elections to develop standards for naming precincts.**

The State Board of Elections shall develop standards for naming precincts. Those standards shall facilitate the study of historical voter registration and voting data by such means as the following:

(1) Preventing reassignment of precinct names or numbers where that reassignment would frustrate comparison of precinct data over the years.

(2) Mandating that precincts that result from splitting larger precincts be given names that indicate the precincts' history as part of the larger precincts.

The county boards of elections shall adhere to those standards in their official references to precincts and in their reports concerning precinct boundaries, voter registration, and voting data to the State Board of Elections and to the Legislative

Services Office. In other contexts, this section does not prohibit a county board from using informal names for precincts where appropriate."

SECTION 3. This act is effective when it becomes law, except that data from provisional and absentee voting is not required to be provided by precincts until the 2002 general election.

HOUSE BILL 1047:
Voter Safety

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Alexander
		Summary by:	William R. Gilkeson Committee Counsel
Date:	April 18, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1047 would allow voters to get the board of elections to keep their address confidential upon signing a statement that making the address public would jeopardize the voter's or a family member's physical safety.***

CURRENT LAW: The statutes make voter registration information a public record. Any member of the public has access to information about any voter: name, residence address, date of birth including year, party affiliation, and a history of when (but not how) the voter voted. The chairs of the political parties may have a free complete list of all registered voters. Others may purchase, for "actual cost," a list of all registered voters or a sorted list.

At least three counties, Mecklenburg, Wake, and Wilson, have taken the extra step of making individual voter registration records available and searchable on their websites. For example, any visitor to the Wake County Board of Elections website can enter the name of a registered voter in a search field and get that voter's address, date of birth, party affiliation, and voting history.

BILL ANALYSIS: House Bill 1047 would provide for the county board to keep a voter's address confidential if the voter submitted a signed a statement that the voter has good reason to believe his or her safety or that of a family member living at the same address would be in jeopardy if the address were made public. The rest of the voter's registration record would be public, but the address would be confidential. The voter's written statement would also be kept confidential.

The bill would provide that the address could be inspected by a law enforcement official or by a person directed by court order to inspect the address.

BACKGROUND: The language of the bill is patterned after a law in effect in Maine.

EFFECTIVE DATE: The bill would become effective October 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

HOUSE BILL 1047

Short Title:	Voter Safety.	(Public)
Sponsors:	Representatives Alexander; Goodwin and Wainwright.	
Referred to:	Election Law and Campaign Finance Reform.	

April 10, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE PROTECTION FOR REGISTERED VOTERS TO ADDRESS SAFETY MEASURES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.10 is amended by adding a new subsection to read:

"(d) Exception for Address of Certain Registered Voters. – Notwithstanding subsections (b) and (c) of this section, if a registered voter submits to the county board of elections a signed statement that the voter has good reason to believe that the physical safety of the voter or a member of the voter's family residing with the voter would be jeopardized if the voter's address were open to public inspection, that voter's address is not a public record, and the registrar shall exclude that voter's address from public inspection. That voter's name, precinct, and the other data contained in that voter's registration record remain a public record. That voter's signed statement is also a public record, but shall be kept confidential. That voter's address shall be available for inspection by a law enforcement agency or by a person identified in a court order, if inspection of the address by that person is directed by that court order."

SECTION 2. This act becomes effective October 1, 2001.

HOUSE BILL 260:
Election Laws Revision.

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Representative Alexander
Date:	April 16, 2001	**Summary by:**	R. Erika Churchill
Version:	First Edition		Committee Counsel

SUMMARY: ***The bill would create the Election Laws Revision Commission, to study election related matters and to report to the 2003 Session of the General Assembly any findings and recommendations, effective when it becomes law.***

BACKGROUND: An Election Laws Revision Commission was established by the 1999 General Assembly. The Commission met, and made several recommendations to the 2001 General Assembly regarding changes to the election laws. The Commission also recommended a continuation of their study of election laws, with particular interest in rewriting Chapter 163. Two of the recommendations from the Commission to the 2001 General Assembly were rewrites of Articles 13 through 16 of Chapter 163.

The first Election Laws Revision Commission was established in 1965, and made a report to the 1967 General Assembly. The recommendations of the 1965 Commission included a rewrite of election laws in North Carolina. That recommendation resulted in the current Chapter 163, as amended.

BILL ANALYSIS: The bill would create an Election Laws Revision Commission identical to the one created by the 1999 General Assembly. The Commission would be composed of 17 members, appointed by the President Pro Tem, the Speaker, and the Governor. The Chair of the State Board of Elections and the Executive Secretary-Director of the State Board of Elections would both serve as ex-officio members.

The Commission would be charged with studying the following:

- Election laws, policies and procedures of the State.
- The administration of those laws, policies and procedures.
- Election laws, policies and procedures of other jurisdictions.
- Federal and State case law affecting elections.
- Public funding of campaigns.
- APA exemption for the State Board of Elections.
- Preference voting and instant second primaries.

The Commission would also be charged with preparing and recommended a comprehensive revision of the election laws of North Carolina. The final written report would be due to the 2003 General Assembly.

EFFECTIVE DATE: The bill would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 260

Short Title:	Election Laws Revision.	(Public)
Sponsors:	Representatives Alexander, Bonner; Goodwin, Insko, Luebke, Nesbitt, and Wainwright.	
Referred to:	Election Law and Campaign Finance Reform, if favorable, Rules, Calendar, and Operations of the House.	

February 27, 2001

A BILL TO BE ENTITLED

AN ACT TO CREATE THE ELECTION LAWS REVISION COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. There is created an Election Laws Revision Commission. The Commission shall be composed of 17 members. Twelve members shall be appointed as follows:

(1) The President Pro Tempore of the Senate shall appoint four members, including at least one county board of elections member, with no more than three of the four affiliated with the same political party.

(2) The Speaker of the House of Representatives shall appoint four members, including at least one county elections director, with no more than three of the four affiliated with the same political party.

(3) The Governor shall appoint four members, including at least one county commissioner and at least one minority-party member of the State Board of Elections.

The Chair and the Executive Secretary-Director of the State Board of Elections shall be ex officio members. The State chairs of the three political parties whose nominees for Governor received the largest number of votes in the most recent general election for Governor shall be ex officio members. All members of the Commission, whether appointed or ex officio, shall be voting members.

SECTION 2. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Commission from their appointees.

SECTION 3. The Election Laws Revision Commission shall study the following:

(1) The election laws, policies, and procedures of the State.

(2) The administration of those laws, policies, and procedures at the State and local levels and the responsibilities of those administrating these laws.
(3) The election laws, policies, and procedures of other states and jurisdictions.
(4) Federal and State case rulings impinging on these laws, policies, and practices.
(5) Public funding of election campaigns, including the advisability and proper design of a system to allow public funds to be used to support the campaigns of candidates for Governor, Lieutenant Governor, other Council of State officers, and the General Assembly who agree to abide by fund-raising and spending limits.
(6) APA exemption for the State Board of Elections.
(7) Preference voting and instant second primaries.

SECTION 4. The Commission shall prepare and recommend to the General Assembly a comprehensive revision of the election laws of North Carolina that will accomplish the following:

(1) Remove inconsistencies, inaccuracies, ambiguities, and outdated provisions in the law.
(2) Incorporate in the law any desirable uncodified procedures, practices, and rulings of a general nature that have been implemented by the State Board of Elections or its Executive Secretary-Director.
(3) Conform the statutory law to State and federal case law and to any requirements of federal statutory law and regulation.
(4) Ensure the efficient and effective administration of elections in this State.
(5) Continue the impartial, professional administration of elections, which the citizens of the State expect and demand.
(6) Recodify the election laws, as necessary, to produce a comprehensive, clearly understandable structure of current North Carolina election law, susceptible to orderly expansion as necessary.

SECTION 5. With the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist in the work of the Election Laws Revision Commission and may provide for additional staffing by the State Board of Elections, Office of the Attorney General, and the Institute of Government. With prior approval of the State Board of Elections, the Election Laws Revision Commission may hold its meetings in the offices of the State Board. With the prior approval of the Legislative Services Commission, the Election Laws Revision Commission may hold its meetings in the State Legislative Building or the Legislative Office Building.

SECTION 6. The Commission shall submit a final written report of its findings and recommendations on or before the convening of the 2003 Session of the General Assembly and may submit a report to the 2002 Regular Session of the 2001 General Assembly. All reports shall be filed with the President Pro Tempore of the

Senate and the Speaker of the House of Representatives, the Principal Clerks of the Senate and the House of Representatives, and the Legislative Librarian. Upon filing its final report, the Commission shall terminate.

SECTION 7. Members of the Commission shall be paid per diem, subsistence, and travel allowances as follows:

(1) Commission members who are also members of the General Assembly, at the rate established in G.S. 120-3.1.

(2) Commission members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6.

(3) All other Commission members, at the rate established in G.S. 138-5.

SECTION 8. All State departments and agencies, local boards of elections, and local governments and their subdivisions shall cooperate with the Commission and, upon request, shall furnish to the Commission and its staff any information in their possession or available to them.

SECTION 9. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Election Laws Revision Commission.

SECTION 10. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H

188 D

HOUSE DRH5165-LB-188 (04/04)

Short Title: Protection of Voter Rolls. (Public)

Sponsors: Representatives Blue and Hensley.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW PROTECTION OF VOTER RECORDS IN CASE OF DOMESTIC ABUSE PROTECTIVE ORDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.10 is amended by adding a new subsection to read:

"(d) Exception for Address of Certain Registered Voters. – Notwithstanding subsections (b) and (c) of this section, if a registered voter submits to the county board of elections a copy of a protective order issued to that person under G.S. 50B-3, accompanied by a signed statement that the voter has good reason to believe that the physical safety of the voter or a member of the voter's family residing with the voter would be jeopardized if the voter's address were open to public inspection, that voter's address is not a public record, and the registrar shall exclude that voter's address from public inspection as long as the protective order remains in effect. That voter's name, precinct, and the other data contained in that voter's registration record remain a public record. That voter's signed statement is also a public record but shall be kept confidential. That voter's address shall be available for inspection by a law enforcement agency or by a person identified in a court order, if inspection of the address by that person is directed by that court order."

SECTION 2. This act becomes effective December 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H

HOUSE DRH6212-LB-190 (04/04)

1186 APR 1 1 01 D

HOUSE PRINCIPAL CLERK

Short Title: Voter Registration by FAX. (Public)

Sponsors: Representatives Blue and Hensley.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW CIVILIANS THE SAME RIGHT AS MILITARY PERSONNEL TO REGISTER TO VOTE BY FAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.6 reads as rewritten:

"**§ 163-82.6. Acceptance of application forms.**

(a) How the Form May Be Submitted. – The county board of elections shall accept any form described in G.S. 163-82.3 if the applicant submits the form by ~~mail~~mail, facsimile transmission, or in person. The applicant may delegate the submission of the form to another person. Any person who communicates to an applicant acceptance of that delegation shall deliver that form so that it is received by the appropriate county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be a Class 2 misdemeanor for any person to communicate to the applicant acceptance of that delegation and then fail to make a good faith effort to deliver the form so that it is received by the county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be an affirmative defense to a charge of failing to make a good faith effort to deliver a delegated form by the registration deadline that the delegatee informed the applicant that the form would not likely be delivered in time for the applicant to vote in the next election. It shall be a Class 2 misdemeanor for any person to sell or attempt to sell a completed voter registration form or to condition its delivery upon payment.

(b) Signature. – The form shall be valid only if signed by the applicant.

(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

(1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is

missing or unclear is validly submitted if received in the mail not later than 20 days before the election,

(2) If submitted in ~~person,~~ person or by facsimile transmission, must be received by the county board of elections by 5:00 p.m. on the twenty-fifth day before the election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election, except as provided in subsection (d) of this section.

(d) Instances When Person May Register and Vote on Election Day. – If a person has become qualified to register and vote between the twenty-fifth day before an election and election-day, then that person may apply to register on election day by submitting an application form described in G.S. 163-82.3(a) or (b) to:

(1) A member of the county board of elections;

(2) The county director of elections; or

(3) The chief judge or a judge of the precinct in which the person is eligible to vote,

and, if the application is approved, that person may vote the same day. The official in subdivisions (1) through (3) of this subsection to whom the application is submitted shall decide whether the applicant is eligible to vote. The applicant shall present to the official written or documentary evidence that the applicant is the person he represents himself to be. The official, if in doubt as to the right of the applicant to register, may require other evidence satisfactory to that official as to the applicant's qualifications. If the official determines that the person is eligible, the person shall be permitted to vote in the election and the county board shall add the person's name to the list of registered voters. If the official denies the application, the person shall be permitted to vote a challenged ballot under the provisions of G.S. 163-88.1, and may appeal the denial to the full county board of elections. The State Board of Elections shall promulgate rules for the county boards of elections to follow in hearing appeals for denial of election-day applications to register. No person shall be permitted to register on the day of a second primary unless he shall have become qualified to register and vote between the date of the first primary and the date of the succeeding second primary.

(e) For purposes of subsection (d) of this section, persons who "become qualified to register and vote" during a time period:

(1) Include those who during that time period are naturalized as citizens of the United States or who are restored to citizenship after a conviction of a felony; but

(2) Do not include persons who reach the age of 18 during that time period, if those persons were eligible to register while 17 years old during an earlier period."

SECTION 2. This act becomes effective January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE DRH2204-LB-182 (04/04)

Short Title:	Voter Address Change by Fax. (Public)
Sponsors:	Representative Blue.
Referred to:	

A BILL TO BE ENTITLED

AN ACT TO ALLOW VOTERS TO REPORT CHANGES OF ADDRESS BY FAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.15(a) reads as rewritten:

"(a) Registrant's Duty to Report. – No registered voter shall be required to re-register upon moving from one precinct to another within the same county. Instead, a registrant shall notify the county board of the change of address by the close of registration for an election as set out in G.S. 163-82.6(c). In addition to any other method allowed by G.S. 163-82.6, the form may be submitted by electronic facsimile, under the same deadlines as if it had been submitted in person. The registrant shall make the notification by means of a voter registration form as described in G.S. 163-82.3, or by another written notice, signed by the registrant, that includes the registrant's full name, former residence address, new residence address, and date of moving from the old to the new address."

SECTION 2. This act becomes effective January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H

D

HOUSE DRH2201-LB-183 (04/04)

1194 HOUSE PRINCIPAL CLERK

Short Title: Election Board Closing Time. (Public)

Sponsors: Representative Blue.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE REQUIREMENT THAT COUNTY BOARDS OF ELECTIONS CLOSE AT 5:00 P.M. ON THE LAST DAY FOR VOTER REGISTRATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.6(c) reads as rewritten:

"(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

(1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,

(2) If submitted in person, must be received by the county board of elections by ~~5:00 p.m.~~ a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election,

except as provided in subsection (d) of this section."

SECTION 2. This act becomes effective with respect to elections held on or after January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

1185

HOUSE PRINCIPAL CLERK

H D

HOUSE DRH9121-LB-181 (04/04)

Short Title:	No-Excuse Absentee Deadline.	(Public)
Sponsors:	Representative Blue.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE PERIOD FOR NO-EXCUSE ONE-STOP ABSENTEE VOTING BY ALLOWING MORE TIME AFTER THE BOOKS CLOSE TO BEGIN THE PROCESS, BUT TO EXTEND IT TO INCLUDE THE SATURDAY BEFORE THE ELECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-227.2(b) reads as rewritten:

"(b) Not earlier than the first business day after the ~~twenty-fifth~~ twenty-second day before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than 5:00 p.m. on the ~~Friday~~ Saturday prior to that election, the voter shall appear in person only at the office of the county board of 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 authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person."

SECTION 2. G.S. 163-227.2(f) reads as rewritten:

"(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. on the Friday prior to that election or ~~primary.~~ primary, and shall also be open on the Saturday before the election. The boards of county commissioners shall provide necessary funds for the additional operation of the office during that time."

SECTION 3. This act applies with respect to elections held on or after January 1, 2002.

VISITOR REGISTRATION SHEET

ELECTION LAWS — 4-16-01

Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
MICHAEL CROWELL	LAWYER, RALEIGH
Dan Frey	NCGA Information Systems Div.
Don Wright	SBOE
Gary O. Bartlett	"
Johnnie McLean	"
Deb Vaas	ACLU

Ann Faust (Rep. Alexander)

From: Ann Faust (Rep. Alexander)
Sent: Monday, April 16, 2001 6:28
Subject: mtg notice Election Law

REVISED

Additional bills to be heard

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday, April 18, 2001**

TIME: **11:00am and 15 MINUTES AFTER SESSION**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 573 Eliminate Campaign Report Notarization - Representative Allred
HB 565 Elections Administrative Procedure - Representative Alexander
HB 1046 Data by Precinct – Representative Alexander
HB 1188 Protection of Rolls – Representative Blue
HB 1186 Voter Reg. By Fax - Representatives Blue and Hensley
HB 1193 Address Change by Fax - Representatives Blue and Hensley
HB 1194 Board Office Closing Time on Registration Deadline
Representative Blue
HB 1185 No Excuse Absentee Request Deadline - Representative Blue
HB 1041 Ballot Instruction in Spanish – Representative Lucas
HB 912 Cary Campaign Disclosures – Representative Weiss
HB 1190 Leave Work to Vote – Representative Blue
HB 1192 Poll Closing Times - Representative Blue
HB 1195 Annual Absentee Request – Representative Blue
HB 977 Early Voting - Representatives Michaux, Alexander and Nesbitt
HB 1187 Push Poll Disclosure - Representative Blue
HB 1294 Election Day Registration – Representative Luebke

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **6:30 pm, on April 16, 2001**

4/17/2001

___Principal Clerk
___Reading Clerk - House Chamber
Ann Faust (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Representative Blue BILLS FROM MONDAY ADDED TO PREVIOUS NOTICE FOR WEDNESDAY**

OFFICE: **1227**

NOTIFICATION DATE: **April 17, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, April 18, 2001**

TIME: **11:00 am or after session**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:
HB1188 Protection of Rolls
HB 1186 Voter Reg. By Fax
HB 1193 Address Change By Fax
HB 1194 Board Office Closing Time on Registration Deadline
HB 1185 No Excuse Absentee Request Deadline

We would like to have you attend this meeting.

Representative
Chairman

(Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Representative Hensley**

OFFICE: **610**

NOTIFICATION DATE: **April 17, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, April 18, 2001**

TIME: **11:00 am or after session**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

HB 1186 Voter Reg. By Fax
HB 1193 Address Change By Fax
e

We would like to have you attend this meeting.

Representative
Chairman

(Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Representative Lucas**

OFFICE: **1323**

NOTIFICATION DATE: **April 17, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, April 18, 2001**

TIME: **11:00 am or after session**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

HB 1041 Ballot Instruction in Spanish
e

We would like to have you attend this meeting.

Representative Alexander
Chairman

Ann Faust (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Representative Weiss**

OFFICE: **2221**

NOTIFICATION DATE: **April 17, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, April 18, 2001**

TIME: **11:00 am or after session**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

HB 912 Cary Campaign Disclosures
e

We would like to have you attend this meeting.

Representative Alexander
Chairman

Ann Faust (Committee Assistant)

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING
April 18, 2001
Room 1228
11:00 a.m.

The meeting of the Election Law and Campaign Finance Reform Committee was called to order by the Chair, Representative Alexander. Those present were Representatives Alexander, Michaux, Vice Chair, Nesbitt, Vice Chair, Arnold, Blue, Bonner, Daughtry, Decker, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Redwine, Rogers, Starnes, Thompson, Weiss and Baddour.

Representative Alexander welcomed and thanked the pages, staff and sergeants at arms for their help. She welcomed members of the League of Women Voters from Charlotte, and Jolene Lovejoy, a two-term selectman from Maine, William Norbert, majority leader and Christine Baker from the Maine House of Representatives. Each of them campaigned in support of Maine clean elections.

Representative Alexander turned the meeting over to vice chair Representative Michaux. Representative Alexander re- submitted HB 565 which would add the State Board of Elections to agencies which are exempt from the Administrative Procedure Act. Representative Goodwin stated that the quasi-judicial role of the Board of Elections put it in the same category of the other agencies that are exempt. Representative Goodwin moved for a favorable report. The motion for a favorable report failed for lack of majority, but it does not kill the bill.

Representative Allred was introduced to present HB 573 AN ACT TO ELIMINATE THE REQUIREMENT FOR NOTARIZATION OF CAMPAIGN REPORTS The penalty, a Class A felony remains for filing a false report. Notarization does not prove that a report is true. Representative Luebke asked about the status of electronic filing. Gary Bartlett, Executive Director of the State Board of Elections, said that electronic filing is mandatory for candidates running for Council of State offices. The candidate then sends a letter to the State Board of Elections with a notarized signature. Representative Allred moved put forth an amendment page 2 line 9 making the law effective when it becomes law The amendment passed. Representative Decker moved for a favorable report for the committee substitute as amended, unfavorable as to original bill. The motion passed.

Representative Alexander presented a committee substitute for HB 1046.AN ACT TO IMPROVE THE ACCURACY AND UNDERSTANDABILITY OF PRECINCT DATA. Representative Bonner moved acceptance of HB 1046 for discussion, and the motion passed. Mr. Gilkeson explained the committee substitute. All data would be available by precinct, no matter how the voter voted, to the extent that it is possible without compromising the secrecy of the voter's ballot. The State Board of Elections would require all data by precinct by the 2006 election. Exemptions would be made in cases of financial hardship for counties. Naming precincts would become standardized in

order to track voting trends/results for a precinct, but counties would continue in their present naming patterns. Representative Nesbitt questioned whether precinct identity after splitting is relevant. Discussion followed on ballot secrecy and naming precincts. Mr. Bartlett said that "precinct lumping" is now possible in about 80% of precincts. Mr. Frey reported that the same precinct is often referred to by different names in various reports making tracking voting history very difficult. Renumbering usually throws following numbers off track. In response to concerns by Representative Morris, Mr. Bartlett said that provisional and curbside votes could be hard to incorporate into precinct data and retain secrecy because they are so few. Representative Alexander said that as much information as possible is needed for redistricting. Representative Nesbitt said that because more people will be voting absentee/early voting the process for gathering/reporting precinct figures needs to be in place. Representative Nesbitt put forth an amendment deleting Section 2 on page 1 line 17 through page 2 line 8 relating to naming precincts and renaming Section 3 to Section 2. The amendment passed.

The meeting was adjourned.

Martha Alexander, Chair

Mickey Michaux, Vice Chair

Ann Faust, Committee Assistant

HOUSE BILL 565:
Election Administrative Procedure.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Alexander
Date:	April 4, 2001	**Summary by:**	William R. Gilkeson Committee Co-Counsel
Version:	First Edition		

SUMMARY: ***House Bill 565 would add the State Board of Elections and its Executive Secretary-Director to the list of agencies that are exempt from the Administration Procedure Act.***

CURRENT LAW: The Administrative Procedure Act (the APA) is found in Chapter 150B of the General Statutes. It governs the rulemaking and adjudicatory functions of agencies in the executive branch of government.

Rulemaking. The APA requires that rules adopted by a covered agency must be submitted for approval to the Rules Review Commission, which determines whether the agency has the statutory authority to promulgate those rules. Moreover, the APA requires that a permanent rule cannot go into effect the 31st day of the next regular General Assembly session after the Commission approves the rule (or the adjournment of that session, if the session last less than 31 days). To count in that formula, the session must begin at least 25 days after the Commission approves the rule. The effect of that delaying provision is to give the General Assembly an opportunity to overturn the proposed rule if it sees fit.

Under certain conditions, the APA allows an agency to adopt temporary rules prior to approval by the Rules Review Commission and without the delays required for permanent rules. In 1999, in reponse to a legislative effort to exempt the State Board of Elections from the APA, the General Assembly gave the State Board of Elections broader-than-usual authority to adopt temporary rules. The State Board may adopt a temporary rule "[to] implement any provisions of state or federal law for which [it] has been authorized to adopt rules" or because of the "need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process." A temporary rule cannot last longer than 270 days after adoption.

Adjudication. The contested-case provisions of the APA give a party a right to have an administrative decision by an agency reviewed by an administrative law judge under the Office of Administrative Hearings.

The most common contested case the State Board of Elections handles, the disputed election result, is subject to its own statutory procedures under Chapter 163 and so is not governed by APA contested-case provisions.

Three agencies have full exemptions from the APA, the Utilities Commission, the Industrial Commission, and the Employment Security Commission. Two others, the National Guard and the Department of Health and Human Services, have exemptions for certain limited functions only.

BILL ANALYSIS: House Bill 565 would make the State Board of Elections the fourth State agency with a full exemption from the APA. The exemption would provide, however, that when adopting rules, the State Board would be required to follow the notice and hearing requirements that covered agencies would have to follow. The exemption would also require the State Board to provide to parties procedural rights equivalent to those in the APA.

The bill also exempts the Executive Secretary-Director of the State Board from the APA.

BACKGROUND: The State Board of Elections has named exemption from the APA as one of its top legislative priorities. At the State Board's urging, the Election Laws Revision Commission endorsed the exemption, but did not include a draft bill in its report to the 2001 General Assembly.

EFFECTIVE DATE: The act is effective when it becomes law. It exempts rules adopted at any time, and contested cases commenced on or after the effective date of the act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 565

Short Title:	Elections Admin. Procedure.	(Public)
Sponsors:	Representatives Alexander; and Goodwin.	
Referred to:	Election Law and Campaign Finance Reform.	

March 12, 2001

A BILL TO BE ENTITLED

AN ACT TO EXEMPT THE STATE BOARD OF ELECTIONS FROM THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. 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 adopting rules, they shall follow the procedures in subsections (a) through (g) and subsection (i) of G.S. 150B-21.2, and provided that, in contested cases, equivalent procedural rights to those provided in Articles 3A and 4 of this Chapter are afforded to the parties."

SECTION 2. G.S. 150B-21.1(a5) is repealed.

SECTION 3. G.S. 163-132.5B is repealed.

SECTION 4. G.S. 163-256 reads as rewritten:

"**§ 163-256. Regulations of State Board of Elections.**

The State Board of Elections shall adopt rules and regulations to carry out the intent and purpose of G.S. 163-254 and 163-255, and to ensure that a proper list of persons voting under said sections shall be maintained by the boards of elections, and to ensure

proper registration ~~records, and such rules and regulations shall not be subject to the provisions of G.S. 150B-9.~~ records."

SECTION 5. G.S. 163-278.34(a1) reads as rewritten:

"(a1) The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a ~~petition for a contested case under Article 3 of Chapter 150B of the General Statutes.~~ protest or request for waiver of the penalty with the State Board of Elections. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. Consistent with G.S. 115C-437, the State Controller shall pay the clear proceeds of civil penalties collected under this section to the County School Fund in the county in which the person charged with the violation resides. The State Controller shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the County School Fund. Monies set aside for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board of Elections."

SECTION 6. This act is effective when it becomes law. The exemptions set forth in Section 1 of this act apply to any rules adopted by the State Board of Elections at any time and to any contested case commenced on or after the date this act becomes effective.

HOUSE BILL 573:
Eliminate Campaign Report Notarization

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Allred
Date:	April 11, 2001	**Summary by:**	William R. Gilkeson Committee Counsel
Version:	First Edition		

SUMMARY: ***House Bill 573 would remove the requirement that campaign finance reports be sworn under oath before a notary.***

CURRENT LAW: In three places in North Carolina's Campaign Finance Act *(Article 22A of Chapter 163 of the General Statutes)* documents are required to be made under oath. A statement of contributions and expenditures, the most basic document the Campaign Finance Act requires, must be made under oath. *Section 2 of the bill, G.S. 163-278.9.* A statement that a candidate does not intend to take in or spend more than $3,000, thereby relieving the candidate of making reports of contributions and expenditures, must also be made under oath. *Section 3 of the bill, G.S. 163-278.10A.* The broadest statement, G.S. 163-278.32, set out in Section 1 of the bill, states that any statement require under the Campaign Finance Act must be signed and certified as true and correct by whoever is required to file it, and that document "shall be verified by oath or affirmation . . . taken before any officer authorized to administer oaths." Notaries are the most common officer authorized to administer oaths.

A person violating an oath is guilty of perjury, punishable by a Class F felony. *G.S. 14-209.*

BILL ANALYSIS: House Bill 573 would remove the requirement of a notarized oath from all three places it appears in the Campaign Finance Act. Instead, the bill would require a *certification*. The certification would be self-executing; the filer would not have to find a notary or other official before whom to take an oath.

The bill would provide that any person making a certification on a campaign finance document knowing it to be untrue could be prosecuted for perjury as a Class F felon. That is the same penalty as for lying under oath.

EFFECTIVE DATE: The act would become effective for all reports or statements filed on or after January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

HOUSE BILL 573

Short Title:	Eliminate Campaign Report Notarization.	(Public)
Sponsors:	Representatives Allred; Adams, Capps, Johnson, Justus, McAllister, and Warner.	
Referred to:	Election Law and Campaign Finance Reform.	

March 13, 2001

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE REQUIREMENT FOR NOTARIZATION OF CAMPAIGN REPORTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-278.32 reads as rewritten:

"**§ 163-278.32. Statements under oath.**

Any statement required to be filed under this Article shall be signed and certified as true and correct by the individual, media, candidate, treasurer or others required to file it, and shall be ~~verified by the oath or affirmation of~~ certified as true and correct to the best of the knowledge of the individual, media, candidate, treasurer or others filing the ~~statement, taken before any officer authorized to administer oaths;~~ statement; provided further that the candidate shall certify as true and correct to the best of his knowledge the organizational report and appointment of treasurer filed for the candidate or the candidate's principal campaign committee. Any person making a certification under this Article knowing the information to be untrue may be prosecuted for perjury under G.S. 14-209."

SECTION 2. G.S. 163-278.9(i) reads as rewritten:

"(i) Any report or attachment filed under subsection (e) of this section must be ~~made under oath.~~ certified."

SECTION 3. G.S. 163-278.10A(a) reads as rewritten:

"(a) Notwithstanding any other provision of this Chapter, a candidate shall be exempted from the reports of contributions, loans, and expenditures required in G.S. 163-278.9(a), 163-278.40B, 163-278.40C, 163-278.40D, and 163-278.40E if to further his campaign that candidate:

(1) Does not receive more than three thousand dollars ($3,000) in contributions, and

(2) Does not receive more than three thousand dollars ($3,000) in loans, and

(3) Does not spend more than three thousand dollars ($3,000).

To qualify for the exemption from those reports, the candidate's treasurer shall file a certification ~~under oath~~ that he does not intend to receive in contributions or loans or expend more than three thousand dollars ($3,000) to further his campaign. The certification shall be filed with the Board at the same time the candidate files his Organizational Report as required in G.S. 163-278.7, G.S. 163-278.9, and G.S. 163-278.40A. If the candidate's campaign is being conducted by a political committee which is handling all contributions, loans, and expenditures for his campaign, the treasurer of the political committee shall file a certification of intent to stay within the threshold amount. If the intent to stay within the threshold changes, or if the three thousand dollar ($3,000) threshold is exceeded, the treasurer shall immediately notify the Board and shall be responsible for filing all reports required in G.S. 163-278.9 and 163-278.40B, 163-278.40C, 163-278.40D, and 163-278.40E; provided that any contribution, loan, or expenditure which would have been required to be reported on an earlier report but for this section shall be included on the next report required after the intent changes or the threshold is exceeded."

SECTION 4. This act becomes effective with respect to all reports, statements, and certifications filed on or after January 1, 2002.

HOUSE BILL 1046:
Data by Precinct

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Alexander
		Summary by:	William R. Gilkeson Committee Counsel
Date:	April 11, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1046 would require that county boards of elections maintain voting data by precinct for absentee ballots, provisional ballots, and curbside ballots. It would also require the State Board of Elections to develop standards for naming precincts.***

CURRENT LAW: The Legislative Services Office is required, as part of its duty to develop a computer system for redistricting, to collect voter registration data and election data as well as Census population data, for every precinct in the State.

County boards of elections are required to prepare abstracts of election data by precinct. Those abstracts are stored with the Clerk of Superior Court and the Secretary of State.

The State Board of Elections has been given the authority in recent budget legislation to collect computerized election returns.

In collecting voter registration and election data by precinct, the Legislative Services Office has encountered 2 problems:

- An increasing number of voters have been casting their votes by absentee ballots (particularly One-Stop absentee ballots) and provisional ballots. Not all counties are able to break down returns coming from those kinds of ballots by precinct. That means that, for the 2000 general elections, for example, 486,152 votes in the Governor's race were reported by county boards at the county level – not by precinct. That was 14.2% of the total of 3, 428,214 votes cast. The result is that when the redistricting computer system shows that a precinct voted a certain way in the 2000 Governor's race, that information does not include a number of votes cast by the voters living in that precinct. If those voters, chiefly absentee and provisional-ballot voters, voted differently than their fellow precinct residents who voted at the polls on election day, then the precinct returns may be misleading. If the number voting One-Stop grows, the problem will increase.
- The names given to precincts cause confusion. This is particularly true where county boards change their precincts over the years, especially if they renumber precincts in such a way that, say, Precinct 12 in the 2000 election is a completely different part of the county than Precinct 12 in 1996. Some counties use a more helpful naming convention, so that, for example, if High Point Precinct 5 is split the two new precincts are High Point 5A and High Point 5B, and if High Point 5B is later split, it becomes 5B1. There is no statute governing the naming of precincts.

BILL ANALYSIS: House Bill 1046 requires counties to report election results so that the votes cast by transfer, provisional, absentee, and curbside voters are included in the precinct totals. The State Board of Elections must adopt rules for enforcing the provision so that the secrecy of any individual's ballot is not compromised.

The bill also requires the State Board to develop standards for naming precincts. The State Board is directed to draft the standards so as to facilitate the study of historical voter registration and voting data. County boards are required to follow the naming standards when reporting voter and voting data to the State Board and to the Legislative Services Office, but may use other names informally for other purposes.

EFFECTIVE DATE: The act is effective when it becomes law, except that data from provisional and absentee voting is not required to be provided by precinct until the 2002 election.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1046
PROPOSED COMMITTEE SUBSTITUTE H1046-CSRR-13 [v.3]

4/17/2001 10:36:46 PM

Short Title: Election Data by Precinct. (Public)

Sponsors:

Referred to:

April 10, 2001

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE ACCURACY AND UNDERSTANDABILITY OF PRECINCT DATA.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-132.5G. Voting data maintained by precinct.**

To the extent that it can do so without compromising the secrecy of an individual's ballot, each county board of elections shall maintain voting data by precinct so that precinct returns for each item on the ballot shall include the votes cast by all residents of the precinct, including transfer voters and those who voted by provisional ballot, by curbside ballot, and by absentee ballot, both mail and one-stop. The State Board of Elections shall adopt rules for the enforcement of this section with the goal that all voting data shall be reported by precinct by the 2006 election. Those rules shall provide for exemptions where the expense of compliance would place a financial hardship on a county."

SECTION 2. Article 12A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-132.5H. State Board of Elections to develop standards for naming precincts.**

The State Board of Elections shall develop standards for naming precincts. Those standards shall facilitate the study of historical voter registration and voting data by such means as the following:

(1) Preventing reassignment of precinct names or numbers where that reassignment would frustrate comparison of precinct data over the years.

(2) Mandating that precincts that result from splitting a larger precinct be given names that indicate the precincts' history as part of the larger precinct.

Where consistent with those purposes, the standards shall allow for continued use of precinct names that are traditional to a county, rather than requiring that all counties use the same names.

The county boards of elections shall adhere to those standards in their official references to precincts and in their reports concerning precinct boundaries, voter registration, and voting data to the State Board of Elections. In other contexts, this section does not prohibit a county board from using informal names for precincts where appropriate."

SECTION 3. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1046 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) NESBITT
Sen.)

1 moves to amend the bill on page 1, line 17 through
2 ( ) WHICH CHANGES THE TITLE page 2, line 8
3 by deleting Section 2 of the bill and renumbering
4 Section 3 as Section 2.
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SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

V

VISITOR REGISTRATION SHEET

ELECTION LAWS & REFORM — 4-18-01

Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Althea Calloway	311 Wedgewood Dr 28270 LWV
Mary Klenz	League of Women Voters, Charlotte
Theresa Elder	" " " " "
Joy Barbour	Concerned Bikers Assoc. / ABATE of N.C.
Michael Mann	citizen 1711 Kent St Durham NC 27707
Carrie Benoit Salemi	Citizen 1020 Wells St Durham 27707
John McHugh	Office of Governor
Katarina Duich Moyon	3045 Northampton Dr. Charlotte 28210 LWV
Charlotte Sullivan	5409 McChesney Dr. Charlotte 28269 LWV
Greg Weigle	" " " " " "
Ken Ivents	9035-36 JM Keynes Dr Charlotte 28262
Melissa Siebert	Democracy South, Carrboro NC
[illegible]	TRC
Caitlin Breedlove	Democracy South, Carrboro, NC
Adam Sotak	Democracy South, Carrboro, NC
Alyssa Q. Battle	Democracy South, Carrboro, NC
Peg Chapin	League of Women Voters Charlotte
Dal Wright	CBOE
Gary Bartlett	"
John McLean	"
Anne McCracken	Common Cause / NC
Beverly Brown	Common Cause / NC, 19 W. Hargett St. Suite 600 Raleigh, NC 27601-2937
[illegible]	
Yvonne Schmidt	Chapel Hill Area League of Women Voters
Nancy Solomon	LWV-CHA
Margaret Haston	League of Women Voters Chapel Hill
Dan Frey	NCGA - ISD
Betty Blackwell	League of Women Voters / Wake
Barbara Nettesheim	101 Chestnut Rd, Chapel Hill, NC League of Women Voters / CHA

VISITOR REGISTRATION SHEET

Election Laws — Name of Committee

4-18 — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Nancy Mills	Common Cause/NC
Liz Denton	NCPIRG
David Lee	NAZI

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING
April 18, 2001
Room 1228
4:30 p.m.

The meeting of the Election Law and Campaign Finance Reform Committee was called to order by the Chair, Representative Alexander. Those present were Representatives Alexander, Michaux, Vice Chair, Nesbitt, Vice Chair, Arnold, Blue, Bonner, Church, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Rogers, Starnes, Thompson, and Weiss.

Representative Alexander introduced and welcomed the page and thanked him for working late.

Representative Alexander called on Representative Weiss to continue the presentation of HB 912 CARY CAMPAIGN DISCLOSURES, which would allow the town of Cary, for town elections, to set limits lower than the statewide limits for contributions and for disclosure of contributions, at the request of the town council. Representative Weiss put forth an amendment on page 1 lines 5 and 6 by deleting the term "other municipalities" and substituting "another municipality" and on page 1 line 5 by adding "the ordinance may not set a limitation which has a dollar amount greater that the dollar amount set in the general law which would apply to elective office in the town." Discussion followed. Representative Rogers moved adoption of the amendment; the motion passed. Representative Weiss pointed out that lower limits would allow candidates who do not raise much money the opportunity to run. Representative Blue added that the best government seeps up from the people, and Cary should have the right to govern itself within the limits of the Constitution. Representative Justus reminded that a wealthy candidate could fund his/her own campaign without limit. Representative Blue moved for a favorable report on the committee substitute as amended, unfavorable as to the original bill. Representative Arnold asked how issue ads are affected? Michael Crowell, an election law attorney, said that if the ad extols or derides a candidate, but does not say "vote for..." or "vote against..." it does not count as a contribution to a candidate which is limited, but is an issue ad. The committee substitute received a favorable report.

Representative Alexander stated that HB 831 was sent back to Committee from the floor in order to include other bills rather than have many bills on the floor. Representative Luebke moved that HB 831 be in front of the Committee for consideration. The motion passed.

Representative Blue was introduced to present HB 1185 ONE STOP ABSENTEE DEADLINE. HB 1185 gives the Board of Elections more time to process new registrations. The absentee process would begin on Thursday after registration books close on the preceding Friday, instead of Monday as in HB 831. Representative Blue put forth and amendment changing the language on page 1 lines 8 and 9 to read "the third

Thursday" to clean up language. The amendment passed. Represent Blue put forth an amendment to remove the words "No Excuse" on page 1 line 2. since the bill deals only with absentee voting. The amendment passed. In HB 1185 the time to cast an absentee ballot would be extended to 5:00 on the last Saturday. Three Saturdays would be voting days. Discussion followed about the work load for the boards of elections on the last Saturday. Gary Bartlett, Executive Director of the State Board of Election, suggested a 1:00 closing time would be easier on boards of elections. Representative Blue moved to amend the language allowing for an optional closing time determined by the county board of elections. The closing time would have to be announced prior to election day. Representative Justus put forth an amendment on page 2 line 9 inserting the phrase "primaries and " between the words "to" and "election" to extend absentee voting to primaries. The amendment passed. Representative Blue moved to roll the amendments into the committee substitute. The motion passed.

Representative Blue presented HB 1194 ELECTION BOARDS CLOSING TIME which allows county boards of elections to accept voter registration applications at an hour later than 5:00 p.m. on the cutoff date of registration, but boards must close by midnight. Representative Nesbitt moved to include making public notice of closing time at the recommendation of Mr. Bartlett, Executive Director of the State Board of Elections. The boards of elections would be open until the posted time. Representative Nesbitt moved that the amendments be rolled into the bill, and the committee substitute be given a favorable report, unfavorable as to original bill and that all the bills be included in the committee substitute for HB 831. The motion passed.

The meeting was adjourned.

Martha Alexander, Committee Chair

Ann Faust, Committee Assistant

HOUSE BILL 912:
Cary Campaign Disclosures

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Weiss (By Request)
Date:	April 16, 2001	**Summary by:**	William R. Gilkeson Committee Counsel
Version:	First Edition		

SUMMARY: ***House Bill 912 would allow the Cary Town Council, for town elections, to set limits lower than the statewide limits for contributions and for disclosure of contributions.***

CURRENT LAW: The State Campaign Finance Act sets the limit on political contributions at $4,000 per donor per donee per election. *G.S. 163-278.13* It says candidates and political committees must report names and other information about all contributors, except for those who give $100 or less. *G.S. 163-278.8.*

Another provision in the law excuses candidates and political party committees from making reports of contributions and expenditures if they do not raise or spend more than $3,000 in their campaigns. *G.S. 163-27810A.*

BILL ANALYSIS: House Bill 912 would allow the Cary Town Council, for town elections, to set lower limits than the statewide ones for both contributions and disclosure of contributions.

In addition, the bill would remove candidates for Cary town offices from the $3,000 threshold on reporting.

EFFECTIVE DATE: The bill would be effective upon becoming law.

BACKGROUND: In 1999, the General Assembly gave virtually identical authority to the Town Council of Chapel Hill.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 912

Short Title:	Cary Campaign Disclosures.	(Local)
Sponsors:	Representative Weiss (By Request).	
Referred to:	Election Law and Campaign Finance Reform.	

March 29, 2001

A BILL TO BE ENTITLED

AN ACT GRANTING TO THE CARY TOWN COUNCIL AUTHORITY TO REQUIRE DISCLOSURE OF THE NAMES OF CONTRIBUTORS TO TOWN ELECTION CAMPAIGNS, AND TO LIMIT THE AMOUNTS OF SUCH CONTRIBUTIONS, AS HAS PREVIOUSLY BEEN GRANTED TO OTHER MUNICIPALITIES.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Cary, being Chapter 868 of the Session Laws of 1971 as amended, is further amended by adding the following new sections to Article IV, Election Procedure:

"Section 4.12. Disclosure of Contributors.

(a) The Town Council may by ordinance require the disclosure by candidates (and their political committees) for elective town office of the names of all contributors to their campaigns. The ordinance may exempt from disclosure contributions below a monetary amount set in the ordinance.

(b) The ordinance shall apply regardless of the total amount of contributions, loans, or expenditures by the campaigns.

(c) G.S. 163-278.10A does not apply to municipal elections in the Town of Cary.

Section 4.13. Limitation on Contributions. Except as provided by G.S. 163-278.13(c), the Town Council may by ordinance limit the amount of contributions which any individual, person, or political committee may contribute to any candidate for town office or to any political committee of that candidate. The ordinance may not set a limitation which has a dollar amount greater than the dollar amount set in the general law which would apply to elective office in the town.

Section 4.14. Definitions. The definitions in Article 22A of Chapter 163 of the General Statutes apply to Sections 4.12 and 4.13 of this Charter."

SECTION 2. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 912

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H912-ARR-30 [v.1]

Date _____,2001

Comm. Sub. [NO]
Amends Title [YES]
First Edition

Representative Weiss

moves to amend the bill on page 1, lines 5 and 6,
by deleting the term "OTHER MUNICIPALITIES" and substituting the term "ANOTHER MUNICIPALITY"; and

on page 1, line 15,
by adding at the end of that line the following:

"The ordinance may not set a limitation which has a dollar amount greater than the dollar amount set in the general law which would apply to elective office in the town."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 831
Committee Substitute Favorable 4/16/01
PROPOSED COMMITTEE SUBSTITUTE H831-PCS4151-RR-16

Short Title: Election Changes. (Public)

Sponsors:

Referred to:

March 28, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A GREATER ROLE FOR THE STATE BOARD OF ELECTIONS IN PERSONNEL DECISIONS CONCERNING COUNTY ELECTION DIRECTORS; TO ENHANCE THE CERTIFICATION PROGRAM FOR ELECTION OFFICIALS; TO REMOVE LIMITATIONS ON TWO PROVISIONS CONCERNING PRECINCTS; TO CHANGE THE LENGTH OF THE ONE-STOP VOTING PERIOD; TO ALLOW COUNTY BOARDS OF ELECTIONS, WITH STATE BOARD APPROVAL, TO USE OTHER ONE-STOP SITES INSTEAD OF THE COUNTY BOARD OFFICE; TO ALLOW LATER ACCEPTANCE OF VOTER REGISTRATION APPLICATIONS; TO PROVIDE FOR ELECTRONIC TRANSFER OF VOTER REGISTRATION APPLICATIONS FROM THE DIVISION OF MOTOR VEHICLES; TO UPDATE THE STATUTES CONCERNING VOTER REGISTRATION LIST MAINTENANCE; TO APPLY THE WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS; TO CORRECT A REFERENCE IN THE CAMPAIGN FINANCE LAW; AND TO RENAME THE EXECUTIVE SECRETARY-DIRECTOR OF THE STATE BOARD OF ELECTIONS THE "EXECUTIVE DIRECTOR".

The General Assembly of North Carolina enacts:

--CHANGES CONCERNING COUNTY ELECTION DIRECTORS.

SECTION 1.(a) G.S. 163-35(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Secretary-Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county

board of elections. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Secretary-Director of the State Board of Elections the termination of the employment of the county board's director of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Secretary-Director shall forward a copy of ~~same~~ the petition by certified mail, return receipt requested, to the county director of elections involved. The county director of elections may reply to ~~said~~ the petition within 15 days of receipt thereof. Within 20 days of receipt of the county director of elections' reply or the expiration of the time period allowed for the filing of ~~said~~ the reply, the State Executive Secretary-Director shall render a decision as to the termination or retention of the county director of elections. The decision of the Executive Secretary-Director of the State Board of Elections shall be final unless ~~such~~ the decision ~~shall,~~ is, within 20 days from the official date on which it was made, ~~be~~ deferred by the State Board of ~~Elections,~~ Elections. ~~in which event a public hearing shall be conducted by State Board or any single member designated by the remaining four members, in the county seat of the county involved. Following the conduct of public hearing and a decision by the State Board of Elections, the chairman of said Board shall notify the Executive Secretary-Director of the State Board of Elections, in writing, of the decision resulting from the public hearing.~~ If the State Board defers the decision, then the State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard and to present witnesses and information to the State Board, and then notify the Executive Secretary-Director of its decision in writing. If the decision, rendered by the State Board of Elections, results in concurrence with the decision entered by the Executive Secretary-Director, the decision becomes final. If the decision rendered by the Board is contrary to that entered by the Executive Secretary-Director, then the Executive Secretary-Director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board of Elections. ~~The employment of any director of elections presently employed or hereafter employed shall not be terminated except in compliance with the procedures herein prescribed. For the purposes of this subsection the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23.~~

Upon majority vote on the recommendation of the Executive Secretary-Director, the State Board of Elections may initiate proceedings for the termination of a county director of elections for just cause. If the State Board votes to initiate proceedings for termination, the State Board shall state the reasons for the termination in writing and send a copy by certified mail, return receipt requested, to the county director of elections. The director has 15 days to reply in writing to the notice. The State Board shall make a final decision on the termination after giving the county director of

elections an opportunity to be heard, present witnesses, and information to the State Board.

A county director of elections may be suspended, with pay, without warning for causes relating to personal conduct detrimental to service to the county or to the State Board of Elections, pending the giving of written reasons, in order to avoid the undue disruption of work or to protect the safety of persons or property or for other serious reasons. Any suspension may be initiated by the Executive Secretary-Director but may not be for more than five days. Upon placing a county director of elections on suspension, the Executive Secretary-Director shall, as soon as possible, reduce to writing the reasons for the suspension and forward copies to the county director of elections, the members of the county board of elections, and the State Board of Elections. If no action for termination has been taken within five days, the county director of elections shall be fully reinstated.

Termination of any county director of elections shall comply with this subsection. For the purposes of this subsection, the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23."

SECTION 1.(b) G.S. 163-35 is amended by adding a new subsection to read:

"(e) Training and Certification. – The State Board of Elections shall conduct a training program consisting of four weeks for each new county director of elections. The director shall complete that program. Each director appointed after May 1995 shall successfully complete a certification program as provided in G.S. 163-82.24(b) within three years after appointment or by January 1, 2003, whichever occurs later."

SECTION 1.(c) This section becomes effective January 1, 2002.

--CERTIFICATION OF ELECTION OFFICIALS.

SECTION 2.(a) G.S. 163-82.24 reads as rewritten:

"**§ 163-82.24. Statewide training and certification for election officials.**

(a) Training. – The State Board of Elections shall conduct training programs in election law and procedures. Every county elections director shall receive training conducted by the State Board at least as often as required in the following schedule:

(1) Once during each odd-numbered year before the municipal election held in the county;

(2) Once during each even-numbered year before the first partisan primary; and

(3) Once during each even-numbered year after the partisan primaries but before the general election.

Every member of a county board of elections shall receive training conducted by the State Board at least once during the six months after the member's initial appointment and at least once again during the first two years of the member's service. The State Board of Elections shall promulgate rules for the training of precinct officials, which shall be followed by the county boards of elections.

(b) Certification. – The State Board of Elections shall conduct a program for certification of election officials. The program shall include training in election law and procedures. Before issuing certification to an election official, the State Board shall administer an examination designed to determine the proficiency of the official in election law and procedures. The State Board shall set adequate standards for the passage of the examination."

SECTION 2.(b) This section is effective when this act becomes law.

--REMOVE SUNSET FROM OUT-OF-PRECINCT VOTING PLACE PROVISION.

SECTION 3.(a) Section 3(b) of S.L. 1999-426 reads as rewritten:

"Section 3.(b) This section is effective when this act becomes ~~law and expires January 1, 2002.~~ law."

SECTION 3.(b) This section is effective when this act becomes law.

--REMOVE SUNSET AND 3-COUNTY PILOT LIMITATION FROM 2-VOTING-PLACE-PER-PRECINCT PROVISION.

SECTION 4.(a) G.S. 163-130.2 reads as rewritten:

"**§ 163-130.2. Temporary use of two voting places for certain ~~precincts; pilot program.~~ precincts.**

A county board of elections, by unanimous vote of all its members, may propose to designate two voting places to be used temporarily for the same precinct. The temporary designation of a voting place shall continue only for the term of office of the county board of elections making the designation. For any precinct that is temporarily given two voting places, the county board shall assign every voter to one or the other of those voting places.

The county board's proposal is subject to approval by the Executive Secretary-Director of the State Board of Elections. The county board shall submit its proposal in writing to the Executive Secretary-Director. ~~The Executive Secretary-Director may approve a proposal under this section in not more than three counties, to be a pilot program.~~ The Executive Secretary-Director shall approve that proposal only if it finds all of the following:

(1) That the precinct has more registered voters than can adequately be accommodated by any single potential voting place available for the precinct.

(2) That no boundary line that complies with Article 12A of this Chapter can be identified that adequately divides the precinct.

(3) That the county board can account for, by street address number, the location of every registered voter in the precinct and fix that voter's residence with certainty on a map.

(4) That no more than three other precincts in the same county will have two voting places.

(5) That both voting places for the precinct would have adequate facilities for the elderly and disabled.

(6) That the proposal provides adequately for security against fraud.

(7) That the proposal does not unfairly favor or disfavor voters with regard to race or party affiliation.

The county board shall designate a full set of precinct officials, in the manner set forth in Article 5 of this Chapter, for each voting place designated for the precinct."

SECTION 4.(b) Section 4(b) of S.L. 1999-426 reads as rewritten:

"Section 4.(b) This section becomes effective January 2, ~~2000, and expires January 2, 2002.~~ 2000. The Executive Secretary-Director of the State Board of Elections shall study the operation and consequences of the pilot program created by this section and report findings and recommendations to the 2001 General Assembly by February 1, 2001."

SECTION 4.(c) This section is effective when this act becomes law.

--CHANGES CONCERNING ONE-STOP VOTING.

SECTION 5.(a) G.S. 163-227.2(b) reads as rewritten:

"(b) Not earlier than the ~~first business day after the twenty-fifth day~~ third Thursday before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than ~~5:00~~ 1:00 ~~p.m.~~P.M. on the ~~Friday prior to~~ last Saturday before that election, the voter shall appear in person only at the office of the county board of elections, except as provided in subsection ~~(f1)~~ (g) of this section. A county board of elections shall conduct one-stop voting on the last Saturday before the election until 1:00 P.M. and may conduct it until 5:00 P.M. on that Saturday. 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 authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person."

SECTION 5.(b) G.S. 163-227.2(f) reads as rewritten:

"(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. on the Friday prior to that election ~~or primary.~~ and shall also

be open on the last Saturday before the election. The boards of county commissioners shall provide necessary funds for the additional operation of the office during that time."

SECTION 5.(c) G.S. 163-227.2(g) reads as rewritten:

"(g) 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. A county board of elections may propose in its Plan not to offer one-stop voting at the county board of elections office but to rely exclusively on the other sites; the State Board shall approve that proposal in a Plan only if it finds that the other sites provide adequate coverage of the county's electorate. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board of Elections to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board of Elections may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county."

SECTION 5.(d) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--LATER REGISTRATION DEADLINE ON FINAL DAY.

SECTION 6.(a) G.S. 163-82.6(c) reads as rewritten:

"(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

(1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,

(2) If submitted in person, must be received by the county board of elections by ~~5:00 p.m.~~ a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election,

except as provided in subsection (d) of this section."

SECTION 6.(b) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--ELECTRONIC TRANSFER OF DMV REGISTRATIONS.

SECTION 7.(a) G.S. 163-82.19 reads as rewritten:

"**§ 163-82.19. Voter registration at drivers license offices.**

The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate county board of elections."

SECTION 7.(b) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--UPDATING OF VOTER REGISTRATION LIST MAINTENANCE PROVISION TO REFLECT CURRENT FEDERALLY APPROVED PRACTICE.

SECTION 8.(a) G.S. 163-82.14(d) reads as rewritten:

"(d) Change of Address. – A county board of elections shall conduct a systematic program to remove from its list of registered voters those who have moved out of the county, and to update the registration records of persons who have moved within the county. The county board shall remove a person from its list if the registrant:

(1) Gives confirmation in writing of a change of address for voting purposes out of the county. "Confirmation in writing" for purposes of this subdivision shall include:

a. A report to the county board from the Department of Transportation or from a voter registration agency listed in G.S. 163-82.20 that the voter has reported a change of address for voting purposes outside the county;

b. A notice of cancellation received under G.S. 163-82.9; or

c. A notice of cancellation received from an election jurisdiction outside the State.

(2) Fails to respond to a confirmation mailing sent by the county board in accordance with this subdivision and does not vote or appear to vote in an election beginning on the date of the notice and ending on the day after the date of the second general election for the United States House of Representatives that occurs after the date of the notice. A county board sends a confirmation notice in accordance with this subdivision if the notice:

a. Is a postage prepaid and preaddressed return card, sent by forwardable mail, on which the registrant may state current address;

b. Contains or is accompanied by a notice to the effect that if the registrant did not change residence but remained in the county, the registrant should return the card not later than the deadline for registration by mail in G.S. 163-82.6(c)(1); and

c. Contains or is accompanied by information as to how the registrant may continue to be eligible to vote if the registrant has moved outside the county.

A county board shall send a confirmation mailing in accordance with this subdivision ~~if the~~ to every registrant ~~remains on the list, the registrant has not voted in two successive presidential elections or in any election in between, and~~ after every congressional election if the county board has not confirmed the registrant's address by another means. ~~The county board may send a confirmation mailing in accordance with this subdivision if the registrant has been identified as~~

~~residing outside the county through change of address information supplied by the Postal Service through its licensees.~~"

SECTION 8.(b) This section is effective when this act becomes law.

--APPLYING WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS.

SECTION 9.(a) G.S. 163-123(g) reads as rewritten:

"(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan ~~elections.~~elections except for superior court judge elections under Article 25 of this Chapter."

SECTION 9.(b) This section is effective when this act becomes law.

--CORRECTING REFERENCE TO FUND FOR RETURNING ILLEGAL CONTRIBUTIONS.

SECTION 10.(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 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~~ Civil Penalty and Forfeiture Fund of the State of North Carolina."

SECTION 10.(b) This section is effective when this act becomes law.

--NAME CHANGE TO EXECUTIVE DIRECTOR.

SECTION 11. The Revisor of Statutes is authorized to change the term "Executive Secretary-Director" and the term "State Executive Secretary-Director" to "Executive Director" wherever it appears in the General Statutes in reference to the State Board of Elections Executive Secretary-Director.

SECTION 12. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SECTION 13. Except as otherwise provided in each section, this act is effective when it becomes law.

HOUSE BILL 1185:
One-Stop Absentee Deadline

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Rep. Blue
		Summary by:	William R. Gilkeson Committee Counsel
Date:	April 16, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1185 would change the One-Stop absentee voting period – which now begins on the Monday 3 weeks before election day and ends the Friday before election day – by shifting it forward. The bill would begin One-Stop voting on the Tuesday 2 ½ weeks before election day and end it on the Saturday before election day.***

CURRENT LAW: In One-Stop absentee voting, the voter may vote in person either at the county board of elections office or at another site during a 3-week period before election day. The vote is treated as an absentee ballot, in that the voter must apply for it, it is not counted until election day, and it must be retrievable in case the board of elections determines that the voter was ineligible.

The deadline for voter registration is the 25th day before an election. That is the Friday before the Monday when One-Stop begins.

Beginning in 2000, North Carolina voters were allowed to cast One-Stop absentee ballots without giving an excuse, such as illness or the expectation of being out of the county on election day. The no-excuse provision applies only during general elections in even-numbered years.

Also in 2000, county boards of elections were allowed to designate sites for One-Stop voting other than the county board office. Those sites were required to be approved by the State Board of Elections.

BILL ANALYSIS: HB 1185 would open One-Stop voting on the first business day after the 22nd day before the election. That works out to be the Tuesday 2 ½ weeks before election day. In 2000, that was October 17.

The bill also moves the period's end from 5 p.m. Friday before election day to 5 p.m. Saturday before election day.

The net effect of the forward shift would be to reduce the period by one day. It would, however, give the boards of elections an extra day at the front end to process last-minute voter registration applications.

EFFECTIVE DATE: The bill would go into effect for the 2002 elections.

BACKGROUND: In the 2000 general election, 393,162 voters took advantage of no-excuse One-Stop voting. Some county boards of elections said that they did not have time to prepare their voter registration lists before the task of conducting One-Stop began to demand more of their time.

Several counties opened their One-Stop sites on the Saturdays during the One-Stop period. The period begins on the Monday 3 weeks before the election and ends at 5 p.m. on the last Friday before election day. There were 2 Saturdays in between. The State Board of Elections advised that counties could conduct One-Stop on Saturday, even if they were conducting One-Stop at the main office only and not at satellite sites. But, because the statute says One-Stop ends at 5 p.m. Friday, One-Stop cannot be conducted on the last Saturday before the election.

House Bill 831, reported favorably by this Committee last week, would remove the first week from the One-Stop period, and would not add the last Saturday to the period.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

1185 APR 11 31

HOUSE PRINCIPAL CLERK

H D

HOUSE DRH9121-LB-181 (04/04)

Short Title:	No-Excuse Absentee Deadline.	(Public)
Sponsors:	Representative Blue.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE PERIOD FOR NO-EXCUSE ONE-STOP ABSENTEE VOTING BY ALLOWING MORE TIME AFTER THE BOOKS CLOSE TO BEGIN THE PROCESS, BUT TO EXTEND IT TO INCLUDE THE SATURDAY BEFORE THE ELECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-227.2(b) reads as rewritten:

"(b) Not earlier than the first business day after the ~~twenty-fifth~~ twenty-second day before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than 5:00 p.m. on the ~~Friday~~ Saturday prior to that election, the voter shall appear in person only at the office of the county board of 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 authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person."

SECTION 2. G.S. 163-227.2(f) reads as rewritten:

"(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. on the Friday prior to that election or ~~primary.~~ primary, and shall also be open on the Saturday before the election. The boards of county commissioners shall provide necessary funds for the additional operation of the office during that time."

SECTION 3. This act applies with respect to elections held on or after January 1, 2002.

HOUSE BILL 1194:
Election Board Closing Time

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Blue
		Summary by:	William R. Gilkeson Committee Counsel
Date:	April 16, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1194 would allow county boards of elections to accept voter registration applications at the board office at an hour later than 5 p.m. on the registration deadline day.***

CURRENT LAW: To be registered to vote in an election, an eligible person must submit a voter registration application to the county board of elections on the 25th day before election day. If submitted by mail, the application must be postmarked on the 25th day. If submitted in person by the board, the application must be received by 5 p.m. on the 25th day.

BILL ANALYSIS: House Bill 1194 would allow a county board to set a later hour as its deadline on the 25th day before election day to accept voter registration applications for an election.

EFFECTIVE DATE: The bill would be effective for the 2002 elections.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H

HOUSE DRH2201-LB-183 (04/04)

FILED
1194 MAR 11 01 D
HOUSE PRINCIPAL CLERK

Short Title: Election Board Closing Time. (Public)

Sponsors: Representative Blue.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE REQUIREMENT THAT COUNTY BOARDS OF ELECTIONS CLOSE AT 5:00 P.M. ON THE LAST DAY FOR VOTER REGISTRATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.6(c) reads as rewritten:

"(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

(1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,

(2) If submitted in person, must be received by the county board of elections by ~~5:00 p.m.~~ a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election,

except as provided in subsection (d) of this section."

SECTION 2. This act becomes effective with respect to elections held on or after January 1, 2002.

VISITOR REGISTRATION SHEET

Election Laws & Campaign Finance Reform
Name of Committee

4/18/01
Date

4:30 pm
mtg.

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bob Geary	The Independent
Joy Barbour	Concerned Bikers Assoc./ABATE of N.C.
Vivien Sansbury	Rep. Luebke's Intern
Gary O. Bartlett	S.B.O.E.
Johnnie McLean	"
Dan Wright	"
John McHale	OFFICE of GOVERNOR
John Phelps	NCLM
[illegible]	NCRL
[illegible]	N.C. Home Builders Assn
Tom Coley	CWA
Deb Ross	ACLU
[illegible]	NCRM
Bob Hall	Democracy South

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Thursday April 19, 2001**

TIME: **1:00 pm and 15 minutes after session**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 565 **Elections Administrative Procedure - Representative Alexander**
HB 831 **Election Changes – Representative Alexander**
HB 977 **Early Voting - Representative Nesbitt**
HB 1041 **Ballot Instructions in Spanish – Representative Lucas**
HB 1046 **Data by Precinct – Representative Alexander**
HB 1126 **Clarify Incumbent's Residency – Representative Thompson**
HB 1186 **Voter Reg. By Fax - Representatives Blue and Hensley**
HB 1188 **Protection of Rolls – Representative Blue**
HB 1190 **Work Leave to Vote – Representative Blue**
HB 1193 **Address Change by Fax - Representatives Blue and Hensley**
HB 1195 **Annual Absentee Request – Representative Blue**

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **9:40 am, on April 19, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust (Committee Assistant)

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

April 19, 2001
1:00 p.m.
after session
Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

HB 565 Elections Administrative Procedure - Representative Alexander
HB 831 Election Changes – Representative Alexander
HB 977 Early Voting - Representative Nesbitt
HB 1041 Ballot Instructions in Spanish – Representative Lucas
HB 1046 Data by Precinct – Representative Alexander
HB 1126 Clarify Incumbent's Residency – Representative Thompson
HB 1186 Voter Reg. By Fax - Representatives Blue and Hensley
HB 1188 Protection of Rolls – Representative Blue
HB 1190 Work Leave to Vote – Representative Blue
HB 1193 Address Change by Fax - Representatives Blue and Hensley
HB 1195 Annual Absentee Request – Representative Blue

STAFF: Bill Gilkeson
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING
April 19, 2001
Room 1228
1:00 p.m.

The meeting of the Election Law and Campaign Finance Reform Committee was called to order by the Chair, Representative Alexander. Those present were Representatives Alexander, Michaux, Vice Chair, Arnold, Blue, Bonner, Daughtry, Goodwin, Justus, Kiser, Morris, Luebke, Rayfield, Rogers, Thompson and Weiss.

Representative Lucas was introduced to continue presenting HB 1041 AN ACT TO REQUIRE THAT BALLOT INSTRUCTIONS BE PRINTED IN SPANISH AS WELL AS ENGLISH. Representative Lucas put forth an amendment to the bill on page 1 line 8 deleting the word "all" and substituting "in every county where the Hispanic population exceeds 6% in accordance with the most recent decennial federal census ..." He explained that the amendment identifies the counties where the bill would apply and explained that the Federal threshold is 3%. The amendment would limit the bill to 19 counties who meet the threshold. Discussion followed as to the merits of providing assistance to voters who are not proficient in English but need to be able to understand voting instructions. The ballot would be in English. Representative Goodwin moved acceptance of the amendment. Representatives Daughtry and Justus spoke on the need of citizens to speak and understand English. In response to a question from Representative Kiser, Gary Bartlett, Executive Director of the State Board of Elections, said that instructions are already provided in Spanish in 18 counties and are not printed on the ballot but provided on separately. Representative Rayfield asked how other ethnic groups interpret instructions and ballots written in English and would high concentrations of populations necessitate instructions printed in other languages. No other group has yet reached the requisite number. The amendment passed. Representative Luebke put forth a perfecting amendment on page 1 line 8 deleting the word "on" and substituting the word "for". The amendment passed. Representative Michaux moved that the amendments be rolled into the Committee Substitute, and the Committee Substitute be given a favorable report, the original bill an unfavorable report. The motion passed.

Representative Thompson presented HB 1126 CLARIFY RESIDENCY FOR REGISTRATION OR VOTING and moved for a favorable report. Following discussion, the motion passed

Representative Goodwin was introduced to present HB 1046, DATA BY PRECINCT as amended in a previous meeting. He moved that the Proposed Committee Substitute be accepted for discussion; the motion passed. Discussion followed with Representative Morris presiding. Representative Kiser asked when the Board of Elections must return the early voting information to the precincts. Mr. Gilkeson, staff attorney, replied that must be done at the earliest practicable time and the process must be in place by the 2006 elections. Mr. Bartlett responded that machines in use in 80 counties could be programmed to do this. Representative Arnold stressed the importance of preserving the secret ballot when information is transferred. Discussion followed.

The meeting was adjourned.

Martha Alexander, Committee Chair

Ann Faust, Committee Assistant

HOUSE BILL 1041:
Ballot Instructions in Spanish.

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Representative Lucas
Date:	April 16, 2001	**Summary by:**	R. Erika Churchill
Version:	First Edition		Committee Counsel

SUMMARY: ***The bill would require all ballot instructions to be printed in both English and Spanish with the State Board of Elections preparing the Spanish translations for the county boards of elections, effective January 1, 2002.***

CURRENT LAW: Currently under State law, there is no statutory requirement that ballots or other election materials be printed in both English and Spanish. Although there is no requirement, the State Board of Elections does offer Spanish translation services to the county boards of elections. The State Board also provides election materials, such as the voter registration form, in Spanish.

Currently under federal law, the Voting Rights Act has two separate sections that could require a political subdivision to provide bilingual elections materials. 42 USC 1973aa-1a and 42 1973b(f)(4). These are commonly referred to as Sections 203 and 4(f)(4), and have essentially the same requirements for bilingual printing of materials. The sections differ in applicability.

Section 4(f)(4) applies to political subdivisions in which all of the following are present:

1. Over 5% of the voting age citizens were, on November 1, 1972, members of a single language minority group.
2. Registration and election materials were provided in only English on November 1, 1972.
3. Fewer than 50% of the voting age citizens were registered to voter or voted in the 1972 Presidential election.

The only county in North Carolina that is covered by Section 4(f)(4) is Jackson County, and the single language minority group is the Cherokee Indians. Any changes to election laws or their application must be precleared with the Department of Justice prior to their implementation.

Political subdivisions can become subject to Section 203 under any one of the following formulas:

1. Political Subdivisions Formula. A political subdivision is covered if both of the following are true:
   - More than 5% of its voting age citizens are members of a single language minority group and are limited English proficient.
   - The illiteracy rate of such language minority citizens in the political subdivision is higher than the national illiteracy rate.
2. State Formula. A political subdivision is covered if all of the following are true:
   - The political subdivision is located in a state in which more than 5% of the voting age citizens are member of a single language minority and are limited-English proficient.
   - The illiteracy rate of such language minority citizens in the state is higher than the national illiteracy rate.

- 5% or more of the voting age citizens of the political subdivision are members of the single language minority group and are limited English proficient.

3. Numerical Formula. A political subdivision is covered if both of the following are true:
   - More than 10,000 of its voting age citizens are members of a single language minority group and are limited English proficient.
   - The illiteracy rate of such language minority citizens in the political subdivision is higher than the national illiteracy rate.
4. Indian Reservation Formula. A political subdivision is covered if there is located within its borders all or any part of an Indian reservation and both of the following are true:
   - In which more than 5% of voting age American Indian or Alaska Native citizens are members of a single language minority group and are limited English proficient.
   - The illiteracy rate of such language minority citizens is higher than the national illiteracy rate.

As of April 2001, no North Carolina county is covered under Section 203 according to the Department of Justice web page. However, according to the 2000 Census data, several North Carolina counties do have over 5% Hispanic population.

Coverage under either section would require the political subdivision to provide election materials, including ballot instructions in English and the language of the minority group.

BILL ANALYSIS: The bill would require all ballot instructions to be printed in both English and Spanish. The State Board of Elections would be responsible for preparing the Spanish translation of the ballot instructions for the county boards of election.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

HOUSE BILL 1041

Short Title:	Ballot Instructions in Spanish.	(Public)
Sponsors:	Representatives Lucas; Adams, Bell, Bonner, Buchanan, Coates, Cunningham, Earle, Goodwin, Hackney, Hall, Luebke, McAllister, McLawhorn, Michaux, Morris, Oldham, Rogers, Tolson, Wainwright, Warner, West, and Womble.	
Referred to:	Election Law and Campaign Finance Reform.	

April 10, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT BALLOT INSTRUCTIONS BE PRINTED IN SPANISH AS WELL AS ENGLISH.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-140.2. Ballot instructions in English and Spanish.**

All instructions to the voter on ballots shall be printed in both English and Spanish. The State Board of Elections shall prepare a Spanish translation of ballot instructions for county boards of elections."

SECTION 2. This act becomes effective January 1, 2002.

HOUSE BILL 1126:
Clarify Residency for Registration or Voting.

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Representative Thompson
Date:	April 19, 2001	**Summary by:**	R. Erika Churchill
Version:	HB1126-CSST-19v2		Committee Counsel

SUMMARY: ***The bill would clarify that an individual who leaves that individual's permanent home to serve State Government does not give up that individual's residency by living temporarily in another county, and would make drafting language style changes.***

BILL ANALYSIS: The bill would amend G.S. 163-57, which defines residency for purposes of voter registration and voting. The new language, which tracks existing language for persons serving the federal government, would clarify that an individual's residency would not automatically change when the individual leaves their place of residence to serve State government.

The bill would also clarify that the establishment of a secondary residence, such as a vacation home, would not be prima facie evidence of a change of residence for the purpose of voting and registration to vote.

EFFECTIVE DATE: The bill would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1126
PROPOSED COMMITTEE SUBSTITUTE H1126-CSST-19 [v.3]

4/19/2001 2:30:42 PM

Short Title: Clarify Residency for Reg. or Voting. (Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF RESIDENCY FOR PERSONS ENGAGING IN THE SERVICE OF STATE GOVERNMENT, AND TO MAKE OTHER TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-57(9) reads as rewritten:

"**§ 163-57. Residence defined for registration and voting.**

All election officials in determining the residence of a person offering to register or vote, shall be governed by the following rules, so far as they may apply:

(1) That place shall be considered the residence of a person in which ~~his~~ that person's habitation is fixed, and to which, whenever ~~he~~ that person is absent, ~~he~~ has the intention of returning.

(2) A person shall not be considered to have lost ~~his~~that person's residence ~~who~~ if that person leaves ~~his~~ home and goes into another state or county of this State, for temporary purposes only, with the intention of returning.

(3) A person shall not be considered to have gained a residence in any county of this State, into which ~~he~~ that person comes for temporary purposes only, without the intention of making ~~such~~ that county ~~his~~ a permanent place of abode.

(4) If a person removes to another state or county within this State, with the intention of making ~~such~~ that state or county ~~his~~ a permanent residence, ~~he~~that person shall be considered to have lost ~~his~~ residence in the state or county from which ~~he~~that person has removed.

(5) If a person removes to another state or county within this State, with the intention of remaining there an indefinite time and making ~~such~~ that state or county ~~his~~ that person's place of residence, ~~he~~ that person shall be considered to have lost ~~his~~that person's place of residence in this State or the county from which ~~he~~ that person has removed,

notwithstanding ~~he~~ that person may entertain an intention to return at some future time.

(6) If a person goes into another state or county, or into the District of Columbia, and while there exercises the right of a citizen by voting in an election, ~~he~~that person shall be considered to have lost ~~his~~ residence in this State or county.

(7) School teachers who remove to a county for the purpose of teaching in the schools of that county temporarily and with the intention or expectation of returning during vacation periods to live in the county in which their parents or other relatives reside, and who do not have the intention of becoming residents of the county to which they have moved to teach, for purposes of registration and voting shall be considered residents of the county in which their parents or other relatives reside.

(8) If a person removes to the District of Columbia or other federal territory to engage in the government service, ~~he~~ that person shall not be considered to have lost ~~his~~ residence in this State during the period of such service unless ~~he~~that person votes there, and the place at which ~~he~~ that person resided at the time of ~~his~~ that person's removal shall be considered and held to be ~~his~~ the place of residence.

(9) If a person removes to a county to engage in the service of the State government, ~~he~~ that person shall not be considered to have lost ~~his~~ residence in the county from which ~~he~~ that person removed, unless ~~he demonstrates a contrary intention.~~ that person votes there, and the place at which that person resided at the time of that person's removal shall be considered and held to the place of residence.

(9a) The establishment of a secondary residence by an elected official outside of the district of the elected official shall not constitute prima facie evidence of a change of residence.

(10) For the purpose of voting a spouse shall be eligible to establish a separate domicile.

(11) So long as a student intends to make ~~his~~ the student's home in the community where ~~he~~the student is physically present for the purpose of attending school while ~~he~~ the student is attending school and has no intent to return to ~~his~~ the student's former home after graduation, ~~he~~ the student may claim the college community as ~~his~~ the student's domicile. ~~He~~ The student need not also intend to stay in the college community beyond graduation in order to establish ~~his~~ domicile there. This subdivision is intended to codify the case law. "

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1046:
Data by Precinct

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Alexander
Date:	April 11, 2001	**Summary by:**	William R. Gilkeson Committee Counsel
Version:	First Edition		

SUMMARY: House Bill 1046 would require that county boards of elections maintain voting data by precinct for absentee ballots, provisional ballots, and curbside ballots. It would also require the State Board of Elections to develop standards for naming precincts.

CURRENT LAW: The Legislative Services Office is required, as part of its duty to develop a computer system for redistricting, to collect voter registration data and election data as well as Census population data, for every precinct in the State.

County boards of elections are required to prepare abstracts of election data by precinct. Those abstracts are stored with the clerk of Superior Court and the Secretary of State.

The State Board of Elections has been given the authority in recent budget legislation to collect computerized election returns.

In collecting voter registration and election data by precinct, the Legislative Services Office has encountered 2 problems:

- An increasing number of voters have been casting their votes by absentee ballots (particularly One-Stop absentee ballots) and provisional ballots. Not all counties are able to break down returns coming from those kinds of ballots by precinct. That means that, for the 2000 general elections, for example, 486,152 votes in the Governor's race were reported by county boards at the county level – not by precinct. That was 14.2% of the total of 3, 428,214 votes cast. The result is that when the redistricting computer system shows that a precinct voted a certain way in the 2000 Governor's race, that information does not include many of votes cast by the voters living in that precinct. If those voters, who cast absentee and provisional ballots, voted differently than their follow precinct residents who voted at the polls on election day, then the precinct returns may be misleading. If the number of people voting one-stop grows, the problem will increase.
- The names given to precincts cause confusion. This is particularly true where county boards change their precincts over the years, especially if they renumber precincts in such a way that, say, Precinct 12 in the 2000 election is a completely different part of the county than Precinct 12 in 1996. Some counties use a more helpful naming convention, so that, for example, if High Point Precinct 5 is split the two new precincts are High Point 5A and High Point 5B, and if High Point 5B is later split, it becomes 5B1. There is no statute governing the naming of precincts.

BILL ANALYSIS: House Bill 1046 requires counties to report election results so that the votes cast by transfer, provisional, absentee, and curbside voters are included in the precinct totals. The State Board of Elections must adopt rules for enforcing the provision so that the secrecy of any individual's ballot is not compromised.

The bill also requires the State Board to develop standards for naming precincts. The State Board is directed to draft the standards so as to facilitate the study of historical voter registration and voting data. County boards are required to follow the naming standards when reporting voter and voting data to the State Board and to the Legislative Services Office, but may use other names informally for other purposes.

EFFECTIVE DATE: The act is effective when it becomes law, except that data from provisional and absentee voting is not required to be provided by precinct until the 2002 election.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1046
PROPOSED COMMITTEE SUBSTITUTE H1046-CSRR-19 [v.1]

4/19/2001 12:44:07 PM

Short Title: Election Data by Precinct. (Public)

Sponsors:

Referred to:

April 10, 2001

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE ACCURACY AND UNDERSTANDABILITY OF PRECINCT DATA.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-132.5G. Voting data maintained by precinct.**

To the extent that it can do so without compromising the secrecy of an individual's ballot, each county board of elections shall maintain voting data by precinct so that precinct returns for each item on the ballot shall include the votes cast by residents of the precinct who voted by absentee ballot, both mail and one-stop. The State Board of Elections shall adopt rules for the enforcement of this section with the goal that all voting data shall be reported by precinct by the 2006 election. Those rules shall provide for exemptions where the expense of compliance would place a financial hardship on a county."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 977:
Early Voting

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representatives Nesbitt, Alexander, and Michaux
Date:	April 16, 2001	**Summary by:**	William R. Gilkeson Committee Counsel
Version:	First Edition		

SUMMARY: ***House Bill 977 would remove the excuse requirement from all absentee voting, mail-back and One-Stop.***

CURRENT LAW: There are 2 basic kinds of absentee ballots, mail-back and One-Stop. Mail-back is remote absentee voting done during a period beginning 50 days before an election. One-Stop is conducted in person at the county board office or at another designated site during a 3-week period before the election.

Generally, to vote either kind of absentee ballot, voters must state on an application that they have one of the following 5 excuses:

1. They expect to be absent from the county the entire time the polls are open on election day.
2. They will be unable to go to the polls on election day because of sickness or disability.
3. They are incarcerated misdemeanants who, unlike felons, still have the right to vote.
4. The tenets of their religion forbid them to vote on election day because it is a religious holiday.
5. They will be working in a precinct other than their own on election day in one of several listed official capacities.

In 1999 the General Assembly voted to allow voters to cast One-Stop absentee votes without an excuse. But the privilege of no-excuse One-Stop voting was granted in the general election only. It did not apply to primaries. The no-excuse privilege was not granted in any election for mail-back.

BILL ANALYSIS: House Bill 977 would remove the excuse requirement for both kinds of absentee voting, in primaries and general elections.

It would retain only one excuse feature: Currently mail absentee requests must be in by the Tuesday a week before the election unless a person is sick or disabled. The sickness/disability excuse allows a person to request an absentee ballot up to the day before the election. The bill would maintain that distinction concerning the 2 different deadlines.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

VISITOR REGISTRATION SHEET

Election Law & Camp. Fin. — Name of Committee

4-19-01 1:00 pm — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Meredith	NC State Grange
Jan Wright	State Board of Elections
Johnnie McLean	" " "
Gary Bartlett	" " "
Michael Crowell	Lawyer, Raleigh
Dan Frey	NCGA - ISD
Jan Coley	CWA
[illegible]	ACA
Nels Rosseland	CARY

4:30 pm

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING
April 19, 2001
Room 1228
4:40 p.m.

The meeting of the Election Law and Campaign Finance Reform Committee was called to order by the Chair, Representative Alexander. Those present were Representatives Alexander, Michaux, Vice Chair, Nesbitt, Vice Chair, Blue, Church, Daughtry, Justus, Kiser, Morris, Luebke, Redwine, Rogers, Starnes, Thompson and Weiss.

Representative Alexander introduced Representative Blue to present HB 1186 AN ACT TO ALLOW CIVILIANS THE SAME RIGHT AS MILITARY PERSONNEL TO REGISTER TO VOTE BY FAX. He explained that if the appropriate information was faxed in a timely manner and followed up by hard copy 20 days before the date of election, registration was valid. This would be especially helpful in rural areas. Representative Morris said this was already used by the military. Gary Bartlett responded that there was no record of illegal voting taking place. Representative Blue put forth an amendment for subsection C1 to read: "If the application is submitted by facsimile transmission, a permanent copy of the completed, signed form shall be delivered to the county board of elections no later than 20 days before the election." The amendment passed. Representative Blue moved that the amendment be rolled into the committee substitute, that the committee substitute be given a favorable report and the original bill be given an unfavorable report. The motion passed.

Representative Blue then presented HB 1193 AN ACT TO ALLOW VOTERS TO REPORT CHANGES OF ADDRESS BY FAX. No following hard copy would be necessary because the voter's signature would be on file. Representative Blue moved for a favorable report. The motion passed.

With Representative Michaux presiding, Representative Alexander presented HB 831 for a technical correction. Representative Luebke moved adoption of the proposed committee substitute for discussion. It was clarified that one stop voting would begin on Thursday, following the close of the registration books so that boards of elections could prepare voting rolls as more people vote one-stop. Following discussion. Representative Morris moved to amend the bill on page 1 line 12 by deleting the word "to" from that line. The amendment passed. Following further discussion, Representative Alexander moved that the stylistic change be rolled into the committee substitute, the committee substitute be given a favorable report, the previous committee substitute be given an unfavorable report, with notation the title changed.

The meeting was adjourned.

Martha Alexander, Committee Chair

Ann Faust, Committee Assistant

HOUSE BILL 1186:
Voter Reg. by Fax.

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Representative Blue
Date:	April 16, 2001	**Summary by:**	R. Erika Churchill
Version:	First Edition		Committee Counsel

SUMMARY: The bill would allow an individual to submit the application to register to vote via facsimile transmission, effective January 1, 2002.

CURRENT LAW: Current law requires an application for voter registration to be submitted by mail or in person unless the applicant is a person in the armed forces, a spouse of a person in the armed forces, a disabled war veteran in a United States government hospital, a member of the Peace Corps, or a civilian attached to and serving outside the United States with the armed forces. Those individuals are allowed to submit an application to register to vote by facsimile transmission. G.S. 163-257.

BILL ANALYSIS: The bill would allow any individual to submit an application to register to vote by facsimile transmission (fax). The faxed application would have to be submitted in the same time frame in which an application submitted in person must be received – by 5:00 p.m. on the 25Th day before the election.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H

HOUSE DRH6212-LB-190 (04/04)

1186 APR 1 1 01 D
HOUSE PRINCIPAL CLERK

Short Title: Voter Registration by FAX. (Public)

Sponsors: Representatives Blue and Hensley.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW CIVILIANS THE SAME RIGHT AS MILITARY PERSONNEL TO REGISTER TO VOTE BY FAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.6 reads as rewritten:

"**§ 163-82.6. Acceptance of application forms.**

(a) How the Form May Be Submitted. – The county board of elections shall accept any form described in G.S. 163-82.3 if the applicant submits the form by ~~mail~~mail, facsimile transmission, or in person. The applicant may delegate the submission of the form to another person. Any person who communicates to an applicant acceptance of that delegation shall deliver that form so that it is received by the appropriate county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be a Class 2 misdemeanor for any person to communicate to the applicant acceptance of that delegation and then fail to make a good faith effort to deliver the form so that it is received by the county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be an affirmative defense to a charge of failing to make a good faith effort to deliver a delegated form by the registration deadline that the delegatee informed the applicant that the form would not likely be delivered in time for the applicant to vote in the next election. It shall be a Class 2 misdemeanor for any person to sell or attempt to sell a completed voter registration form or to condition its delivery upon payment.

(b) Signature. – The form shall be valid only if signed by the applicant.

(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

(1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is

missing or unclear is validly submitted if received in the mail not later than 20 days before the election,

(2) If submitted in ~~person,~~ person or by facsimile transmission, must be received by the county board of elections by 5:00 p.m. on the twenty-fifth day before the election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election, except as provided in subsection (d) of this section.

(d) Instances When Person May Register and Vote on Election Day. – If a person has become qualified to register and vote between the twenty-fifth day before an election and election-day, then that person may apply to register on election day by submitting an application form described in G.S. 163-82.3(a) or (b) to:

(1) A member of the county board of elections;

(2) The county director of elections; or

(3) The chief judge or a judge of the precinct in which the person is eligible to vote,

and, if the application is approved, that person may vote the same day. The official in subdivisions (1) through (3) of this subsection to whom the application is submitted shall decide whether the applicant is eligible to vote. The applicant shall present to the official written or documentary evidence that the applicant is the person he represents himself to be. The official, if in doubt as to the right of the applicant to register, may require other evidence satisfactory to that official as to the applicant's qualifications. If the official determines that the person is eligible, the person shall be permitted to vote in the election and the county board shall add the person's name to the list of registered voters. If the official denies the application, the person shall be permitted to vote a challenged ballot under the provisions of G.S. 163-88.1, and may appeal the denial to the full county board of elections. The State Board of Elections shall promulgate rules for the county boards of elections to follow in hearing appeals for denial of election-day applications to register. No person shall be permitted to register on the day of a second primary unless he shall have become qualified to register and vote between the date of the first primary and the date of the succeeding second primary.

(e) For purposes of subsection (d) of this section, persons who "become qualified to register and vote" during a time period:

(1) Include those who during that time period are naturalized as citizens of the United States or who are restored to citizenship after a conviction of a felony; but

(2) Do not include persons who reach the age of 18 during that time period, if those persons were eligible to register while 17 years old during an earlier period."

SECTION 2. This act becomes effective January 1, 2002.

HOUSE BILL 1193:
Voter Address Change by Fax.

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Representative Blue
Date:	April 16, 2001	**Summary by:**	R. Erika Churchill
Version:	First Edition		Committee Counsel

SUMMARY: ***The bill would allow a registered voter to notify a county board of election of an address change within the county by facsimile transmission, effective January 1, 2002.***

CURRENT LAW: If a registered voter moves within the county, the voter is not required to re-register with the county board of elections. Instead, the voter is required to notify the county board of the change in address by the close of voter registration. Currently, facsimile transmission is not an accepted method for voter registration.

BILL ANALYSIS: The bill would allow a registered voter who moves within a county to notify the county board of elections of the new address by facsimile transmission under the same deadlines as if it were submitted in person, which is by 5:00 p.m. on the 25TH day before the election.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE DRH2204-LB-182 (04/04)

Short Title:	Voter Address Change by Fax.	(Public)
Sponsors:	Representative Blue.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO ALLOW VOTERS TO REPORT CHANGES OF ADDRESS BY FAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.15(a) reads as rewritten:

"(a) Registrant's Duty to Report. – No registered voter shall be required to re-register upon moving from one precinct to another within the same county. Instead, a registrant shall notify the county board of the change of address by the close of registration for an election as set out in G.S. 163-82.6(c). In addition to any other method allowed by G.S. 163-82.6, the form may be submitted by electronic facsimile, under the same deadlines as if it had been submitted in person. The registrant shall make the notification by means of a voter registration form as described in G.S. 163-82.3, or by another written notice, signed by the registrant, that includes the registrant's full name, former residence address, new residence address, and date of moving from the old to the new address."

SECTION 2. This act becomes effective January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 831

Committee Substitute Favorable 4/16/01

PROPOSED COMMITTEE SUBSTITUTE H831-CSRR-16 [v.7]

4/19/2001 12:13:54 PM

Short Title: Election Changes. (Public)

Sponsors:

Referred to:

March 28, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A GREATER ROLE FOR THE STATE BOARD OF ELECTIONS IN PERSONNEL DECISIONS CONCERNING COUNTY ELECTION DIRECTORS; TO ENHANCE THE CERTIFICATION PROGRAM FOR ELECTION OFFICIALS; TO REMOVE LIMITATIONS ON TWO PROVISIONS CONCERNING PRECINCTS; TO CHANGE THE LENGTH OF THE ONE-STOP VOTING PERIOD; TO ALLOW COUNTY BOARDS OF ELECTIONS, WITH STATE BOARD APPROVAL, TO USE OTHER ONE-STOP SITES INSTEAD OF THE COUNTY BOARD OFFICE; TO ALLOW LATER ACCEPTANCE OF VOTER REGISTRATION APPLICATIONS; TO PROVIDE FOR ELECTRONIC TRANSFER OF VOTER REGISTRATION APPLICATIONS ~~TO~~ FROM THE DIVISION OF MOTOR VEHICLES; TO UPDATE THE STATUTES CONCERNING VOTER REGISTRATION LIST-MAINTENANCE; TO APPLY THE WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS; TO CORRECT A REFERENCE IN THE CAMPAIGN FINANCE LAW; AND TO RENAME THE EXECUTIVE SECRETARY-DIRECTOR OF THE STATE BOARD OF ELECTIONS THE "EXECUTIVE DIRECTOR."

The General Assembly of North Carolina enacts:

--CHANGES CONCERNING COUNTY ELECTION DIRECTORS.

SECTION 1.(a) G.S. 163-35(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Secretary-Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county

board of elections. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Secretary-Director of the State Board of Elections the termination of the employment of the county board's director of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Secretary-Director shall forward a copy of ~~same~~ the petition by certified mail, return receipt requested, to the county director of elections involved. The county director of elections may reply to ~~said~~ the petition within 15 days of receipt thereof. Within 20 days of receipt of the county director of elections' reply or the expiration of the time period allowed for the filing of ~~said~~ the reply, the State Executive Secretary-Director shall render a decision as to the termination or retention of the county director of elections. The decision of the Executive Secretary-Director of the State Board of Elections shall be final unless ~~such~~ the decision ~~shall,~~ is, within 20 days from the official date on which it was made, ~~be~~ deferred by the State Board of ~~Elections,~~ Elections. ~~in which event a public hearing shall be conducted by State Board or any single member designated by the remaining four members, in the county seat of the county involved. Following the conduct of public hearing and a decision by the State Board of Elections, the chairman of said Board shall notify the Executive Secretary-Director of the State Board of Elections, in writing, of the decision resulting from the public hearing.~~ If the State Board defers the decision, then the State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard and to present witnesses and information to the State Board, and then notify the Executive Secretary-Director of its decision in writing. If the decision, rendered by the State Board of Elections, results in concurrence with the decision entered by the Executive Secretary-Director, the decision becomes final. If the decision rendered by the Board is contrary to that entered by the Executive Secretary-Director, then the Executive Secretary-Director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board of Elections. ~~The employment of any director of elections presently employed or hereafter employed shall not be terminated except in compliance with the procedures herein prescribed. For the purposes of this subsection the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23.~~

Upon majority vote on the recommendation of the Executive Secretary-Director, the State Board of Elections may initiate proceedings for the termination of a county director of elections for just cause. If the State Board votes to initiate proceedings for termination, the State Board shall state the reasons for the termination in writing and send a copy by certified mail, return receipt requested, to the county director of elections. The director has 15 days to reply in writing to the notice. The State Board shall make a final decision on the termination after giving the county director of

elections an opportunity to be heard, present witnesses, and information to the State Board.

A county director of elections may be suspended, with pay, without warning for causes relating to personal conduct detrimental to service to the county or to the State Board of Elections, pending the giving of written reasons, in order to avoid the undue disruption of work or to protect the safety of persons or property or for other serious reasons. Any suspension may be initiated by the Executive Secretary-Director but may not be for more than five days. Upon placing a county director of elections on suspension, the Executive Secretary-Director shall as soon as possible reduce to writing the reasons for the suspension and forward copies to the county director of elections, the members of the county board of elections, and the State Board of Elections. If no action for termination has been taken within five days, the county director of elections shall be fully reinstated.

Termination of any county director of elections shall comply with this subsection. For the purposes of this subsection the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23."

SECTION 1.(b) G.S. 163-35 is amended by adding a new subsection to read:

"(e) Training and Certification. – The State Board of Elections shall conduct a training program consisting of four weeks for each new county director of elections. The director shall complete that program. Each director appointed after May 1995 shall successfully complete a certification program as provided in G.S. 163-82.24(b) within three years after appointment or by January 1, 2003, whichever occurs later."

SECTION 1.(c) This section becomes effective January 1, 2002.

--CERTIFICATION OF ELECTION OFFICIALS.

SECTION 2.(a) G.S. 163-82.24 reads as rewritten:

"**§ 163-82.24. Statewide training and certification for election officials.**

(a) Training. – The State Board of Elections shall conduct training programs in election law and procedures. Every county elections director shall receive training conducted by the State Board at least as often as required in the following schedule:

(1) Once during each odd-numbered year before the municipal election held in the county;

(2) Once during each even-numbered year before the first partisan primary; and

(3) Once during each even-numbered year after the partisan primaries but before the general election.

Every member of a county board of elections shall receive training conducted by the State Board at least once during the six months after the member's initial appointment and at least once again during the first two years of the member's service. The State Board of Elections shall promulgate rules for the training of precinct officials, which shall be followed by the county boards of elections.

(b) Certification. – The State Board of Elections shall conduct a program for certification of election officials. The program shall include training in election law and procedures. Before issuing certification to an election official, the State Board shall administer an examination designed to determine the proficiency of the official in election law and procedures. The State Board shall set adequate standards for the passage of the examination."

SECTION 2.(b) This section is effective when this act becomes law.

--REMOVE SUNSET FROM OUT-OF-PRECINCT VOTING PLACE PROVISION.

SECTION 3.(a) Section 3(b) of S.L. 1999-426 reads as rewritten:

"Section 3.(b) This section is effective when this act becomes ~~law and expires January 1, 2002.~~ law."

SECTION 3.(b) This section is effective when this act becomes law.

--REMOVE SUNSET AND 3-COUNTY PILOT LIMITATION FROM 2-VOTING-PLACE-PER-PRECINCT PROVISION.

SECTION 4.(a) G.S. 163-130.2 reads as rewritten:

"**§ 163-130.2. Temporary use of two voting places for certain ~~precincts; pilot program.~~ precincts.**

A county board of elections, by unanimous vote of all its members, may propose to designate two voting places to be used temporarily for the same precinct. The temporary designation of a voting place shall continue only for the term of office of the county board of elections making the designation. For any precinct that is temporarily given two voting places, the county board shall assign every voter to one or the other of those voting places.

The county board's proposal is subject to approval by the Executive Secretary-Director of the State Board of Elections. The county board shall submit its proposal in writing to the Executive Secretary-Director. ~~The Executive Secretary-Director may approve a proposal under this section in not more than three counties, to be a pilot program.~~ The Executive Secretary-Director shall approve that proposal only if it finds all of the following:

(1) That the precinct has more registered voters than can adequately be accommodated by any single potential voting place available for the precinct.

(2) That no boundary line that complies with Article 12A of this Chapter can be identified that adequately divides the precinct.

(3) That the county board can account for, by street address number, the location of every registered voter in the precinct and fix that voter's residence with certainty on a map.

(4) That no more than three other precincts in the same county will have two voting places.

(5) That both voting places for the precinct would have adequate facilities for the elderly and disabled.

(6) That the proposal provides adequately for security against fraud.

(7) That the proposal does not unfairly favor or disfavor voters with regard to race or party affiliation.

The county board shall designate a full set of precinct officials, in the manner set forth in Article 5 of this Chapter, for each voting place designated for the precinct."

SECTION 4.(b) Section 4(b) of S.L. 1999-426 reads as rewritten:

"Section 4.(b) This section becomes effective January 2, ~~2000, and expires January 2, 2002.~~ 2000. The Executive Secretary-Director of the State Board of Elections shall study the operation and consequences of the pilot program created by this section and report findings and recommendations to the 2001 General Assembly by February 1, 2001."

SECTION 4.(c) This section is effective when this act becomes law.

--CHANGES CONCERNING ONE-STOP VOTING.

SECTION 5.(a) G.S. 163-227.2(b) reads as rewritten:

"(b) Not earlier than the ~~first business day after the twenty-fifth day~~ third Thursday before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than ~~5:00~~ 1:00 p.m. on the ~~Friday prior to~~ last Saturday before that election, the voter shall appear in person only at the office of the county board of elections, except as provided in subsection ~~(f1)~~ (g) of this section. A county board of elections shall conduct one-stop voting on the last Saturday before the election until 1:00 p.m. and may conduct it until 5:00 p.m. on that Saturday. 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 authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person."

SECTION 5.(b) G.S. 163-227.2(f) reads as rewritten:

"(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. on the Friday prior to that election ~~or primary.~~ and shall also

be open on the last Saturday before the election. The boards of county commissioners shall provide necessary funds for the additional operation of the office during that time."

SECTION 5.(c) G.S. 163-227.2(g) reads as rewritten:

"(g) 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. A county board of elections may propose in its Plan not to offer one-stop voting at the county board of elections office but to rely exclusively on the other sites; the State Board shall approve that proposal in a Plan only if it finds that the other sites provide adequate coverage of the county's electorate. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board of Elections to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board of Elections may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county."

SECTION 5.(d) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

---LATER REGISTRATION DEADLINE ON FINAL DAY.

SECTION 6.(a) G.S. 163-82.6(c) reads as rewritten:

"(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

(1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,

(2) If submitted in person, must be received by the county board of elections by ~~5:00 p.m.~~ a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election,

except as provided in subsection (d) of this section."

SECTION 6.(b) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--ELECTRONIC TRANSFER OF DMV REGISTRATIONS.

SECTION 7.(a) G.S. 163-82.19 reads as rewritten:

"**§ 163-82.19. Voter registration at drivers license offices.**

The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate county board of elections."

SECTION 7.(b) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--UPDATING OF VOTER REGISTRATION LIST-MAINTENANCE PROVISION TO REFLECT CURRENT FEDERALLY APPROVED PRACTICE.

SECTION 8.(a) G.S. 163-82.14(d) reads as rewritten:

"(d) Change of Address. – A county board of elections shall conduct a systematic program to remove from its list of registered voters those who have moved out of the county, and to update the registration records of persons who have moved within the county. The county board shall remove a person from its list if the registrant:

(1) Gives confirmation in writing of a change of address for voting purposes out of the county. "Confirmation in writing" for purposes of this subdivision shall include:

a. A report to the county board from the Department of Transportation or from a voter registration agency listed in G.S. 163-82.20 that the voter has reported a change of address for voting purposes outside the county;

b. A notice of cancellation received under G.S. 163-82.9; or

c. A notice of cancellation received from an election jurisdiction outside the State.

(2) Fails to respond to a confirmation mailing sent by the county board in accordance with this subdivision and does not vote or appear to vote in an election beginning on the date of the notice and ending on the day after the date of the second general election for the United States House of Representatives that occurs after the date of the notice. A county board sends a confirmation notice in accordance with this subdivision if the notice:

a. Is a postage prepaid and preaddressed return card, sent by forwardable mail, on which the registrant may state current address;

b. Contains or is accompanied by a notice to the effect that if the registrant did not change residence but remained in the county, the registrant should return the card not later than the deadline for registration by mail in G.S. 163-82.6(c)(1); and

c. Contains or is accompanied by information as to how the registrant may continue to be eligible to vote if the registrant has moved outside the county.

A county board shall send a confirmation mailing in accordance with this subdivision ~~if the~~ to every registrant ~~remains on the list, the registrant has not voted in two successive presidential elections or in any election in between, and~~ after every congressional election if the county board has not confirmed the registrant's address by another means. ~~The county board may send a confirmation mailing in accordance with this subdivision if the registrant has been identified as~~

~~residing outside the county through change of address information supplied by the Postal Service through its licensees.~~"

SECTION 8.(b) This section is effective when this act becomes law.

--APPLYING WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS.

SECTION 9.(a) G.S. 163-123(g) reads as rewritten:

"(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan ~~elections.~~elections except for superior court judge elections under Article 25 of this Chapter."

SECTION 9.(b) This section is effective when this act becomes law.

--CORRECTING REFERENCE TO FUND FOR RETURNING ILLEGAL CONTRIBUTIONS.

SECTION 10.(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 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~~ Civil Penalty and Forfeiture Fund of the State of North Carolina."

SECTION 10.(b) This section is effective when this act becomes law.

---NAME CHANGE TO EXECUTIVE DIRECTOR.

SECTION 11. The Reviser of Statutes is authorized to change the term "Executive Secretary-Director" and the term "State Executive Secretary-Director" to "Executive Director" wherever it appears in the General Statutes in reference to the State Board of Elections Executive Secretary-Director.

SECTION 12. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SECTION 13. Except as otherwise provided in each section, this act is effective when it becomes law.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Monday, April 23, 2001**

TIME: **2:00 pm– 4:00 pm**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 1188 – Protection of Rolls – Representative Blue
HB 1190 – Work Leave to Vote - Representative Blue
HB 1195 – Annual Absentee Request - Representative Blue
HB 1187 – Push Poll Disclosure - Representative Blue
HB 1191 – Canvass Show Under/Over Votes - Representative Blue
HB 1184 – Abolish Second Primary - Representative Blue

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **6:20 pm, on April 19, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust (Committee Assistant)

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

April 23 2001
Room 1228
2:00 p.m.

The meeting of the Election Law and Campaign Finance Reform Committee was called to order by the Chair, Representative Alexander. Those present were Representatives Alexander, Blue, Bonner, Daughtry, Goodwin, Justus, Kiser, Morris, Redwine, Rogers, Thompson, Weatherly, and Weiss.

Representative Blue was introduced to present HB 1188 AN ACT TO ALLOW PROTECTION OF VOTER RECORDS IN CASE OF DOMESTIC ABUSE PROTECTIVE ORDERS. Representative Blue put forth an amendment giving the Election Board proper direction for making the records non-public – a lawful order from any court of competent jurisdiction to restrict access or contact of one or more persons with the registered voter. These orders would include stalking or assault, among others. Following discussion, the amendment was adopted. Representative Redwine moved that the amendment be rolled into a committee substitute, favorable report as to committee substitute, unfavorable as to the original bill. The motion passed. HB 1047, which has passed the committee, will be held without reporting since it deals with similar matters.

Representative Blue then presented HB 1190 AN ACT TO ALLOW EMPLOYEES TIME OFF TO VOTE. On election day, if a voter is working during all hours the polls are open, a worker may take time off to vote without penalty. Representative Justus moved for a favorable report. Following discussion about the harm to employers by this bill and the extended voting period, the motion failed.

Representative Blue then presented HB 1192 AN ACT TO STANDARDIZE POLL CLOSING TIMES which would allow polling places to remain open one hour past the regular closing time in cases of voting equipment malfunction. The county election board would make the decision by majority vote. Representative Kiser put forth an amendment on page 1 line 12 adding the words "election by unanimous vote." The amendment failed. Representative Blue moved for a favorable report. The motion passed.

Representative Blue then presented HB 1195 AN ACT TO GIVE ILL AND DISABLED CIVILIANS THE SAME RIGHT AS MILITARY PERSONNEL TO REQUEST ABSENTEE BALLOTS FOR AN ENTIRE CALENDAR YEAR which give ill and disabled civilian voters the same rights as military personnel to request absentee ballots for the entire calendar year rather than having to request an absentee ballot for each election. This would apply to residents of nursing homes if they were ill or disabled. Misdemeanants are allowed to vote and may request an annual absentee ballot if applicable. Misdemeanants must provide certification through the prison custodian. that they are misdemeanants. Representative Redwine moved for a favorable report The motion passed.

Representative Blue presented HB 1187 AN ACT TO REQUIRE DISCLOSURE OF THE SPONSOR OR INITIATOR OF A PERSUASIVE POLL. Representative Blue moved acceptance of the committee substitute for discussion. The motion passed. NC law requires disclosure of the name and identity of political advertisements that advocate the election or defeat of individuals. HB 1187 would apply the same law to telephone calls used as persuasive polls. Discussion followed about distinguishing between information polls and persuasive polls. The bill does not require registration as a PAC. Legitimate polls measure voter reaction to particular issues. A persuasive poll, canvassing

individuals, is designed to advocate the election, approval or defeat of a candidate or measure. The violation is a class 2 misdemeanor. Whoever requests, hires or compensates an individual to do this is subject to being charged. Representative Redwine moved for a favorable report as to committee substitute, unfavorable as to the original. The motion passed.

Representative Blue then presented HB 1191 AN ACT TO REQUIRE ELECTRONIC VOTING SYSTEMS TO REPORT OVERVOTES AND UNDERVOTES for statistical purposes to show how many voters vote for the top offices and do not vote for lesser offices or vote for more candidates than lawfully entitled to vote. If a candidate votes for more than entitled, the ballot is invalid. This would track one-shot voting. Electronic voting systems are able to produce those figures. Representative Goodwin moved to amend the substitute to make it gender neutral, substituting "he" with "the voter". Representative Kiser asked if the under and over-votes would be recorded by precinct. They would be. Representative Goodwin moved that the amendment be rolled into the committee substitute, a favorable report for the proposed committee substitute, unfavorable as to the original bill. The motion passed.

Representative Blue then presented HB 1184 AN ACT TO REDUCE THE THRESHOLD FOR A STATEWIDE SECOND PRIMARY TO TWENTY-FIVE PERCENT. The present threshold is 40%. Representative Blue put forth an amendment that would make the date effective for all elections beginning on or after January 1, 2002. The amendment passed. The bill would abolish the second primary in North Carolina. Handouts were passed out that showed the lack of voter participation in second primaries and the waning importance of the second primary since it is no longer a one-party state. Statewide second primaries cost several million dollars. Representative Blue reviewed and explained the statistics on the handouts. Second primaries rarely change the results of the first primary, and voter turnout drops dramatically. If the second primary winner was the runner up in the first primary, that candidate rarely won the general election. Representative Weatherly said that doing away with the second primary would make it easier for a kook with radical ideas to be elected using one shot voting. Representative Redwine confirmed that the Election Law Study Commission had studied the elections and presented the results as shown in the handout. The study showed no particular bias against black voters. The bill does away with everything but municipal elections. It eliminates all partisan second primaries. Discussion followed concerning numerous candidates running for the same office, and the possibility of radical candidates winning. Representative Thompson said that when he called for a runoff election in a local race, he determined first that there would be a statewide race that necessitated the polls being open.

The meeting was adjourned.

Martha Alexander, Committee Chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H

HOUSE DRH5165-LB-188 (04/04)

D

Short Title: Protection of Voter Rolls. (Public)

Sponsors: Representatives Blue and Hensley.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW PROTECTION OF VOTER RECORDS IN CASE OF DOMESTIC ABUSE PROTECTIVE ORDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.10 is amended by adding a new subsection to read:

"(d) Exception for Address of Certain Registered Voters. – Notwithstanding subsections (b) and (c) of this section, if a registered voter submits to the county board of elections a copy of a protective order issued to that person under G.S. 50B-3, accompanied by a signed statement that the voter has good reason to believe that the physical safety of the voter or a member of the voter's family residing with the voter would be jeopardized if the voter's address were open to public inspection, that voter's address is not a public record, and the registrar shall exclude that voter's address from public inspection as long as the protective order remains in effect. That voter's name, precinct, and the other data contained in that voter's registration record remain a public record. That voter's signed statement is also a public record but shall be kept confidential. That voter's address shall be available for inspection by a law enforcement agency or by a person identified in a court order, if inspection of the address by that person is directed by that court order."

SECTION 2. This act becomes effective December 1, 2001.

HOUSE BILL 1188:
Protection of Voter Rolls

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Blue
		Summary by:	William R. Gilkeson Committee Counsel
Date:	April 18, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1188 would allow a voter to get the board of elections to keep their address confidential by presenting to the board a protective court order under the domestic violence statute and by signing a statement that making the address public would jeopardize the voter's or a family member's physical safety.***

CURRENT LAW: The statutes make voter registration information a public record. Any member of the public has access to information about any voter: name, residence address, date of birth, party affiliation, and a history of when (but not how) the voter voted. The chairs of the political parties may have a free complete list of all registered voters. Others may purchase, for "actual cost," a list of all registered voters or a sorted list.

At least three counties, Mecklenburg, Wake, and Wilson, have taken the extra step of making individual voter registration records available and searchable on their websites. For example, any visitor to the Wake County Board of Elections website can enter the name of a registered voter in a search field and get that voter's address, date of birth, party affiliation, and voting history.

BILL ANALYSIS: House Bill 1188 would provide for the county board to keep a voter's address confidential if the voter presented to the board both of the following:

1. A copy of a protective order issued by a court pursuant to G.S. 50B-3. That statute empowers courts, including magistrates, to order a party to do and refrain from doing a number of things related to domestic violence.
2. A signed a statement by the voter that the voter has good reason to believe his or her safety or that of a family member living at the same address would be in jeopardy if the address were made public.

The rest of the voter's registration record would be public, but the address would be confidential. The voter's written statement would also be kept confidential.

The bill would provide that the address could be inspected by a law enforcement official or by a person directed by court order to inspect the address.

EFFECTIVE DATE: The bill would become effective December 1, 2001.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1188

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1188-ARR-32 [v.1]

Date 4-23-01 ,2001

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Senator Reg Bluce

moves to amend the bill on page 1, line 9,
by inserting before the comma at the end of that line the following:

" or a lawful order of any court of competent jurisdiction restricting the access or contact of one or more persons with a registered voter"; and

on page 1, line 14,
by deleting the word "protective".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

HOUSE BILL 1190:
Work Leave to Vote

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Representative Blue
Date:	April 18, 2001	**Summary by:**	R. Erika Churchill
Version:	HB1190-SMCSST-17v1		Committee Counsel

SUMMARY: ***The bill would allow an employee two hours leave time in which to vote, provided the employee begins work before 8:30 a.m. or leaves work after 4:30 p.m., effective for primaries and elections held on or after January 1, 2002.***

BILL ANALYSIS: The bill would require an employer to allow an employee meeting either of the following qualifications to leave work for two hours for the purpose of voting:

- The employee's workday begins more than two hours after the polls open. (Polls currently open at 6:30 a.m. *G.S. 163-2.*)
- The employee's workday ends more than three hours before the polls close. (Polls currently close at 7:30 p.m. *G.S. 163-2.*)

The employer may specify during what hours the employee can take the two hours leave.

Any employer who refuses a qualified employee the right to leave work for two hours for the purpose of voting is guilty of a Class 3 misdemeanor. A Class 3 misdemeanor is punishable by a maximum of 20 days active punishment.

BACKGROUND: Similar leave time has been statutorily granted to parents, guardians, and persons standing in loco parentis of a school-aged child so that the employee can attend or otherwise be involved at the child's school. The amount of leave time that statute provides for is 4 hours per year. *G.S. 95-28.3.*

EFFECTIVE DATE: The bill would apply to primaries and elections held on or after January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1190
PROPOSED COMMITTEE SUBSTITUTE H1190-CSST-17 [v.1]

4/18/2001 3:13:17 PM

Short Title: Work Leave to Vote. (Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO ALLOW EMPLOYEES TIME OFF TO VOTE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 95 of the General Statutes is amended by adding a new Article to read:

"Article 23.

"No Penalty for Voting.

"**§ 95-261. Time to vote.**

On the day of any election a voter may be absent from employment for two hours for the purpose of voting between the time of opening and the time of closing the polls. The voter shall not be liable to any penalty for such absence; however, the employer may specify the hours during this period in which the voter may be absent.

This section does not apply to an employee whose work day begins more than two hours subsequent to the time of opening the polls, or ends more than three hours prior to the time of closing the polls. A person who refuses the right granted in this section to an employee is guilty of a Class 3 misdemeanor."

SECTION 2. This act becomes effective with respect to primaries and elections held on or after January 1, 2002.

HOUSE BILL 1192:
Poll Closing Times.

BILL ANALYSIS

Committee:	House Elections Laws	**Introduced by:**	Representative Blue
Date:	April 18, 2001	**Summary by:**	R. Erika Churchill
Version:	First Edition		Committee Counsel

SUMMARY: ***The bill would provide flexibility in the closing time of polls on election day, if malfunctions in the voting equipment have prevented voters from voting, effective for elections and primaries on or after January 1, 2002.***

CURRENT LAW: Currently, polls are opened at 6:30 a.m. and must close at 7:30 p.m. on the day of an election or primary. However, at all voting places at which voting machines are used, the responsible county board of elections may allow the polls to remain open until 8:30 p.m.

BILL ANALYSIS: The bill would allow a county board of elections to keep a polling place open past 7:30 p.m. if all of the following occur:

1. Malfunctions in voting equipment prevented voters at the polling place from voting.
2. The State Board of Elections approves.
3. The polling is kept open past 7:30 p.m. for the length of time the voters were prevented from voting, but not past 9:30 p.m.

EFFECTIVE DATE: The bill would become effective for elections and primaries conducted on or after January 1, 2002.

OTHER CONSIDERATION: Senate Bill 17 also addresses the issue of polls remaining open past the general closing time of 7:30 p.m. on the day of an election or primary. That bill would give the county board of elections the discretionary authority to keep a polling place open until 8:30 p.m. in extraordinary circumstances. Senate Bill 17 has passed the Senate, and been referred to this committee in the House.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1192

Short Title:	Poll Closing Times.	(Public)
Sponsors:	Representatives Blue; and Wainwright.	
Referred to:	Election Law and Campaign Finance Reform.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO STANDARDIZE POLL CLOSING TIMES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-2 reads as rewritten:

"**§ 163-2. Hours of primaries and elections.**

In all primaries, general elections, special elections, and referenda held in this State, including those held in and for municipalities and special districts, the polls shall be open at 6:30 A.M., and shall be closed at 7:30 P.M.: Provided, however, that ~~at all voting places at which voting machines are used the responsible county board of elections may permit the polls to remain open until 8:30 P.M.~~at any polling place where malfunctions in voting equipment have prevented voters at that polling place from voting, the county board of elections, with the approval of the State Board of Elections, may extend the time at which the polls close in that precinct by the length of time that voters were prevented from voting, but not past 9:30 P.M."

SECTION 2. This act applies with respect to any primary or election conducted on or after January 1, 2002.

HOUSE BILL 1195:
Annual Absentee Ballot Request.

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Representative Blue
Date:	April 18, 2001	**Summary by:**	R. Erika Churchill
Version:	First Edition		Committee Counsel

SUMMARY: ***The bill would allow a voter requesting to vote absentee due to sickness or disability to request that the application be honored for all primaries and elections in the calendar year from the date of the application, effective for primaries and elections held on or after January 1, 2002.***

BILL ANALYSIS: The bill would allow a voter requesting to vote absentee due to sickness or disability under G.S. 163-226(a)(2) to request that the application be honored for all primaries and elections in the calendar year from the date of the application. Currently the application would be valid only for the primary or election at hand.

EFFECTIVE DATE: The bill would apply to primaries and elections held on or after January 1, 2002.

HOUSE BILL 1187:
Push Poll Disclosure

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Blue
		Summary by:	William R. Gilkeson Committee Counsel
Date:	April 18, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1187 would require the caller on a "persuasive poll" to disclose in the call the name and telephone number of the sponsor or initiator of the call.***

CURRENT LAW: North Carolina requires that political advertisements that advocate the election or defeat of clearly identified candidates must contain a disclosure statement of who paid for the ad. The labeling statute covers print media, radio, and television. *G.S. 163-278.39 and 163-278.39A.* The labeling statute does not, however, address telephone calls.

Aside from labeling, candidate advocacy by telephone would be covered under the provisions of the Campaign Finance Act that limit contributions and require reporting of contributions and expenditures.

BILL ANALYSIS: House Bill 1187 would require that, if a phone call is part of a "persuasive poll," the caller must disclose in the call the name and telephone number of the sponsor. This is true if the sponsor, i.e., the entity that paid or requested the caller, is a candidate, political party, political committee, corporation, union, or professional association.

"Persuasive poll" is defined as "the canvassing of persons, by means other than an established method of scientific sampling, by asking questions or other information concerning a candidate which is designed to provide information . . . to advocate the election, approval, or defeat of a candidate or measure. The term does not include a poll that is conducted only to measure the public's opinion about or reaction to an issue, fact, or theme."

EFFECTIVE DATE: The bill would become effective December 1, 2001.

BACKGROUND: A political fact of life in recent elections has been a phenomenon popularly known as the "push poll." The strategy is to call as many of a certain kind of targeted potential voters as possible and, in the guise of public opinion research, leave a negative message about a candidate.

Polling alleged to be of that sort was an issue in the litigation between the State Board of Elections and Farmers for Fairness, Inc. One of the questions in the poll was as follows:

> *Q: Would you be more likely or less likely to vote for Cindy Watson for state legislature, if you knew it were true that she put her husband on the state payroll by having him work for her in her State Legislative office?* 1. More likely 2. Less likely 3. No difference 4. Don't know/refused

The main issue in the litigation was whether Farmers for Fairness, Inc., a nonprofit corporation supported by the livestock industry, should register as a political committee. The question turned on whether the poll, as well as certain advertising against Rep. Cindy Watson, constituted "express advocacy" of her defeat in an election. The wording of the messages was crucial. Although court decisions in the case have been less than fully conclusive on the merits, the State Board has not been able to force the group to register as a political committee.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1187
PROPOSED COMMITTEE SUBSTITUTE H1187-CSRR-14 [v.3]

4/17/2001 10:18:56 PM

Short Title: Push Poll Disclosure. (Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE DISCLOSURE OF THE SPONSOR OR INITIATOR OF A PERSUASIVE POLL.

The General Assembly of North Carolina enacts:

SECTION 1. Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-278.19C. Disclosure of persuasive polls.**

(a) If a person, individual, candidate, political party, political committee, or other entity requests or compensates an individual or other entity to:

(1) Conduct or cause to be conducted a persuasive poll by telephone concerning a candidate; or

(2) Produce automated or computerized messages by telephone to conduct a persuasive poll concerning a candidate,

the individual or other entity conducting the poll shall, at the end of the poll, disclose the name and telephone number of the sponsor or initiator of the poll.

(b) As used in this section, `persuasive poll' means the canvassing of individuals, by means other than an established method of scientific sampling, by asking questions or other information concerning a candidate which is designed to provide information to advocate the election, approval, or defeat of a candidate or measure. The term does not include a poll that is conducted only to measure the public's opinion about or reaction to an issue, fact, or theme.

(c) A violation of this section is a misdemeanor."

SECTION 2. This act becomes effective December 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

HOUSE BILL 1191

Short Title:	Canvass Show Under/Over Votes.	(Public)
Sponsors:	Representative Blue.	
Referred to:	Election Law and Campaign Finance Reform.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ELECTRONIC VOTING SYSTEMS TO REPORT OVERVOTES AND UNDERVOTES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 14 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-165. Electronic voting systems to report undervotes and overvotes.**

A voting system requiring the voter to vote a ballot that is inserted in an electronic counting device shall report, if possible, the number of ballots on which a voter voted for a lesser number of candidates than he was lawfully entitled to vote for an office and the number of ballots on which a voter voted for a greater number of candidates than he was lawfully entitled to vote. The canvass and abstract of votes shall summarize this information for each precinct and the entire county."

SECTION 2. This act applies with respect to elections conducted on or after January 1, 2002.

HOUSE BILL 1184:
Abolish Second Primary

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Blue
		Summary by:	William R. Gilkeson Committee Counsel
Date:	April 23, 2001		
Version:	First Edition		

SUMMARY: House Bill 1184 would abolish the runoff in party primaries so that the candidate with the most votes, regardless of what percentage of the total, would win the nomination.

CURRENT LAW: Since 1990, North Carolina law for party primaries has been that the frontrunner must receive more than 40% of the total votes cast in the race to win outright. If the frontrunner receives 40% or less, the runner-up has the right to call for a second primary, or runoff. *G.S. 163-111.* If the runner-up decides not to call for a runoff, the frontrunner wins. If the runner-up does call for a runoff, it is held 4 weeks after the first primary.

The threshold of 40% Plus One is called in the law a "substantial plurality." For multi-seat races, the substantial plurality is determined by a formula:

$$0.4 \times \left(\frac{\text{Number of votes cast}}{\text{Number to be elected}} \right) + \text{one vote}$$

In a 2-seat race, for example, if the frontrunner gets that number of votes, that candidate wins outright, safe from a runoff. If the second highest candidate receives fewer than that number, he or she may face a runoff with the third highest candidate.

Before 1990, and going back at least to 1917, the frontrunner could avoid a runoff only if he or she won a majority -- that is, more than 50%.

BILL ANALYSIS: House Bill 1184 would remove the threshold of 40% Plus One from party primaries and nominate the candidate who received a simple plurality – the most votes. That would be true regardless of what percent of the vote the frontrunner received.

If a party primary results in a tie, the party executive committee picks a nominee, as if there were a vacancy on the ticket.

The bill does not abolish nonpartisan election and runoff systems. Several cities and school boards use such systems. They typically still use the 50% Plus One threshold for avoiding a runoff.

The main provisions of the bill are in Section 1, which amends G.S. 163-111. The remaining sections conform other statutes to the abolition of the partisan runoff. Some of those conforming changes are not merely cleanup of language:

- In municipal partisan elections, the first primary is moved from 6 weeks before the November election to 4 weeks, since there will be no need to make room for a second primary.

- Some school boards have nonpartisan election-and-runoff systems during the even numbered year. They hold their election on the same day in May as the first party primaries and their runoffs on the same day as party runoff. The Orange and Yancey county school boards do so. The bill provides that, rather than piggy-back on the party runoff date, the school board will have a runoff on its own 4 weeks after the initial election.

EFFECTIVE DATE: The bill would be effective when it becomes law.

BACKGROUND: The argument has been made that the second primary has been a device to prevent racial minorities from electing candidates of their choice. That argument was made with particularly force before the 1990 change from 50% to 40% and before the increase in the number of minority-majority legislative districts. The Election Laws Revision Commission, after looking at data of second primaries since 1990 and hearing arguments for and against abolition, declined to recommend a change. Excerpts from the Commission's report are included.

HOUSE BILL 1184

Short Title:	Abolish Second Primary.	(Public)
Sponsors:	Representatives Blue; and Wainwright.	
Referred to:	Election Law and Campaign Finance Reform.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO ABOLISH THE SECOND PRIMARY.

The General Assembly of North Carolina enacts:

PART 1. GENERAL LAW AMENDMENTS

SECTION 1. G.S. 163-111 reads as rewritten:

"**§ 163-111. Determination of primary ~~results; second primaries.~~ results.**

~~(a) Nomination Determined by Substantial Plurality; Definition of Substantial Plurality. Except as otherwise provided in this section, nominations in primary elections shall be determined by a substantial plurality of the votes cast. A substantial plurality within the meaning of this section shall be determined as follows:~~

~~(1) If a nominee for a single office is to be selected, and there is more than one person seeking nomination, the substantial plurality shall be ascertained by multiplying the total vote cast for all aspirants by forty percent (40%). Any excess of the sum so ascertained shall be a substantial plurality, and the aspirant who obtains a substantial plurality shall be declared the nominee. If two candidates receive a substantial plurality, the candidate receiving the highest vote shall be declared the nominee.~~

~~(2) If nominees for two or more offices (constituting a group) are to be selected, and there are more persons seeking nomination than there are offices, the substantial plurality shall be ascertained by dividing the total vote cast for all aspirants by the number of positions to be filled, and by multiplying the result by forty percent (40%). Any excess of the sum so ascertained shall be a substantial plurality, and the aspirants who obtain a substantial plurality shall be declared the nominees. If more candidates obtain a substantial plurality than there are positions to be filled, those having the highest vote (equal to the number of positions to be filled) shall be declared the nominees.~~

~~(b) Right to Demand Second Primary. If an insufficient number of aspirants receive a substantial plurality of the votes cast for a given office or group of offices in a primary, a second primary, subject to the conditions specified in this section, shall be held:~~

~~(1) If a nominee for a single office is to be selected and no aspirant receives a substantial plurality of the votes cast, the aspirant receiving the highest number of votes shall be declared nominated by the appropriate board of elections unless the aspirant receiving the second highest number of votes shall request a second primary in accordance with the provisions of subsection (c) of this section. In the second primary only the two aspirants who received the highest and next highest number of votes shall be voted for.~~

~~(2) If nominees for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a substantial plurality of the votes, those candidates equal in number to the positions remaining to be filled and having the highest number of votes shall be declared the nominees unless some one or all of the aspirants equal in number to the positions remaining to be filled and having the second highest number of votes shall request a second primary in accordance with the provisions of subsection (c) of this section. In the second primary to select nominees for the positions in the group remaining to be filled, the names of all those candidates receiving the highest number of votes and all those receiving the second highest number of votes and demanding a second primary shall be printed on the ballot.~~

~~(c) Procedure for Requesting Second Primary.~~

~~(1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing or by telegram with the Executive Secretary-Director of the State Board of Elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the State Board of Elections. If the vote certification by the State Board of Elections determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the Executive Secretary-Director of the State Board of Elections shall immediately notify such candidate and permit him to exercise any options available to him within a 48-hour period following the notification:~~

~~Governor,~~
~~Lieutenant Governor,~~
~~All State executive officers,~~

~~Justices, Judges, or District Attorneys of the General Court of Justice, other than superior court judge,~~
~~United States Senators,~~
~~Members of the United States House of Representatives,~~
~~State Senators in multi-county senatorial districts, and~~
~~Members of the State House of Representatives in multi-county representative districts.~~

~~(2)~~ ~~A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below and desiring to do so, shall file a request for a second primary in writing or by telegram with the chairman or director of the county board of elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the county board of elections:~~

~~State Senators in single-county senatorial districts,~~
~~Members of the State House of Representatives in single-county representative districts, and~~
~~All county officers.~~

~~(3)~~ ~~Immediately upon receipt of a request for a second primary the appropriate board of elections, State or county, shall notify all candidates entitled to participate in the second primary, by telephone followed by written notice, that a second primary has been requested and of the date of the second primary.~~

~~(d) Tie Votes; How Determined.~~

~~(1)~~ ~~In the event of a tie for the highest number of votes in a first primary between two candidates for party nomination for a single county, or single-county legislative district office, the board of elections of the county in which the two candidates were voted for shall conduct a recount and declare the results. If the recount shows a tie vote, a second primary shall be held on the date prescribed in subsection (e) of this section between the two candidates having an equal vote, unless one of the aspirants, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections with which he filed notice of candidacy. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary.~~

~~(2)~~ ~~In the event of a tie for the highest number of votes in a first primary between two candidates for a State office, for United States Senator, or for any district office (including State Senator in a multi-county~~

~~senatorial district and member of the State House of Representatives in a multi-county representative district), no recount shall be held solely by reason of the tie, but the two candidates having an equal vote shall be entered in a second primary to be held on the date prescribed in subsection (e) of this section, unless one of the two candidates files a written notice of withdrawal with the State Board of Elections within three days after the result of the first primary has been officially declared and published. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary.~~

~~(3) In the event one candidate receives the highest number of votes cast in a first primary, but short of a substantial plurality, and two or more of the other candidates receive the second highest number of votes cast in an equal number, the proper board of elections shall declare the candidate having the highest vote to be the party nominee, unless all but one of the tied candidates give written notice of withdrawal to the proper board of elections within three days after the result of the first primary has been officially declared. If all but one of the tied candidates withdraw within the prescribed three-day period, and the remaining candidate demands a second primary in accordance with the provisions of subsection (c) of this section, a second primary shall be held between the candidate who received the highest vote and the remaining candidate who received the second highest vote.~~

~~(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. 163-82.15, 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.~~

~~(f) No Third Primary Permitted. In no case shall there be a third primary. The candidates receiving the highest number of votes in the second primary shall be nominated. If in a second primary there is a tie for the highest number of votes between two candidates, the proper party executive committee shall select the party nominee for the office in accordance with the provisions of G.S. 163-114.~~

(g) Nominations in primary elections shall be determined as follows:

(1) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared the nominee.

(2) When more persons are seeking nomination to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared the nominees.

(h) When more than one person is seeking election to a single office, and two or more candidates receiving the highest number of votes each receive the same number of votes, the proper party executive committee shall, from among those candidates receiving the same number of votes, select the party nominee in accordance with G.S. 163-114.

(i) When more persons are seeking nomination to two or more offices (constituting a group) than there are offices to be filled, and two or more candidates receiving the lowest number of votes necessary for nomination each receive the same number of votes, the proper party executive committee shall, from among those candidates receiving the same number of votes, select the party nominee in accordance with G.S. 163-114."

SECTION 2. G.S. 163-227.1 is repealed.

SECTION 3. G.S. 163-227.3(b) is repealed.

SECTION 4. G.S. 163-278.6(8) reads as rewritten:

"(8) The term 'election' means any general or special election, a ~~first or second~~ primary, a run-off election, or an election to fill a vacancy. The term 'election' shall not include any local or statewide referendum."

SECTION 5. G.S. 163-278.13(d) reads as rewritten:

"(d) For the purposes of this section, the term 'an election' means any ~~primary, second primary,~~ 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."

SECTION 6. G.S. 163-278.40B(2) reads as rewritten:

"(2) Pre-election Report. – The treasurer shall file a report 10 days prior to the election~~, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary~~."

SECTION 7. G.S. 163-279(a)(2) reads as rewritten:

"(a) Primaries and elections for offices filled by election of the people in cities, towns, incorporated villages, and special districts shall be held in ~~1973~~ 2003 and every two or four years thereafter as provided by municipal charter on the following days:

(1) If the election is nonpartisan and decided by simple plurality, the election shall be held on Tuesday after the first Monday in November.

(2) If the election is partisan, the election shall be held on Tuesday after the first Monday in November~~, the first primary shall be held on the sixth Tuesday before the election, and the second primary, if required, shall be held on the third Tuesday before the election~~ and the primary shall be held on the fourth Tuesday before the election.

(3) If the election is nonpartisan and the nonpartisan primary method of election is used, the election shall be held on Tuesday after the first Monday in November and the nonpartisan primary shall be held on the fourth Tuesday before the election.

(4) If the election is nonpartisan and the election and runoff election method of election is used, the election shall be held on the fourth Tuesday before the Tuesday after the first Monday in November, and the runoff election, if required, shall be held on Tuesday after the first Monday in November."

SECTION 8. G.S. 163-291 reads as rewritten:

"**§ 163-291. Partisan primaries and elections.**

The nomination of candidates for office in cities, towns, villages, and special districts whose elections are conducted on a partisan basis shall be governed by the provisions of this Chapter applicable to the nomination of county officers, and the terms "county board of elections," "chairman of the county board of elections," "county officers," and similar terms shall be construed with respect to municipal elections to mean the appropriate municipal officers and candidates, except that:

(1) The dates of primary and election shall be as provided in G.S. 163-279.

(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.

(3) The filing fee for municipal and district primaries shall be fixed by the governing board not later than the day before candidates are permitted to begin filing notices of candidacy. There shall be a minimum filing fee of five dollars ($5.00). The governing board shall have the authority to set the filing fee at not less than five dollars ($5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars ($5.00), in which case the minimum filing fee of five dollars ($5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.

(4) The municipal ballot may not be combined with any other ballot.

(5) The canvass of the primary and second primary shall be held on the third day (Sunday excepted) following the ~~primary or second primary.~~ primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5.

~~(6) Candidates having the right to demand a second primary shall do so not later than 12:00 noon on the Monday following the canvass of the first primary.~~"

SECTION 9. G.S. 163-179.1(a) reads as rewritten:

"(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate ~~who:~~ who

~~(1)~~ ~~Has~~ has received the number of votes necessary to be declared nominated for an office in a primary election with a ~~majority; or~~

~~(2) Has received the number of votes necessary to be declared nominated for an office in a second primary election~~

majority and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the county board of elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes fell within one percent (1%) of a successful candidate shall, by noon on the second day (Saturdays and Sundays excepted) following the canvass, request in writing such a recount."

SECTION 10. G.S. 163-192.1(a) reads as rewritten:

"(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

~~(1)~~ ~~Has~~ has received the number of votes necessary to be declared nominated for an office in a primary election with a ~~majority; or~~

~~(2) Received the number of votes necessary to be declared nominated for an office in a second primary election~~

majority and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the State Board of Elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the eighth day (Saturdays and Sundays included) following the election, request in writing such a recount. Provided, however, that in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is at least one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. Provided further that if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification."

PART 2. ORANGE COUNTY BOARD OF EDUCATION

SECTION 11. Section 6 of Chapter 603, Session Laws of 1977, as enacted by Section 2 of Chapter 1214, Session Laws of 1981, reads as rewritten:

"Sec. 6. If a runoff election is required, the runoff election shall be held ~~at the time for the second primary as provided in G.S. 163-111(e)~~ on the fourth Tuesday after the primary election, and those persons elected members of Orange County Board of Education shall qualify and take office on the first Monday of the month following their election."

PART 3. YANCEY COUNTY BOARD OF EDUCATION

SECTION 12. The third and fourth paragraphs of Section 1 of Chapter 203, Session Laws of 1973, as rewritten by Section 1 of Chapter 135, Session Laws of 1985, is amended by deleting the words "on the date provided by G.S. 163-111(e)" and substituting "on the fourth Tuesday after the primary election".

PART 4. OMNIBUS LOCAL ACT AMENDMENTS

SECTION 13. Any merger plan adopted under Article 7 of Chapter 115C of the General Statutes or any local act that provides that a nonpartisan runoff election shall be held on the date of the second primary is amended to provide that the runoff election shall be held on the fourth Tuesday after the primary.

SECTION 14. Any local act or merger plan in conflict with this act is repealed to the extent of the conflict.

SECTION 15. This act is effective when it becomes law and applies to all primary elections held on or after that date.

SECOND PRIMARIES IN NORTH CAROLINA 1990-2000

Statewide Races, U.S. House Races, General Assembly Races, Judicial Races.

November 9, 2000

Year	Office	Total # of votes in first primary	Front-runner and second candidate in first primary (by party) BFD = black female Democrat, etc.	Votes for front-runner in first primary	Votes for second candidate in first primary	Total # of votes in second primary	Second primary winner	% drop-off in voting between first and second primary
1990	U.S. Senate	693,496	1. Gantt (BMD) 2. Easley (WMD)	260,179 37.52%	206,934 30.27%	480,850	Gantt (BMD) 273,567	30.66%
1992	Superintendent of Public Instruction	214,409	1. Little (WFR) 2. Robinson (BMR)	75,519 35.22%	69,842 32.57%	45,556	Little (WFR) 23,887	78.75%
	U.S. House – 1st District	88,199	1. Jones (WMD) 2. Clayton (BFD)	33,634 38.13%	27,477 31.15%	78,939	Clayton * (BFD) 43,210	10.50%
	U.S. House – 2nd District	19,836	1. Davis (WMR) 2. Israel (WMR)	4,848 24.44%	4,845 24.32%	7,316	Davis (WMR) 5,005	63.12%
	U.S. House – 12th District	8,687	1. Washington (BFR) 2. Jones (BMR)	2,938 33.82%	1,917 22.07%	1,932	Washington (BFR) 1,071	77.76%
	N.C. House – District 46 [1]	17,807	1. ***Buchanan*** (WMR) 2. Thompson (WMR)	3,511 39.43%	3,486 39.15%	5,352	Thompson* (WMR) 3,587	69.94%
	N.C. House – District 77	6,965	1. Moore (WFD) 2. Stewart (WMD)	2,729 39.18%	2,449 35.16%	5,841	Moore (WFD) 3,164	16.14%
	District judge - 2nd district	15,573	1. McLendon (WMD) 2. Paul (WMD)	5,258 33.76%	5,158 33.12%	12,785	Paul * (WMD) 6,567	17.90%
	District judge - 11th district	23,163	1. Stubbs (WMD) 2. Lanier (WMD)	8,580 37.04%	7,476 32.28%	8,959	Lanier * (WMD) 4,838	61.32%

[1] House District 46 is a two-member district. In the Republican first primary, David T. Flaherty Jr. received more than 40% of half the total votes cast in the race and therefore was declared nominated without a second primary. Rep. Charles Buchanan and Greg Thompson were in a second primary for the other seat.

William R. Gilkeson, Legislative Services Office, N.C. General Assembly.
Much of the research was complied by Sarah Kamprath and Dee Atkinson, Legislative Services Office.

Boldfaced italics indicates an incumbent.
An asterisk (*) indicates the candidate won in the general election.

Year	Office	Total # of votes in first primary	Front-runner and second candidate in first primary (by party)	Votes for front-runner in first primary	Votes for second candidate in first primary	Total # of votes in second primary	Second primary winner	% drop-off in voting between first and second primary
1994	N.C. Court of Appeals	479,159	1. Tyson (WMD) 2. McCrodden (WFD)	186,085 38.77%	166,711 34.73%	171,072	McCrodden (WFD) 101,377	64.36%
	U.S. House – 9th District	35,313	1. Myrick (WFR) 2. Balmer (WMR)	12,173 34.47%	9,894 28.02%	25,991	Myrick * (WFR) 17,713	26.40%
	N.C. House – District 28	3,216	1. ***Burton*** (BMD) 2. Boyd-McIntyre(BFD)	1,187 36.91%	1,119 34.79%	1,200	Boyd-McIntyre * (BFD) 538	62.69%
	N.C. House – District 69	3,801	1. ***Lemmond*** (WMR) 2. Daly (WMR)	1,441 37.91%	1,198 31.52%	3,946	***Lemmond**** (WMR) 1,976	-3.81%
	District judge - 14th district	61,225	1. O'Neal-Lee (BFD) 2. Hill (WMD)	8,017 13.09%	5,973 9.76%	8,591	O'Neal-Lee* (BFD) 4,850	85.97%
	District judge - 18th district	24,901	1. Bray (WFD) 2. Priest (WFD)	7,388 29.67%	5,640 22.65%	5,180	Priest 3,282	79.20%
	District judge - 23rd district	15,226	1. Reavis (WFR) 2. Byrd (WMR)	6,064 39.83%	5,581 36.65%	9,034	Byrd * (WMR) 4,686	40.67%
	District judge - 26th district	18,083	1. Heasley (WMD) 2. Williamson (WFD)	6,691 37%	5,574 30.82%	17,968	Heasley * (WMD) 9,606	0.64%
1996	Secretary of State	481,159	1. Marshall (WFD) 2. Lee (BFD)	130,520 27.13%	98,581 20.49%	116,202	Marshall * (WFD) 70,279	75.85%
	Commissioner of Agriculture	199,455	1. Davidson (WMR) 2. Gray (WMR)	66,046 33.11%	54,701 27.43%	40,058	Davidson (WMR) 22,212	79.92%
	U.S. House – 7th District	52,684	1. Lowry-Townsend (IFD) 2. McIntyre (WMD)	15,925 30.23%	12,327 23.40%	31,153	McIntyre * (WMD) 16,285	40.87%
	U.S. House – 7th District	19,198	1. Anderson (WMR) 2. Caster (WMR)	7,176 37.38%	6,201 32.30%	9,982	Caster (WMR) 5,355	48.01%
	U.S. House – 8th District	22,797	1. Morgan (WMR) 2. Blackwood (WMR)	8,053 35.32%	6,583 28.88%	5,321	Blackwood (WMR) 3,398	76.66%

ear	Office	Total # of votes in first primary	Front-runner and second candidate in first primary (by party)	% of votes for front-runner in first primary	% of votes for second candidate in first primary	Total # of votes in second primary	Second primary winner	% drop-off in voting between first and second primary
1998	No second primaries held.[2]							
2000	Commissioner of Agriculture	242,084	1. Troxler (WMR) 2. Davidson (WMR)	66,257 27.37%	58,189 24.04%	50,775	Troxler (WMR) 30,666	79.03%
	Commissioner of Labor	241,425	1. Berry (WFR) 2. Miller (WMR)	92,695 38.39%	74,127 30.70%	49,629	Berry (?) (WFR) 28,203	79.44%
	N.C Senate – District 38	10,560	1. Potts (WMR) 2. Bingham (WMR)	2,796 26.48%	2,738 25.93%	4,724	Bingham* (WMR) 3,096	55.27%
	N.C. House – District 49	4,111	1. Bryant (WFD) 2. Huskins (WMD)	1,464 35.61%	1,388 33.76%	2,421	Huskins (WMD) 1,307	41.11%
	District Judge-District 10.	34,142	1. Bryant (WMD) 2. Suhr (Asian MD)	10,988 32.18%	6,462 18.93%	6,104	Bryant (WMD) 3,858	82.12%

Statistics:

- 27 runoff primaries in 6 election years. Out of more than 1,000 potential primaries.
- 13 of the 27 resulted in reversals, or 48%.
- Only three incumbents were involved in the 27 runoffs. All three incumbents led in first primary. Two of three incumbents defeated in second primary.
- Eight of the runoffs involved a minority-race candidate in a contest with a white candidate. Four of the minority candidates led in the first primary; of those four, three also won in the runoff and one lost. Four of the minority candidates came in second in the first primary; of those four, one prevailed in the runoff and the other three lost.
- Thirteen of the runoffs involved women in races with a man. Nine of the women candidates led in the first primary; of those nine, six also won in the runoff and three lost. Four of the women candidates came in second in the first primary; of those four, three won the second primary and one lost.
- Of the 27 runoffs, 16 had fewer than half the number of voters who voted in the first primary. Only one runoff had more voters than the first primary.
- In 17 of those 27 primaries, the winner in the second primary received fewer votes than the runner-up in the first primary.

[2] All congressional first primaries were held under a court order in mid-September with no provision for a runoff. One of those primary contests, for the 12th District Republican nomination, drew six candidates. The winner, Scott Keadle (WMR), received just under 28% of the vote.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1184

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1184-ARR-35 [v.1]

Date _____,2001

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative Blue

moves to amend the bill on page 5, line 38,
by deleting the term "163-279(a)(2)" and substituting "163-279(a)"; and

on page 8, line 37,
by deleting the term "is effective when it becomes law" and substituting "becomes effective January 1, 2002".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Election Laws — 4/23/2001
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Johnnie McLean	SBE
Don Wright	" "
John Phelps	NCLM
[illegible]	ACLU
James Andrews	NC State AFL-CIO
CHIP ROTH	TEAMSTERS
[illegible]	[illegible]
Gary Robertson	AP

Ann Faust (Rep. Alexander)

From: Ann Faust (Rep. Alexander)
Sent: Friday, April 20, 2001 11:52 AM
Subject: Election Law meetings notice for

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Tuesday April 24, 2001**

TIME: **7:30 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 565 Elections Administrative Procedure – Representative Alexander
HB 188 Fair Election Act – Representative Morris
HB 1330 Military Voting/Internet – Representative Clary
HB 1243 Voter Signatures – Representative Blust

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **9:00 pm, on April 20, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust (Committee Assistant)

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

April 24, 2001
7:30 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

HB 1184 Abolish Second Primary – Representative Blue
HB 17 Voter ID – Representative Justus
HB 565 Elections Administrative Procedure – Representative Alexander
HB 188 Fair Election Act – Representative Morris
HB 1330 Military Voting/Internet – Representative Clary
HB 1243 Voter Signatures – Representative Blust

STAFF: Bill Gilkeson
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

April 24, 2001

Room 1228
7:30 a.m.

The meeting was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Nesbitt, Vice-chair; Blue, Church, Kiser, Morris, Rayfield, Redwine, Starnes, Weatherly, Weiss and Baddour.

Representative Alexander thanked the Sergeants at Arms for their assistance.

Representative Alexander recognized Representative Clary to present HB1330 AN ACT ALLOWING INTERNET VOTING BY NORTH CAROLINIANS SERVING THE ARMED FORCES. Representative Church moved that the Proposed Committee Substitute be accepted for discussion. The motion passed. Representative Clary said that the PCS turned the bill into a study of internet voting for military personnel so that the information would be available by next summer's short Session. Amendment #1 changed "The Secretary of State" to "The Board of Elections" to be the enforcing agency. Representative Rayfield moved acceptance of the amendment. The amendment passed. The study commission would determine who in the service member's family was covered by the bill. Representative Nesbitt moved a favorable report for the Proposed Committee Substitute, unfavorable as to original bill and that the Committee Substitute be re-referred to the Committee on Rules, Calendar and Operations of the House. The motion passed.

Representative Blue continued with discussion of HB 1184, AN ACT TO ABOLISH THE SECOND PRIMARY. The Proposed Committee Substitute was accepted for discussion. Representative Blue restated the rational behind the bill was a question of financial wisdom and presented figures that supported lack of change of winners from first to second primaries in state-wide races and steep drop-off in voters at a cost to the state of over $1,000,000 per primary. The threshold would be lowered to 25% of the vote in the primary. Representative Baddour asked if this bill applied to non-partisan statewide races. Representative Blue said "no." Representative Starnes was not comfortable with 25%. He would like the winner to have a majority. Representative Kiser put forth an amendment, Page 2 line 2, Page 1 line 2, limiting it to races for statewide office. Local races will be left up to the discretion of local candidates. The amendment passed. Representative Kiser moved for a favorable report for the proposed committee substitute, unfavorable as to the original bill. The motion passed.

The meeting was adjourned at 7:58 am.

Martha Alexander
Representative Martha Alexander, Chair

Ann Faust
Ann Faust, Committee Assistant

HOUSE BILL 1330:
Military Voting/Internet.

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Representative Alexander
Date:	April 25, 2001	**Summary by:**	R. Erika Churchill
Version:	HB1330-SMCSST-29v1		Committee Counsel

SUMMARY: ***The bill would allow the Legislative Research Commission to study, or assign to the Election Laws Revision Commission to study, the feasibility of implementing an Internet voting system for persons in the military and civilians associated with them.***

BILL ANALYSIS: The bill would allow the Legislative Research Commission to study, or assign to the Election Laws Revision Commission to study, the feasibility of implementing an Internet voting system for persons in the military and civilians associated with them. The Commission would study:

1. The Secretary of State implementing an Internet voting system for persons in the armed forces and their spouses, for certain veterans, and for civilians working with the armed forces.
2. The system for Internet voting, including both software development and the cost of purchasing necessary hardware.
3. The impact of a system for Internet voting on the existing voting systems in North Carolina.
4. The ability to provide for secure identification and authentication of any information transmitted on the system.
5. The protection of the privacy, anonymity, and integrity of each voter's ballot.
6. The interplay between the Secretary of State, the State Board of Elections, and the county boards of elections in developing, implementing, and utilizing a system for Internet voting administered by the Secretary of State.
7. Other factors applicable to developing a system for Internet voting for military personnel.

The Commission would report to the 2002 Regular Session of the 2001 General Assembly or to the 2003 General Assembly.

EFFECTIVE DATE: The bill would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

HOUSE BILL 1330

Short Title:	Military Voting/Internet.	(Public)
Sponsors:	Representatives Clary, Morris (Primary Sponsors); and Davis.	
Referred to:	Election Law and Campaign Finance Reform.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT ALLOWING INTERNET VOTING BY NORTH CAROLINIANS SERVING THE ARMED FORCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-160 reads as rewritten:

"**§ 163-160. Voting systems; approval; rules and regulations.**

(a) Except as provided by subsection (b) of this section, the~~The~~ State Board of Elections shall have authority to approve types of voting systems for use in primaries and elections held in this State. The use of voting systems that have been approved by the State Board of Elections in any primary or election held in any county or municipality shall be as valid as the use of paper ballots by the voters.

The State Board of Elections shall prescribe rules and regulations for the adoption, handling, operation, and honest use of voting systems, including, but not limited to, the following:

(1) Types of voting systems approved for use in this State;
(2) Form of ballot labels to be used on voting systems;
(3) Operation and manner of voting on voting systems;
(4) Instruction of precinct officials in the use of voting systems;
(5) Instruction of voters in the use of voting systems;
(6) Assistance to voters using voting systems;
(7) Duties of custodians of voting systems;
(8) Examination of voting systems before use in a primary election; and
(9) Use of paper or other ballots where voting systems are used as set out in G.S. 163-162.

(b) The Secretary of State shall take all steps necessary to implement, in accordance with Article 21A of this Chapter, an Internet voting system for persons in the armed forces and their spouses, for certain veterans, and for civilians working with the armed forces."

SECTION 2. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 21A.

"Internet Military Absentee Registration and Voting in Primary and General Elections.

"**§ 163-258. Persons in armed forces, their spouses, certain veterans, and civilians working with armed forces may vote via the Internet.**

(a) Any individual who is registered and who is qualified to vote in any Statewide primary or election held under the laws of this State, and who is absent from the county of his or her residence in any of the capacities specified in subsection (b) of this section, shall be entitled to vote via the Internet in the manner provided in this Article.

(b) The provisions of this Article shall apply to the following persons:

(1) Persons serving in the armed forces of the United States, including (but not limited to) the army, the navy, the air force, the marine corps, the coast guard, the Army Nurse Corps, the Navy Nurse Corps, the Women's Navy Reserve, the Marine Corps Women's Reserve, the Women's Army Corps, the Merchant Marine, and members of the national guard and military reserve who on the day of a primary or general election are absent on active duty.

(2) Spouses of persons serving in the armed forces of the United States residing outside the counties of their spouses' voting residence.

(3) Disabled war veterans in United States government hospitals.

(4) Civilians attached to and serving outside the United States with the armed forces of the United States.

"**§ 163-258.1. Establishment of Internet voting for armed forces personnel; Secretary of State to implement Internet-based voting system.**

(a) The Secretary of State, shall develop and implement an Internet-based voting system to facilitate absentee voting by armed forces personnel wherever they may be, whether in-State, out-of-State, or overseas. The system shall encompass both software development and purchasing of the necessary hardware for the Internet voting system.

(b) The Internet voting system for military personnel shall:

(1) Allow the Secretary of State to issue digital certificates.

(2) Transmit encrypted information over a secure network.

(3) Provide for secure identification and authentication of:

a. Any information transmitted on the system.

b. All elections officials and their servers and all other related electronic equipment being used by State and county elections officials supervising or responsible for elections.

(4) Protect the privacy, anonymity, and integrity of each voter's ballot.

(5) Prevent the casting of multiple ballots in any one election cycle by any voter.

(6) Provide protection against abuse, including tampering, fraudulent use, and illegal manipulation by voters, elections officials, or any other individual or group.

(7) Provide uninterrupted, reliable availability during the voting periods established by this Chapter.

(8) Legibly convey all requirements mandated by this Chapter to be included on ballots.

(9) Be upgradeable, and readily accessible and easy to use for all voters voting under this Article.

(10) Be capable of archiving votes, allowing recounts, and being audited as to contents, results, and process at a level sufficient to guarantee the integrity of the voting system and the public's confidence in the voting system.

(11) Include an Internet website that securely receives and tabulates ballots and is maximally resistant to being interrupted or shutdown by denial of service, computer virus, or other attack.

(c) The Secretary of State shall implement the system so that each county board of elections can:

(1) Assure that each registered voter is qualified to vote.

(2) Ensure a secure registration list to verify that each voter who logs in to vote via the Internet is in fact the same person who has qualified and legally registered.

(3) Verify that votes transmitted to the county are private and secure and have not been viewed or altered by sites that lie between the voting location and the vote counting destination.

(4) Verify that all votes cast were indeed counted and attributed correctly.

(d) The Secretary of State shall coordinate with the Department of Defense to facilitate the State's participation in the Department's military Internet voting pilot system. The Secretary of State shall supervise the State's effort in linking, as may be required, Department of Defense servers, routers, and other equipment with the State's Internet voting system.

(e) The Secretary of State shall adopt all rules, policies, and technical requirements necessary to carry out the purpose of this Article. The State Board of Elections and the county boards of elections shall comply with the rules, policies, and technical requirements of the Secretary of State.

"**§ 163-258.2 Provisions of Article 20 applicable except as otherwise provided.**

Except as otherwise provided in this Article, Internet voting by individuals to whom this Article is applicable shall be governed by the provisions of Article 20 of this Chapter."

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 1184:
Abolish Second Primary

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Blue
		Summary by:	William R. Gilkeson Committee Counsel
Date:	April 23, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1184 would abolish the runoff in party primaries so that the candidate with the most votes, regardless of what percentage of the total, would win the nomination.***

CURRENT LAW: Since 1990, North Carolina law for party primaries has been that the frontrunner must receive more than 40% of the total votes cast in the race to win outright. If the frontrunner receives 40% or less, the runner-up has the right to call for a second primary, or runoff. *G.S. 163-111.* If the runner-up decides not to call for a runoff, the frontrunner wins. If the runner-up does call for a runoff, it is held 4 weeks after the first primary.

The threshold of 40% Plus One is called in the law a "substantial plurality." For multi-seat races, the substantial plurality is determined by a formula:

$$0.4 \times \left(\frac{\text{Number of votes cast}}{\text{Number to be elected}} \right) + \text{one vote}$$

In a 2-seat race, for example, if the frontrunner gets that number of votes, that candidate wins outright, safe from a runoff. If the second highest candidate receives fewer than that number, he or she may face a runoff with the third highest candidate.

Before 1990, and going back at least to 1917, the frontrunner could avoid a runoff only if he or she won a majority -- that is, more than 50%.

BILL ANALYSIS: House Bill 1184 would remove the threshold of 40% Plus One from party primaries and nominate the candidate who received a simple plurality – the most votes. That would be true regardless of what percent of the vote the frontrunner received.

If a party primary results in a tie, the party executive committee picks a nominee, as if there were a vacancy on the ticket.

The bill does <u>not</u> abolish nonpartisan election and runoff systems. Several cities and school boards use such systems. They typically still use the 50% Plus One threshold for avoiding a runoff.

The main provisions of the bill are in Section 1, which amends G.S. 163-111. The remaining sections conform other statutes to the abolition of the partisan runoff. Some of those conforming changes are not merely cleanup of language:

- In municipal partisan elections, the first primary is moved from 6 weeks before the November election to 4 weeks, since there will be no need to make room for a second primary.

- Some school boards have nonpartisan election-and-runoff systems during the even numbered year. They hold their election on the same day in May as the first party primaries and their runoffs on the same day as party runoff. The Orange and Yancey county school boards do so. The bill provides that, rather than piggy-back on the party runoff date, the school board will have a runoff on its own 4 weeks after the initial election.

EFFECTIVE DATE: The bill would be effective when it becomes law.

BACKGROUND: The argument has been made that the second primary has been a device to prevent racial minorities from electing candidates of their choice. That argument was made with particularly force before the 1990 change from 50% to 40% and before the increase in the number of minority-majority legislative districts. The Election Laws Revision Commission, after looking at data of second primaries since 1990 and hearing arguments for and against abolition, declined to recommend a change. Excerpts from the Commission's report are included.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

HOUSE BILL 1184

Short Title:	Abolish Second Primary.	(Public)
Sponsors:	Representatives Blue; and Wainwright.	
Referred to:	Election Law and Campaign Finance Reform.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO ABOLISH THE SECOND PRIMARY.

The General Assembly of North Carolina enacts:

PART 1. GENERAL LAW AMENDMENTS

SECTION 1. G.S. 163-111 reads as rewritten:

"**§ 163-111. Determination of primary ~~results; second primaries.~~ results.**

~~(a) Nomination Determined by Substantial Plurality; Definition of Substantial Plurality. Except as otherwise provided in this section, nominations in primary elections shall be determined by a substantial plurality of the votes cast. A substantial plurality within the meaning of this section shall be determined as follows:~~

~~(1) If a nominee for a single office is to be selected, and there is more than one person seeking nomination, the substantial plurality shall be ascertained by multiplying the total vote cast for all aspirants by forty percent (40%). Any excess of the sum so ascertained shall be a substantial plurality, and the aspirant who obtains a substantial plurality shall be declared the nominee. If two candidates receive a substantial plurality, the candidate receiving the highest vote shall be declared the nominee.~~

~~(2) If nominees for two or more offices (constituting a group) are to be selected, and there are more persons seeking nomination than there are offices, the substantial plurality shall be ascertained by dividing the total vote cast for all aspirants by the number of positions to be filled, and by multiplying the result by forty percent (40%). Any excess of the sum so ascertained shall be a substantial plurality, and the aspirants who obtain a substantial plurality shall be declared the nominees. If more candidates obtain a substantial plurality than there are positions to be filled, those having the highest vote (equal to the number of positions to be filled) shall be declared the nominees.~~

~~(b) Right to Demand Second Primary. — If an insufficient number of aspirants receive a substantial plurality of the votes cast for a given office or group of offices in a primary, a second primary, subject to the conditions specified in this section, shall be held:~~

~~(1) If a nominee for a single office is to be selected and no aspirant receives a substantial plurality of the votes cast, the aspirant receiving the highest number of votes shall be declared nominated by the appropriate board of elections unless the aspirant receiving the second highest number of votes shall request a second primary in accordance with the provisions of subsection (c) of this section. In the second primary only the two aspirants who received the highest and next highest number of votes shall be voted for.~~

~~(2) If nominees for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a substantial plurality of the votes, those candidates equal in number to the positions remaining to be filled and having the highest number of votes shall be declared the nominees unless some one or all of the aspirants equal in number to the positions remaining to be filled and having the second highest number of votes shall request a second primary in accordance with the provisions of subsection (c) of this section. In the second primary to select nominees for the positions in the group remaining to be filled, the names of all those candidates receiving the highest number of votes and all those receiving the second highest number of votes and demanding a second primary shall be printed on the ballot.~~

~~(c) Procedure for Requesting Second Primary. —~~

~~(1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing or by telegram with the Executive Secretary-Director of the State Board of Elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the State Board of Elections. If the vote certification by the State Board of Elections determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the Executive Secretary-Director of the State Board of Elections shall immediately notify such candidate and permit him to exercise any options available to him within a 48-hour period following the notification:~~

~~Governor,~~
~~Lieutenant Governor,~~
~~All State executive officers,~~

~~Justices, Judges, or District Attorneys of the General Court of Justice, other than superior court judge,~~
~~United States Senators,~~
~~Members of the United States House of Representatives,~~
~~State Senators in multi-county senatorial districts, and~~
~~Members of the State House of Representatives in multi-county representative districts.~~

~~(2) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below and desiring to do so, shall file a request for a second primary in writing or by telegram with the chairman or director of the county board of elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the county board of elections:~~

~~State Senators in single-county senatorial districts,~~
~~Members of the State House of Representatives in single-county representative districts, and~~
~~All county officers.~~

~~(3) Immediately upon receipt of a request for a second primary the appropriate board of elections, State or county, shall notify all candidates entitled to participate in the second primary, by telephone followed by written notice, that a second primary has been requested and of the date of the second primary.~~

~~(d) Tie Votes; How Determined.~~

~~(1) In the event of a tie for the highest number of votes in a first primary between two candidates for party nomination for a single county, or single-county legislative district office, the board of elections of the county in which the two candidates were voted for shall conduct a recount and declare the results. If the recount shows a tie vote, a second primary shall be held on the date prescribed in subsection (c) of this section between the two candidates having an equal vote, unless one of the aspirants, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections with which he filed notice of candidacy. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary.~~

~~(2) In the event of a tie for the highest number of votes in a first primary between two candidates for a State office, for United States Senator, or for any district office (including State Senator in a multi-county~~

~~senatorial district and member of the State House of Representatives in a multi-county representative district), no recount shall be held solely by reason of the tie, but the two candidates having an equal vote shall be entered in a second primary to be held on the date prescribed in subsection (e) of this section, unless one of the two candidates files a written notice of withdrawal with the State Board of Elections within three days after the result of the first primary has been officially declared and published. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary.~~

~~(3) In the event one candidate receives the highest number of votes cast in a first primary, but short of a substantial plurality, and two or more of the other candidates receive the second highest number of votes cast in an equal number, the proper board of elections shall declare the candidate having the highest vote to be the party nominee, unless all but one of the tied candidates give written notice of withdrawal to the proper board of elections within three days after the result of the first primary has been officially declared. If all but one of the tied candidates withdraw within the prescribed three-day period, and the remaining candidate demands a second primary in accordance with the provisions of subsection (c) of this section, a second primary shall be held between the candidate who received the highest vote and the remaining candidate who received the second highest vote.~~

~~(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. 163-82.15, 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.~~

~~(f) No Third Primary Permitted. — In no case shall there be a third primary. The candidates receiving the highest number of votes in the second primary shall be nominated. If in a second primary there is a tie for the highest number of votes between two candidates, the proper party executive committee shall select the party nominee for the office in accordance with the provisions of G.S. 163-114.~~

(g) Nominations in primary elections shall be determined as follows:

(1) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared the nominee.

(2) When more persons are seeking nomination to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared the nominees.

(h) When more than one person is seeking election to a single office, and two or more candidates receiving the highest number of votes each receive the same number of votes, the proper party executive committee shall, from among those candidates receiving the same number of votes, select the party nominee in accordance with G.S. 163-114.

(i) When more persons are seeking nomination to two or more offices (constituting a group) than there are offices to be filled, and two or more candidates receiving the lowest number of votes necessary for nomination each receive the same number of votes, the proper party executive committee shall, from among those candidates receiving the same number of votes, select the party nominee in accordance with G.S. 163-114."

SECTION 2. G.S. 163-227.1 is repealed.

SECTION 3. G.S. 163-227.3(b) is repealed.

SECTION 4. G.S. 163-278.6(8) reads as rewritten:

"(8) The term 'election' means any general or special election, a ~~first or second~~ primary, a run-off election, or an election to fill a vacancy. The term 'election' shall not include any local or statewide referendum."

SECTION 5. G.S. 163-278.13(d) reads as rewritten:

"(d) For the purposes of this section, the term 'an election' means any ~~primary, second primary,~~ 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."

SECTION 6. G.S. 163-278.40B(2) reads as rewritten:

"(2) Pre-election Report. – The treasurer shall file a report 10 days prior to the election~~, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary~~."

SECTION 7. G.S. 163-279(a)(2) reads as rewritten:

"(a) Primaries and elections for offices filled by election of the people in cities, towns, incorporated villages, and special districts shall be held in ~~1973~~ 2003 and every two or four years thereafter as provided by municipal charter on the following days:

(1) If the election is nonpartisan and decided by simple plurality, the election shall be held on Tuesday after the first Monday in November.

(2) If the election is partisan, the election shall be held on Tuesday after the first Monday in November~~, the first primary shall be held on the sixth Tuesday before the election, and the second primary, if required, shall be held on the third Tuesday before the election~~ and the primary shall be held on the fourth Tuesday before the election.

(3) If the election is nonpartisan and the nonpartisan primary method of election is used, the election shall be held on Tuesday after the first Monday in November and the nonpartisan primary shall be held on the fourth Tuesday before the election.

(4) If the election is nonpartisan and the election and runoff election method of election is used, the election shall be held on the fourth Tuesday before the Tuesday after the first Monday in November, and the runoff election, if required, shall be held on Tuesday after the first Monday in November."

SECTION 8. G.S. 163-291 reads as rewritten:

"**§ 163-291. Partisan primaries and elections.**

The nomination of candidates for office in cities, towns, villages, and special districts whose elections are conducted on a partisan basis shall be governed by the provisions of this Chapter applicable to the nomination of county officers, and the terms "county board of elections," "chairman of the county board of elections," "county officers," and similar terms shall be construed with respect to municipal elections to mean the appropriate municipal officers and candidates, except that:

(1) The dates of primary and election shall be as provided in G.S. 163-279.

(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.

(3) The filing fee for municipal and district primaries shall be fixed by the governing board not later than the day before candidates are permitted to begin filing notices of candidacy. There shall be a minimum filing fee of five dollars ($5.00). The governing board shall have the authority to set the filing fee at not less than five dollars ($5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars ($5.00), in which case the minimum filing fee of five dollars ($5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.

(4) The municipal ballot may not be combined with any other ballot.

(5) The canvass of the primary and second primary shall be held on the third day (Sunday excepted) following the ~~primary or second primary.~~ primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5.

~~(6) Candidates having the right to demand a second primary shall do so not later than 12:00 noon on the Monday following the canvass of the first primary.~~"

SECTION 9. G.S. 163-179.1(a) reads as rewritten:

"(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate ~~who:~~ who

~~(1)~~ ~~Has~~ has received the number of votes necessary to be declared nominated for an office in a primary election with a ~~majority; or~~

~~(2) Has received the number of votes necessary to be declared nominated for an office in a second primary election~~

majority and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the county board of elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes fell within one percent (1%) of a successful candidate shall, by noon on the second day (Saturdays and Sundays excepted) following the canvass, request in writing such a recount."

SECTION 10. G.S. 163-192.1(a) reads as rewritten:

"(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

~~(1)~~ ~~Has~~ has received the number of votes necessary to be declared nominated for an office in a primary election with a ~~majority; or~~

~~(2) Received the number of votes necessary to be declared nominated for an office in a second primary election~~

majority and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the State Board of Elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the eighth day (Saturdays and Sundays included) following the election, request in writing such a recount. Provided, however, that in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is at least one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. Provided further that if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification."

PART 2. ORANGE COUNTY BOARD OF EDUCATION

SECTION 11. Section 6 of Chapter 603, Session Laws of 1977, as enacted by Section 2 of Chapter 1214, Session Laws of 1981, reads as rewritten:

"Sec. 6. If a runoff election is required, the runoff election shall be held ~~at the time for the second primary as provided in G.S. 163-111(e)~~ on the fourth Tuesday after the primary election, and those persons elected members of Orange County Board of Education shall qualify and take office on the first Monday of the month following their election."

PART 3. YANCEY COUNTY BOARD OF EDUCATION

SECTION 12. The third and fourth paragraphs of Section 1 of Chapter 203, Session Laws of 1973, as rewritten by Section 1 of Chapter 135, Session Laws of 1985, is amended by deleting the words "on the date provided by G.S. 163-111(e)" and substituting "on the fourth Tuesday after the primary election".

PART 4. OMNIBUS LOCAL ACT AMENDMENTS

SECTION 13. Any merger plan adopted under Article 7 of Chapter 115C of the General Statutes or any local act that provides that a nonpartisan runoff election shall be held on the date of the second primary is amended to provide that the runoff election shall be held on the fourth Tuesday after the primary.

SECTION 14. Any local act or merger plan in conflict with this act is repealed to the extent of the conflict.

SECTION 15. This act is effective when it becomes law and applies to all primary elections held on or after that date.

SECOND PRIMARIES IN NORTH CAROLINA 1990-2000

Statewide Races, U.S. House Races, General Assembly Races, Judicial Races.

November 9, 2000

Year	Office	Total # of votes in first primary	Front-runner and second candidate in first primary (by party) BFD = black female Democrat, etc.	Votes for front-runner in first primary	Votes for second candidate in first primary	Total # of votes in second primary	Second primary winner	% drop-off in voting between first and second primary
1990	U.S. Senate	693,496	1. Gantt (BMD) 2. Easley (WMD)	260,179 37.52%	206,934 30.27%	480,850	Gantt (BMD) 273,567	30.66%
1992	Superintendent of Public Instruction	214,409	1. Little (WFR) 2. Robinson (BMR)	75,519 35.22%	69,842 32.57%	45,556	Little (WFR) 23,887	78.75%
	U.S. House – 1st District	88,199	1. Jones (WMD) 2. Clayton (BFD)	33,634 38.13%	27,477 31.15%	78,939	Clayton * (BFD) 43,210	10.50%
	U.S. House – 2nd District	19,836	1. Davis (WMR) 2. Israel (WMR)	4,848 24.44%	4,845 24.32%	7,316	Davis (WMR) 5,005	63.12%
	U.S. House – 12th District	8,687	1. Washington (BFR) 2. Jones (BMR)	2,938 33.82%	1,917 22.07%	1,932	Washington (BFR) 1,071	77.76%
	N.C. House – District 46 [1]	17,807	1. ***Buchanan*** (WMR) 2. Thompson (WMR)	3,511 39.43%	3,486 39.15%	5,352	Thompson* (WMR) 3,587	69.94%
	N.C. House – District 77	6,965	1. Moore (WFD) 2. Stewart (WMD)	2,729 39.18%	2,449 35.16%	5,841	Moore (WFD) 3,164	16.14%
	District judge - 2nd district	15,573	1. McLendon (WMD) 2. Paul (WMD)	5,258 33.76%	5,158 33.12%	12,785	Paul * (WMD) 6,567	17.90%
	District judge - 11th district	23,163	1. Stubbs (WMD) 2. Lanier (WMD)	8,580 37.04%	7,476 32.28%	8,959	Lanier * (WMD) 4,838	61.32%

[1] House District 46 is a two-member district. In the Republican first primary, David T. Flaherty Jr. received more than 40% of half the total votes cast in the race and therefore was declared nominated without a second primary. Rep. Charles Buchanan and Greg Thompson were in a second primary for the other seat.

William R. Gilkeson, Legislative Services Office, N.C. General Assembly.
Much of the research was complied by Sarah Kamprath and Dee Atkinson, Legislative Services Office.

Boldfaced italics indicates an incumbent.
An asterisk (*) indicates the candidate won in the general election.

Year	Office	Total # of votes in first primary	Front-runner and second candidate in first primary (by party)	Votes for front-runner in first primary	Votes for second candidate in first primary	Total # of votes in second primary	Second primary winner	% drop-off in voting between first and second primary
1994	N.C. Court of Appeals	479,159	1. Tyson (WMD) 2. McCrodden (WFD)	186,085 38.77%	166,711 34.73%	171,072	McCrodden (WFD) 101,377	64.36%
	U.S. House – 9th District	35,313	1. Myrick (WFR) 2. Balmer (WMR)	12,173 34.47%	9,894 28.02%	25,991	Myrick * (WFR) 17,713	26.40%
	N.C. House – District 28	3,216	1. ***Burton*** (BMD) 2. Boyd-McIntyre(BFD)	1,187 36.91%	1,119 34.79%	1,200	Boyd-McIntyre * (BFD) 538	62.69%
	N.C. House – District 69	3,801	1. ***Lemmond*** (WMR) 2. Daly (WMR)	1,441 37.91%	1,198 31.52%	3,946	***Lemmond**** (WMR) 1,976	-3.81%
	District judge - 14th district	61,225	1. O'Neal-Lee (BFD) 2. Hill (WMD)	8,017 13.09%	5,973 9.76%	8,591	O'Neal-Lee* (BFD) 4,850	85.97%
	District judge - 18th district	24,901	1. Bray (WFD) 2. Priest (WFD)	7,388 29.67%	5,640 22.65%	5,180	Priest 3,282	79.20%
	District judge - 23rd district	15,226	1. Reavis (WFR) 2. Byrd (WMR)	6,064 39.83%	5,581 36.65%	9,034	Byrd * (WMR) 4,686	40.67%
	District judge - 26th district	18,083	1. Heasley (WMD) 2. Williamson (WFD)	6,691 37%	5,574 30.82%	17,968	Heasley * (WMD) 9,606	0.64%
1996	Secretary of State	481,159	1. Marshall (WFD) 2. Lee (BFD)	130,520 27.13%	98,581 20.49%	116,202	Marshall * (WFD) 70,279	75.85%
	Commissioner of Agriculture	199,455	1. Davidson (WMR) 2. Gray (WMR)	66,046 33.11%	54,701 27.43%	40,058	Davidson (WMR) 22,212	79.92%
	U.S. House – 7th District	52,684	1. Lowry-Townsend (IFD) 2. McIntyre (WMD)	15,925 30.23%	12,327 23.40%	31,153	McIntyre * (WMD) 16,285	40.87%
	U.S. House – 7th District	19,198	1. Anderson (WMR) 2. Caster (WMR)	7,176 37.38%	6,201 32.30%	9,982	Caster (WMR) 5,355	48.01%
	U.S. House – 8th District	22,797	1. Morgan (WMR) 2. Blackwood (WMR)	8,053 35.32%	6,583 28.88%	5,321	Blackwood (WMR) 3,398	76.66%

Year	Office	Total # of votes in first primary	Front-runner and second candidate in first primary (by party)	% of votes for front-runner in first primary	% of votes for second candidate in first primary	Total # of votes in second primary	Second primary winner	% drop-off in voting between first and second primary
1998	No second primaries held.[2]							
2000	Commissioner of Agriculture	242,084	1. Troxler (WMR) 2. Davidson (WMR)	66,257 27.37%	58,189 24.04%	50,775	Troxler (WMR) 30,666	79.03%
	Commissioner of Labor	241,425	1. Berry (WFR) 2. Miller (WMR)	92,695 38.39%	74,127 30.70%	49,629	Berry (?) (WFR) 28,203	79.44%
	N.C Senate – District 38	10,560	1. Potts (WMR) 2. Bingham (WMR)	2,796 26.48%	2,738 25.93%	4,724	Bingham* (WMR) 3,096	55.27%
	N.C. House – District 49	4,111	1. Bryant (WFD) 2. Huskins (WMD)	1,464 35.61%	1,388 33.76%	2,421	Huskins (WMD) 1,307	41.11%
	District Judge-District 10.	34,142	1. Bryant (WMD) 2. Suhr (Asian MD)	10,988 32.18%	6,462 18.93%	6,104	Bryant (WMD) 3,858	82.12%

Statistics:

- 27 runoff primaries in 6 election years. Out of more than 1,000 potential primaries.
- 13 of the 27 resulted in reversals, or 48%.
- Only three incumbents were involved in the 27 runoffs. All three incumbents led in first primary. Two of three incumbents defeated in second primary.
- Eight of the runoffs involved a minority-race candidate in a contest with a white candidate. Four of the minority candidates led in the first primary; of those four, three also won in the runoff and one lost. Four of the minority candidates came in second in the first primary; of those four, one prevailed in the runoff and the other three lost.
- Thirteen of the runoffs involved women in races with a man. Nine of the women candidates led in the first primary; of those nine, six also won in the runoff and three lost. Four of the women candidates came in second in the first primary; of those four, three won the second primary and one lost.
- Of the 27 runoffs, 16 had fewer than half the number of voters who voted in the first primary. Only one runoff had more voters than the first primary.
- In 17 of those 27 primaries, the winner in the second primary received fewer votes than the runner-up in the first primary.

[2] All congressional first primaries were held under a court order in mid-September with no provision for a runoff. One of those primary contests, for the 12th District Republican nomination, drew six candidates. The winner, Scott Keadle (WMR), received just under 28% of the vote.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1184

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1184-ARR-35 [v.1]

Date _____,2001

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative Blue

moves to amend the bill on page 5, line 38,
by deleting the term "163-279(a)(2)" and substituting "163-279(a)"; and

on page 8, line 37,
by deleting the term "is effective when it becomes law" and substituting "becomes effective January 1, 2002".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

April 24, 2001

Room 1228
2:00 p.m.

The meeting was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Michaux, Arnold, Bonner, Church, Daughtry, Goodwin, Kiser, Luebke, Rayfield, Redwine, Starnes, Thompson, Weatherly and Cunningham.

Representative Alexander recognized and welcomed the pages and thanked the Sergeants at Arms for their assistance.

Representative Alexander recognized Representative Blust to present HB 1243 AN ACT TO REQUIRE A VOTER SIGNATURE AT THE POLLS. Representative Alexander announced that the Senate had defeated an amendment on the floor of the Senate requiring a voter to sign a roll book before voting. Staff said that if a voter was unable to sign, a precinct official would sign for the voter. Representative Goodwin asked if pre-clearance is required if this bill passed because of the Voting Rights Act? Mr. Gilkeson said "yes." Representative Starnes asked why some counties have decided to have votes sign in. Don Wright, counsel for the State Board of Elections, said that the State Board of Election had no stand on the bill. Representative Michaux noted that because the Senate amendment was defeated on the floor, this bill was moot. Representative Luebke raised the question of intimidation of African American voters because of the historical context of voter intimidation. Representative Blust sees no chilling effect from this bill.

Representative Morris presented HB 188, not for vote, because most of the provisions are in HB 831 which has been reported out. Rotation of parties on the ballot, straight party voting for presidential elections and uniform municipal elections are not covered in HB831. Redistricting will cover many of the other provisions.

With Representative Michaux presiding, Representative Alexander presented HB 565 for further discussion. Representative Goodwin moved for a favorable report. Representative Redwine recommended staying under APA. No vote was taken.

The meeting was adjourned at 2:55 pm.

Martha Alexander
Representative Martha Alexander, Chair

Ann Faust
Ann Faust, Committee Assistant

HOUSE BILL 1243:
Voter Signatures.

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Representatives Blust and Morris
Date:	April 24, 2001		
Version:	First Edition	**Summary by:**	R. Erika Churchill Committee Counsel

SUMMARY: ***The bill would require a voter to sign the pollbook, other voting record, or a voter authorization document prior to voting.***

BILL ANALYSIS: The bill would require a registered voter appearing at the polls to vote to sign one of the following prior to voting:

- The pollbook.
- Other voting record.
- A voter authorization document.

The local county board of elections, with the approval of the State Board of Elections, would have the ability to establish the procedures by which this is done. If any voter is unable to sign, the precinct official shall enter the person's name on the document.

BACKGROUND: At least two counties are already using this procedure on a voluntary basis to verify voter information. The counties are Mecklenburg and Wake, neither of whom are subject to Section 5 of the 1965 Voting Rights Act. These counties ask a voter at the polls to voluntarily sign a voter authorization document that states the information on the pollbooks remains accurate and true.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

OTHER CONSIDERATION: An amendment similar to this bill was defeated on the Senate Floor earlier this session.

HOUSE BILL 188:
Fair Election Act

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representatives Morris and McMahan
Date:	April 24, 2001	**Summary by:**	William R. Gilkeson Committee Counsel
Version:	First Edition		

SUMMARY: House Bill 188 would make 18 changes to various parts of the election laws. The changes would become effective in 2002.

1. Straight-ticket presidential vote. Currently, North Carolina voters may vote a straight party ticket, but it does not include the presidential vote. A straight-ticket voter must cast a separate vote for President and Vice President. ***HB 188 would add the Presidential vote to the straight party ticket.*** *Sections 1 and 2.*

2. No-excuse One-Stop voting in all elections. Currently, the usual excuses required for absentee voting are lifted from One-Stop voting for the general election in even years only. ***HB 188 would remove the excuse requirement from all One-Stop voting.*** *Sections 3 and 4. (House Bill 977, approved by this Committee last week, would also make this change.)*

3. One-Stop Satellites at Non-Public Buildings. Currently, county boards of elections may designate One-Stop sites other than at the county board of elections office, but those sites must be in a building supported by tax dollars. ***HB 188 would remove the limitation that a One-Stop site be in a tax-supported building.*** *Section 4.*

4. County Option Not to Use Board Office for One-Stop. Currently, the county board of elections office is a mandatory One-Stop site. ***HB 188 would allow the county board, by unanimous vote, to propose a One-Stop site plan that did not include the county board office. Like other One-Stop site plans, it would be subject to State Board approval.*** *Section 4. (House Bill 831, approved by this Committee last week, would also make this change.)*

5. Eliminate the First Week of One-Stop. Currently, One-Stop voting is conducted during the 3 weeks before the election. ***HB 188 would eliminate the first week of One-Stop.*** *Section 4. (Originally, House Bill 831 had the same provision. Before this Committee approved it last week, however, HB 831 was amended to start One-Stop the 3rd Thursday before the election and end it on the Saturday before the election.)*

6. Paperless Transfer of Voter Registrations Applications From DMV. Currently, the law does not permit the electronic transfer of voter registration applications from the Division of Motor Vehicles, which conducts voter registration in drivers license offices. ***HB 188 would require electronic transfer of DMV applications.*** *Section 5. (House Bill 831, approved by this Committee last week, would also make this change.)*

7. Photo I.D. Before Voting. Currently, identification documentation is not allowed to be routinely required of voters. ***HB 188 would require that voters present one of several***

forms of photo I.D. at the polls on election day and at the One-Stop site. If they did not, they would be allowed to vote a provisional ballot. *Sections 4 and 6. (House Bill 17, also in this Committee, has similar provisions. Substantially similar provisions were defeated in a Senate floor amendment earlier this month.)*

8. Rotation of Parties on the Ballot. Currently, the parties with at least 5% of the registered voters are listed on the ballot in alphabetical order. ***HB 188 would establish a rotation on a 3-year cycle between the parties. The party that did not appear first in 2000 would be first in 2002, 2003, and 2004. Then the first position would rotate back for the next three years.*** *Section 7. (Senate Bill 17, which has passed the Senate and is in this Committee, would rewrite the part of the election statutes that this provision is in. SB 17 retains the alphabetical order approach.)*

9. Conform the Cleaning of Voter Rolls to Federally Approved Practice. The current statute, enacted to comply with the National Voter Registration Act of 1993 (NVRA), contains a provision that is misleading. A different procedure, approved by the U.S. Justice Department as being in compliance with NVRA, has been in use for several years. ***HB 188 changes the statute to conform to the federally approved practice.*** *Section 8. (House Bill 831, approved by this Committee last week, would also make this change.)*

10. Uniform Municipal Election Dates. Current law sets out a standard schedule of dates for the 4 kinds of municipal election systems. ***HB 188 would require that all municipal elections conform to the dates in the statute, and would repeal any contrary local act.*** *Section 9.*

11. Plan to Implement Internet Voting. Currently, the State Board of Elections has the authority to approve voting systems that can be purchased by counties. A county board of elections may accepted voted absentee ballots from military voters by e-mail. *G.S. 163-257.* ***HB 188 would require the State Board of Elections to prepare a feasible plan for Internet voting – or determine that it is not feasible. The State Board would be required to report to the General Assembly by March 1, 2003.*** *Section 10. (House Bill 1330, in this Committee, would take a different approach to military voting on the Internet.)*

12. Single-Member Legislative Districts. There is currently no prohibition on multi-member districts in the State House or State Senate. The State House has 5 three-member districts, 12 two-member districts, and 81 single-member districts. The State Senate has 8 two-member districts and 34 single-member districts. ***HB 188 would statutorily prohibit multi-member districts.*** *Section 11.*

13. Limit on Splitting Counties in Drawing Districts. Currently, the State Constitution says no counties can be divided in the drawing of legislative districts. That provision, however, is invalid because it was denied preclearance under Section 5 of the Voting Rights Act. There is no provision about splitting counties in congressional districts. ***HB 188 would provide statutorily that counties could be divided in drawing legislative and congressional districts only where necessary to achieve single-member districts, to comply with one-person/one-vote, and to avoid racial discrimination.*** *Sections 12 and 13.*

14. Limit on Splitting Precincts in Drawing Districts. In 1995 the General Assembly enacted a bill to prohibit the splitting of precincts in the drawing of legislative and congressional districts unless necessary to overcome rejection of a plan under Section 5 of the Voting Rights Act. That bill, however, was itself denied preclearance under Section 5 of the Voting Rights Act. ***HB 188 would direct the State Board of Elections to resubmit the anti-precinct-splitting bill to the U.S. Justice Department under Section 5.*** *Section 14.*

15. Nationally Approved Voting Systems. Current law gives the State Board of Elections authority to approve the kinds of voting equipment that counties may purchase. ***HB 188 would require that the State Board approve only equipment that has been approved by the National Association of State Election Directors (NASED).*** *Section 15. (Senate Bill 17, which has passed the Senate and is in this Committee, would rewrite the part of the statute that this change would appear in. SB 17 approaches this issue by giving the State Board greater authority over county voting equipment – even allowing the State Board to disapprove equipment already in use. But SB 17 does not require NASED-approved equipment.)*

16. Ban Punchcard Ballots. Currently, several counties use punchcard voting equipment. ***HB 188 would ban punchcard equipment and prohibit the State Board from approving its use.*** *Sections 15 and 17. (House Bill 34, which passed the House earlier this month, would ban punchcard ballots but would not require counties now using them to replace punchcard equipment until funds are appropriated to pay for them.)*

17. Ban Butterfly Ballots. Currently, there is no N.C. prohibition on the "butterfly ballot" made famous in Palm Beach County, Florida, during the 2000 Presidential Election. There are no reports, however, of such ballots being used in North Carolina. ***HB 188 would ban butterfly ballots.*** *Section 18. (House Bill 34, which passed the House earlier this month, would make the same change.)*

18. Uniform Counting/Recounting Standards. ***HB 188 would require the State Board of Elections to adopt uniform standards for counting and recounting ballots that would apply to each type of voting equipment.*** *Section 16.* Current law does not clearly require that the State Board do this. *(Senate Bill 14, which has passed the Senate and is in this Committee, would rewrite the part of the election laws that this change would fit in. In that rewrite, SB 14 makes this same change.)*

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

HOUSE BILL 188*

Short Title:	Fair Election Act.	(Public)
Sponsors:	Representatives Morris, McMahan, Dockham; Barbee, Barnhart, Blust, Bowie, Capps, Culp, Davis, Harrington, Johnson, Pope, Preston, Sherrill, Teague, Walend, Walker, Weatherly, and G. Wilson.	
Referred to:	Rules, Calendar, and Operations of the House.	

February 21, 2001

A BILL TO BE ENTITLED

AN ACT TO REFORM THE ELECTION LAWS FOR THE PURPOSE OF MAKING VOTING SIMPLER AND FAIRER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-140 (b)(1) reads as rewritten:

"(1) Ballot for Presidential Electors: On the ballot for presidential electors there shall be printed, under the titles of the offices, the names of the candidates for President and Vice-President of the United States nominated by each political party qualified under the provisions of G.S. 163-96, and the names of the unaffiliated candidates for President and Vice-President qualified under the provisions of G.S. 163-122 and G.S. 163-209. A separate column shall be assigned to each political party with candidates on the ballot, and a separate column shall be assigned to each pair of unaffiliated candidates for President and Vice-President, if any, and the columns shall be separated by distinct black lines. At the head of each party column the party name shall be printed in large type and below it a circle, one-half inch in diameter, and below the circle the names of the party's candidates for President and Vice-President in that order. At the head of the columns for unaffiliated candidates shall be printed in large type the words "Unaffiliated Candidates", and below it a circle, one-half inch in diameter, and below the circle the names of a pair of unaffiliated candidates for President and Vice-President. On the face of the ballot, above the party column division, the following instructions shall be printed in heavy black type:

a. To vote this ballot, make a cross (X) mark in the circle below the name of the political party for whose candidates you wish to vote or below the heading for the unaffiliated candidates for whom you wish to vote.

b. A vote for the names of a political party's candidates for President and Vice-President is a vote for the electors of that party, and a vote for the names of unaffiliated candidates for President and Vice-President is a vote for electors named by the unaffiliated candidate for President, the names of whom are on file with the Secretary of State.

c. If you tear or deface or wrongly mark this ballot, return it and get another.

On the bottom of the ballot shall be printed an identified facsimile of the signature of the Chairman of the State Board of Elections.

~~The official ballot for presidential electors shall not be combined with any other official ballots.~~"

SECTION 2. Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-140.2. Presidential vote part of straight-party ticket.**

On any ballot, regardless of the voting system used, that permits a voter to vote a straight-party ticket covering some ballot items, the ballot item for presidential electors shall be subject to that straight-party vote."

SECTION 3. G.S. 163-226(a1) reads as rewritten:

"(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.~~ 163-227.2."

SECTION 4. 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 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, 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.~~ voting.

(b) Not earlier than the first business day after the ~~twenty-fifth~~ eighteenth day before an election, in which absentee ballots are authorized, in which 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, except as provided in subsection ~~(f1)~~ (g) 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. A voter shall display one of the following types of valid identification:

(1) A North Carolina drivers license.
(2) A special identification card issued under G.S. 20-37.7.
(3) A passport.
(4) An identification card issued by the United States Department of Defense.
(5) A social security card and one other type of identification showing the name and a picture of the voter.

A voter who does not show one of those types of identification shall be allowed to mark a ballot. That ballot shall be sealed in an envelope on which it shall be noted that the voter did not display identification in compliance with the statute. The county board of elections shall determine if the voter is eligible to cast the ballot and, if so, shall count it, and if not, shall not count it. The State Board of Elections shall promulgate rules which shall include instructions for county boards of elections in methods to determine the eligibility of persons who apply to vote without presenting identification.

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 authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person.

(c) If the application is properly filled out, the authorized member or employee shall enter the voter's name in the register of absentee 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. The voter thereupon shall 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, except that the voting may take place in an adjacent room as provided by subsection (e) of this section. 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, employee, or director of elections of the board shall keep the voter's application for absentee ballots in a safe place, separate and apart

from other applications and container-return envelopes. 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 that voter's residence address and at the address shown in the application for absentee ballots; and the board shall enter a challenge under G.S. 163-89.

(e) The voter shall vote 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 that voter's absentee ballot in that room. If the voter needs assistance in getting to and from the voting booth and in preparing and marking that voter's ballots or if 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 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. 163-230.1(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. 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 that time.

(g) 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. By unanimous vote of all its members, a county board of elections may propose in its Plan not to offer one-stop voting at the county board of elections office but to rely exclusively on the other sites; the State Board shall approve that proposal in a Plan only if it finds that the other sites provide adequate coverage of the county's electorate. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board of Elections to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board of Elections may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county.

(h) 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 (g) 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 5. G.S. 163-82.19 reads as rewritten:

"**§ 163-82.19. Voter registration at drivers license offices.**

The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the

penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate county board of elections."

SECTION 6. 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. 163-119, 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. A voter shall display one of the following types of valid identification:

(1) A North Carolina drivers license.
(2) A special identification card issued under G.S. 20-37.7.
(3) A passport.
(4) An identification card issued by the United States Department of Defense.
(5) A social security card and one other type of identification showing the name and a picture of the voter.

A voter who does not show one of those types of identification shall be allowed to mark a ballot. That ballot shall be sealed in an envelope on which it shall be noted that the voter did not display identification in compliance with the statute. The county board of elections shall determine if the voter is eligible to cast the ballot and, if so, shall count it, and if not, shall not count it. The State Board of Elections shall promulgate rules which shall include instructions for county boards of elections in methods to determine the eligibility of persons who apply to vote without presenting identification.

After examining the precinct registration records, the chief judge shall state whether the person seeking to vote is duly registered."

SECTION 7.(a) G.S. 163-140.1 reads as rewritten:

"**§ 163-140.1. Political party alignment on ballots.**

All ballots printed for use in general elections in the State, district, county or any other political subdivision, shall be aligned with the number of political party columns required pursuant to instructions contained in G.S. 163-140(b) and the columns shall be assigned in ~~strict alphabetical~~ order, beginning with the left column, to the political parties entitled to ballot position provided such political parties reflect at least five percent (5%) of the total statewide voter registration, according to the latest statistical report published by the State Board of ~~Elections.~~ Elections so that such parties rotate order each three years, and if there are more than two eligible parties, then the order among those parties shall be determined by lot, with no party being eligible for the left column for three years after it has had that column. Political parties having less than five percent (5%) of the total statewide voter registration, but otherwise eligible for ballot position shall be assigned column alignment to the right of all other qualified political parties. The State Board of Elections shall be responsible for implementing the procedures required by this section and shall issue instructions to those counties using voting machines so as to accomplish the effect of this section whether such counties utilize voting machines that list party columns in a horizontal or vertical alignment. Every county board of elections shall follow the column alignment prescribed by the State Board of Elections."

SECTION 7.(b) This section becomes effective January 1, 2002. Rotation as required by this section begins in 2002, with the party that had the second to the left column in 2000 having the left column in 2002, 2003, and 2004.

SECTION 8. G.S. 163-82.14 reads as rewritten:

"**§ 163-82.14. List maintenance.**

(a) Uniform Program. – The State Board of Elections shall adopt a uniform program that makes a reasonable effort:

(1) To remove the names of ineligible voters from the official lists of eligible voters, and

(2) To update the addresses and other necessary data of persons who remain on the official lists of eligible voters.

That program shall be nondiscriminatory and shall comply with the provisions of the Voting Rights Act of 1965, as amended, and with the provisions of the National Voter Registration Act. The State Board of Elections, in addition to the methods set forth in this section, may use other methods toward the ends set forth in subdivisions (1) and (2) of this subsection, including address-updating services provided by the Postal Service. Each county board of elections shall conduct systematic efforts to remove names from its list of registered voters in accordance with this section and with the program adopted by the State Board.

(b) Death. – The Department of Health and Human Services shall furnish free of charge to the State Board of Elections every month, in a format prescribed by the State Board of Elections, the names of deceased persons who were residents of the State. The State Board of Elections shall distribute every month to each county board of elections the names on that list of deceased persons who were residents of that county. The

Department of Health and Human Services shall base each list upon information supplied by death certifications it received during the preceding month. Upon the receipt of those names, each county board of elections shall remove from its voter registration records any person the list shows to be dead. The county board need not send any notice to the address of the person so removed.

(c) Conviction of a Felony. –

(1) Report of Conviction Within the State. – The clerk of superior court, on or before the fifteenth day of every month, shall report to the county board of elections of that county the name, county of residence, and residence address if available, of each individual against whom a final judgment of conviction of a felony has been entered in that county in the preceding calendar month. Any county board of elections receiving such a report about an individual who is a resident of another county in this State shall forward a copy of that report to the board of elections of that county as soon as possible.

(2) Report of Federal Conviction. – The Executive Secretary-Director of the State Board of Elections, upon receipt of a notice of conviction sent by a United States Attorney pursuant to section 8(g) of the National Voter Registration Act, shall notify the appropriate county boards of elections of the conviction.

(3) County Board's Duty Upon Receiving Report of Conviction. – When a county board of elections receives a notice pursuant to subdivision (1) or (2) of this subsection relating to a resident of that county and that person is registered to vote in that county, the board shall, after giving 30 days' written notice to the voter at his registration address, and if the voter makes no objection, remove the person's name from its registration records. If the voter notifies the county board of elections of his objection to the removal within 30 days of the notice, the chairman of the board of elections shall enter a challenge under G.S. 163-85(c)(5), and the notice the county board received pursuant to this subsection shall be prima facie evidence for the preliminary hearing that the registrant was convicted of a felony.

(d) Change of Address. – A county board of elections shall conduct a systematic program to remove from its list of registered voters those who have moved out of the county, and to update the registration records of persons who have moved within the county. The county board shall remove a person from its list if the registrant:

(1) Gives confirmation in writing of a change of address for voting purposes out of the county. "Confirmation in writing" for purposes of this subdivision shall include:

a. A report to the county board from the Department of Transportation or from a voter registration agency listed in G.S. 163-82.20 that the voter has reported a change of address for voting purposes outside the county;

b. A notice of cancellation received under G.S. 163-82.9; or

c. A notice of cancellation received from an election jurisdiction outside the State.

(2) Fails to respond to a confirmation mailing sent by the county board in accordance with this subdivision and does not vote or appear to vote in an election beginning on the date of the notice and ending on the day after the date of the second general election for the United States House of Representatives that occurs after the date of the notice. A county board sends a confirmation notice in accordance with this subdivision if the notice:

a. Is a postage prepaid and preaddressed return card, sent by forwardable mail, on which the registrant may state current address;

b. Contains or is accompanied by a notice to the effect that if the registrant did not change residence but remained in the county, the registrant should return the card not later than the deadline for registration by mail in G.S. 163-82.6(c)(1); and

c. Contains or is accompanied by information as to how the registrant may continue to be eligible to vote if the registrant has moved outside the county.

A county board shall send a confirmation mailing in accordance with this subdivision ~~if the~~ to every registrant ~~remains on the list, the registrant has not voted in two successive presidential elections or in any election in between, and~~ after every congressional election if the county board has not confirmed the registrant's address by another means. ~~The county board may send a confirmation mailing in accordance with this subdivision if the registrant has been identified as residing outside the county through change of address information supplied by the Postal Service through its licensees.~~"

SECTION 9. All municipal elections shall be held on the days specified in G.S. 163-279. All local acts in conflict with G.S. 163-279 are repealed.

SECTION 10. The State Board of Elections shall prepare a feasible plan to implement voting on the Internet or determine that such a plan is not feasible. The State Board shall report on that plan to the 2003 General Assembly by March 1, 2003.

SECTION 11. Article 1 of Chapter 120 of the General Statutes is amended by adding a new section to read:

"**§ 120-2.3. Single-member districts required in House and Senate.**

An act of the General Assembly that revises Senate or House districts shall consist exclusively of single-member districts."

SECTION 12. Article 1 of Chapter 120 of the General Statutes is amended by adding a new section to read:

"**§ 120-2.4. Dividing counties limited in House and Senate plans.**

An act of the General Assembly that revises Senate and House districts shall divide counties only where necessary to achieve single-member districts and to comply with

the State Constitution and with federal law in achieving required population equality and avoiding racial discrimination."

SECTION 13. Article 17 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-201.3. Dividing counties limited in congressional plans.**

An act of the General Assembly that revises districts for the United States House of Representatives shall divide counties only where necessary to achieve single-member districts and to comply with the State Constitution and with federal law in achieving required population equality and avoiding racial discrimination."

SECTION 14. The State Board of Elections shall resubmit to the Attorney General of the United States, for preclearance under section 5 of the Voting Rights Act, G.S. 120-2.2, and G.S. 163-201.2, as ratified in Chapter 355 of the 1995 Session Laws.

SECTION 15. G.S. 163-160 reads as rewritten:

"**§ 163-160. Voting systems; approval; rules and regulations.**

The State Board of Elections shall have authority to approve types of voting systems for use in primaries and elections held in this State. The use of voting systems that have been approved by the State Board of Elections in any primary or election held in any county or municipality shall be as valid as the use of paper ballots by the voters.

The State Board of Elections shall prescribe rules and regulations for the adoption, handling, operation, and honest use of voting systems, including, but not limited to, the following:

(1) Types of voting systems approved for use in this State; provided that the State Board shall approve only those voting systems that have been approved by the National Association of State Election Directors and the State Board shall not approve a punch-card voting system;
(2) Form of ballot labels to be used on voting systems;
(3) Operation and manner of voting on voting systems;
(4) Instruction of precinct officials in the use of voting systems;
(5) Instruction of voters in the use of voting systems;
(6) Assistance to voters using voting systems;
(7) Duties of custodians of voting systems;
(8) Examination of voting systems before use in a primary election; and
(9) Use of paper or other ballots where voting systems are used as set out in G.S. 163-162."

SECTION 16. G.S. 163-170 is amended by adding a new subdivision to read:

"(8) Rules and Directions by State Board of Elections. -- The State Board of Elections shall prescribe procedures and standards for counting and recounting votes for each type of voting system. Those procedures and standards shall be followed uniformly throughout the State in all places where that type of voting system is used. The State Board shall direct the county boards of elections in the application of the principles and rules in individual circumstances."

SECTION 17. G.S. 163-140(a) reads as rewritten:

"(a) Kinds of General Election Ballots; Right to Combine. – For purposes of general elections, there shall be seven kinds of official ballots entitled:

(1) Ballot for presidential electors
(2) Ballot for United States Senator
(3) Ballot for member of the United States House of Representatives
(4) State ballot
(5) County ballot
(6) Repealed by Session Laws 1973, c. 793, s. 56
(7) Ballot for constitutional amendments and other propositions submitted to the people
(8) Judicial ballot for superior court.

Use of official ballots shall be limited to the purposes indicated by their titles. The printing on all ballots shall be plain and legible but, unless large type is specified by this section, type larger than 10-point shall not be used in printing ballots. All general election ballots shall be prepared in such a way as to leave sufficient blank space beneath each name printed thereon in which a voter may conveniently write the name of any person for whom he may desire to vote.

No general election ballot shall be used which requires the voter to punch out a hole with a stylus or other tool.

Unless prohibited by this section, the board of elections, State or county, charged by law with printing ballots may, in its discretion, combine any two or more official ballots. Whenever two or more ballots are combined, the voting instructions for the State ballot set out in subsection (b)(4) of this section shall be used, except that if the two ballots being combined do not contain a multi-seat race, then the second sentence of instruction b. shall not appear on the ballot.

Contests in the general election for seats in the State House of Representatives and State Senate shall be on ballots that are separate from ballots containing non-legislative contests, except where the voting system used makes separation of ballots impractical. State House and State Senate contests shall be on the same ballot, unless one is a single-seat contest and the other a multi-seat contest.

All candidates for the Appellate Division shall appear on the same ballot."

SECTION 18. G.S. 163-140(b)(1) reads as rewritten:

"(1) Ballot for Presidential Electors: On the ballot for presidential electors there shall be printed, under the titles of the offices, the names of the candidates for President and Vice-President of the United States nominated by each political party qualified under the provisions of G.S. 163-96, and the names of the unaffiliated candidates for President and Vice-President qualified under the provisions of G.S. 163-122 and G.S. 163-209. A separate column shall be assigned to each political party with candidates on the ballot, and a separate column shall be assigned to each pair of unaffiliated candidates for President and Vice-President, if any, and the columns shall be separated by distinct black lines. The ballot shall not have two parallel sets of columns with some of the parties in one column and the other parties in a second

column. At the head of each party column the party name shall be printed in large type and below it a circle, one-half inch in diameter, and below the circle the names of the party's candidates for President and Vice-President in that order. At the head of the columns for unaffiliated candidates shall be printed in large type the words "Unaffiliated Candidates", and below it a circle, one-half inch in diameter, and below the circle the names of a pair of unaffiliated candidates for President and Vice-President. On the face of the ballot, above the party column division, the following instructions shall be printed in heavy black type:

a. To vote this ballot, make a cross (X) mark in the circle below the name of the political party for whose candidates you wish to vote or below the heading for the unaffiliated candidates for whom you wish to vote.

b. A vote for the names of a political party's candidates for President and Vice-President is a vote for the electors of that party, and a vote for the names of unaffiliated candidates for President and Vice-President is a vote for electors named by the unaffiliated candidate for President, the names of whom are on file with the Secretary of State.

c. If you tear or deface or wrongly mark this ballot, return it and get another.

On the bottom of the ballot shall be printed an identified facsimile of the signature of the Chairman of the State Board of Elections.

The official ballot for presidential electors shall not be combined with any other official ballots."

SECTION 19. Except as otherwise provided in the other sections of this act, this act becomes effective January 1, 2002.

H 1

HOUSE BILL 1243

Short Title:	Voter Signatures.	(Public)
Sponsors:	Representatives Blust; Morris and Davis.	
Referred to:	Election Law and Campaign Finance Reform.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A VOTER SIGNATURE AT THE POLLS.

The General Assembly of North Carolina enacts:

SECTION 1. 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. 163-119, 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. If the chief judge states that the person is duly registered, the person shall sign the pollbook, other voting record, or voter authorization document in accordance with subsection (f) of this section before voting."

SECTION 2. G.S. 163-150(f) reads as rewritten:

"(f) Maintenance of Pollbook or Other Record of Voting. – At each primary, general or special election, the precinct chief judge shall appoint two precinct assistants (one from each political party as recommended by the county chairman thereof), one to be assigned to keep the pollbook or other voting record used in the county as approved by the State Board of Elections, and the other to keep the registration books under the supervision of the precinct officials. ~~The names of all persons voting shall be checked on the registration records and entered on the pollbook or other voting record.~~ The names of all persons voting shall be checked on the registration records and the voter, before voting, shall sign that voter's name on the pollbook, other voting record, or voter authorization document according to a procedure adopted by the county board of

elections with the approval of the State Board of Elections. If the voter is unable to sign, a precinct official shall enter the person's name on the same document before the voter votes. In an election where observers may be appointed under G.S. 163-45 each voter's party affiliation shall be entered in the proper column of the book or other approved record opposite his name. The precinct assistant shall make each entry at the time the ballots are handed to the voter. As soon as the polls are closed, the chief judge and judges of election shall sign the pollbook or other approved record immediately beneath the last voter's name entered therein. The chief judge or the judge appointed to attend the county canvass shall deliver the pollbook or other approved record to the chairman of the county board of elections at the time of the county canvass, and the chairman shall remain responsible for its safekeeping."

SECTION 3. This act becomes effective January 1, 2002.

HOUSE BILL 565:
Election Administrative Procedure.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Alexander
Date:	April 4, 2001	**Summary by:**	William R. Gilkeson Committee Co-Counsel
Version:	First Edition		

SUMMARY: ***House Bill 565 would add the State Board of Elections and its Executive Secretary-Director to the list of agencies that are exempt from the Administration Procedure Act.***

CURRENT LAW: The Administrative Procedure Act (the APA) is found in Chapter 150B of the General Statutes. It governs the rulemaking and adjudicatory functions of agencies in the executive branch of government.

Rulemaking. The APA requires that rules adopted by a covered agency must be submitted for approval to the Rules Review Commission, which determines whether the agency has the statutory authority to promulgate those rules. Moreover, the APA requires that a permanent rule cannot go into effect the 31st day of the next regular General Assembly session after the Commission approves the rule (or the adjournment of that session, if the session last less than 31 days). To count in that formula, the session must begin at least 25 days after the Commission approves the rule. The effect of that delaying provision is to give the General Assembly an opportunity to overturn the proposed rule if it sees fit.

Under certain conditions, the APA allows an agency to adopt temporary rules prior to approval by the Rules Review Commission and without the delays required for permanent rules. In 1999, in reponse to a legislative effort to exempt the State Board of Elections from the APA, the General Assembly gave the State Board of Elections broader-than-usual authority to adopt temporary rules. The State Board may adopt a temporary rule "[to] implement any provisions of state or federal law for which [it] has been authorized to adopt rules" or because of the "need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process." A temporary rule cannot last longer than 270 days after adoption.

Adjudication. The contested-case provisions of the APA give a party a right to have an administrative decision by an agency reviewed by an administrative law judge under the Office of Administrative Hearings.

The most common contested case the State Board of Elections handles, the disputed election result, is subject to its own statutory procedures under Chapter 163 and so is not governed by APA contested-case provisions.

Three agencies have full exemptions from the APA, the Utilities Commission, the Industrial Commission, and the Employment Security Commission. Two others, the National Guard and the Department of Health and Human Services, have exemptions for certain limited functions only.

BILL ANALYSIS: House Bill 565 would make the State Board of Elections the fourth State agency with a full exemption from the APA. The exemption would provide, however, that when adopting rules, the State Board would be required to follow the notice and hearing requirements that covered agencies would have to follow. The exemption would also require the State Board to provide to parties procedural rights equivalent to those in the APA.

The bill also exempts the Executive Secretary-Director of the State Board from the APA.

BACKGROUND: The State Board of Elections has named exemption from the APA as one of its top legislative priorities. At the State Board's urging, the Election Laws Revision Commission endorsed the exemption, but did not include a draft bill in its report to the 2001 General Assembly.

EFFECTIVE DATE: The act is effective when it becomes law. It exempts rules adopted at any time, and contested cases commenced on or after the effective date of the act.

HOUSE BILL 565

Short Title:	Elections Admin. Procedure.	(Public)
Sponsors:	Representatives Alexander; and Goodwin.	
Referred to:	Election Law and Campaign Finance Reform.	

March 12, 2001

A BILL TO BE ENTITLED

AN ACT TO EXEMPT THE STATE BOARD OF ELECTIONS FROM THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. 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 adopting rules, they shall follow the procedures in subsections (a) through (g) and subsection (i) of G.S. 150B-21.2, and provided that, in contested cases, equivalent procedural rights to those provided in Articles 3A and 4 of this Chapter are afforded to the parties."

SECTION 2. G.S. 150B-21.1(a5) is repealed.

SECTION 3. G.S. 163-132.5B is repealed.

SECTION 4. G.S. 163-256 reads as rewritten:

"**§ 163-256. Regulations of State Board of Elections.**

The State Board of Elections shall adopt rules and regulations to carry out the intent and purpose of G.S. 163-254 and 163-255, and to ensure that a proper list of persons voting under said sections shall be maintained by the boards of elections, and to ensure

proper registration ~~records, and such rules and regulations shall not be subject to the provisions of G.S. 150B-9.~~ records."

SECTION 5. G.S. 163-278.34(a1) reads as rewritten:

"(a1) The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a ~~petition for a contested case under Article 3 of Chapter 150B of the General Statutes.~~ protest or request for waiver of the penalty with the State Board of Elections. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. Consistent with G.S. 115C-437, the State Controller shall pay the clear proceeds of civil penalties collected under this section to the County School Fund in the county in which the person charged with the violation resides. The State Controller shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the County School Fund. Monies set aside for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board of Elections."

SECTION 6. This act is effective when it becomes law. The exemptions set forth in Section 1 of this act apply to any rules adopted by the State Board of Elections at any time and to any contested case commenced on or after the date this act becomes effective.

VISITOR REGISTRATION SHEET

Election Law / campaign finance Reform — 4/24/01 — 2:00 pm
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Barbara Howe	Chairperson Libertarian Party
Don Wright	State Board of Elections
Allen J. McCall-Hoke	502 E. Jackson St. Rowland, N.C. 28383
Teresa L. Peterson	3985-N.C. Hwy #130 Rowland N.C. 28383

VISITOR REGISTRATION SHEET

Election Laws — 4/24/01

Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Johnnie McLean	SBE
Jon Wright	"
Amy Jo Klein	NCICC
Brian Francis	Meck Cnty

Member	Assistant	Phone	Room	House seat
Alexander, Martha, Chair	Ann Faust, Comm. Asst.	3-5807	2208	32
Michaux, Mickey, Vice chair	Anita Wilder	3-5772	1325	57
Nesbitt, Martin, Vice chair	Jan Lee	5-3001	420	20
Arnold, Gene	Mary Hayes	3-5802	604	102
Blue, Dan	Lin Threatt	5-2528	1227	80
Bonner, Donald	Lucy Johnson	3-5803	1313	83
Church, Walter	Joyce Fuller	3-5805	1311	33
Daughtry, Leo	Bernice Bullard	3-5868	510	42
Decker, Michael	Linda Hines	3-5988	1021	87
Goodwin, Wayne	Kristin Corbett	3-5849	503	81
Justus, Larry	Carolyn Justus	3-5872	2204	13
Kiser, Joe	Marilyn Holder	3-5782	1317	100
Luebke, Paul	Joyce Harris	3-7663	529	44
Morris, Mia	Joy Feagin	3-5741	1315	65
Rayfield, John	Brenda Olls	3-5607	609	61
Redwine, David	Nancy Brantley	3-5829	635	19
Rogers, Gene	Sally Gillis	5-3023	416A	35
Starnes, Edgar	Pattie Fleming	5-9664	617	112
Thompson, Gregg	Edna Sykes	3-5828	1002	38

Weatherly, John	**Nancy Garriss**	**3-4838**	**502**	**93**
Weiss, Jennifer	**Susan Doty**	**3-5781**	**2221**	**16**

At Large

Baddour, Phil	**Elizabeth Kirkland**	**5-0850**	**2301**	**31**
Cunningham, Pete	**Valerie Rustin**	**3-5778**	**541**	**7**
Dedmon, Andy	**Donna Abu Harb**	**3-5732**	**2213**	**12**
Earle, Beverly	**Ann Raeford**	**3-5747**	**535**	**95**
Joe Hackney	**Emily Freeman**	**3-5752**	**2207**	**69**

Staff

Erika Churchill	**3-2578**	**545**	
Bill Gilkeson	**3-2578**	**545**	

ATTENDANCE

Election Law and Campaign Finance Reform

(Name of Committee)

DATES	5/2	5/9	5/16	5/23	6/6	6/13	6/20	6/27	7/11	7/18	7/25	8/1	8/15	8/22	9/12	10/ 10/
Alexander, Martha	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ ✓
Michaux, Mickey	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Nesbitt, Martin	✓		✓		✓	✓			✓	✓		✓	✓	✓	✓	✓
Arnold, Gene	✓	✓	✓	✓	✓	✓	✓		✓				✓	✓	✓	
Blue, Dan	✓			✓		✓	✓	✓		✓		✓	✓	✓		✓
Bonner, Donald	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓ ✓
Church, Walter	✓	✓	✓	✓	EX			✓				✓				✓ ✓
Daughtry, Leo	✓	EX	EX	✓	✓	✓	✓	EX	✓	✓	✓	✓	✓	✓	✓	
Decker, Michael	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓			✓	✓
Goodwin, Wayne	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ ✓
Justus, Larry	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	
Kiser, Joe	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ ✓
Luebke, Paul			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		EX	EX
Morris, Mia	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓		
Rayfield, John	✓	✓	✓	✓	✓	EX	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ ✓
Redwine, David			✓								✓	✓				
Rogers, Gene	✓			✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Starnes, Edgar	✓	✓	✓		✓	✓	✓		✓		✓	✓	✓	✓	✓	✓ ✓
Thompson, Gregg	✓		✓										✓			
Weatherly, John	✓	✓	✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓ ✓
Weiss, Jennifer	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ ✓
Baddour, Phil				✓							✓		✓			
Cunningham, Pete			✓	✓	✓		✓		✓	✓	✓	✓			✓	
Dedmon, Andy				✓	✓		✓		✓	✓	✓					
Earle, Beverly			✓		✓		✓				✓					
Hackney, Joe			✓	✓	✓		✓		✓			✓	✓			

ATTENDANCE

Election Law and Campaign Finance Reform

(Name of Committee)

DATES	2/21	2/28	3/7	3/14	3/21	3/28	4/4	4/11	4/12	4/16	1:00 4/18	4:30 4/18	1:00 4/19	4:00 4/19	2:00 4/23	7:30 4/24
Alexander, Martha	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Michaux, Mickey	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓		
Nesbitt, Martin	✓	✓	✓	✓	✓	✓	✓	✓	✓	OA	✓	✓		✓		✓
Arnold, Gene		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓			
Blue, Dan	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Bonner, Donald	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓		✓	
Church, Walter	✓	✓	✓	✓	✓	✓	✓		✓	OA		✓		✓	OA	✓
Daughtry, Leo	OA	✓	✓	✓	✓	✓	✓	OA	✓	OA	✓	OA	✓	✓	✓	
Decker, Michael	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓					
Goodwin, Wayne	✓	✓	✓	✓	✓	✓	✓	✓	✓	Excused	✓	✓	✓	OA	✓	
Justus, Larry	✓	✓	✓	OA	✓	✓	✓			✓	✓	✓	✓	✓	✓	
Kiser, Joe	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ ✓
Luebke, Paul	✓	✓	OA	✓		OA	✓	✓	✓		✓	✓	✓	✓	OA	OA ✓
Morris, Mia	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
Rayfield, John	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	OA	OA	✓ ✓
Redwine, David	NA	✓		✓	✓	✓	✓	✓	✓	OA	✓			✓	✓	✓ ✓
Rogers, Gene	✓	✓	OA	✓	✓					✓	✓	✓	✓	✓	✓	
Starnes, Edgar	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓		✓ ✓
Thompson, Gregg	NA	✓	✓	✓			✓	✓	✓		✓	✓	✓	✓	✓	✓
Weatherly, John	✓	✓	✓	✓	✓			✓	✓	✓					✓	✓ ✓
Weiss, Jennifer	✓	✓	OA	✓	✓	OA	✓	✓	✓	✓	✓	✓		✓	✓	✓
Baddour, Phil											✓					✓
Cunningham, Pete		✓	✓													
Dedmon, Andy		✓		✓												
Earle, Beverly		✓														
Hackney, Joe		✓														

REVISED – BILLS ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday May 2, 2001**

TIME: **11:00 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 16 - Municipal Election Bds. – Senator Gulley

SB 716 - Poll Worker Discharge – Senator Gulley

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **11:25 am, on April 30, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Senator Ellie Kinnaird**

OFFICE: **2115**

NOTIFICATION DATE: **April 30, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, May 2, 2001**

TIME: **11:00 a.m.**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

SB 716 - Poll Worker Discharge

We would like to have you attend this meeting.

Representative Alexander
Chairman

Ann Faust (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Senator Wib Gulley**

OFFICE: **408**

NOTIFICATION DATE: **April 30, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, May 2, 2001**

TIME: **11:00 am**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

SB 16 - Municipal Election Bds.

SB 716 - Poll Worker Discharge

We would like to have you attend this meeting.

Representative Alexander
Chairman

Ann Faust (Committee Assistant)

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

May 2, 2001

Room 1228
11:00 a.m.

The meeting was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Michaux, Nesbitt, Arnold, Blue, Bonner, Church, Daughtry, Decker, Goodwin, Justus, Kiser, Morris, Rayfield, Rogers, Starnes, Thompson, Weatherly and Weiss.

Representative Alexander recognized and welcomed the pages and thanked the Sergeants at Arms for their assistance.

Representative Alexander recognized Senator Kinnaird to present SB 716 AN ACT TO GIVE PRECINCT ELECTION OFFICIALS (CHIEF JUDGES, JUDGES, AND ASSISTANTS) THE SAME PROTECTION FROM DISCHARGE AS JURORS. There is a statutory definition of poll officials. Representative Arnold offered Amendment #1 on page 1 lines 12 –14, by deleting the lines. The amendment passed. . Following discussion, Representative Nesbitt offered Amendment #2, changing the effective date to the date the bill becomes law to allow employers the most time to learn of the change. The motion passed. Representative Justus moved for a favorable report for the committee substitute, unfavorable as to original.

The next bill to be considered was SB 16 AN ACT TO ABOLISH MUNICIPAL BOARDS OF ELECTIONS, REQUIRING THAT ALL ELECTIONS BE CONDUCTED BY COUNTY BOARDS OF ELECTIONS. Representative Alexander recognized Wayne Johnson, Mayor Pro Tem of Granite Falls for remarks in favor of Granite Falls conducting/supervising its municipal elections as it has done for the past 100 years without controversy. Senator Gulley presented SB 16, which was recommended by the Election Law Study Commission. Discussion followed. The meeting was adjourned at 11:55. The bill will continue before the committee at the May 9 meeting.

Representative Martha Alexander, Chair

Ann Faust, Committee Assistant

SENATE BILL 716:
Pollworker Discharge

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Senator Kinnaird
		Summary by:	William R. Gilkeson Committee Counsel
Date:	May 2, 2001		
Version:	Second Edition		

SUMMARY: ***Senate Bill 716 would prohibit an employer from firing or demoting an employee for serving as a precinct official. The protection would extend to election day and canvass day.***

CURRENT LAW: At the voting place on election day, elections are conducted by precinct officials. They consist of a chief judge, at least 2 judges, and at least 2 assistants. All those officials are appointed by the county board of elections from a list of nominees of the county political parties. The chief judge is normally affiliated with the party of the Governor. At least one of the judges and at least one of the assistants must be of the other party.

Precinct officials are compensated for the days they work. But because they work only 2 or 3 days a year, the job is necessarily an interruption from their normal livelihood. Moreover, election day is usually a Tuesday, so it requires most employed people to take a day off from work.

BILL ANALYSIS: Senate Bill 716 would prohibit employers from discharging or demoting an employee because the employee has been appointed a precinct official and is serving as a precinct official on election day or canvass day. Canvass day occurs on the Friday after a Tuesday election and is the time when the county board of elections officially approves the vote count of all the precincts. Any employer who did so would be liable for reasonable damages the employee suffered as a result. The employee would be entitled to reinstatement to the former position. The burden of proof would be on the employee. The statute of limitations would be one year.

The language of the bill closely tracks the language of G.S. 9-32, which since 1987 has provided similar protection for people called to jury duty.

BACKGROUND: In recent years, county election officials have reported increasing difficulty in recruiting precinct officials. They attribute this in part to the decline in the number of non-working spouses.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 716

Judiciary I Committee Substitute Adopted 4/24/01

Short Title: Poll Worker Discharge. (Public)

Sponsors:

Referred to:

March 28, 2001

A BILL TO BE ENTITLED

AN ACT TO GIVE PRECINCT ELECTION OFFICIALS (CHIEF JUDGES, JUDGES, AND ASSISTANTS) THE SAME PROTECTION FROM DISCHARGE AS JURORS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-41.2. Discharge of precinct official unlawful.**

(a) No employer may discharge or demote any employee because the employee has been appointed as a precinct official and is serving as a precinct official on election day or canvass day.

(b) Any employer who violates any provision of this section shall be liable in a civil action for reasonable damages suffered by an employee as a result of the violation, and an employee discharged or demoted in violation of this section shall be entitled to be reinstated to that employee's former position. The burden of proof shall be upon the employee.

(c) The statute of limitations for actions under this section shall be one year pursuant to G.S. 1-54.

(d) As used in this section, 'precinct official' has the same meaning as in G.S. 163-41(a)."

SECTION 2. This act becomes effective August 1, 2001.

SENATE BILL 16:
Municipal Election Boards.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Senator Gulley
		Summary by:	William R. Gilkeson Staff Attorney
Date:	May 2, 2001		
Version:	Second Edition		

SUMMARY: Senate Bill 16 would abolish municipal boards of elections and make county boards of elections responsible for conducting all municipal elections.

CURRENT LAW: North Carolina permits any City Council in a city that holds nonpartisan elections to establish a municipal board of elections to conduct the election of the City Council. Once more common than now, municipal boards of elections in March 2000 were reportedly in place to conduct elections in 52 cities. **(By March 2001, that number had dropped to 42; by May it had dropped to 30.)** Most of those cities were less than 1,000 in total population. The cities are listed on the attached chart.

Until the mid-1990s, municipal boards of elections had the authority to conduct voter registration. But that authority was removed with the general voter registration rewrite of 1994. Now, the municipal boards that remain use the county board of elections' registration lists to conduct elections for the city. Most of the more than 500 cities in North Carolina enter into a financial agreement with the county board of elections for the county board to conduct city elections.

SENATE BILL 16: Senate Bill 16 would abolish municipal boards of elections. Much of the 28-section bill consists of conforming changes, removing references to municipal boards throughout the statutes. The bill provides in Section 6 that the county board of elections shall conduct all municipal elections. It says the city shall pay the cost according to a formula agreed upon by city and county, or if the two cannot agree, according to a formula prescribed by the State Board of Elections.

BACKGROUND: The bill was recommended by the Election Laws Revision Commission. The State Board of Elections has made the abolition of municipal boards of elections one of its top priorities. The State Board maintains that the continuance of the municipal board system thwarts its efforts to supervise and assure quality control of the many municipal elections in the State.

The State Board endorsed legislation in 1999 to abolish municipal boards, and the City of Morganton, by far the largest city with a municipal board, opposed the bill. In response to this debate, the General Assembly made changes in the law, giving the State Board more specific supervisory tools. Those tools included the authority to require a county board takeover of city elections where the municipal board had not followed certain procedures. As of May 1, the State Board had used that authority to suspend for the 2001 election year eight municipal boards. They are listed in the attached chart.

It was not until 1971 that a General Statute was enacted requiring cities that desired to conduct their own elections have a municipal board of elections. Before that statute, the subject was governed by local act.

On the Senate floor, the Senate defeated an amendment offered by Sen. Ken Moore to exempt from the bill the cities of Morganton, Granite Falls, and Taylorsville.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

Cities with Municipal Boards of Election

May 2001

List of Municipal Boards supplied by State Board of Elections.

County	City	Population as reported in 2000 Census	MBOE reported to State Board by March 1, 2001 as required by law.	MBOE placed on inactive status because by emergency order under G.S. 163-304(b)
Alexander	Taylorsville	1,799	Reported 3-7-01	
Alleghany	Sparta	1,817	Yes	
Anson	Ansonville	636	No	April 2, 2001
	Peachland	554	Reported 3-14-01	
	Polkton	1,195	No	April 2, 2001
	Wadesboro	3,552	Reported 3-7-01	
Burke	Morganton	17,310	Yes	
Caldwell	Granite Falls	4,612	Yes	
	Rhodhiss (part in Burke)	366	Yes	
Craven	Cove City	433	Yes	
	Vanceboro	898	Yes	
Cumberland	Falcon	328	Yes	
	Godwin	112	Yes	
	Stedman	664		
Haywood	Canton	4,029	Yes	
Iredell	Love Valley	30	No	April 2, 2001
Madison	Hot Springs	645	No	April 2, 2001
	Mars Hill	1,764	Reported 3-23-01	
	Marshall	840	Reported 3-14-01	
McDowell	Old Fort	963	Yes	
Mitchell	Bakersville	357	No	April 2, 2001

County	City	Population as reported in 2000 Census	Reported to State Board by March 1, 2001 as required by law.	MBOE placed on inactive status because by emergency order under G.S. 163-304(b)
Pamlico	Mesic	257	Reported 3-20-01	
Pender	Atkinson	236	No	April 2, 2001
	Watha	151	Reported 3-6-01 in letter dated 2-21-01.	
Polk	Tryon	1,760	No	April 2, 2001
Sampson	Garland	808	Yes	
Swain	Bryson City	1,411	Yes	
Warren	Macon	115	Reported 3-30-01	
	Norlina	1.107	No	April 2, 2001
	Warrenton	811	Reported 3-16-01	

Summary

Total Number of Municipal Boards of Elections: *30* (Down from 52 in March 2000.)

Number of Municipal Boards Inactive in 2001 Because of G.S. § 163-304(B) and Placed Under the Control of the County BOE by Emergency Order: *8*

Number of Municipal Boards That Complied With Reporting Requirements By April 1, 2001. They May Conduct Their Elections Contingent Upon Completion of Training and Education Requirements of G.S.§ 163-82.24: *22*

Total Population of Towns with Municipal Boards of Elections: 49,560

# of Municipal boards of elections in towns with population over 5,000	# of Municipal boards of elections in towns with population over 1,000, but under 5,000	# of Municipal boards of elections in towns with population under 1,000, but over 500	# of Municipal boards of elections in towns with population under 500
1	10	9	10

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 16
Second Edition Engrossed 3/14/01

Short Title:	Municipal Election Bds.	(Public)
Sponsors:	Senator Gulley.	
Referred to:	Judiciary I.	

January 29, 2001

A BILL TO BE ENTITLED

AN ACT TO ABOLISH MUNICIPAL BOARDS OF ELECTIONS, REQUIRING THAT ALL ELECTIONS BE CONDUCTED BY COUNTY BOARDS OF ELECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-280 is repealed.

SECTION 2. Article 23 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-280.1. Municipal boards of elections abolished.**

Municipal boards of elections, whether created by General Statute or by local act, are abolished. The terms of all members of municipal boards of elections and all precinct officials appointed by municipal boards of elections, if those terms have not expired prior to January 1, 2002, expire January 1, 2002."

SECTION 3. G.S. 163-281 is repealed.

SECTION 4. G.S. 163-284 is repealed.

SECTION 5. G.S. 163-284.1 is repealed.

SECTION 6. G.S. 163-285 reads as rewritten:

"**§ 163-285. Administration by county board of ~~elections; optional by municipality.~~ elections.**

(a) ~~Any city, town or incorporated village which conducts its elections on a nonpartisan basis may conduct its own elections, or it may request the county board of elections of the county in which it is located to conduct its elections.~~ A county board of elections shall have authority for the registration of voters for and shall conduct the elections of each ~~city, town or incorporated village so requesting~~ municipality and special district in that county and the ~~city, town or incorporated village~~ municipality or special district shall pay the cost thereof according to a formula mutually agreed upon by the county board of elections and the city ~~council.~~ council or special district governing authority. If a mutual agreement cannot be reached, then the State Board of

Elections shall prescribe the agreement, to which both parties are ~~bound, or, in its discretion, the State Board of Elections shall have authority to instruct the county board of elections to decline the administration of the elections for such city, town or incorporated village.~~ bound.

(1) The elections of ~~cities, towns or incorporated villages~~ municipalities or special districts which lie in more than one county shall be conducted either (i) by the county in which the greater number of the city's ~~citizens~~ residents or special district's residents reside, according to the most recent federal census of population, or (ii) jointly by the boards of elections of each county in which such ~~city, town or incorporated village~~ municipality or special district is located, as may be mutually agreed upon by the county boards of elections so ~~affected, or (iii) by a municipal board of elections appointed by the governing body of the municipality.~~ affected. The State Board of Elections shall have authority to promulgate regulations for more detailed administration and conduct of municipal or special district elections by county ~~or municipal~~ boards of elections for cities or special districts situated in more than one county.

~~(2) Any city, town or incorporated village electing to have its elections conducted by the county board of elections as provided by this section, shall do so no later than January 1, 1973 provided, however, the county board of elections shall be entitled to 90 days' notice prior to the effective date decided upon by the municipality. For efficient administration the State Board of Elections shall have the authority to delay the effective date of all such agreements under this section and shall set a date certain on which such agreements shall commence. The State Board of Elections shall also have the authority to permit any city, town or incorporated village to exercise the options under this Article subsequent to the deadline stated in this section.~~

(3) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 762, s. 63.

(b) The county board of elections shall have authority to require maps or definitive outlines of the boundaries constituting any municipality or special district whose elections that county board administers and shall be immediately advised of any change or relocation of such boundaries.

(c) Any contested election or allegations of irregularities in a municipal or special district election shall be made to the county board of elections and appeals from such rulings may be made to the State Board of Elections under existing statutory provisions and rules or regulations adopted by the State Board of Elections.

(d) The term 'special district' includes a sanitary district, fire district, or school administrative unit, notwithstanding the fact that the taxes of the special district may be levied by a city."

SECTION 7. G.S. 163-286(b) is repealed.

SECTION 8. G.S. 163-287 reads as rewritten:

"**§ 163-287. Special elections; procedure for calling.**

Any ~~city, whether its elections are conducted by the county board of elections or the municipal board of elections,~~ city or any special district shall have authority to call special elections as permitted by law. Prior to calling a special election, the city council or the governing body of the special district shall adopt a resolution specifying the details of the election, and forthwith deliver the resolution to the appropriate board of elections. The resolution shall call on the board of elections to conduct the election described in the resolution and shall state the date on which the special election is to be conducted. The special election may be held at the same time as any other State, county or municipal primary, election or special election or referendum, but may not otherwise be held within the period of time beginning 30 days before and ending 30 days after the date of any other primary, election, special election or referendum held for that city or special district.

Legal notice of the special election shall be published no less than 45 days prior to the special election. The appropriate board of elections shall be responsible for publishing the legal notice. The notice shall state the date and time of the special election, the issue to be submitted to the voters, and the precincts in which the election will be held. This paragraph shall not apply to bond elections."

SECTION 9. G.S. 163-288 reads as rewritten:

"**§ 163-288. Registration for city ~~elections; county and municipal boards of~~ elections.**

~~Regardless of whether the municipal election is conducted by the county board of elections or by a municipal board of elections, the~~ The registration record of the county board of elections shall be the official registration record for voters to vote in all elections, city, district, county, State or national."

SECTION 10. G.S. 163-288.1 reads as rewritten:

"**§ 163-288.1. Activating voters for newly annexed or incorporated areas.**

(a) Whenever any new city or special district is incorporated or whenever an existing city or district annexes any territory, the city or special district shall cause a map of the corporate or district limits to be prepared from the boundary descriptions in the act, charter or other document creating the city or district or authorizing or implementing the annexation. The map shall be delivered to the county ~~or municipal~~ board of elections conducting the elections for the city or special district. The board of elections shall then activate for city or district elections each voter eligible to vote in the city or district who is registered to vote in the county to the extent that residence addresses shown on the county registration certificates can be identified as within the limits of the city or special district. Each voter whose registration is thus activated for city or special district elections shall be so notified by mail. The cost of preparing the map of the newly incorporated city or special district or of the newly annexed area, and of activating voters eligible to vote therein, shall be paid by the city or special district. In lieu of the procedures set forth in this section, the county board of elections may use either of the methods of registration of voters set out in G.S. 163-288.2 when activating voters pursuant to the incorporation of a new city or election of city officials or both under authority of an act of the General Assembly or when activating voters after an

annexation of new territory by a city or special district under Chapter 160A, Article 4A, or other general or local law.

(b) Each voter whose registration is changed by the county ~~or municipal~~ board of elections in any manner pursuant to any annexation or expunction under this subsection shall be so notified by mail.

(c) The State Board of Elections shall have authority to adopt regulations for the more detailed administration of this section."

SECTION 11. G.S. 163-289(c) is repealed.

SECTION 12. G.S. 163-298 reads as rewritten:

"**§ 163-298. Municipal primaries and elections.**

~~The phrases 'county board of elections,' and 'chairman of the board of elections' as used in this Article, with respect to all municipal primaries and elections, shall mean the municipal board of elections and its chairman in those cities and towns which conduct their own elections, and the county board of elections and its chairman in those cities and towns whose elections are conducted by the county board of elections.~~ The words 'general election,' as used in this Article, shall include regular municipal elections, runoff elections, and nonpartisan primaries, except where specific provision is made for municipal elections and nonpartisan primaries."

SECTION 13. G.S. 163-299(g) reads as rewritten:

"(g) The county ~~or municipal~~ board of elections shall, in addition to the requirements contained in G.S. 163-175 canvass the results in a nonpartisan municipal primary, election or runoff election, and in a special district election, the number of legal votes cast in each precinct for each candidate, the name of each person voted for, and the total number of votes cast in the municipality or special district for each person for each different office."

SECTION 14. G.S. 163-300 reads as rewritten:

"**§ 163-300. Disposition of duplicate abstracts in municipal elections.**

Within five days after a primary or election is held in any municipality, the chairman of the county ~~or municipal~~ board of elections shall mail to the chairman of the State Board of Elections, the duplicate abstract prepared in accordance with G.S. 163-176. One copy shall be retained by the county ~~or municipal~~ board of elections as a permanent record and one copy shall be filed with the city clerk. (1971, c. 835, s. 1.)

SECTION 15. G.S. 163-301 reads as rewritten:

"**§ 163-301. Chairman of election board to furnish certificate of elections.**

Not earlier than five days nor later than 10 days after the results of any municipal election have been officially determined and published in accordance with G.S. 163-175 and G.S. 163-179, the chairman of the county ~~or municipal~~ board of elections shall issue certificates of election, under his hand and seal, to all municipal and special district officers. In issuing such certificates of election the chairman shall be restricted by the provisions of G.S. 163-181."

SECTION 16. G.S. 163-304 reads as rewritten:

"**§ 163-304. State Board of Elections to have jurisdiction over municipal elections ~~and election officials, and to advise; emergency and ongoing administration by county board.~~ advise.**

~~(a) Authority and Duty of State Board.~~ The State Board of Elections shall have the same authority over municipal elections ~~and election officials~~ as it has over county and State ~~elections and election officials. The State Board of Elections shall advise and assist cities, towns, incorporated villages and special districts, municipal boards of elections, their members and legal officers on the conduct and administration of their elections and registration procedure.~~ elections.

~~The city council shall provide written notification to the State Board of Elections of the appointment of each member of its municipal board of elections within five days after the appointment. The municipal board of elections and the city council shall provide such other information about the municipal board of elections as the State Board may require. Members of the municipal board of elections and municipal elections officials shall participate in training provided by the State Board pursuant to G.S. 163-82.24. The State Board shall provide the same training, materials, and assistance to municipal boards of elections that it provides to county boards of elections.~~

The county ~~and municipal~~ boards of elections shall be governed by the same rules for settling controversies with respect to counting ballots or certification of the returns of the vote in any municipal or special district election as are in effect for settling such controversies in county and State elections.

~~(b) Emergency Administration if Municipal Board Is Not Appointed. If a city council in a city that has elected pursuant to G.S. 163-285 to conduct its own elections has not appointed a municipal board of elections and reported the appointments to the Executive Secretary-Director by March 1 in the year in which the city election is to occur, the Executive Secretary-Director shall notify the city council that, unless a municipal board of elections is appointed and the Executive Secretary-Director notified of its appointment by April 1 of that year, the county board of elections shall be ordered to conduct that city's elections that year on an emergency basis. If the city council does not so appoint and so notify by April 1, the Executive Secretary-Director shall order the county board of elections to conduct the city's elections that year on an emergency basis.~~

~~(c) Emergency Administration Due to Serious Violations. If a city council or municipal board of elections has committed violations of the applicable portions of this Chapter prior to a city election and those violations are of such magnitude as to give rise to reasonable doubt as to the ability of the municipal board of elections to conduct that election with competence and fairness, the Executive Secretary-Director of the State Board, with the approval of at least four members of the State Board, may order the county board of elections to conduct the remainder of that election on an emergency basis. Before an order is made under this subsection, the city council and municipal board of elections shall be given an opportunity to be heard by the State Board.~~

~~(d) Ongoing County Administration. The State Board of Elections may designate the county board of elections as the ongoing agency to conduct a city's elections if all the following conditions are met:~~

~~(1) In more than one election conducted by that city either (i) the city's elections have been administered on an emergency basis pursuant to subsection (b) or (c) of this section or (ii) a new election has been~~

~~ordered because of irregularities in the city's administration of the election.~~

~~(2) The State Board finds that the interest of the residents of the city in fair and competent administration of elections requires that the city not conduct its own elections.~~

~~(3) The city council and municipal board of elections are given an opportunity to be heard before the State Board.~~

~~(4) The State Board by a vote of at least four of its members designates the county board of elections as the ongoing agency to conduct that city's elections.~~

~~The city council may not elect to conduct its own elections under G.S. 163-285 until every member of the city council has been elected in a election conducted by the county board of elections after the State Board's designation.~~

~~(e) Reimbursement. If the county board of elections administers a city's elections pursuant to subsection (b), (c), or (d) of this section, the city shall reimburse the county board of elections in the manner set forth in G.S. 163-285.~~ "

SECTION 17. G.S. 163-22 reads as rewritten:

"**§ 163-22. Powers and duties of State Board of Elections.**

(a) The State Board of Elections shall have general supervision over the primaries and elections in the State, and it shall have authority to make such reasonable rules and regulations with respect to the conduct of primaries and elections as it may deem advisable so long as they do not conflict with any provisions of this Chapter.

(b) From time to time, the Board shall publish and furnish to the county ~~and municipal~~ boards of elections and other election officials a sufficient number of indexed copies of all election laws and Board rules and regulations then in force. It shall also publish, issue, and distribute to the electorate such materials explanatory of primary and election laws and procedures as the Board shall deem necessary.

(c) The State Board of Elections shall appoint, in the manner provided by law, all members of the county boards of elections and advise them ~~and municipal elections board members~~ as to the proper methods of conducting primaries and elections. The Board shall require such reports from the county ~~and municipal~~ boards and election officers as are provided by law, or as are deemed necessary by the Board, and shall compel observance of the requirements of the election laws by county ~~and municipal~~ boards of elections and other election officers. In performing these duties, the Board shall have the right to hear and act on complaints arising by petition or otherwise, on the failure or neglect of a county ~~or municipal~~ board of elections to comply with any part of the election laws imposing duties upon such a board. The State Board of Elections shall have power to remove from office any member of a county ~~or municipal~~ board of elections for incompetency, neglect or failure to perform duties, fraud, or for any other satisfactory cause. Before exercising this power, the State Board shall notify the county ~~or municipal~~ board member affected and give him an opportunity to be heard. When any county board member shall be removed by the State Board of Elections, the vacancy occurring shall be filled by the State Board of Elections. ~~When any municipal~~

~~board member shall be removed by the State Board of Elections, the vacancy occurring shall be filled by the city council of the city appointing members of that board.~~

(d) The State Board of Elections shall investigate when necessary or advisable, the administration of election laws, frauds and irregularities in elections in any county and municipality and special district, and shall report violations of the election laws to the Attorney General or district attorney or prosecutor of the district for further investigation and prosecution.

(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 boards of elections the registration application forms required pursuant to G.S. 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.

(f) The State Board of Elections shall prepare, print, distribute to the county ~~and municipal~~ boards of elections all ballots for use in any primary or election held in the State which the law provides shall be printed and furnished by the State to the counties. The Board shall instruct the county boards of elections as to the printing of county and local ballots.

(g) The State Board of Elections shall certify to the appropriate county boards of elections the names of candidates for district offices who have filed notice of candidacy with the Board and whose names are required to be printed on county ballots.

(h) It shall be the duty of the State Board of Elections to tabulate the primary and election returns, to declare the results, and to prepare abstracts of the votes cast in each county in the State for offices which, according to law, shall be tabulated by the Board.

(i) The State Board of Elections shall make recommendations to the Governor and legislature relative to the conduct and administration of the primaries and elections in the State as it may deem advisable.

(j) Notwithstanding the provisions of any other section of this Chapter, the State Board of Elections is empowered to have access to any ballot boxes and their contents, any voting machines and their contents, any registration records, pollbooks, voter authorization cards or voter lists, any lists of absentee voters, any lists of presidential registrants under the Voting Rights Act of 1965 as amended, and any other voting equipment or similar records, books or lists in any precinct, county, municipality or electoral district over whose elections it has jurisdiction or for whose elections it has responsibility.

(k) Notwithstanding the provisions contained in Article 20 or Article 21 of Chapter 163 the State Board of Elections shall be authorized, by resolution adopted

prior to the printing of the primary ballots, to reduce the time by which absentee ballots are required to be printed and distributed for the primary election from 50 days to 45 days. This authority shall not be authorized for absentee ballots to be voted in the general election.

(l) Notwithstanding any other provision of law, in order to obtain judicial review of any decision of the State Board of Elections rendered in the performance of its duties or in the exercise of its powers under this Chapter, the person seeking review must file his petition in the Superior Court of Wake County.

(m) The State Board of Elections shall issue rules to regulate recounts held under the provisions of G.S. 163-179.1 or G.S. 163-192.1.

(n) The State Board of Elections shall provide specific training to county boards of elections regarding rules for registering students.

(o) The State Board of Elections shall promulgate minimum requirements for the number of pollbooks, voting machines and curbside ballots to be available at each precinct, such that more of such will be available at general elections and a sufficient number will be available to allow voting without excessive delay. The State Board of Elections shall provide for a training and screening program for chief judges and judges. The State Board of Elections shall provide additional testing of voting machines to ensure that they operate properly even with complicated ballots.

The State Board of Elections shall require counties with voting systems to have sufficient personnel available on election day with technical expertise to make repairs in such equipment, to investigate election day problems, and assist in curbside voting."

SECTION 18. 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.

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."

SECTION 19. G.S. 163-25 reads as rewritten:

"**§ 163-25. Authority of State Board to assist in litigation.**

The State Board of Elections shall possess authority to assist any county ~~or municipal~~ board of elections in any matter in which litigation is contemplated or has been initiated, provided, the county ~~or municipal~~ board of elections in such county petitions, by majority resolution, for such assistance from the State Board of Elections

and, provided further, that the State Board of Elections determines, in its sole discretion by majority vote, to assist in any such matter. It is further stipulated that the State Board of Elections shall not be authorized under this provision to enter into any litigation in assistance to counties, except in those instances where the uniform administration of Chapter 163 of the General Statutes of North Carolina has been, or would be threatened.

The Attorney General shall provide the State Board of Elections with legal assistance in execution of its authority under this section or, in his discretion, recommend that private counsel be employed.

If the Attorney General recommends employment of private counsel, the State Board may employ counsel with the approval of the Governor."

SECTION 20. G.S. 163-42 reads as rewritten:

"**§ 163-42. Assistants at polls; appointment; term of office; qualifications; oath of office.**

Each county ~~and municipal~~ board of elections is authorized, in its discretion, to appoint two or more assistants for each precinct to aid the chief judge and judges. Not more than two assistants shall be appointed in precincts having 500 or less registered voters. Assistants shall be qualified voters of the county in which the precinct is located. When the board of elections determines that assistants are needed in a precinct an equal number shall be appointed from different political parties, unless the requirement as to party affiliation cannot be met because of an insufficient number of voters of different political parties within the county.

In the discretion of the county board of elections, a precinct assistant may serve less than the full day prescribed for chief judges and judges in G.S. 163-47(a).

The chairman of each political party in the county shall have the right to recommend from three to 10 registered voters in each precinct for appointment as precinct assistants in that precinct. If the recommendations are received by it no later than the thirtieth day prior to the primary or election, the board shall make appointments of the precinct assistants for each precinct from the names thus recommended. If the recommendations of the party chairs for precinct assistant in a precinct are insufficient, the county board of elections by unanimous vote of all of its members may name to serve as precinct assistant in that precinct registered voters in that precinct who were not recommended by the party chairs. If, after diligently seeking to fill the positions with registered voters of the precinct, the county board still has an insufficient number of precinct assistants for the precinct, the county board by unanimous vote of all of its members may appoint to the positions registered voters in other precincts in the same county who meet the qualifications other than residence to be precinct officials in the precinct. In making its appointments, the county board shall assure, wherever possible, that no precinct has precinct officials all of whom are registered with the same party. In no instance shall the county board appoint nonresidents of the precinct to a majority of the positions as precinct assistant in a precinct.

In addition, a county board of elections by unanimous vote of all of its members may appoint any registered voter in the county as emergency election-day assistant, as long as that voter is otherwise qualified to be a precinct official. The State Board of Elections

shall determine for each election the number of emergency election-day assistants each county may have, based on population, expected turnout, and complexity of election duties. The county board by unanimous vote of all of its members may assign emergency election-day assistants on the day of the election to any precinct in the county where the number of precinct officials is insufficient because of an emergency occurring within 48 hours of the opening of the polls that prevents an appointed precinct official from serving. A person appointed to serve as emergency election-day assistant shall be trained and paid like other precinct assistants in accordance with G.S. 163-46. A county board of elections shall apportion the appointments as emergency election-day assistant among registrants of each political party so as to make possible the staffing of each precinct with officials of more than one party, and the county board shall make assignments so that no precinct has precinct officials all of whom are registered with the same party.

Before entering upon the duties of the office, each assistant shall take the oath prescribed in G.S. 163-41(a) to be administered by the chief judge of the precinct for which the assistant is appointed. Assistants serve for the particular primary or election for which they are appointed, unless the county board of elections appoints them for a term to expire on the date appointments are to be made pursuant to G.S. 163-41."

SECTION 21. G.S. 163-135(e) reads as rewritten:

"(e) Municipal Primaries and Elections. -- This Article shall apply to and control all elections held in and for cities, towns, incorporated villages and all special ~~districts, whether conducted by the county board of elections or a duly appointed municipal board of elections.~~ districts."

SECTION 22. G.S. 163-140(d) reads as rewritten:

"(d) Municipal Primary and Election Ballots. -- In all municipal elections there shall be an official ballot on which shall be printed the names of all candidates for offices in the municipality. The municipal ballot shall conform as nearly as possible to the provisions of subsections (a) through (c) of this section, but on the bottom of the municipal ballot shall be printed an identified facsimile of the signature of the chairman of the county ~~or municipal~~ board of elections, as appropriate."

SECTION 23. G.S. 163-161(d) reads as rewritten:

"(d) Municipalities. -- The governing board of the municipality shall have the same authority with respect to the acquisition and use of a voting system for municipal primaries and elections that boards of county commissioners are granted in subsection (a) with respect to other primaries and elections.

The decision of the governing board of the municipality shall be subject to approval of the county board of elections, as described in subsection ~~(a), if the county board of elections administers the elections of the municipality, or by the approval of the municipal board of elections if the municipal board of elections administers the elections of the unit.~~ (a). Before approving the adoption and purchase or lease of a voting system, the county ~~or municipal~~ board of elections shall be subject to all the requirements of subsection ~~(b), except that in the case of a municipal board of elections, the financial statement shall be sent to the municipal attorney and the chief municipal finance officer, the demonstration shall be conducted in the municipality or at a site~~

~~designated by the State Board of Elections, and the testing shall be done in a precinct of the municipality.~~ (b).

When a municipal governing body has decided to adopt and purchase a voting system for voting places under the provisions of this subsection, that governing body shall have all the duties parallel to those imposed by subsection (c) on a board of county commissioners and a county board of elections: that is, the municipal governing body shall, as soon as practical, provide for each of those voting places sufficient equipment of the approved voting system or, if that is impractical, provide the available equipment of the approved voting system in the places it chooses, and shall appoint the necessary number of voting-system custodians. In the case that equipment of the approved system for every voting place is impractical, the municipal governing board shall choose the voting places and allocate the equipment in a way that as nearly as practicable provides equal access to the voting system for every voter."

SECTION 24. G.S. 163-278.6(1) reads as rewritten:

"(1) The term 'board' means the State Board of Elections with respect to all candidates for State and multi-county district offices and the county ~~or municipal~~ board of elections with respect to all candidates for single-county district, county and municipal offices. The term means the State Board of Elections with respect to all statewide referenda and the county ~~or municipal~~ board of elections conducting all local referenda."

SECTION 25. G.S. 62A-4(b) reads as rewritten:

"(b) The ordinance authorized in subsection (a) of this section may be adopted after one of the following procedures is followed:

(1) The governing authority by resolution requests the county ~~or municipal~~ board of ~~elections, as appropriate,~~ elections to conduct a special election on a date certain, in which a majority of those voting who are residents of the political subdivision vote to authorize the ordinance.

(2) After a public hearing held upon not less than 10 days public notice."

SECTION 26. G.S. 120-30.9F reads as rewritten:

"**§ 120-30.9F. Municipalities; municipal attorney.**

The municipal attorney of any municipality covered by the Voting Rights Act of 1965 shall submit to the Attorney General of the United States within 30 days:

(1) Of the time they become laws, any local acts of the General Assembly; and

(2) Of adoption actions of the municipal governing body ~~or municipal board of elections~~ or any other municipal agency which constitutes a 'change affecting voting' under Section 5 of the Voting Rights Act of 1965 in that municipality; provided that, if required or allowed by regulations or practices of the United States Department of Justice, a municipal attorney may delay submission of any annexation ordinance or group of ordinances until all previously submitted annexation ordinances have been precleared or otherwise received final disposition."

SECTION 27. This act prevails over local acts.

SECTION 28. This act becomes effective January 1, 2002, and applies to all primaries and elections held on and after that date.

VISITOR REGISTRATION SHEET

Election Law + Campaign Reform — 5-2-01
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kim Hibbard	NCLM
Bob Hall	Democracy South,
John McMurry	Gov Office
Don Wright	SBOE
Gary O. Bartlett	SBOE
Johnnie T. McLamb	SBE
Gaither Crowell	Lawyer, Raleigh
O. Wayne Johnson	Town of Granite Falls,
Wanda L. Johnson	" " " " "
A.A. Adams	Voter Advocate
James Andrews	NC State AFL-CIO
Larry Bentley	LBA&SOC.

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

May 9, 2001
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Michaux

SB 16 - Municipal Election Boards – Senator Gulley

SB 10 –Ballot Access Changes – Senator Gulley

STAFF: Bill Gilkeson
Erika Churchill

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday May 9, 2001**

TIME: **11:00 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 16 - Municipal Election Bds. – Senator Gulley

SB 10 – Ballot Access Changes – Senator Gulley

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **12:00 am, on May 3, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Senator Wib Gulley**

OFFICE: **408**

NOTIFICATION DATE: **May 3, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, May 9, 2001**

TIME: **11:00 am**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

SB16 - Municipal Election Bds.

SB10 Ballot Access Changes

We would like to have you attend this meeting.

Representative Alexander
Chairman

Ann Faust (Committee Assistant)

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

May 9, 2001

Room 1228
11:00 a.m.

The meeting was called to order by the Vice chair, Representative Mickey Michaux. Those present at the meeting were Representatives Alexander, Michaux, Arnold, Bonner, Church, Decker, Goodwin, Justus, Kiser, Morris, Rayfield, Starnes, Weatherly and Weiss.

Representative Michaux recognized and welcomed the pages and thanked the Sergeants at Arms for their assistance.

Representative Michaux opened the floor for further discussion on SB 16 AN ACT TO ABOLISH MUNICIPAL BOARDS OF ELECTIONS IN MUNICIPALITIES OTHER THAN GRANITE FALLS, MORGANTON, AND OLD FORT which was presented by Senator Gulley at the May 2 meeting.

Representative Starnes was recognized for an amendment to include the community of Rhodhiss in the exemption. The voters of this small community vote in precincts in Granite Falls and Morganton. After discussion, the amendment passed. Following further discussion, Representative Starnes moved for a favorable report for a Committee Substitute including the amendment, unfavorable as to Senate Committee Substitute. The motion passed.

Senator Gulley was introduced to present Senate Bill 10 AN ACT TO MAKE CHANGES TO THE BALLOT ACCESS LAWS. A handout showing that North Carolina ranks second to California in raw number stringency requirements for getting on a ballot was distributed. Per capita, North Carolina is the most stringent. Following discussion, the meeting was adjourned at 11:52 am.

Representative Mickey Michaux. Vice Chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 16

Second Edition Engrossed 3/14/01

PROPOSED HOUSE COMMITTEE SUBSTITUTE S16-CSRR-24 [v.2]

5/8/2001 10:28:51 AM

Short Title: Municipal Election Bds. (Public)

Sponsors:

Referred to:

January 29, 2001

A BILL TO BE ENTITLED

AN ACT TO ABOLISH MUNICIPAL BOARDS OF ELECTIONS IN MUNICIPALITIES OTHER THAN GRANITE FALLS, MORGANTON, AND OLD FORT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 23 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-280.1. Municipal boards of elections abolished.**

Municipal boards of elections in all municipalities other than the City of Morganton, Town of Granite Falls, and the Town of Old Fort, whether created by General Statute or by local act, are abolished. The terms of all members of all such municipal boards of elections which are abolished by this section, and all precinct officials appointed by such municipal boards of elections, if those terms have not expired prior to January 1, 2002, expire January 1, 2002."

SECTION 2. G.S. 163-285 reads as rewritten:

"**§ 163-285. Administration by county board of elections; optional by ~~municipality.~~ Morganton, Granite Falls, and Old Fort.**

(a) ~~Any city, town or incorporated village which conducts its elections on a nonpartisan basis~~ The City of Morganton, the Town of Old Fort and the Town of Granite Falls may conduct ~~its~~ their own elections, or ~~it~~ they may request the county board of elections of the county in which ~~it is~~ they are located to conduct ~~its~~ their elections. A county board of elections shall conduct the elections of each city, town or incorporated village so requesting and the city, town or incorporated village shall pay the cost thereof according to a formula mutually agreed upon by the county board of elections and the city council. The elections for any other city, town, or incorporated village shall be conducted by the county board of elections, and the city, town or incorporated village shall pay the cost thereof according to a formula mutually agreed upon by the county board of elections and the city council. If a mutual agreement cannot

be reached, then the State Board of Elections shall prescribe the agreement, to which both parties are bound, or, in its discretion, the State Board of Elections shall have authority to instruct the county board of elections to decline the administration of the elections for such city, town or incorporated village.

(1) The elections of cities, towns or incorporated villages which lie in more than one county shall be conducted either (i) by the county in which the greater number of the city's citizens reside, according to the most recent federal census of population, or (ii) jointly by the boards of elections of each county in which such city, town or incorporated village is located, as may be mutually agreed upon by the county boards of elections so affected, or (iii) by a municipal board of elections appointed by the governing body of the municipality. The State Board of Elections shall have authority to promulgate regulations for more detailed administration and conduct of municipal elections by county or municipal boards of elections for cities situated in more than one county.

(2) Any city, town or incorporated village electing to have its elections conducted by the county board of elections as provided by this section, shall do so no later than January 1, 1973 provided, however, the county board of elections shall be entitled to 90 days' notice prior to the effective date decided upon by the municipality. For efficient administration the State Board of Elections shall have the authority to delay the effective date of all such agreements under this section and shall set a date certain on which such agreements shall commence. The State Board of Elections shall also have the authority to permit any city, town or incorporated village to exercise the options under this Article subsequent to the deadline stated in this section.

(3) Repealed by Session Laws 1993

(b) The county board of elections shall have authority to require maps or definitive outlines of the boundaries constituting any municipality or special district whose elections that county board administers and shall be immediately advised of any change or relocation of such boundaries.

(c) Any contested election or allegations of irregularities in a municipal or special district election shall be made to the county board of elections and appeals from such rulings may be made to the State Board of Elections under existing statutory provisions and rules or regulations adopted by the State Board of Elections.

(d) The term 'special district' includes a sanitary district, fire district, or school administrative unit, notwithstanding the fact that the taxes of the special district may be levied by a city."

SECTION 3. G.S. 163-304(b) reads as rewritten:

"(b) Emergency Administration if Municipal Board Is Not Appointed. – If a city council in a city that has elected pursuant to G.S. 163-285 to conduct its own elections has not appointed a municipal board of elections and reported the appointments to the

Executive Secretary-Director by ~~March~~ June 1 in the year in which the city election is to occur, the Executive Secretary-Director shall notify the city council that, unless a municipal board of elections is appointed and the Executive Secretary-Director notified of its appointment by ~~April 1~~ June 15 of that year, the county board of elections shall be ordered to conduct that city's elections that year on an emergency basis. If the city council does not so appoint and so notify by ~~April 1,~~ June 15, the Executive Secretary-Director shall order the county board of elections to conduct the city's elections that year on an emergency basis."

SECTION 4. This act prevails over local acts.

SECTION 5. This act becomes effective January 1, 2002, and applies to all primaries and elections held on and after that date."

SENATE BILL 10:
Ballot Access Changes.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Senator Gulley.
		Summary by:	William R. Gilkeson Staff Attorney
Date:	May 9, 2001		
Version:	Third Edition		

SUMMARY: ***Senate Bill 10 would make several changes to the ballot access laws, conforming statutes to court decisions and, further, reducing some of the barriers to ballot access for new parties and unaffiliated candidates. The bill would:***

1. ***Set later deadlines for filing new party and unaffiliated candidate petitions; as consequence, set later deadline for new parties to nominate candidates.***
2. ***Limit the candidates of a new party to those who are registered as voters with that party and those who were not candidates for the same office in another party's primary. Also change the pledge for primary candidates to make it consistent with the "sore loser" provisions.***
3. ***Change the required wording on a new-party petition.***
4. ***Change the signature requirement for unaffiliated candidates from a percentage of registered voters to the same percentage of the vote in the latest Governor's race. (Those percentages are left at 2% statewide and 4% district and county.)***
5. ***Allow voters of an expired party to remain affiliated with that party.***

CURRENT LAW:

DEADLINES. New parties have a deadline of June 1 to submit petitions to the State Board of Elections to be on the statewide ballot. But, since those petitions must be submitted 2 weeks ahead to county boards of elections for verification of signatures, the real deadline is mid-May. The last Friday in July is the State Board petition deadline for unaffiliated candidates. But again, the 2-week verification lead-time means the real deadline for unaffiliated statewide candidates is mid-June. New parties must nominate their candidates (in a convention) by July 1.

NEW PARTY CANDIDATES AND THE "SORE LOSER" PROVISION. Current statute says new parties may nominate candidates only for statewide and congressional offices, even though a court decision more than 10 years ago made that limitation unenforceable. In practice, new parties are allowed to nominate candidates at all levels. Unlike the major parties who nominate in a primary, new parties are not restricted to nominating candidates who are registered with the party. Unlike unaffiliated candidates and write-in candidates, new party nominees may be persons who were candidates in another party's primary for the same office. The so-called "sore loser" provisions that are parallel in the unaffiliated and write-in statutes: Persons who were candidates for the same office in a party primary that year are not eligible. To file as a candidate in a party primary, however, a candidate must take a pledge not to run for ***any*** office in the general election ***as a write-in***.

PETITION WORDING. The statute prescribes the wording of new party petitions: It says the undersigned "intend to organize" the party. It also requires a home address of the State party Chair.

NUMBER OF SIGNATURES. New parties must collect petition signatures equal to 2% of the number of votes cast in the latest race for Governor. Two percent of the votes cast in the 2000 Governor's race equals 58,842. Unaffiliated candidates must collect petition signatures equal to a percentage of the total registered voters in the electorate: 2% statewide and 4% for district and county offices. Two percent of all registered voters in the State amounts to more than 103,000 signatures.

VOTER AFFILIATION WITH EXPIRED PARTY. If a party's nominee fails to get at least 10% of the vote in either the Governor's race or the Presidential race, that party loses the right to put its candidates on the ballot next time. To regain that right, it must repeat the process of collecting petition signatures. When the party loses its ballot status, voters can no longer be officially affiliated with that party on the voter registration records. The county board of elections must notify that voter that, unless the voter indicates a desire to become affiliated with a remaining party, the voter's party status will be listed as "Unaffiliated."

SENATE BILL 10: SB 10 would make the following changes:

1. Deadlines. Move the State Board deadlines for both new party and unaffiliated candidate petitions to the last Friday in July. *Sections 1 and 5 of the bill.* Petitions would have to be in to county boards by mid-July. New parties would have to nominate candidates by the 90th day before the general election. *Section 4.* Presidential candidates could be nominated up till 2 days after a national nominating convention, but no later than August 20. *Section 6.*

2. New Party Candidates and "Sore Loser" Provision. The bill puts restrictions on who can be a new party nominee. The bill also provides that a new party nominee must be a registered voter with that new party. The unenforceable prohibition on nominating local candidates would be removed. It says no candidate who was a candidate in the primary of another party for the same office may appear on the ballot as a new party candidate. This application of the "sore loser" provision makes new party candidate provisions consistent with those for unaffiliated and write-in candidates. *Section 4.* The bill also changes the pledge a party primary candidate must take to say that candidate will not run for the same office as a new party, unaffiliated, or write-in candidate. *Section 8.*

3. Petition Wording. Change the prescribed petition wording to say that the undersigned wish the party to appear on the ballot. It would require a mailing address for the party's State headquarters, rather than the Chair's home address. *Section 1.*

4. Number of Signatures. Use the number of voters in the last Governor's race, rather than the number of registered voters, as the benchmark for the percentage to determine the required signatures for an unaffiliated candidate. The effect would be a drop of 43% in the number of signatures required for a statewide unaffiliated candidacy from about 103,000 to 58,842. *Section 5.* Although the bill thus changes the benchmark, it would leave the percentage at 2%.

5. Voter Affiliation with Expired Party. Allow voter's affiliated with a party to keep their affiliation with that party even after the party loses its ballot status. The board of elections would notify them that their party has lost its ballot status and that they will not be able to vote in a primary if they remain affiliated with that party, but that they may remain affiliated with that party if they wish. *Sections 2 and 3.*

BACKGROUND: The bill was recommended by the Election Laws Revision Commission. The Commission's report, and the bill as introduced, dropped the petition requirement of 2% for unaffiliated statewide candidates to 1.5%. As amended in the Senate, the bill would leave the percentage at 2%. An amendment in the Senate offered by Sen. Patrick Ballantine added the "sore loser" provision and the party registration requirement regarding new party nominees.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 3

SENATE BILL 10

Judiciary I Committee Substitute Adopted 3/14/01
Judiciary I Committee Substitute No. 2 Adopted 4/2/01

Short Title: Ballot Access Changes. (Public)

Sponsors:

Referred to:

January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE BALLOT ACCESS LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-96 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~~ last Friday in July 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 _____~~, WITH NORTH CAROLINA HEADQUARTERS AT _____ AND ~~WHO CAN BE REACHED~~ REACHABLE BY TELEPHONE AT _____. THE SIGNERS OF THIS PETITION ~~INTEND TO ORGANIZE A NEW POLITICAL PARTY TO PARTICIPATE~~ REQUEST THAT THE CANDIDATES OF THAT PARTY BE LISTED ON THE BALLOT IN THE ~~NEXT SUCCEEDING GENERAL ELECTION.~~ ELECTION CYCLE SPANNING THE YEARS OF _____."

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.~~

(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 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.

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

SECTION 2. G.S. 163-97 reads as rewritten:

"**§ 163-97. Termination of ballot status as political party.**

When any political party fails to poll 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 at a general election, it shall cease to be included on the ballot as a political ~~party within the meaning of the primary and general election laws and all other provisions of this Chapter.~~ party."

SECTION 3. G.S. 163-97.1 reads as rewritten:

"**§ 163-97.1. Voters affiliated with ~~expired~~ political ~~party.~~ party after loss of ballot status.**

~~The State Board of Elections shall be authorized to promulgate appropriate procedures to order the county boards of elections to change the registration affiliation of all voters who are recorded on the voter registration books as being affiliated with a political party which has lost its legal status as provided in G.S. 163-97. The State Board of Elections shall not implement the authority contained in this section earlier than 90 days following the certification of the election in which the political party failed to continue its legal status as provided in G.S. 163-97. All voters affiliated with such expired political party shall be changed to "unaffiliated"designation by the State Board's order and all such registrants shall be entitled to declare a political party affiliation as provided in G.S. 163-74(b).~~ Any voter registered with a political party shall be allowed to retain that affiliation even if that party loses its ballot status under the provisions of G.S. 163-97. Within 90 days after a party loses its ballot status, the county board of elections shall notify each voter affiliated with that party of the legal consequences of continued affiliation with the party, including potential inability to vote in any party primary."

SECTION 4. G.S. 163-98 reads as rewritten:

"**§ 163-98. General election participation by new political party.**

In the first general election following the date on which a new political party qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its candidates for ~~State, congressional, and national~~ offices printed on the official ~~ballots, but it shall not be entitled to have the names of candidates for other offices printed on State, district, or county ballots at that election.~~ ballots.

For the first general election following the date on which it qualifies under G.S. 163-96, a new political party shall select its candidates by party convention. Following adjournment of the nominating convention, but not later than the ~~first day of July~~ 90th day prior to the general election, the president of the convention shall certify to the State Board of Elections the names of persons chosen in the convention as the new party's candidates ~~for State, congressional, and national offices~~ in the ensuing general election. The State Board of Elections shall ~~print~~ print, or direct the appropriate board of elections to print, the names thus certified on the appropriate ballots as the nominees of the new party. Only individuals who are affiliated as registered voters with the new party at the time of their certification shall be eligible to have their names printed on the

ballot as nominees of that new party. No individual whose name appeared on the ballot in a primary election of another party preliminary to the general election shall be eligible to have his or her name printed on the ballot as nominee for the same office by a new party."

SECTION 5. G.S. 163-122 reads as rewritten:

"**§ 163-122. Unaffiliated candidates nominated by petition.**

(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,~~ President, Vice President, Presidential elector, or another office elected statewide, 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~~ July 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.~~ 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. 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. 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.

(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~~ July 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.~~ voters who voted in the district in the most recent general election for Governor. 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~~ July 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,~~ voters who voted in the county in the most recent general election for Governor, 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.~~ who voted in the district in the most recent general election for Governor. 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 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.

(b) Form of Petition. – Petitions requesting an unaffiliated candidate to be placed on the general election ballot shall contain on the heading of each page of the petition in bold print or in all capital letters the words:

"THE UNDERSIGNED REGISTERED VOTERS IN _____ COUNTY HEREBY PETITION ON BEHALF OF _____ AS AN UNAFFILIATED CANDIDATE IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT ~~SUBJECT~~ THIS CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT UPON COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163-122."

(c) This section does not apply to elections under Article 25 of this Chapter."

SECTION 6. G.S. 163-209 reads as rewritten:

"**§ 163-209. Names of presidential electors not printed on ballots.**

The names of candidates for electors of President and Vice President nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. ~~In the case of the unaffiliated candidate, the~~ The names of candidates for electors and of candidates for President and Vice President ~~must~~ shall be filed with the Secretary of State no later than 12:00 noon on the ~~first Friday in August.~~ 90th day before the general election, or two days after that political party's national convention, whichever is later, but in no event later than August 20. In place of ~~their~~ the electors' names, in accordance with the provisions of G.S. 163-140 there shall be printed on the ballot the names of the candidates for President and Vice-President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 ~~shall, no later than 12:00 noon on the first Friday in August,~~ shall file with the State Board of Elections the name of a candidate for ~~Vice President, whose~~ Vice President no later than 12:00 noon on the 90th day before the general election, or two days after that political party's national convention, whichever is later, but in no event later than August 20. That vice presidential candidate's name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State."

SECTION 7. G.S. 163-123 reads as rewritten:

"**§ 163-123. Declaration of intent and petitions for write-in candidates in partisan elections.**

(a) Procedure for Qualifying as a Write-In Candidate. – Any qualified voter who seeks to have write-in votes for him counted in a general election shall file a declaration of intent in accordance with subsection (b) of this section and petition(s) in accordance with subsection (c) of this section.

(b) Declaration of Intent. – The applicant for write-in candidacy shall file his declaration of intent at the same time and with the same board of elections as his petition, as set out in subsection (c) of this section. The declaration shall contain:

(1) Applicant's name,
(2) Applicant's residential address,
(3) Declaration of applicant's intent to be a write-in candidate,
(4) Title of the office sought,
(5) Date of the election,
(6) Date of the declaration,
(7) Applicant's signature.

(c) Petitions for Write-in Candidacy. – An applicant for write-in candidacy shall:

(1) If the office is ~~a statewide office,~~ President, Vice President, Presidential elector, or another office elected statewide, 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. 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. 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.

(2) If the office is a district office comprising all or part 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 noon on the 90th day before the general election and must be signed by 250 qualified voters. Before being 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 who are eligible to vote for that office. The chairman of the county board shall examine the names on the petition and the procedure for certification shall be the same as specified in subdivision (1).

(3) If the office is a county office, or is a school administrative unit office elected on a partisan basis, or is a legislative district consisting of a single county or a portion of a county, file written petitions with the county board of elections supporting his candidacy for a specified office. A petition presented to a county board of elections shall contain only names of voters registered in that county. These petitions must be filed on or before noon on the 90th day before the general election and must be signed by 100 qualified voters who are eligible to vote for the office, unless fewer than 5,000 persons are eligible to vote for the office as shown by the most recent records of the appropriate board of elections. If fewer than 5,000 persons are eligible to vote for the office, an applicant's petition must be signed by not less than one percent (1%) of those registered voters. Before being filed with the county board of elections, each petition shall be presented to the county board of elections for examination. The chairman of the county board of elections shall examine the names on the petition and the procedure for certification shall be the same as specified in subdivision (1).

(d) Form of Petition. – Petitions requesting the qualification of a write-in candidate in a general election shall contain on the heading of each page of the petition in bold print or in capital letters the words:

"THE UNDERSIGNED REGISTERED VOTERS IN _____ COUNTY HEREBY PETITION ON BEHALF OF _____ AS A WRITE-IN CANDIDATE IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT CANDIDATE BE PLACED ON THE LIST OF QUALIFIED WRITE-IN CANDIDATES WHOSE VOTES ARE TO BE COUNTED AND RECORDED IN ACCORDANCE WITH G.S. 163-123."

(e) Defeated Primary Candidate. – No person whose name appeared on the ballot in a primary election preliminary to the general election shall be eligible to have votes counted for him as a write-in candidate for the same office in that year.

(f) Counting and Recording of Votes. – If a qualified voter has complied with the provisions of subsections (a), (b), and (c) and is not excluded by subsection (e), the board of elections with which petition has been filed shall count votes for him according to the procedures set out in G.S. 163-170(5), and the appropriate board of elections shall record those votes on the official abstract. Write-in votes for names other than those of qualified write-in candidates shall not be counted for any purpose and shall not be recorded on the abstract.

(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan elections."

SECTION 8. G.S. 163-106(a) reads as rewritten:

"(a) Notice and Pledge. – No one shall be voted for in a primary election unless he shall have filed a notice of candidacy with the appropriate board of elections, State or county, as required by this section. To this end every candidate for selection as the nominee of a political party shall file with and place in the possession of the board of elections specified in subsection (c) of this section, a notice and pledge in the following form:

"Date_____

I hereby file notice as a candidate for nomination as_____in the_____party primary election to be held on_____,_____.I affiliate with the_____party, (and I certify that I am now registered on the registration records of the precinct in which I reside as an affiliate of the_____party).

I pledge that if I am defeated in the primary, I will not file or run for ~~any office as a write-in candidate in the next general election.~~ the same office in the general election for which this filing applies as the candidate of another party, as an unaffiliated candidate, or as a write-in candidate.

Signed_____

Name of candidate

Witness:

_____

_____

(Title of witness)"

Each candidate shall sign his notice of candidacy in the presence of the chairman or secretary of the board of elections, State or county, with which he files. In the alternative, a candidate may have his signature on the notice of candidacy acknowledged and certified to by an officer authorized to take acknowledgments and administer oaths, in which case the candidate may mail his notice of candidacy to the appropriate board of elections.

In signing his notice of candidacy the candidate shall use only his legal name and, in his discretion, any nickname by which he is commonly known. A candidate may also, in lieu of his legal first name and legal middle initial or middle name (if any) sign his nickname, provided that he appends to the notice of candidacy an affidavit that he has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way his name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

A notice of candidacy signed by an agent or any person other than the candidate himself shall be invalid.

Prior to the date on which candidates may commence filing, the State Board of Elections shall print and furnish, at State expense, to each county board of elections a

sufficient number of the notice of candidacy forms prescribed by this subsection for use by candidates required to file with county boards of elections."

SECTION 9. This act becomes effective with respect to elections held on and after January 1, 2002.

2000 BALLOT ACCESS FOR AN INDEPENDENT PRESIDENTIAL CANDIDATE

(Showing Existing North Carolina Law.)

STATE	LEGAL REQUIREMENT	ELECTION CODE REFERENCE	REQUIRED
Ala	number stated in law	17-19-2(a)	5,000
Alas	1% of 1996 pres. vote	15.30.025	2,410
Az	3% of no. of indp. vtrs mid-2000	16.341E	9,598
Ark	number stated in law	7-8-302	1,000
(1) → Cal	1% of no. of reg. voters, Oct. 1998	elec. code 8401	149,692 ←
Colo	just pay $500	1-4-801(b)	0
Ct	number stated in law	9-453(d)	7,500
Del	1% of Dec. 1999 registration	Title 15, §3002(b)	4,819
Fla	1% of no. of reg. voters as of 1998	103.021(3)	82,203
Ga	1% of no. of reg. voters as of 1998	21-2-180	39,094
Hi	1% of no. of 1996 vote cast	Tit. 2, 11-113b(2)(B)	3,703
Id	1% of 1996 pres. vote	34-501(1)(c)(D)	4,918
Il	number stated in law	10 ILCS 5/10-3	25,000
In	2% of 1998 sec of state vote	3-8-6-3	30,717
Io	number stated in law	Tit 4, §45.1	1,500
Kan	number stated in law	25-303	5,000
Ky	number stated in law	Title 10, §118.315(2)	5,000
La	just pay $500	Title 18, §465C	0
Me	number stated in law	Title 21, §494.5	4,000
Md	1% of no. of reg. voters Mar. 2000	Art. 33, §5-703(e)	25,607
Ma	number stated in law	Chap. 53, §6	10,000
Mi	1% of 1998 gub. vote	168.590(b)2	30,272
Mn	number stated in law	204B.08	2,000
Ms	number stated in law	23-15-359	1,000
Mo	number stated in law	Tit 9, §115.321	10,000
Mt	number stated in law	13-10-601	5,000
Neb	number stated in law	32-504(2)(c)	2,500
Nev	1% of 1998 congress vote	Tit 24, §298.109	4,099
N H	number stated in law	Title 4, §655:42	3,000
N J	number stated in law	19:13-5	800
N M	3% of 1998 gub. vote	1-8-51	14,964
N Y	number stated in law	Chap. 17, §6-142	15,000
(2) → N C	2% of no. of reg. voters	163-122	98,606 ←
N D	number stated in law	16.1-12-02	4,000
Oh	number stated in law	3513.257	5,000
Ok	3% of 1996 pres. vote	Title 26, §10-101.2	36,202
Ore	1% of 1996 pres. vote	Title 23, §249.735	13,755
Pa	2% of 1999 judge winner's vote	Title 25, §2911	21,739
R I	number stated in law	17-14-7	1,000
S C	number stated in law	7-11-70	10,000
S D	1% of 1998 gub. vote	12-7-1	2,602
Tn	number stated in law	2-505	25
Tx	1% of 1996 pres. vote	Elec. code 192.032(d)	56,117
Ut	number stated in law	20-3-38	300
Vt	number stated in law	Title 17, §2402(b)	1,000
Va	number stated in law	24.1-159	10,000
Wa	number stated in law	29.24.030	200
W V	2% of 1996 pres. vote	3-5-23	12,730
Wis	number stated in law	Title 2, §8.20(4)	2,000
Wy	2% of 1998 congress vote	22-5-304	3,485
DC	1% of no. of reg. voters, July 2000	1-1308(f)	3,320

"Requirement" shows the no. of signatures to get an independent presidential candidate on the Nov. 2000 ballot. Chart prepared Feb. 14, 2001 by Richard Winger, (415) 922-9779, ban@igc.org.

2000 BALLOT ACCESS FOR AN INDEPENDENT PRESIDENTIAL CANDIDATE

(Showing What Would Have Been the Effect of Senate Bill 10.)

STATE	LEGAL REQUIREMENT	ELECTION CODE REFERENCE	REQUIRED
Ala	number stated in law	17-19-2(a)	5,000
Alas	1% of 1996 pres. vote	15.30.025	2,410
Az	3% of no. of indp. vtrs mid-2000	16.341E	9,598
Ark	number stated in law	7-8-302	1,000
(1)→ Cal	1% of no. of reg. voters, Oct. 1998	elec. code 8401	149,692 ←
Colo	just pay $500	1-4-801(b)	0
Ct	number stated in law	9-453(d)	7,500
Del	1% of Dec. 1999 registration	Title 15, §3002(b)	4,819
(2)→ Fla	1% of no. of reg. voters as of 1998	103.021(3)	82,203 ←
Ga	1% of no. of reg. voters as of 1998	21-2-180	39,094
Hi	1% of no. of 1996 vote cast	Tit. 2, 11-113b(2)(B)	3,703
Id	1% of 1996 pres. vote	34-501(1)(c)(D)	4,918
Il	number stated in law	10 ILCS 5/10-3	25,000
In	2% of 1998 sec of state vote	3-8-6-3	30,717
Io	number stated in law	Tit 4, §45.1	1,500
Kan	number stated in law	25-303	5,000
Ky	number stated in law	Title 10, §118.315(2)	5,000
La	just pay $500	Title 18, §465C	0
Me	number stated in law	Title 21, §494.5	4,000
Md	1% of no. of reg. voters Mar. 2000	Art. 33, §5-703(e)	25,607
Ma	number stated in law	Chap. 53, §6	10,000
Mi	1% of 1998 gub. vote	168.590(b)2	30,272
Mn	number stated in law	204B.08	2,000
Ms	number stated in law	23-15-359	1,000
Mo	number stated in law	Tit 9, §115.321	10,000
Mt	number stated in law	13-10-601	5,000
Neb	number stated in law	32-504(2)(c)	2,500
Nev	1% of 1998 congress vote	Tit 24, §298.109	4,099
N H	number stated in law	Title 4, §655:42	3,000
N J	number stated in law	19:13-5	800
N M	3% of 1998 gub. vote	1-8-51	14,964
N Y	number stated in law	Chap. 17, §6-142	15,000
(4)→ **N C**	**2% of 1996 gub. vote**	**SENATE BILL 10 (2001)**	**51,324** ←
N D	number stated in law	16.1-12-02	4,000
Oh	number stated in law	3513.257	5,000
Ok	3% of 1996 pres. vote	Title 26, §10-101.2	36,202
Ore	1% of 1996 pres. vote	Title 23, §249.735	13,755
Pa	2% of 1999 judge winner's vote	Title 25, §2911	21,739
R I	number stated in law	17-14-7	1,000
S C	number stated in law	7-11-70	10,000
S D	1% of 1998 gub. vote	12-7-1	2,602
Tn	number stated in law	2-505	25
(3)→ Tx	1% of 1996 pres. vote	Elec. code 192.032(d)	56,117 ←
Ut	number stated in law	20-3-38	300
Vt	number stated in law	Title 17, §2402(b)	1,000
Va	number stated in law	24.1-159	10,000
Wa	number stated in law	29.24.030	200
W V	2% of 1996 pres. vote	3-5-23	12,730
Wis	number stated in law	Title 2, §8.20(4)	2,000
Wy	2% of 1998 congress vote	22-5-304	3,485
DC	1% of no. of reg. voters, July 2000	1-1308(f)	3,320

"Requirement" shows the no. of signatures to get an independent presidential candidate on the Nov. 2000 ballot. Chart prepared Feb. 14, 2001 by Richard Winger, (415) 922-9779, ban@igc.org. North Carolina entry shows a hypothetical requirement, as though SB 10, 2001 session, had been in force for the 2000 election.

2000 BALLOT ACCESS FOR A NEW PARTY PRESIDENTIAL CANDIDATE

(Showing Existing North Carolina Law)

STATE	LEGAL REQUIREMENT	ELECTION CODE REFERENCE	REQUIRED
Ala	3% of 1998 gub. vote	17-8-2.1	39,536
Alas	1% of 1996 pres. vote	15.30.025	2,410
Az	3% of reg. independents as of 2000	16-341.E	9,598
Ark	number stated in law	7-8-302	1,000
(1) Cal	1% of 1998 vote cast	elec. code 5100(b) (reg.)	86,027 ←
Colo	just pay $500	1-4-801(b)	0
Ct	number stated in law	9-453(d)	7,500
Del	.05% of Dec. 1999 registration	Title 15, §3001 (reg.)	241
Fla	file list of officers; hold nat. conv.	97.021(12)	0
Ga	1% of no. of reg. voters as of 1998	21-2-180	39,094
Hi	one-tenth of 1% of reg. voters, 1998	Tit. 2, 11-62	602
Id	2% of 1996 pres. vote	34-501(1)(c)(D)	9,835
Il	number stated in law	10 ILCS 5/10-3	25,000
In	2% of 1998 sec of state vote	3-8-6-3	30,717
Io	number stated in law	Tit 4, §45.1	1,500
Kan	2% of 1998 gub. vote	25-302a	14,854
Ky	number stated in law	Title 10, §118.315(2)	5,000
La	just pay $500	Title 18, §465C	0
Me	number stated in law	Title 21, §494.5	4,000
Md	number stated in law	Art 33, 4-102(b)(2), 5-302(g)	10,000
Ma	number stated in law	Chap. 53, §6	10,000
Mi	1% of 1998 gub. vote	168.685(1)	30,272
Mn	number stated in law	204B.08	2,000
Ms	number stated in law	23-15-359	1,000
Mo	number stated in law	Tit 9, §115.321	10,000
Mt	number stated in law	13-10-601	5,000
Neb	1% of 1998 gub. vote	32-716	5,367
Nev	1% of 1998 US House vote	Tit 24, §293.1715	4,099
N H	number stated in law	Title 4, §655:42	3,000
N J	number stated in law	19:13-5	800
N M	1/2 of 1% of 1998 gub. vote	1-8-2.B & 1-7-2.A	2,494
N Y	number stated in law	Chap. 17, §6-142	15,000
(2) N C	2% of 1996 gub. vote	163-96	51,324 ←
N D	number stated in law	16.1-11-30	7,000
Oh	1% of 1998 gub. vote	3517.01	33,543
Ok	3% of 1996 pres. vote	Title 26, §10-101.2	36,202
Ore	1.5% of 1998 pres. vote	Title 23, §249.732	16,257
Pa	2% of 1999 judge winner's vote	Title 25, §2911	21,739
R I	number stated in law	17-14-7	1,000
S C	number stated in law	7-9-10	10,000
S D	1% of 1998 gub. vote	12-7-1	2,602
Tn	2.5% of 1998 gub. vote	2-104(27)(b)	23,819
Tx	1% of 1998 gub. vote	Elec. code 181.005	37,385
Ut	number stated in law	20-3-38	300
Vt	number stated in law	Title 17, §2402(b)	1,000
Va	number stated in law	24.1-159	10,000
Wa	number stated in law	29.24.030	200
W V	2% of 1996 pres. vote	3-5-23	12,730
Wis	number stated in law	Title 2, §8.20(4)	2,000
Wy	2% of 1998 US House vote	22-4-402(d)	3,485
DC	1% of no. of reg. voters, July 2000	1-1308(f)	3,320

"Requirement" shows the no. of signatures to get a new party on the Nov. 2000 ballot. Chart prepared Feb. 14, 2001. All procedures permit the party label on the ballot. If a state has more than one procedure to qualify a new party, the easier one is shown. "Reg." means "registrations".

2000 BALLOT ACCESS FOR A NEW PARTY PRESIDENTIAL CANDIDATE

(Showing What Would Have Been the Effect of Senate Bill 10.)

STATE	LEGAL REQUIREMENT	ELECTION CODE REFERENCE	REQUIRED
Ala	3% of 1998 gub. vote	17-8-2.1	39,536
Alas	1% of 1996 pres. vote	15.30.025	2,410
Az	3% of reg. independents as of 2000	16-341.E	9,598
Ark	number stated in law	7-8-302	1,000
(1) Cal	1% of 1998 vote cast	elec. code 5100(b) (reg.)	86,027 ←
Colo	just pay $500	1-4-801(b)	0
Ct	number stated in law	9-453(d)	7,500
Del	.05% of Dec. 1999 registration	Title 15, §3001 (reg.)	241
Fla	file list of officers; hold nat. conv.	97.021(12)	0
Ga	1% of no. of reg. voters as of 1998	21-2-180	39,094
Hi	one-tenth of 1% of reg. voters, 1998	Tit. 2, 11-62	602
Id	2% of 1996 pres. vote	34-501(1)(c)(D)	9,835
Il	number stated in law	10 ILCS 5/10-3	25,000
In	2% of 1998 sec of state vote	3-8-6-3	30,717
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N Y	number stated in law	Chap. 17, §6-142	15,000
(2) **N C**	**2% of 1996 gub. vote**	**SENATE BILL 10 (2001)**	**51,324** ←
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Tn	2.5% of 1998 gub. vote	2-104(27)(b)	23,819
Tx	1% of 1998 gub. vote	Elec. code 181.005	37,385
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Wa	number stated in law	29.24.030	200
W V	2% of 1996 pres. vote	3-5-23	12,730
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Wy	2% of 1998 US House vote	22-4-402(d)	3,485
DC	1% of no. of reg. voters, July 2000	1-1308(f)	3,320

"Requirement" shows the no. of signatures to get a new party on the Nov. 2000 ballot. Chart prepared Feb. 14, 2001. All procedures permit the party label on the ballot. If a state has more than one procedure to qualify a new party, the easier one is shown. "Reg." means "registrations". North Carolina entry shows a hypothetical requirement, as though SB 10 had been in force.

Table 5. Resident Population of the 50 States, the District of Columbia, and Puerto Rico:
April 1, 2000 (Census 2000) and April 1, 1990 (1990 Census)

Area	April 1, 2000	April 1, 1990	Numeric Change	Percent Change	State Rank Based on Numeric Change	State Rank Based on Percent Change
Alabama	4,447,100	4,040,587	406,513	10.1	25	25
Alaska	626,932	550,043	76,889	14.0	43	17
Arizona	5,130,632	3,665,228	1,465,404	40.0	5	2
Arkansas	2,673,400	2,350,725	322,675	13.7	29	19
California	33,871,648	29,760,021	4,111,627	13.8	1	18
Colorado	4,301,261	3,294,394	1,006,867	30.6	8	3
Connecticut	3,405,565	3,287,116	118,449	3.6	39	47
Delaware	783,600	666,168	117,432	17.6	40	13
District of Columbia	572,059	606,900	-34,841	-5.7	(NA)	(NA)
Florida	15,982,378	12,937,926	3,044,452	23.5	3	7
Georgia	8,186,453	6,478,216	1,708,237	26.4	4	6
Hawaii	1,211,537	1,108,229	103,308	9.3	41	31
Idaho	1,293,953	1,006,749	287,204	28.5	32	5
Illinois	12,419,293	11,430,602	988,691	8.6	9	34
Indiana	6,080,485	5,544,159	536,326	9.7	18	27
Iowa	2,926,324	2,776,755	149,569	5.4	36	43
Kansas	2,688,418	2,477,574	210,844	8.5	35	35
Kentucky	4,041,769	3,685,296	356,473	9.7	27	28
Louisiana	4,468,976	4,219,973	249,003	5.9	34	40
Maine	1,274,923	1,227,928	46,995	3.8	45	46
Maryland	5,296,486	4,781,468	515,018	10.8	20	23
Massachusetts	6,349,097	6,016,425	332,672	5.5	28	41
Michigan	9,938,444	9,295,297	643,147	6.9	15	39
Minnesota	4,919,479	4,375,099	544,380	12.4	17	21
Mississippi	2,844,658	2,573,216	271,442	10.5	33	24
Missouri	5,595,211	5,117,073	478,138	9.3	23	30
Montana	902,195	799,065	103,130	12.9	42	20
Nebraska	1,711,263	1,578,385	132,878	8.4	37	37
Nevada	1,998,257	1,201,833	796,424	66.3	13	1
New Hampshire	1,235,786	1,109,252	126,534	11.4	38	22
New Jersey	8,414,350	7,730,188	684,162	8.9	14	33
New Mexico	1,819,046	1,515,069	303,977	20.1	31	12
New York	18,976,457	17,990,455	986,002	5.5	10	42
North Carolina	8,049,313	6,628,637	1,420,676	21.4	6	9
North Dakota	642,200	638,800	3,400	0.5	50	50
Ohio	11,353,140	10,847,115	506,025	4.7	22	44
Oklahoma	3,450,654	3,145,585	305,069	9.7	30	26
Oregon	3,421,399	2,842,321	579,078	20.4	16	11
Pennsylvania	12,281,054	11,881,643	399,411	3.4	26	48
Rhode Island	1,048,319	1,003,464	44,855	4.5	47	45
South Carolina	4,012,012	3,486,703	525,309	15.1	19	15
South Dakota	754,844	696,004	58,840	8.5	44	36
Tennessee	5,689,283	4,877,185	812,098	16.7	12	14
Texas	20,851,820	16,986,510	3,865,310	22.8	2	8
Utah	2,233,169	1,722,850	510,319	29.6	21	4
Vermont	608,827	562,758	46,069	8.2	46	38
Virginia	7,078,515	6,187,358	891,157	14.4	11	16
Washington	5,894,121	4,866,692	1,027,429	21.1	7	10
West Virginia	1,808,344	1,793,477	14,867	0.8	49	49
Wisconsin	5,363,675	4,891,769	471,906	9.6	24	29
Wyoming	493,782	453,588	40,194	8.9	48	32
Total Resident Population[1]	281,421,906	248,709,873	32,712,033	13.2	(NA)	(NA)
Northeast	53,594,378	50,809,229	2,785,149	5.5	(NA)	(NA)
Midwest	64,392,776	59,668,632	4,724,144	7.9	(NA)	(NA)
South	100,236,820	85,445,930	14,790,890	17.3	(NA)	(NA)
West	63,197,932	52,786,082	10,411,850	19.7	(NA)	(NA)
Puerto Rico	3,808,610	3,522,037	286,573	8.1	(NA)	(NA)
Total Resident Population, including Puerto Rico	285,230,516	252,231,910	32,998,606	13.1	(NA)	(NA)

[1] Includes the population of the 50 states and the District of Columbia.

NA Not applicable.

NOTE: Consistent with the January 1999 U.S. Supreme Court ruling (Department of Commerce v. House of Representatives, 525 U.S. 316, 119 S. Ct. 765 (1999)), these resident population counts do not reflect the use of statistical sampling to correct for overcounting or undercounting.

Source: U.S. Department of Commerce, U.S. Census Bureau.

Internet Release date: December 28, 2000

VISITOR REGISTRATION SHEET

Election Laws + Campaign Reforms 5/8/01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Wilson	NCATL
Joy Barbour	CBA./A.B.A.T.E. of N.C.
Barbara Howe	Chair, Libertarian Party
Gary O. Bartlett	SBoE
Johnnie McLean	"
Don Wright	"
Michael Crowell	Lawyer Raleigh

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

May 16, 2001
Room 1228
11:00 a.m.

The meeting of the Election Law and Campaign Finance Reform Committee was called to order by the Chair, Representative Alexander. Those present were Representatives Alexander, Michaux, Vice Chair, Nesbitt, Vice Chair, Arnold, Bonner, Church, Decker, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Redwine, Rogers, Starnes, Thompson, Weatherly, Weiss, Cunningham, Dedmon and Hackney.

Representative Alexander welcomed and thanked the pages, staff and sergeants at arms for their help.

Representative Alexander introduced Senator Gulley to continue discussion on SB 10 AN ACT TO MAKE CHANGES TO THE BALLOT ACCESS LAWS. The first order of business was consideration of an amendment sent forth by Representative Decker to change the effective date of the bill from July 31 to the present June 30 date. Senator Gulley responded that the State Board of Elections found no problem with the July date, and the Election Laws Revision Commission composed of Democrats and Republicans had unanimously supported the July 31 date. The July date would give more time for parties or unaffiliated candidates nominated by petition to file. The extended date would be more favorable to federal courts in case of a challenge from a candidate/party not on the ballot. It is the job of the General Assembly to ensure that access to the ballot is open and free for all in the democratic process. Representative Luebke said that many students were concerned that the system seemed to be rigged against small parties and unaffiliated candidates with new ideas. Representative Decker responded that the later filing date would allow a member of a losing candidate's campaign to file by petition. The amendment passed and will be incorporated into the bill.

Representative Rayfield questioned language on page 3, lines 30-33 of the bill which pertains to filing fees. Mr. Gilkeson replied that a filing fee is not required for a candidate not in a primary election. Gerry Cohen added that the purpose of the filing fee is to help defer costs of a primary. If a party nominates a candidate in convention, that party or an independent candidate does not pay a filing fee. If a candidate is not involved in a primary, a filing fee is not required, because a party pays the cost of its convention. New parties do not pay a filing fee (no primary). Representative Michaux said that a primary is not mandatory. Major parties might choose candidates by convention, paid for by the party. In response to a question by Representative Weatherly, Senator Gulley responded that to get on the ballot, an independent candidate must present a certain number of signatures to the board of elections. The number required varies by office sought. Representative Michaux moved that the amendment be rolled into a committee substitute, the committee substitute be given a favorable report, unfavorable as to the original bill. The vote was a tie, and the motion did not pass due to a lack of majority.

Senator Gulley presented SB 11 AN ACT TO PROVIDE FOR FILLING VACANCIES IN NOMINATION FOR THE NATIONAL TICKET AND FOR PRESIDENTIAL ELECTOR; TO EXPAND THE NOTICE REQUIREMENT FOR PRECINCT CHANGES; TO CLARIFY THE RIGHT OF MILITARY/OVERSEAS VOTERS TO REGISTER AND VOTE ON ELECTION DAY; TO REQUIRE COUNTY BOARDS OF ELECTIONS TO FOLLOW THE DIRECTION OF THE STATE BOARD OF ELECTIONS IN PRINTING ABSENTEE

BALLOTS DURING AND AFTER THE PENDENCY OF APPEALS; TO REPEAL A COURT-DISAPPROVED PROVISION OF THE AD-LABELING LAW; TO TOLL THE VERIFICATION OF MUNICIPAL INCORPORATION PETITIONS DURING A PERIOD AROUND A PRIMARY OR ELECTION AND TO MAKE OTHER CHANGES TO THE INCORPORATION PETITION STATUTE; AND TO MAKE TECHNICAL CHANGES TO THE MANDATORY RECOUNT STATUTES. Representative Michaux moved accepting the committee substitute for discussion. The motion passed. The bill deals with changes submitted by the Joint Election Law Study Commission responding to experiences in the last election cycle in and out of state. Under the committee substitute, The National Party Executive Committee would fill the vacancy for presidential or vice presidential candidates, and the State Party Executive Committee would replace vacancies on the slate of presidential electors. Notices must be mailed to a voter in case of precinct change or voting place change at least 30 days before election and posted in the office of the county board of elections and the courthouse door. Federal law must be tracked in state election law, and military personnel must be allowed to register and vote on election day, if the voter was out of state for occupational reasons during the registration period prior to election day. Mr. Gilkeson said that civilians are not treated in this way under this bill. The bill covers military spouses in residence out of the voting county, members of the Peace Corps, disabled war veterans in military hospitals, civilians attached to or serving with the armed forces outside the United States. Counties must follow state law in printing absentee ballots during appeal and have them available as soon as possible at the conclusion of the appeal. Following a federal court decision last year, G.S. 163-278.39(a)(3) is repealed. The bill tolls the 15 day petition process and period for municipal incorporation petitions. The time for the county board of election to verify incorporation signatures would be expanded during the busy election time. The bill would correct the language on recounts to no greater than ½ of 1% or 10,000 whichever is less. Discussion followed. Representative Decker asked about weighting multi-county house districts. Mr. Cohen and Mr. Gilkeson responded that the county district executive committee determines that. When the statutes are silent as to membership on the county district executive committee; the party rules govern their own organization.

Representative Luebke sent forth an amendment to ensure privacy in the voting place providing for at least one curtained or private voting space per precinct. Discussion followed.

The meeting was adjourned.

Martha Alexander, Committee Chair

Ann Faust, Committee Assistant

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday May 16, 2001**

TIME: **11:00 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 10 – Ballot Access Changes – Senator Gulley

SB 11 - Election Law Changes – Senator Gulley

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **12:10 pm, on May 10, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust (Committee Assistant)

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

May 16, 2001
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

SB 10 - Ballot Access Changes – Senator Gulley

SB 11 - Election Law Changes – Senator Gulley

STAFF: Bill Gilkeson
Erika Churchill

SENATE BILL 10:
Ballot Access Changes.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Senator Gulley.
		Summary by:	William R. Gilkeson Staff Attorney
Date:	May 9, 2001		
Version:	Third Edition		

SUMMARY: Senate Bill 10 would make several changes to the ballot access laws, conforming statutes to court decisions and, further, reducing some of the barriers to ballot access for new parties and unaffiliated candidates. The bill would:

1. *Set later deadlines for filing new party and unaffiliated candidate petitions; as consequence, set later deadline for new parties to nominate candidates.*
2. *Limit the candidates of a new party to those who are registered as voters with that party and those who were not candidates for the same office in another party's primary. Also change the pledge for primary candidates to make it consistent with the "sore loser" provisions.*
3. *Change the required wording on a new-party petition.*
4. *Change the signature requirement for unaffiliated candidates from a percentage of registered voters to the same percentage of the vote in the latest Governor's race. (Those percentages are left at 2% statewide and 4% district and county.)*
5. *Allow voters of an expired party to remain affiliated with that party.*

CURRENT LAW:

DEADLINES. New parties have a deadline of June 1 to submit petitions to the State Board of Elections to be on the statewide ballot. But, since those petitions must be submitted 2 weeks ahead to county boards of elections for verification of signatures, the real deadline is mid-May. The last Friday in July is the State Board petition deadline for unaffiliated candidates. But again, the 2-week verification lead-time means the real deadline for unaffiliated statewide candidates is mid-June. New parties must nominate their candidates (in a convention) by July 1.

NEW PARTY CANDIDATES AND THE "SORE LOSER" PROVISION. Current statute says new parties may nominate candidates only for statewide and congressional offices, even though a court decision more than 10 years ago made that limitation unenforceable. In practice, new parties are allowed to nominate candidates at all levels. Unlike the major parties who nominate in a primary, new parties are not restricted to nominating candidates who are registered with the party. Unlike unaffiliated candidates and write-in candidates, new party nominees may be persons who were candidates in another party's primary for the same office. The so-called "sore loser" provisions that are parallel in the unaffiliated and write-in statutes: Persons who were candidates for the same office in a party primary that year are not eligible. To file as a candidate in a party primary, however, a candidate must take a pledge not to run for ***any*** office in the general election ***as a write-in***.

PETITION WORDING. The statute prescribes the wording of new party petitions: It says the undersigned "intend to organize" the party. It also requires a home address of the State party Chair.

NUMBER OF SIGNATURES. New parties must collect petition signatures equal to 2% of the number of votes cast in the latest race for Governor. Two percent of the votes cast in the 2000 Governor's race equals 58,842. Unaffiliated candidates must collect petition signatures equal to a percentage of the total registered voters in the electorate: 2% statewide and 4% for district and county offices. Two percent of all registered voters in the State amounts to more than 103,000 signatures.

VOTER AFFILIATION WITH EXPIRED PARTY. If a party's nominee fails to get at least 10% of the vote in either the Governor's race or the Presidential race, that party loses the right to put its candidates on the ballot next time. To regain that right, it must repeat the process of collecting petition signatures. When the party loses its ballot status, voters can no longer be officially affiliated with that party on the voter registration records. The county board of elections must notify that voter that, unless the voter indicates a desire to become affiliated with a remaining party, the voter's party status will be listed as "Unaffiliated."

SENATE BILL 10: SB 10 would make the following changes:

1. Deadlines. Move the State Board deadlines for both new party and unaffiliated candidate petitions to the last Friday in July. *Sections 1 and 5 of the bill.* Petitions would have to be in to county boards by mid-July. New parties would have to nominate candidates by the 90th day before the general election. *Section 4.* Presidential candidates could be nominated up till 2 days after a national nominating convention, but no later than August 20. *Section 6.*

2. New Party Candidates and "Sore Loser" Provision. The bill puts restrictions on who can be a new party nominee. The bill also provides that a new party nominee must be a registered voter with that new party. The unenforceable prohibition on nominating local candidates would be removed. It says no candidate who was a candidate in the primary of another party for the same office may appear on the ballot as a new party candidate. This application of the "sore loser" provision makes new party candidate provisions consistent with those for unaffiliated and write-in candidates. *Section 4.* The bill also changes the pledge a party primary candidate must take to say that candidate will not run for the same office as a new party, unaffiliated, or write-in candidate. *Section 8.*

3. Petition Wording. Change the prescribed petition wording to say that the undersigned wish the party to appear on the ballot. It would require a mailing address for the party's State headquarters, rather than the Chair's home address. *Section 1.*

4. Number of Signatures. Use the number of voters in the last Governor's race, rather than the number of registered voters, as the benchmark for the percentage to determine the required signatures for an unaffiliated candidate. The effect would be a drop of 43% in the number of signatures required for a statewide unaffiliated candidacy from about 103,000 to 58,842. *Section 5.* Although the bill thus changes the benchmark, it would leave the percentage at 2%.

5. Voter Affiliation with Expired Party. Allow voter's affiliated with a party to keep their affiliation with that party even after the party loses its ballot status. The board of elections would notify them that their party has lost its ballot status and that they will not be able to vote in a primary if they remain affiliated with that party, but that they may remain affiliated with that party if they wish. *Sections 2 and 3.*

BACKGROUND: The bill was recommended by the Election Laws Revision Commission. The Commission's report, and the bill as introduced, dropped the petition requirement of 2% for unaffiliated statewide candidates to 1.5%. As amended in the Senate, the bill would leave the percentage at 2%. An amendment in the Senate offered by Sen. Patrick Ballantine added the "sore loser" provision and the party registration requirement regarding new party nominees.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

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SENATE BILL 10

Judiciary I Committee Substitute Adopted 3/14/01
Judiciary I Committee Substitute No. 2 Adopted 4/2/01

Short Title: Ballot Access Changes. (Public)

Sponsors:

Referred to:

January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE BALLOT ACCESS LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-96 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~~ last Friday in July 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 _____~~, WITH NORTH CAROLINA HEADQUARTERS AT _____ AND ~~WHO CAN BE REACHED~~ REACHABLE BY TELEPHONE AT _____. THE SIGNERS OF THIS PETITION ~~INTEND TO ORGANIZE A NEW POLITICAL PARTY TO PARTICIPATE~~ REQUEST THAT THE CANDIDATES OF THAT PARTY BE LISTED ON THE BALLOT IN THE ~~NEXT SUCCEEDING GENERAL ELECTION.~~ ELECTION CYCLE SPANNING THE YEARS OF _____."

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.~~

(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 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.

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

SECTION 2. G.S. 163-97 reads as rewritten:

"**§ 163-97. Termination of ballot status as political party.**

When any political party fails to poll 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 at a general election, it shall cease to be included on the ballot as a political ~~party within the meaning of the primary and general election laws and all other provisions of this Chapter.~~ party."

SECTION 3. G.S. 163-97.1 reads as rewritten:

"**§ 163-97.1. Voters affiliated with ~~expired~~ political ~~party.~~ party after loss of ballot status.**

~~The State Board of Elections shall be authorized to promulgate appropriate procedures to order the county boards of elections to change the registration affiliation of all voters who are recorded on the voter registration books as being affiliated with a political party which has lost its legal status as provided in G.S. 163-97. The State Board of Elections shall not implement the authority contained in this section earlier than 90 days following the certification of the election in which the political party failed to continue its legal status as provided in G.S. 163-97. All voters affiliated with such expired political party shall be changed to "unaffiliated"designation by the State Board's order and all such registrants shall be entitled to declare a political party affiliation as provided in G.S. 163-74(b).~~ Any voter registered with a political party shall be allowed to retain that affiliation even if that party loses its ballot status under the provisions of G.S. 163-97. Within 90 days after a party loses its ballot status, the county board of elections shall notify each voter affiliated with that party of the legal consequences of continued affiliation with the party, including potential inability to vote in any party primary."

SECTION 4. G.S. 163-98 reads as rewritten:

"**§ 163-98. General election participation by new political party.**

In the first general election following the date on which a new political party qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its candidates for ~~State, congressional, and national~~ offices printed on the official ~~ballots, but it shall not be entitled to have the names of candidates for other offices printed on State, district, or county ballots at that election.~~ ballots.

For the first general election following the date on which it qualifies under G.S. 163-96, a new political party shall select its candidates by party convention. Following adjournment of the nominating convention, but not later than the ~~first day of July~~ 90th day prior to the general election, the president of the convention shall certify to the State Board of Elections the names of persons chosen in the convention as the new party's candidates ~~for State, congressional, and national offices~~ in the ensuing general election. The State Board of Elections shall ~~print~~ print, or direct the appropriate board of elections to print, the names thus certified on the appropriate ballots as the nominees of the new party. Only individuals who are affiliated as registered voters with the new party at the time of their certification shall be eligible to have their names printed on the

ballot as nominees of that new party. No individual whose name appeared on the ballot in a primary election of another party preliminary to the general election shall be eligible to have his or her name printed on the ballot as nominee for the same office by a new party."

SECTION 5. G.S. 163-122 reads as rewritten:

"**§ 163-122. Unaffiliated candidates nominated by petition.**

(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,~~ President, Vice President, Presidential elector, or another office elected statewide, 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~~ July 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.~~ 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. 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. 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.

(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~~ July 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.~~ voters who voted in the district in the most recent general election for Governor. 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~~ July 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,~~ voters who voted in the county in the most recent general election for Governor, 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.~~ who voted in the district in the most recent general election for Governor. 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 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.

(b) Form of Petition. – Petitions requesting an unaffiliated candidate to be placed on the general election ballot shall contain on the heading of each page of the petition in bold print or in all capital letters the words:

"THE UNDERSIGNED REGISTERED VOTERS IN _____ COUNTY HEREBY PETITION ON BEHALF OF _____ AS AN UNAFFILIATED CANDIDATE IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT ~~SUBJECT~~ THIS CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT UPON COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163-122."

(c) This section does not apply to elections under Article 25 of this Chapter."

SECTION 6. G.S. 163-209 reads as rewritten:

"**§ 163-209. Names of presidential electors not printed on ballots.**

The names of candidates for electors of President and Vice President nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. ~~In the case of the unaffiliated candidate, the~~ The names of candidates for electors and of candidates for President and Vice President ~~must~~ shall be filed with the Secretary of State no later than 12:00 noon on the ~~first Friday in August.~~ 90th day before the general election, or two days after that political party's national convention, whichever is later, but in no event later than August 20. In place of ~~their~~ the electors' names, in accordance with the provisions of G.S. 163-140 there shall be printed on the ballot the names of the candidates for President and Vice-President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 ~~shall, no later than 12:00 noon on the first Friday in August,~~ shall file with the State Board of Elections the name of a candidate for ~~Vice President, whose~~ Vice President no later than 12:00 noon on the 90th day before the general election, or two days after that political party's national convention, whichever is later, but in no event later than August 20. That vice presidential candidate's name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State."

SECTION 7. G.S. 163-123 reads as rewritten:

"**§ 163-123. Declaration of intent and petitions for write-in candidates in partisan elections.**

(a) Procedure for Qualifying as a Write-In Candidate. – Any qualified voter who seeks to have write-in votes for him counted in a general election shall file a declaration of intent in accordance with subsection (b) of this section and petition(s) in accordance with subsection (c) of this section.

(b) Declaration of Intent. – The applicant for write-in candidacy shall file his declaration of intent at the same time and with the same board of elections as his petition, as set out in subsection (c) of this section. The declaration shall contain:

(1) Applicant's name,
(2) Applicant's residential address,
(3) Declaration of applicant's intent to be a write-in candidate,
(4) Title of the office sought,
(5) Date of the election,
(6) Date of the declaration,
(7) Applicant's signature.

(c) Petitions for Write-in Candidacy. – An applicant for write-in candidacy shall:

(1) If the office is ~~a statewide office,~~ President, Vice President, Presidential elector, or another office elected statewide, 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. 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. 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.

(2) If the office is a district office comprising all or part 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 noon on the 90th day before the general election and must be signed by 250 qualified voters. Before being 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 who are eligible to vote for that office. The chairman of the county board shall examine the names on the petition and the procedure for certification shall be the same as specified in subdivision (1).

(3) If the office is a county office, or is a school administrative unit office elected on a partisan basis, or is a legislative district consisting of a single county or a portion of a county, file written petitions with the county board of elections supporting his candidacy for a specified office. A petition presented to a county board of elections shall contain only names of voters registered in that county. These petitions must be filed on or before noon on the 90th day before the general election and must be signed by 100 qualified voters who are eligible to vote for the office, unless fewer than 5,000 persons are eligible to vote for the office as shown by the most recent records of the appropriate board of elections. If fewer than 5,000 persons are eligible to vote for the office, an applicant's petition must be signed by not less than one percent (1%) of those registered voters. Before being filed with the county board of elections, each petition shall be presented to the county board of elections for examination. The chairman of the county board of elections shall examine the names on the petition and the procedure for certification shall be the same as specified in subdivision (1).

(d) Form of Petition. – Petitions requesting the qualification of a write-in candidate in a general election shall contain on the heading of each page of the petition in bold print or in capital letters the words:

"THE UNDERSIGNED REGISTERED VOTERS IN _____ COUNTY HEREBY PETITION ON BEHALF OF _____ AS A WRITE-IN CANDIDATE IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT CANDIDATE BE PLACED ON THE LIST OF QUALIFIED WRITE-IN CANDIDATES WHOSE VOTES ARE TO BE COUNTED AND RECORDED IN ACCORDANCE WITH G.S. 163-123."

(e) Defeated Primary Candidate. – No person whose name appeared on the ballot in a primary election preliminary to the general election shall be eligible to have votes counted for him as a write-in candidate for the same office in that year.

(f) Counting and Recording of Votes. – If a qualified voter has complied with the provisions of subsections (a), (b), and (c) and is not excluded by subsection (e), the board of elections with which petition has been filed shall count votes for him according to the procedures set out in G.S. 163-170(5), and the appropriate board of elections shall record those votes on the official abstract. Write-in votes for names other than those of qualified write-in candidates shall not be counted for any purpose and shall not be recorded on the abstract.

(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan elections."

SECTION 8. G.S. 163-106(a) reads as rewritten:

"(a) Notice and Pledge. – No one shall be voted for in a primary election unless he shall have filed a notice of candidacy with the appropriate board of elections, State or county, as required by this section. To this end every candidate for selection as the nominee of a political party shall file with and place in the possession of the board of elections specified in subsection (c) of this section, a notice and pledge in the following form:

"Date_____

I hereby file notice as a candidate for nomination as_____in the_____party primary election to be held on_____,_____.I affiliate with the_____party, (and I certify that I am now registered on the registration records of the precinct in which I reside as an affiliate of the_____party).

I pledge that if I am defeated in the primary, I will not file or run for ~~any office as a write-in candidate in the next general election.~~ the same office in the general election for which this filing applies as the candidate of another party, as an unaffiliated candidate, or as a write-in candidate.

Signed_____

Name of candidate

Witness:

_____

_____

(Title of witness)"

Each candidate shall sign his notice of candidacy in the presence of the chairman or secretary of the board of elections, State or county, with which he files. In the alternative, a candidate may have his signature on the notice of candidacy acknowledged and certified to by an officer authorized to take acknowledgments and administer oaths, in which case the candidate may mail his notice of candidacy to the appropriate board of elections.

In signing his notice of candidacy the candidate shall use only his legal name and, in his discretion, any nickname by which he is commonly known. A candidate may also, in lieu of his legal first name and legal middle initial or middle name (if any) sign his nickname, provided that he appends to the notice of candidacy an affidavit that he has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way his name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

A notice of candidacy signed by an agent or any person other than the candidate himself shall be invalid.

Prior to the date on which candidates may commence filing, the State Board of Elections shall print and furnish, at State expense, to each county board of elections a

sufficient number of the notice of candidacy forms prescribed by this subsection for use by candidates required to file with county boards of elections."

SECTION 9. This act becomes effective with respect to elections held on and after January 1, 2002.

2000 BALLOT ACCESS FOR AN INDEPENDENT PRESIDENTIAL CANDIDATE

(Showing Existing North Carolina Law.)

STATE	LEGAL REQUIREMENT	ELECTION CODE REFERENCE	REQUIRED
Ala	number stated in law	17-19-2(a)	5,000
Alas	1% of 1996 pres. vote	15.30.025	2,410
Az	3% of no. of indp. vtrs mid-2000	16.341E	9,598
Ark	number stated in law	7-8-302	1,000
Cal	1% of no. of reg. voters, Oct. 1998	elec. code 8401	149,692
Colo	just pay $500	1-4-801(b)	0
Ct	number stated in law	9-453(d)	7,500
Del	1% of Dec. 1999 registration	Title 15, §3002(b)	4,819
Fla	1% of no. of reg. voters as of 1998	103.021(3)	82,203
Ga	1% of no. of reg. voters as of 1998	21-2-180	39,094
Hi	1% of no. of 1996 vote cast	Tit. 2, 11-113b(2)(B)	3,703
Id	1% of 1996 pres. vote	34-501(1)(c)(D)	4,918
Il	number stated in law	10 ILCS 5/10-3	25,000
In	2% of 1998 sec of state vote	3-8-6-3	30,717
Io	number stated in law	Tit 4, §45.1	1,500
Kan	number stated in law	25-303	5,000
Ky	number stated in law	Title 10, §118.315(2)	5,000
La	just pay $500	Title 18, §465C	0
Me	number stated in law	Title 21, §494.5	4,000
Md	1% of no. of reg. voters Mar. 2000	Art. 33, §5-703(e)	25,607
Ma	number stated in law	Chap. 53, §6	10,000
Mi	1% of 1998 gub. vote	168.590(b)2	30,272
Mn	number stated in law	204B.08	2,000
Ms	number stated in law	23-15-359	1,000
Mo	number stated in law	Tit 9, §115.321	10,000
Mt	number stated in law	13-10-601	5,000
Neb	number stated in law	32-504(2)(c)	2,500
Nev	1% of 1998 congress vote	Tit 24, §298.109	4,099
N H	number stated in law	Title 4, §655:42	3,000
N J	number stated in law	19:13-5	800
N M	3% of 1998 gub. vote	1-8-51	14,964
N Y	number stated in law	Chap. 17, §6-142	15,000
N C	2% of no. of reg. voters	163-122	98,606
N D	number stated in law	16.1-12-02	4,000
Oh	number stated in law	3513.257	5,000
Ok	3% of 1996 pres. vote	Title 26, §10-101.2	36,202
Ore	1% of 1996 pres. vote	Title 23, §249.735	13,755
Pa	2% of 1999 judge winner's vote	Title 25, §2911	21,739
R I	number stated in law	17-14-7	1,000
S C	number stated in law	7-11-70	10,000
S D	1% of 1998 gub. vote	12-7-1	2,602
Tn	number stated in law	2-505	25
Tx	1% of 1996 pres. vote	Elec. code 192.032(d)	56,117
Ut	number stated in law	20-3-38	300
Vt	number stated in law	Title 17, §2402(b)	1,000
Va	number stated in law	24.1-159	10,000
Wa	number stated in law	29.24.030	200
W V	2% of 1996 pres. vote	3-5-23	12,730
Wis	number stated in law	Title 2, §8.20(4)	2,000
Wy	2% of 1998 congress vote	22-5-304	3,485
DC	1% of no. of reg. voters, July 2000	1-1308(f)	3,320

"Requirement" shows the no. of signatures to get an independent presidential candidate on the Nov. 2000 ballot. Chart prepared Feb. 14, 2001 by Richard Winger, (415) 922-9779, ban@igc.org.

2000 BALLOT ACCESS FOR AN INDEPENDENT PRESIDENTIAL CANDIDATE

(Showing What Would Have Been the Effect of Senate Bill 10.)

STATE	LEGAL REQUIREMENT	ELECTION CODE REFERENCE	REQUIRED
Ala	number stated in law	17-19-2(a)	5,000
Alas	1% of 1996 pres. vote	15.30.025	2,410
Az	3% of no. of indp. vtrs mid-2000	16.341E	9,598
Ark	number stated in law	7-8-302	1,000
(1) Cal	1% of no. of reg. voters, Oct. 1998	elec. code 8401	149,692 ←
Colo	just pay $500	1-4-801(b)	0
Ct	number stated in law	9-453(d)	7,500
Del	1% of Dec. 1999 registration	Title 15, §3002(b)	4,819
(2) Fla	1% of no. of reg. voters as of 1998	103.021(3)	82,203 ←
Ga	1% of no. of reg. voters as of 1998	21-2-180	39,094
Hi	1% of no. of 1996 vote cast	Tit. 2, 11-113b(2)(B)	3,703
Id	1% of 1996 pres. vote	34-501(1)(c)(D)	4,918
Il	number stated in law	10 ILCS 5/10-3	25,000
In	2% of 1998 sec of state vote	3-8-6-3	30,717
Io	number stated in law	Tit 4, §45.1	1,500
Kan	number stated in law	25-303	5,000
Ky	number stated in law	Title 10, §118.315(2)	5,000
La	just pay $500	Title 18, §465C	0
Me	number stated in law	Title 21, §494.5	4,000
Md	1% of no. of reg. voters Mar. 2000	Art. 33, §5-703(e)	25,607
Ma	number stated in law	Chap. 53, §6	10,000
Mi	1% of 1998 gub. vote	168.590(b)2	30,272
Mn	number stated in law	204B.08	2,000
Ms	number stated in law	23-15-359	1,000
Mo	number stated in law	Tit 9, §115.321	10,000
Mt	number stated in law	13-10-601	5,000
Neb	number stated in law	32-504(2)(c)	2,500
Nev	1% of 1998 congress vote	Tit 24, §298.109	4,099
N H	number stated in law	Title 4, §655:42	3,000
N J	number stated in law	19:13-5	800
N M	3% of 1998 gub. vote	1-8-51	14,964
N Y	number stated in law	Chap. 17, §6-142	15,000
(4) N C	**2% of 1996 gub. vote**	**SENATE BILL 10 (2001)**	**51,324** ←
N D	number stated in law	16.1-12-02	4,000
Oh	number stated in law	3513.257	5,000
Ok	3% of 1996 pres. vote	Title 26, §10-101.2	36,202
Ore	1% of 1996 pres. vote	Title 23, §249.735	13,755
Pa	2% of 1999 judge winner's vote	Title 25, §2911	21,739
R I	number stated in law	17-14-7	1,000
S C	number stated in law	7-11-70	10,000
S D	1% of 1998 gub. vote	12-7-1	2,602
Tn	number stated in law	2-505	25
(3) Tx	1% of 1996 pres. vote	Elec. code 192.032(d)	56,117 ←
Ut	number stated in law	20-3-38	300
Vt	number stated in law	Title 17, §2402(b)	1,000
Va	number stated in law	24.1-159	10,000
Wa	number stated in law	29.24.030	200
W V	2% of 1996 pres. vote	3-5-23	12,730
Wis	number stated in law	Title 2, §8.20(4)	2,000
Wy	2% of 1998 congress vote	22-5-304	3,485
DC	1% of no. of reg. voters, July 2000	1-1308(f)	3,320

"Requirement" shows the no. of signatures to get an independent presidential candidate on the Nov. 2000 ballot. Chart prepared Feb. 14, 2001 by Richard Winger, (415) 922-9779, ban@igc.org. North Carolina entry shows a hypothetical requirement, as though SB 10, 2001 session, had been in force for the 2000 election.

2000 BALLOT ACCESS FOR A NEW PARTY PRESIDENTIAL CANDIDATE
(Showing Existing North Carolina Law)

STATE	LEGAL REQUIREMENT	ELECTION CODE REFERENCE	REQUIRED
Ala	3% of 1998 gub. vote	17-8-2.1	39,536
Alas	1% of 1996 pres. vote	15.30.025	2,410
Az	3% of reg. independents as of 2000	16-341.E	9,598
Ark	number stated in law	7-8-302	1,000
Cal	1% of 1998 vote cast	elec. code 5100(b) (reg.)	86,027
Colo	just pay $500	1-4-801(b)	0
Ct	number stated in law	9-453(d)	7,500
Del	.05% of Dec. 1999 registration	Title 15, §3001 (reg.)	241
Fla	file list of officers; hold nat. conv.	97.021(12)	0
Ga	1% of no. of reg. voters as of 1998	21-2-180	39,094
Hi	one-tenth of 1% of reg. voters, 1998	Tit. 2, 11-62	602
Id	2% of 1996 pres. vote	34-501(1)(c)(D)	9,835
Il	number stated in law	10 ILCS 5/10-3	25,000
In	2% of 1998 sec of state vote	3-8-6-3	30,717
Io	number stated in law	Tit 4. §45.1	1,500
Kan	2% of 1998 gub. vote	25-302a	14,854
Ky	number stated in law	Title 10, §118.315(2)	5,000
La	just pay $500	Title 18, §465C	0
Me	number stated in law	Title 21, §494.5	4,000
Md	number stated in law	Art 33, 4-102(b)(2), 5-302(g)	10,000
Ma	number stated in law	Chap. 53, §6	10,000
Mi	1% of 1998 gub. vote	168.685(1)	30,272
Mn	number stated in law	204B.08	2,000
Ms	number stated in law	23-15-359	1,000
Mo	number stated in law	Tit 9, §115.321	10,000
Mt	number stated in law	13-10-601	5,000
Neb	1% of 1998 gub. vote	32-716	5,367
Nev	1% of 1998 US House vote	Tit 24, §293.1715	4,099
N H	number stated in law	Title 4, §655:42	3,000
N J	number stated in law	19:13-5	800
N M	1/2 of 1% of 1998 gub. vote	1-8-2.B & 1-7-2.A	2,494
N Y	number stated in law	Chap. 17, §6-142	15,000
N C	2% of 1996 gub. vote	163-96	51,324
N D	number stated in law	16.1-11-30	7,000
Oh	1% of 1998 gub. vote	3517.01	33,543
Ok	3% of 1996 pres. vote	Title 26, §10-101.2	36,202
Ore	1.5% of 1998 pres. vote	Title 23, §249.732	16,257
Pa	2% of 1999 judge winner's vote	Title 25, §2911	21,739
R I	number stated in law	17-14-7	1,000
S C	number stated in law	7-9-10	10,000
S D	1% of 1998 gub. vote	12-7-1	2,602
Tn	2.5% of 1998 gub. vote	2-104(27)(b)	23,819
Tx	1% of 1998 gub. vote	Elec. code 181.005	37,385
Ut	number stated in law	20-3-38	300
Vt	number stated in law	Title 17, §2402(b)	1,000
Va	number stated in law	24.1-159	10,000
Wa	number stated in law	29.24.030	200
W V	2% of 1996 pres. vote	3-5-23	12,730
Wis	number stated in law	Title 2, §8.20(4)	2,000
Wy	2% of 1998 US House vote	22-4-402(d)	3,485
DC	1% of no. of reg. voters, July 2000	1-1308(f)	3,320

"Requirement" shows the no. of signatures to get a new party on the Nov. 2000 ballot. Chart prepared Feb. 14, 2001. All procedures permit the party label on the ballot. If a state has more than one procedure to qualify a new party, the easier one is shown. "Reg." means "registrations".

2000 BALLOT ACCESS FOR A NEW PARTY PRESIDENTIAL CANDIDATE

(Showing What Would Have Been the Effect of Senate Bill 10.)

STATE	LEGAL REQUIREMENT	ELECTION CODE REFERENCE	REQUIRED
Ala	3% of 1998 gub. vote	17-8-2.1	39,536
Alas	1% of 1996 pres. vote	15.30.025	2,410
Az	3% of reg. independents as of 2000	16-341.E	9,598
Ark	number stated in law	7-8-302	1,000
(1) Cal	1% of 1998 vote cast	elec. code 5100(b) (reg.)	86,027
Colo	just pay $500	1-4-801(b)	0
Ct	number stated in law	9-453(d)	7,500
Del	.05% of Dec. 1999 registration	Title 15, §3001 (reg.)	241
Fla	file list of officers; hold nat. conv.	97.021(12)	0
Ga	1% of no. of reg. voters as of 1998	21-2-180	39,094
Hi	one-tenth of 1% of reg. voters, 1998	Tit. 2, 11-62	602
Id	2% of 1996 pres. vote	34-501(1)(c)(D)	9,835
Il	number stated in law	10 ILCS 5/10-3	25,000
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Io	number stated in law	Tit 4, §45.1	1,500
Kan	2% of 1998 gub. vote	25-302a	14,854
Ky	number stated in law	Title 10, §118.315(2)	5,000
La	just pay $500	Title 18, §465C	0
Me	number stated in law	Title 21, §494.5	4,000
Md	number stated in law	Art 33, 4-102(b)(2), 5-302(g)	10,000
Ma	number stated in law	Chap. 53, §6	10,000
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N Y	number stated in law	Chap. 17, §6-142	15,000
(2) **N C**	**2% of 1996 gub. vote**	**SENATE BILL 10 (2001)**	**51,324**
N D	number stated in law	16.1-11-30	7,000
Oh	1% of 1998 gub. vote	3517.01	33,543
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Ore	1.5% of 1998 pres. vote	Title 23, §249.732	16,257
Pa	2% of 1999 judge winner's vote	Title 25, §2911	21,739
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S D	1% of 1998 gub. vote	12-7-1	2,602
Tn	2.5% of 1998 gub. vote	2-104(27)(b)	23,819
Tx	1% of 1998 gub. vote	Elec. code 181.005	37,385
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Va	number stated in law	24.1-159	10,000
Wa	number stated in law	29.24.030	200
W V	2% of 1996 pres. vote	3-5-23	12,730
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"Requirement" shows the no. of signatures to get a new party on the Nov. 2000 ballot. Chart prepared Feb. 14, 2001. All procedures permit the party label on the ballot. If a state has more than one procedure to qualify a new party, the easier one is shown. "Reg." means "registrations". North Carolina entry shows a hypothetical requirement, as though SB 10 had been in force.

Table 5. Resident Population of the 50 States, the District of Columbia, and Puerto Rico:
April 1, 2000 (Census 2000) and April 1, 1990 (1990 Census)

Area	April 1, 2000	April 1, 1990	Numeric Change	Percent Change	State Rank Based on Numeric Change	State Rank Based on Percent Change
Alabama	4,447,100	4,040,587	406,513	10.1	25	25
Alaska	626,932	550,043	76,889	14.0	43	17
Arizona	5,130,632	3,665,228	1,465,404	40.0	5	2
Arkansas	2,673,400	2,350,725	322,675	13.7	29	19
California	33,871,648	29,760,021	4,111,627	13.8	1	18
Colorado	4,301,261	3,294,394	1,006,867	30.6	8	3
Connecticut	3,405,565	3,287,116	118,449	3.6	39	47
Delaware	783,600	666,168	117,432	17.6	40	13
District of Columbia	572,059	606,900	-34,841	-5.7	(NA)	(NA)
Florida	15,982,378	12,937,926	3,044,452	23.5	3	7
Georgia	8,186,453	6,478,216	1,708,237	26.4	4	6
Hawaii	1,211,537	1,108,229	103,308	9.3	41	31
Idaho	1,293,953	1,006,749	287,204	28.5	32	5
Illinois	12,419,293	11,430,602	988,691	8.6	9	34
Indiana	6,080,485	5,544,159	536,326	9.7	18	27
Iowa	2,926,324	2,776,755	149,569	5.4	36	43
Kansas	2,688,418	2,477,574	210,844	8.5	35	35
Kentucky	4,041,769	3,685,296	356,473	9.7	27	28
Louisiana	4,468,976	4,219,973	249,003	5.9	34	40
Maine	1,274,923	1,227,928	46,995	3.8	45	46
Maryland	5,296,486	4,781,468	515,018	10.8	20	23
Massachusetts	6,349,097	6,016,425	332,672	5.5	28	41
Michigan	9,938,444	9,295,297	643,147	6.9	15	39
Minnesota	4,919,479	4,375,099	544,380	12.4	17	21
Mississippi	2,844,658	2,573,216	271,442	10.5	33	24
Missouri	5,595,211	5,117,073	478,138	9.3	23	30
Montana	902,195	799,065	103,130	12.9	42	20
Nebraska	1,711,263	1,578,385	132,878	8.4	37	37
Nevada	1,998,257	1,201,833	796,424	66.3	13	1
New Hampshire	1,235,786	1,109,252	126,534	11.4	38	22
New Jersey	8,414,350	7,730,188	684,162	8.9	14	33
New Mexico	1,819,046	1,515,069	303,977	20.1	31	12
New York	18,976,457	17,990,455	986,002	5.5	10	42
North Carolina	8,049,313	6,628,637	1,420,676	21.4	6	9
North Dakota	642,200	638,800	3,400	0.5	50	50
Ohio	11,353,140	10,847,115	506,025	4.7	22	44
Oklahoma	3,450,654	3,145,585	305,069	9.7	30	26
Oregon	3,421,399	2,842,321	579,078	20.4	16	11
Pennsylvania	12,281,054	11,881,643	399,411	3.4	26	48
Rhode Island	1,048,319	1,003,464	44,855	4.5	47	45
South Carolina	4,012,012	3,486,703	525,309	15.1	19	15
South Dakota	754,844	696,004	58,840	8.5	44	36
Tennessee	5,689,283	4,877,185	812,098	16.7	12	14
Texas	20,851,820	16,986,510	3,865,310	22.8	2	8
Utah	2,233,169	1,722,850	510,319	29.6	21	4
Vermont	608,827	562,758	46,069	8.2	46	38
Virginia	7,078,515	6,187,358	891,157	14.4	11	16
Washington	5,894,121	4,866,692	1,027,429	21.1	7	10
West Virginia	1,808,344	1,793,477	14,867	0.8	49	49
Wisconsin	5,363,675	4,891,769	471,906	9.6	24	29
Wyoming	493,782	453,588	40,194	8.9	48	32
Total Resident Population[1]	281,421,906	248,709,873	32,712,033	13.2	(NA)	(NA)
Northeast	53,594,378	50,809,229	2,785,149	5.5	(NA)	(NA)
Midwest	64,392,776	59,668,632	4,724,144	7.9	(NA)	(NA)
South	100,236,820	85,445,930	14,790,890	17.3	(NA)	(NA)
West	63,197,932	52,786,082	10,411,850	19.7	(NA)	(NA)
Puerto Rico	3,808,610	3,522,037	286,573	8.1	(NA)	(NA)
Total Resident Population, including Puerto Rico	285,230,516	252,231,910	32,998,606	13.1	(NA)	(NA)

[1] Includes the population of the 50 states and the District of Columbia.

NA Not applicable.

NOTE: Consistent with the January 1999 U.S. Supreme Court ruling (Department of Commerce v. House of Representatives, 525 U.S. 316, 119 S. Ct. 765 (1999)), these resident population counts do not reflect the use of statistical sampling to correct for overcounting or undercounting.

Source: U.S. Department of Commerce, U.S. Census Bureau.

Internet Release date: December 28, 2000

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 11

Judiciary I Committee Substitute Adopted 4/9/01

PROPOSED HOUSE COMMITTEE SUBSTITUTE S11-CSRR-25 [v.3]

5/16/2001 9:58:16 AM

Short Title: Election Changes-Misc. (Public)

Sponsors:

Referred to:

January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR FILLING VACANCIES IN NOMINATION FOR THE NATIONAL TICKET AND FOR PRESIDENTIAL ELECTOR; TO EXPAND THE NOTICE REQUIREMENT FOR PRECINCT CHANGES; TO CLARIFY THE RIGHT OF MILITARY/OVERSEAS VOTERS TO REGISTER AND VOTE ON ELECTION DAY; TO REQUIRE COUNTY BOARDS OF ELECTIONS TO FOLLOW THE DIRECTION OF THE STATE BOARD OF ELECTIONS IN PRINTING ABSENTEE BALLOTS DURING AND AFTER THE PENDENCY OF APPEALS; TO REPEAL A COURT-DISAPPROVED PROVISION OF THE AD-LABELING LAW; TO TOLL THE VERIFICATION OF MUNICIPAL INCORPORATION PETITIONS DURING A PERIOD AROUND A PRIMARY OR ELECTION AND TO MAKE OTHER CHANGES TO THE INCORPORATION PETITION STATUTE; AND TO MAKE TECHNICAL CHANGES TO THE MANDATORY RECOUNT STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-114 reads as rewritten:

"**§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position	
President	Vacancy is to be filled by
Vice President	appointment of national

	executive committee of political party in which vacancy occurs
Presidential elector or alternate elector Any elective State office United States Senator	Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs
A district office, including: Member of the United States House of Representatives Judge of district court District Attorney State Senator in a multi-county senatorial district Member of State House of Representatives in a multi-county representative district	Appropriate district executive committee of political party in which vacancy occurs
State Senator in a single-county senatorial district Member of State House of Representatives in a single-county representative district Any elective county office	County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S. 163-139 shall apply. If ~~any person nominated as a candidate of~~ a vacancy occurs in a nomination of a political party

~~vacates such nomination~~ and ~~such~~ that vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

SECTION 2. G.S. 163-128 reads as rewritten:

"**§ 163-128. Election precincts and voting places established or altered.**

(a) Each county shall be divided into a convenient number of precincts for the purpose of voting. Upon a resolution adopted by the county board of elections and approved by the Secretary-Director of the State Board of Elections voters from a given precinct may be temporarily transferred, for the purpose of voting, to an adjacent precinct. Any such transfers shall be for the period of time equal only to the term of office of the county board of elections making such transfer. When such a resolution has been adopted by the county board of elections to assign voters from more than one precinct to the same precinct, then the county board of elections shall maintain separate registration and voting records, consistent with the procedure prescribed by the State Board of Elections, so as to properly identify the precinct in which such voters reside. The polling place for a precinct shall be located within the precinct or on a lot or tract adjoining the precinct.

Except as provided by Article 12A of this Chapter, the county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts or voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, discontinuing, or creating a precinct or voting place, the board shall give 45 days' notice thereof prior to the next primary or election. Notice shall be given by advertisement in a newspaper having general circulation in the county, by posting a copy of the resolution at the courthouse ~~door,~~ door and at the office of the county board of elections, and by mailing a copy of the resolution to the chairman of every political party 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. No later than 30 days prior to the primary or election, the county board of elections shall mail a notice of precinct change

to each registered voter who as a result of the change will be assigned to a different voting place.

(b) Each county board of elections shall prepare a map of the county on which the precinct boundaries are drawn or described, shall revise the map when boundaries are changed, and shall keep a copy of the current map on file and posted for public inspection at the office of the Board of Elections, and shall file a copy with the State Board of Elections."

SECTION 3. 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~~ in an occupation or status described in G.S. 163-245 who is absent in any of the capacities specified in that section on the day the registration records close for an election but who returns to that person's county of residence in North Carolina thereafter 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 twenty-fifth day prior to a primary or election, such person, if he appears in person, shall be entitled to register if otherwise qualified 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 4. G.S. 163-227.3 reads as rewritten:

"**§ 163-227.3. Date by which absentee ballots must be available for voting.**

(a) The State Board of Elections shall provide absentee ballots of the kinds to be furnished by the State Board, to the county boards of elections 50 days prior to the date on which the election shall be conducted unless there shall exist an appeal before the State Board or the courts not concluded, in which case the State Board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. In every instance the State Board shall exert every effort to provide absentee ballots, of the kinds to be furnished by the State Board, to each county by the date on which absentee voting is authorized to commence. In any case where absentee ballots are printed by the county board of elections, that county board shall follow the direction of the State Board in delaying absentee ballots while an appeal is pending and in providing them as soon as possible thereafter.

(b) Second Primary. -- The State Board of Elections shall provide absentee ballots, of the kinds to be furnished by the State Board, as quickly as possible after the ballot information has been determined."

SECTION 5. G.S. 163-278.39(a)(3) is repealed.

SECTION 6. G.S. 120-163 reads as rewritten:

"**§ 120-163. Petition.**

(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition

and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar ($100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session."

SECTION 7. G.S. 163-192.1 reads as rewritten:

"**§ 163-192.1. Mandatory recounts.**

(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

(1) Has received the number of votes necessary to be declared nominated for an office in a primary election with a majority; or

(2) Received the number of votes necessary to be declared nominated for an office in a second primary election

and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the State Board of Elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that in~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(b) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who has been declared elected to an office in a general election and the number of votes received by any other candidate in the race shall be not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, or where there is a tie vote between those candidates, the State Board of Elections shall, before certifying the result to the Secretary of State under G.S. 163-193, order a recount of the election if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate (or in the case of a tie, either candidate) shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(c) The recount shall be conducted under the supervision of the State Board of Elections.

(d) This section applies to the offices listed in G.S. 163-192."

SECTION 8. Section 6 of this act becomes effective with respect to any petitions submitted on or after December 1, 2001. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 11

Judiciary I Committee Substitute Adopted 4/9/01

Short Title: Election Changes-Misc. (Public)

Sponsors:

Referred to:

January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE MISCELLANEOUS CHANGES TO THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-114 reads as rewritten:

"**§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position	
President Vice President	Vacancy is to be filled by appointment of national executive committee of political party in which vacancy occurs
Presidential elector or alternate elector Any elective State office United States Senator	Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs
A district office, including: Member of the United States House of Representatives	

Judge of district court District Attorney State Senator in a multi-county senatorial district Member of State House of Representatives in a multi-county representative district	Appropriate district executive committee of political party in which vacancy occurs
State Senator in a single-county senatorial district Member of State House of Representatives in a single-county representative district Any elective county office	County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S. 163-139 shall apply. If ~~any person nominated as a candidate of~~ a vacancy occurs in a nomination of a political party ~~vacates such nomination~~ and ~~such~~ that vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives

district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

SECTION 2. G.S. 163-128 reads as rewritten:

"**§ 163-128. Election precincts and voting places established or altered.**

(a) Each county shall be divided into a convenient number of precincts for the purpose of voting. Upon a resolution adopted by the county board of elections and approved by the Secretary-Director of the State Board of Elections voters from a given precinct may be temporarily transferred, for the purpose of voting, to an adjacent precinct. Any such transfers shall be for the period of time equal only to the term of office of the county board of elections making such transfer. When such a resolution has been adopted by the county board of elections to assign voters from more than one precinct to the same precinct, then the county board of elections shall maintain separate registration and voting records, consistent with the procedure prescribed by the State Board of Elections, so as to properly identify the precinct in which such voters reside. The polling place for a precinct shall be located within the precinct or on a lot or tract adjoining the precinct.

Except as provided by Article 12A of this Chapter, the county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts or voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, discontinuing, or creating a precinct or voting place, the board shall give 45 days' notice thereof prior to the next primary or election. Notice shall be given by advertisement in a newspaper having general circulation in the county, by posting a copy of the resolution at the courthouse ~~door,~~ door and at the office of the county board of elections, and by mailing a copy of the resolution to the chairman of every political party 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. No later than 30 days prior to the primary or election, the county board of elections shall mail a notice of precinct change to each registered voter who as a result of the change will be assigned to a different voting place.

(b) Each county board of elections shall prepare a map of the county on which the precinct boundaries are drawn or described, shall revise the map when boundaries are changed, and shall keep a copy of the current map on file and posted for public inspection at the office of the Board of Elections, and shall file a copy with the State Board of Elections."

SECTION 3. 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 who is absent in any of the capacities specified in that section on the day the registration records close for an election but who returns to that person's county of residence in North Carolina thereafter 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 twenty-fifth day prior to a primary or election, such person, if he appears in person, shall be entitled to register if otherwise qualified 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 4. G.S. 163-227.3 reads as rewritten:

"**§ 163-227.3. Date by which absentee ballots must be available for voting.**

(a) The State Board of Elections shall provide absentee ballots of the kinds to be furnished by the State Board, to the county boards of elections 50 days prior to the date on which the election shall be conducted unless there shall exist an appeal before the State Board or the courts not concluded, in which case the State Board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. In every instance the State Board shall exert every effort to provide absentee ballots, of the kinds to be furnished by the State Board, to each county by the date on which absentee voting is authorized to commence. In any case where absentee ballots are printed by the county board of elections, that county board shall follow the direction of the State Board in delaying absentee ballots while an appeal is pending and in providing them as soon as possible thereafter.

(b) Second Primary. -- The State Board of Elections shall provide absentee ballots, of the kinds to be furnished by the State Board, as quickly as possible after the ballot information has been determined."

SECTION 5. G.S. 163-278.39(a)(3) is repealed.

SECTION 6. G.S. 120-163 reads as rewritten:

"**§ 120-163. Petition.**

(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the

estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar ($100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session."

SECTION 7. G.S. 163-192.1 reads as rewritten:

"**§ 163-192.1. Mandatory recounts.**

(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

(1) Has received the number of votes necessary to be declared nominated for an office in a primary election with a majority; or

(2) Received the number of votes necessary to be declared nominated for an office in a second primary election

and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the State Board of Elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that in~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of

Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(b) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who has been declared elected to an office in a general election and the number of votes received by any other candidate in the race shall be not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, or where there is a tie vote between those candidates, the State Board of Elections shall, before certifying the result to the Secretary of State under G.S. 163-193, order a recount of the election if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate (or in the case of a tie, either candidate) shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(c) The recount shall be conducted under the supervision of the State Board of Elections.

(d) This section applies to the offices listed in G.S. 163-192."

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

VISITOR REGISTRATION SHEET

Election Laws & Campaign Reform. 5/16/01
Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michael Crowell	Atty, Raleigh
Abby Gage	WNCA Asheville, NC
Lynne Toomey	CRC / WNCA - Rutherford County
Nelda Holder	WNCA / LWV Asheville-Buncombe Co.
Becki Gray	House Minority Leader's Office
Tom Coley	CWA
Deb Ross	ACLU
[illegible]	ACLU
Johnnie McLean	SBE
Jesse Rutledge	NC center for Voter Education
George Everett	Duke Energy
John McHugh	Gov Office
Bill Wilson	NCATL
Barbara Howe	Chair, Libertarian Party of NC

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Senator Wib Gulley**

OFFICE: **408**

NOTIFICATION DATE: **May 17, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, May 23, 2001**

TIME: **11:00 am**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

SB 10 – Ballot Access Changes – Senator Gulley

SB 11 - Election Law Changes – Senator Gulley

SB 17 – Election Rewrite/Ballots and Voting – Senator Gulley

SB 14 – Election Rewrite/Counting and Canvassing – Senator Gulley

We would like to have you attend this meeting.

Representative Alexander
Chairman

Ann Faust (Committee Assistant)

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

May 23, 2001

Room 1228
11:00 a.m.

The meeting was called to order by the Vice chair, Representative Mickey Michaux. Those present at the meeting were Representatives Alexander, Michaux, Arnold, Bonner, Church, Decker, Daughtry, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Rogers, Starnes, Weatherly, Weiss, Baddour, Cunningham, Dedmon and Hackney.

Representative Alexander recognized and welcomed the pages and thanked the Sergeants at Arms for their assistance.

Representative Alexander recognized Senator Gulley for presentation of SB 11 AN ACT TO PROVIDE FOR FILLING VACANCIES IN NOMINATION FOR THE NATIONAL TICKET AND FOR PRESIDENTIAL ELECTOR; TO EXPAND THE NOTICE REQUIREMENT FOR PRECINCT CHANGES; TO CLARIFY THE RIGHT OF MILITARY/OVERSEAS VOTERS TO REGISTER AND VOTE ON ELECTION DAY; TO REQUIRE COUNTY BOARDS OF ELECTIONS TO FOLLOW THE DIRECTION OF THE STATE BOARD OF ELECTIONS IN PRINTING ABSENTEE BALLOTS DURING AND AFTER THE PENDENCY OF APPEALS; TO REPEAL A COURT-DISAPPROVED PROVISION OF THE AD-LABELING LAW; TO TOLL THE VERIFICATION OF MUNICIPAL INCORPORATIONS PETITIONS DURING A PERIOD AROUND A PRIMARY OR ELECTION AND TO MAKE OTHER CHANGES TO THE INCORPORATION PETITION STATUTE; AND TO MAKE TECHNICAL CHANGES TO THE MANDATORY RECOUNT STATUTES. Representative Luebke put forth Amendment 1 deleting the word "AND" on page 1, line 13, and adding on page 1 line 14, the following: "AND TO REQUIRE PRIVACY FOR THE VOTER TO MARK THE BALLOT" and adding **SECTION 8**. The Amendment is attached hereto. Representative Luebke moved the adoption of the amendment. After discussion, the amendment was adopted.

Representative Michaux presiding. Representative Alexander put forth Amendment 2 deleting the word "AND" on page 1 line 14, and adding" "AND TO STOP THE DAILY CAMPAIGN FINANCE PENALTY AFTER THE POSTMARK DATE SO AS TO ELIMINATE EXCESS POSTAGE COSTS" and rewriting **SECTION 8(a).** Representative Alexander moved adoption of the amendment. After discussion, the amendment passed.

Representative Alexander resumed presiding, and Representative Michaux moved that the amendments be incorporated into Senate Bill 11 and the Committee Substitute be

given a favorable report and the original bill be given an unfavorable report. The motion passed.

Senator Gulley was then presented for discussion of SB 10 AN ACT TO MAKE CHANGES TO THE BALLOT ACCESS LAWS. Representative Michaux renewed his motion of May 16 that the amendment be incorporated into the Committee Substitute, the Committee Substitute by given a favorable report and the original bill be given an unfavorable report. Discussion followed regarding a revote on a previous tie vote. Mr. Cohen reported that a motion that did not pass because of a tie vote may come before the committee at another date. Representative Decker stated that until a motion for an unfavorable report passes, the bill is alive in committee. Representative Rayfield noted the difference in the makeup of the committee from May 16 to May 23. The motion for a favorable report passed by a 12 to 8 vote.

Senator Gulley was recognized to present SB 17 AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION. Senator Gulley noted that there has been no revision since 1967, and mechanisms for voting have changed considerably. Representative Decker posed the question of possibility of voter fraud with computer driven machines. Gary Bartlett, Director of the State Board of Elections stated that there had been no instance of such fraud reported in NC elections.

The meeting was adjourned at 10:53 am.

Representative Martha Alexander Chair

Mickey Michaux, Vice Chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 11

Judiciary I Committee Substitute Adopted 4/9/01

Short Title: Election Changes-Misc. (Public)

Sponsors:

Referred to:

January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE MISCELLANEOUS CHANGES TO THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-114 reads as rewritten:

"**§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position	
President Vice President	Vacancy is to be filled by appointment of national executive committee of political party in which vacancy occurs
Presidential elector or alternate elector Any elective State office United States Senator	Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs
A district office, including: Member of the United States House of Representatives	

Judge of district court District Attorney State Senator in a multi-county senatorial district Member of State House of Representatives in a multi-county representative district	Appropriate district executive committee of political party in which vacancy occurs
State Senator in a single-county senatorial district Member of State House of Representatives in a single-county representative district Any elective county office	County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S. 163-139 shall apply. If ~~any person nominated as a candidate of~~ a vacancy occurs in a nomination of a political party ~~vacates such nomination~~ and ~~such~~ that vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives

district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

SECTION 2. G.S. 163-128 reads as rewritten:

"**§ 163-128. Election precincts and voting places established or altered.**

(a) Each county shall be divided into a convenient number of precincts for the purpose of voting. Upon a resolution adopted by the county board of elections and approved by the Secretary-Director of the State Board of Elections voters from a given precinct may be temporarily transferred, for the purpose of voting, to an adjacent precinct. Any such transfers shall be for the period of time equal only to the term of office of the county board of elections making such transfer. When such a resolution has been adopted by the county board of elections to assign voters from more than one precinct to the same precinct, then the county board of elections shall maintain separate registration and voting records, consistent with the procedure prescribed by the State Board of Elections, so as to properly identify the precinct in which such voters reside. The polling place for a precinct shall be located within the precinct or on a lot or tract adjoining the precinct.

Except as provided by Article 12A of this Chapter, the county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts or voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, discontinuing, or creating a precinct or voting place, the board shall give 45 days' notice thereof prior to the next primary or election. Notice shall be given by advertisement in a newspaper having general circulation in the county, by posting a copy of the resolution at the courthouse ~~door,~~ door and at the office of the county board of elections, and by mailing a copy of the resolution to the chairman of every political party 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. No later than 30 days prior to the primary or election, the county board of elections shall mail a notice of precinct change to each registered voter who as a result of the change will be assigned to a different voting place.

(b) Each county board of elections shall prepare a map of the county on which the precinct boundaries are drawn or described, shall revise the map when boundaries are changed, and shall keep a copy of the current map on file and posted for public inspection at the office of the Board of Elections, and shall file a copy with the State Board of Elections."

SECTION 3. 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 who is absent in any of the capacities specified in that section on the day the registration records close for an election but who returns to that person's county of residence in North Carolina thereafter 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 twenty-fifth day prior to a primary or election, such person, if he appears in person, shall be entitled to register if otherwise qualified 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 4. G.S. 163-227.3 reads as rewritten:

"**§ 163-227.3. Date by which absentee ballots must be available for voting.**

(a) The State Board of Elections shall provide absentee ballots of the kinds to be furnished by the State Board, to the county boards of elections 50 days prior to the date on which the election shall be conducted unless there shall exist an appeal before the State Board or the courts not concluded, in which case the State Board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. In every instance the State Board shall exert every effort to provide absentee ballots, of the kinds to be furnished by the State Board, to each county by the date on which absentee voting is authorized to commence. In any case where absentee ballots are printed by the county board of elections, that county board shall follow the direction of the State Board in delaying absentee ballots while an appeal is pending and in providing them as soon as possible thereafter.

(b) Second Primary. -- The State Board of Elections shall provide absentee ballots, of the kinds to be furnished by the State Board, as quickly as possible after the ballot information has been determined."

SECTION 5. G.S. 163-278.39(a)(3) is repealed.

SECTION 6. G.S. 120-163 reads as rewritten:

"**§ 120-163. Petition.**

(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the

estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar ($100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session."

SECTION 7. G.S. 163-192.1 reads as rewritten:

"**§ 163-192.1. Mandatory recounts.**

(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

(1) Has received the number of votes necessary to be declared nominated for an office in a primary election with a majority; or

(2) Received the number of votes necessary to be declared nominated for an office in a second primary election

and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the State Board of Elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that in~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of

Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(b) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who has been declared elected to an office in a general election and the number of votes received by any other candidate in the race shall be not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, or where there is a tie vote between those candidates, the State Board of Elections shall, before certifying the result to the Secretary of State under G.S. 163-193, order a recount of the election if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate (or in the case of a tie, either candidate) shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(c) The recount shall be conducted under the supervision of the State Board of Elections.

(d) This section applies to the offices listed in G.S. 163-192."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 11

Judiciary I Committee Substitute Adopted 4/9/01

PROPOSED HOUSE COMMITTEE SUBSTITUTE S11-CSRR-25 [v.3]

5/16/2001 9:58:16 AM

Short Title: Election Changes-Misc. (Public)

Sponsors:

Referred to:

January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR FILLING VACANCIES IN NOMINATION FOR THE NATIONAL TICKET AND FOR PRESIDENTIAL ELECTOR; TO EXPAND THE NOTICE REQUIREMENT FOR PRECINCT CHANGES; TO CLARIFY THE RIGHT OF MILITARY/OVERSEAS VOTERS TO REGISTER AND VOTE ON ELECTION DAY; TO REQUIRE COUNTY BOARDS OF ELECTIONS TO FOLLOW THE DIRECTION OF THE STATE BOARD OF ELECTIONS IN PRINTING ABSENTEE BALLOTS DURING AND AFTER THE PENDENCY OF APPEALS; TO REPEAL A COURT-DISAPPROVED PROVISION OF THE AD-LABELING LAW; TO TOLL THE VERIFICATION OF MUNICIPAL INCORPORATION PETITIONS DURING A PERIOD AROUND A PRIMARY OR ELECTION AND TO MAKE OTHER CHANGES TO THE INCORPORATION PETITION STATUTE; AND TO MAKE TECHNICAL CHANGES TO THE MANDATORY RECOUNT STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-114 reads as rewritten:

"**§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position	
President	Vacancy is to be filled by
Vice President	appointment of national

	executive committee of political party in which vacancy occurs
Presidential elector or alternate elector	
Any elective State office United States Senator	Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs
A district office, including: Member of the United States House of Representatives Judge of district court District Attorney State Senator in a multi-county senatorial district Member of State House of Representatives in a multi-county representative district	Appropriate district executive committee of political party in which vacancy occurs
State Senator in a single-county senatorial district Member of State House of Representatives in a single-county representative district Any elective county office	County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S. 163-139 shall apply. If ~~any person nominated as a candidate of~~ a vacancy occurs in a nomination of a political party

~~vacates such nomination~~ and ~~such~~ that vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

SECTION 2. G.S. 163-128 reads as rewritten:

"**§ 163-128. Election precincts and voting places established or altered.**

(a) Each county shall be divided into a convenient number of precincts for the purpose of voting. Upon a resolution adopted by the county board of elections and approved by the Secretary-Director of the State Board of Elections voters from a given precinct may be temporarily transferred, for the purpose of voting, to an adjacent precinct. Any such transfers shall be for the period of time equal only to the term of office of the county board of elections making such transfer. When such a resolution has been adopted by the county board of elections to assign voters from more than one precinct to the same precinct, then the county board of elections shall maintain separate registration and voting records, consistent with the procedure prescribed by the State Board of Elections, so as to properly identify the precinct in which such voters reside. The polling place for a precinct shall be located within the precinct or on a lot or tract adjoining the precinct.

Except as provided by Article 12A of this Chapter, the county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts or voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, discontinuing, or creating a precinct or voting place, the board shall give 45 days' notice thereof prior to the next primary or election. Notice shall be given by advertisement in a newspaper having general circulation in the county, by posting a copy of the resolution at the courthouse ~~door,~~ door and at the office of the county board of elections, and by mailing a copy of the resolution to the chairman of every political party 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. No later than 30 days prior to the primary or election, the county board of elections shall mail a notice of precinct change

to each registered voter who as a result of the change will be assigned to a different voting place.

(b) Each county board of elections shall prepare a map of the county on which the precinct boundaries are drawn or described, shall revise the map when boundaries are changed, and shall keep a copy of the current map on file and posted for public inspection at the office of the Board of Elections, and shall file a copy with the State Board of Elections."

SECTION 3. 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~~ in an occupation or status described in G.S. 163-245 who is absent in any of the capacities specified in that section on the day the registration records close for an election but who returns to that person's county of residence in North Carolina thereafter 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 twenty-fifth day prior to a primary or election, such person, if he appears in person, shall be entitled to register if otherwise qualified 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 4. G.S. 163-227.3 reads as rewritten:

"**§ 163-227.3. Date by which absentee ballots must be available for voting.**

(a) The State Board of Elections shall provide absentee ballots of the kinds to be furnished by the State Board, to the county boards of elections 50 days prior to the date on which the election shall be conducted unless there shall exist an appeal before the State Board or the courts not concluded, in which case the State Board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. In every instance the State Board shall exert every effort to provide absentee ballots, of the kinds to be furnished by the State Board, to each county by the date on which absentee voting is authorized to commence. In any case where absentee ballots are printed by the county board of elections, that county board shall follow the direction of the State Board in delaying absentee ballots while an appeal is pending and in providing them as soon as possible thereafter.

(b) Second Primary. -- The State Board of Elections shall provide absentee ballots, of the kinds to be furnished by the State Board, as quickly as possible after the ballot information has been determined."

SECTION 5. G.S. 163-278.39(a)(3) is repealed.

SECTION 6. G.S. 120-163 reads as rewritten:

"**§ 120-163. Petition.**

(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition

and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar ($100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session."

SECTION 7. G.S. 163-192.1 reads as rewritten:

"**§ 163-192.1. Mandatory recounts.**

(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

(1) Has received the number of votes necessary to be declared nominated for an office in a primary election with a majority; or

(2) Received the number of votes necessary to be declared nominated for an office in a second primary election

and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the State Board of Elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that in~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(b) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who has been declared elected to an office in a general election and the number of votes received by any other candidate in the race shall be not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, or where there is a tie vote between those candidates, the State Board of Elections shall, before certifying the result to the Secretary of State under G.S. 163-193, order a recount of the election if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate (or in the case of a tie, either candidate) shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(c) The recount shall be conducted under the supervision of the State Board of Elections.

(d) This section applies to the offices listed in G.S. 163-192."

SECTION 8. Section 6 of this act becomes effective with respect to any petitions submitted on or after December 1, 2001. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 11

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S11-ARR-48 [v.3]

Date _____,2001

Comm. Sub. [YES]
Amends Title [YES]
S11-CSRR-25 [v.3]

Representative

moves to amend the bill on page 1, line 13,
by deleting the word "AND"; and

on page 1, line 14,
by inserting before the period the following:
"; AND TO STOP THE DAILY CAMPAIGN FINANCE PENALTY AFTER THE POSTMARK DATE SO AS TO ELIMINATE EXCESS POSTAGE COSTS"; and

on page 6, line 41,
by inserting after that line the following:

SECTION 8.(a) G.S. 163-278.34(a) reads as rewritten:

"(a) Except as provided in G.S. 163-278.9, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee,

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 11

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S11-ARR-48 [v.3]

referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

(1) Two hundred fifty dollars ($250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars ($10,000); and

(2) Fifty dollars ($50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars ($500.00).

If the form is filed by mail, no civil late penalty shall be assessed for any day after the date of postmark for any day when the State Board of Elections office is open. The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, ~~by registered or certified mail, return receipt requested,~~ by mail, of the penalties under this section."; and

by renumbering any subsequent section of the bill accordingly.

SIGNED Martha B Alexander
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE BILL 10:
Ballot Access Changes.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Senator Gulley.
Date:	May 9, 2001	**Summary by:**	William R. Gilkeson Staff Attorney
Version:	Third Edition		

SUMMARY: ***Senate Bill 10 would make several changes to the ballot access laws, conforming statutes to court decisions and, further, reducing some of the barriers to ballot access for new parties and unaffiliated candidates. The bill would:***

1. ***Set later deadlines for filing new party and unaffiliated candidate petitions; as consequence, set later deadline for new parties to nominate candidates.***
2. ***Limit the candidates of a new party to those who are registered as voters with that party and those who were not candidates for the same office in another party's primary. Also change the pledge for primary candidates to make it consistent with the "sore loser" provisions.***
3. ***Change the required wording on a new-party petition.***
4. ***Change the signature requirement for unaffiliated candidates from a percentage of registered voters to the same percentage of the vote in the latest Governor's race. (Those percentages are left at 2% statewide and 4% district and county.)***
5. ***Allow voters of an expired party to remain affiliated with that party.***

CURRENT LAW:

DEADLINES. New parties have a deadline of June 1 to submit petitions to the State Board of Elections to be on the statewide ballot. But, since those petitions must be submitted 2 weeks ahead to county boards of elections for verification of signatures, the real deadline is mid-May. The last Friday in July is the State Board petition deadline for unaffiliated candidates. But again, the 2-week verification lead-time means the real deadline for unaffiliated statewide candidates is mid-June. New parties must nominate their candidates (in a convention) by July 1.

NEW PARTY CANDIDATES AND THE "SORE LOSER" PROVISION. Current statute says new parties may nominate candidates only for statewide and congressional offices, even though a court decision more than 10 years ago made that limitation unenforceable. In practice, new parties are allowed to nominate candidates at all levels. Unlike the major parties who nominate in a primary, new parties are not restricted to nominating candidates who are registered with the party. Unlike unaffiliated candidates and write-in candidates, new party nominees may be persons who were candidates in another party's primary for the same office. The so-called "sore loser" provisions that are parallel in the unaffiliated and write-in statutes: Persons who were candidates for the same office in a party primary that year are not eligible. To file as a candidate in a party primary, however, a candidate must take a pledge not to run for ***any*** office in the general election ***as a write-in***.

PETITION WORDING. The statute prescribes the wording of new party petitions: It says the undersigned "intend to organize" the party. It also requires a home address of the State party Chair.

NUMBER OF SIGNATURES. New parties must collect petition signatures equal to 2% of the number of votes cast in the latest race for Governor. Two percent of the votes cast in the 2000 Governor's race equals 58,842. Unaffiliated candidates must collect petition signatures equal to a percentage of the total registered voters in the electorate: 2% statewide and 4% for district and county offices. Two percent of all registered voters in the State amounts to more than 103,000 signatures.

VOTER AFFILIATION WITH EXPIRED PARTY. If a party's nominee fails to get at least 10% of the vote in either the Governor's race or the Presidential race, that party loses the right to put its candidates on the ballot next time. To regain that right, it must repeat the process of collecting petition signatures. When the party loses its ballot status, voters can no longer be officially affiliated with that party on the voter registration records. The county board of elections must notify that voter that, unless the voter indicates a desire to become affiliated with a remaining party, the voter's party status will be listed as "Unaffiliated."

SENATE BILL 10: SB 10 would make the following changes:

1. Deadlines. Move the State Board deadlines for both new party and unaffiliated candidate petitions to the last Friday in July. *Sections 1 and 5 of the bill.* Petitions would have to be in to county boards by mid-July. New parties would have to nominate candidates by the 90th day before the general election. *Section 4.* Presidential candidates could be nominated up till 2 days after a national nominating convention, but no later than August 20. *Section 6.*

2. New Party Candidates and "Sore Loser" Provision. The bill puts restrictions on who can be a new party nominee. The bill also provides that a new party nominee must be a registered voter with that new party. The unenforceable prohibition on nominating local candidates would be removed. It says no candidate who was a candidate in the primary of another party for the same office may appear on the ballot as a new party candidate. This application of the "sore loser" provision makes new party candidate provisions consistent with those for unaffiliated and write-in candidates. *Section 4.* The bill also changes the pledge a party primary candidate must take to say that candidate will not run for the same office as a new party, unaffiliated, or write-in candidate. *Section 8.*

3. Petition Wording. Change the prescribed petition wording to say that the undersigned wish the party to appear on the ballot. It would require a mailing address for the party's State headquarters, rather than the Chair's home address. *Section 1.*

4. Number of Signatures. Use the number of voters in the last Governor's race, rather than the number of registered voters, as the benchmark for the percentage to determine the required signatures for an unaffiliated candidate. The effect would be a drop of 43% in the number of signatures required for a statewide unaffiliated candidacy from about 103,000 to 58,842. *Section 5.* Although the bill thus changes the benchmark, it would leave the percentage at 2%.

5. Voter Affiliation with Expired Party. Allow voter's affiliated with a party to keep their affiliation with that party even after the party loses its ballot status. The board of elections would notify them that their party has lost its ballot status and that they will not be able to vote in a primary if they remain affiliated with that party, but that they may remain affiliated with that party if they wish. *Sections 2 and 3.*

BACKGROUND: The bill was recommended by the Election Laws Revision Commission. The Commission's report, and the bill as introduced, dropped the petition requirement of 2% for unaffiliated statewide candidates to 1.5%. As amended in the Senate, the bill would leave the percentage at 2%. An amendment in the Senate offered by Sen. Patrick Ballantine added the "sore loser" provision and the party registration requirement regarding new party nominees.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 10
Judiciary I Committee Substitute Adopted 3/14/01
Judiciary I Committee Substitute No. 2 Adopted 4/2/01

Short Title: Ballot Access Changes. (Public)

Sponsors:

Referred to:

January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE BALLOT ACCESS LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-96 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~~ last Friday in July 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~~ _____, WITH NORTH CAROLINA HEADQUARTERS AT _____ AND ~~WHO CAN BE REACHED~~ REACHABLE BY TELEPHONE AT _____. THE SIGNERS OF THIS PETITION ~~INTEND TO ORGANIZE A NEW POLITICAL PARTY TO PARTICIPATE~~ REQUEST THAT THE CANDIDATES OF THAT PARTY BE LISTED ON THE BALLOT IN THE ~~NEXT SUCCEEDING GENERAL ELECTION.~~ ELECTION CYCLE SPANNING THE YEARS OF _____."

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.~~

(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 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.

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

SECTION 2. G.S. 163-97 reads as rewritten:

"**§ 163-97. Termination of ballot status as political party.**

When any political party fails to poll 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 at a general election, it shall cease to be included on the ballot as a political ~~party within the meaning of the primary and general election laws and all other provisions of this Chapter.~~ party."

SECTION 3. G.S. 163-97.1 reads as rewritten:

"**§ 163-97.1. Voters affiliated with ~~expired~~ political ~~party.~~ party after loss of ballot status.**

~~The State Board of Elections shall be authorized to promulgate appropriate procedures to order the county boards of elections to change the registration affiliation of all voters who are recorded on the voter registration books as being affiliated with a political party which has lost its legal status as provided in G.S. 163-97. The State Board of Elections shall not implement the authority contained in this section earlier than 90 days following the certification of the election in which the political party failed to continue its legal status as provided in G.S. 163-97. All voters affiliated with such expired political party shall be changed to "unaffiliated"designation by the State Board's order and all such registrants shall be entitled to declare a political party affiliation as provided in G.S. 163-74(b).~~ Any voter registered with a political party shall be allowed to retain that affiliation even if that party loses its ballot status under the provisions of G.S. 163-97. Within 90 days after a party loses its ballot status, the county board of elections shall notify each voter affiliated with that party of the legal consequences of continued affiliation with the party, including potential inability to vote in any party primary."

SECTION 4. G.S. 163-98 reads as rewritten:

"**§ 163-98. General election participation by new political party.**

In the first general election following the date on which a new political party qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its candidates for ~~State, congressional, and national~~ offices printed on the official ~~ballots, but it shall not be entitled to have the names of candidates for other offices printed on State, district, or county ballots at that election.~~ ballots.

For the first general election following the date on which it qualifies under G.S. 163-96, a new political party shall select its candidates by party convention. Following adjournment of the nominating convention, but not later than the ~~first day of July~~ 90th day prior to the general election, the president of the convention shall certify to the State Board of Elections the names of persons chosen in the convention as the new party's candidates ~~for State, congressional, and national offices~~ in the ensuing general election. The State Board of Elections shall ~~print~~ print, or direct the appropriate board of elections to print, the names thus certified on the appropriate ballots as the nominees of the new party. Only individuals who are affiliated as registered voters with the new party at the time of their certification shall be eligible to have their names printed on the

ballot as nominees of that new party. No individual whose name appeared on the ballot in a primary election of another party preliminary to the general election shall be eligible to have his or her name printed on the ballot as nominee for the same office by a new party."

SECTION 5. G.S. 163-122 reads as rewritten:

"**§ 163-122. Unaffiliated candidates nominated by petition.**

(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,~~ President, Vice President, Presidential elector, or another office elected statewide, 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~~ July 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.~~ 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. 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. 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.

(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~~ July 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.~~ voters who voted in the district in the most recent general election for Governor. 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~~ July 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,~~ voters who voted in the county in the most recent general election for Governor, 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.~~ who voted in the district in the most recent general election for Governor. 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 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.

(b) Form of Petition. – Petitions requesting an unaffiliated candidate to be placed on the general election ballot shall contain on the heading of each page of the petition in bold print or in all capital letters the words:

"THE UNDERSIGNED REGISTERED VOTERS IN _____ COUNTY HEREBY PETITION ON BEHALF OF _____ AS AN UNAFFILIATED CANDIDATE IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT ~~SUBJECT~~ THIS CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT UPON COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163-122."

(c) This section does not apply to elections under Article 25 of this Chapter."

SECTION 6. G.S. 163-209 reads as rewritten:

"**§ 163-209. Names of presidential electors not printed on ballots.**

The names of candidates for electors of President and Vice President nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. ~~In the case of the unaffiliated candidate, the~~ The names of candidates for electors and of candidates for President and Vice President ~~must~~ shall be filed with the Secretary of State no later than 12:00 noon on the ~~first Friday in August.~~ 90th day before the general election, or two days after that political party's national convention, whichever is later, but in no event later than August 20. In place of ~~their~~ the electors' names, in accordance with the provisions of G.S. 163-140 there shall be printed on the ballot the names of the candidates for President and Vice-President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 ~~shall, no later than 12:00 noon on the first Friday in August,~~ shall file with the State Board of Elections the name of a candidate for ~~Vice President, whose~~ Vice President no later than 12:00 noon on the 90th day before the general election, or two days after that political party's national convention, whichever is later, but in no event later than August 20. That vice presidential candidate's name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State."

SECTION 7. G.S. 163-123 reads as rewritten:

"**§ 163-123. Declaration of intent and petitions for write-in candidates in partisan elections.**

(a) Procedure for Qualifying as a Write-In Candidate. – Any qualified voter who seeks to have write-in votes for him counted in a general election shall file a declaration of intent in accordance with subsection (b) of this section and petition(s) in accordance with subsection (c) of this section.

(b) Declaration of Intent. – The applicant for write-in candidacy shall file his declaration of intent at the same time and with the same board of elections as his petition, as set out in subsection (c) of this section. The declaration shall contain:

(1) Applicant's name,
(2) Applicant's residential address,
(3) Declaration of applicant's intent to be a write-in candidate,
(4) Title of the office sought,
(5) Date of the election,
(6) Date of the declaration,
(7) Applicant's signature.

(c) Petitions for Write-in Candidacy. – An applicant for write-in candidacy shall:

(1) If the office is ~~a statewide office,~~ President, Vice President, Presidential elector, or another office elected statewide, 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. 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. 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.

(2) If the office is a district office comprising all or part 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 noon on the 90th day before the general election and must be signed by 250 qualified voters. Before being 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 who are eligible to vote for that office. The chairman of the county board shall examine the names on the petition and the procedure for certification shall be the same as specified in subdivision (1).

(3) If the office is a county office, or is a school administrative unit office elected on a partisan basis, or is a legislative district consisting of a single county or a portion of a county, file written petitions with the county board of elections supporting his candidacy for a specified office. A petition presented to a county board of elections shall contain only names of voters registered in that county. These petitions must be filed on or before noon on the 90th day before the general election and must be signed by 100 qualified voters who are eligible to vote for the office, unless fewer than 5,000 persons are eligible to vote for the office as shown by the most recent records of the appropriate board of elections. If fewer than 5,000 persons are eligible to vote for the office, an applicant's petition must be signed by not less than one percent (1%) of those registered voters. Before being filed with the county board of elections, each petition shall be presented to the county board of elections for examination. The chairman of the county board of elections shall examine the names on the petition and the procedure for certification shall be the same as specified in subdivision (1).

(d) Form of Petition. – Petitions requesting the qualification of a write-in candidate in a general election shall contain on the heading of each page of the petition in bold print or in capital letters the words:

"THE UNDERSIGNED REGISTERED VOTERS IN _____ COUNTY HEREBY PETITION ON BEHALF OF _____ AS A WRITE-IN CANDIDATE IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT CANDIDATE BE PLACED ON THE LIST OF QUALIFIED WRITE-IN CANDIDATES WHOSE VOTES ARE TO BE COUNTED AND RECORDED IN ACCORDANCE WITH G.S. 163-123."

(e) Defeated Primary Candidate. – No person whose name appeared on the ballot in a primary election preliminary to the general election shall be eligible to have votes counted for him as a write-in candidate for the same office in that year.

(f) Counting and Recording of Votes. – If a qualified voter has complied with the provisions of subsections (a), (b), and (c) and is not excluded by subsection (e), the board of elections with which petition has been filed shall count votes for him according to the procedures set out in G.S. 163-170(5), and the appropriate board of elections shall record those votes on the official abstract. Write-in votes for names other than those of qualified write-in candidates shall not be counted for any purpose and shall not be recorded on the abstract.

(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan elections."

SECTION 8. G.S. 163-106(a) reads as rewritten:

"(a) Notice and Pledge. – No one shall be voted for in a primary election unless he shall have filed a notice of candidacy with the appropriate board of elections, State or county, as required by this section. To this end every candidate for selection as the nominee of a political party shall file with and place in the possession of the board of elections specified in subsection (c) of this section, a notice and pledge in the following form:

"Date_____

I hereby file notice as a candidate for nomination as_____in the_____party primary election to be held on_____,_____.I affiliate with the_____party, (and I certify that I am now registered on the registration records of the precinct in which I reside as an affiliate of the_____party).

I pledge that if I am defeated in the primary, I will not file or run for ~~any office as a write-in candidate in the next general election.~~ the same office in the general election for which this filing applies as the candidate of another party, as an unaffiliated candidate, or as a write-in candidate.

Signed_____

Name of candidate

Witness:

_____

_____

(Title of witness)"

Each candidate shall sign his notice of candidacy in the presence of the chairman or secretary of the board of elections, State or county, with which he files. In the alternative, a candidate may have his signature on the notice of candidacy acknowledged and certified to by an officer authorized to take acknowledgments and administer oaths, in which case the candidate may mail his notice of candidacy to the appropriate board of elections.

In signing his notice of candidacy the candidate shall use only his legal name and, in his discretion, any nickname by which he is commonly known. A candidate may also, in lieu of his legal first name and legal middle initial or middle name (if any) sign his nickname, provided that he appends to the notice of candidacy an affidavit that he has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way his name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

A notice of candidacy signed by an agent or any person other than the candidate himself shall be invalid.

Prior to the date on which candidates may commence filing, the State Board of Elections shall print and furnish, at State expense, to each county board of elections a

sufficient number of the notice of candidacy forms prescribed by this subsection for use by candidates required to file with county boards of elections."

SECTION 9. This act becomes effective with respect to elections held on and after January 1, 2002.

SENATE BILL 17: Election Rewrite -- 1.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Senator Gulley
Date:	May 23, 2001	**Summary by:**	William R. Gilkeson and Erika Churchill
Version:	S17-CSRR-30(v.7)		Staff Attorneys

SUMMARY: The Proposed House Committee Substitute for Senate Bill 17 would rewrite the sections of the Election Law dealing with setting up the official ballot, acquiring voting equipment, and conducting the election at the voting place.

CURRENT LAW: Chapter 163 of the General Statutes, the Election Law, was last comprehensively rewritten in 1967, in response to the Election Laws Revision Commission appointed in 1965. The statute contains Article 13, which prescribes in detail the content of paper ballots to be counted by hand. It also specifies in detail the furnishings and procedures for a voting place using hand-counted paper ballots. By 2001, only one county (Tyrrell) used hand-counted paper ballots as their primary voting method. For ballot and election-day procedures of the other 99 counties that use some kind of mechanical or electronic voting system, there is Article 14, which gives the State Board of Elections broad rulemaking authority to establish procedures.

Article 14 also gives the State Board of Elections the authority to approve the types of voting systems that may be purchased by county or municipal boards of elections.

SENATE BILL 17: Senate Bill 17 repeals both Articles 13 and 14 and merges their provisions into one new Article, 13A. The philosophy of the draft is to remove the disparate treatment of hand-counted paper ballots versus all other voting methods. Instead, the new statute would set general principles that are technologically neutral. It would direct the State Board to promulgate rules for different voting methods, guided by the general principles.

The new Article would be titled "Voting." It would be divided into three Parts: "Definitions," "Ballots and Voting Systems," and "Procedures at the Voting Place."

The Definitions Part defines several key terms that are used throughout the new Article 13A, as well as the new Article 15A that would be created by Senate Bill 17I. "Official ballot" is a ballot that has been certified by the State Board and produced by the county board. Only an official ballot may be voted and counted. "Ballot item" is the segment of the ballot where the voter chooses a referendum proposal or candidate or set of candidates for the same office or set of offices. "Provisional official ballot" is a ballot voted and then placed in an envelope that contains an affidavit signed by the voter as to that voter's identity and qualifications. "Voting system," defined in current law as any voting method other than hand-counted paper ballots, is broadened to include paper ballots are any system of voting. *G.S. 163-165.*

The Ballots and Voting Systems Part gives the State Board of Elections authority to certify the official ballot statewide and in every county. *G.S. 163-165.3.*The State Board also has rulemaking authority based on technologically neutral guidelines. The statute makes certain policy choices, some of which clarify current law and some of which change it:

- County Financial Responsibility for Producing the Ballot. Currently, 99 counties must foot the bill for producing ballots. In the one county that relies on hand-counted paper ballots, the State pays for the State paper ballots and the county pays for the rest. The bill standardizes the law by making the county responsible for producing all ballots. *G.S. 163-165.3*

- Gender Neutrality of Candidates' Names on Ballots. Currently, the candidate's name appears on the ballot the way the candidate listed it on the notice of candidacy. Titles are not permitted, except that married women may use "Mrs." and unmarried women may use "Miss." ***The rewrite says that titles indicating rank, status, or position may not be used, but allows the use of the terms Mr., Mrs. Miss, and Ms.*** *G.S. 163-165.5.)*

- Straight Ticket for All But the Presidency. Currently, the straight party ticket is restricted in a number of ways for hand-counted paper ballots, but less clearly for the 99 machine/electronic counties. ***The rewrite follows the prevailing practice of the 99 counties, which is to count the straight ticket for all but the presidential race.*** *G.S. 163-165.6.*

- Order of Names on Primary Ballot. Current law requires the rotation of names on primary ballots in the one hand-counted paper county, but does not require it in the 99 other counties. A lawsuit settlement has resulted in a compromise method. ***The rewrite says that in all counties, names in a primary ballot item on that county's ballots shall be determined by random selection.*** *G.S. 163-165.6.*

The provisions on acquisition of voting systems make the following changes:

- State Board Disapproval of Types, Makes, and Models. Current law gives the State Board the authority to approve types of voting systems used in elections, whether municipal or county. ***The rewrite would expand that authority to approval of makes and models of voting systems. It would also expand it to allow the State Board to disapprove a type, make, or model of voting system already in use in a county. It would give the State Board authority to set a process for discontinuance of a disapproved voting system in a county.*** *G.S. 163-165.7.* ***The rewrite would also provide a specific procedure to follow when counties are purchasing voting equipment, while not mentioning such a procedure for the purchase of voting equipment by municipalities.***

- No County Authority to Acquire a Disapproved Optical Scan System. Current law allows the county board of commissioners to approve a disapproved optical scan voting system, as long as the county board of elections signs off. ***The rewrite repeals this exception to the general rule.*** *G.S. 163-165.8.*

The Procedures at the Voting Place Part give the State Board greater flexibility to set up procedures at the polls for different voting systems and to allow county boards to assign duties at the delegate duties to different precinct officials. *G.S. 163-166.6.* In addition, the Part makes these changes:

- More Flexible Buffer Zone. Current law mandates a 50-foot buffer zone around the voting place in which no one may "loiter about, congregate, distribute campaign material, or do any electioneering." ***On the theory that the rigid 50-foot limit may, given the arrangement of some voting places, preclude any zone for***

electioneering, the rewrite allows the county board flexibility in designing the buffer zone, provided that it must be at least 25 feet from the voting place. It removes the candidate's apparent right under current law to enter the buffer zone. The rewrite also removes the language, constitutionally vulnerable according to the American Civil Liberties Union, about "loitering about and congregating." *G.S. 163-166.4.*

- Extra Hour. Current law says the polls close at 7:30, but the county board may keep them open an extra hour where voting machines are used. ***The rewrite says the county board may keep the polls open an extra hour anywhere in extraordinary circumstances.*** *G.S. 163-166.* ***(This provision is somewhat inconsistent with HB 1192, which passed the House last month, and would allow county boards of elections, upon a mechanical failure and with State Board approval, to keep polls open till 9:30.)***

BACKGROUND: The bill was recommended by the Election Laws Revision Commission as part of its project to rewrite Chapter 163 of the General Statutes. The bill was the product of a subcommittee of that Commission. The subcommittee also produced a companion bill, introduced this year as Senate Bill 14. The Senate made only a couple of substantive changes to, reflected in the title of the PCS. The Proposed House Committee Substitute makes conforming changes to other parts of current law and makes conforming changes to the rewrite itself.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 17
Judiciary I Committee Substitute Adopted 4/9/01

Short Title: Election Rewrite-1. (Public)

Sponsors:

Referred to:

January 29, 2001

A BILL TO BE ENTITLED

AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 13 and 14 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-2 is repealed.

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

"Article 13A.

"Voting.

"Part 1. Definitions.

"**§ 163-165. Definitions.**

In addition to the definitions stated below, the definitions set forth in Article 15A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

(1) 'Ballot' means an instrument on which a voter indicates a choice so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term 'ballot' may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, the face of a lever voting machine, the image on a direct record electronic unit, or a ballot used on any other voting system.

(2) 'Ballot item' means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.

(3) 'Ballot style' means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The

different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.

(4) 'Election' means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.

(5) 'Official ballot' means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections. The term does not include a sample ballot or a specimen ballot.

(6) 'Provisional official ballot' means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote.

(7) 'Referendum' means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.

(8) 'Voting booth' means the private space in which a voter is to mark an official ballot.

(9) 'Voting enclosure' means the room or connected rooms within the voting place that is used for voting.

(10) 'Voting place' means the building that contains the voting enclosure.

(11) 'Voting system' means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment.

"Part 2. Ballots and Voting Systems.

"**§ 163-165.1. General rules.**

(a) Requirements of Official Ballots in Voting. – In any election conducted under this Article:

(1) All voting shall be by official ballot.

(2) Only votes cast on an official ballot shall be counted.

(b) Compliance With This Article. – All ballots shall comply with the provisions of this Article.

(c) Other Uses Prohibited. – An official ballot shall not be used for any purpose not authorized by this Article.

"**§ 163-165.2. Sample ballots.**

(a) County Board to Produce and Distribute Sample Ballots. – The county board of elections shall produce sample ballots, in all the necessary ballot styles of the official ballot, for every election to be held in the county. The sample ballots shall be given an appearance that clearly distinguishes them from official ballots. The county board shall distribute sample ballots to the chief judge of every precinct in which the election is to be conducted. The chief judge shall post a sample ballot in the voting place, and may use it for instructional purposes. The county board of elections may use the sample ballot for other informational purposes.

(b) Document Resembling an Official Ballot to Contain Disclaimer. – No person other than a board of elections shall produce or disseminate a document substantially resembling an official ballot unless the document contains on its face a prominent statement that the document was not produced by a board of elections and is not an official ballot.

"**§ 163-165.3. Responsibilities for preparing official ballots.**

(a) State Board to Certify Official Ballots and Instructions to Voters. – The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

(1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification, and times for the State Board to complete the certification.

(2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.

(3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.

(4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.

(5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.

(6) The State Board is not required to certify or review every official ballot style in the county, but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

(b) County Board to Prepare and Produce Official Ballots and Instructions. – Each county board of elections shall prepare and produce official ballots for all elections in that county. The county board of elections shall submit the format of each official ballot and set of instructions to the State Board of Elections for review and certification in accordance with the schedule established by the State Board. The county board of elections shall follow the directions of the State Board in placing candidates, referenda, and other material on official ballots and in placing instructions.

(c) Special Ballots. – The State Board of Elections, with the approval of a county board of elections, may produce special official ballots, such as those for disabled voters, where production by the State Board would be more practical than production by the county board.

"**§ 163-165.4. Standards for official ballots.**

The State Board of Elections shall seek to ensure that official ballots throughout the State have all the following characteristics:

(1) Are readily understandable by voters.

(2) Present all candidates and questions in a fair and nondiscriminatory manner.

(3) Allow every voter to cast a vote in every ballot item without difficulty.

(4) Facilitate an accurate vote count.

(5) Are uniform in content and format, subject to varied presentations required or made desirable by different voting systems.

"**§ 163-165.5. Contents of official ballots.**

Each official ballot shall contain all the following elements:

(1) The heading prescribed by the State Board of Elections. The heading shall include the term 'Official Ballot.'

(2) The title of each office to be voted on and the number of seats to be filled in each ballot item.

(3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent.

(4) Party designations in partisan ballot items.

(5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123.

(6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.

(7) The printed title and facsimile signature of the chair of the county board of elections.

"**§ 163-165.6. Arrangement of official ballots.**

(a) Order of Precedence Generally. -- Candidate ballot items shall be arranged on the official ballot before referenda.

(b) Order of Precedence for Candidate Ballot Items. -- The State Board of Elections shall promulgate rules prescribing the order of offices to be voted on the official ballot. Those rules shall adhere to the following guidelines:

(1) Federal offices shall be listed before State and local offices. Federal offices shall be listed according to the size of the electorate.

(2) State and local offices shall be listed according to the size of the electorate.

(3) Partisan offices shall be listed before nonpartisan offices.

(4) When offices are in the same class, they shall be listed in alphabetical order by office name, or in numerical or alphabetical order by district name. Governor and Lieutenant Governor, in that order, shall be listed before other Council of State offices. Mayor shall be listed before other citywide offices. Chair of a board, where elected separately, shall be listed before other board seats having the same electorate. Chief Justice shall be listed before Associate Justices.

(5) Ballot items for full terms of an office shall be listed before ballot items for partial terms of the same office.

(c) Order of Candidates on Primary Official Ballots. -- The order in which candidates shall appear on a county's official ballots in any primary ballot item shall be determined by the county board of elections using a process designed by the State Board of Elections for random selection.

(d) Order of Party Candidates on General Election Official Ballot. -- Candidates in any ballot item on a general election official ballot shall appear in the following order:

(1) Nominees of political parties that reflect at least five percent (5%) of statewide voter registration, according to the most recent statistical report published by the State Board of Elections, in alphabetical order of the name of the party.

(2) Nominees of other political parties, in random order of the name of the party.

(3) Unaffiliated candidates, in random order.

(e) Straight-Party Voting. -- Each official ballot shall be arranged so that the voter may cast one vote for a party's nominees for all offices except President and Vice President. A vote for President and Vice President shall be cast separately from a straight-party vote. The official ballot shall be prepared so that a voter may cast a straight-party vote, but then make an exception to that straight-party vote by voting for a candidate not nominated by that party or by voting for fewer than all the candidates nominated by that party. Instructions for general election ballots shall clearly advise voters of the rules in this subsection and of the statutes providing for the counting of ballots.

(f) Write-In Voting. – Each official ballot shall be so arranged so that voters may cast write-in votes for candidates except where prohibited by G.S. 163-123 or other statutes governing write-in votes. Instructions for general election ballots shall clearly advise voters of the rules of this subsection and of the statutes governing write-in voting.

(g) Order of Precedence for Referenda. – The referendum questions to be voted on shall be arranged on the official ballot in the following order:

(1) Proposed amendments to the North Carolina Constitution, in the chronological order in which the proposals were approved by the General Assembly.

(2) Other referenda to be voted on by all voters in the State, in the chronological order in which the proposals were approved by the General Assembly.

(3) Referenda to be voted on by fewer than all the voters in the State, in the chronological order of the acts by which the referenda were properly authorized.

"**§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

The State Board of Elections shall have authority to approve types, makes, and models of voting systems for use in elections and referenda held in this State. The use of voting systems that have been approved by the State Board of Elections shall be valid in any election or referendum held in any county or municipality. The State Board may also, upon notice and hearing, disapprove types, makes, and models of voting systems. Upon disapproving a type, make, or model of voting system, the State Board shall determine the process by which the disapproved system is discontinued in any county.

Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of voting systems, including, but not limited to, the following:

(1) Types, makes, and models of voting systems approved for use in this State.

(2) Form of official ballot labels to be used on voting systems.

(3) Operation and manner of voting on voting systems.

(4) Instruction of precinct officials in the use of voting systems.

(5) Instruction of voters in the use of voting systems.

(6) Assistance to voters using voting systems.

(7) Duties of custodians of voting systems.

(8) Examination of voting systems before use in an election.

"**§ 163-165.8. Voting systems: powers and duties of county boards of commissioners.**

The board of county commissioners, with the approval of the county board of elections, may adopt and purchase or lease a voting system of a type, make, and model approved by the State Board of Elections for use in some or all voting places in the county at some or all elections.

The board of county commissioners may decline to adopt and purchase or lease any voting system recommended by the county board of elections, but may not adopt and purchase or lease any voting system that has not been approved by the county board of elections.

"**§ 163-165.9. Voting systems: powers and duties of county board of elections.**

Before approving the adoption and purchase or lease of any voting system by the board of county commissioners, the county board of elections shall do all of the following:

(1) Obtain a current financial statement from the proposed vendor or lessor of the voting system, and send copies of the statement to the county attorney and the chief county financial officer.

(2) Witness a demonstration, in that county or at a site designated by the State Board of Elections, of the voting system by the proposed vendor or lessor, and also witness a demonstration of at least one other type of voting system approved by the State Board of Elections.

(3) Test, during an election, the proposed voting system in at least one precinct in the county where the system would be used if adopted.

"**§ 163-165.10. Adequacy of voting system for each precinct.**

The county board of elections shall make available for each precinct voting place an adequate quantity of official ballots or equipment so that all voters qualified to vote at the precinct may do so. When the board of county commissioners has decided to adopt and purchase or lease a voting system for voting places under the provisions of G.S. 165-165.8, the board of county commissioners shall, as soon as practical, provide for each of those voting places sufficient equipment of the approved voting system in complete working order. If it is impractical to furnish each voting place with the equipment of the approved voting system, that which has been obtained may be placed in voting places chosen by the county board of elections. In that case, the county board of elections shall choose the voting places and allocate the equipment in a way that as nearly as practicable provides equal access to the voting system for each voter. The county board of elections shall appoint as many voting system custodians as may be necessary for the proper preparation of the system for each primary and election and for its maintenance, storage, and care.

"Part 3. Procedures at the Voting Place.

"**§ 163-166. Hours for voting.**

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. In extraordinary circumstances, the county board of elections may direct that the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

"**§ 163-166.1. Duties of county board of elections.**

The county board of elections shall:

(1) Provide for the timely delivery to each voting place of the supplies, records, and equipment necessary for the conduct of the election.

(2) Ensure that adequate procedures are in place at each voting place for a safe, secure, fair, and honest election.

(3) Respond to precinct officials' questions and problems where necessary.

"**§ 163-166.2. Arrangement of the voting enclosure.**

Each voting enclosure shall contain at a minimum:

(1) A sufficient number of private spaces for all voters to mark their official ballots in secrecy.

(2) Adequate space and furniture for the separate functions of:

a. The checking of voter registration records.

b. The distribution of official ballots.

c. Private discussion with voters concerning irregular situations.

(3) A telephone or some facility for communication with the county board of elections.

The equipment and furniture in the voting enclosure shall be arranged so that it can be generally seen from the public space of the enclosure.

"**§ 163-166.3. Limited access to the voting enclosure.**

During the time allowed for voting in the voting place, only the following persons may enter the voting enclosure:

(1) An election official.

(2) An observer appointed pursuant to G.S. 163-45.

(3) A person seeking to vote in that voting place on that day, but only while in the process of voting or seeking to vote.

(4) A voter in that precinct while entering or explaining a challenge pursuant to G.S. 163-87 or G.S.163-88.

(5) A person authorized under G.S. 163-166.9 to assist voters, but only while assisting that voter.

(6) Persons conducting or participating in a simulated election within the voting place or voting enclosure, if that simulated election is approved by the county board of elections.

(7) Any other person determined by election officials to have an urgent need to enter the voting enclosure, but only to the extent necessary to address that need.

"**§ 163-166.4. Limitation on activity in the voting place and in a buffer zone around it.**

No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place. In determining the dimensions of that buffer zone for each voting place, the county board of elections shall, where practical, set the limit at 50 feet from the entrance to the voting place, but in no event shall it set the limit at less than 25 feet.

"**§ 163-166.5. Procedures at voting place before voting begins.**

The State Board of Elections shall promulgate rules for precinct officials to set up the voting place before voting begins. Those rules shall emphasize:

(1) Continual participation or monitoring by officials of more than one party.

(2) Security of official ballots, records, and equipment.

(3) The appearance as well as the reality of care, efficiency, impartiality, and honest election administration.

The county boards of elections and precinct officials shall adhere to those procedures.

"**§ 163-166.6. Designation of tasks.**

The State Board of Elections shall promulgate rules for the delegation of tasks among the election officials at each precinct. Those rules shall emphasize:

(1) The need to place primary managerial responsibility upon the chief judge.

(2) The need to have maximum multiparty participation in all duties where questions of partisan partiality might be raised.

(3) The need to provide flexibility of management to the county board of elections and to the chief judge, in consideration of different abilities of officials, the different availability of officials, and the different needs of voters precinct by precinct.

"**§ 163-166.7. Voting procedures.**

(a) Checking Registration. – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots.

(b) Distribution of Official Ballots. – If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

(1) The voting system remains secure throughout the period voting is being conducted.

VISITOR REGISTRATION SHEET

Election Law & Campaign Finance — 5/23/01
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bob Hall	Democracy South
Don Wright	SBOE
David Weiss	ACLU
Robynn Steer	ACLU
John McHugh	Gov office
David Gore	Raleigh CBC
John Phelps	NCLM
Tanya Pittman	NCLM Rose Hill
James Pittman	NCLM
Gary O. Bartlett	SBOE
Johnnie McLean	SBE
Michael Crowell	Atty Raleigh
Deb Ross	ACLU
Barbara Howe	Libertarian Party of NC
Todd Morman	Spectator Weekly
Katherine Yancey	ACLU
Paul Stock	NC Bankers Assn.
Bruce Thompson	Parker Poe Adams & Bernstein
Ed Ed	" " " "

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

June 6, 2001
Room 1228
11:00 a.m.

The meeting of the House Committee on Election Law and Campaign Finance Reform was called to order by Representative Martha Alexander, Chair. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair, Arnold, Bonner, Daughtry, Decker, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Rogers, Starnes, Weiss, Cunningham, Dedmon, Earle, and Hackney.

Representative Alexander recognized Senator Gulley to present SB 17, ELECTION REWRITE – 1. Senator Gulley reviewed the changes in the Proposed Committee Substitute. There are additions to designate gender, application of the statute to all elections held in the state, replacement candidates. Many of the provisions are part of the statute that is being repealed. Only voting systems/machines approved by the State Board of Elections are to be used. Representative Daughtry asked about the exclusion of the president and vice president on a straight party vote. It was determined that this was current law, and SB 17 dealt with technical changes, not substantive law changes, so it was left as is. There was discussion about the order of candidates on a ballot. That will be left up to the County Board of Elections by random selection and will not necessarily be alphabetical. The State Board is given more flexibility in determining the meaning of "loitering about" language and setting buffer zones to preclude civil liberties problems. Representative Luebke reported that in a recent election, his precinct workers were told they could do no electioneering at the polling place, a church. Private places that are rented to the Board of Elections as polling places may include a provision in the contract that there can be no signs or any sort of electioneering. Discussion followed that different counties have different rules. Michael Crowell, an attorney who served as chair of the Election Laws Revision subcommittee, said that once there was an agreement to be a polling place, there was understood to be a certain amount of public access, as at other election places. The PCS set the minimum buffer zone is 25 feet. Allowance is made for polling places remaining open until 8:30 pm in "extraordinary circumstances." The State Board must approve the kind of voting system/equipment a county uses to assure voting tallies are as accurate as possible. There is due process in the county before a change is required. Representative Kiser expressed great concern that counties might not be able to afford to replace machines. Representative Rayfield clarified that the State Board offered a choice of approved equipment. Representative Nesbitt asked if there are now counties that need to buy new equipment. Johnnie McLean, State Board of Elections, answered that some counties have obsolete equipment that can be repaired only by cannibalizing from other useless machines.

The meeting was adjourned.

Martha Alexander, Chair

Ann Faust

Ann Faust, Committee Assistant

SENATE BILL 17:
Election Rewrite -- 1.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Senator Gulley
Date:	May 23, 2001	**Summary by:**	William R. Gilkeson and Erika Churchill
Version:	S17-CSRR-30(v.7)		Staff Attorneys

SUMMARY: The Proposed House Committee Substitute for Senate Bill 17 would rewrite the sections of the Election Law dealing with setting up the official ballot, acquiring voting equipment, and conducting the election at the voting place.

CURRENT LAW: Chapter 163 of the General Statutes, the Election Law, was last comprehensively rewritten in 1967, in response to the Election Laws Revision Commission appointed in 1965. The statute contains Article 13, which prescribes in detail the content of paper ballots to be counted by hand. It also specifies in detail the furnishings and procedures for a voting place using hand-counted paper ballots. By 2001, only one county (Tyrrell) used hand-counted paper ballots as their primary voting method. For ballot and election-day procedures of the other 99 counties that use some kind of mechanical or electronic voting system, there is Article 14, which gives the State Board of Elections broad rulemaking authority to establish procedures.

Article 14 also gives the State Board of Elections the authority to approve the types of voting systems that may be purchased by county or municipal boards of elections.

SENATE BILL 17: Senate Bill 17 repeals both Articles 13 and 14 and merges their provisions into one new Article, 13A. The philosophy of the draft is to remove the disparate treatment of hand-counted paper ballots versus all other voting methods. Instead, the new statute would set general principles that are technologically neutral. It would direct the State Board to promulgate rules for different voting methods, guided by the general principles.

The new Article would be titled "Voting." It would be divided into three Parts: "Definitions," "Ballots and Voting Systems," and "Procedures at the Voting Place."

The Definitions Part defines several key terms that are used throughout the new Article 13A, as well as the new Article 15A that would be created by Senate Bill 17I. "Official ballot" is a ballot that has been certified by the State Board and produced by the county board. Only an official ballot may be voted and counted. "Ballot item" is the segment of the ballot where the voter chooses a referendum proposal or candidate or set of candidates for the same office or set of offices. "Provisional official ballot" is a ballot voted and then placed in an envelope that contains an affidavit signed by the voter as to that voter's identity and qualifications. "Voting system," defined in current law as any voting method other than hand-counted paper ballots, is broadened to include paper ballots are any system of voting. *G.S. 163-165.*

The Ballots and Voting Systems Part gives the State Board of Elections authority to certify the official ballot statewide and in every county. *G.S. 163-165.3.*The State Board also has rulemaking authority based on technologically neutral guidelines. The statute makes certain policy choices, some of which clarify current law and some of which change it:

- County Financial Responsibility for Producing the Ballot. Currently, 99 counties must foot the bill for producing ballots. In the one county that relies on hand-counted paper ballots, the State pays for the State paper ballots and the county pays for the rest. The bill standardizes the law by making the county responsible for producing all ballots. *G.S. 163-165.3*

- Gender Neutrality of Candidates' Names on Ballots. Currently, the candidate's name appears on the ballot the way the candidate listed it on the notice of candidacy. Titles are not permitted, except that married women may use "Mrs." and unmarried women may use "Miss." ***The rewrite says that titles indicating rank, status, or position may not be used, but allows the use of the terms Mr., Mrs. Miss, and Ms.*** *G.S. 163-165.5.)*

- Straight Ticket for All But the Presidency. Currently, the straight party ticket is restricted in a number of ways for hand-counted paper ballots, but less clearly for the 99 machine/electronic counties. ***The rewrite follows the prevailing practice of the 99 counties, which is to count the straight ticket for all but the presidential race.*** *G.S. 163-165.6.*

- Order of Names on Primary Ballot. Current law requires the rotation of names on primary ballots in the one hand-counted paper county, but does not require it in the 99 other counties. A lawsuit settlement has resulted in a compromise method. ***The rewrite says that in all counties, names in a primary ballot item on that county's ballots shall be determined by random selection.*** *G.S. 163-165.6.*

The provisions on acquisition of voting systems make the following changes:

- State Board Disapproval of Types, Makes, and Models. Current law gives the State Board the authority to approve types of voting systems used in elections, whether municipal or county. ***The rewrite would expand that authority to approval of makes and models of voting systems. It would also expand it to allow the State Board to disapprove a type, make, or model of voting system already in use in a county. It would give the State Board authority to set a process for discontinuance of a disapproved voting system in a county.*** *G.S. 163-165.7.* ***The rewrite would also provide a specific procedure to follow when counties are purchasing voting equipment, while not mentioning such a procedure for the purchase of voting equipment by municipalities.***

- No County Authority to Acquire a Disapproved Optical Scan System. Current law allows the county board of commissioners to approve a disapproved optical scan voting system, as long as the county board of elections signs off. ***The rewrite repeals this exception to the general rule.*** *G.S. 163-165.8.*

The Procedures at the Voting Place Part give the State Board greater flexibility to set up procedures at the polls for different voting systems and to allow county boards to assign duties at the delegate duties to different precinct officials. *G.S. 163-166.6.* In addition, the Part makes these changes:

- More Flexible Buffer Zone. Current law mandates a 50-foot buffer zone around the voting place in which no one may "loiter about, congregate, distribute campaign material, or do any electioneering." ***On the theory that the rigid 50-foot limit may, given the arrangement of some voting places, preclude any zone for***

electioneering, the rewrite allows the county board flexibility in designing the buffer zone, provided that it must be at least 25 feet from the voting place. It removes the candidate's apparent right under current law to enter the buffer zone. The rewrite also removes the language, constitutionally vulnerable according to the American Civil Liberties Union, about "loitering about and congregating." *G.S. 163-166.4.*

- Extra Hour. Current law says the polls close at 7:30, but the county board may keep them open an extra hour where voting machines are used. ***The rewrite says the county board may keep the polls open an extra hour anywhere in extraordinary circumstances.*** *G.S. 163-166.* ***(This provision is somewhat inconsistent with HB 1192, which passed the House last month, and would allow county boards of elections, upon a mechanical failure and with State Board approval, to keep polls open till 9:30.)***

BACKGROUND: The bill was recommended by the Election Laws Revision Commission as part of its project to rewrite Chapter 163 of the General Statutes. The bill was the product of a subcommittee of that Commission. The subcommittee also produced a companion bill, introduced this year as Senate Bill 14. The Senate made only a couple of substantive changes to, reflected in the title of the PCS. The Proposed House Committee Substitute makes conforming changes to other parts of current law and makes conforming changes to the rewrite itself.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

SENATE BILL 17
Judiciary I Committee Substitute Adopted 4/9/01

Short Title: Election Rewrite-1. (Public)

Sponsors:

Referred to:

January 29, 2001

A BILL TO BE ENTITLED

AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 13 and 14 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-2 is repealed.

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

"Article 13A.

"Voting.

"Part 1. Definitions.

"**§ 163-165. Definitions.**

In addition to the definitions stated below, the definitions set forth in Article 15A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

(1) 'Ballot' means an instrument on which a voter indicates a choice so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term 'ballot' may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, the face of a lever voting machine, the image on a direct record electronic unit, or a ballot used on any other voting system.

(2) 'Ballot item' means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.

(3) 'Ballot style' means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The

different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.

(4) 'Election' means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.

(5) 'Official ballot' means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections. The term does not include a sample ballot or a specimen ballot.

(6) 'Provisional official ballot' means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote.

(7) 'Referendum' means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.

(8) 'Voting booth' means the private space in which a voter is to mark an official ballot.

(9) 'Voting enclosure' means the room or connected rooms within the voting place that is used for voting.

(10) 'Voting place' means the building that contains the voting enclosure.

(11) 'Voting system' means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment.

"Part 2. Ballots and Voting Systems.

"**§ 163-165.1. General rules.**

(a) Requirements of Official Ballots in Voting. – In any election conducted under this Article:

(1) All voting shall be by official ballot.

(2) Only votes cast on an official ballot shall be counted.

(b) Compliance With This Article. – All ballots shall comply with the provisions of this Article.

(c) Other Uses Prohibited. – An official ballot shall not be used for any purpose not authorized by this Article.

"**§ 163-165.2. Sample ballots.**

(a) County Board to Produce and Distribute Sample Ballots. – The county board of elections shall produce sample ballots, in all the necessary ballot styles of the official ballot, for every election to be held in the county. The sample ballots shall be given an appearance that clearly distinguishes them from official ballots. The county board shall distribute sample ballots to the chief judge of every precinct in which the election is to be conducted. The chief judge shall post a sample ballot in the voting place, and may use it for instructional purposes. The county board of elections may use the sample ballot for other informational purposes.

(b) Document Resembling an Official Ballot to Contain Disclaimer. -- No person other than a board of elections shall produce or disseminate a document substantially resembling an official ballot unless the document contains on its face a prominent statement that the document was not produced by a board of elections and is not an official ballot.

"**§ 163-165.3. Responsibilities for preparing official ballots.**

(a) State Board to Certify Official Ballots and Instructions to Voters. -- The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

(1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification, and times for the State Board to complete the certification.

(2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.

(3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.

(4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.

(5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.

(6) The State Board is not required to certify or review every official ballot style in the county, but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

(b) County Board to Prepare and Produce Official Ballots and Instructions. -- Each county board of elections shall prepare and produce official ballots for all elections in that county. The county board of elections shall submit the format of each official ballot and set of instructions to the State Board of Elections for review and certification in accordance with the schedule established by the State Board. The county board of elections shall follow the directions of the State Board in placing candidates, referenda, and other material on official ballots and in placing instructions.

(c) Special Ballots. -- The State Board of Elections, with the approval of a county board of elections, may produce special official ballots, such as those for disabled voters, where production by the State Board would be more practical than production by the county board.

"**§ 163-165.4. Standards for official ballots.**

The State Board of Elections shall seek to ensure that official ballots throughout the State have all the following characteristics:

(1) Are readily understandable by voters.

(2) Present all candidates and questions in a fair and nondiscriminatory manner.

(3) Allow every voter to cast a vote in every ballot item without difficulty.

(4) Facilitate an accurate vote count.

(5) Are uniform in content and format, subject to varied presentations required or made desirable by different voting systems.

"**§ 163-165.5. Contents of official ballots.**

Each official ballot shall contain all the following elements:

(1) The heading prescribed by the State Board of Elections. The heading shall include the term 'Official Ballot.'

(2) The title of each office to be voted on and the number of seats to be filled in each ballot item.

(3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent.

(4) Party designations in partisan ballot items.

(5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123.

(6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.

(7) The printed title and facsimile signature of the chair of the county board of elections.

"**§ 163-165.6. Arrangement of official ballots.**

(a) Order of Precedence Generally. -- Candidate ballot items shall be arranged on the official ballot before referenda.

(b) Order of Precedence for Candidate Ballot Items. -- The State Board of Elections shall promulgate rules prescribing the order of offices to be voted on the official ballot. Those rules shall adhere to the following guidelines:

(1) Federal offices shall be listed before State and local offices. Federal offices shall be listed according to the size of the electorate.

(2) State and local offices shall be listed according to the size of the electorate.

(3) Partisan offices shall be listed before nonpartisan offices.

(4) When offices are in the same class, they shall be listed in alphabetical order by office name, or in numerical or alphabetical order by district name. Governor and Lieutenant Governor, in that order, shall be listed before other Council of State offices. Mayor shall be listed before other citywide offices. Chair of a board, where elected separately, shall be listed before other board seats having the same electorate. Chief Justice shall be listed before Associate Justices.

(5) Ballot items for full terms of an office shall be listed before ballot items for partial terms of the same office.

(c) Order of Candidates on Primary Official Ballots. -- The order in which candidates shall appear on a county's official ballots in any primary ballot item shall be determined by the county board of elections using a process designed by the State Board of Elections for random selection.

(d) Order of Party Candidates on General Election Official Ballot. -- Candidates in any ballot item on a general election official ballot shall appear in the following order:

(1) Nominees of political parties that reflect at least five percent (5%) of statewide voter registration, according to the most recent statistical report published by the State Board of Elections, in alphabetical order of the name of the party.

(2) Nominees of other political parties, in random order of the name of the party.

(3) Unaffiliated candidates, in random order.

(e) Straight-Party Voting. -- Each official ballot shall be arranged so that the voter may cast one vote for a party's nominees for all offices except President and Vice President. A vote for President and Vice President shall be cast separately from a straight-party vote. The official ballot shall be prepared so that a voter may cast a straight-party vote, but then make an exception to that straight-party vote by voting for a candidate not nominated by that party or by voting for fewer than all the candidates nominated by that party. Instructions for general election ballots shall clearly advise voters of the rules in this subsection and of the statutes providing for the counting of ballots.

(f) Write-In Voting. – Each official ballot shall be so arranged so that voters may cast write-in votes for candidates except where prohibited by G.S. 163-123 or other statutes governing write-in votes. Instructions for general election ballots shall clearly advise voters of the rules of this subsection and of the statutes governing write-in voting.

(g) Order of Precedence for Referenda. -- The referendum questions to be voted on shall be arranged on the official ballot in the following order:

(1) Proposed amendments to the North Carolina Constitution, in the chronological order in which the proposals were approved by the General Assembly.

(2) Other referenda to be voted on by all voters in the State, in the chronological order in which the proposals were approved by the General Assembly.

(3) Referenda to be voted on by fewer than all the voters in the State, in the chronological order of the acts by which the referenda were properly authorized.

"**§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

The State Board of Elections shall have authority to approve types, makes, and models of voting systems for use in elections and referenda held in this State. The use of voting systems that have been approved by the State Board of Elections shall be valid in any election or referendum held in any county or municipality. The State Board may also, upon notice and hearing, disapprove types, makes, and models of voting systems. Upon disapproving a type, make, or model of voting system, the State Board shall determine the process by which the disapproved system is discontinued in any county.

Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of voting systems, including, but not limited to, the following:

(1) Types, makes, and models of voting systems approved for use in this State.

(2) Form of official ballot labels to be used on voting systems.

(3) Operation and manner of voting on voting systems.

(4) Instruction of precinct officials in the use of voting systems.

(5) Instruction of voters in the use of voting systems.

(6) Assistance to voters using voting systems.

(7) Duties of custodians of voting systems.

(8) Examination of voting systems before use in an election.

"**§ 163-165.8. Voting systems: powers and duties of county boards of commissioners.**

The board of county commissioners, with the approval of the county board of elections, may adopt and purchase or lease a voting system of a type, make, and model approved by the State Board of Elections for use in some or all voting places in the county at some or all elections.

The board of county commissioners may decline to adopt and purchase or lease any voting system recommended by the county board of elections, but may not adopt and purchase or lease any voting system that has not been approved by the county board of elections.

"**§ 163-165.9. Voting systems: powers and duties of county board of elections.**

Before approving the adoption and purchase or lease of any voting system by the board of county commissioners, the county board of elections shall do all of the following:

(1) Obtain a current financial statement from the proposed vendor or lessor of the voting system, and send copies of the statement to the county attorney and the chief county financial officer.

(2) Witness a demonstration, in that county or at a site designated by the State Board of Elections, of the voting system by the proposed vendor or lessor, and also witness a demonstration of at least one other type of voting system approved by the State Board of Elections.

(3) Test, during an election, the proposed voting system in at least one precinct in the county where the system would be used if adopted.

"**§ 163-165.10. Adequacy of voting system for each precinct.**

The county board of elections shall make available for each precinct voting place an adequate quantity of official ballots or equipment so that all voters qualified to vote at the precinct may do so. When the board of county commissioners has decided to adopt and purchase or lease a voting system for voting places under the provisions of G.S. 165-165.8, the board of county commissioners shall, as soon as practical, provide for each of those voting places sufficient equipment of the approved voting system in complete working order. If it is impractical to furnish each voting place with the equipment of the approved voting system, that which has been obtained may be placed in voting places chosen by the county board of elections. In that case, the county board of elections shall choose the voting places and allocate the equipment in a way that as nearly as practicable provides equal access to the voting system for each voter. The county board of elections shall appoint as many voting system custodians as may be necessary for the proper preparation of the system for each primary and election and for its maintenance, storage, and care.

"Part 3. Procedures at the Voting Place.

"**§ 163-166. Hours for voting.**

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. In extraordinary circumstances, the county board of elections may direct that the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

"**§ 163-166.1. Duties of county board of elections.**

The county board of elections shall:

(1) Provide for the timely delivery to each voting place of the supplies, records, and equipment necessary for the conduct of the election.

(2) Ensure that adequate procedures are in place at each voting place for a safe, secure, fair, and honest election.
(3) Respond to precinct officials' questions and problems where necessary.

"**§ 163-166.2. Arrangement of the voting enclosure.**

Each voting enclosure shall contain at a minimum:

(1) A sufficient number of private spaces for all voters to mark their official ballots in secrecy.
(2) Adequate space and furniture for the separate functions of:
a. The checking of voter registration records.
b. The distribution of official ballots.
c. Private discussion with voters concerning irregular situations.
(3) A telephone or some facility for communication with the county board of elections.

The equipment and furniture in the voting enclosure shall be arranged so that it can be generally seen from the public space of the enclosure.

"**§ 163-166.3. Limited access to the voting enclosure.**

During the time allowed for voting in the voting place, only the following persons may enter the voting enclosure:

(1) An election official.
(2) An observer appointed pursuant to G.S. 163-45.
(3) A person seeking to vote in that voting place on that day, but only while in the process of voting or seeking to vote.
(4) A voter in that precinct while entering or explaining a challenge pursuant to G.S. 163-87 or G.S.163-88.
(5) A person authorized under G.S. 163-166.9 to assist voters, but only while assisting that voter.
(6) Persons conducting or participating in a simulated election within the voting place or voting enclosure, if that simulated election is approved by the county board of elections.
(7) Any other person determined by election officials to have an urgent need to enter the voting enclosure, but only to the extent necessary to address that need.

"**§ 163-166.4. Limitation on activity in the voting place and in a buffer zone around it.**

No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place. In determining the dimensions of that buffer zone for each voting place, the county board of elections shall, where practical, set the limit at 50 feet from the entrance to the voting place, but in no event shall it set the limit at less than 25 feet.

"**§ 163-166.5. Procedures at voting place before voting begins.**

The State Board of Elections shall promulgate rules for precinct officials to set up the voting place before voting begins. Those rules shall emphasize:

(1) Continual participation or monitoring by officials of more than one party.

(2) Security of official ballots, records, and equipment.

(3) The appearance as well as the reality of care, efficiency, impartiality, and honest election administration.

The county boards of elections and precinct officials shall adhere to those procedures.

"**§ 163-166.6. Designation of tasks.**

The State Board of Elections shall promulgate rules for the delegation of tasks among the election officials at each precinct. Those rules shall emphasize:

(1) The need to place primary managerial responsibility upon the chief judge.

(2) The need to have maximum multiparty participation in all duties where questions of partisan partiality might be raised.

(3) The need to provide flexibility of management to the county board of elections and to the chief judge, in consideration of different abilities of officials, the different availability of officials, and the different needs of voters precinct by precinct.

"**§ 163-166.7. Voting procedures.**

(a) Checking Registration. – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots.

(b) Distribution of Official Ballots. – If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

(1) The voting system remains secure throughout the period voting is being conducted.

(2) Only properly voted official ballots are introduced into the voting system.
(3) No official ballots leave the voting enclosure during the time voting is being conducted there.
(4) All improperly voted official ballots are returned to the precinct officials and marked as spoiled.
(5) Voters leave the voting place promptly after voting.
(6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.
(7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
(8) The registration records are kept secure.
(9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.

"**§ 163-166.8. Assistance to voters.**

(a) Any registered voter qualified to vote in the election shall be entitled to assistance with entering and exiting the voting booth and in preparing ballots in accordance with the following rules:

(1) Any voter is entitled to assistance from the voter's spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild, as chosen by the voter.
(2) A voter in any of the following four categories is entitled to assistance from a person of the voter's choice, other than the voter's employer or agent of that employer or an officer or agent of the voter's union:
a. A voter who, on account of physical disability, is unable to enter the voting booth without assistance.
b. A voter who, on account of physical disability, is unable to mark a ballot without assistance.
c. A voter who, on account of illiteracy, is unable to mark a ballot without assistance.
d. A voter who, on account of blindness, is unable to enter the voting booth or mark a ballot without assistance.

(b) A qualified voter seeking assistance in an election shall, upon arriving at the voting place, request permission from the chief judge to have assistance, stating the reasons. If the chief judge determines that such assistance is appropriate, the chief judge shall ask the voter to point out and identify the person the voter desires to provide such assistance. If the identified person meets the criteria in subsection (a) of this section, the chief judge shall request the person indicated to render the assistance. The chief judge, one of the judges, or one of the assistants may provide aid to the voter if so requested, if the election official is not prohibited by subdivision (a)(2) of this section. Under no

circumstances shall any precinct official be assigned to assist a voter qualified for assistance, who was not specified by the voter.

(c) A person rendering assistance to a voter in an election shall be admitted to the voting booth with the voter being assisted. The State Board of Elections shall promulgate rules governing voter assistance, and those rules shall adhere to the following guidelines:

(1) The person rendering assistance shall not in any manner seek to persuade or induce any voter to cast any vote in any particular way.

(2) The person rendering assistance shall not make or keep any memorandum of anything which occurs within the voting booth.

(3) The person rendering assistance shall not, directly or indirectly, reveal to any person how the assisted voter marked ballots, unless the person rendering assistance is called upon to testify in a judicial proceeding for a violation of the election laws.

"**§ 163-166.9. Curbside voting.**

In any election or referendum, if any qualified voter is able to travel to the voting place, but because of age or physical disability and physical barriers encountered at the voting place is unable to enter the voting enclosure to vote in person without physical assistance, that voter shall be allowed to vote either in the vehicle conveying that voter or in the immediate proximity of the voting place. The State Board of Elections shall promulgate rules for the administration of this section.

"**§ 163-166.10. Procedures after the close of voting.**

The State Board of Elections shall promulgate rules for closing the voting place and delivering voting information to the county board of elections for counting, canvassing, and record maintenance. Those rules shall emphasize the need for the appearance as well as the reality of security, accuracy, participation by representatives of more than one political party, openness of the process to public inspection, and honesty. The rules, at a minimum, shall include procedures to ensure all of the following:

(1) The return and accurate accounting of all official ballots, regular, provisional, voted, unvoted, and spoiled, according to the provisions of Article 15A of this Chapter.

(2) The certification of ballots and voter-authorization documents by precinct officials of more than one political party.

(3) The delivery to the county board of elections of registration documents and information gleaned through the voting process that would be helpful in the accurate maintenance of the voter registration records.

(4) The return to the county board of all issued equipment.

(5) The restoration of the voting place to the condition in which it was found."

SECTION 4. This act becomes effective January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 17

Judiciary I Committee Substitute Adopted 4/9/01

PROPOSED HOUSE COMMITTEE SUBSTITUTE S17-CSRR-30 [v.7]

6/5/2001 9:30:16 AM

Short Title: Election Rewrite-1. (Public)

Sponsors:

Referred to:

January 29, 2001

A BILL TO BE ENTITLED

AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION; TO PERMIT THE USE OF CERTAIN GENDER TITLES ON THE BALLOT; TO GIVE THE COUNTY BOARD OF ELECTIONS FLEXIBILITY IN SETTING A BUFFER ZONE AROUND A VOTING PLACE, WITH A MINIMUM OF 25 FEET; AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 13 and 14 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-2 is repealed.

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

"Article 13A.

"Voting.

"Part 1. Definitions.

"**§ 163-165. Definitions.**

In addition to the definitions stated below, the definitions set forth in Article 15A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

(1) 'Ballot' means an instrument on which a voter indicates a choice so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term 'ballot' may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, the face of a lever voting machine, the image on a direct record electronic unit, or a ballot used on any other voting system.

(2) 'Ballot item' means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.

(3) 'Ballot style' means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.

(4) 'Election' means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.

(5) 'Official ballot' means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections. The term does not include a sample ballot or a specimen ballot.

(6) 'Provisional official ballot' means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote.

(7) 'Referendum' means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.

(8) 'Voting booth' means the private space in which a voter is to mark an official ballot.

(9) 'Voting enclosure' means the room or connected rooms within the voting place that is used for voting.

(10) 'Voting place' means the building that contains the voting enclosure.

(11) 'Voting system' means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment.

"Part 2. Ballots and Voting Systems.

"**§ 163-165.1. Scope and general rules.**

(a) Scope. – This Article shall apply to all elections in this State.

(b) Requirements of Official Ballots in Voting. —In any election conducted under this Article:

(1) All voting shall be by official ballot.

(2) Only votes cast on an official ballot shall be counted.

(c) Compliance With This Article. – All ballots shall comply with the provisions of this Article.

(d) Other Uses Prohibited. – An official ballot shall not be used for any purpose not authorized by this Article.

"**§ 163-165.2. Sample ballots.**

(a) County Board to Produce and Distribute Sample Ballots. – The county board of elections shall produce sample ballots, in all the necessary ballot styles of the official

ballot, for every election to be held in the county. The sample ballots shall be given an appearance that clearly distinguishes them from official ballots. The county board shall distribute sample ballots to the chief judge of every precinct in which the election is to be conducted. The chief judge shall post a sample ballot in the voting place, and may use it for instructional purposes. The county board of elections may use the sample ballot for other informational purposes.

(b) Document Resembling an Official Ballot to Contain Disclaimer. -- No person other than a board of elections shall produce or disseminate a document substantially resembling an official ballot unless the document contains on its face a prominent statement that the document was not produced by a board of elections and is not an official ballot.

"**§ 163-165.3. Responsibilities for preparing official ballots.**

(a) State Board to Certify Official Ballots and Instructions to Voters. -- The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

(1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification, and times for the State Board to complete the certification.

(2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.

(3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.

(4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.

(5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.

(6) The State Board is not required to certify or review every official ballot style in the county, but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

(b) County Board to Prepare and Produce Official Ballots and Instructions. -- Each county board of elections shall prepare and produce official ballots for all

elections in that county. The county board of elections shall submit the format of each official ballot and set of instructions to the State Board of Elections for review and certification in accordance with the schedule established by the State Board. The county board of elections shall follow the directions of the State Board in placing candidates, referenda, and other material on official ballots and in placing instructions.

(c) Late Changes in Ballots. -- The State Board shall promulgate rules for late changes in ballots. The rules shall provide for the reprinting, where practical, of official ballots as a result of replacement candidates to fill vacancies in accordance with G.S. 163-114 or other late changes. If an official ballot is not reprinted, a vote for a candidate who has been replaced in accordance with G.S. 163-114 will count for the replacement candidate.

(d) Special Ballots. -- The State Board of Elections, with the approval of a county board of elections, may produce special official ballots, such as those for disabled voters, where production by the State Board would be more practical than production by the county board.

"**§ 163-165.4. Standards for official ballots.**

The State Board of Elections shall seek to ensure that official ballots throughout the State have all the following characteristics:

(1) Are readily understandable by voters.

(2) Present all candidates and questions in a fair and nondiscriminatory manner.

(3) Allow every voter to cast a vote in every ballot item without difficulty.

(4) Facilitate an accurate vote count.

(5) Are uniform in content and format, subject to varied presentations required or made desirable by different voting systems.

"**§ 163-165.5. Contents of official ballots.**

Each official ballot shall contain all the following elements:

(1) The heading prescribed by the State Board of Elections. The heading shall include the term 'Official Ballot.'

(2) The title of each office to be voted on and the number of seats to be filled in each ballot item.

(3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not

contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent.

(4) Party designations in partisan ballot items.

(5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123.

(6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.

(7) The printed title and facsimile signature of the chair of the county board of elections.

"**§ 163-165.6. Arrangement of official ballots.**

(a) Order of Precedence Generally. -- Candidate ballot items shall be arranged on the official ballot before referenda.

(b) Order of Precedence for Candidate Ballot Items. -- The State Board of Elections shall promulgate rules prescribing the order of offices to be voted on the official ballot. Those rules shall adhere to the following guidelines:

(1) Federal offices shall be listed before State and local offices. Federal offices shall be listed according to the size of the electorate.

(2) State and local offices shall be listed according to the size of the electorate.

(3) Partisan offices shall be listed before nonpartisan offices.

(4) When offices are in the same class, they shall be listed in alphabetical order by office name, or in numerical or alphabetical order by district name. Governor and Lieutenant Governor, in that order, shall be listed before other Council of State offices. Mayor shall be listed before other citywide offices. Chair of a board, where elected separately, shall be listed before other board seats having the same electorate. Chief Justice shall be listed before Associate Justices.

(5) Ballot items for full terms of an office shall be listed before ballot items for partial terms of the same office.

(c) Order of Candidates on Primary Official Ballots. -- The order in which candidates shall appear on a county's official ballots in any primary ballot item shall be determined by the county board of elections using a process designed by the State Board of Elections for random selection.

(d) Order of Party Candidates on General Election Official Ballot. -- Candidates in any ballot item on a general election official ballot shall appear in the following order:

(1) Nominees of political parties that reflect at least five percent (5%) of statewide voter registration, according to the most recent statistical report published by the State Board of Elections, in alphabetical order of the name of the party.

(2) Nominees of other political parties, in random order of the name of the party.

(3) Unaffiliated candidates, in random order.

(e) Straight-Party Voting. – Each official ballot shall be arranged so that the voter may cast one vote for a party's nominees for all offices except President and Vice President. A vote for President and Vice President shall be cast separately from a straight-party vote. The official ballot shall be prepared so that a voter may cast a straight-party vote, but then make an exception to that straight-party vote by voting for a candidate not nominated by that party or by voting for fewer than all the candidates nominated by that party. Instructions for general election ballots shall clearly advise voters of the rules in this subsection and of the statutes providing for the counting of ballots.

(f) Write-In Voting. – Each official ballot shall be so arranged so that voters may cast write-in votes for candidates except where prohibited by G.S. 163-123 or other statutes governing write-in votes. Instructions for general election ballots shall clearly advise voters of the rules of this subsection and of the statutes governing write-in voting.

(g) Order of Precedence for Referenda. -- The referendum questions to be voted on shall be arranged on the official ballot in the following order:

(1) Proposed amendments to the North Carolina Constitution, in the chronological order in which the proposals were approved by the General Assembly.

(2) Other referenda to be voted on by all voters in the State, in the chronological order in which the proposals were approved by the General Assembly.

(3) Referenda to be voted on by fewer than all the voters in the State, in the chronological order of the acts by which the referenda were properly authorized.

"**§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

The State Board of Elections shall have authority to approve types, makes, and models of voting systems for use in elections and referenda held in this State. Only voting systems that have been approved by the State Board shall be used to conduct elections under this Chapter, and the approved systems shall be valid in any election or referendum held in any county or municipality. The State Board may, upon request of a local board of elections, authorize the use of a voting system not approved for general use. The State Board may also, upon notice and hearing, disapprove types, makes, and models of voting systems. Upon disapproving a type, make, or model of voting system, the State Board shall determine the process by which the disapproved system is discontinued in any county.

Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of voting systems, including, but not limited to, the following:

(1) Types, makes, and models of voting systems approved for use in this State.

(2) Form of official ballot labels to be used on voting systems.

(3) Operation and manner of voting on voting systems.
(4) Instruction of precinct officials in the use of voting systems.
(5) Instruction of voters in the use of voting systems.
(6) Assistance to voters using voting systems.
(7) Duties of custodians of voting systems.
(8) Examination of voting systems before use in an election.

"**§ 163-165.8. Voting systems: powers and duties of county boards of commissioners.**

The board of county commissioners, with the approval of the county board of elections, may adopt and purchase or lease a voting system of a type, make, and model approved by the State Board of Elections for use in some or all voting places in the county at some or all elections.

The board of county commissioners may decline to adopt and purchase or lease any voting system recommended by the county board of elections, but may not adopt and purchase or lease any voting system that has not been approved by the county board of elections.

"**§ 163-165.9. Voting systems: powers and duties of county board of elections.**

Before approving the adoption and purchase or lease of any voting system by the board of county commissioners, the county board of elections shall do all of the following:

(1) Obtain a current financial statement from the proposed vendor or lessor of the voting system, and send copies of the statement to the county attorney and the chief county financial officer.
(2) Witness a demonstration, in that county or at a site designated by the State Board of Elections, of the voting system by the proposed vendor or lessor, and also witness a demonstration of at least one other type of voting system approved by the State Board of Elections.
(3) Test, during an election, the proposed voting system in at least one precinct in the county where the system would be used if adopted.

"**§ 163-165.10. Adequacy of voting system for each precinct.**

The county board of elections shall make available for each precinct voting place an adequate quantity of official ballots or equipment so that all voters qualified to vote at the precinct may do so. When the board of county commissioners has decided to adopt and purchase or lease a voting system for voting places under the provisions of G.S. 165-165.8, the board of county commissioners shall, as soon as practical, provide for each of those voting places sufficient equipment of the approved voting system in complete working order. If it is impractical to furnish each voting place with the equipment of the approved voting system, that which has been obtained may be placed in voting places chosen by the county board of elections. In that case, the county board of elections shall choose the voting places and allocate the equipment in a way that as nearly as practicable provides equal access to the voting system for each voter. The county board of elections shall appoint as many voting system custodians as may be

necessary for the proper preparation of the system for each primary and election and for its maintenance, storage, and care.

"Part 3. Procedures at the Voting Place.

"**§ 163-166. Hours for voting.**

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. In extraordinary circumstances, the county board of elections may direct that the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

"**§ 163-166.1. Duties of county board of elections.**

The county board of elections shall:

(1) Provide for the timely delivery to each voting place of the supplies, records, and equipment necessary for the conduct of the election.

(2) Ensure that adequate procedures are in place at each voting place for a safe, secure, fair, and honest election.

(3) Respond to precinct officials' questions and problems where necessary.

"**§ 163-166.2. Arrangement of the voting enclosure.**

Each voting enclosure shall contain at a minimum:

(1) A sufficient number of private spaces for all voters to mark their official ballots in secrecy.

(2) Adequate space and furniture for the separate functions of:

a. The checking of voter registration records.

b. The distribution of official ballots.

c. Private discussion with voters concerning irregular situations.

(3) A telephone or some facility for communication with the county board of elections.

The equipment and furniture in the voting enclosure shall be arranged so that it can be generally seen from the public space of the enclosure.

"**§ 163-166.3. Limited access to the voting enclosure.**

During the time allowed for voting in the voting place, only the following persons may enter the voting enclosure:

(1) An election official.

(2) An observer appointed pursuant to G.S. 163-45.

(3) A person seeking to vote in that voting place on that day, but only while in the process of voting or seeking to vote.

(4) A voter in that precinct while entering or explaining a challenge pursuant to G.S. 163-87 or ~~G.S.163~~G.S.-88.

(5) A person authorized under G.S. 163-166.9 to assist voters, but only while assisting that voter.

(6) Persons conducting or participating in a simulated election within the voting place or voting enclosure, if that simulated election is approved by the county board of elections.

(7) Any other person determined by election officials to have an urgent need to enter the voting enclosure, but only to the extent necessary to address that need.

"**§ 163-166.4. Limitation on activity in the voting place and in a buffer zone around it.**

No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place. In determining the dimensions of that buffer zone for each voting place, the county board of elections shall, where practical, set the limit at 50 feet from the entrance to the voting place, but in no event shall it set the limit at less than 25 feet.

"**§ 163-166.5. Procedures at voting place before voting begins.**

The State Board of Elections shall promulgate rules for precinct officials to set up the voting place before voting begins. Those rules shall emphasize:

(1) Continual participation or monitoring by officials of more than one party.

(2) Security of official ballots, records, and equipment.

(3) The appearance as well as the reality of care, efficiency, impartiality, and honest election administration.

The county boards of elections and precinct officials shall adhere to those procedures.

"**§ 163-166.6. Designation of tasks.**

The State Board of Elections shall promulgate rules for the delegation of tasks among the election officials at each precinct. Those rules shall emphasize:

(1) The need to place primary managerial responsibility upon the chief judge.

(2) The need to have maximum multiparty participation in all duties where questions of partisan partiality might be raised.

(3) The need to provide flexibility of management to the county board of elections and to the chief judge, in consideration of different abilities of officials, the different availability of officials, and the different needs of voters precinct by precinct.

"**§ 163-166.7. Voting procedures.**

(a) Checking Registration. – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots.

(b) Distribution of Official Ballots. -- If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

(1) The voting system remains secure throughout the period voting is being conducted.

(2) Only properly voted official ballots are introduced into the voting system.

(3) No official ballots leave the voting enclosure during the time voting is being conducted there.

(4) All improperly voted official ballots are returned to the precinct officials and marked as spoiled.

(5) Voters leave the voting place promptly after voting.

(6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.

(7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.

(8) The registration records are kept secure.

(9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.

"**§ 163-166.8. Assistance to voters.**

(a) Any registered voter qualified to vote in the election shall be entitled to assistance with entering and exiting the voting booth and in preparing ballots in accordance with the following rules:

(1) Any voter is entitled to assistance from the voter's spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild, as chosen by the voter.

(2) A voter in any of the following four categories is entitled to assistance from a person of the voter's choice, other than the voter's employer or agent of that employer or an officer or agent of the voter's union:

a. A voter who, on account of physical disability, is unable to enter the voting booth without assistance.

b. A voter who, on account of physical disability, is unable to mark a ballot without assistance.

c. A voter who, on account of illiteracy, is unable to mark a ballot without assistance.

d. A voter who, on account of blindness, is unable to enter the voting booth or mark a ballot without assistance.

(b) A qualified voter seeking assistance in an election shall, upon arriving at the voting place, request permission from the chief judge to have assistance, stating the reasons. If the chief judge determines that such assistance is appropriate, the chief judge shall ask the voter to point out and identify the person the voter desires to provide such assistance. If the identified person meets the criteria in subsection (a) of this section, the chief judge shall request the person indicated to render the assistance. The chief judge, one of the judges, or one of the assistants may provide aid to the voter if so requested, if the election official is not prohibited by subdivision (a)(2) of this section. Under no circumstances shall any precinct official be assigned to assist a voter qualified for assistance, who was not specified by the voter.

(c) A person rendering assistance to a voter in an election shall be admitted to the voting booth with the voter being assisted. The State Board of Elections shall promulgate rules governing voter assistance, and those rules shall adhere to the following guidelines:

(1) The person rendering assistance shall not in any manner seek to persuade or induce any voter to cast any vote in any particular way.

(2) The person rendering assistance shall not make or keep any memorandum of anything which occurs within the voting booth.

(3) The person rendering assistance shall not, directly or indirectly, reveal to any person how the assisted voter marked ballots, unless the person rendering assistance is called upon to testify in a judicial proceeding for a violation of the election laws.

"**§ 163-166.9. Curbside voting.**

In any election or referendum, if any qualified voter is able to travel to the voting place, but because of age or physical disability and physical barriers encountered at the voting place is unable to enter the voting enclosure to vote in person without physical assistance, that voter shall be allowed to vote either in the vehicle conveying that voter or in the immediate proximity of the voting place. The State Board of Elections shall promulgate rules for the administration of this section.

"**§ 163-166.10. Procedures after the close of voting.**

The State Board of Elections shall promulgate rules for closing the voting place and delivering voting information to the county board of elections for counting, canvassing, and record maintenance. Those rules shall emphasize the need for the appearance as well as the reality of security, accuracy, participation by representatives of more than one political party, openness of the process to public inspection, and honesty. The rules, at a minimum, shall include procedures to ensure all of the following:

(1) The return and accurate accounting of all official ballots, regular, provisional, voted, unvoted, and spoiled, according to the provisions of Article 15A of this Chapter.
(2) The certification of ballots and voter-authorization documents by precinct officials of more than one political party.
(3) The delivery to the county board of elections of registration documents and information gleaned through the voting process that would be helpful in the accurate maintenance of the voter registration records.
(4) The return to the county board of all issued equipment.
(5) The restoration of the voting place to the condition in which it was found."

SECTION 4. G.S. 163-114 reads as rewritten:

"**§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position	
Any elective State office United States Senator	Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs
A district office, including: Member of the United States House of Representatives Judge of district court District Attorney State Senator in a multi-county senatorial district Member of State House of Representatives in a multi-county representative district	Appropriate district executive committee of political party in which vacancy occurs
State Senator in a single-county senatorial district Member of State House of Representatives in a	County executive committee of political party in which vacancy occurs, provided, in the case of the State

single-county representative district	Senator or State Representative in a single-county district where
Any elective county office	not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of ~~G.S. 163-139~~ G.S. 163-165.3(c) shall apply. If any person nominated as a candidate of a political party vacates such nomination and such vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

SECTION 5. G.S. 163-209 reads as rewritten:

"**§ 163-209. Names of presidential electors not printed on ballots.**

The names of candidates for electors of President and Vice-President nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. In the case of the unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their names, ~~in accordance with the provisions of G.S. 163-140~~ there shall be

printed on the ballot the names of the candidates for President and Vice-President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 shall, no later than 12:00 noon on the first Friday in August, file with the State Board of Elections the name of a candidate for Vice-President, whose name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State. "

SECTION 6. G.S. 163-294(b) reads as rewritten:

"(b) In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. In both the primary and election, a voter should not mark more names for any office than there are positions to be filled by ~~election, as provided in G.S. 163-135(e) and G.S. 163-151(2).~~ election. If two or more candidates receiving the highest number of votes each received the same number of votes, the board of elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the third day (Sunday excepted) following the primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5.

SECTION 7. G.S. 163-299(b) reads as rewritten:

"(b) The form of municipal ballots to be used in partisan municipal elections shall be the same as the form prescribed in this Chapter for the county ballot. ~~A nonpartisan municipal ballot shall be divided into sections according to the offices to be filled. Within each section the names of the candidates for that office shall be printed. At the left of each name shall be printed a voting square, and all voting squares on the ballot shall be arranged in a perpendicular line. On the face of the ballot, above the list of candidates and below the title of the ballot shall be printed in heavy black type the following instructions: "If you tear or deface or wrongly mark this ballot, return it and get another."~~

SECTION 8. G.S. 163-299(d) reads as rewritten:

"(d) The provisions of ~~G.S. 163-151(1), (2) and (3)~~ Articles 13A and 15A of this Chapter shall apply to ballots used in municipal primaries and elections in the same manner as it is applied to county ~~ballots provided, however, the exceptions contained in G.S. 163-151 shall be adhered to if applicable.~~ ballots."

SECTION 9. G.S. 163-332(a) reads as rewritten:

"(a) General. – In elections there shall be official ballots. The ballots shall be printed to conform to the requirement of ~~G.S. 163-140(c)~~ G.S. 163-165.6(c) and to show the name of each person who has filed notice of candidacy, and the office for which each aspirant is a candidate.

Only those who have filed the required notice of candidacy with the proper board of elections, and who have paid the required filing fee or qualified by petition, shall have their names printed on the official primary ballots. Only those candidates properly nominated shall have their names appear on the official general election ballots."

SECTION 10. Article 25 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-327.1. Rules when vacancies for superior court judge are to be voted on.**

If a vacancy occurs in a judicial district for any offices of superior court judge, and on account of the occurrence of such vacancy, there is to be an election for one or more terms in that district to fill the vacancy or vacancies, at that same election in accordance with G.S. 163-9 and Article VI, Section 19 of the North Carolina Constitution, the nomination and election shall be determined by the following special rules in addition to any other provisions of law:

(1) If the vacancy occurs prior to the opening of the filing period under G.S. 163-323(b), nominations shall be made by primary election as provided by this Article, without designation as to the vacancy.

(2) If the vacancy occurs beginning on opening of the filing period under G.S. 163-323(b), and ending on the sixtieth day before the general election, candidate filing shall be as provided by G.S. 163-329 without designation as to the vacancy.

(3) The general election ballot shall contain, without designation as to vacancy, spaces for the election to fill the vacancy where nominations were made or candidates filed under subdivisions (1) or (2) of this subsection. The persons receiving the highest numbers of votes equal to the term or terms to be filled shall be elected to the term or terms. "

SECTION 11. This act becomes effective January 1, 2002.

VISITOR REGISTRATION SHEET

Election Law & Campaign Reforms 6/6/01
Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John D Latham	Carteret Craven CBA
Joy Barbour	Concerned Bikers Assoc./ABATE of N.C.
Robynn Steen	ACLU
Michael Crowell	
Tenisha Jacobs	Democracy South
Kristin Wooten	Democracy South
Jennifer Ayers	Democracy South
Valian Fawn Walker	Democracy South
Cameron Dibble	Democracy South
Johnnie McLean	St. Bd. of Elections
Dan Wright	SBOE
John Phelps	NCLM
Nital Patel	Democracy South
Jara Purohit	Democracy South
Krystall C. Pittman	Democracy South
Akosa J. Battle	Democracy South
Cherie Poucher	Wake Co. Board of Elections
John O'Hale	Governor's office intern
DAVID BARNES	Poyner + Spruill
Bibb Hall	Democracy South
Paul Bucyck	NCGTPA
[illegible]	DUNS
[illegible]	CSC
Drew Nelson	Rep. Hackney's Office
Mari [illegible]	GSK
Courtney Sprouse	Democracy South

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Representative Luebke**

OFFICE: **529**

NOTIFICATION DATE: **June 12, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, June 13, 2001**

TIME: **11:00 am**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

HB 1294 -Election Day Registration

We would like to have you attend this meeting.

Representative Alexander - -
Chairman

Ann Faust (Committee Assistant)

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

June 13, 2001
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

HB 1294 – Election Day Registration – Representative Luebke

STAFF: Bill Gilkeson
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

June 13, 2001

Room 1228
11:00 a.m.

The meeting of the House Committee on Election Law and Campaign Finance Reform was called to order by Representative Mickey Michaux, Vice Chair. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair, Arnold, Blue, Bonner, Daughtry, Decker, Goodwin, Justus, Kiser, Luebke, Starnes, Weatherly and Weiss.

Representative Alexander returned and announced there would be no vote at this meeting.

She introduced Representative Luebke to present HB 1294 AN ACT TO ALLOW VOTER REGISTRATION ON ELECTION DAY. Representative Luebke, Bill Gilkeson and Gary Bartlett, Executive Director of the State Board of Elections spoke o the explained the bill. Mr. Gilkeson said that the bill would retain the registration deadline of 25 days before election day but would not allow registration from the 25th day until election day, the registration books would be closed to allow the BOE time to process the books; however, on election day, people would be allowed to register and vote. A driver's license or some other ID approved by the BOE would be required or a voter could be vouched for by a voter registered in that precinct. Mr. Luebke presented figures related to states with same day registration showing the high percentage of voter participation. Responding to a question from Representative Luebke, Mr. Bartlett said that there were no substantial differences in registration by party affiliation following no excuse absentee voting. Representative Starnes asked about any change in voting percentages since motor voter was instituted. Mr. Bartlett responded that, excluding inactive voters, voting percentage was about 67%. In response to a question by Representative Daughtry, Mr. Bartlett said that the parties, not the BOE determine the sites for early voting. The process worked in the 2000 election but could be made to work for the benefit of one party without care. Representative Nesbitt added that a majority vote of the local board of election or turning site selection over to the SBOE would preclude preferential locations.

Mr. Lee Mortimer, founding member of the Center for Voting and Democracy in Washington, DC and a public member of the Election Laws Review Committee in 1996 and serves on the governing board of Common Cause of North Carolina. The current 25 day cutoff would still be in effect, but on election day, a voter could show a valid ID to a poll worker at the election site and be allowed to vote. Six states have same day registration. Three of those states voted for Bush, three for Gore, and the combined voting percentage is 66% compared to 51% nationally. NC has made progress in voter

turnout in the past 16 years. He is aware of no unusual problems in states using same day registration. Election Day registration would make purging easier; if a voter had been accidentally purged, he could be added at that time. Neither party had a noticeable advantage. Questions followed. Representative Justus noted that people not voting are also exercising their prerogative.

Representative Decker urges cleaning up the registration rolls.

Representative Luebke spoke about the students he teaches wanting to register to vote just a few days before voting and having missed the registration deadline. They are too preoccupied with their lives, then an issue catches their interest. Representative Decker stressed the importance of education of young voters. Representative Arnold thought an informed voter would register on time. Only 10-12% of voters vote by issue according to a cited survey. Representative Weatherly asked about the possibility of fraud. Mr. Bartlett responded that he had sent questionnaires to the Boards of Elections of the six states with same day registration to gather data re fraud.

There being no further business, the meeting was adjourned

Martha Alexander, Committee Chairman

Ann Faust, Committee Assistant

HOUSE BILL 1294:
Election Day Registration

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Representative Luebke
		Summary by:	William R. Gilkeson Committee Counsel
Date:	June 13, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1294 would allow eligible persons who did not register to vote by the 25-day deadline for an election to register at the polls on election day. They could then vote that same day.***

CURRENT LAW: In order to vote in an election, an eligible person in North Carolina must register 25 days before the election. *G.S. 163-82.6.* The exceptions to that rule are very limited:

1. Someone who became a U.S. citizen between the 25th day and election day.
2. Someone who had citizenship restored, after serving a felony sentence, between the 25th day and election day.
3. A member of the Armed Services or certain other federal organizations who was absent on duty on the final day of registration. (This exception is a combination of federal and State law. Senate Bill 11 attempted to clarify the North Carolina statutes on the question.)

Those people are allowed to register and vote on election day.

BILL ANALYSIS: House Bill 1294 would retain the 25-day registration deadline, but would allow any eligible person to register on election day. The bill would require the person to present a driver's license, DMV alternative I.D. card, or other document approved by the State Board of Elections as proper identification. In lieu of presenting a document, the person could be vouched for under oath by a registered voter in the precinct. That same voter could not vouch for anyone else that day. The bill would become effective January 1, 2002.

BACKGROUND: According to the Federal Election Commission, 6 states now allow voters to register at the polls on election day:

1. Idaho.
2. Maine.
3. Minnesota.
4. New Hampshire.
5. Wisconsin.
6. Wyoming.

North Dakota is the only state that does not have voter registration.

Attached is an FEC chart showing the registration deadlines of the states.

Federal Election Commission

Jump to another section of this site

Frequently Asked Questions About Vote Registration

Q. Where can I register to vote?

A. Registration applications may be obtained from either the local election official in your county or city, or through registration outreach programs sponsored by such groups as the League of Women Voters. In addition, you can also register to vote when applying for a license or identity card at State DMV or driver's licensing offices, State offices providing publ assistance, State offices providing State-funded programs for the disabled, and at armed for recruitment offices. Many States also offer registration opportunities at public libraries, post offices, unemployment offices, and at public high schools and universities.

Q. When is the last day that I may register in order to be eligible to vote in th next election?

A. Scroll down to view voter registration deadlines .

STATE	REGISTRATION DEADLINES FOR ALL ELECTIONS
Alabama	10 days before an election.
Alaska	30 days before an election.
Arizona	29 days before an election.
Arkansas	30 days before an election.
California	29 days before an election.
Colorado	29 days before an election. If the application is received in th mail without a postmark, it must be received within 5 da of the close of registration.
Connecticut	14 days before an election.
Delaware	20 days prior to the general election and 21 days prior to ar primary election.

D.C.	30 days before an election.
Florida	29 days before an election.
Georgia	The fifth Monday before a general primary, general election, or presidential preference primary. The fifth day after the dat of the call for all other special primaries and special elections.
Hawaii	30 days before an election
Idaho	25 days before an election - mail; 24 days for in person; *or election day at the polls.*
Illinois	29 days before primary, 28 days before a general election
Indiana	29 days before an election
Iowa	Must be delivered by 5 pm 10 days before a state primary or general election; 11 days before all others. A postmark 15 o more days before an election is considered on time.
Kansas	Delivered 15 days before an election.
Kentucky	28 days before an election.
Louisiana	30 days before an election.
Maine	10 business days before an election or delivered in pers up to and including election day.
Maryland	Postmarked 25 days before an election or received in the elections office by 9pm no later than 21 days before the electio
Massachusetts	20 days before an election.
Michigan	30 days before an election.
Minnesota	Delivered by 5pm 21 days before an election; also electi day registration at polling places.
Mississippi	30 days before an election.
Missouri	28 days before an election.
Montana	30 days before an election.
Nebraska	The fourth Tuesday before an election or delivered by 6pm the second Friday before the election.

Nevada	9pm on the fifth Sat. before any primary or general election. 9pr on the third Sat. before any recall or special election unless is held on the same day as a primary or general election. Th it remains the fifth Saturday.
New Hampshire	Must be received by your city or town clerk 10 days before ar election *or registration at the polls on election day.*
New Jersey	29 days before an election.
New Mexico	28 days before an election.
New York	25 days before an election.
North Carolina	Postmarked 25 days before an election or received in the elections office or designated voter registration agency by 5pm. 2 days before the election.
North Dakota	North Dakota does not have voter registration.
Ohio	30 days before the election.
Oklahoma	25 days before an election.
Oregon	21 days before an election (there is no deadline for applications fc change of name, change of address or to register with a part
Pennsylvania	30 days before an election.
Rhode Island	30 days before an election.
South Carolina	30 days before an election.
South Dakota	Delivered 15 days before an election.
Tennessee	30 days before an election.
Texas	30 days before an election.
Utah	20 days before an election.
Vermont	Delivered to the town clerk before noon, postmarked or submitted to DMV on the second Sat. before an election.
Virginia	Delivered 29 days before an election.
Washington	30 days before an election; or delivered in-person up to 1 days before an electionat a location designated by the count elections officer (usually the county courthouse).
West Virginia	30 days before an election.
Wisconsin	13 days before an election; or completed in the local vote registration office 1 day before the election; *or completed at t polling place on election day.*

Wyoming

30 days before an election *or register at the election day.*

polling place

Federal Election Commission | 999 E. Street, NW | Washington, DC 20463
(800) 424-9530 | In Washington (202) 694-1100
For the hearing impaired, TTY (202) 219-3336

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HOUSE BILL 1294

Short Title:	Election Day Registration.	(Public)
Sponsors:	Representative Luebke.	
Referred to:	Election Law and Campaign Finance Reform.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO ALLOW VOTER REGISTRATION ON ELECTION DAY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.6 reads as rewritten:

"§ 163-82.6. Acceptance of application forms.

(a) How the Form May Be Submitted. – The county board of elections shall accept any form described in G.S. 163-82.3 if the applicant submits the form by mail or in person. The applicant may delegate the submission of the form to another person. Any person who communicates to an applicant acceptance of that delegation shall deliver that form so that it is received by the appropriate county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be a Class 2 misdemeanor for any person to communicate to the applicant acceptance of that delegation and then fail to make a good faith effort to deliver the form so that it is received by the county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be an affirmative defense to a charge of failing to make a good faith effort to deliver a delegated form by the registration deadline that the delegatee informed the applicant that the form would not likely be delivered in time for the applicant to vote in the next election. It shall be a Class 2 misdemeanor for any person to sell or attempt to sell a completed voter registration form or to condition its delivery upon payment.

(b) Signature. – The form shall be valid only if signed by the applicant.

(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

(1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,

(2) If submitted in person, must be received by the county board of elections by 5:00 p.m. on the twenty-fifth day before the election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election,

except as provided in subsection (d) of this section.

~~(d) Instances When Person May Register and Vote on Election Day. If a person has become qualified to register and vote between the twenty-fifth day before an election and election day, then that person may apply to register on election day by submitting an application form described in G.S. 163-82.3(a) or (b) to:~~

~~(1) A member of the county board of elections;~~

~~(2) The county director of elections; or~~

~~(3) The chief judge or a judge of the precinct in which the person is eligible to vote;~~

~~and, if the application is approved, that person may vote the same day. The official in subdivisions (1) through (3) of this subsection to whom the application is submitted shall decide whether the applicant is eligible to vote. The applicant shall present to the official written or documentary evidence that the applicant is the person he represents himself to be. The official, if in doubt as to the right of the applicant to register, may require other evidence satisfactory to that official as to the applicant's qualifications. If the official determines that the person is eligible, the person shall be permitted to vote in the election and the county board shall add the person's name to the list of registered voters. If the official denies the application, the person shall be permitted to vote a challenged ballot under the provisions of G.S. 163-88.1, and may appeal the denial to the full county board of elections. The State Board of Elections shall promulgate rules for the county boards of elections to follow in hearing appeals for denial of election day applications to register. No person shall be permitted to register on the day of a second primary unless he shall have become qualified to register and vote between the date of the first primary and the date of the succeeding second primary.~~

~~(e) For purposes of subsection (d) of this section, persons who "become qualified to register and vote" during a time period:~~

~~(1) Include those who during that time period are naturalized as citizens of the United States or who are restored to citizenship after a conviction of a felony; but~~

~~(2) Do not include persons who reach the age of 18 during that time period, if those persons were eligible to register while 17 years old during an earlier period.~~

(f) Election Day Registration. – An individual who is eligible to vote may be registered on election day by a precinct official if the individual appears in person at the voting place for the precinct in which that individual resides, completes a registration form, makes an oath in the form prescribed by the State Board of Elections, and

provides proof of residence. An individual may provide proof of residence for the purposes of registering on election day by one of the following:

(1) Showing a North Carolina drivers license or identification card issued pursuant to G.S. 20-37.7.

(2) Showing any document approved by the State Board of Elections as proper identification.

(3) Having a voter who is registered to vote in the precinct sign an oath in the presence of the precinct official vouching that the voter personally knows that the individual is a resident of the precinct. A voter who has been vouched for may not sign a proof of residence oath vouching for any other individual on election day.

A county board of elections may require that the precinct chief judge initial each completed registration form."

SECTION 2. This act becomes effective January 1, 2002.

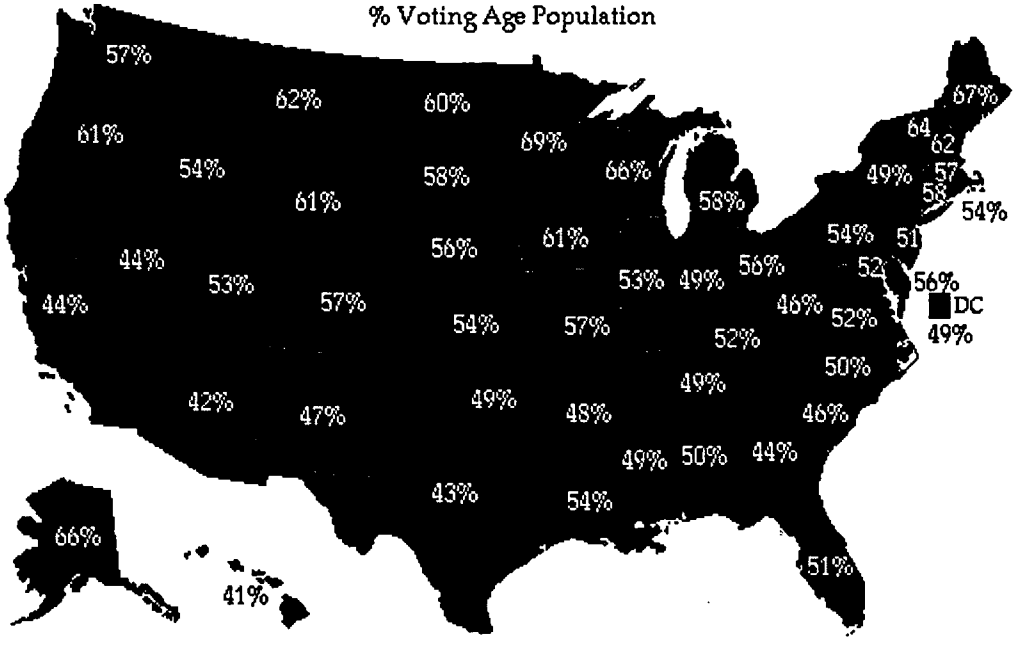
Election-Day Voter Registration (HB 1294)

Currently used in six states: Maine, New Hampshire, Wisconsin, Minnesota, Idaho and Wyoming.

Turnout of those states' combined voting-age population: 66% in November 2000, compared to 51% nationally and 50% in North Carolina.

Sen. John McCain estimated that election-day registration added 10 points to his 19 percentage-point margin in the New Hampshire primary.

2000 Presidential Election - Voter Turnout Preliminary



	Total VAP	Total REG	Turnout	%TO VAP	%TO REG
Alabama	3,333,000		1,666,272	49.99%	
Alaska	430,000	473,648	285,560	66.41%	60.29%
Arizona	3,625,000	2,173,122	1,532,016	42.26%	70.50%
Arkansas	1,929,000	1,555,809	921,781	47.79%	59.25%
California	24,873,000	15,707,307	10,965,856	44.09%	69.81%
Colorado	3,067,000	2,898,138	1,741,368	56.78%	60.09%
Connecticut	2,499,000	1,901,203	1,459,525	58.40%	76.77%
Delaware	582,000	506,397	327,529	56.28%	64.68%
District of Columbia	411,000	354,410	201,894	49.12%	56.97%
Florida	11,774,000	8,752,717	5,963,110	50.65%	68.13%
Georgia	5,893,000	3,859,960	2,596,645	44.06%	67.27%

(Continued on other side)

	Total VAP	Total REG	Turnout	%TO VAP	%TO REG
Hawaii	909,000	637,349	367,951	40.48%	57.73%
Idaho	921,000	728,085	501,615	54.46%	68.90%
Illinois	8,983,000	7,129,026	4,742,108	52.79%	66.52%
Indiana	4,448,000	4,000,809	2,199,305	49.44%	54.97%
Iowa	2,165,000	1,969,199	1,315,563	60.77%	66.81%
Kansas	1,983,000	1,623,623	1,072,216	54.07%	66.04%
Kentucky	2,993,000	2,569,168	1,544,187	51.59%	60.10%
Louisiana	3,255,000	2,796,551	1,765,656	54.24%	63.14%
Maine	968,000	882,337	651,817	67.34%	73.87%
Maryland	3,925,000	2,715,366	2,023,735	51.56%	74.53%
Massachusetts	4,749,000	4,008,796	2,702,984	56.92%	67.43%
Michigan	7,358,000	6,859,332	4,232,711	57.52%	61.70%
Minnesota	3,547,000	3,265,324	2,438,685	68.75%	74.68%
Mississippi	2,047,000		994,184	48.57%	
Missouri	4,105,000	3,860,672	2,359,892	57.49%	61.13%
Montana	668,000	698,260	410,997	61.52%	58.86%
Nebraska	1,234,000	1,085,217	697,019	56.48%	64.23%
Nevada	1,390,000	898,347	608,970	43.81%	67.79%
New Hampshire	911,000	856,519	569,071	62.47%	66.44%
New Jersey	6,245,000	4,699,026	3,187,226	51.04%	67.83%
New Mexico	1,263,000	972,895	598,605	47.40%	61.53%
New York	13,805,000	11,262,816	6,821,999	49.42%	60.57%
North Carolina	5,797,000	5,128,662	2,914,990	50.28%	56.84%
North Dakota	477,000	N/A	288,256	60.43%	N/A
Ohio	8,433,000	7,535,188	4,701,998	55.76%	62.40%
Oklahoma	2,531,000	2,233,602	1,234,229	48.76%	55.26%
Oregon	2,530,000	1,943,699	1,533,968	60.63%	78.92%
Pennsylvania	9,155,000	7,781,997	4,913,119	53.67%	63.13%
Rhode Island	753,000	655,107	408,783	54.29%	62.40%
South Carolina	2,977,000	2,157,006	1,384,253	46.50%	64.17%
South Dakota	542,000	471,152	316,269	58.35%	67.13%
Tennessee	4,221,000	3,400,487	2,076,181	49.19%	61.06%
Texas	14,850,000	12,365,235	6,407,637	43.15%	51.82%
Utah	1,465,000	1,123,238	770,754	52.61%	68.62%
Vermont	460,000	427,354	294,308	63.98%	68.87%
Virginia	5,263,000	4,070,581	2,739,447	52.05%	67.30%
Washington	4,368,000	3,335,714	2,487,433	56.95%	74.57%
West Virginia	1,416,000	1,067,822	648,124	45.77%	60.70%
Wisconsin	3,930,000	N/A	2,598,607	66.12%	N/A
Wyoming	358,000	220,062	218,351	60.99%	99.22%
Total	205,814,000	155,618,334	105,404,759	51.21%	67.73%

VISITOR REGISTRATION SHEET

Election Law & Campaign Reform — 6/13/01
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Gore	Raleigh CBA
Joy Barbour	Concerned Bikers Assoc./ABATE of N.C.
Robynn Steen	ACLU
Gary O. Bartlett	State Board of Elections
Michelle Mroczkowski	State Board of Elections
Alanna Farkas	State Board of Elections
Kristine Calore	"
Andrew Hainsworth	IOG Intern UNCA Rep. Luebke
Bob Hall	Democracy South
Lee Mortimer	Citizen
Rowvie Moore	N.C. Democratic Party

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

June 20, 2001
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: **Representative Alexander**

SB 11 – Election Changes-Misc.	**Senator Gulley**
SB 17 – Election Rewrite – 1	**Senator Gulley**
SB 14 – Election Rewrite – 2	**Senator Gulley**

STAFF: **Bill Gilkeson**
Erika Churchill

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday June 20, 2001**

TIME: **11:00 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 11 – Election Changes-Misc.	**Senator Gulley**
SB 17 – Election Rewrite – 1	**Senator Gulley**
SB 14 – Election Rewrite – 2	**Senator Gulley**

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **10:30 am on June 14, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Senator Gulley**

OFFICE: **408**

NOTIFICATION DATE: **June 14, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, June 20, 2001**

TIME: **11:00 am**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

SB 11 – Election Changes-Misc. **Senator Gulley**

SB 17 – Election Rewrite – 1 **Senator Gulley**

SB 14 – Election Rewrite – 2 **Senator Gulley**

We would like to have you attend this meeting.

Representative Alexander - -
Chairman

Ann Faust (Committee Assistant)

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

June 20, 2001

Room 1228
11:00 a.m.

The meeting was called to order by Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Arnold, Blue, Bonner, Daughtry, Decker, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Rogers, Starnes, Weatherly, Weiss, Cunningham, Dedmon, Earle and Hackney.

Representative Alexander recognized and welcomed the pages and thanked the Sergeants at Arms for their assistance.

Michael Crowell who served as chair of the Voter Rewrite Subcommittee was introduced to review some of the rationale behind the rewrite bills. There have been no substantive changes in the laws governing the administration of elections. Senate Bill 17 deals with procedures and deals at length with voting with paper ballots and deals minimally with other forms of voting. General principals are set out, leaving the details to the State Board of Elections. There was discussion about approval or disapproval of voting machines. The State Board of Elections has the final determination.

Senator Gulley was recognized to re-present Senate Bill 17, Election Rewrite – 1, first discussed at the June 13 meeting. Discussion followed. Representative Luebke put forth an amendment – amending on page 9 line 12 adding language to change the distance from the polling place at which electioneering may take place. After discussion, including various stipulations from churches being used as polling places, the difficulty of finding polling places, and eliminating electioneering at polling places altogether, the amendment failed.

Representative Arnold then put forth an amendment on page 5 lines 40-41 that calls for rotation of the order of political parties placement on the ballot from every three years so that no party is the first party in two successive presidential elections. Following discussion, the amendment passed. A change of title is necessary.

Representative Kiser put forth an amendment on page 6 line 37 giving a county recourse if changing a county voting system poses a financial hardship on said county. Following a brief discussion, the meeting was adjourned at 11:56 am.

Martha Alexander, Chair

Ann Faust, Committee Assistant

SENATE BILL 17:
Election Rewrite -- 1.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Senator Gulley
Date:	May 23, 2001	**Summary by:**	William R. Gilkeson and Erika Churchill
Version:	S17-CSRR-30(v.7)		Staff Attorneys

SUMMARY: The Proposed House Committee Substitute for Senate Bill 17 would rewrite the sections of the Election Law dealing with setting up the official ballot, acquiring voting equipment, and conducting the election at the voting place.

CURRENT LAW: Chapter 163 of the General Statutes, the Election Law, was last comprehensively rewritten in 1967, in response to the Election Laws Revision Commission appointed in 1965. The statute contains Article 13, which prescribes in detail the content of paper ballots to be counted by hand. It also specifies in detail the furnishings and procedures for a voting place using hand-counted paper ballots. By 2001, only one county (Tyrrell) used hand-counted paper ballots as their primary voting method. For ballot and election-day procedures of the other 99 counties that use some kind of mechanical or electronic voting system, there is Article 14, which gives the State Board of Elections broad rulemaking authority to establish procedures.

Article 14 also gives the State Board of Elections the authority to approve the types of voting systems that may be purchased by county or municipal boards of elections.

SENATE BILL 17: Senate Bill 17 repeals both Articles 13 and 14 and merges their provisions into one new Article, 13A. The philosophy of the draft is to remove the disparate treatment of hand-counted paper ballots versus all other voting methods. Instead, the new statute would set general principles that are technologically neutral. It would direct the State Board to promulgate rules for different voting methods, guided by the general principles.

The new Article would be titled "Voting." It would be divided into three Parts: "Definitions," "Ballots and Voting Systems," and "Procedures at the Voting Place."

The Definitions Part defines several key terms that are used throughout the new Article 13A, as well as the new Article 15A that would be created by Senate Bill 17I. "Official ballot" is a ballot that has been certified by the State Board and produced by the county board. Only an official ballot may be voted and counted. "Ballot item" is the segment of the ballot where the voter chooses a referendum proposal or candidate or set of candidates for the same office or set of offices. "Provisional official ballot" is a ballot voted and then placed in an envelope that contains an affidavit signed by the voter as to that voter's identity and qualifications. "Voting system," defined in current law as any voting method other than hand-counted paper ballots, is broadened to include paper ballots are any system of voting. *G.S. 163-165.*

The Ballots and Voting Systems Part gives the State Board of Elections authority to certify the official ballot statewide and in every county. *G.S. 163-165.3.*The State Board also has rulemaking authority based on technologically neutral guidelines. The statute makes certain policy choices, some of which clarify current law and some of which change it:

- County Financial Responsibility for Producing the Ballot. Currently, 99 counties must foot the bill for producing ballots. In the one county that relies on hand-counted paper ballots, the State pays for the State paper ballots and the county pays for the rest. The bill standardizes the law by making the county responsible for producing all ballots. *G.S. 163-165.3*

- Gender Neutrality of Candidates' Names on Ballots. Currently, the candidate's name appears on the ballot the way the candidate listed it on the notice of candidacy. Titles are not permitted, except that married women may use "Mrs." and unmarried women may use "Miss." ***The rewrite says that titles indicating rank, status, or position may not be used, but allows the use of the terms Mr., Mrs. Miss, and Ms.*** *G.S. 163-165.5.)*

- Straight Ticket for All But the Presidency. Currently, the straight party ticket is restricted in a number of ways for hand-counted paper ballots, but less clearly for the 99 machine/electronic counties. ***The rewrite follows the prevailing practice of the 99 counties, which is to count the straight ticket for all but the presidential race.*** *G.S. 163-165.6.*

- Order of Names on Primary Ballot. Current law requires the rotation of names on primary ballots in the one hand-counted paper county, but does not require it in the 99 other counties. A lawsuit settlement has resulted in a compromise method. ***The rewrite says that in all counties, names in a primary ballot item on that county's ballots shall be determined by random selection.*** *G.S. 163-165.6.*

The provisions on acquisition of voting systems make the following changes:

- State Board Disapproval of Types, Makes, and Models. Current law gives the State Board the authority to approve types of voting systems used in elections, whether municipal or county. ***The rewrite would expand that authority to approval of makes and models of voting systems. It would also expand it to allow the State Board to disapprove a type, make, or model of voting system already in use in a county. It would give the State Board authority to set a process for discontinuance of a disapproved voting system in a county.*** *G.S. 163-165.7.* ***The rewrite would also provide a specific procedure to follow when counties are purchasing voting equipment, while not mentioning such a procedure for the purchase of voting equipment by municipalities.***

- No County Authority to Acquire a Disapproved Optical Scan System. Current law allows the county board of commissioners to approve a disapproved optical scan voting system, as long as the county board of elections signs off. ***The rewrite repeals this exception to the general rule.*** *G.S. 163-165.8.*

The Procedures at the Voting Place Part give the State Board greater flexibility to set up procedures at the polls for different voting systems and to allow county boards to assign duties at the delegate duties to different precinct officials. *G.S. 163-166.6.* In addition, the Part makes these changes:

- More Flexible Buffer Zone. Current law mandates a 50-foot buffer zone around the voting place in which no one may "loiter about, congregate, distribute campaign material, or do any electioneering." ***On the theory that the rigid 50-foot limit may, given the arrangement of some voting places, preclude any zone for***

electioneering, the rewrite allows the county board flexibility in designing the buffer zone, provided that it must be at least 25 feet from the voting place. It removes the candidate's apparent right under current law to enter the buffer zone. The rewrite also removes the language, constitutionally vulnerable according to the American Civil Liberties Union, about "loitering about and congregating." *G.S. 163-166.4.*

- Extra Hour. Current law says the polls close at 7:30, but the county board may keep them open an extra hour where voting machines are used. ***The rewrite says the county board may keep the polls open an extra hour anywhere in extraordinary circumstances.*** *G.S. 163-166.* ***(This provision is somewhat inconsistent with HB 1192, which passed the House last month, and would allow county boards of elections, upon a mechanical failure and with State Board approval, to keep polls open till 9:30.)***

BACKGROUND: The bill was recommended by the Election Laws Revision Commission as part of its project to rewrite Chapter 163 of the General Statutes. The bill was the product of a subcommittee of that Commission. The subcommittee also produced a companion bill, introduced this year as Senate Bill 14. The Senate made only a couple of substantive changes to, reflected in the title of the PCS. The Proposed House Committee Substitute makes conforming changes to other parts of current law and makes conforming changes to the rewrite itself.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 17
Judiciary I Committee Substitute Adopted 4/9/01

Short Title: Election Rewrite-1. (Public)

Sponsors:

Referred to:

January 29, 2001

A BILL TO BE ENTITLED

AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 13 and 14 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-2 is repealed.

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

"Article 13A.

"Voting.

"Part 1. Definitions.

"**§ 163-165. Definitions.**

In addition to the definitions stated below, the definitions set forth in Article 15A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

(1) 'Ballot' means an instrument on which a voter indicates a choice so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term 'ballot' may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, the face of a lever voting machine, the image on a direct record electronic unit, or a ballot used on any other voting system.

(2) 'Ballot item' means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.

(3) 'Ballot style' means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The

different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.

(4) 'Election' means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.

(5) 'Official ballot' means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections. The term does not include a sample ballot or a specimen ballot.

(6) 'Provisional official ballot' means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote.

(7) 'Referendum' means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.

(8) 'Voting booth' means the private space in which a voter is to mark an official ballot.

(9) 'Voting enclosure' means the room or connected rooms within the voting place that is used for voting.

(10) 'Voting place' means the building that contains the voting enclosure.

(11) 'Voting system' means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment.

"Part 2. Ballots and Voting Systems.

"**§ 163-165.1. General rules.**

(a) Requirements of Official Ballots in Voting. – In any election conducted under this Article:

(1) All voting shall be by official ballot.

(2) Only votes cast on an official ballot shall be counted.

(b) Compliance With This Article. – All ballots shall comply with the provisions of this Article.

(c) Other Uses Prohibited. – An official ballot shall not be used for any purpose not authorized by this Article.

"**§ 163-165.2. Sample ballots.**

(a) County Board to Produce and Distribute Sample Ballots. – The county board of elections shall produce sample ballots, in all the necessary ballot styles of the official ballot, for every election to be held in the county. The sample ballots shall be given an appearance that clearly distinguishes them from official ballots. The county board shall distribute sample ballots to the chief judge of every precinct in which the election is to be conducted. The chief judge shall post a sample ballot in the voting place, and may use it for instructional purposes. The county board of elections may use the sample ballot for other informational purposes.

(b) Document Resembling an Official Ballot to Contain Disclaimer. -- No person other than a board of elections shall produce or disseminate a document substantially resembling an official ballot unless the document contains on its face a prominent statement that the document was not produced by a board of elections and is not an official ballot.

"**§ 163-165.3. Responsibilities for preparing official ballots.**

(a) State Board to Certify Official Ballots and Instructions to Voters. -- The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

(1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification, and times for the State Board to complete the certification.

(2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.

(3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.

(4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.

(5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.

(6) The State Board is not required to certify or review every official ballot style in the county, but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

(b) County Board to Prepare and Produce Official Ballots and Instructions. -- Each county board of elections shall prepare and produce official ballots for all elections in that county. The county board of elections shall submit the format of each official ballot and set of instructions to the State Board of Elections for review and certification in accordance with the schedule established by the State Board. The county board of elections shall follow the directions of the State Board in placing candidates, referenda, and other material on official ballots and in placing instructions.

(c) Special Ballots. -- The State Board of Elections, with the approval of a county board of elections, may produce special official ballots, such as those for disabled voters, where production by the State Board would be more practical than production by the county board.

"**§ 163-165.4. Standards for official ballots.**

The State Board of Elections shall seek to ensure that official ballots throughout the State have all the following characteristics:

(1) Are readily understandable by voters.

(2) Present all candidates and questions in a fair and nondiscriminatory manner.

(3) Allow every voter to cast a vote in every ballot item without difficulty.

(4) Facilitate an accurate vote count.

(5) Are uniform in content and format, subject to varied presentations required or made desirable by different voting systems.

"**§ 163-165.5. Contents of official ballots.**

Each official ballot shall contain all the following elements:

(1) The heading prescribed by the State Board of Elections. The heading shall include the term 'Official Ballot.'

(2) The title of each office to be voted on and the number of seats to be filled in each ballot item.

(3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent.

(4) Party designations in partisan ballot items.

(5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123.

(6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.

(7) The printed title and facsimile signature of the chair of the county board of elections.

"**§ 163-165.6. Arrangement of official ballots.**

(a) Order of Precedence Generally. -- Candidate ballot items shall be arranged on the official ballot before referenda.

(b) Order of Precedence for Candidate Ballot Items. -- The State Board of Elections shall promulgate rules prescribing the order of offices to be voted on the official ballot. Those rules shall adhere to the following guidelines:

(1) Federal offices shall be listed before State and local offices. Federal offices shall be listed according to the size of the electorate.

(2) State and local offices shall be listed according to the size of the electorate.

(3) Partisan offices shall be listed before nonpartisan offices.

(4) When offices are in the same class, they shall be listed in alphabetical order by office name, or in numerical or alphabetical order by district name. Governor and Lieutenant Governor, in that order, shall be listed before other Council of State offices. Mayor shall be listed before other citywide offices. Chair of a board, where elected separately, shall be listed before other board seats having the same electorate. Chief Justice shall be listed before Associate Justices.

(5) Ballot items for full terms of an office shall be listed before ballot items for partial terms of the same office.

(c) Order of Candidates on Primary Official Ballots. -- The order in which candidates shall appear on a county's official ballots in any primary ballot item shall be determined by the county board of elections using a process designed by the State Board of Elections for random selection.

(d) Order of Party Candidates on General Election Official Ballot. -- Candidates in any ballot item on a general election official ballot shall appear in the following order:

(1) Nominees of political parties that reflect at least five percent (5%) of statewide voter registration, according to the most recent statistical report published by the State Board of Elections, in alphabetical order of the name of the party.

(2) Nominees of other political parties, in random order of the name of the party.

(3) Unaffiliated candidates, in random order.

(e) Straight-Party Voting. -- Each official ballot shall be arranged so that the voter may cast one vote for a party's nominees for all offices except President and Vice President. A vote for President and Vice President shall be cast separately from a straight-party vote. The official ballot shall be prepared so that a voter may cast a straight-party vote, but then make an exception to that straight-party vote by voting for a candidate not nominated by that party or by voting for fewer than all the candidates nominated by that party. Instructions for general election ballots shall clearly advise voters of the rules in this subsection and of the statutes providing for the counting of ballots.

(f) Write-In Voting. – Each official ballot shall be so arranged so that voters may cast write-in votes for candidates except where prohibited by G.S. 163-123 or other statutes governing write-in votes. Instructions for general election ballots shall clearly advise voters of the rules of this subsection and of the statutes governing write-in voting.

(g) Order of Precedence for Referenda. – The referendum questions to be voted on shall be arranged on the official ballot in the following order:

(1) Proposed amendments to the North Carolina Constitution, in the chronological order in which the proposals were approved by the General Assembly.

(2) Other referenda to be voted on by all voters in the State, in the chronological order in which the proposals were approved by the General Assembly.

(3) Referenda to be voted on by fewer than all the voters in the State, in the chronological order of the acts by which the referenda were properly authorized.

"**§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

The State Board of Elections shall have authority to approve types, makes, and models of voting systems for use in elections and referenda held in this State. The use of voting systems that have been approved by the State Board of Elections shall be valid in any election or referendum held in any county or municipality. The State Board may also, upon notice and hearing, disapprove types, makes, and models of voting systems. Upon disapproving a type, make, or model of voting system, the State Board shall determine the process by which the disapproved system is discontinued in any county.

Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of voting systems, including, but not limited to, the following:

(1) Types, makes, and models of voting systems approved for use in this State.

(2) Form of official ballot labels to be used on voting systems.

(3) Operation and manner of voting on voting systems.

(4) Instruction of precinct officials in the use of voting systems.

(5) Instruction of voters in the use of voting systems.

(6) Assistance to voters using voting systems.

(7) Duties of custodians of voting systems.

(8) Examination of voting systems before use in an election.

"**§ 163-165.8. Voting systems: powers and duties of county boards of commissioners.**

The board of county commissioners, with the approval of the county board of elections, may adopt and purchase or lease a voting system of a type, make, and model approved by the State Board of Elections for use in some or all voting places in the county at some or all elections.

The board of county commissioners may decline to adopt and purchase or lease any voting system recommended by the county board of elections, but may not adopt and purchase or lease any voting system that has not been approved by the county board of elections.

"**§ 163-165.9. Voting systems: powers and duties of county board of elections.**

Before approving the adoption and purchase or lease of any voting system by the board of county commissioners, the county board of elections shall do all of the following:

(1) Obtain a current financial statement from the proposed vendor or lessor of the voting system, and send copies of the statement to the county attorney and the chief county financial officer.

(2) Witness a demonstration, in that county or at a site designated by the State Board of Elections, of the voting system by the proposed vendor or lessor, and also witness a demonstration of at least one other type of voting system approved by the State Board of Elections.

(3) Test, during an election, the proposed voting system in at least one precinct in the county where the system would be used if adopted.

"**§ 163-165.10. Adequacy of voting system for each precinct.**

The county board of elections shall make available for each precinct voting place an adequate quantity of official ballots or equipment so that all voters qualified to vote at the precinct may do so. When the board of county commissioners has decided to adopt and purchase or lease a voting system for voting places under the provisions of G.S. 165-165.8, the board of county commissioners shall, as soon as practical, provide for each of those voting places sufficient equipment of the approved voting system in complete working order. If it is impractical to furnish each voting place with the equipment of the approved voting system, that which has been obtained may be placed in voting places chosen by the county board of elections. In that case, the county board of elections shall choose the voting places and allocate the equipment in a way that as nearly as practicable provides equal access to the voting system for each voter. The county board of elections shall appoint as many voting system custodians as may be necessary for the proper preparation of the system for each primary and election and for its maintenance, storage, and care.

"Part 3. Procedures at the Voting Place.

"**§ 163-166. Hours for voting.**

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. In extraordinary circumstances, the county board of elections may direct that the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

"**§ 163-166.1. Duties of county board of elections.**

The county board of elections shall:

(1) Provide for the timely delivery to each voting place of the supplies, records, and equipment necessary for the conduct of the election.

(2) Ensure that adequate procedures are in place at each voting place for a safe, secure, fair, and honest election.
(3) Respond to precinct officials' questions and problems where necessary.

"**§ 163-166.2. Arrangement of the voting enclosure.**

Each voting enclosure shall contain at a minimum:

(1) A sufficient number of private spaces for all voters to mark their official ballots in secrecy.
(2) Adequate space and furniture for the separate functions of:
a. The checking of voter registration records.
b. The distribution of official ballots.
c. Private discussion with voters concerning irregular situations.
(3) A telephone or some facility for communication with the county board of elections.

The equipment and furniture in the voting enclosure shall be arranged so that it can be generally seen from the public space of the enclosure.

"**§ 163-166.3. Limited access to the voting enclosure.**

During the time allowed for voting in the voting place, only the following persons may enter the voting enclosure:

(1) An election official.
(2) An observer appointed pursuant to G.S. 163-45.
(3) A person seeking to vote in that voting place on that day, but only while in the process of voting or seeking to vote.
(4) A voter in that precinct while entering or explaining a challenge pursuant to G.S. 163-87 or G.S.163-88.
(5) A person authorized under G.S. 163-166.9 to assist voters, but only while assisting that voter.
(6) Persons conducting or participating in a simulated election within the voting place or voting enclosure, if that simulated election is approved by the county board of elections.
(7) Any other person determined by election officials to have an urgent need to enter the voting enclosure, but only to the extent necessary to address that need.

"**§ 163-166.4. Limitation on activity in the voting place and in a buffer zone around it.**

No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place. In determining the dimensions of that buffer zone for each voting place, the county board of elections shall, where practical, set the limit at 50 feet from the entrance to the voting place, but in no event shall it set the limit at less than 25 feet.

"**§ 163-166.5. Procedures at voting place before voting begins.**

The State Board of Elections shall promulgate rules for precinct officials to set up the voting place before voting begins. Those rules shall emphasize:

(1) Continual participation or monitoring by officials of more than one party.

(2) Security of official ballots, records, and equipment.

(3) The appearance as well as the reality of care, efficiency, impartiality, and honest election administration.

The county boards of elections and precinct officials shall adhere to those procedures.

"**§ 163-166.6. Designation of tasks.**

The State Board of Elections shall promulgate rules for the delegation of tasks among the election officials at each precinct. Those rules shall emphasize:

(1) The need to place primary managerial responsibility upon the chief judge.

(2) The need to have maximum multiparty participation in all duties where questions of partisan partiality might be raised.

(3) The need to provide flexibility of management to the county board of elections and to the chief judge, in consideration of different abilities of officials, the different availability of officials, and the different needs of voters precinct by precinct.

"**§ 163-166.7. Voting procedures.**

(a) Checking Registration. – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots.

(b) Distribution of Official Ballots. – If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

(1) The voting system remains secure throughout the period voting is being conducted.

(2) Only properly voted official ballots are introduced into the voting system.
(3) No official ballots leave the voting enclosure during the time voting is being conducted there.
(4) All improperly voted official ballots are returned to the precinct officials and marked as spoiled.
(5) Voters leave the voting place promptly after voting.
(6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.
(7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
(8) The registration records are kept secure.
(9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.

"**§ 163-166.8. Assistance to voters.**

(a) Any registered voter qualified to vote in the election shall be entitled to assistance with entering and exiting the voting booth and in preparing ballots in accordance with the following rules:

(1) Any voter is entitled to assistance from the voter's spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild, as chosen by the voter.
(2) A voter in any of the following four categories is entitled to assistance from a person of the voter's choice, other than the voter's employer or agent of that employer or an officer or agent of the voter's union:
a. A voter who, on account of physical disability, is unable to enter the voting booth without assistance.
b. A voter who, on account of physical disability, is unable to mark a ballot without assistance.
c. A voter who, on account of illiteracy, is unable to mark a ballot without assistance.
d. A voter who, on account of blindness, is unable to enter the voting booth or mark a ballot without assistance.

(b) A qualified voter seeking assistance in an election shall, upon arriving at the voting place, request permission from the chief judge to have assistance, stating the reasons. If the chief judge determines that such assistance is appropriate, the chief judge shall ask the voter to point out and identify the person the voter desires to provide such assistance. If the identified person meets the criteria in subsection (a) of this section, the chief judge shall request the person indicated to render the assistance. The chief judge, one of the judges, or one of the assistants may provide aid to the voter if so requested, if the election official is not prohibited by subdivision (a)(2) of this section. Under no

circumstances shall any precinct official be assigned to assist a voter qualified for assistance, who was not specified by the voter.

(c) A person rendering assistance to a voter in an election shall be admitted to the voting booth with the voter being assisted. The State Board of Elections shall promulgate rules governing voter assistance, and those rules shall adhere to the following guidelines:

(1) The person rendering assistance shall not in any manner seek to persuade or induce any voter to cast any vote in any particular way.

(2) The person rendering assistance shall not make or keep any memorandum of anything which occurs within the voting booth.

(3) The person rendering assistance shall not, directly or indirectly, reveal to any person how the assisted voter marked ballots, unless the person rendering assistance is called upon to testify in a judicial proceeding for a violation of the election laws.

"**§ 163-166.9. Curbside voting.**

In any election or referendum, if any qualified voter is able to travel to the voting place, but because of age or physical disability and physical barriers encountered at the voting place is unable to enter the voting enclosure to vote in person without physical assistance, that voter shall be allowed to vote either in the vehicle conveying that voter or in the immediate proximity of the voting place. The State Board of Elections shall promulgate rules for the administration of this section.

"**§ 163-166.10. Procedures after the close of voting.**

The State Board of Elections shall promulgate rules for closing the voting place and delivering voting information to the county board of elections for counting, canvassing, and record maintenance. Those rules shall emphasize the need for the appearance as well as the reality of security, accuracy, participation by representatives of more than one political party, openness of the process to public inspection, and honesty. The rules, at a minimum, shall include procedures to ensure all of the following:

(1) The return and accurate accounting of all official ballots, regular, provisional, voted, unvoted, and spoiled, according to the provisions of Article 15A of this Chapter.

(2) The certification of ballots and voter-authorization documents by precinct officials of more than one political party.

(3) The delivery to the county board of elections of registration documents and information gleaned through the voting process that would be helpful in the accurate maintenance of the voter registration records.

(4) The return to the county board of all issued equipment.

(5) The restoration of the voting place to the condition in which it was found."

SECTION 4. This act becomes effective January 1, 2002.

adopted

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 17

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S17-ARR-53 [v.7]

Date _____,2001

Comm. Sub. [YES]
Amends Title [NO]
S17-CSRR-30

Representative

moves to amend the bill on page 6, line 37,
by adding the following at the end of that line:

"If a county makes a showing that discontinuance would impose a financial hardship upon it, the county shall be given up to four years from the time of State Board disapproval to replace the system. A county may appeal a decision by the State Board concerning discontinuance of a voting system to the superior court in that county or to the superior court of Wake County. The county has 30 days from the time of the State Board's decision on discontinuance to make that appeal."

SIGNED Joe Kiser
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 11

Judiciary I Committee Substitute Adopted 4/9/01
House Committee Substitute Favorable 6/12/01
PROPOSED HOUSE COMMITTEE SUBSTITUTE S11-PCS1214-RR-43

Short Title: Election Changes-Misc. (Public)

Sponsors:

Referred to:

January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR FILLING VACANCIES IN NOMINATION FOR THE NATIONAL TICKET AND FOR PRESIDENTIAL ELECTOR; TO EXPAND THE NOTICE REQUIREMENT FOR PRECINCT CHANGES; TO CLARIFY THE RIGHT OF MILITARY/OVERSEAS VOTERS TO REGISTER AND VOTE ON ELECTION DAY; TO REQUIRE COUNTY BOARDS OF ELECTIONS TO FOLLOW THE DIRECTION OF THE STATE BOARD OF ELECTIONS IN PRINTING ABSENTEE BALLOTS DURING AND AFTER THE PENDENCY OF APPEALS; TO REPEAL A COURT-DISAPPROVED PROVISION OF THE AD-LABELING LAW; TO TOLL THE VERIFICATION OF MUNICIPAL INCORPORATION PETITIONS DURING A PERIOD AROUND A PRIMARY OR ELECTION AND TO MAKE OTHER CHANGES TO THE INCORPORATION PETITION STATUTE; TO MAKE TECHNICAL CHANGES TO THE MANDATORY RECOUNT STATUTES; TO REQUIRE PRIVACY FOR THE VOTER TO MARK THE BALLOT; TO STOP THE DAILY CAMPAIGN FINANCE PENALTY AFTER THE POSTMARK DATE AND FOR ANY DAY WHEN THE BOARD OF ELECTIONS IS CLOSED; AND TO CHANGE THE MAILING REQUIREMENT FOR NOTICE OF LATE FILING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-114 reads as rewritten:

"**§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position	
President Vice President	Vacancy is to be filled by appointment of national executive committee of political party in which vacancy occurs
Presidential elector or alternate elector Any elective State office United States Senator	Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs
A district office, including: Member of the United States House of Representatives Judge of district court District Attorney State Senator in a multi-county senatorial district Member of State House of Representatives in a multi-county representative district	Appropriate district executive committee of political party in which vacancy occurs
State Senator in a single-county senatorial district Member of State House of Representatives in a Single-county representative district Any elective county office	County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S. 163-139 shall apply. If ~~any person nominated as a candidate of~~ a vacancy occurs in a nomination of a political party ~~vacates such nomination~~ and ~~such~~ that vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

SECTION 2. G.S. 163-128 reads as rewritten:

"**§ 163-128. Election precincts and voting places established or altered.**

(a) Each county shall be divided into a convenient number of precincts for the purpose of voting. Upon a resolution adopted by the county board of elections and approved by the Secretary-Director of the State Board of Elections voters from a given precinct may be temporarily transferred, for the purpose of voting, to an adjacent precinct. Any such transfers shall be for the period of time equal only to the term of office of the county board of elections making such transfer. When such a resolution has been adopted by the county board of elections to assign voters from more than one precinct to the same precinct, then the county board of elections shall maintain separate registration and voting records, consistent with the procedure prescribed by the State Board of Elections, so as to properly identify the precinct in which such voters reside. The polling place for a precinct shall be located within the precinct or on a lot or tract adjoining the precinct.

Except as provided by Article 12A of this Chapter, the county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts or voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, discontinuing, or creating a precinct or voting place, the board shall give 45 days' notice thereof prior to the next primary or election. Notice shall be given by advertisement in a newspaper having general circulation in the county, by posting a copy of the resolution at the courthouse ~~door,~~

door and at the office of the county board of elections, and by mailing a copy of the resolution to the chairman of every political party 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. No later than 30 days prior to the primary or election, the county board of elections shall mail a notice of precinct change to each registered voter who as a result of the change will be assigned to a different voting place.

(b) Each county board of elections shall prepare a map of the county on which the precinct boundaries are drawn or described, shall revise the map when boundaries are changed, and shall keep a copy of the current map on file and posted for public inspection at the office of the Board of Elections, and shall file a copy with the State Board of Elections."

SECTION 3. 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~~ in an occupation or status described in G.S. 163-245 who is absent in any of the capacities specified in that section on the day the registration records close for an election but who returns to that person's county of residence in North Carolina thereafter 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 twenty-fifth day prior to a primary or election, such person, if he appears in person, shall be entitled to register if otherwise qualified 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 4. G.S. 163-227.3 reads as rewritten:

"**§ 163-227.3. Date by which absentee ballots must be available for voting.**

(a) The State Board of Elections shall provide absentee ballots of the kinds to be furnished by the State Board, to the county boards of elections 50 days prior to the date on which the election shall be conducted unless there shall exist an appeal before the State Board or the courts not concluded, in which case the State Board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. In every instance the State Board shall exert every effort to provide absentee ballots, of the kinds to be furnished by the State Board, to each county by the date on which absentee voting is authorized to commence. In any case where absentee ballots are printed by the county board of elections, that county board shall follow the direction of the State Board in delaying absentee ballots while an appeal is pending and in providing them as soon as possible thereafter.

(b) Second Primary. – The State Board of Elections shall provide absentee ballots, of the kinds to be furnished by the State Board, as quickly as possible after the ballot information has been determined."

SECTION 5. G.S. 163-278.39(a)(3) is repealed.

SECTION 6. G.S. 120-163 reads as rewritten:

"**§ 120-163. Petition.**

(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar ($100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session."

SECTION 7. G.S. 163-192.1 reads as rewritten:

"**§ 163-192.1. Mandatory recounts.**

(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

(1) Has received the number of votes necessary to be declared nominated for an office in a primary election with a majority; or

(2) Received the number of votes necessary to be declared nominated for an office in a second primary election

and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the State Board of Elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that in~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(b) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who has been declared elected to an office in a general election and the number of votes received by any other candidate in the race shall be not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, or where there is a tie vote between those candidates, the State Board of Elections shall, before certifying the result to the Secretary of State under G.S. 163-193, order a recount of the election if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate (or in the case of a tie, either candidate) shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall

immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(c) The recount shall be conducted under the supervision of the State Board of Elections.

(d) This section applies to the offices listed in G.S. 163-192."

SECTION 8. G.S. 163-145 reads as rewritten:

"**§ 163-145. Voting booths; description; provision.**

The county board of elections shall furnish each voting place with at least one voting booth for each 100 persons qualified to vote in the precinct. Each voting booth shall be at least three feet square and six feet high; it shall have three sides and a door or curtain in front. The bottom of the door or curtain shall hang two feet above the floor. Each voting booth shall be equipped with a table or shelf on which voters may conveniently mark their ballots.

The provisions of this section shall not apply to voting places at which voting machines are ~~used.~~ used, except that at all voting places there shall be a curtained or otherwise private area where a voter may mark the ballot unobserved."

SECTION 9. G.S. 163-227.2 is amended by adding a new subsection to read:

"(i) At any site where one-stop absentee voting is conducted, there shall be a curtained or otherwise private area where the voter may mark the ballot unobserved."

SECTION 10. G.S. 163-278.34(a) reads as rewritten:

"(a) Except as provided in G.S. 163-278.9, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

(1) Two hundred fifty dollars ($250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars ($10,000); and

(2) Fifty dollars ($50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars ($500.00).

If the form is filed by mail, no civil late penalty shall be assessed for any day after the date of postmark. No civil late penalty shall be assessed for any day when the Board office at which the report is due is closed. The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, ~~by registered or certified mail, return receipt requested,~~ by mail, of the penalties under this section."

SECTION 11. Section 6 of this act becomes effective with respect to any petitions submitted on or after December 1, 2001. The remainder of this act is effective when it becomes law.

VISITOR REGISTRATION SHEET

Election Laws & Campaign Reform — 6/20/01
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Weiss	ACLU
Robynn Steen	ACLU
Dan Wright	State BOE
Gary O. Bartlett	" "
Johnnie McLean	" "
Michael Crowell	
Ardis Watkins	SEANC
Vivien Sansour	Citizen
DAVID BARNES	Poyner + Spruill LLP
Drew Nelson	Rep. Hackney's Office
R. Reed Wilms	NCMBA
Stephanie Mansur	NCAR
John McHugh	GOV OFFICE
Deb Ross	ACLU

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday June 27, 2001**

TIME: **11:00 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 11 – Election Changes-Misc.	**Senator Gulley**
SB 17 – Election Rewrite – 1	**Senator Gulley**
SB 14 – Election Rewrite – 2	**Senator Gulley**

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **4:40 pm on June 21, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust (Committee Assistant)

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

June 27, 2001
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: **Representative Alexander**

SB 11 – Election Changes-Misc.	**Senator Gulley**
SB 17 – Election Rewrite – 1	**Senator Gulley**
SB 14 – Election Rewrite – 2	**Senator Gulley**

STAFF: **Bill Gilkeson**
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

June 27, 2001

Room 1228
11:00 a.m.

The meeting of the House Committee on Election Law and Campaign Finance Reform was called to order by Representative Martha Alexander, Chair. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Blue, Bonner, Church, Goodwin, Justus, Kiser, Luebke, Rayfield, Rogers, and Weiss.

Representative Alexander announced that because the Republicans were going to be in caucus at 11:00, there would be no vote at this meeting.

She introduced Senator Gulley to make brief remarks on SBs 11, 17, and 14. Following those background statements, the meeting was adjourned at 11:25.

Martha Alexander, Committee Chairman

Ann Faust, Committee Assistant

VISITOR REGISTRATION SHEET

ELECTION LAWS & CAMPAIGN REFORM — 6/27/01
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
MICHAEL CROWELL	ATTY, RALEIGH
Don Wright	State Bd of Elections
Gary Bartlett	"
Deb Ross	ACLU
Robynn Steen	ACLU
John Phelps	NCLM
John McHugh	GOV OFFICE
Travis Hill	Rep. Sutton's office
R. Paul Wilms	NCMBA

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday July 11, 2001**

TIME: **11:00 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 11 – Election Changes-Misc. **Senator Gulley**

SB 17 – Election Rewrite – 1 **Senator Gulley**

SB 14 – Election Rewrite – 2 **Senator Gulley**

SB 1002 – Campaign Finance Enforcement – Senator Gulley

SB 8 Restrict National Soft Money – Senator Gulley

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **5:00 pm on July 3, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust, Committee Assistant

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Senator Gulley**

OFFICE: **408**

NOTIFICATION DATE: **July 3, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, July 11, 2001**

TIME: **11:00 am**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

SB 11 – Election Changes-Misc. **Senator Gulley**

SB 17 – Election Rewrite – 1 **Senator Gulley**

SB 14 – Election Rewrite – 2 **Senator Gulley**

SB 1002 – Campaign Finance Enforcement – Senator Gulley

SB 8 - Restrict National Soft Money – Senator Gulley

We would like to have you attend this meeting.

Representative Alexander - -
Chairman

Ann Faust (Committee Assistant)

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

July 11, 2001

Room 1228
11:00 a.m.

The meeting of the House Committee on Election Law and Campaign Finance Reform was called to order by Representative Martha Alexander, Chair. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair, Arnold, Bonner, Daughtry, Decker, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Rogers, Starnes, Weatherly, Weiss, Cunningham, Dedmon and Hackney .

House Bill 831, ELECTION CHANGES, was brought before the committee to concur with the Senate bill which added language related to issuance of a permanent voting number for a registered voter within a county. This number cannot be reassigned. After brief discussion, Representative Weatherly moved to concur. The motion passed.

Representative Alexander then presented SB 11, ELECTION LAW CHANGES, for an amendment. With Representative Michaux presiding, Representative Alexander explained that the amendment, put forth by Representative Allred, simply clarified the language related to interpretation of the postmark date in calculating penalties for late filings. After brief discussion, Representative Bonner moved for a favorable report for the Proposed Committee Substitute 2, unfavorable as to Committee Substitute 1. The motion passed.

Representative Alexander then presented SB 17, AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION. This bill had been under discussion at an earlier meeting, and Representative Kiser put forth an amendment on page 6 line 37 giving counties who show a hardship in replacing equipment determined to be outdated or banned by the State Board of Elections, recourse of appeal. Discussion followed. There are between 12 – 20 counties in North Carolina whose equipment is so old that parts are hard to find and machines are hard to keep in working order. To replace old voting machines costs between $3,100 - $5,100 per machine, and each precinct must have at least one scanner. Representative Weiss asked about the status of federal legislation. No progress has been made, but Gary Bartlett, Executive Director of the State Board of Election, said that the House version of legislation would allow $6,000 for punch card voting only. The Senate version would make grants available for modernizing. Representative Justus reminded that straight paper ballot voting is always an option. The amendment was adopted. Representative Michaux, who voted with the prevailing side, moved reconsideration of an amendment put forth on June 27 by Representative Luebke regarding the environs of the polling place and campaigning in the vicinity. The motion to reconsider passed. Representative

Luebke distributed a revised amendment, including the words, "where practical" after withdrawing the original amendment. Representative Michaux moved for a favorable report for the Proposed Committee Substitute, unfavorable as to the original bill. The motion passed.

There being no further business, the meeting was adjourned at 11:56 am.

Martha Alexander, Committee Chairman

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 5

HOUSE BILL 831

Committee Substitute Favorable 4/16/01
Committee Substitute #2 Favorable 4/23/01
Senate Judiciary I Committee Substitute Adopted 6/21/01
Fifth Edition Engrossed 7/3/01

Short Title: Election Changes. (Public)

Sponsors:

Referred to:

March 28, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A GREATER ROLE FOR THE STATE BOARD OF ELECTIONS IN PERSONNEL DECISIONS CONCERNING COUNTY ELECTION DIRECTORS; TO ENHANCE THE CERTIFICATION PROGRAM FOR ELECTION OFFICIALS; TO REMOVE LIMITATIONS ON TWO PROVISIONS CONCERNING PRECINCTS; TO CHANGE THE LENGTH OF THE ONE-STOP VOTING PERIOD; TO ALLOW COUNTY BOARDS OF ELECTIONS TO USE OTHER ONE-STOP SITES INSTEAD OF THE COUNTY BOARD OFFICE AS LONG AS A NEARBY SITE IS PROVIDED; TO ALLOW LATER ACCEPTANCE OF VOTER REGISTRATION APPLICATIONS; TO PROVIDE FOR ELECTRONIC TRANSFER OF VOTER REGISTRATION APPLICATIONS FROM THE DIVISION OF MOTOR VEHICLES; TO UPDATE THE STATUTES CONCERNING VOTER REGISTRATION LIST MAINTENANCE; TO REQUIRE PERMANENT VOTER REGISTRATION NUMBERS; TO APPLY THE WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS; TO CORRECT A REFERENCE IN THE CAMPAIGN FINANCE LAW; TO REQUIRE THAT ALL NEW PRECINCT LINES FOLLOW CENSUS BLOCK LINES UNLESS THE EXECUTIVE DIRECTOR OF THE STATE BOARD OF ELECTIONS GRANTS A WAIVER AFTER MAKING CERTAIN FINDINGS; AND TO RENAME THE EXECUTIVE SECRETARY-DIRECTOR OF THE STATE BOARD OF ELECTIONS THE "EXECUTIVE DIRECTOR".

The General Assembly of North Carolina enacts:

--CHANGES CONCERNING COUNTY ELECTION DIRECTORS.

SECTION 1.(a) G.S. 163-35(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Secretary-Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Secretary-Director of the State Board of Elections the termination of the employment of the county board's director of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Secretary-Director shall forward a copy of ~~same~~ the petition by certified mail, return receipt requested, to the county director of elections involved. The county director of elections may reply to ~~said~~ the petition within 15 days of receipt thereof. Within 20 days of receipt of the county director of elections' reply or the expiration of the time period allowed for the filing of ~~said~~ the reply, the State Executive Secretary-Director shall render a decision as to the termination or retention of the county director of elections. The decision of the Executive Secretary-Director of the State Board of Elections shall be final unless ~~such~~ the decision ~~shall,~~ is, within 20 days from the official date on which it was made, ~~be~~ deferred by the State Board of ~~Elections,~~ Elections. ~~in which event a public hearing shall be conducted by State Board or any single member designated by the remaining four members, in the county seat of the county involved. Following the conduct of public hearing and a decision by the State Board of Elections, the chairman of said Board shall notify the Executive Secretary-Director of the State Board of Elections, in writing, of the decision resulting from the public hearing.~~ If the State Board defers the decision, then the State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard and to present witnesses and information to the State Board, and then notify the Executive Director of its decision in writing. If the decision, rendered by the State Board of Elections, results in concurrence with the decision entered by the Executive Secretary-Director, the decision becomes final. If the decision rendered by the Board is contrary to that entered by the Executive Secretary-Director, then the Executive Secretary-Director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board of Elections. ~~The employment of any director of elections presently employed or hereafter employed shall not be terminated except in compliance with the procedures herein prescribed. For the purposes of this subsection the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23.~~

Upon majority vote on the recommendation of the Executive Director, the State Board of Elections may initiate proceedings for the termination of a county director of elections for just cause. If the State Board votes to initiate proceedings for termination, the State Board shall state the reasons for the termination in writing and send a copy by certified mail, return receipt requested, to the county director of elections. The director has 15 days to reply in writing to the notice. The State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard, present witnesses, and provide information to the State Board. The State Board of Elections shall notify the chair of the county board of elections and the chair of the county board of commissioners that the State Board has initiated termination proceedings.

A county director of elections may be suspended, with pay, without warning for causes relating to personal conduct detrimental to service to the county or to the State Board of Elections, pending the giving of written reasons, in order to avoid the undue disruption of work or to protect the safety of persons or property or for other serious reasons. Any suspension may be initiated by the Executive Director but may not be for more than five days. Upon placing a county director of elections on suspension, the Executive Director shall, as soon as possible, reduce to writing the reasons for the suspension and forward copies to the county director of elections, the members of the county board of elections, the chair of the county board of commissioners, and the State Board of Elections. If no action for termination has been taken within five days, the county director of elections shall be fully reinstated.

Termination of any county director of elections shall comply with this subsection. For the purposes of this subsection, the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23."

SECTION 1.(b) G.S. 163-35 is amended by adding a new subsection to read:

"(e) Training and Certification. – The State Board of Elections shall conduct a training program consisting of four weeks for each new county director of elections. The director shall complete that program. Each director appointed after May 1995 shall successfully complete a certification program as provided in G.S. 163-82.24(b) within three years after appointment or by January 1, 2003, whichever occurs later."

SECTION 1.(c) This section becomes effective January 1, 2002.

--CERTIFICATION OF ELECTION OFFICIALS.

SECTION 2.(a) G.S. 163-82.24 reads as rewritten:

"**§ 163-82.24. Statewide training and certification for election officials.**

(a) Training. – The State Board of Elections shall conduct training programs in election law and procedures. Every county elections director shall receive training conducted by the State Board at least as often as required in the following schedule:

(1) Once during each odd-numbered year before the municipal election held in the county;

(2) Once during each even-numbered year before the first partisan primary; and

(3) Once during each even-numbered year after the partisan primaries but before the general election.

Every member of a county board of elections shall receive training conducted by the State Board at least once during the six months after the member's initial appointment and at least once again during the first two years of the member's service. The State Board of Elections shall promulgate rules for the training of precinct officials, which shall be followed by the county boards of elections.

(b) Certification. – The State Board of Elections shall conduct a program for certification of election officials. The program shall include training in election law and procedures. Before issuing certification to an election official, the State Board shall administer an examination designed to determine the proficiency of the official in election law and procedures. The State Board shall set adequate standards for the passage of the examination."

SECTION 2.(b) This section is effective when this act becomes law.

--REMOVE SUNSET FROM OUT-OF-PRECINCT VOTING PLACE PROVISION.

SECTION 3.(a) Section 3(b) of S.L. 1999-426 reads as rewritten:

"Section 3.(b) This section is effective when this act becomes ~~law and expires January 1, 2002.~~ law."

SECTION 3.(b) This section is effective when this act becomes law.

--REMOVE SUNSET AND 3-COUNTY PILOT LIMITATION FROM 2-VOTING-PLACE-PER-PRECINCT PROVISION.

SECTION 4.(a) G.S. 163-130.2 reads as rewritten:

"**§ 163-130.2. Temporary use of two voting places for certain ~~precincts; pilot program.~~ precincts.**

A county board of elections, by unanimous vote of all its members, may propose to designate two voting places to be used temporarily for the same precinct. The temporary designation of a voting place shall continue only for the term of office of the county board of elections making the designation. For any precinct that is temporarily given two voting places, the county board shall assign every voter to one or the other of those voting places.

The county board's proposal is subject to approval by the Executive Secretary-Director of the State Board of Elections. The county board shall submit its proposal in writing to the Executive Secretary-Director. ~~The Executive Secretary-Director may approve a proposal under this section in not more than three counties, to be a pilot program.~~ The Executive Secretary-Director shall approve that proposal only if it finds all of the following:

(1) That the precinct has more registered voters than can adequately be accommodated by any single potential voting place available for the precinct.

(2) That no boundary line that complies with Article 12A of this Chapter can be identified that adequately divides the precinct.
(3) That the county board can account for, by street address number, the location of every registered voter in the precinct and fix that voter's residence with certainty on a map.
(4) That no more than three other precincts in the same county will have two voting places.
(5) That both voting places for the precinct would have adequate facilities for the elderly and disabled.
(6) That the proposal provides adequately for security against fraud.
(7) That the proposal does not unfairly favor or disfavor voters with regard to race or party affiliation.

The county board shall designate a full set of precinct officials, in the manner set forth in Article 5 of this Chapter, for each voting place designated for the precinct."

SECTION 4.(b) Section 4(b) of S.L. 1999-426 reads as rewritten:

"Section 4.(b) This section becomes effective January 2, ~~2000, and expires January 2, 2002.~~ 2000. The Executive Secretary-Director of the State Board of Elections shall study the operation and consequences of the pilot program created by this section and report findings and recommendations to the 2001 General Assembly by February 1, 2001."

SECTION 4.(c) This section is effective when this act becomes law.

--CHANGES CONCERNING ONE-STOP VOTING.

SECTION 5.(a) G.S. 163-227.2(b) reads as rewritten:

"(b) Not earlier than the ~~first business day after the twenty-fifth day~~ third Thursday before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than ~~5:00~~ 1:00 ~~p.m.~~P.M. on the ~~Friday prior to~~ last Saturday before that election, the voter shall appear in person only at the office of the county board of elections, except as provided in subsection ~~(f1)~~ (g) of this section. A county board of elections shall conduct one-stop voting on the last Saturday before the election until 1:00 P.M. and may conduct it until 5:00 P.M. on that Saturday. 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 authorized member or employee of the board

furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person."

SECTION 5.(b) G.S. 163-227.2(f) reads as rewritten:

"(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.~~ and shall also be open on the last Saturday before the election. A county board may conduct one-stop absentee voting during evenings or on weekends, as long as the hours are part of a plan submitted and approved according to subsection (g) of this section. The boards of county commissioners shall provide necessary funds for the additional operation of the office during that time."

SECTION 5.(c) G.S. 163-227.2(g) reads as rewritten:

"(g) 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. A county board of elections may propose in its Plan not to offer one-stop voting at the county board of elections office; the State Board may approve that proposal in a Plan only if the Plan includes at least one site reasonably proximate to the county board of elections office and the State Board finds that the sites in the Plan as a whole provide adequate coverage of the county's electorate. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board of Elections to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board of Elections may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county."

SECTION 5.(d) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--LATER REGISTRATION DEADLINE ON FINAL DAY.

SECTION 6.(a) G.S. 163-82.6(c) reads as rewritten:

"(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

(1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,

(2) If submitted in person, must be received by the county board of elections by ~~5:00 p.m.~~ a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the election,

(3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election, except as provided in subsection (d) of this section."

SECTION 6.(b) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--ELECTRONIC TRANSFER OF DMV REGISTRATIONS.

SECTION 7.(a) G.S. 163-82.19 reads as rewritten:

"**§ 163-82.19. Voter registration at drivers license offices.**

The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate county board of elections."

SECTION 7.(b) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--UPDATING OF VOTER REGISTRATION LIST MAINTENANCE PROVISION TO REFLECT CURRENT FEDERALLY APPROVED PRACTICE.

SECTION 8.(a) G.S. 163-82.14(d) reads as rewritten:

"(d) Change of Address. – A county board of elections shall conduct a systematic program to remove from its list of registered voters those who have moved out of the county, and to update the registration records of persons who have moved within the county. The county board shall remove a person from its list if the registrant:

(1) Gives confirmation in writing of a change of address for voting purposes out of the county. "Confirmation in writing" for purposes of this subdivision shall include:
   a. A report to the county board from the Department of Transportation or from a voter registration agency listed in G.S. 163-82.20 that the voter has reported a change of address for voting purposes outside the county;
   b. A notice of cancellation received under G.S. 163-82.9; or
   c. A notice of cancellation received from an election jurisdiction outside the State.

(2) Fails to respond to a confirmation mailing sent by the county board in accordance with this subdivision and does not vote or appear to vote in an election beginning on the date of the notice and ending on the day after the date of the second general election for the United States House of Representatives that occurs after the date of the notice. A county board sends a confirmation notice in accordance with this subdivision if the notice:
   a. Is a postage prepaid and preaddressed return card, sent by forwardable mail, on which the registrant may state current address;
   b. Contains or is accompanied by a notice to the effect that if the registrant did not change residence but remained in the county,

the registrant should return the card not later than the deadline for registration by mail in G.S. 163-82.6(c)(1); and

c. Contains or is accompanied by information as to how the registrant may continue to be eligible to vote if the registrant has moved outside the county.

A county board shall send a confirmation mailing in accordance with this subdivision ~~if the~~ to every registrant ~~remains on the list, the registrant has not voted in two successive presidential elections or in any election in between, and~~ after every congressional election if the county board has not confirmed the registrant's address by another means. ~~The county board may send a confirmation mailing in accordance with this subdivision if the registrant has been identified as residing outside the county through change of address information supplied by the Postal Service through its licensees.~~"

SECTION 8.(b) This section is effective when this act becomes law.

--PERMANENT VOTER REGISTRATION NUMBERS.

SECTION 8.1.(a) Article 7A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-82.10A. Permanent voter registration numbers.**

Each county board of elections shall assign to each voter a registration number. That number shall be permanent for that voter and shall not be changed or reassigned by the county board of elections."

SECTION 8.1.(b) This section becomes effective January 1, 2002.

--APPLYING WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS.

SECTION 9.(a) G.S. 163-123(g) reads as rewritten:

"(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan ~~elections.~~elections except for superior court judge elections under Article 25 of this Chapter."

SECTION 9.(b) This section is effective when this act becomes law.

--CORRECTING REFERENCE TO FUND FOR RETURNING ILLEGAL CONTRIBUTIONS.

SECTION 10.(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 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~~ Civil Penalty and Forfeiture Fund of the State of North Carolina."

SECTION 10.(b) This section is effective when this act becomes law.

--PRECINCTS TO FOLLOW CENSUS BLOCK BOUNDARIES.

SECTION 10.1. G.S. 163-132.3(a) reads as rewritten:

"**§ 163-132.3. Alterations to approved precinct boundaries.**

(a) No county board of elections may change any precinct boundary unless the proposed new precinct consists solely of contiguous territory and its new boundaries are coterminous with those ~~of:~~

~~(1) 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;~~

~~(2) The~~ of census blocks established under the latest U.S. ~~Census or the boundaries contained on the latest preliminary U.S. Census maps, issued under P.L. 94-171, whichever occurs later;~~

~~(3) The following visible physical features, readily distinguishable upon the ground:~~

~~a. Roads or streets;~~

~~b. Water features or drainage features;~~

~~c. Ridgelines;~~

~~d.~~ ~~e. Repealed by Session Laws 1999-227, s. 1.~~

~~f. Rail features;~~

~~g. Major above-ground power lines; or~~

~~h. 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.~~

~~(4) Municipalities, as certified by the city clerk on the official map of the city; or~~

~~(5) A combination of these boundaries.~~ Census.

The county boards of elections shall report precinct boundary changes by filing with the Legislative Services Office on current official census maps or maps certified by the North Carolina Department of Transportation or the county's planning department or on other maps or electronic databases approved by the Executive Secretary-Director the new boundaries of these precincts. The Executive Secretary-Director may require a county board of elections to file a written description of the boundaries of any precinct or part thereof. No newly created or altered precinct boundary is effective until approved by the Executive Secretary-Director of the State Board as being in compliance with this subsection. No precinct may be changed under this section between the date its boundaries become effective under G.S. 163-132.1(c) and January 2, 2002. Any changes to precincts during that period shall be made as provided in G.S. 163-132.1(d).

(b) The Executive Secretary-Director of the State Board of Elections and the Legislative Services Office shall examine the maps of the proposed new or altered precincts and any required 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 State Board of Elections its opinion as to whether all of the proposed precinct boundaries are in compliance with subsection (a) of this section, with notations as to where those boundaries do not comply with these standards. If the Executive Secretary-Director of the State Board determines that all precinct boundaries are in compliance with this section, the Executive Secretary-Director of the State Board shall approve the maps and written descriptions as filed and these precincts shall be the official precincts.

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

(d) Upon a determination that restricting the county board to using Census block boundaries would force the county board to draw a precinct without an adequate voting place or otherwise to draw a precinct in such a way that the administration of elections would be seriously hindered, the Executive Director may permit a county board of elections to designate a precinct boundary on a line that is not a Census block boundary of the most recent federal decennial Census if both the following conditions exist:

(1) The feature desired by the county board to be the precinct boundary meets at least one of the following:

a. Is likely to be designated by the Census Bureau as a block boundary in the next federal decennial Census.

b. Is a visible physical feature, readily distinguishable upon the ground, as certified by the North Carolina Department of Transportation on its highway maps or by 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, of the following nature:

1. Roads or streets.
2. Water features or drainage features.
3. Ridgelines.
4. Rail features.
5. Major aboveground power lines.
6. Major footpaths.

c. Is a municipalities boundary, as certified by the city clerk on the official map of the city.

d. Is a township boundary, as certified by the county manager, or the chair of the county board of commissioners if there is no county manager, on the official map of the county.

(2) All the following are true:

a. The precincts of which the line is a boundary which could be combined into a unit whose outer boundaries would be Census blocks, similar to the Combined Reporting Unit permitted by G.S. 163-132.1(c)(6).

b. That combined unit would be reasonable in size.

c. That combined unit, together with all other such combined units, would not undermine the coverage of the State's precincts in the next Census."

--NAME CHANGE TO EXECUTIVE DIRECTOR.

SECTION 11. The Revisor of Statutes shall change the term "Executive Secretary-Director" and the term "State Executive Secretary-Director" to "Executive Director" wherever it appears in the General Statutes in reference to the State Board of Elections Executive Secretary-Director.

SECTION 12. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SECTION 13. Except as otherwise provided in each section, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 3

SENATE BILL 11

Judiciary I Committee Substitute Adopted 4/9/01
House Committee Substitute Favorable 6/12/01

Short Title: Election Changes-Misc. (Public)

Sponsors:

Referred to:

January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR FILLING VACANCIES IN NOMINATION FOR THE NATIONAL TICKET AND FOR PRESIDENTIAL ELECTOR; TO EXPAND THE NOTICE REQUIREMENT FOR PRECINCT CHANGES; TO CLARIFY THE RIGHT OF MILITARY/OVERSEAS VOTERS TO REGISTER AND VOTE ON ELECTION DAY; TO REQUIRE COUNTY BOARDS OF ELECTIONS TO FOLLOW THE DIRECTION OF THE STATE BOARD OF ELECTIONS IN PRINTING ABSENTEE BALLOTS DURING AND AFTER THE PENDENCY OF APPEALS; TO REPEAL A COURT-DISAPPROVED PROVISION OF THE AD-LABELING LAW; TO TOLL THE VERIFICATION OF MUNICIPAL INCORPORATION PETITIONS DURING A PERIOD AROUND A PRIMARY OR ELECTION AND TO MAKE OTHER CHANGES TO THE INCORPORATION PETITION STATUTE; TO MAKE TECHNICAL CHANGES TO THE MANDATORY RECOUNT STATUTES; TO REQUIRE PRIVACY FOR THE VOTER TO MARK THE BALLOT; AND TO STOP THE DAILY CAMPAIGN FINANCE PENALTY AFTER THE POSTMARK DATE SO AS TO ELIMINATE EXCESS POSTAGE COSTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-114 reads as rewritten:

"**§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position

President Vice President	Vacancy is to be filled by appointment of national executive committee of political party in which vacancy occurs
Presidential elector or alternate elector Any elective State office United States Senator	Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs
A district office, including: Member of the United States House of Representatives Judge of district court District Attorney State Senator in a multi-county senatorial district Member of State House of Representatives in a multi-county representative district	Appropriate district executive committee of political party in which vacancy occurs
State Senator in a single-county senatorial district Member of State House of Representatives in a Single-county representative district Any elective county office	County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to

appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S. 163-139 shall apply. If ~~any person nominated as a candidate of~~ a vacancy occurs in a nomination of a political party ~~vacates such nomination~~ and ~~such~~ that vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

SECTION 2. G.S. 163-128 reads as rewritten:

"**§ 163-128. Election precincts and voting places established or altered.**

(a) Each county shall be divided into a convenient number of precincts for the purpose of voting. Upon a resolution adopted by the county board of elections and approved by the Secretary-Director of the State Board of Elections voters from a given precinct may be temporarily transferred, for the purpose of voting, to an adjacent precinct. Any such transfers shall be for the period of time equal only to the term of office of the county board of elections making such transfer. When such a resolution has been adopted by the county board of elections to assign voters from more than one precinct to the same precinct, then the county board of elections shall maintain separate registration and voting records, consistent with the procedure prescribed by the State Board of Elections, so as to properly identify the precinct in which such voters reside. The polling place for a precinct shall be located within the precinct or on a lot or tract adjoining the precinct.

Except as provided by Article 12A of this Chapter, the county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts or voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, discontinuing, or creating a precinct or voting place, the board shall give 45 days' notice thereof prior to the next primary or election. Notice shall be given by advertisement in a newspaper having general circulation in the county, by posting a copy of the resolution at the courthouse ~~door,~~ door and at the office of the county board of elections, and by mailing a copy of the resolution to the chairman of every political party 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. No later than 30 days prior to the primary or election, the county board of elections shall mail a notice of precinct change to each registered voter who as a result of the change will be assigned to a different voting place.

(b) Each county board of elections shall prepare a map of the county on which the precinct boundaries are drawn or described, shall revise the map when boundaries are changed, and shall keep a copy of the current map on file and posted for public inspection at the office of the Board of Elections, and shall file a copy with the State Board of Elections."

SECTION 3. 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~~ in an occupation or status described in G.S. 163-245 who is absent in any of the capacities specified in that section on the day the registration records close for an election but who returns to that person's county of residence in North Carolina thereafter 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 twenty-fifth day prior to a primary or election, such person, if he appears in person, shall be entitled to register if otherwise qualified 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 4. G.S. 163-227.3 reads as rewritten:

"**§ 163-227.3. Date by which absentee ballots must be available for voting.**

(a) The State Board of Elections shall provide absentee ballots of the kinds to be furnished by the State Board, to the county boards of elections 50 days prior to the date on which the election shall be conducted unless there shall exist an appeal before the State Board or the courts not concluded, in which case the State Board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. In every instance the State Board shall exert every effort to provide absentee ballots, of the kinds to be furnished by the State Board, to each county by the date on which absentee voting is authorized to commence. In any case where absentee ballots are printed by the county board of elections, that county board shall follow the direction of the State Board in delaying absentee ballots while an appeal is pending and in providing them as soon as possible thereafter.

(b) Second Primary. -- The State Board of Elections shall provide absentee ballots, of the kinds to be furnished by the State Board, as quickly as possible after the ballot information has been determined."

SECTION 5. G.S. 163-278.39(a)(3) is repealed.

SECTION 6. G.S. 120-163 reads as rewritten:

"**§ 120-163. Petition.**

(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of

the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar ($100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session."

SECTION 7. G.S. 163-192.1 reads as rewritten:

"**§ 163-192.1. Mandatory recounts.**

(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

(1) Has received the number of votes necessary to be declared nominated for an office in a primary election with a majority; or

(2) Received the number of votes necessary to be declared nominated for an office in a second primary election

and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the State Board of Elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that in~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(b) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who has been declared elected to an office in a general election and the number of votes received by any other candidate in the race shall be not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, or where there is a tie vote between those candidates, the State Board of Elections shall, before certifying the result to the Secretary of State under G.S. 163-193, order a recount of the election if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate (or in the case of a tie, either candidate) shall, by noon on the ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(c) The recount shall be conducted under the supervision of the State Board of Elections.

(d) This section applies to the offices listed in G.S. 163-192."

SECTION 8. G.S. 163-145 reads as rewritten:

"**§ 163-145. Voting booths; description; provision.**

The county board of elections shall furnish each voting place with at least one voting booth for each 100 persons qualified to vote in the precinct. Each voting booth shall be at least three feet square and six feet high; it shall have three sides and a door or curtain in front. The bottom of the door or curtain shall hang two feet above the floor. Each voting booth shall be equipped with a table or shelf on which voters may conveniently mark their ballots.

The provisions of this section shall not apply to voting places at which voting machines are ~~used.~~ used, except that at all voting places there shall be a curtained or otherwise private area where a voter may mark the ballot unobserved."

SECTION 9. G.S. 163-227.2 is amended by adding a new subsection to read:

"(i) At any site where one-stop absentee voting is conducted, there shall be a curtained or otherwise private area where the voter may mark the ballot unobserved."

SECTION 10. G.S. 163-278.34(a) reads as rewritten:

"(a) Except as provided in G.S. 163-278.9, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

(1) Two hundred fifty dollars ($250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars ($10,000); and

(2) Fifty dollars ($50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars ($500.00).

If the form is filed by mail, no civil late penalty shall be assessed for any day after the date of postmark for any day when the State Board of Elections office is open. The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, ~~by registered or certified mail, return receipt requested, by~~ mail, of the penalties under this section."

SECTION 11. Section 6 of this act becomes effective with respect to any petitions submitted on or after December 1, 2001. The remainder of this act is effective when it becomes law.

SENATE BILL 17:
Election Rewrite -- 1.

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Senator Gulley
		Summary by:	William R. Gilkeson Staff Attorney
Date:	May 23, 2001		
Version:	Second Edition		

SUMMARY: Senate Bill 17 would rewrite the sections of the Election Law dealing with setting up the official ballot, acquiring voting equipment, and conducting the election at the voting place.

CURRENT LAW: Chapter 163 of the General Statutes, the Election Law, was last comprehensively rewritten in 1967, in response to the Election Laws Revision Commission appointed in 1965. The statute contains Article 13, which prescribes in detail the content of paper ballots to be counted by hand. It also specifies in detail the furnishings and procedures for a voting place using hand-counted paper ballots. By 2001, only one counties (Tyrrell) used hand-counted paper ballots as their primary voting method. For ballot and election-day procedures of the other 99 counties that use some kind of mechanical or electronic voting system, there is Article 14, which gives the State Board of Elections broad rulemaking authority to establish procedures.

Article 14 also gives the State Board of Elections the authority to approve the types of voting systems that may be purchased by county or municipal boards of elections.

SENATE BILL 17: Senate Bill 17 repeals both Articles 13 and 14 and merges their provisions into one new Article, 13A. The philosophy of the draft is to remove the disparate treatment of hand-counted paper ballots versus all other voting methods. Instead, the new statute would set general principles that are technologically neutral. It would direct the State Board to promulgate rules for different voting methods, guided by the general principles.

The new Article would be titled "Voting." It would be divided into three Parts: "Definitions," "Ballots and Voting Systems," and "Procedures at the Voting Place."

The Definitions Part defines several key terms that are used throughout the new Article 13A, as well as the new Article 15A that would be created by Senate Bill 17I. "Official ballot" is a ballot that has been certified by the State Board and produced by the county board. Only an official ballot may be voted and counted. "Ballot item" is the segment of the ballot where the voter chooses a referendum proposal or candidate or set of candidates for the same office or set of offices. "Provisional official ballot" is a ballot voted and then placed in an envelope that contains an affidavit signed by the voter as to that voter's identity and qualifications. "Voting system," defined in current law as any voting method other than hand-counted paper ballots, is broadened to include paper ballots are any system of voting. *G.S. 163-165.*

The Ballots and Voting Systems Part gives the State Board of Elections authority to certify the official ballot statewide and in every county. *G.S. 163-165.3.*The State Board also has rulemaking authority based on technologically neutral guidelines. The statute makes certain policy choices, some of which clarify current law and some of which change it:

- County Financial Responsibility for Producing the Ballot. Currently, 99 counties must foot the bill for producing ballots. In the one county that relies on hand-counted paper ballots, the State pays for the State paper ballots and the county pays for the rest. The bill standardizes the law by making the county responsible for producing all ballots. *G.S. 163-165.3*

- Gender Neutrality of Candidates' Names on Ballots. Currently, the candidate's name appears on the ballot the way the candidate listed it on the notice of candidacy. Titles are not permitted, except that married women may use "Mrs." and unmarried women may use "Miss." ***The rewrite says that titles indicating rank, status, or position may not be used, but allows the use of the terms Mr., Mrs. Miss, and Ms.*** *G.S. 163-165.5.)*

- Straight Ticket for All But the Presidency. Currently, the straight party ticket is restricted in a number of ways for hand-counted paper ballots, but less clearly for the 99 machine/electronic counties. ***The rewrite follows the prevailing practice of the 99 counties, which is to count the straight ticket for all but the presidential race.*** *G.S. 163-165.6.*

- Order of Names on Primary Ballot. Current law requires the rotation of names on primary ballots in the one hand-counted paper county, but does not require it in the 99 other counties. A lawsuit settlement has resulted in a compromise method. ***The rewrite says that in all counties, names in a primary ballot item on that county's ballots shall be determined by random selection.*** *G.S. 163-165.6.*

The provisions on acquisition of voting systems make the following changes:

- State Board Disapproval of Types, Makes, and Models. Current law gives the State Board the authority to approval types of voting systems for acquisition by a county. ***The rewrite would expand that authority to approval of makes and models of voting systems. It would also expand it to allow the State Board to disapprove a type, make, or model of voting system already in use in a county. It would give the State Board authority to set a process for discontinuance of a disapproved voting system in a county.*** *G.S. 163-165.7.*

- No County Authority to Acquire a Disapproved Optical Scan System. Current law allows the county board of commissioners to approve a disapproved optical scan voting system, as long as the county board of elections signs off. ***The rewrite repeals this exception to the general rule.*** *G.S. 163-165.8.*

- No Municipal Board Authority to Acquire Voting System. ***The rewrite repeals the authority given to municipal boards of elections to acquire voting systems.***

The Procedures at the Voting Place Part give the State Board greater flexibility to set up procedures at the polls for different voting systems and to allow county boards to assign duties at the delegate duties to different precinct officials. *G.S. 163-166.6.* In addition, the Part makes these changes:

- More Flexible Buffer Zone. Current law mandates a 50-foot buffer zone around the voting place in which no one may "loiter out, congregate, distribute campaign material, or do any electioneering." ***On the theory that the rigid 50-foot limit may, given the arrangement of some voting places, preclude any zone for***

electioneering, the rewrite allows the county board flexibility in designing the buffer zone,. It removes the candidate's apparent right under current law to enter the buffer zone, provided that it must be at least 25 feet from the voting place.. The rewrite also removes the language, constitutionally vulnerable according to the American Civil Liberties Union, about "loitering and congregating." *G.S. 163-166.4.*

- Extra Hour. Current law says the polls close at 7:30, but the county board may keep them open an extra hour where voting machines are used. ***The rewrite says the county board may keep the polls open an extra hour anywhere in extraordinary circumstances.*** *G.S. 163-166.* ***(This provision is somewhat inconsistent with HB 1192, which passed the House last month, and would allow county boards of elections, upon a mechanical failure and with State Board approval, to keep polls open till 9:30.)***

BACKGROUND: The bill was recommended by the Election Laws Revision Commission as part of its project to rewrite Chapter 163 of the General Statutes. The bill was the product of a subcommittee of that Commission. The subcommittee also produced a companion bill, introduced this year as Senate Bill 14.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 17

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S17-AST-15 [v.2]

Date July 11 ,2001

Comm. Sub. [YES]
Amends Title [NO]
S17-CSRR-30

Representative Luebke

moves to amend the bill on page 9, line 12 by adding the following at the end of the line:
"The county board of elections shall also, where practical, provide an area outside the buffer zone for each voting place in which persons or groups of persons may distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Election Law & Campaign Fin. Reform — 7/11/01
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michael Crowell	Lawyer, Raleigh
David Weiss	ACLU
Robynn Steer	ACLU
Haskell Rhett	NC State Ports Authority
Drew Nelson	Rep. Hackney's Off
Andrew Hainsworth	UNCA, IOG Intern, Rep Luebke
Kiki Dunston	NCPIRG
Gary Robertson	AP
Bill Rowe	NC Justice Center
Stephen Buzzio	NC Justice Center
Bob Hall	Democracy South
Joanne Nunnery	NCSBA
Carol Lauver	EGHS
Doris Freaver	NC AWA, Political Council
Michael Hauser	Insider

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Hodges	CBA/ABATE of NC
John McHugh	Gov. Offics
Tom Coley	CWA GSO
Dan Wright	State Board of Elections
Johnnie McLean	" " "
Gary O. Bartlett	" " "
Chris Haggard	NCCVE
John Phelps	NCLM

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 1002

Judiciary I Committee Substitute Adopted 5/22/01

Short Title: Campaign Finance Enforcement. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE CAMPAIGN ENFORCEMENT AND DISCLOSURE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-278.34 reads as rewritten:

"**§ 163-278.34. ~~Filings; penalty for late filings.~~ Civil penalties.**

(a) Civil Penalties for Late Filing. – Except as provided in G.S. ~~163-278.9,~~ 163-278.9 and G.S. 163-278.9A, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

(1) Two hundred fifty dollars ($250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars ($10,000); and

(2) Fifty dollars ($50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars ($500.00).

The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, by registered or certified mail, return receipt requested, of the penalties under this section. The State Board of Elections may waive a late penalty if it determines there is good cause for the waiver.

(b) Civil Penalties for Illegal Contributions. – If an individual, person, political committee, referendum committee, candidate, or other entity intentionally makes or accepts a contribution in violation of this Article, then that entity shall pay to the State Board of Elections, in an amount to be determined by that Board, a civil penalty and the

costs of investigation, assessment, and collection. The civil penalty shall not exceed twenty thousand dollars ($20,000) or three times the amount of the unlawful contribution or expenditure involved in the violation, whichever amount is greater. The State Board of Elections may, in addition to the civil penalty, order that the amount unlawfully received be paid to the State Board by check, and any money so received by the State Board shall be deposited in the Civil Penalty and Forfeiture Fund of North Carolina.

(c) Civil Remedies Other Than Penalties. – The State Board of Elections, in lieu of or in addition to imposing a civil penalty under subsection (a) or (b) of this section, may take one or more of the following actions with respect to a violation for which a civil penalty could be imposed:

(1) Issue an order requiring the violator to cease and desist from the violation found.

(2) Issue an order to cease receiving contributions and making expenditures until a delinquent report has been filed and any civil penalty satisfied.

(3) Issue an order requiring the violator to take any remedial action deemed appropriate by the Board.

(4) Issue an order requiring the violator to file any report, statement, or other information as required by this Article or the rules adopted by the Board.

(5) Publicly reprimand the violator for the violation.

(d) Facts in Mitigation. – An individual or other entity notified that a penalty has been assessed against it may submit an affidavit to the State Board of Elections stating the facts in mitigation. The State Board of Elections may waive a civil penalty in whole or in part if it determines there is good cause for the waiver.

~~(a1)~~ (e) Calculation and Assessment. – The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) or (b) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. ~~Consistent with G.S. 115C-437, the State Controller~~ The State Board of Elections shall pay the clear proceeds of civil penalties collected under this section to the ~~County School Fund~~

~~in the county in which the person charged with the violation resides. The State Controller~~ Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2. The State Board of Elections shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the ~~County School~~ Civil Penalty and Forfeiture Fund. Monies set aside for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board of Elections.

~~(b) The State Board of Elections may waive a late penalty if it determines there is reasonable cause.~~

(f) Notifying and Consulting With District Attorney. – Before assessing a civil penalty under subsection (b) of this section or imposing a civil remedy under subsection (c) of this section, the State Board of Elections shall notify and consult with the District Attorney who would be responsible under G.S. 163-278.27 for bringing a criminal prosecution concerning the violation."

SECTION 2. G.S. 163-278.27 reads as rewritten:

"**§ 163-278.27. ~~Penalty for violations;~~ Criminal penalties; duty to report and prosecute.**

(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, 163-278.13, 163-278.13B, 163-278.14, 163-278.16, 163-278.17, 163-278.18, 163-278.19, 163-278.20, 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. The statute of limitations shall run from the day the last report is due to be filed with the appropriate board of elections for the election cycle for which the violation occurred.

(b) Whenever the Board has knowledge of or has reason to believe there has been a violation of any section of this Article, it shall report that fact, together with accompanying details, to the following prosecuting authorities:

(1) In the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the district attorney of the prosecutorial district in which the candidate for nomination or election resides;

(2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior court: report to the district attorney of the prosecutorial district in which Wake County is located;

(3) In the case of an individual other than a candidate, including, without limitation, violations by members of political committees, referendum

committees or treasurers: report to the district attorney of the prosecutorial district in which the individual resides; and

(4) In the case of a person or any group of individuals: report to the district attorney or district attorneys [of] the prosecutorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside.

(c) Upon receipt of such a report from the Board, the appropriate district attorney shall prosecute the individual or persons alleged to have violated a section or sections of this Article.

(d) As a condition of probation, a sentencing judge may order that the costs incurred by the State Board of Elections in investigating and aiding the prosecution of a case be paid to the State Board of Elections by the defendant on such terms and conditions as set by the judge."

SECTION 3. G.S. 163-278.40B reads as rewritten:

"**§ 163-278.40B. Campaign report; partisan election.**

In any city election conducted on a partisan basis in accordance with G.S. 163-279(a)(2) and 163-291, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary.

(1a) Pre-primary Report. – The treasurer shall file a report with the board no later than the tenth day preceding each primary election.

(2) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary.

(3) Repealed by Session Laws 1985, c. 164, s. 2, effective January 1, 1986.

(4) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 4. G.S. 163-278.40C reads as rewritten:

"**§ 163-278.40C. Campaign report; nonpartisan election and runoff.**

If any city election conducted under the nonpartisan election and runoff basis in accordance with G.S. 163-279(a)(4) and 163-293, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.

(1a) Pre-election Report. – The treasurer shall file a report with the board ~~no later than~~ 10 days ~~prior to~~ before the election.

(1b) Pre-runoff Report. – The treasurer shall file a report with the board 10 days before the runoff if the candidate is in a runoff.

(2) Repealed by Session Laws 1985, c. 164, s. 3, effective January 1, 1986.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~such~~ those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 5. G.S. 163-278.40D reads as rewritten:

"**§ 163-278.40D. Campaign report; nonpartisan primary and elections.**

In any city election conducted under the nonpartisan primary method in accordance with G.S. 163-279(a)(3) and 163-294, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary if the candidate is in a primary or the same length of time before the election if the candidate is not in a primary.

(1a) Pre-primary and Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the primary if the candidate is in a primary ~~or~~ and 10 days ~~prior to~~ before the ~~election, if the candidate is not in a primary.~~ election.

(2) Repealed by Session laws 1985, c. 164, s. 4, effective January 1, 1986.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 6. G.S. 163-278.40E reads as rewritten:

"**§ 163-278.40E. Campaign report; nonpartisan plurality.**

In any city election conducted under the nonpartisan plurality method under G.S. 163-279(a)(1) and 163-292, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.

(1a) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election.

(2) Repealed by Session Laws 1985, c. 164, s. 5, effective January 1, 1986.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~such~~ those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 7. G.S. 163-278.9(j) reads as rewritten:

"(j) Treasurers for the following entities shall electronically file each report required by this section that shows a cumulative total for the election cycle in excess of five thousand dollars ($5,000) in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

(1) A candidate for statewide office;

(2) A State, district, county, or precinct executive committee of a political party, if the committee makes contributions or independent expenditures in excess of five thousand dollars ($5,000) that affect contests for statewide office;

(3) A political committee that makes contributions in excess of five thousand dollars ($5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars ($5,000) that affect contests for statewide office.

The State Board of Elections shall provide the software necessary to file an electronic report to a treasurer required to file an electronic report at no cost to the treasurer."

SECTION 8. This act becomes effective January 1, 2002.

SENATE BILL 1002: Campaign Enforcement

BILL ANALYSIS

Committee:	House Election Laws and Campaign Finance Reform	**Introduced by:**	Senator Gulley
		Summary by:	William R. Gilkeson Staff Attorney
Date:	July 11, 2001		
Version:	Second Edition		

SUMMARY: ***Senate Bill 1002 would add stronger civil penalties to the criminal penalties now available for enforcement of the campaign finance laws. It would change the statute of limitations for campaign finance misdemeanors so that they would run from the day the last report is due, rather than from the time of some other aspect of the violation. And it would add reports to the current campaign finance reporting schedule for municipal elections.***

CURRENT LAW: The chief penalty for the violation of the Campaign Finance Act is a criminal one: a Class 2 misdemeanor. The State Board of Elections is empowered to investigate complaints of violations, and if it determines there is reason to believe there is a violation, it turns over the case to a District Attorney, in most cases the DA for Wake County. There is one civil penalty available, for late filing of a campaign finance report. The State Board can prosecute the civil penalty itself, with the assistance of the Attorney General.

Misdemeanors have a statute of limitations of 2 years. That statute runs from the time of the violation.

Very few prosecutions have ever gone to court for a campaign finance misdemeanor.

The election law provides for four types of municipal elections, each with its own schedule of campaign finance reporting:

1. Partisan primary and election. The primary occurs six weeks before the November general elections, with a runoff, if needed, three weeks before the general. The campaign finance law calls for 4 reports: an organizational report 10 days after filing candidacy or setting up a political committee, whichever occurs first; a report 10 days before the primary; a report 10 days before the general (unless there is a second primary, in which case the report shall be filed 10 days before the second primary instead); and an annual report.
2. Nonpartisan plurality election. This is by far the most common method among the more than 500 municipalities. It has one election in November. The frontrunners win, regardless of their percentage of the vote. There are 3 campaign finance reports: an organizational report, a report 10 days before the election, and an annual report.
3. Nonpartisan primary and election. A primary is held four weeks before the November election for the purpose of reducing the field of candidates to twice the number to be elected. Those not eliminated in the primary run in the November election. If there are no more candidates file than twice the number to be elected, there is no primary. There are 3 reports: an organizational report, a report 10 days before the primary (or if the candidate is not in a primary, a report 10 days before the election instead), and an organizational report.
4. Nonpartisan election and runoff. An election is held four weeks before the standard November election date. If the frontrunner gets a majority in that October election, the frontrunner is elected

without a runoff. If not, the top two candidates face each other in a November runoff. There are 3 reports: an organizational report, a report 10 days before the election, and an annual report.

Municipal candidates, like candidates for other offices, are exempted from making any reports after the organizational report if they receive and spend in their campaign $3,000 or less.

BILL ANALYSIS:

New Civil Penalty: Senate Bill 1002 would add to the Campaign Finance Act a new civil penalty. It would apply only when the violation consisted of intentionally making or accepting an illegal contribution. The civil penalty could not exceed $20,000 or three times the amount of the unlawful contribution. In addition, the State Board could take several civil actions with regard to an intentional violation other than a monetary penalty: issue a cease and desist order, require remedial action, require the filing of a report, or publicly reprimand the violator.

Criminal Law Changes: On the criminal side, the bill would run the statute of limitations from the day the last report is due for the election cycle for which the violation occurred. It would also authorize a judge, as a condition of probation for a campaign finance misdemeanor, to order that the costs incurred by the State Board be paid to the State Board.

Municipal Campaign Reporting: The bill changes all the reporting schedules for the 4 types of municipal elections in the following ways:

- By adding a report to be filed with the board of elections 35 days before the first primary or election held.
- By requiring *semi-annual* reports rather than annual reports. The last semi-annual report would be due on the last Friday in January, as now. The first one would be due on the last Friday in July. Some municipal candidates might never have occasion to file the first semi-annual report, since the filing deadline for municipal candidates is the first Friday in August. But candidates who begin their campaigns and fundraising early in the year might have a lot to report in July.
- By requiring a report 10 days before every election held. Currently, the nonpartisan candidates file a 10-day report before only one election, even if they run in a primary and election or an election and runoff.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

BACKGROUND: The Senate added to the bill a requirement that the State Board of Elections notify and consult with the appropriate District Attorney before assessing a civil penalty.

Ann Faust (Rep. Alexander)

From: Ann Faust (Rep. Alexander)
Sent: Thursday, July 12, 2001 4:38 PM
Subject: Election Law meeting notice for

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday July 18, 2001**

TIME: **11:00 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 14 – Election Rewrite – 2 **Senator Gulley**

SB 1002 – Campaign Finance Enforcement – Senator Gulley

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **4:35 pm on July 12, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust, Committee Assistant

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

July 18, 2001

Room 1228
11:00 a.m.

The meeting of the House Committee on Election Law and Campaign Finance Reform was called to order by Representative Nesbitt, Vice Chair. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair, Blue, Bonner, Daughtry, Goodwin, Kiser, Luebke, Morris, Rayfield, Rogers, Weatherly, Weiss, Cunningham, Dedmon.

Representative Nesbitt introduced and welcomed the pages and recognized Senator Gulley to present Senate Bill 14, AN ACT TO REWRITE ARTICLE 15 AND ARTICLE 16 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION; AND TO MAKE CONFORMING CHANGES. Senator Gulley said that the bill does not write substantive law but recodifies and clarifies existing law concerned, among other issues, with counting ballots, determining and honoring the intent of the voter. The process for protesting and appealing elections will be moved from Rules of the State Board of Elections to statutes, all statutes dealing with recounts will be combined in one statute The appropriate election board will determine the outcome of a tie vote by random selection. New elections may be ordered by four of the five members of the State Board. Whoever is eligible at the time of the new election may vote. Representative Daughtry asked if an entire district would re-vote if the problem lay in only one precinct. Current law and the rewrite say "yes." A new election would be called only if the problem may affect the outcome of the election. Representative Goodwin asked about ties in primaries. Mr. Gilkeson said that a second primary would be automatic in case of a tie. If a new election is called, all candidates on the original ballot are eligible for the ballot; or, in the case of a multi-seat district, those candidates affected are on the ballot. In a new election for a tie in a single seat district, only the tied candidates may run. The Secretary of State will turn the certification process over to the State Board of Elections and will be the repository of the records only. Representative Weatherly asked about the practice of voting a straight party ticket except for voting for a person in another party by mark in a particular office. Current law states that the mark overrides the straight party vote for that office, and that is the only vote counted. SB 14 does not change that. Staff attorney, Bill Gilkeson, reviewed the bill by section. Representative Kiser asked when in the process the State Board of Elections would develop rules governing various sections. He would like the rules to be developed before elections, to preclude problems like those in Florida. Johnnie McLean, State Board of Elections, said that State Board of Elections would like to develop solutions before problems arise. Mr. Gilkeson suggested that the effective date of the bill could be changed to allow time for the State Board to develop rules.

The meeting was adjourned.

Martin Nesbitt, Vice Chair

Ann Faust, Committee Assistant

SENATE BILL 14:
Election Rewrite -- 2.

BILL ANALYSIS

Committee:	Senate Judiciary I	**Introduced by:**	Senator Gulley
Date:	May 23, 2001	**Summary by:**	William R. Gilkeson and Erika Churchill, Staff Attorneys
Version:	S14-CSRR-32 (v.10)		

SUMMARY: The Proposed Committee Substitute for Senate Bill 14 would rewrite the sections of the Election Law dealing with counting official ballots, canvassing votes, and deciding election protests.

CURRENT LAW: Chapter 163 of the General Statutes, the Election Law, was last comprehensively rewritten in 1967, in response to the Election Laws Revision Commission appointed in 1965. The statute contains Article 15, which directs precinct officials and county boards of elections in counting ballots at the precinct, and canvassing votes, preparing abstracts, and certifying results at the county level. It also contains Article 16, which deals with the same functions at the State level. Article 16 is written on the assumption that ballot counting means paper ballots counted by hand at the precinct level. The Article contains specific procedures for precinct officials to do the hand counting: i.e., stacking the ballots in certain piles on a table, etc. At the turn of the century, most of the ballot counting done at the precinct is done by machine, and a great deal of the initial counting of ballots (e.g., provisional ballots) is done at the county board level.

The law contains the guiding principle that the voter's intent shall be followed in counting votes wherever it can be, and no ballot or part of ballot shall be discarded for technical errors if the voter's intent can be determined.

Outside Articles 15 and 16 are important related provisions. Article 3 contains the authority of the State Board of Elections to order new elections. And NCAC 08:2.0001 et seq. contain rules about the conduct of election protests. G.S. 163-22 gives the State Board authority to promulgate rules for mandatory recounts, but the rulemaking authority for discretionary recounts is less clear.

SENATE BILL 14: Senate Bill 14 repeals Articles 15 and 16, as well as 163-22.1, the new-election section, and merges their provisions into a new Article 15A. The approach of the bill, somewhat different than that of a companion bill Senate Bill 17, is to set out principles for counting ballots and give the State Board of Elections not only rulemaking authority but also authority to direct the county boards in the application of the rules in individual circumstances. In some instances, e.g., election protests, what were administrative rules are elevated to the level of statute.

The bill makes the following changes:

- Initial Counting of Ballots. The bill introduces the concept of "initial counting" of ballots, whether done at the precinct or at the county board of elections. It contains the principle that the voter's choice shall be honored where it can be determined. It applies that principle to provisional ballots, saying that they shall be counted for ballot items where the voter was eligible to vote, even if the county board determines the voter was not eligible to vote part of the ballot. *G.S. 163-182.2.*

- Election Protests. The bill essentially takes the procedure for protesting an election, now set in rule, and puts it in statute. The rules give protesters a time frame for filing their protest with the county board of elections, give the county board a menu of ways to resolve a protest, and provide for appeal to the State Board and the Wake County Superior Court. *G.S. 163-182.9 through -182.12.*

- Recounts. The bill collects the provisions about recounts into one statutory section. It gives the State Board the authority to promulgate rules about the conduct of recounts, whether ordered because of a close margin or for some other reason. It specifies that those rules shall guide boards of elections on when and to what extent to conduct hand-to-eye recounts. It says the rules shall provide guidance in interpretation of the voter's choice. *G.S. 163-182.7.*

- Tie Votes. The rewrite replaces the current variety of resolutions to tie votes in general elections with this rule: If the tie was in an election with more than 5,000 voters, there shall be a new election; if 5,000 or less, the tie is broken by a random selection between the tied candidates. *G.S. 163-182.8.*

- New Elections. The rewrite moves the new-election provisions from Article 3 to Article 15A. The rewrite clarifies that, regardless of the reason for the new election, it may be ordered only by a vote of at least 4 of the 5 members of the State Board. The rewrite also addresses issues on which the current statute is silent: Who may vote in the new election? The rewrite says whoever is eligible at the time of the new election, except that the State Board must promulgate rules to prevent someone who voted in a primary of one party from voting in a new-election primary of the other party. Must the new election be held in the entire jurisdiction of the initial election? The rewrite says yes. Which candidates must be on the ballot in the new election? The rewrite says all the candidates from the first election, except that a vacancy by death or disqualification may be filled as before the original election, and in the case of a multi-seat office, the State Board by a vote of 4 may limit the new election to the affected candidates. Also a new election for a tie includes only the tied candidates. *G.S. 163-182.13.*

- Certifications. The rewrite changes slightly the duties for issuing certificates of election for higher offices. Currently the State Board certifies the result to the Secretary of State, who must issue a certificate to the elected person on demand. The rewrite has the State Board issuing the certificate to the candidate, with the Secretary of State retaining a record-keeping duty for abstracts of results. *G.S. 163-182.6.*

BACKGROUND: The bill was recommended by the Election Laws Revision Commission as part of its project to rewrite Chapter 163 of the General Statutes. The bill was the product

of a subcommittee of that Commission. The subcommittee also produced a companion bill, introduced this year as Senate Bill 17.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 14

Judiciary I Committee Substitute Adopted 4/16/01

Short Title: Election Rewrite – 2. (Public)

Sponsors:

Referred to:

January 29, 2001

A BILL TO BE ENTITLED

AN ACT TO REWRITE ARTICLE 15 AND ARTICLE 16 OF CHAPTER 163, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION. .

The General Assembly of North Carolina enacts:

SECTION 1. Articles 15 and 16 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-22.1 is repealed.

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

"Article 15A.

"Counting Official Ballots, Canvassing Votes, Hearing Protests, and Certifying Results.

"**§ 163-182. Definitions.**

As used in this Article, the following definitions apply:

(1) 'Abstract' means a document signed by the members of the board of elections showing the votes for each candidate and ballot proposal on the official ballot in the election. The abstract shall show a total number of votes for each candidate in each precinct and a total for each candidate in the county. It shall also show the number of votes for each candidate among the absentee official ballots, among the provisional official ballots, and in any other category of official ballots that is not otherwise reported.

(2) 'Composite abstract' means a document signed by the members of the State Board of Elections showing the total number of votes for each candidate and ballot proposal and the number of votes in each county. A composite abstract does not include precinct returns.

(3) 'Certificate of election' means a document prepared by the official or body with the legal authority to do so, conferring upon a candidate the right to assume an elective office as a result of being elected to it.

(4) 'Protest' means a complaint concerning the conduct of an election which, if supported by sufficient evidence, may require remedy by one or more of the following:

a. A correction in the returns.

b. A discretionary recount as provided in G.S. 163-182.

c. A new election as provided in G.S. 163-182.8.

In addition to the definitions in this section, the definitions in Article 13A of this Chapter shall also apply to this Article.

"**§ 163-182.1. Principles and rules for counting official ballots.**

(a) General Principles That Shall Apply. – The following general principles shall apply in the counting of official ballots, whether the initial count or any recount:

(1) Only official ballots shall be counted.

(2) No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to determine the voter's choice.

(3) If it is impossible to determine a voter's choice in a ballot item, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which the voter's choice can be determined.

(4) If an official ballot is marked in a ballot item with more choices than there are offices to be filled or propositions that may prevail, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which there is no overvote and the voter's choice can be determined.

(5) If an official ballot is rejected by a scanner or other counting machine, but human counters can determine the voter's choice, the official ballot shall be counted by hand and eye.

(6) Write-in votes shall not be counted in party primaries or in referenda, but shall be counted in general elections if all of the following are true:

a. The write-in vote is written by the voter or by a person authorized to assist the voter pursuant to G.S. 163-166.8.

b. The write-in vote is not cast for a candidate who has failed to qualify under G.S. 163-123 as a write-in candidate.

c. The voter's choice can be determined.

(7) Straight-party ticket and split-ticket votes shall be counted in general elections according to the following guidelines:

a. If a voter casts a vote for a straight-party ticket, that vote shall be counted for all the candidates of that party, other than those for President and Vice President, in the partisan ballot items on that official ballot except as otherwise provided in this subdivision.

b. If a voter casts a vote for a straight-party ticket and also votes in a partisan ballot item for a candidate not of that party, the official ballot shall be counted in that ballot item only for the

individually marked candidate. In partisan ballot items where no mark is made for an individual candidate, the official ballot shall be counted for the candidates of the party whose straight ticket the voter voted.

c. If a voter casts a vote for a straight-party ticket and also casts a write-in vote in any partisan ballot item, the straight-party ticket vote shall not control the way the official ballot is counted in that ballot item, except to the extent it would control in the case of crossover voting under this subdivision. The following principles shall apply:

1. If the write-in vote is proper under subdivision (6) of this subsection, that write-in candidate shall receive a vote.
2. If the write-in vote is not proper under subdivision (6) of this subsection and no other candidate is individually marked in that ballot item, then no vote shall be counted in that ballot item.
3. If the straight-ticket voter casts both write-in votes and individually marked votes for ballot candidates in a ballot item, then the write-in and individually marked votes shall be counted unless the write-in is not proper under subdivision (6) of this subsection or an overvote results.

(b) Rules and Directions by State Board of Elections. – The State Board of Elections shall promulgate rules where necessary to apply the principles in subsection (a) of this section to each voting system in use in the State. The rules shall prescribe procedures and standards for each type of voting system. Those procedures and standards shall be followed uniformly throughout the State in all places where that type of voting system is used. The State Board shall direct the county boards of elections in the application of the principles and rules in individual circumstances.

"**§ 163-182.2. Initial counting of official ballots.**

(a) The initial counting of official ballots shall be conducted according to the following principles:

(1) Vote counting at the precinct shall occur immediately after the polls close and shall be continuous until completed.

(2) Vote counting at the precinct shall be conducted with the participation of precinct officials of all political parties then present. Vote counting at the county board of elections shall be conducted in the presence or under the supervision of board members of all political parties then present.

(3) Any member of the public wishing to witness the vote count at any level shall be allowed to do so. No witness shall interfere with the orderly counting of the official ballots. Witnesses shall not participate in the official counting of official ballots.

(4) Provisional official ballots shall be counted by the county board of elections before the canvass. If the county board finds that an individual voting a provisional official ballot is not eligible to vote in one or more ballot items on the official ballot, the board shall not count the official ballot in those ballot items, but shall count the official ballot in any ballot items for which the individual is eligible to vote.

(b) The State Board of Elections shall promulgate rules for the initial counting of official ballots. All election officials shall be governed by those rules. In promulgating those rules, the State Board shall adhere to the following guidelines:

(1) For each voting system used, the rules shall specify the role of precinct officials and of the county board of elections in the initial counting of official ballots.

(2) The rules shall provide for accurate unofficial reporting of the results from the precinct to the county board of elections with reasonable speed on the night of the election.

(3) The rules shall provide for the prompt and secure transmission of official ballots from the voting place to the county board of elections.

The State Board shall direct the county boards of elections in the application of the principles and rules in individual circumstances.

"**§ 163-182.3. Responsibility of chief judge.**

The chief judge of each precinct shall be responsible for the adherence of the precinct officials to the State Board rules for counting, reporting, and transmitting official ballots.

"**§ 163-182.4. Jurisdiction for certain ballot items.**

(a) Jurisdiction of County Board of Elections. – As used in this Article, the county board of elections shall have jurisdiction over the following:

(1) Offices of that county, including clerk of superior court and register of deeds.

(2) Membership in either house of the General Assembly from a district lying entirely within that county.

(3) Offices of municipalities located in two or more counties.

(4) Referenda in which only residents of that county are eligible to vote.

(b) Jurisdiction of State Board of Elections. – As used in this Article, the State Board of Elections shall have jurisdiction over the following:

(1) National offices.

(2) State offices.

(3) District offices (including General Assembly seats) in which the district lies in more than one county.

(4) Superior court judge, district court judge, and district attorney, regardless of whether the district lies entirely in one county or in more than one county.

(5) Referenda in which residents of more than one county are eligible to vote.

(c) For the purposes of this Article, having jurisdiction shall mean that the appropriate board shall do all of the following with regard to the ballot item:

(1) Canvass for the entire electorate for the ballot item.

(2) Prepare abstracts or composite abstracts for the entire electorate for the ballot item.

(3) Issue certificates of nomination and election.

"**§ 163-182.5. Canvassing votes.**

(a) The Canvass. – As used in this Article, the term 'canvass' means the entire process of determining that the votes have been counted and tabulated correctly, culminating in the authentication of the official election results. The board of elections conducting a canvass has authority to send for papers and persons and to examine them and pass upon the legality of disputed ballots.

(b) Canvassing by County Board of Elections. – The county board of elections shall meet at 11:00 A.M. on the third day (Sunday excepted) after every election to complete the canvass of votes cast and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. If, despite due diligence by election officials, the initial counting of all the votes has not been completed by that time, the county board may hold the canvass meeting a reasonable time thereafter. The canvass meeting shall be at the county board of elections office, unless the county board, by unanimous vote of all its members, designates another site within the county. The county board shall examine the returns from precincts, from absentee official ballots, and from provisional official ballots and shall conduct the canvass.

(c) Canvassing by State Board of Elections. – After each general election, the State Board of Elections shall meet at 11:00 A.M. on the Tuesday three weeks after election day to complete the canvass of votes cast in all ballot items within the jurisdiction of the State Board of Elections and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. After each primary, the State Board shall fix the date of its canvass meeting. If, by the time of its scheduled canvass meeting, the State Board has not received the county canvasses, the State Board may adjourn for not more than 10 days to secure the missing abstracts.

"**§ 163-182.6. Abstracts.**

(a) Abstracts to Be Prepared by County Board of Elections. – As soon as the county canvass has been completed, the county board of elections shall prepare abstracts of all the ballot items in a form prescribed by the State Board of Elections. The county board shall prepare those abstracts in triplicate originals. The county board shall retain one of the triplicate originals, and shall distribute one each to the clerk of superior court for the county and the State Board of Elections. The State Board of Elections shall forward the original abstract it receives to the Secretary of State.

(b) Composite Abstracts to Be Prepared by the State Board of Elections. – As soon as the State canvass has been completed, the State Board shall prepare composite abstracts of all those ballot items. It shall prepare those composite abstracts in duplicate originals. It shall retain one of the originals and shall send the other original to the Secretary of State.

(c) Duty of the Secretary of State. – The Secretary of State shall maintain the certified copies of abstracts received from the county and State boards of elections. The Secretary shall keep the abstracts in a form readily accessible and useful to the public.

(d) Forms by State Board of Elections. – The State Board of Elections shall prescribe forms for all abstracts. Those forms shall be uniform and shall, at a minimum, state the name of each candidate and the office sought and each referendum proposal, the number of votes cast for each candidate and proposal, the candidate or proposal determined to have prevailed, and a statement authenticating the count.

"**§ 163-182.7. Ordering recounts.**

(a) Discretionary Recounts. – The county board of elections or the State Board of Elections may order a recount when necessary to complete the canvass in an election. The county board may not order a recount where the State Board of Elections has already denied a recount to the petitioner.

(b) Mandatory Recounts for Ballot Items Within the Jurisdiction of the County Board of Elections. – In a ballot item within the jurisdiction of the county board of elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate is not more than one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item not more than one percent (1%) of the votes cast for those two candidates. The demand for a recount must be made in writing and must be received by the county board of elections by noon on the fourth day after the canvass. The recount shall be conducted under the supervision of the county board of elections.

(c) Mandatory Recounts for Ballot Items Within the Jurisdiction of the State Board of Elections. – In a ballot item within the jurisdiction of the State Board of Elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate are not more than the following:

(1) For a nonstatewide ballot item, one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item one percent (1%) of the votes cast for those two candidates.

(2) For a statewide ballot item, one half of one percent (0.5%) of the votes cast in the ballot item, or in the case of a multiseat ballot item one half of one percent (0.5%) of the votes cast for those two candidates, or 10,000 votes, whichever is less.

The demand for a recount must be in writing and must be received by the State Board of Elections by noon on the second Wednesday after the election. If on that Wednesday the available returns show a candidate not entitled to a mandatory recount, but the Executive Secretary-Director determines subsequently that the margin is within the

threshold set out in this subsection, the Executive Secretary-Director shall notify the eligible candidate immediately and that candidate shall be entitled to a recount if that candidate so demands within 48 hours of notice. The recount shall be conducted under the supervision of the State Board of Elections.

(d) Rules for Conducting Recounts. – The State Board of Elections shall promulgate rules for conducting recounts. Those rules shall be subject to the following guidelines:

(1) The rules shall specify, with respect to each type of voting system, when and to what extent the recount shall consist of machine recounts and hand-to-eye recounts.

(2) The rules shall provide guidance in interpretation of the voter's choice.

(3) The rules shall specify how the goals of multipartisan participation, opportunity for public observation, and good order shall be balanced.

"**§ 163-182.8. Determining result in case of a tie.**

If the count, upon completion of canvass by the proper board of elections, shows a tie vote other than in a primary, the tie shall be resolved as follows:

(1) If more than 5,000 voters cast official ballots in the ballot item, the State Board of Elections shall order a new election in which only the candidates or positions tied will be on the official ballot. The State Board of Elections shall set the schedule for publication of the notice, preparation of absentee official ballots, and the other actions necessary to conduct the election. Eligibility to vote in the new election shall be determined by the voter's eligibility at the time of the new election.

(2) If 5,000 or fewer voters cast official ballots in the ballot item, the board of elections with jurisdiction to certify the election shall break the tie by a method of random selection to be determined by the State Board of Elections.

"**§ 163-182.9. Filing an election protest.**

(a) Who May File a Protest With County Board. – A protest concerning the conduct of an election may be filed with the county board of elections by any registered voter who was eligible to vote in the election or by any person who was a candidate for nomination or election in the election.

(b) How Protest May Be Filed. – The following principles shall apply to the filing of election protests with the county board of elections:

(1) The protest shall be in writing and shall be signed by the protester. It shall include the protester's name, address, and telephone number and a statement that the person is a registered voter in the jurisdiction or a candidate.

(2) The protest shall state whether the protest concerns the manner in which votes were counted and results tabulated or concerns some other irregularity.

(3) The protest shall state what remedy the protester is seeking.

(4) The timing for filing a protest shall be as follows:

a. If the protest concerns the manner in which votes were counted or results tabulated, the protest shall be filed before the beginning of the county board of election's canvass meeting.

b. If the protest concerns the manner in which votes were counted or results tabulated and the protest states good cause for delay in filing, the protest may be filed until 6:00 P.M. on the second day after the county board of elections has completed its canvass and declared the results.

c. If the protest concerns an irregularity other than vote counting or result tabulation, the protest shall be filed no later than 6:00 P.M. on the second day after the county board has completed its canvass and declared the results.

d. If the protest concerns an irregularity on a matter other than vote counting or result tabulation and the protest is filed before election day, the protest proceedings shall be stayed, unless a party defending against the protest moves otherwise, until after election day if any one of the following conditions exists:

1. The ballot has been printed.
2. The voter registration deadline for that election has passed.
3. Any of the proceedings will occur within 30 days before election day.

(c) State Board to Prescribe Forms. – The State Board of Elections shall prescribe forms for filing protests.

"**§ 163-182.10. Consideration of protest by county board of elections.**

(a) Preliminary Consideration. – The following principles shall apply to the initial consideration of election protests by the county board of elections:

(1) The county board shall, as soon as possible after the protest is filed, meet to determine whether the protest substantially complies with G.S. 163-182.9 and whether it establishes probable cause to believe that a violation of election law or irregularity or misconduct has occurred. If the board determines that one or both requirements are not met, the board shall dismiss the protest. The board shall notify both the protester and the State Board of Elections. The protester may file an amended protest or may appeal to the State Board. If the board determines that both requirements are met, it shall schedule a hearing.

(2) If a protest was filed before the canvass and concerns the counting and tabulating of votes, the county board shall resolve the protest before the canvass is completed. If necessary to provide time to resolve the protest, the county board may recess the canvass meeting, but shall not delay the completion of the canvass for more than three days unless approved by the State Board of Elections. Resolution of the protest

shall not delay the canvass of ballot items unaffected by the protest. The appeal of a dismissal shall not delay the canvass.

(3) If a protest concerns an irregularity other than the counting or tabulating of votes, that protest shall not delay the canvass.

(b) Notice of Hearing. – The county board shall give notice of the protest hearing to the protester, any candidate likely to be affected, any election official alleged to have acted improperly, and those persons likely to have a significant interest in the resolution of the protest. Each person given notice shall also be given a copy of the protest or a summary of its allegations. The manner of notice shall be as follows:

(1) If the protest concerns the manner in which the votes were counted or the results tabulated, the protester shall be told at the time of filing that the protest will be heard at the time of the canvass. Others shall be notified as far in advance of the canvass as time permits.

(2) If the protest concerns a matter other than the manner in which votes were counted or results tabulated, the county board shall comply with rules to be promulgated by the State Board of Elections concerning reasonable notice of the hearing.

Failure to comply with the notice requirements in this subsection shall not delay the holding of a hearing nor invalidate the results if it appears reasonably likely that all interested persons were aware of the hearing and had an opportunity to be heard.

(c) Conduct of Hearing. – The following principles shall apply to the conduct of a protest hearing before the county board of elections:

(1) The county board may allow evidence to be presented at the hearing in the form of affidavits or it may examine witnesses. The chair or any two members of the board may subpoena witnesses or documents. Each witness must be placed under oath before testifying.

(2) The county board may receive evidence at the hearing from any person with information concerning the subject of the protest. The person who made the protest shall be permitted to present allegations and introduce evidence at the hearing. Any other person to whom notice of hearing was given, if present, shall be permitted to present evidence. The board may allow evidence by affidavit. The board may permit evidence to be presented by a person to whom notice was not given, if the person apparently has a significant interest in the resolution of the protest that is not adequately represented by other participants.

(3) The hearing shall be recorded by a reporter or by mechanical means, and the full record of the hearing shall be preserved by the county board until directed otherwise by the State Board.

(d) Findings of fact and Conclusions of Law by County Board. – The county board shall make a written decision on each protest which shall state separately each of the following:

(1) Findings of fact. – The findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact, if set

forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them.

(2) Conclusions of law. – The conclusions the county board may state, and their consequences for the board's order, are as follows:

a. 'The protest should be dismissed because it does not substantially comply with G.S. 163-182.9.' If the board makes this conclusion, it shall order the protest dismissed.

b. 'The protest should be dismissed because there is not substantial evidence of a violation of the election law or other irregularity or misconduct.' If the county board makes this conclusion, it shall order the protest dismissed.

c. 'The protest should be dismissed because there is not substantial evidence of any violation, irregularity, or misconduct sufficient to cast doubt on the results of the election.' If the county board makes this conclusion, it shall order the protest dismissed.

d. 'There is substantial evidence to believe that a violation of the election law or other irregularity or misconduct did occur, and might have affected the outcome of the election, but the board is unable to finally determine the effect because the election was a multicounty election.' If the county board makes this conclusion, it shall order that the protest and the county board's decision be sent to the State Board for action by it.

e. 'There is substantial evidence to believe that a violation of the election law or other irregularity or misconduct did occur and that it was sufficiently serious to cast doubt on the apparent results of the election.' If the county board makes this conclusion, it may order any of the following as appropriate:

1. That the vote total as stated in the precinct return or result of the canvass be corrected and new results declared.
2. That votes be recounted.
3. That the protest and the county board's decision be sent to the State Board for action by it.
4. Any other action within the authority of the county board.

(3) An order. – Depending on the conclusion reached by the county board, its order shall be as directed in subdivision (c)(2). If the county board is not able to determine what law is applicable to the Findings of Fact, it may send its findings of fact to the State Board for it to determine the applicable law.

(e) Rules by State Board of Elections. – The State Board of Elections shall promulgate rules providing for adequate notice to parties, scheduling of hearings, and the timing of deliberations and issuance of decision.

"**§ 163-182.11. Appeal of a protest decision by the county board to the State Board of Elections.**

(a) Notice and Perfection of Appeal. – The decision by the county board of elections on an election protest may be appealed to the State Board of Elections by any of the following:

(1) The person who filed the protest.

(2) A candidate or elected official adversely affected by the county board's decision.

(3) Any other person who participated in the hearing and has a significant interest adversely affected by the county board's decision.

Written notice of the appeal must be given to the county board within 24 hours after the county board files the written decision at its office. The appeal to the State Board must be in writing. The appeal must be delivered or deposited in the mail, addressed to the State Board, by the appropriate one of the following: (i) the end of the second day after the day the decision was filed by the county board in its office, if the decision concerns a first primary; or (ii) the end of the fifth day after the day the decision was filed in the county board office, if the decision concerns an election other than a first primary.

The State Board shall prescribe forms for filing appeals from the county board.

(b) Consideration of Appeal by State Board. – In its consideration of an appeal from a decision of a county board of elections on a protest, the State Board of Elections may do any of the following:

(1) Decide the appeal on the basis of the record from the county board, as long as the county board has made part of the record a transcript of the evidentiary hearing.

(2) Request the county board or any interested person to supplement the record from the county board, and then decide the appeal on the basis of that supplemented record.

(3) Receive additional evidence and then decide the appeal on the basis of the record and that additional evidence.

(4) Hold its own hearing on the protest and resolve the protest on the basis of that hearing.

(5) Remand the matter to the county board for further proceedings in compliance with an order of the State Board.

The State Board shall follow the procedures set forth in subsections (c) and (d) of G.S. 163-182.10 except where they are clearly inapplicable.

The State Board shall give notice of its decision as required by G.S. 163-182.14, and may notify the county board and other interested persons in its discretion.

"**§ 163-182.12. Authority of State Board of Elections over protests.**

The State Board of Elections may consider protests that were not filed in compliance with G.S. 163-182.9, may initiate and consider complaints on its own motion, may intervene and take jurisdiction over protests pending before a county board, and may

take any other action necessary to assure that an election is determined without taint of fraud or corruption.

"**§ 163-182.13. New elections.**

(a) When State Board May Order New Election. – The State Board of Elections may order a new election, upon agreement of at least four of its members, in the case of any one or more of the following:

(1) Ineligible voters sufficient in number to change the outcome of the election were allowed to vote in the election, and it is not possible from examination of the official ballots to determine how those ineligible voters voted and to correct the totals.

(2) Eligible voters sufficient in number to change the outcome of the election were improperly prevented from voting.

(3) Other irregularities affected a sufficient number of votes to change the outcome of the election.

(4) Irregularities or improprieties occurred to such an extent that, although it is not possible to determine whether those irregularities or improprieties affected the outcome of the election, they taint the results of the entire election and cast doubt on its fairness.

(b) State Board to Set Procedures. – The State Board of Elections shall determine when a new election shall be held and shall set the schedule for publication of the notice, preparation of absentee official ballots, and the other actions necessary to conduct the election.

(c) Eligibility to Vote in New Election. – Eligibility to vote in the new election shall be determined by the voter's eligibility at the time of the new election, except that in a primary, no person who voted in the initial primary of one party shall vote in the new election in the primary of another party. The State Board of Elections shall promulgate rules to effect the provisions of this subsection.

(d) Jurisdiction in Which New Election Held. – The new election shall be held in the entire jurisdiction in which the original election was held.

(e) Which Candidates to Be on Official Ballot. – All the candidates who were listed on the official ballot in the original election shall be listed in the same order on the official ballot for the new election, except in either of the following:

(1) If a candidate dies or otherwise becomes ineligible between the time of the original election and the new election, that candidate may be replaced in the same manner as if the vacancy occurred before the original election.

(2) If the election is for a multiseat office, and the irregularities could not have affected the election of one or more of the leading vote getters, the new election, upon agreement of at least four members of the State Board, may be held among only those remaining candidates whose election could have been affected by the irregularities.

(f) Tie Votes. – If ineligible voters voted in an election and it is possible to determine from the official ballots the way in which those votes were cast and to correct

the results, and consequently the election ends in a tie, the provisions of G.S. 163-182.8 concerning tie votes shall apply.

"**§ 163-182.14. Appeal of a final decision to superior court.**

A copy of the final decision of the State Board of Elections on an election protest 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 to the Superior Court of Wake County 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 pursuant to G.S. 163-182.15 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. The court shall not issue a stay of certification 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.

"**§ 163-182.15. Certificate of nomination or election, or certificate of the results of a referendum.**

(a) Issued by County Board of Elections. – In ballot items within the jurisdiction of the county board of elections, the county board shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the county board five days after the completion of the canvass pursuant to G.S. 163-182.5, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

(1) The certificate shall be issued five days after the protest is dismissed or denied by the county board of elections, unless that decision has been appealed to the State Board of Elections.

(2) The certificate shall be issued 10 days after the final decision of the State Board, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163-182.14.

(3) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has stayed the certification, the certificate shall be issued five days after the entry of a final order in the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.

(b) Issued by State Board of Elections. – In ballot items within the jurisdiction of the State Board of Elections, the State Board of Elections shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the State Board five days after the completion of the

canvass pursuant to G.S. 163-182.5, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

(1) The certificate shall be issued 10 days after the final decision of the State Board on the election protest, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163-14.

(2) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has stayed the certification, the certificate shall be issued five days after the entry of a final order in the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.

(c) Copy to Secretary of State. – The State Board of Elections shall provide to the Secretary of State a copy of each certificate of nomination or election, or certificate of the results of a referendum, issued by it.

"**§ 163-182.16. Governor to issue commissions for certain offices.**

Upon receiving from the Secretary of State notice that a certificate of election has been issued for any of the following offices, the Governor shall provide to each such elected official a commission attesting to that person's election:

(1) Members of the United States House of Representatives.

(2) Justices, judges, and district attorneys of the General Court of Justice.

"**§ 163-182.17. Summary of officials' duties under this Article.**

(a) This Section a Summary. – The provisions of this section provide a nonexclusive summary of the duties given to officials under this Article. The legal duty is contained, not in this section, but in the other sections of this Article.

(b) Duties of the Precinct Officials. – Precinct officials, in accordance with rules of the State Board of Elections and under the supervision of the county board of elections, shall perform all of the following:

(1) Count votes when votes are required to be counted at the voting place. G.S. 163-182.2.

(2) Make an unofficial report of returns to the county board of elections. G.S. 163-182.2.

(3) Certify the integrity of the vote and the security of the official ballots at the voting place. G.S. 163-182.2.

(4) Return official ballots and equipment to the county board of elections. G.S. 163-182.2.

(c) Duties of the County Board of Elections. – The county board of elections, in accordance with rules of the State Board of Elections, shall perform all of the following:

(1) Count absentee and provisional official ballots and other official ballots required to be initially counted by the county board of elections. G.S. 163-182.2.

(2) Canvass results in all ballot items on the official ballot in the county. G.S. 163-182.5.

(3) Order a recount in any ballot item on the official ballot in the county, where necessary to complete the canvass, and where not prohibited from doing so. G.S. 163-182.7.

(4) Conduct any recount that has been ordered by the county board of elections or the State Board of Elections or that has been properly demanded in accordance with G.S. 163-182.7(b).

(5) Conduct hearings in election protests as provided in G.S. 163-182.10.

(6) Prepare abstracts of returns in all the ballot items in the county. G.S. 163-182.6.

(7) Retain one original abstract and distribute the other two originals as follows:

a. One to the clerk of superior court in the county.

b. One to the State Board of Elections. G.S. 163-182.6.

(8) Issue a certificate of nomination or election or a certificate of the results of a referendum in each ballot item within the jurisdiction of the county board of elections. Provide a copy of the certificate to the clerk of court. G.S. 163-182.15.

(d) Duties of the State Board of Elections. – The State Board of Elections shall perform all the following:

(1) Promulgate rules as directed in this Article. G.S. 163-182.1, 163-182.2, 163-182.7, 163-182.10, and 163-182.13.

(2) Provide supervisory direction to the county boards of elections as provided in this Article. G.S. 163-182.1 and G.S. 163-182.2.

(3) Canvass the results in ballot items within the jurisdiction of the State Board of Elections. G.S. 163-182.5.

(4) Order and supervise a recount in any ballot item within the jurisdiction of the State Board of Elections, where necessary to complete the canvass. G.S. 163-182.7.

(5) Hear and decide appeals from decisions of county boards of elections in election protests. G.S. 163-182.11.

(6) Order new elections in accordance with G.S. 163-182.15.

(7) Prepare, in duplicate originals, composite abstracts of ballot items within the jurisdiction of the State Board of Elections. G.S. 163-182.6.

(8) Retain one original of the composite abstract and deliver to the Secretary of State the other original composite abstract of the results of ballot items within the jurisdiction of the State Board of Elections. G.S. 163-182.6.

(9) Certify the results of any election within the jurisdiction of the State Board of Elections and provide a copy to the Secretary of State. G.S. 163-182.15.

(e) Duties of the Secretary of State. – The Secretary of State shall retain and compile in a useful form all the abstracts and returns provided by the county boards of elections and the State Board of Elections. G.S. 163-182.6.

(f) Duty of the Governor. – The Governor shall issue a commission to any person elected to an office listed in G.S. 163-182.17 upon notification from the Secretary of State that a certificate of election has been issued to the person. G.S. 163-182.17.

SECTION 4. This act becomes effective January 1, 2002.

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

July 25, 2001
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

SB 17 – Election Rewrite – – Senator Gulley (re-referred for technical correction)

SB 14 – Election Rewrite –2 - Senator Gulley

SB 1002 – Campaign Finance Enforcement – Senator Gulley

STAFF: **Bill Gilkeson**
Erika Churchill

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Senator Gulley**

OFFICE: **408**

NOTIFICATION DATE: **July 18, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, July 25, 2001**

TIME: **11:00 am**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

SB 14 – Election Rewrite – 2 **Senator Gulley**

SB 1002 – Campaign Finance Enforcement – Senator Gulley

We would like to have you attend this meeting.

Representative Alexander - -
Chairman

Ann Faust (Committee Assistant)

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

July 25, 2001

Room 1228
11:00 a.m.

The meeting of the House Committee on Election Law and Campaign Finance Reform was called to order by Representative Alexander, Chair. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Bonner, Daughtry, Decker, Goodwin, Kiser, Justus, Luebke, Morris, Rayfield, Redwine, Rogers, Starnes, Weatherly, Weiss, Cunningham, Dedmon, and Earle.

SB 17 ELECTION LAW REWRITE – 1 was reintroduced for technical changes and change of title. Representative Rayfield moved for consideration of the Proposed Committee Substitute. The motion passed. Staff attorney, Erica Churchill, noted that the previously passed Proposed Committee Substitute called for a change of title which, by error, was not incorporated into the title. Cite changes were made. Representative Decker moved that on page 17 line 27 the cite be changed from Article VI to Article IV. The motion carried. Representative Goodwin moved for a favorable report on the amended Proposed Committee Substitute, unfavorable as to Committee Substitute 1. The motion passed.

Senator Gulley was introduced to continue presentation of SB 14 AN ACT TO REWRITE ARTICLE 15 AND ARTICLE 16 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION; AND TO MAKE CONFORMING CHANGES. Representative Kiser put for an amendment changing the effective date on page 19 line 20 to read: "If a county makes a showing that discontinuance would impose a financial hardship upon it, the county shall be give up to four years from the time of State Board disapproval to replace the system. A county may appeal a decision by the State Board concerning discontinuance of a voting system to the superior court in that county or the superior court of Wake County. The county has 30 days from the time of the State Board's decision on discontinuance to make that appeal." He moved for adoption. After discussion, the motion passed. The amendment will be included in the bill. Representative Decker moved that the word "clearly" be inserted before the word "determine" on page 2 lines 15, 16 and 26 and on page 2 lines 24 and 34 the word "clearly" be inserted before the word "determined." He moved for adoption. Following discussion, the motion passed. The amendment will be included in the bill. Questions were raised about resolving disputes, recounts, and other non-specified conflicts that may arise on election day. The State Board will make rules/rulings on specific cases. Representative Starnes asked what is the standard for a recount. Gary Bartlett, Executive Director of the State Board of Elections, responded that it is governed by the *Administrative Code*. Representative Morris moved for a favorable report for the

Proposed Committee Substitute as amended, unfavorable as to the Senate Committee substitute. The motion passed.

Senator Gulley then introduced SB 1002 AN ACT TO STRENGTHEN THE CAMPAIGN ENFORCEMENT AND DISCLOSURE LAW. He explained that the bill will levy a civil penalty for the intentional giving or receiving of campaign contributions over the legal limit. After presentation, Representative Rayfield questioned the cap of $20,000 on page 2 line 2 and put forth an amendment to delete the words "twenty thousand dollars ($20,000) or"...and moved its adoption. The motion passed. The words will be deleted from the bill. Discussion followed. Representative Weiss asked whether the donor or recipient would be subject to fine. Would the treasurer of the campaign committee be responsible or candidate? What happens if the campaign committee is out of existence by the time the wrongful donation is discovered? Michael Crowell, chair of the Election Laws Revision Commission, responded that the treasurer would be responsible. Senator Gulley reminded that the party (ies) involved had to know and willfully violate the law to be penalized. Representative Weiss asked where the money for the fine would come from – a campaign or personal account? Discussion followed.

The meeting was adjourned.

Martha Alexander, Chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

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SENATE BILL 17

Judiciary I Committee Substitute Adopted 4/9/01
House Committee Substitute Favorable 7/17/01
PROPOSED HOUSE COMMITTEE SUBSTITUTE S17-CSST-57 [v.1]

7/23/2001 7:14:39 PM

Short Title: Election Rewrite-1. (Public)

Sponsors:

Referred to:

January 29, 2001

A BILL TO BE ENTITLED

AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION; TO PERMIT THE USE OF CERTAIN GENDER TITLES ON THE BALLOT; TO PROVIDE FOR THE ROTATION OF POLITICAL PARTIES ON THE GENERAL ELECTION OFFICIAL BALLOT; TO GIVE THE COUNTY BOARD OF ELECTIONS FLEXIBILITY IN SETTING A BUFFER ZONE AROUND A VOTING PLACE, WITH A MINIMUM OF 25 FEET; AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 13 and 14 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-2 is repealed.

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

"Article 13A.

"Voting.

"Part 1. Definitions.

"**§ 163-165. Definitions.**

In addition to the definitions stated below, the definitions set forth in Article 15A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

(1) 'Ballot' means an instrument on which a voter indicates a choice so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term 'ballot' may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, the face of a lever voting machine, the image on a direct record electronic unit, or a ballot used on any other voting system.

(2) 'Ballot item' means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.

(3) 'Ballot style' means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.

(4) 'Election' means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.

(5) 'Official ballot' means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections. The term does not include a sample ballot or a specimen ballot.

(6) 'Provisional official ballot' means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote.

(7) 'Referendum' means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.

(8) 'Voting booth' means the private space in which a voter is to mark an official ballot.

(9) 'Voting enclosure' means the room or connected rooms within the voting place that is used for voting.

(10) 'Voting place' means the building that contains the voting enclosure.

(11) 'Voting system' means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment.

"Part 2. Ballots and Voting Systems.

"**§ 163-165.1. Scope and general rules.**

(a) Scope. – This Article shall apply to all elections in this State.

(b) Requirements of Official Ballots in Voting. – In any election conducted under this Article:

(1) All voting shall be by official ballot.

(2) Only votes cast on an official ballot shall be counted.

(c) Compliance With This Article. – All ballots shall comply with the provisions of this Article.

(d) Other Uses Prohibited. – An official ballot shall not be used for any purpose not authorized by this Article.

"**§ 163-165.2. Sample ballots.**

(a) County Board to Produce and Distribute Sample Ballots. – The county board of elections shall produce sample ballots, in all the necessary ballot styles of the official ballot, for every election to be held in the county. The sample ballots shall be given an appearance that clearly distinguishes them from official ballots. The county board shall distribute sample ballots to the chief judge of every precinct in which the election is to be conducted. The chief judge shall post a sample ballot in the voting place and may use it for instructional purposes. The county board of elections may use the sample ballot for other informational purposes.

(b) Document Resembling an Official Ballot to Contain Disclaimer. – No person other than a board of elections shall produce or disseminate a document substantially resembling an official ballot unless the document contains on its face a prominent statement that the document was not produced by a board of elections and is not an official ballot.

"**§ 163-165.3. Responsibilities for preparing official ballots.**

(a) State Board to Certify Official Ballots and Instructions to Voters. – The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

(1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification and times for the State Board to complete the certification.

(2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.

(3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.

(4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.

(5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.

(6) The State Board is not required to certify or review every official ballot style in the county but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

(b) County Board to Prepare and Produce Official Ballots and Instructions. – Each county board of elections shall prepare and produce official ballots for all elections in that county. The county board of elections shall submit the format of each official ballot and set of instructions to the State Board of Elections for review and certification in accordance with the schedule established by the State Board. The county board of elections shall follow the directions of the State Board in placing candidates, referenda, and other material on official ballots and in placing instructions.

(c) Late Changes in Ballots. – The State Board shall promulgate rules for late changes in ballots. The rules shall provide for the reprinting, where practical, of official ballots as a result of replacement candidates to fill vacancies in accordance with G.S. 163-114 or other late changes. If an official ballot is not reprinted, a vote for a candidate who has been replaced in accordance with G.S. 163-114 will count for the replacement candidate.

(d) Special Ballots. – The State Board of Elections, with the approval of a county board of elections, may produce special official ballots, such as those for disabled voters, where production by the State Board would be more practical than production by the county board.

"**§ 163-165.4. Standards for official ballots.**

The State Board of Elections shall seek to ensure that official ballots throughout the State have all the following characteristics:

(1) Are readily understandable by voters.

(2) Present all candidates and questions in a fair and nondiscriminatory manner.

(3) Allow every voter to cast a vote in every ballot item without difficulty.

(4) Facilitate an accurate vote count.

(5) Are uniform in content and format, subject to varied presentations required or made desirable by different voting systems.

"**§ 163-165.5. Contents of official ballots.**

Each official ballot shall contain all the following elements:

(1) The heading prescribed by the State Board of Elections. The heading shall include the term 'Official Ballot'.

(2) The title of each office to be voted on and the number of seats to be filled in each ballot item.

(3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways

that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent.

(4) Party designations in partisan ballot items.

(5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123.

(6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.

(7) The printed title and facsimile signature of the chair of the county board of elections.

"**§ 163-165.6. Arrangement of official ballots.**

(a) Order of Precedence Generally. – Candidate ballot items shall be arranged on the official ballot before referenda.

(b) Order of Precedence for Candidate Ballot Items. – The State Board of Elections shall promulgate rules prescribing the order of offices to be voted on the official ballot. Those rules shall adhere to the following guidelines:

(1) Federal offices shall be listed before State and local offices. Federal offices shall be listed according to the size of the electorate.

(2) State and local offices shall be listed according to the size of the electorate.

(3) Partisan offices shall be listed before nonpartisan offices.

(4) When offices are in the same class, they shall be listed in alphabetical order by office name, or in numerical or alphabetical order by district name. Governor and Lieutenant Governor, in that order, shall be listed before other Council of State offices. Mayor shall be listed before other citywide offices. Chair of a board, where elected separately, shall be listed before other board seats having the same electorate. Chief Justice shall be listed before Associate Justices.

(5) Ballot items for full terms of an office shall be listed before ballot items for partial terms of the same office.

(c) Order of Candidates on Primary Official Ballots. – The order in which candidates shall appear on a county's official ballots in any primary ballot item shall be determined by the county board of elections using a process designed by the State Board of Elections for random selection.

(d) Order of Party Candidates on General Election Official Ballot. – Candidates in any ballot item on a general election official ballot shall appear in the following order:

(1) Nominees of political parties that reflect at least five percent (5%) of statewide voter registration, according to the most recent statistical report published by the State Board of Elections so that such parties rotate order each three years, and if there are more than two eligible

parties, then the order among those parties shall be determined by lot, with no party being eligible for the top slot for three years after it has left the top slot.

(2) Nominees of other political parties, in random order of the name of the party.

(3) Unaffiliated candidates, in random order.

(e) Straight-Party Voting. – Each official ballot shall be arranged so that the voter may cast one vote for a party's nominees for all offices except President and Vice President. A vote for President and Vice President shall be cast separately from a straight-party vote. The official ballot shall be prepared so that a voter may cast a straight-party vote, but then make an exception to that straight-party vote by voting for a candidate not nominated by that party or by voting for fewer than all the candidates nominated by that party. Instructions for general election ballots shall clearly advise voters of the rules in this subsection and of the statutes providing for the counting of ballots.

(f) Write-In Voting. – Each official ballot shall be so arranged so that voters may cast write-in votes for candidates except where prohibited by G.S. 163-123 or other statutes governing write-in votes. Instructions for general election ballots shall clearly advise voters of the rules of this subsection and of the statutes governing write-in voting.

(g) Order of Precedence for Referenda. – The referendum questions to be voted on shall be arranged on the official ballot in the following order:

(1) Proposed amendments to the North Carolina Constitution, in the chronological order in which the proposals were approved by the General Assembly.

(2) Other referenda to be voted on by all voters in the State, in the chronological order in which the proposals were approved by the General Assembly.

(3) Referenda to be voted on by fewer than all the voters in the State, in the chronological order of the acts by which the referenda were properly authorized.

"**§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

The State Board of Elections shall have authority to approve types, makes, and models of voting systems for use in elections and referenda held in this State. Only voting systems that have been approved by the State Board shall be used to conduct elections under this Chapter, and the approved systems shall be valid in any election or referendum held in any county or municipality. The State Board may, upon request of a local board of elections, authorize the use of a voting system not approved for general use. The State Board may also, upon notice and hearing, disapprove types, makes, and models of voting systems. Upon disapproving a type, make, or model of voting system, the State Board shall determine the process by which the disapproved system is discontinued in any county. If a county makes a showing that discontinuance would impose a financial hardship upon it, the county shall be given up to four years from the

time of State Board disapproval to replace the system. A county may appeal a decision by the State Board concerning discontinuance of a voting system to the superior court in that county or to the Superior Court of Wake County. The county has 30 days from the time of the State Board's decision on discontinuance to make that appeal.

Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of voting systems, including, but not limited to, the following:

(1) Types, makes, and models of voting systems approved for use in this State.
(2) Form of official ballot labels to be used on voting systems.
(3) Operation and manner of voting on voting systems.
(4) Instruction of precinct officials in the use of voting systems.
(5) Instruction of voters in the use of voting systems.
(6) Assistance to voters using voting systems.
(7) Duties of custodians of voting systems.
(8) Examination of voting systems before use in an election.

"**§ 163-165.8. Voting systems: powers and duties of board of county commissioners.**

The board of county commissioners, with the approval of the county board of elections, may adopt and purchase or lease a voting system of a type, make, and model approved by the State Board of Elections for use in some or all voting places in the county at some or all elections.

The board of county commissioners may decline to adopt and purchase or lease any voting system recommended by the county board of elections but may not adopt and purchase or lease any voting system that has not been approved by the county board of elections.

"**§ 163-165.9. Voting systems: powers and duties of county board of elections.**

Before approving the adoption and purchase or lease of any voting system by the board of county commissioners, the county board of elections shall do all of the following:

(1) Obtain a current financial statement from the proposed vendor or lessor of the voting system and send copies of the statement to the county attorney and the chief county financial officer.
(2) Witness a demonstration, in that county or at a site designated by the State Board of Elections, of the voting system by the proposed vendor or lessor and also witness a demonstration of at least one other type of voting system approved by the State Board of Elections.
(3) Test, during an election, the proposed voting system in at least one precinct in the county where the system would be used if adopted.

"**§ 163-165.10. Adequacy of voting system for each precinct.**

The county board of elections shall make available for each precinct voting place an adequate quantity of official ballots or equipment so that all voters qualified to vote at the precinct may do so. When the board of county commissioners has decided to adopt and purchase or lease a voting system for voting places under the provisions of G.S.

165-165.8, the board of county commissioners shall, as soon as practical, provide for each of those voting places sufficient equipment of the approved voting system in complete working order. If it is impractical to furnish each voting place with the equipment of the approved voting system, that which has been obtained may be placed in voting places chosen by the county board of elections. In that case, the county board of elections shall choose the voting places and allocate the equipment in a way that as nearly as practicable provides equal access to the voting system for each voter. The county board of elections shall appoint as many voting system custodians as may be necessary for the proper preparation of the system for each election and for its maintenance, storage, and care.

"Part 3. Procedures at the Voting Place.

"**§ 163-166. Hours for voting.**

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. In extraordinary circumstances, the county board of elections may direct that the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

"**§ 163-166.1. Duties of county board of elections.**

The county board of elections shall:

(1) Provide for the timely delivery to each voting place of the supplies, records, and equipment necessary for the conduct of the election.

(2) Ensure that adequate procedures are in place at each voting place for a safe, secure, fair, and honest election.

(3) Respond to precinct officials' questions and problems where necessary.

"**§ 163-166.2. Arrangement of the voting enclosure.**

Each voting enclosure shall contain at a minimum:

(1) A sufficient number of private spaces for all voters to mark their official ballots in secrecy.

(2) Adequate space and furniture for the separate functions of:

a. The checking of voter registration records.

b. The distribution of official ballots.

c. Private discussion with voters concerning irregular situations.

(3) A telephone or some facility for communication with the county board of elections.

The equipment and furniture in the voting enclosure shall be arranged so that it can be generally seen from the public space of the enclosure.

"**§ 163-166.3. Limited access to the voting enclosure.**

During the time allowed for voting in the voting place, only the following persons may enter the voting enclosure:

(1) An election official.

(2) An observer appointed pursuant to G.S. 163-45.

(3) A person seeking to vote in that voting place on that day but only while in the process of voting or seeking to vote.

(4) A voter in that precinct while entering or explaining a challenge pursuant to G.S. 163-87 or G.S. 163-88.

(5) A person authorized under G.S. 163-166.8 to assist a voter but, except as provided in subdivision (6) of this section, only while assisting that voter.

(6) Minor children of the voter under the age of 18, or minor children under the age of 18 in the care of the voter, but only while accompanying the voter and while under the control of the voter.

(7) Persons conducting or participating in a simulated election within the voting place or voting enclosure, if that simulated election is approved by the county board of elections.

(8) Any other person determined by election officials to have an urgent need to enter the voting enclosure but only to the extent necessary to address that need.

"**§ 163-166.4. Limitation on activity in the voting place and in a buffer zone around it.**

No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place. In determining the dimensions of that buffer zone for each voting place, the county board of elections shall, where practical, set the limit at 50 feet from the entrance to the voting place, but in no event shall it set the limit at less than 25 feet. The county board of elections shall also, where practical, provide an area outside the buffer zone for each voting place in which persons or groups of persons may distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity.

"**§ 163-166.5. Procedures at voting place before voting begins.**

The State Board of Elections shall promulgate rules for precinct officials to set up the voting place before voting begins. Those rules shall emphasize:

(1) Continual participation or monitoring by officials of more than one party.

(2) Security of official ballots, records, and equipment.

(3) The appearance as well as the reality of care, efficiency, impartiality, and honest election administration.

The county boards of elections and precinct officials shall adhere to those procedures.

"**§ 163-166.6. Designation of tasks.**

The State Board of Elections shall promulgate rules for the delegation of tasks among the election officials at each precinct. Those rules shall emphasize:

(1) The need to place primary managerial responsibility upon the chief judge.

(2) The need to have maximum multiparty participation in all duties where questions of partisan partiality might be raised.

(3) The need to provide flexibility of management to the county board of elections and to the chief judge, in consideration of different abilities of officials, the different availability of officials, and the different needs of voters precinct by precinct.

"**§ 163-166.7. Voting procedures.**

(a) Checking Registration. – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots.

(b) Distribution of Official Ballots. – If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

(1) The voting system remains secure throughout the period voting is being conducted.

(2) Only properly voted official ballots are introduced into the voting system.

(3) No official ballots leave the voting enclosure during the time voting is being conducted there.

(4) All improperly voted official ballots are returned to the precinct officials and marked as spoiled.

(5) Voters leave the voting place promptly after voting.

(6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.

(7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.

(8) The registration records are kept secure.

(9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.

"**§ 163-166.8. Assistance to voters.**

(a) Any registered voter qualified to vote in the election shall be entitled to assistance with entering and exiting the voting booth and in preparing ballots in accordance with the following rules:

(1) Any voter is entitled to assistance from the voter's spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild, as chosen by the voter.

(2) A voter in any of the following four categories is entitled to assistance from a person of the voter's choice, other than the voter's employer or agent of that employer or an officer or agent of the voter's union:

a. A voter who, on account of physical disability, is unable to enter the voting booth without assistance.

b. A voter who, on account of physical disability, is unable to mark a ballot without assistance.

c. A voter who, on account of illiteracy, is unable to mark a ballot without assistance.

d. A voter who, on account of blindness, is unable to enter the voting booth or mark a ballot without assistance.

(b) A qualified voter seeking assistance in an election shall, upon arriving at the voting place, request permission from the chief judge to have assistance, stating the reasons. If the chief judge determines that such assistance is appropriate, the chief judge shall ask the voter to point out and identify the person the voter desires to provide such assistance. If the identified person meets the criteria in subsection (a) of this section, the chief judge shall request the person indicated to render the assistance. The chief judge, one of the judges, or one of the assistants may provide aid to the voter if so requested, if the election official is not prohibited by subdivision (a)(2) of this section. Under no circumstances shall any precinct official be assigned to assist a voter qualified for assistance, who was not specified by the voter.

(c) A person rendering assistance to a voter in an election shall be admitted to the voting booth with the voter being assisted. The State Board of Elections shall promulgate rules governing voter assistance, and those rules shall adhere to the following guidelines:

(1) The person rendering assistance shall not in any manner seek to persuade or induce any voter to cast any vote in any particular way.

(2) The person rendering assistance shall not make or keep any memorandum of anything which occurs within the voting booth.

(3) The person rendering assistance shall not, directly or indirectly, reveal to any person how the assisted voter marked ballots, unless the person rendering assistance is called upon to testify in a judicial proceeding for a violation of the election laws.

"**§ 163-166.9. Curbside voting.**

In any election or referendum, if any qualified voter is able to travel to the voting place, but because of age or physical disability and physical barriers encountered at the voting place is unable to enter the voting enclosure to vote in person without physical assistance, that voter shall be allowed to vote either in the vehicle conveying that voter or in the immediate proximity of the voting place. The State Board of Elections shall promulgate rules for the administration of this section.

"**§ 163-166.10. Procedures after the close of voting.**

The State Board of Elections shall promulgate rules for closing the voting place and delivering voting information to the county board of elections for counting, canvassing, and record maintenance. Those rules shall emphasize the need for the appearance as well as the reality of security, accuracy, participation by representatives of more than one political party, openness of the process to public inspection, and honesty. The rules, at a minimum, shall include procedures to ensure all of the following:

(1) The return and accurate accounting of all official ballots, regular, provisional, voted, unvoted, and spoiled, according to the provisions of Articles 15 and 16 of this Chapter.

(2) The certification of ballots and voter-authorization documents by precinct officials of more than one political party.

(3) The delivery to the county board of elections of registration documents and information gleaned through the voting process that would be helpful in the accurate maintenance of the voter registration records.

(4) The return to the county board of all issued equipment.

(5) The restoration of the voting place to the condition in which it was found."

SECTION 3.1. If Senate Bill 14, 2001 Session becomes law, then G.S. 163-166.10(1) as enacted by Section 3 of this act reads as rewritten:

`(1) The return and accurate accounting of all official ballots, regular, provisional, voted, unvoted, and spoiled, according to the provisions of ~~Articles 15 and 16~~ Article 15A of this Chapter.'"

SECTION 4. G.S. 163-114 reads as rewritten:

"**§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position	Vacancy is to be filled by
Any elective State office	appointment of State
United States Senator	executive committee of
	political party in which
	vacancy occurs

A district office, including: Member of the United States House of Representatives Judge of district court District Attorney State Senator in a multi-county senatorial district Member of State House of Representatives in a multi-county representative district	Appropriate district executive committee of political party in which vacancy occurs
State Senator in a single-county senatorial district Member of State House of Representatives in a single-county representative district Any elective county office	County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of ~~G.S. 163-139~~ G.S. 163-165.3(c) shall apply. If any person nominated as a candidate of a political party vacates such nomination and such vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

SECTION 5. G.S. 163-209 reads as rewritten:

"**§ 163-209. Names of presidential electors not printed on ballots.**

The names of candidates for electors of President and Vice-President nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. In the case of the unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their names, ~~in accordance with the provisions of G.S. 163-140~~ there shall be printed on the ballot the names of the candidates for President and Vice-President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 shall, no later than 12:00 noon on the first Friday in August, file with the State Board of Elections the name of a candidate for Vice-President, whose name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State."

SECTION 6. G.S. 163-294(b) reads as rewritten:

"(b) In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. In both the primary and election, a voter should not mark more names for any office than there are positions to be filled by ~~election, as provided in G.S. 163-135(e) and G.S. 163-151(2).~~ election. If two or more candidates receiving the highest number of votes each received the same number of votes, the board of elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the third day (Sunday excepted) following the primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5."

SECTION 7. G.S. 163-299(b) reads as rewritten:

"(b) The form of municipal ballots to be used in partisan municipal elections shall be the same as the form prescribed in this Chapter for the county ballot. ~~A nonpartisan municipal ballot shall be divided into sections according to the offices to be filled.~~

~~Within each section the names of the candidates for that office shall be printed. At the left of each name shall be printed a voting square, and all voting squares on the ballot shall be arranged in a perpendicular line. On the face of the ballot, above the list of candidates and below the title of the ballot shall be printed in heavy black type the following instructions: "If you tear or deface or wrongly mark this ballot, return it and get another."~~

SECTION 8. G.S. 163-299(d) reads as rewritten:

"(d) The provisions of ~~G.S. 163-151(1), (2) and (3)~~ Articles 13A and 15A of this Chapter shall apply to ballots used in municipal primaries and elections in the same manner as it is applied to county ~~ballots provided, however, the exceptions contained in G.S. 163-151 shall be adhered to if applicable.~~ ballots."

SECTION 9. G.S. 163-332(a) reads as rewritten:

"(a) General. – In elections there shall be official ballots. The ballots shall be printed to conform to the requirement of ~~G.S. 163-140(c)~~ G.S. 163-165.6(c) and to show the name of each person who has filed notice of candidacy, and the office for which each aspirant is a candidate.

Only those who have filed the required notice of candidacy with the proper board of elections, and who have paid the required filing fee or qualified by petition, shall have their names printed on the official primary ballots. Only those candidates properly nominated shall have their names appear on the official general election ballots."

SECTION 10. Article 25 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-327.1. Rules when vacancies for superior court judge are to be voted on.**

If a vacancy occurs in a judicial district for any offices of superior court judge, and on account of the occurrence of such vacancy, there is to be an election for one or more terms in that district to fill the vacancy or vacancies, at that same election in accordance with G.S. 163-9 and Article VI, Section 19 of the North Carolina Constitution, the nomination and election shall be determined by the following special rules in addition to any other provisions of law:

(1) If the vacancy occurs prior to the opening of the filing period under G.S. 163-323(b), nominations shall be made by primary election as provided by this Article, without designation as to the vacancy.

(2) If the vacancy occurs beginning on opening of the filing period under G.S. 163-323(b), and ending on the sixtieth day before the general election, candidate filing shall be as provided by G.S. 163-329 without designation as to the vacancy.

(3) The general election ballot shall contain, without designation as to vacancy, spaces for the election to fill the vacancy where nominations were made or candidates filed under subdivision (1) or (2) of this section. The persons receiving the highest numbers of votes equal to the term or terms to be filled shall be elected to the term or terms."

SECTION 11. This act becomes effective January 1, 2002.

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 14
Judiciary I Committee Substitute Adopted 4/16/01
PROPOSED HOUSE COMMITTEE SUBSTITUTE S14-PCS9321-RR-32

Short Title: Election Rewrite - 2. (Public)

Sponsors:

Referred to:

January 29, 2001

A BILL TO BE ENTITLED

AN ACT TO REWRITE ARTICLE 15 AND ARTICLE 16 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION; AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 15 and 16 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-22.1 is repealed.

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

"Article 15A.

"Counting Official Ballots, Canvassing Votes, Hearing Protests, and Certifying Results.

"**§ 163-182. Definitions.**

In addition to the definitions stated below, the definitions set forth in Article 13A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article, the following definitions apply:

(1) 'Abstract' means a document signed by the members of the board of elections showing the votes for each candidate and ballot proposal on the official ballot in the election. The abstract shall show a total number of votes for each candidate in each precinct and a total for each candidate in the county. It shall also show the number of votes for each candidate among the absentee official ballots, among the provisional official ballots, and in any other category of official ballots that is not otherwise reported.

(2) 'Composite abstract' means a document signed by the members of the State Board of Elections showing the total number of votes for each candidate and ballot proposal and the number of votes in each county. A composite abstract does not include precinct returns.

(3) 'Certificate of election' means a document prepared by the official or body with the legal authority to do so, conferring upon a candidate the right to assume an elective office as a result of being elected to it.

(4) 'Protest' means a complaint concerning the conduct of an election which, if supported by sufficient evidence, may require remedy by one or more of the following:

a. A correction in the returns.

b. A discretionary recount as provided in G.S. 163-182.7.

c. A new election as provided in G.S. 163-182.8.

"**§ 163-182.1. Principles and rules for counting official ballots.**

(a) General Principles That Shall Apply. – The following general principles shall apply in the counting of official ballots, whether the initial count or any recount:

(1) Only official ballots shall be counted.

(2) No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to clearly determine the voter's choice.

(3) If it is impossible to clearly determine a voter's choice in a ballot item, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which the voter's choice can be clearly determined.

(4) If an official ballot is marked in a ballot item with more choices than there are offices to be filled or propositions that may prevail, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which there is no overvote and the voter's choice can be clearly determined.

(5) If an official ballot is rejected by a scanner or other counting machine, but human counters can clearly determine the voter's choice, the official ballot shall be counted by hand and eye.

(6) Write-in votes shall not be counted in party primaries or in referenda, but shall be counted in general elections if all of the following are true:

a. The write-in vote is written by the voter or by a person authorized to assist the voter pursuant to G.S. 163-166.8.

b. The write-in vote is not cast for a candidate who has failed to qualify under G.S. 163-123 as a write-in candidate.

c. The voter's choice can be clearly determined.

(7) Straight-party ticket and split-ticket votes shall be counted in general elections according to the following guidelines:

a. If a voter casts a vote for a straight-party ticket, that vote shall be counted for all the candidates of that party, other than those for President and Vice President, in the partisan ballot items on that official ballot except as otherwise provided in this subdivision.

b. If a voter casts a vote for a straight-party ticket and also votes in a partisan ballot item for a candidate not of that party, the official ballot shall be counted in that ballot item only for the individually marked candidate. In partisan ballot items where no mark is made for an individual candidate, the official ballot shall be counted for the candidates of the party whose straight ticket the voter voted.

c. If a voter casts a vote for a straight-party ticket and also casts a write-in vote in any partisan ballot item, the straight-party ticket vote shall not control the way the official ballot is counted in that ballot item, except to the extent it would control in the case of crossover voting under this subdivision. The following principles shall apply:

1. If the write-in vote is proper under subdivision (6) of this subsection, that write-in candidate shall receive a vote.
2. If the write-in vote is not proper under subdivision (6) of this subsection and no other candidate is individually marked in that ballot item, then no vote shall be counted in that ballot item.
3. If the straight-ticket voter casts both write-in votes and individually marked votes for ballot candidates in a ballot item, then the write-in and individually marked votes shall be counted unless the write-in is not proper under subdivision (6) of this subsection or an overvote results.

(b) Rules and Directions by State Board of Elections. – The State Board of Elections shall promulgate rules where necessary to apply the principles in subsection (a) of this section to each voting system in use in the State. The rules shall prescribe procedures and standards for each type of voting system. Those procedures and standards shall be followed uniformly throughout the State in all places where that type of voting system is used. The State Board shall direct the county boards of elections in the application of the principles and rules in individual circumstances.

"**§ 163-182.2. Initial counting of official ballots.**

(a) The initial counting of official ballots shall be conducted according to the following principles:

(1) Vote counting at the precinct shall occur immediately after the polls close and shall be continuous until completed.

(2) Vote counting at the precinct shall be conducted with the participation of precinct officials of all political parties then present. Vote counting at the county board of elections shall be conducted in the presence or under the supervision of board members of all political parties then present.

(3) Any member of the public wishing to witness the vote count at any level shall be allowed to do so. No witness shall interfere with the orderly counting of the official ballots. Witnesses shall not participate in the official counting of official ballots.

(4) Provisional official ballots shall be counted by the county board of elections before the canvass. If the county board finds that an individual voting a provisional official ballot is not eligible to vote in one or more ballot items on the official ballot, the board shall not count the official ballot in those ballot items, but shall count the official ballot in any ballot items for which the individual is eligible to vote.

(5) Precinct officials shall provide a preliminary report of the vote counting to the county board of elections as quickly as possible. The preliminary report shall be unofficial and has no binding effect upon the official county canvass to follow.

(b) The State Board of Elections shall promulgate rules for the initial counting of official ballots. All election officials shall be governed by those rules. In promulgating those rules, the State Board shall adhere to the following guidelines:

(1) For each voting system used, the rules shall specify the role of precinct officials and of the county board of elections in the initial counting of official ballots.

(2) The rules shall provide for accurate unofficial reporting of the results from the precinct to the county board of elections with reasonable speed on the night of the election.

(3) The rules shall provide for the prompt and secure transmission of official ballots from the voting place to the county board of elections.

The State Board shall direct the county boards of elections in the application of the principles and rules in individual circumstances.

"**§ 163-182.3. Responsibility of chief judge.**

The chief judge of each precinct shall be responsible for the adherence of the precinct officials to the State Board rules for counting, reporting, and transmitting official ballots.

"**§ 163-182.4. Jurisdiction for certain ballot items.**

(a) Jurisdiction of County Board of Elections. – As used in this Article, the county board of elections shall have jurisdiction over the following:

(1) Offices of that county, including clerk of superior court and register of deeds.

(2) Membership in either house of the General Assembly from a district lying entirely within that county.

(3) Offices of municipalities, unless the municipality has a valid board of election.

(4) Referenda in which only residents of that county are eligible to vote.

(b) Jurisdiction of State Board of Elections. – As used in this Article, the State Board of Elections shall have jurisdiction over the following:

(1) National offices.

(2) State offices.

(3) District offices (including General Assembly seats) in which the district lies in more than one county.

(4) Superior court judge, district court judge, and district attorney, regardless of whether the district lies entirely in one county or in more than one county.

(5) Referenda in which residents of more than one county are eligible to vote.

(c) For the purposes of this Article, having jurisdiction shall mean that the appropriate board shall do all of the following with regard to the ballot item:

(1) Canvass for the entire electorate for the ballot item.

(2) Prepare abstracts or composite abstracts for the entire electorate for the ballot item.

(3) Issue certificates of nomination and election.

"**§ 163-182.5. Canvassing votes.**

(a) The Canvass. – As used in this Article, the term 'canvass' means the entire process of determining that the votes have been counted and tabulated correctly, culminating in the authentication of the official election results. The board of elections conducting a canvass has authority to send for papers and persons and to examine them and pass upon the legality of disputed ballots.

(b) Canvassing by County Board of Elections. – The county board of elections shall meet at 11:00 A.M. on the third day (Sunday excepted) after every election to complete the canvass of votes cast and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. If, despite due diligence by election officials, the initial counting of all the votes has not been completed by that time, the county board may hold the canvass meeting a reasonable time thereafter. The canvass meeting shall be at the county board of elections office, unless the county board, by unanimous vote of all its members, designates another site within the county. The county board shall examine the returns from precincts, from absentee official ballots, and from provisional official ballots and shall conduct the canvass.

(c) Canvassing by State Board of Elections. – After each general election, the State Board of Elections shall meet at 11:00 A.M. on the Tuesday three weeks after election day to complete the canvass of votes cast in all ballot items within the jurisdiction of the State Board of Elections and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. After each primary, the State Board shall fix the date of its canvass meeting. If, by the time of its scheduled canvass meeting, the State Board has not received the county canvasses, the State Board may adjourn for not more than 10 days to secure the missing abstracts. In obtaining them, the State Board is authorized to secure the

originals or copies from the appropriate clerks of superior court or county boards of elections, at the expense of the counties.

"**§ 163-182.6. Abstracts.**

(a) Abstracts to Be Prepared by County Board of Elections. – As soon as the county canvass has been completed, the county board of elections shall prepare abstracts of all the ballot items in a form prescribed by the State Board of Elections. The county board shall prepare those abstracts in triplicate originals. The county board shall retain one of the triplicate originals, and shall distribute one each to the clerk of superior court for the county and the State Board of Elections. The State Highway Patrol may, upon request of the State Board of Elections, be responsible for the delivery of the abstracts from each county to the State Board of Elections. The State Board of Elections shall forward the original abstract it receives to the Secretary of State.

(b) Composite Abstracts to Be Prepared by the State Board of Elections. – As soon as the State canvass has been completed, the State Board shall prepare composite abstracts of all those ballot items. It shall prepare those composite abstracts in duplicate originals. It shall retain one of the originals and shall send the other original to the Secretary of State.

(c) Duty of the Secretary of State. – The Secretary of State shall maintain the certified copies of abstracts received from the county and State boards of elections. The Secretary shall keep the abstracts in a form readily accessible and useful to the public.

(d) Forms by State Board of Elections. – The State Board of Elections shall prescribe forms for all abstracts. Those forms shall be uniform and shall, at a minimum, state the name of each candidate and the office sought and each referendum proposal, the number of votes cast for each candidate and proposal, the candidate or proposal determined to have prevailed, and a statement authenticating the count.

"**§ 163-182.7. Ordering recounts.**

(a) Discretionary Recounts. – The county board of elections or the State Board of Elections may order a recount when necessary to complete the canvass in an election. The county board may not order a recount where the State Board of Elections has already denied a recount to the petitioner.

(b) Mandatory Recounts for Ballot Items Within the Jurisdiction of the County Board of Elections. – In a ballot item within the jurisdiction of the county board of elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate is not more than one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item not more than one percent (1%) of the votes cast for those two candidates. The demand for a recount must be made in writing and must be received by the county board of elections by noon on the fourth day after the canvass. The recount shall be conducted under the supervision of the county board of elections.

(c) Mandatory Recounts for Ballot Items Within the Jurisdiction of the State Board of Elections. – In a ballot item within the jurisdiction of the State Board of Elections, a candidate shall have the right to demand a recount of the votes if the

difference between the votes for that candidate and the votes for a prevailing candidate are not more than the following:

(1) For a nonstatewide ballot item, one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item, one percent (1%) of the votes cast for those two candidates.

(2) For a statewide ballot item, one-half of one percent (0.5%) of the votes cast in the ballot item, or in the case of a multiseat ballot item, one-half of one percent (0.5%) of the votes cast for those two candidates, or 10,000 votes, whichever is less.

The demand for a recount must be in writing and must be received by the State Board of Elections by noon on the second Wednesday after the election. If on that Wednesday the available returns show a candidate not entitled to a mandatory recount, but the Executive Secretary-Director determines subsequently that the margin is within the threshold set out in this subsection, the Executive Secretary-Director shall notify the eligible candidate immediately and that candidate shall be entitled to a recount if that candidate so demands within 48 hours of notice. The recount shall be conducted under the supervision of the State Board of Elections.

(d) Rules for Conducting Recounts. – The State Board of Elections shall promulgate rules for conducting recounts. Those rules shall be subject to the following guidelines:

(1) The rules shall specify, with respect to each type of voting system, when and to what extent the recount shall consist of machine recounts and hand-to-eye recounts.

(2) The rules shall provide guidance in interpretation of the voter's choice.

(3) The rules shall specify how the goals of multipartisan participation, opportunity for public observation, and good order shall be balanced.

"**§ 163-182.8. Determining result in case of a tie.**

If the count, upon completion of canvass by the proper board of elections, shows a tie vote other than in a primary, the tie shall be resolved as follows:

(1) If more than 5,000 voters cast official ballots in the ballot item, the State Board of Elections shall order a new election in which only the candidates or positions tied will be on the official ballot. The State Board of Elections shall set the schedule for publication of the notice, preparation of absentee official ballots, and the other actions necessary to conduct the election. Eligibility to vote in the new election shall be determined by the voter's eligibility at the time of the new election.

(2) If 5,000 or fewer voters cast official ballots in the ballot item, the board of elections with jurisdiction to certify the election shall break the tie by a method of random selection to be determined by the State Board of Elections.

"**§ 163-182.9. Filing an election protest.**

(a) Who May File a Protest With County Board. – A protest concerning the conduct of an election may be filed with the county board of elections by any registered

voter who was eligible to vote in the election or by any person who was a candidate for nomination or election in the election.

(b) How Protest May Be Filed. – The following principles shall apply to the filing of election protests with the county board of elections:

(1) The protest shall be in writing and shall be signed by the protester. It shall include the protester's name, address, and telephone number and a statement that the person is a registered voter in the jurisdiction or a candidate.

(2) The protest shall state whether the protest concerns the manner in which votes were counted and results tabulated or concerns some other irregularity.

(3) The protest shall state what remedy the protester is seeking.

(4) The timing for filing a protest shall be as follows:

a. If the protest concerns the manner in which votes were counted or results tabulated, the protest shall be filed before the beginning of the county board of election's canvass meeting.

b. If the protest concerns the manner in which votes were counted or results tabulated and the protest states good cause for delay in filing, the protest may be filed until 6:00 P.M. on the second day after the county board of elections has completed its canvass and declared the results.

c. If the protest concerns an irregularity other than vote counting or result tabulation, the protest shall be filed no later than 6:00 P.M. on the second day after the county board has completed its canvass and declared the results.

d. If the protest concerns an irregularity on a matter other than vote counting or result tabulation and the protest is filed before election day, the protest proceedings shall be stayed, unless a party defending against the protest moves otherwise, until after election day if any one of the following conditions exists:

1. The ballot has been printed.

2. The voter registration deadline for that election has passed.

3. Any of the proceedings will occur within 30 days before election day.

(c) State Board to Prescribe Forms. – The State Board of Elections shall prescribe forms for filing protests.

"**§ 163-182.10. Consideration of protest by county board of elections.**

(a) Preliminary Consideration. – The following principles shall apply to the initial consideration of election protests by the county board of elections:

(1) The county board shall, as soon as possible after the protest is filed, meet to determine whether the protest substantially complies with G.S. 163-182.9 and whether it establishes probable cause to believe that a

violation of election law or irregularity or misconduct has occurred. If the board determines that one or both requirements are not met, the board shall dismiss the protest. The board shall notify both the protester and the State Board of Elections. The protester may file an amended protest or may appeal to the State Board. If the board determines that both requirements are met, it shall schedule a hearing.

(2) If a protest was filed before the canvass and concerns the counting and tabulating of votes, the county board shall resolve the protest before the canvass is completed. If necessary to provide time to resolve the protest, the county board may recess the canvass meeting, but shall not delay the completion of the canvass for more than three days unless approved by the State Board of Elections. Resolution of the protest shall not delay the canvass of ballot items unaffected by the protest. The appeal of a dismissal shall not delay the canvass.

(3) If a protest concerns an irregularity other than the counting or tabulating of votes, that protest shall not delay the canvass.

(b) Notice of Hearing. – The county board shall give notice of the protest hearing to the protester, any candidate likely to be affected, any election official alleged to have acted improperly, and those persons likely to have a significant interest in the resolution of the protest. Each person given notice shall also be given a copy of the protest or a summary of its allegations. The manner of notice shall be as follows:

(1) If the protest concerns the manner in which the votes were counted or the results tabulated, the protester shall be told at the time of filing that the protest will be heard at the time of the canvass. Others shall be notified as far in advance of the canvass as time permits.

(2) If the protest concerns a matter other than the manner in which votes were counted or results tabulated, the county board shall comply with rules to be promulgated by the State Board of Elections concerning reasonable notice of the hearing.

Failure to comply with the notice requirements in this subsection shall not delay the holding of a hearing nor invalidate the results if it appears reasonably likely that all interested persons were aware of the hearing and had an opportunity to be heard.

(c) Conduct of Hearing. – The following principles shall apply to the conduct of a protest hearing before the county board of elections:

(1) The county board may allow evidence to be presented at the hearing in the form of affidavits or it may examine witnesses. The chair or any two members of the board may subpoena witnesses or documents. Each witness must be placed under oath before testifying.

(2) The county board may receive evidence at the hearing from any person with information concerning the subject of the protest. The person who made the protest shall be permitted to present allegations and introduce evidence at the hearing. Any other person to whom notice of hearing was given, if present, shall be permitted to present evidence. The board

may allow evidence by affidavit. The board may permit evidence to be presented by a person to whom notice was not given, if the person apparently has a significant interest in the resolution of the protest that is not adequately represented by other participants.

(3) The hearing shall be recorded by a reporter or by mechanical means, and the full record of the hearing shall be preserved by the county board until directed otherwise by the State Board.

(d) Findings of Fact and Conclusions of Law by County Board. – The county board shall make a written decision on each protest which shall state separately each of the following:

(1) Findings of fact. – The findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them.

(2) Conclusions of law. – The conclusions the county board may state, and their consequences for the board's order, are as follows:

a. 'The protest should be dismissed because it does not substantially comply with G.S. 163-182.9.' If the board makes this conclusion, it shall order the protest dismissed.

b. 'The protest should be dismissed because there is not substantial evidence of a violation of the election law or other irregularity or misconduct.' If the county board makes this conclusion, it shall order the protest dismissed.

c. 'The protest should be dismissed because there is not substantial evidence of any violation, irregularity, or misconduct sufficient to cast doubt on the results of the election.' If the county board makes this conclusion, it shall order the protest dismissed.

d. 'There is substantial evidence to believe that a violation of the election law or other irregularity or misconduct did occur, and might have affected the outcome of the election, but the board is unable to finally determine the effect because the election was a multicounty election.' If the county board makes this conclusion, it shall order that the protest and the county board's decision be sent to the State Board for action by it.

e. 'There is substantial evidence to believe that a violation of the election law or other irregularity or misconduct did occur and that it was sufficiently serious to cast doubt on the apparent results of the election.' If the county board makes this conclusion, it may order any of the following as appropriate:

1. That the vote total as stated in the precinct return or result of the canvass be corrected and new results declared.

2. That votes be recounted.

3. That the protest and the county board's decision be sent to the State Board for action by it.
4. Any other action within the authority of the county board.

(3) An order. – Depending on the conclusion reached by the county board, its order shall be as directed in subdivision (c)(2). If the county board is not able to determine what law is applicable to the Findings of Fact, it may send its findings of fact to the State Board for it to determine the applicable law.

(e) Rules by State Board of Elections. – The State Board of Elections shall promulgate rules providing for adequate notice to parties, scheduling of hearings, and the timing of deliberations and issuance of decision.

"**§ 163-182.11. Appeal of a protest decision by the county board to the State Board of Elections.**

(a) Notice and Perfection of Appeal. – The decision by the county board of elections on an election protest may be appealed to the State Board of Elections by any of the following:

(1) The person who filed the protest.
(2) A candidate or elected official adversely affected by the county board's decision.
(3) Any other person who participated in the hearing and has a significant interest adversely affected by the county board's decision.

Written notice of the appeal must be given to the county board within 24 hours after the county board files the written decision at its office. The appeal to the State Board must be in writing. The appeal must be delivered or deposited in the mail, addressed to the State Board, by the appropriate one of the following: (i) the end of the second day after the day the decision was filed by the county board in its office, if the decision concerns a first primary; or (ii) the end of the fifth day after the day the decision was filed in the county board office, if the decision concerns an election other than a first primary.

The State Board shall prescribe forms for filing appeals from the county board.

(b) Consideration of Appeal by State Board. – In its consideration of an appeal from a decision of a county board of elections on a protest, the State Board of Elections may do any of the following:

(1) Decide the appeal on the basis of the record from the county board, as long as the county board has made part of the record a transcript of the evidentiary hearing.
(2) Request the county board or any interested person to supplement the record from the county board, and then decide the appeal on the basis of that supplemented record.
(3) Receive additional evidence and then decide the appeal on the basis of the record and that additional evidence.

(4) Hold its own hearing on the protest and resolve the protest on the basis of that hearing.

(5) Remand the matter to the county board for further proceedings in compliance with an order of the State Board.

The State Board shall follow the procedures set forth in subsections (c) and (d) of G.S. 163-182.10 except where they are clearly inapplicable.

The State Board shall give notice of its decision as required by G.S. 163-182.14, and may notify the county board and other interested persons in its discretion.

"**§ 163-182.12. Authority of State Board of Elections over protests.**

The State Board of Elections may consider protests that were not filed in compliance with G.S. 163-182.9, may initiate and consider complaints on its own motion, may intervene and take jurisdiction over protests pending before a county board, and may take any other action necessary to assure that an election is determined without taint of fraud or corruption.

"**§ 163-182.13. New elections.**

(a) When State Board May Order New Election. – The State Board of Elections may order a new election, upon agreement of at least four of its members, in the case of any one or more of the following:

(1) Ineligible voters sufficient in number to change the outcome of the election were allowed to vote in the election, and it is not possible from examination of the official ballots to determine how those ineligible voters voted and to correct the totals.

(2) Eligible voters sufficient in number to change the outcome of the election were improperly prevented from voting.

(3) Other irregularities affected a sufficient number of votes to change the outcome of the election.

(4) Irregularities or improprieties occurred to such an extent that, although it is not possible to determine whether those irregularities or improprieties affected the outcome of the election, they taint the results of the entire election and cast doubt on its fairness.

(b) State Board to Set Procedures. – The State Board of Elections shall determine when a new election shall be held and shall set the schedule for publication of the notice, preparation of absentee official ballots, and the other actions necessary to conduct the election.

(c) Eligibility to Vote in New Election. – Eligibility to vote in the new election shall be determined by the voter's eligibility at the time of the new election, except that in a primary, no person who voted in the initial primary of one party shall vote in the new election in the primary of another party. The State Board of Elections shall promulgate rules to effect the provisions of this subsection.

(d) Jurisdiction in Which New Election Held. – The new election shall be held in the entire jurisdiction in which the original election was held.

(e) Which Candidates to Be on Official Ballot. – All the candidates who were listed on the official ballot in the original election shall be listed in the same order on the official ballot for the new election, except in either of the following:

(1) If a candidate dies or otherwise becomes ineligible between the time of the original election and the new election, that candidate may be replaced in the same manner as if the vacancy occurred before the original election.

(2) If the election is for a multiseat office, and the irregularities could not have affected the election of one or more of the leading vote getters, the new election, upon agreement of at least four members of the State Board, may be held among only those remaining candidates whose election could have been affected by the irregularities.

(f) Tie Votes. – If ineligible voters voted in an election and it is possible to determine from the official ballots the way in which those votes were cast and to correct the results, and consequently the election ends in a tie, the provisions of G.S. 163-182.8 concerning tie votes shall apply.

"**§ 163-182.14. Appeal of a final decision to superior court.**

A copy of the final decision of the State Board of Elections on an election protest 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 to the Superior Court of Wake County 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 pursuant to G.S. 163-182.15 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. The court shall not issue a stay of certification 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.

"**§ 163-182.15. Certificate of nomination or election, or certificate of the results of a referendum.**

(a) Issued by County Board of Elections. – In ballot items within the jurisdiction of the county board of elections, the county board shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the county board five days after the completion of the canvass pursuant to G.S. 163-182.5, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

(1) The certificate shall be issued five days after the protest is dismissed or denied by the county board of elections, unless that decision has been appealed to the State Board of Elections.

(2) The certificate shall be issued 10 days after the final decision of the State Board, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163-182.14.

(3) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has stayed the certification, the certificate shall be issued five days after the entry of a final order in the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.

(b) Issued by State Board of Elections. – In ballot items within the jurisdiction of the State Board of Elections, the State Board of Elections shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the State Board five days after the completion of the canvass pursuant to G.S. 163-182.5, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

(1) The certificate shall be issued 10 days after the final decision of the State Board on the election protest, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163-14.

(2) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has stayed the certification, the certificate shall be issued five days after the entry of a final order in the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.

(c) Copy to Secretary of State. – The State Board of Elections shall provide to the Secretary of State a copy of each certificate of nomination or election, or certificate of the results of a referendum, issued by it. The Secretary shall keep the certificates in a form readily accessible and useful to the public.

"**§ 163-182.16. Governor to issue commissions for certain offices.**

The Secretary of State shall send a notice to the Governor that a certificate of election has been issued for any of the following offices, and upon receiving the notice, the Governor shall provide to each such elected official a commission attesting to that person's election:

(1) Members of the United States House of Representatives.

(2) Justices, judges, and district attorneys of the General Court of Justice.

"**§ 163-182.17. Summary of officials' duties under this Article.**

(a) This Section a' Summary. – The provisions of this section provide a nonexclusive summary of the duties given to officials under this Article. The legal duty is contained, not in this section, but in the other sections of this Article.

(b) Duties of the Precinct Officials. – Precinct officials, in accordance with rules of the State Board of Elections and under the supervision of the county board of elections, shall perform all of the following:

(1) Count votes when votes are required to be counted at the voting place. G.S. 163-182.2.

(2) Make an unofficial report of returns to the county board of elections. G.S. 163-182.2.

(3) Certify the integrity of the vote and the security of the official ballots at the voting place. G.S. 163-182.2.

(4) Return official ballots and equipment to the county board of elections. G.S. 163-182.2.

(c) Duties of the County Board of Elections. – The county board of elections, in accordance with rules of the State Board of Elections, shall perform all of the following:

(1) Count absentee and provisional official ballots and other official ballots required to be initially counted by the county board of elections. G.S. 163-182.2.

(2) Canvass results in all ballot items on the official ballot in the county. G.S. 163-182.5.

(3) Order a recount in any ballot item on the official ballot in the county, where necessary to complete the canvass, and where not prohibited from doing so. G.S. 163-182.7.

(4) Conduct any recount that has been ordered by the county board of elections or the State Board of Elections or that has been properly demanded in accordance with G.S. 163-182.7(b).

(5) Conduct hearings in election protests as provided in G.S. 163-182.10.

(6) Prepare abstracts of returns in all the ballot items in the county. G.S. 163-182.6.

(7) Retain one original abstract and distribute the other two originals as follows:

a. One to the clerk of superior court in the county.

b. One to the State Board of Elections. G.S. 163-182.6.

(8) Issue a certificate of nomination or election or a certificate of the results of a referendum in each ballot item within the jurisdiction of the county board of elections. Provide a copy of the certificate to the clerk of court. G.S. 163-182.15.

(d) Duties of the State Board of Elections. – The State Board of Elections shall perform all the following:

(1) Promulgate rules as directed in this Article. G.S. 163-182.1, 163-182.2, 163-182.7, 163-182.10, and 163-182.13.

(2) Provide supervisory direction to the county boards of elections as provided in this Article. G.S. 163-182.1 and G.S. 163-182.2.

(3) Canvass the results in ballot items within the jurisdiction of the State Board of Elections. G.S. 163-182.5.

(4) Order and supervise a recount in any ballot item within the jurisdiction of the State Board of Elections, where necessary to complete the canvass. G.S. 163-182.7.

(5) Hear and decide appeals from decisions of county boards of elections in election protests. G.S. 163-182.11.

(6) Order new elections in accordance with G.S. 163-182.15.

(7) Prepare, in duplicate originals, composite abstracts of ballot items within the jurisdiction of the State Board of Elections. G.S. 163-182.6.

(8) Retain one original of the composite abstract and deliver to the Secretary of State the other original composite abstract of the results of ballot items within the jurisdiction of the State Board of Elections. G.S. 163-182.6.

(9) Certify the results of any election within the jurisdiction of the State Board of Elections and provide a copy to the Secretary of State. G.S. 163-182.15.

(e) Duties of the Secretary of State. – The Secretary of State shall retain and compile in a useful form all the abstracts and returns provided by the county boards of elections and the State Board of Elections. G.S. 163-182.6.

(f) Duty of the Governor. – The Governor shall issue a commission to any person elected to an office listed in G.S. 163-182.16 upon notification from the Secretary of State that a certificate of election has been issued to the person. G.S. 163-182.16."

SECTION 4. G.S. 163-22(m) is repealed.

SECTION 5. G.S. 163-46 reads as rewritten:

"**§ 163-46. Compensation of precinct officials and assistants.**

The precinct chief judge shall be paid the state minimum wage for his services on the day of a primary, special or general election. Judges of election shall each be paid the state minimum wage for their services on the day of a primary, special or general election. Assistants, appointed pursuant to G.S. 163-42, shall each be paid the state minimum wage for their services on the day of a primary, special or general election. Ballot counters appointed pursuant to G.S. 163-43 shall be paid a minimum of five dollars ($5.00) for their services on the day of a primary, general or special election.

~~Chief judges shall be paid the sum of twenty dollars ($20.00) per day and judges shall be paid the sum of fifteen dollars ($15.00) per day for attendance at the county canvass, pursuant to G.S. 163-173.~~If the county board of elections requests the presence of a chief judge or judge at the county canvass, the chief judge shall be paid the sum of twenty dollars ($20.00) per day and judges shall be paid the sum of fifteen dollars ($15.00) per day. If the county board of elections requests a precinct official, including chief judge or judge, to personally deliver official ballots or other official materials to the county board of elections, the precinct official shall be paid the sum of twenty dollars ($20.00) per day and judges shall be paid the sum of fifteen dollars ($15.00) per day.

The chairman of the county board of elections, along with the director of elections, shall conduct an instructional meeting prior to each primary and general election which shall be attended by each chief judge and judge of election, unless excused by the chairman, and such precinct election officials shall be paid the sum of fifteen dollars ($15.00) for attending the instructional meetings required by this section.

In its discretion, the board of county commissioners of any county may provide funds with which the county board of elections may pay chief judges, judges, assistants, and ballot counters in addition to the amounts specified in this section. Observers shall be paid no compensation for their services.

A person appointed to serve as chief judge, or judge of election when a previously appointed chief judge or judge fails to appear at the voting place or leaves his post on the day of an election or primary shall be paid the same compensation as the chief judge or judge appointed prior to that date.

For the purpose of this section, the phrase "the State minimum wage," means the amount set by G.S. 95-25.3(a). For the purpose of this section, no other provision of Article 2A of Chapter 95 of the General Statutes shall apply."

SECTION 6. G.S. 163-113 reads as rewritten:

"**§ 163-113. Nominee's right to withdraw as candidate.**

A person who has been declared the nominee of a political party for a specified office under the provisions of G.S. ~~163-175, G.S. 163-192,~~ 163-182.15 or G.S. 163-110, shall not be permitted to resign as a candidate unless, at least 30 days before the general election, he submits to the board of elections which certified his nomination a written request that he be permitted to withdraw."

SECTION 7. G.S. 163-123 reads as rewritten:

"(f) Counting and Recording of Votes. – If a qualified voter has complied with the provisions of subsections (a), (b), and (c) and is not excluded by subsection (e), the board of elections with which petition has been filed shall count votes for him according to the procedures set out in G.S. ~~163-170(5),~~ 163-182.1, and the appropriate board of elections shall record those votes on the official abstract. Write-in votes for names other than those of qualified write-in candidates shall not be counted for any purpose and shall not be recorded on the abstract."

SECTION 8. G.S. 163-210 reads as rewritten:

"**§ 163-210. Governor to proclaim results; casting State's vote for President and Vice-President.**

Upon receipt of the ~~abstracts~~ certifications prepared by the State Board of Elections and delivered ~~to him~~ in accordance with G.S. ~~163-192,~~ 182.15, the Secretary of State, under ~~his hand and the~~ seal of ~~his~~ the office, shall ~~certify to~~ notify the Governor of the names of the persons elected to the office of elector for President and Vice-President of the United States as stated in the abstracts of the State Board of Elections. Thereupon, the Governor shall immediately issue a proclamation setting forth the names of the electors and instructing them to be present in the old Hall of the House of Representatives in the State Capitol in the City of Raleigh at noon on the first Monday after the second Wednesday in December next after their election, at which time the

electors shall meet and vote on behalf of the State for President and Vice-President of the United States. The Governor shall cause this proclamation to be published in the daily newspapers published in the City of Raleigh. 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 Secretary of State is responsible for making the actual arrangements for the meeting, preparing the agenda, and inviting guests.

Before the date fixed for the meeting of the electors, the Governor shall send by registered mail to the Archivist of the United States, either three duplicate original certificates, or one original certificate and two authenticated copies of the Certificates of Ascertainment, under the great seal of the State setting forth the names of the persons chosen as presidential electors for this State and the number of votes cast for each. These Certificates of Ascertainment should be sent as soon as possible after the election, but must be received before the Electoral College meeting. At the same time ~~he~~ the Governor shall deliver to the electors six duplicate originals of the same certificate, each bearing the great seal of the State. At any time prior to receipt of the certificate of the Governor or within 48 hours thereafter, any person elected to the office of elector may resign by submitting his resignation, written and duly verified, to the Governor. Failure to so resign shall signify consent to serve and to cast his vote for the candidate of the political party which nominated such elector.

In case of the absence, ineligibility or resignation of any elector chosen, or if the proper number of electors shall for any cause be deficient, the first and second alternates, respectively, who were nominated under G.S. 163-1(c), shall fill the first two vacancies. If the alternates are absent, ineligible, resign, or were not chosen, or if there are more than two vacancies, then the electors present at the required meeting shall forthwith elect from the citizens of the State a sufficient number of persons to fill the deficiency, and the persons chosen shall be deemed qualified electors to vote for President and Vice-President of the United States."

SECTION 9. G.S. 163-213.3 reads as rewritten:

"**§ 163-213.3. Conduct of election.**

The presidential preference primary election shall be conducted and canvassed by the same authority and in the manner provided by law for the conduct and canvassing of the primary election for the office of Governor and all other offices enumerated in G.S. ~~163-187~~163-182.4(b) and under the same provisions stipulated in G.S. ~~163-188.~~ 163-182.5(c). The State Board of Elections shall have authority to promulgate reasonable rules and regulations, not inconsistent with provisions contained herein, pursuant to the administration of this Article."

SECTION 10. G.S. 163-299(e) reads as rewritten:

"(e) The rules contained in G.S. ~~163-169~~ 163-182.1 and G.S. 163-182.2 for counting primary ballots shall be followed in counting ballots in municipal primaries and nonpartisan primaries."

SECTION 11. G.S. 163-299(f) reads as rewritten:

"(f) The requirements contained in G.S. ~~163-171~~ 163-182.2(b) shall apply to all municipal elections."

SECTION 12. G.S. 163-299(g) reads as rewritten:

"(g) The county or municipal board of elections shall, in addition to the requirements contained in G.S. ~~163-175~~ 163-182.5 canvass the results in a nonpartisan municipal primary, election or runoff election, and in a special district election, the number of legal votes cast in each precinct for each candidate, the name of each person voted for, and the total number of votes cast in the municipality or special district for each person for each different office."

SECTION 13. G.S. 163-300 reads as rewritten:

"**§ 163-300. Disposition of duplicate abstracts in municipal elections.**

Within five days after a primary or election is held in any municipality, the chairman of the county or municipal board of elections shall mail to the chairman of the State Board of Elections, the duplicate abstract prepared in accordance with G.S. ~~163-176.~~ 163-182.6. One copy shall be retained by the county or municipal board of elections as a permanent record and one copy shall be filed with the city clerk."

SECTION 14. G.S. 163-301 reads as rewritten:

"**§ 163-301. Chairman of election board to furnish certificate of elections.**

Not earlier than five days nor later than 10 days after the results of any municipal election have been officially determined and published in accordance with G.S. ~~163-175 and G.S. 163-179,~~ 163-182.5, the chairman of the county or municipal board of elections shall issue certificates of election, under ~~his~~ the hand and seal of the chairman, to all municipal and special district officers. In issuing such certificates of election the chairman shall be restricted by the provisions of G.S. ~~163-181.~~ 163-182.14."

SECTION 15. G.S. 163-333 is repealed.

SECTION 16. The State Board of Elections shall adopt temporary rules pursuant to G.S. 150B-21.1(a5) prior to the first election following the effective date of this act.

SECTION 17. This act becomes effective January 1, 2002.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS- v. 11

H. B. No. _____ DATE 7-25-01

S. B. No. 14 Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) Kiser
Sen.)

1 moves to amend the bill on page 19, line 20
2 ( ) WHICH CHANGES THE TITLE
3 by rewriting the line to read:
4 "SECTION 16.
5 "The State Board of Elections shall adopt temporary
6 rules pursuant to G.S. 150B-21.1(25) ~~[illegible]~~
7 ~~[illegible]~~ prior to the first election following
the effective date of this act."
9 SECTION 17. This act becomes effective January
10 ~~[illegible]~~ 1, 2002."
11
12
13
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15
16
17
18
19

SIGNED Joe Kiser

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 14 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) DECKER
Sen.)

moves to amend the bill on page 2, line 15

( ) WHICH CHANGES THE TITLE

by inserting after "to" the word "clearly" and on page 2, line 18, by inserting at the end of the line the word "clearly and cogently"; and on page 2, line 24, by

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

SENATE BILL 1002: Campaign Enforcement

BILL ANALYSIS

Committee:	House Election Laws and Campaign Finance Reform	**Introduced by:**	Senator Gulley
		Summary by:	William R. Gilkeson Staff Attorney
Date:	July 11, 2001		
Version:	Second Edition		

SUMMARY: ***Senate Bill 1002 would add stronger civil penalties to the criminal penalties now available for enforcement of the campaign finance laws. It would change the statute of limitations for campaign finance misdemeanors so that they would run from the day the last report is due, rather than from the time of some other aspect of the violation. And it would add reports to the current campaign finance reporting schedule for municipal elections.***

CURRENT LAW: The chief penalty for the violation of the Campaign Finance Act is a criminal one: a Class 2 misdemeanor. The State Board of Elections is empowered to investigate complaints of violations, and if it determines there is reason to believe there is a violation, it turns over the case to a District Attorney, in most cases the DA for Wake County. There is one civil penalty available, for late filing of a campaign finance report. The State Board can prosecute the civil penalty itself, with the assistance of the Attorney General.

Misdemeanors have a statute of limitations of 2 years. That statute runs from the time of the violation.

Very few prosecutions have ever gone to court for a campaign finance misdemeanor.

The election law provides for four types of municipal elections, each with its own schedule of campaign finance reporting:

1. Partisan primary and election. The primary occurs six weeks before the November general elections, with a runoff, if needed, three weeks before the general. The campaign finance law calls for 4 reports: an organizational report 10 days after filing candidacy or setting up a political committee, whichever occurs first; a report 10 days before the primary; a report 10 days before the general (unless there is a second primary, in which case the report shall be filed 10 days before the second primary instead); and an annual report.
2. Nonpartisan plurality election. This is by far the most common method among the more than 500 municipalities. It has one election in November. The frontrunners win, regardless of their percentage of the vote. There are 3 campaign finance reports: an organizational report, a report 10 days before the election, and an annual report.
3. Nonpartisan primary and election. A primary is held four weeks before the November election for the purpose of reducing the field of candidates to twice the number to be elected. Those not eliminated in the primary run in the November election. If there are no more candidates file than twice the number to be elected, there is no primary. There are 3 reports: an organizational report, a report 10 days before the primary (or if the candidate is not in a primary, a report 10 days before the election instead), and an organizational report.
4. Nonpartisan election and runoff. An election is held four weeks before the standard November election date. If the frontrunner gets a majority in that October election, the frontrunner is elected

without a runoff. If not, the top two candidates face each other in a November runoff. There are 3 reports: an organizational report, a report 10 days before the election, and an annual report.

Municipal candidates, like candidates for other offices, are exempted from making any reports after the organizational report if they receive and spend in their campaign $3,000 or less.

BILL ANALYSIS:

New Civil Penalty: Senate Bill 1002 would add to the Campaign Finance Act a new civil penalty. It would apply only when the violation consisted of intentionally making or accepting an illegal contribution. The civil penalty could not exceed $20,000 or three times the amount of the unlawful contribution. In addition, the State Board could take several civil actions with regard to an intentional violation other than a monetary penalty: issue a cease and desist order, require remedial action, require the filing of a report, or publicly reprimand the violator.

Criminal Law Changes: On the criminal side, the bill would run the statute of limitations from the day the last report is due for the election cycle for which the violation occurred. It would also authorize a judge, as a condition of probation for a campaign finance misdemeanor, to order that the costs incurred by the State Board be paid to the State Board.

Municipal Campaign Reporting: The bill changes all the reporting schedules for the 4 types of municipal elections in the following ways:

- By adding a report to be filed with the board of elections 35 days before the first primary or election held.
- By requiring *semi-annual* reports rather than annual reports. The last semi-annual report would be due on the last Friday in January, as now. The first one would be due on the last Friday in July. Some municipal candidates might never have occasion to file the first semi-annual report, since the filing deadline for municipal candidates is the first Friday in August. But candidates who begin their campaigns and fundraising early in the year might have a lot to report in July.
- By requiring a report 10 days before every election held. Currently, the nonpartisan candidates file a 10-day report before only one election, even if they run in a primary and election or an election and runoff.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

BACKGROUND: The Senate added to the bill a requirement that the State Board of Elections notify and consult with the appropriate District Attorney before assessing a civil penalty.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 1002

Judiciary I Committee Substitute Adopted 5/22/01

Short Title: Campaign Finance Enforcement. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE CAMPAIGN ENFORCEMENT AND DISCLOSURE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-278.34 reads as rewritten:

"**§ 163-278.34. ~~Filings; penalty for late filings.~~ Civil penalties.**

(a) Civil Penalties for Late Filing. – Except as provided in G.S. ~~163-278.9,~~ 163-278.9 and G.S. 163-278.9A, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

(1) Two hundred fifty dollars ($250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars ($10,000); and

(2) Fifty dollars ($50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars ($500.00).

The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, by registered or certified mail, return receipt requested, of the penalties under this section. The State Board of Elections may waive a late penalty if it determines there is good cause for the waiver.

(b) Civil Penalties for Illegal Contributions. – If an individual, person, political committee, referendum committee, candidate, or other entity intentionally makes or accepts a contribution in violation of this Article, then that entity shall pay to the State Board of Elections, in an amount to be determined by that Board, a civil penalty and the

costs of investigation, assessment, and collection. The civil penalty shall not exceed twenty thousand dollars ($20,000) or three times the amount of the unlawful contribution or expenditure involved in the violation, whichever amount is greater. The State Board of Elections may, in addition to the civil penalty, order that the amount unlawfully received be paid to the State Board by check, and any money so received by the State Board shall be deposited in the Civil Penalty and Forfeiture Fund of North Carolina.

(c) Civil Remedies Other Than Penalties. – The State Board of Elections, in lieu of or in addition to imposing a civil penalty under subsection (a) or (b) of this section, may take one or more of the following actions with respect to a violation for which a civil penalty could be imposed:

(1) Issue an order requiring the violator to cease and desist from the violation found.

(2) Issue an order to cease receiving contributions and making expenditures until a delinquent report has been filed and any civil penalty satisfied.

(3) Issue an order requiring the violator to take any remedial action deemed appropriate by the Board.

(4) Issue an order requiring the violator to file any report, statement, or other information as required by this Article or the rules adopted by the Board.

(5) Publicly reprimand the violator for the violation.

(d) Facts in Mitigation. – An individual or other entity notified that a penalty has been assessed against it may submit an affidavit to the State Board of Elections stating the facts in mitigation. The State Board of Elections may waive a civil penalty in whole or in part if it determines there is good cause for the waiver.

~~(a1)~~ (e) Calculation and Assessment. – The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) or (b) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. ~~Consistent with G.S. 115C-437, the State Controller~~ The State Board of Elections shall pay the clear proceeds of civil penalties collected under this section to the ~~County School Fund~~

~~in the county in which the person charged with the violation resides. The State Controller~~ Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2. The State Board of Elections shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the ~~County School~~ Civil Penalty and Forfeiture Fund. Monies set aside for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board of Elections.

~~(b) The State Board of Elections may waive a late penalty if it determines there is reasonable cause.~~

(f) Notifying and Consulting With District Attorney. – Before assessing a civil penalty under subsection (b) of this section or imposing a civil remedy under subsection (c) of this section, the State Board of Elections shall notify and consult with the District Attorney who would be responsible under G.S. 163-278.27 for bringing a criminal prosecution concerning the violation."

SECTION 2. G.S. 163-278.27 reads as rewritten:

"**§ 163-278.27. ~~Penalty for violations;~~ Criminal penalties; duty to report and prosecute.**

(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, 163-278.13, 163-278.13B, 163-278.14, 163-278.16, 163-278.17, 163-278.18, 163-278.19, 163-278.20, 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. The statute of limitations shall run from the day the last report is due to be filed with the appropriate board of elections for the election cycle for which the violation occurred.

(b) Whenever the Board has knowledge of or has reason to believe there has been a violation of any section of this Article, it shall report that fact, together with accompanying details, to the following prosecuting authorities:

(1) In the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the district attorney of the prosecutorial district in which the candidate for nomination or election resides;

(2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior court: report to the district attorney of the prosecutorial district in which Wake County is located;

(3) In the case of an individual other than a candidate, including, without limitation, violations by members of political committees, referendum

committees or treasurers: report to the district attorney of the prosecutorial district in which the individual resides; and

(4) In the case of a person or any group of individuals: report to the district attorney or district attorneys [of] the prosecutorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside.

(c) Upon receipt of such a report from the Board, the appropriate district attorney shall prosecute the individual or persons alleged to have violated a section or sections of this Article.

(d) As a condition of probation, a sentencing judge may order that the costs incurred by the State Board of Elections in investigating and aiding the prosecution of a case be paid to the State Board of Elections by the defendant on such terms and conditions as set by the judge."

SECTION 3. G.S. 163-278.40B reads as rewritten:

"**§ 163-278.40B. Campaign report; partisan election.**

In any city election conducted on a partisan basis in accordance with G.S. 163-279(a)(2) and 163-291, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary.

(1a) Pre-primary Report. – The treasurer shall file a report with the board no later than the tenth day preceding each primary election.

(2) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary.

(3) Repealed by Session Laws 1985, c. 164, s. 2, effective January 1, 1986.

(4) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 4. G.S. 163-278.40C reads as rewritten:

"**§ 163-278.40C. Campaign report; nonpartisan election and runoff.**

If any city election conducted under the nonpartisan election and runoff basis in accordance with G.S. 163-279(a)(4) and 163-293, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.

(1a) Pre-election Report. – The treasurer shall file a report with the board ~~no later than~~ 10 days ~~prior to~~ before the election.

(1b) Pre-runoff Report. – The treasurer shall file a report with the board 10 days before the runoff if the candidate is in a runoff.

(2) Repealed by Session Laws 1985, c. 164, s. 3, effective January 1, 1986.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~such~~ those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 5. G.S. 163-278.40D reads as rewritten:

"**§ 163-278.40D. Campaign report; nonpartisan primary and elections.**

In any city election conducted under the nonpartisan primary method in accordance with G.S. 163-279(a)(3) and 163-294, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary if the candidate is in a primary or the same length of time before the election if the candidate is not in a primary.

(1a) Pre-primary and Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the primary if the candidate is in a primary ~~or~~ and 10 days ~~prior to~~ before the ~~election, if the candidate is not in a primary.~~ election.

(2) Repealed by Session laws 1985, c. 164, s. 4, effective January 1, 1986.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 6. G.S. 163-278.40E reads as rewritten:

"**§ 163-278.40E. Campaign report; nonpartisan plurality.**

In any city election conducted under the nonpartisan plurality method under G.S. 163-279(a)(1) and 163-292, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.

(1a) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election.

(2) Repealed by Session Laws 1985, c. 164, s. 5, effective January 1, 1986.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~such~~ those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 7. G.S. 163-278.9(j) reads as rewritten:

"(j) Treasurers for the following entities shall electronically file each report required by this section that shows a cumulative total for the election cycle in excess of five thousand dollars ($5,000) in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

(1) A candidate for statewide office;

(2) A State, district, county, or precinct executive committee of a political party, if the committee makes contributions or independent expenditures in excess of five thousand dollars ($5,000) that affect contests for statewide office;

(3) A political committee that makes contributions in excess of five thousand dollars ($5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars ($5,000) that affect contests for statewide office.

The State Board of Elections shall provide the software necessary to file an electronic report to a treasurer required to file an electronic report at no cost to the treasurer."

SECTION 8. This act becomes effective January 1, 2002.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 7/25/01

S. B. No. 1002 Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.)) ~~MEBANE~~ RAYFIELD
Sen.)

moves to amend the bill on page 2, line 2

( ) WHICH CHANGES THE TITLE

by deleting the term "twenty thousand dollars ($20,000) or"; and

~~on~~ page 2, line 3, by deleting the term ", whichever is greater".

SIGNED John Rayfield

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

VISITOR REGISTRATION SHEET

Election Law & Campaign Finance Reform — 7/25/01
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tom Colex	CWA GSO
MICHAEL CROWELL	LAWYER RALEIGH
Ross M. Smith	PCS PHOSPHATE
Brian Francis	Meck Cnty
John Phelps	NCLM
Kristine Calone	SBOE
Alanna Farkas	SBOE
John Methuf	GOV OFFICE
[illegible]	[illegible]
[illegible]	ACLU
[illegible]	CSC
[illegible]	Sen Gulley's office
E Ouzts	NCPIRG
Bob Hall	Democracy South
Carrie Bolton	Democracy South
G.F. Allison	Democracy South
[illegible]	Capitol Press

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday August 1, 2001**

TIME: **11:00 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 1002 – Campaign Finance Enforcement – Senator Gulley

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **3:15 pm on July 27, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust, Committee Assistant

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

August 1, 2001
Room 1228
11:00 a.m.

The meeting was called to order by the Chair, Representative Alexander. Those present were Representatives Alexander, Michaux, Vice Chair, Nesbitt, Vice Chair, Blue, Church, Daughtry, Decker, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Redwine, Rogers, Starnes, Weatherly, Weiss, Cunningham and Hackney.

The pages were introduced and welcomed.

Senator Gulley was introduced to continue discussion of SB 1002 AN ACT TO STRENGTHEN THE CAMPAIGN ENFORCEMENT AND DISCLOSURE LAWS. Following questions about where fines go, it was determined that the Civil Penalty and Forfeiture Fund of North Carolina channels the money to the school fund – just the name had changed. Representative Goodwin moved for a favorable report. Representative Starnes asked about the statute of limitations for bringing a civil action. It is three years from the time of the last filing. The intent of the bill is to impose a civil penalty. The statute of limitations for a misdemeanor is two years from the time of the last filing. Representative Decker questioned whether there was a question of double jeopardy if the Board of Elections and the DA bring charges. Legal consultants had affirmed there was no problem. Representative Blue brought up the difference between a small, inadvertent contribution and a large, intentional one – and whether there should be a stronger criminal penalty for large abuses. "Intentional" and "willful" must be proved for a civil penalty. Inadvertent acts are rarely pursued in criminal misdemeanor cases. An amendment on page 3 line 18 added the words "intentionally and willfully " after the word "who." Discussion followed. Under this bill, a candidate is now subject to both civil and criminal actions. The amendment passed. The bill passed on the motion of Representative Goodwin moved to roll the amendments into the original bill, favorable report as to committee substitute, unfavorable as to the original bill. The motion passed.

Representative Alexander reported from the State Board of Elections that a check dated prior to the Session and mailed prior to the Session but received after the beginning of the Session is illegal and must be returned to the donor within ten days of receipt.

The meeting was adjourned.

Martha Alexander, Committee Chair

Ann Faust, Committee Assistant

SENATE BILL 1002: Campaign Enforcement

BILL ANALYSIS

Committee:	House Election Laws and Campaign Finance Reform	**Introduced by:**	Senator Gulley
		Summary by:	William R. Gilkeson Staff Attorney
Date:	July 11, 2001		
Version:	Second Edition		

SUMMARY: Senate Bill 1002 would add stronger civil penalties to the criminal penalties now available for enforcement of the campaign finance laws. It would change the statute of limitations for campaign finance misdemeanors so that they would run from the day the last report is due, rather than from the time of some other aspect of the violation. And it would add reports to the current campaign finance reporting schedule for municipal elections.

CURRENT LAW: The chief penalty for the violation of the Campaign Finance Act is a criminal one: a Class 2 misdemeanor. The State Board of Elections is empowered to investigate complaints of violations, and if it determines there is reason to believe there is a violation, it turns over the case to a District Attorney, in most cases the DA for Wake County. There is one civil penalty available, for late filing of a campaign finance report. The State Board can prosecute the civil penalty itself, with the assistance of the Attorney General.

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2. Nonpartisan plurality election. This is by far the most common method among the more than 500 municipalities. It has one election in November. The frontrunners win, regardless of their percentage of the vote. There are 3 campaign finance reports: an organizational report, a report 10 days before the election, and an annual report.
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- By requiring a report 10 days before every election held. Currently, the nonpartisan candidates file a 10-day report before only one election, even if they run in a primary and election or an election and runoff.

EFFECTIVE DATE: The bill would become effective January 1, 2002.

BACKGROUND: The Senate added to the bill a requirement that the State Board of Elections notify and consult with the appropriate District Attorney before assessing a civil penalty.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 1002

Judiciary I Committee Substitute Adopted 5/22/01

PROPOSED HOUSE COMMITTEE SUBSTITUTE S1002-PCS8245-RR-44

Short Title: Campaign Finance Enforcement. (Public)

Sponsors:

Referred to:

April 5, 2001

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"**§ 163-278.34. ~~Filings; penalty for late filings.~~ Civil penalties.**

(a) Civil Penalties for Late Filing. – Except as provided in G.S. ~~163-278.9,~~ 163-278.9 and G.S. 163-278.9A, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

(1) Two hundred fifty dollars ($250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars ($10,000); and

(2) Fifty dollars ($50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars ($500.00).

The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, by registered or certified mail, return receipt requested, of the penalties under this section. The State Board of Elections may waive a late penalty if it determines there is good cause for the waiver.

(b) Civil Penalties for Illegal Contributions. – If an individual, person, political committee, referendum committee, candidate, or other entity intentionally makes or accepts a contribution in violation of this Article, then that entity shall pay to the State

Board of Elections, in an amount to be determined by that Board, a civil penalty and the costs of investigation, assessment, and collection. The civil penalty shall not exceed three times the amount of the unlawful contribution or expenditure involved in the violation. The State Board of Elections may, in addition to the civil penalty, order that the amount unlawfully received be paid to the State Board by check, and any money so received by the State Board shall be deposited in the Civil Penalty and Forfeiture Fund of North Carolina.

(c) Civil Remedies Other Than Penalties. – The State Board of Elections, in lieu of or in addition to imposing a civil penalty under subsection (a) or (b) of this section, may take one or more of the following actions with respect to a violation for which a civil penalty could be imposed:

(1) Issue an order requiring the violator to cease and desist from the violation found.

(2) Issue an order to cease receiving contributions and making expenditures until a delinquent report has been filed and any civil penalty satisfied.

(3) Issue an order requiring the violator to take any remedial action deemed appropriate by the Board.

(4) Issue an order requiring the violator to file any report, statement, or other information as required by this Article or the rules adopted by the Board.

(5) Publicly reprimand the violator for the violation.

(d) Facts in Mitigation. – An individual or other entity notified that a penalty has been assessed against it may submit an affidavit to the State Board of Elections stating the facts in mitigation. The State Board of Elections may waive a civil penalty in whole or in part if it determines there is good cause for the waiver.

~~(a1)~~ (e) Calculation and Assessment. – The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) or (b) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. ~~Consistent with G.S. 115C-437, the State Controller~~ The State Board of Elections shall pay the clear proceeds of civil penalties collected under this section to the ~~County School Fund~~

~~in the county in which the person charged with the violation resides. The State Controller~~ Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2. The State Board of Elections shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the ~~County School~~ Civil Penalty and Forfeiture Fund. Monies set aside for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board of Elections.

~~(b) The State Board of Elections may waive a late penalty if it determines there is reasonable cause.~~

(f) Notifying and Consulting With District Attorney. – Before assessing a civil penalty under subsection (b) of this section or imposing a civil remedy under subsection (c) of this section, the State Board of Elections shall notify and consult with the district attorney who would be responsible under G.S. 163-278.27 for bringing a criminal prosecution concerning the violation."

SECTION 2. G.S. 163-278.27 reads as rewritten:

"**§ 163-278.27. ~~Penalty for violations;~~ Criminal penalties; duty to report and prosecute.**

(a) Any individual, candidate, political committee, referendum committee, treasurer, person or media who intentionally and willfully 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, 163-278.13, 163-278.13B, 163-278.14, 163-278.16, 163-278.17, 163-278.18, 163-278.19, 163-278.20, 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. The statute of limitations shall run from the day the last report is due to be filed with the appropriate board of elections for the election cycle for which the violation occurred.

(b) Whenever the Board has knowledge of or has reason to believe there has been a violation of any section of this Article, it shall report that fact, together with accompanying details, to the following prosecuting authorities:

(1) In the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the district attorney of the prosecutorial district in which the candidate for nomination or election resides;

(2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior court: report to the district attorney of the prosecutorial district in which Wake County is located;

(3) In the case of an individual other than a candidate, including, without limitation, violations by members of political committees, referendum

committees or treasurers: report to the district attorney of the prosecutorial district in which the individual resides; and

(4) In the case of a person or any group of individuals: report to the district attorney or district attorneys [of] the prosecutorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside.

(c) Upon receipt of such a report from the Board, the appropriate district attorney shall prosecute the individual or persons alleged to have violated a section or sections of this Article.

(d) As a condition of probation, a sentencing judge may order that the costs incurred by the State Board of Elections in investigating and aiding the prosecution of a case be paid to the State Board of Elections by the defendant on such terms and conditions as set by the judge."

SECTION 3. G.S. 163-278.40B reads as rewritten:

"**§ 163-278.40B. Campaign report; partisan election.**

In any city election conducted on a partisan basis in accordance with G.S. 163-279(a)(2) and 163-291, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary.

(1a) Pre-primary Report. – The treasurer shall file a report with the board no later than the tenth day preceding each primary election.

(2) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary.

(3) Repealed by Session Laws 1985, c. 164, s. ~~2, effective January 1, 1986.~~2.

(4) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 4. G.S. 163-278.40C reads as rewritten:

"**§ 163-278.40C. Campaign report; nonpartisan election and runoff.**

If any city election conducted under the nonpartisan election and runoff basis in accordance with G.S. 163-279(a)(4) and 163-293, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.

(1a) Pre-election Report. – The treasurer shall file a report with the board ~~no later than~~ 10 days ~~prior to~~ before the election.

(1b) Pre-runoff Report. – The treasurer shall file a report with the board 10 days before the runoff if the candidate is in a runoff.

(2) Repealed by Session Laws 1985, c. 164, s. ~~3, effective January 1, 1986.~~3.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~such~~ those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 5. G.S. 163-278.40D reads as rewritten:

"**§ 163-278.40D. Campaign report; nonpartisan primary and elections.**

In any city election conducted under the nonpartisan primary method in accordance with G.S. 163-279(a)(3) and 163-294, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary if the candidate is in a primary or the same length of time before the election if the candidate is not in a primary.

(1a) Pre-primary and Pre-election ~~Report.~~ Reports. – The treasurer shall file a report 10 days ~~prior to~~ before the primary if the candidate is in a primary ~~or~~ and 10 days ~~prior to~~ before the ~~election, if the candidate is not in a primary.~~ election.

(2) Repealed by Session laws 1985, c. 164, s. ~~4, effective January 1, 1986.~~4.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 6. G.S. 163-278.40E reads as rewritten:

"**§ 163-278.40E. Campaign report; nonpartisan plurality.**

In any city election conducted under the nonpartisan plurality method under G.S. 163-279(a)(1) and 163-292, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.

(1a) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election.

(2) Repealed by Session Laws 1985, c. 164, s. ~~5, effective January 1, 1986.~~5.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~such~~ those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 7. G.S. 163-278.9(j) reads as rewritten:

"(j) Treasurers for the following entities shall electronically file each report required by this section that shows a cumulative total for the election cycle in excess of five thousand dollars ($5,000) in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

(1) A candidate for statewide office;

(2) A State, district, county, or precinct executive committee of a political party, if the committee makes contributions or independent expenditures in excess of five thousand dollars ($5,000) that affect contests for statewide office;

(3) A political committee that makes contributions in excess of five thousand dollars ($5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars ($5,000) that affect contests for statewide office.

The State Board of Elections shall provide the software necessary to file an electronic report to a treasurer required to file an electronic report at no cost to the treasurer."

SECTION 8. This act becomes effective January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 1002

Judiciary I Committee Substitute Adopted 5/22/01

Short Title: Campaign Finance Enforcement. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE CAMPAIGN ENFORCEMENT AND DISCLOSURE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-278.34 reads as rewritten:

"**§ 163-278.34. ~~Filings; penalty for late filings.~~ Civil penalties.**

(a) Civil Penalties for Late Filing. – Except as provided in G.S. ~~163-278.9,~~ 163-278.9 and G.S. 163-278.9A, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

(1) Two hundred fifty dollars ($250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars ($10,000); and

(2) Fifty dollars ($50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars ($500.00).

The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, by registered or certified mail, return receipt requested, of the penalties under this section. The State Board of Elections may waive a late penalty if it determines there is good cause for the waiver.

(b) Civil Penalties for Illegal Contributions. – If an individual, person, political committee, referendum committee, candidate, or other entity intentionally makes or accepts a contribution in violation of this Article, then that entity shall pay to the State Board of Elections, in an amount to be determined by that Board, a civil penalty and the

costs of investigation, assessment, and collection. The civil penalty shall not exceed twenty thousand dollars ($20,000) or three times the amount of the unlawful contribution or expenditure involved in the violation, whichever amount is greater. The State Board of Elections may, in addition to the civil penalty, order that the amount unlawfully received be paid to the State Board by check, and any money so received by the State Board shall be deposited in the Civil Penalty and Forfeiture Fund of North Carolina.

(c) Civil Remedies Other Than Penalties. – The State Board of Elections, in lieu of or in addition to imposing a civil penalty under subsection (a) or (b) of this section, may take one or more of the following actions with respect to a violation for which a civil penalty could be imposed:

(1) Issue an order requiring the violator to cease and desist from the violation found.

(2) Issue an order to cease receiving contributions and making expenditures until a delinquent report has been filed and any civil penalty satisfied.

(3) Issue an order requiring the violator to take any remedial action deemed appropriate by the Board.

(4) Issue an order requiring the violator to file any report, statement, or other information as required by this Article or the rules adopted by the Board.

(5) Publicly reprimand the violator for the violation.

(d) Facts in Mitigation. – An individual or other entity notified that a penalty has been assessed against it may submit an affidavit to the State Board of Elections stating the facts in mitigation. The State Board of Elections may waive a civil penalty in whole or in part if it determines there is good cause for the waiver.

~~(a1)~~ (e) Calculation and Assessment. – The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) or (b) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. ~~Consistent with G.S. 115C-437, the State Controller~~ The State Board of Elections shall pay the clear proceeds of civil penalties collected under this section to the ~~County School Fund~~

~~in the county in which the person charged with the violation resides. The State Controller~~ Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2. The State Board of Elections shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the ~~County School~~ Civil Penalty and Forfeiture Fund. Monies set aside for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board of Elections.

~~(b) The State Board of Elections may waive a late penalty if it determines there is reasonable cause.~~

(f) Notifying and Consulting With District Attorney. – Before assessing a civil penalty under subsection (b) of this section or imposing a civil remedy under subsection (c) of this section, the State Board of Elections shall notify and consult with the District Attorney who would be responsible under G.S. 163-278.27 for bringing a criminal prosecution concerning the violation."

SECTION 2. G.S. 163-278.27 reads as rewritten:

"**§ 163-278.27. ~~Penalty for violations;~~ Criminal penalties; duty to report and prosecute.**

(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, 163-278.13, 163-278.13B, 163-278.14, 163-278.16, 163-278.17, 163-278.18, 163-278.19, 163-278.20, 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. The statute of limitations shall run from the day the last report is due to be filed with the appropriate board of elections for the election cycle for which the violation occurred.

(b) Whenever the Board has knowledge of or has reason to believe there has been a violation of any section of this Article, it shall report that fact, together with accompanying details, to the following prosecuting authorities:

(1) In the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the district attorney of the prosecutorial district in which the candidate for nomination or election resides;

(2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior court: report to the district attorney of the prosecutorial district in which Wake County is located;

(3) In the case of an individual other than a candidate, including, without limitation, violations by members of political committees, referendum

committees or treasurers: report to the district attorney of the prosecutorial district in which the individual resides; and

(4) In the case of a person or any group of individuals: report to the district attorney or district attorneys [of] the prosecutorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside.

(c) Upon receipt of such a report from the Board, the appropriate district attorney shall prosecute the individual or persons alleged to have violated a section or sections of this Article.

(d) As a condition of probation, a sentencing judge may order that the costs incurred by the State Board of Elections in investigating and aiding the prosecution of a case be paid to the State Board of Elections by the defendant on such terms and conditions as set by the judge."

SECTION 3. G.S. 163-278.40B reads as rewritten:

"**§ 163-278.40B. Campaign report; partisan election.**

In any city election conducted on a partisan basis in accordance with G.S. 163-279(a)(2) and 163-291, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary.

(1a) Pre-primary Report. – The treasurer shall file a report with the board no later than the tenth day preceding each primary election.

(2) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary.

(3) Repealed by Session Laws 1985, c. 164, s. 2, effective January 1, 1986.

(4) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 4. G.S. 163-278.40C reads as rewritten:

"**§ 163-278.40C. Campaign report; nonpartisan election and runoff.**

If any city election conducted under the nonpartisan election and runoff basis in accordance with G.S. 163-279(a)(4) and 163-293, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.

(1a) Pre-election Report. – The treasurer shall file a report with the board ~~no later than~~ 10 days ~~prior to~~ before the election.

(1b) Pre-runoff Report. – The treasurer shall file a report with the board 10 days before the runoff if the candidate is in a runoff.

(2) Repealed by Session Laws 1985, c. 164, s. 3, effective January 1, 1986.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~such~~ those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 5. G.S. 163-278.40D reads as rewritten:

"**§ 163-278.40D. Campaign report; nonpartisan primary and elections.**

In any city election conducted under the nonpartisan primary method in accordance with G.S. 163-279(a)(3) and 163-294, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary if the candidate is in a primary or the same length of time before the election if the candidate is not in a primary.

(1a) Pre-primary and Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the primary if the candidate is in a primary ~~or~~ and 10 days ~~prior to~~ before the ~~election, if the candidate is not in a primary.~~ election.

(2) Repealed by Session laws 1985, c. 164, s. 4, effective January 1, 1986.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 6. G.S. 163-278.40E reads as rewritten:

"**§ 163-278.40E. Campaign report; nonpartisan plurality.**

In any city election conducted under the nonpartisan plurality method under G.S. 163-279(a)(1) and 163-292, the following reports shall be filed in addition to the organizational report:

(1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.

(1a) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election.

(2) Repealed by Session Laws 1985, c. 164, s. 5, effective January 1, 1986.

(3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~such~~ those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 7. G.S. 163-278.9(j) reads as rewritten:

"(j) Treasurers for the following entities shall electronically file each report required by this section that shows a cumulative total for the election cycle in excess of five thousand dollars ($5,000) in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

(1) A candidate for statewide office;

(2) A State, district, county, or precinct executive committee of a political party, if the committee makes contributions or independent expenditures in excess of five thousand dollars ($5,000) that affect contests for statewide office;

(3) A political committee that makes contributions in excess of five thousand dollars ($5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars ($5,000) that affect contests for statewide office.

The State Board of Elections shall provide the software necessary to file an electronic report to a treasurer required to file an electronic report at no cost to the treasurer."

SECTION 8. This act becomes effective January 1, 2002.

VISITOR REGISTRATION SHEET

Election Law & Campaign Reform 8/1/01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John McMillan	McF&S P.A.
Mark Gleason	Capitol Group
Dan Wright	State Bd of Election
John Phelps	NCLM
DAVID BARNES	Poyner + Spruill, LLP
John McHugh	Gov Office
Patsy Harrison	Nothing specific today
David Bliss	ACLU
Bob Hall	Democracy South
Ella Briggs	S.O.S.
Gary Robertson	AP
Sam Watts	SAM
Beau Mills	NC Metro Coalition

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

August 15, 2001
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

SB 17 – Election Rewrite – – Senator Gulley

STAFF: Bill Gilkeson
Erika Churchill

REVISED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday August 15, 2001**

TIME: **11:00 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 17 – Election Law Rewrite – Senator Gulley

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **2:55 pm on August 14, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust, Committee Assistant

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Senator Hartsell,**
Representative Goodwin

OFFICE: **518**

NOTIFICATION DATE: **August 9, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, August 15, 2001**

TIME: **11:00 am**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

HB 106 - School Election Option - Representative Goodwin

We would like to have you attend this meeting.

Representative Alexander - -
Chairman

Ann Faust (Committee Assistant)

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING
August 15, 2001
Room 1228
11:00 a.m.

The meeting of the Election Law and Campaign Finance Reform Committee was called to order by the Chair, Representative Alexander. Those present were Representatives Alexander, Michaux, Vice Chair, Nesbitt, Vice Chair, Arnold, Blue, Bonner, Daughtry, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Rogers, Starnes, Thompson, Weatherly, Weiss, Baddour and Hackney.

Representative Alexander welcomed and thanked the pages, staff and sergeants at arms for their help.

Representative Alexander presented SB 17 AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION; TO PERMIT THE USE OF CERTAIN GENDER TITLES ON THE BALLOT; TO PROVIDE FOR THE ROTATION OF POLITICAL PARTIES ON THE GENERAL ELECTION OFFICIAL BALLOT; TO GIVE THE COUNTY BOARD OF ELECTIONS FLEXIBILITY IN SETTING A BUFFER ZONE AROUND A VOTING PLACE, WITH A MINIMUM OF 25 FEET; AND TO MAKE CONFORMING CHANGES, which was re-referred to the Committee from the House floor. Representative Justus was introduced to put forth an amendment to amend the title by adding "AND TO PROVIDE FOR VOTER IDENTIFICATION AT THE POLLS," and to add language on page 10 line 23 language identifying the types of identification that could be used, and to provide that a provisional ballot could be cast if a voter did not produce proper identification. After discussion, Representative Daughtry moved for adoption of the amendment. Representative Michaux stated that the Senate had voted down a similar identification requirement amendment recently. Gary Bartlett said that a voter without proper identification would add approximately five minutes to the time needed to vote, and each large precinct would have to add one staff person. He also said that there were six cases of fraudulent voting reported out of over 3 million ballots cast, and they were for people voting twice. The amendment failed. Representative Michaux moved for a favorable report on the bill, and the motion passed.

The meeting was adjourned.

Martha Alexander, Chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 5

SENATE BILL 17

Judiciary I Committee Substitute Adopted 4/9/01
House Committee Substitute Favorable 7/17/01
House Committee Substitute #2 Favorable 7/26/01
Fifth Edition Engrossed 8/8/01

Short Title: Election Rewrite-1. (Public)

Sponsors:

Referred to:

January 29, 2001

A BILL TO BE ENTITLED

AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION; TO PERMIT THE USE OF CERTAIN GENDER TITLES ON THE BALLOT; TO PROVIDE FOR THE ROTATION OF POLITICAL PARTIES ON THE GENERAL ELECTION OFFICIAL BALLOT; TO GIVE THE COUNTY BOARD OF ELECTIONS FLEXIBILITY IN SETTING A BUFFER ZONE AROUND A VOTING PLACE, WITH A MINIMUM OF 25 FEET; AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 13 and 14 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-2 is repealed.

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

"Article 13A.

"Voting.

"Part 1. Definitions.

"**§ 163-165. Definitions.**

In addition to the definitions stated below, the definitions set forth in Article 15A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

(1) 'Ballot' means an instrument on which a voter indicates a choice so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term 'ballot' may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner,

the face of a lever voting machine, the image on a direct record electronic unit, or a ballot used on any other voting system.

(2) 'Ballot item' means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.

(3) 'Ballot style' means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.

(4) 'Election' means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.

(5) 'Official ballot' means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections. The term does not include a sample ballot or a specimen ballot.

(6) 'Provisional official ballot' means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote.

(7) 'Referendum' means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.

(8) 'Voting booth' means the private space in which a voter is to mark an official ballot.

(9) 'Voting enclosure' means the room or connected rooms within the voting place that is used for voting.

(10) 'Voting place' means the building that contains the voting enclosure.

(11) 'Voting system' means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment.

"Part 2. Ballots and Voting Systems.

"**§ 163-165.1. Scope and general rules.**

(a) Scope. – This Article shall apply to all elections in this State.

(b) Requirements of Official Ballots in Voting. – In any election conducted under this Article:

(1) All voting shall be by official ballot.

(2) Only votes cast on an official ballot shall be counted.

(c) Compliance With This Article. – All ballots shall comply with the provisions of this Article.

(d) Other Uses Prohibited. – An official ballot shall not be used for any purpose not authorized by this Article.

"**§ 163-165.2. Sample ballots.**

(a) County Board to Produce and Distribute Sample Ballots. – The county board of elections shall produce sample ballots, in all the necessary ballot styles of the official ballot, for every election to be held in the county. The sample ballots shall be given an appearance that clearly distinguishes them from official ballots. The county board shall distribute sample ballots to the chief judge of every precinct in which the election is to be conducted. The chief judge shall post a sample ballot in the voting place and may use it for instructional purposes. The county board of elections may use the sample ballot for other informational purposes.

(b) Document Resembling an Official Ballot to Contain Disclaimer. – No person other than a board of elections shall produce or disseminate a document substantially resembling an official ballot unless the document contains on its face a prominent statement that the document was not produced by a board of elections and is not an official ballot.

"**§ 163-165.3. Responsibilities for preparing official ballots.**

(a) State Board to Certify Official Ballots and Instructions to Voters. – The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

(1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification and times for the State Board to complete the certification.

(2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.

(3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.

(4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.

(5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.

(6) The State Board is not required to certify or review every official ballot style in the county but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

(b) County Board to Prepare and Produce Official Ballots and Instructions. – Each county board of elections shall prepare and produce official ballots for all elections in that county. The county board of elections shall submit the format of each official ballot and set of instructions to the State Board of Elections for review and certification in accordance with the schedule established by the State Board. The county board of elections shall follow the directions of the State Board in placing candidates, referenda, and other material on official ballots and in placing instructions.

(c) Late Changes in Ballots. – The State Board shall promulgate rules for late changes in ballots. The rules shall provide for the reprinting, where practical, of official ballots as a result of replacement candidates to fill vacancies in accordance with G.S. 163-114 or other late changes. If an official ballot is not reprinted, a vote for a candidate who has been replaced in accordance with G.S. 163-114 will count for the replacement candidate.

(d) Special Ballots. – The State Board of Elections, with the approval of a county board of elections, may produce special official ballots, such as those for disabled voters, where production by the State Board would be more practical than production by the county board.

"**§ 163-165.4. Standards for official ballots.**

The State Board of Elections shall seek to ensure that official ballots throughout the State have all the following characteristics:

(1) Are readily understandable by voters.

(2) Present all candidates and questions in a fair and nondiscriminatory manner.

(3) Allow every voter to cast a vote in every ballot item without difficulty.

(4) Facilitate an accurate vote count.

(5) Are uniform in content and format, subject to varied presentations required or made desirable by different voting systems.

"**§ 163-165.5. Contents of official ballots.**

Each official ballot shall contain all the following elements:

(1) The heading prescribed by the State Board of Elections. The heading shall include the term 'Official Ballot'.

(2) The title of each office to be voted on and the number of seats to be filled in each ballot item.

(3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms.

Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent.

(4) Party designations in partisan ballot items.

(5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123.

(6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.

(7) The printed title and facsimile signature of the chair of the county board of elections.

"**§ 163-165.6. Arrangement of official ballots.**

(a) Order of Precedence Generally. – Candidate ballot items shall be arranged on the official ballot before referenda.

(b) Order of Precedence for Candidate Ballot Items. – The State Board of Elections shall promulgate rules prescribing the order of offices to be voted on the official ballot. Those rules shall adhere to the following guidelines:

(1) Federal offices shall be listed before State and local offices. Federal offices shall be listed according to the size of the electorate.

(2) State and local offices shall be listed according to the size of the electorate.

(3) Partisan offices shall be listed before nonpartisan offices.

(4) When offices are in the same class, they shall be listed in alphabetical order by office name, or in numerical or alphabetical order by district name. Governor and Lieutenant Governor, in that order, shall be listed before other Council of State offices. Mayor shall be listed before other citywide offices. Chair of a board, where elected separately, shall be listed before other board seats having the same electorate. Chief Justice shall be listed before Associate Justices.

(5) Ballot items for full terms of an office shall be listed before ballot items for partial terms of the same office.

(c) Order of Candidates on Primary Official Ballots. – The order in which candidates shall appear on a county's official ballots in any primary ballot item shall be determined by the county board of elections using a process designed by the State Board of Elections for random selection.

(d) Order of Party Candidates on General Election Official Ballot. – Candidates in any ballot item on a general election official ballot shall appear in the following order:

(1) Nominees of political parties that reflect at least five percent (5%) of statewide voter registration, according to the most recent statistical report published by the State Board of Elections so that such parties rotate order each three years, and if there are more than two eligible parties, then the order among those parties shall be determined by lot, with no party being eligible for the top slot for three years after it has left the top slot.

(2) Nominees of other political parties, in random order of the name of the party.

(3) Unaffiliated candidates, in random order.

(e) Straight-Party Voting. – Each official ballot shall be arranged so that the voter may cast one vote for a party's nominees for all offices except President and Vice President. A vote for President and Vice President shall be cast separately from a straight-party vote. The official ballot shall be prepared so that a voter may cast a straight-party vote, but then make an exception to that straight-party vote by voting for a candidate not nominated by that party or by voting for fewer than all the candidates nominated by that party. Instructions for general election ballots shall clearly advise voters of the rules in this subsection and of the statutes providing for the counting of ballots.

(f) Write-In Voting. – Each official ballot shall be so arranged so that voters may cast write-in votes for candidates except where prohibited by G.S. 163-123 or other statutes governing write-in votes. Instructions for general election ballots shall clearly advise voters of the rules of this subsection and of the statutes governing write-in voting.

(g) Order of Precedence for Referenda. – The referendum questions to be voted on shall be arranged on the official ballot in the following order:

(1) Proposed amendments to the North Carolina Constitution, in the chronological order in which the proposals were approved by the General Assembly.

(2) Other referenda to be voted on by all voters in the State, in the chronological order in which the proposals were approved by the General Assembly.

(3) Referenda to be voted on by fewer than all the voters in the State, in the chronological order of the acts by which the referenda were properly authorized.

"**§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

The State Board of Elections shall have authority to approve types, makes, and models of voting systems for use in elections and referenda held in this State. Only voting systems that have been approved by the State Board shall be used to conduct elections under this Chapter, and the approved systems shall be valid in any election or referendum held in any county or municipality. The State Board may, upon request of a local board of elections, authorize the use of a voting system not approved for general use. The State Board may also, upon notice and hearing, disapprove types, makes, and

models of voting systems. Upon disapproving a type, make, or model of voting system, the State Board shall determine the process by which the disapproved system is discontinued in any county. If a county makes a showing that discontinuance would impose a financial hardship upon it, the county shall be given up to four years from the time of State Board disapproval to replace the system. A county may appeal a decision by the State Board concerning discontinuance of a voting system to the superior court in that county or to the Superior Court of Wake County. The county has 30 days from the time of the State Board's decision on discontinuance to make that appeal.

Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of voting systems, including, but not limited to, the following:

(1) Types, makes, and models of voting systems approved for use in this State.
(2) Form of official ballot labels to be used on voting systems.
(3) Operation and manner of voting on voting systems.
(4) Instruction of precinct officials in the use of voting systems.
(5) Instruction of voters in the use of voting systems.
(6) Assistance to voters using voting systems.
(7) Duties of custodians of voting systems.
(8) Examination of voting systems before use in an election.

"**§ 163-165.8. Voting systems: powers and duties of board of county commissioners.**

The board of county commissioners, with the approval of the county board of elections, may adopt and purchase or lease a voting system of a type, make, and model approved by the State Board of Elections for use in some or all voting places in the county at some or all elections.

The board of county commissioners may decline to adopt and purchase or lease any voting system recommended by the county board of elections but may not adopt and purchase or lease any voting system that has not been approved by the county board of elections.

"**§ 163-165.9. Voting systems: powers and duties of county board of elections.**

Before approving the adoption and purchase or lease of any voting system by the board of county commissioners, the county board of elections shall do all of the following:

(1) Obtain a current financial statement from the proposed vendor or lessor of the voting system and send copies of the statement to the county attorney and the chief county financial officer.
(2) Witness a demonstration, in that county or at a site designated by the State Board of Elections, of the voting system by the proposed vendor or lessor and also witness a demonstration of at least one other type of voting system approved by the State Board of Elections.
(3) Test, during an election, the proposed voting system in at least one precinct in the county where the system would be used if adopted.

"**§ 163-165.10. Adequacy of voting system for each precinct.**

The county board of elections shall make available for each precinct voting place an adequate quantity of official ballots or equipment so that all voters qualified to vote at the precinct may do so. When the board of county commissioners has decided to adopt and purchase or lease a voting system for voting places under the provisions of G.S. 165-165.8, the board of county commissioners shall, as soon as practical, provide for each of those voting places sufficient equipment of the approved voting system in complete working order. If it is impractical to furnish each voting place with the equipment of the approved voting system, that which has been obtained may be placed in voting places chosen by the county board of elections. In that case, the county board of elections shall choose the voting places and allocate the equipment in a way that as nearly as practicable provides equal access to the voting system for each voter. The county board of elections shall appoint as many voting system custodians as may be necessary for the proper preparation of the system for each election and for its maintenance, storage, and care.

"Part 3. Procedures at the Voting Place.

"**§ 163-166. Hours for voting.**

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. In extraordinary circumstances, the county board of elections may direct that the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

"**§ 163-166.1. Duties of county board of elections.**

The county board of elections shall:

(1) Provide for the timely delivery to each voting place of the supplies, records, and equipment necessary for the conduct of the election.

(2) Ensure that adequate procedures are in place at each voting place for a safe, secure, fair, and honest election.

(3) Respond to precinct officials' questions and problems where necessary.

"**§ 163-166.2. Arrangement of the voting enclosure.**

Each voting enclosure shall contain at a minimum:

(1) A sufficient number of private spaces for all voters to mark their official ballots in secrecy.

(2) Adequate space and furniture for the separate functions of:

a. The checking of voter registration records.

b. The distribution of official ballots.

c. Private discussion with voters concerning irregular situations.

(3) A telephone or some facility for communication with the county board of elections.

The equipment and furniture in the voting enclosure shall be arranged so that it can be generally seen from the public space of the enclosure.

"**§ 163-166.3. Limited access to the voting enclosure.**

During the time allowed for voting in the voting place, only the following persons may enter the voting enclosure:

(1) An election official.
(2) An observer appointed pursuant to G.S. 163-45.
(3) A person seeking to vote in that voting place on that day but only while in the process of voting or seeking to vote.
(4) A voter in that precinct while entering or explaining a challenge pursuant to G.S. 163-87 or G.S. 163-88.
(5) A person authorized under G.S. 163-166.8 to assist a voter but, except as provided in subdivision (6) of this section, only while assisting that voter.
(6) Minor children of the voter under the age of 18, or minor children under the age of 18 in the care of the voter, but only while accompanying the voter and while under the control of the voter.
(7) Persons conducting or participating in a simulated election within the voting place or voting enclosure, if that simulated election is approved by the county board of elections.
(8) Any other person determined by election officials to have an urgent need to enter the voting enclosure but only to the extent necessary to address that need.

"**§ 163-166.4. Limitation on activity in the voting place and in a buffer zone around it.**

No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place. In determining the dimensions of that buffer zone for each voting place, the county board of elections shall, where practical, set the limit at 50 feet from the door of entrance to the voting place, measured when that door is closed, but in no event shall it set the limit at less than 25 feet. The county board of elections shall also, where practical, provide an area outside the buffer zone for each voting place in which persons or groups of persons may distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity. No later than 30 days before each election, the county board of elections shall make available to the public the following information concerning each voting place:

(1) The door from which the buffer zone is measured.
(2) The distance the buffer zone extends from that door.
(3) Any available information concerning political activity, including sign placement, that is permitted beyond the buffer zone.

"**§ 163-166.5. Procedures at voting place before voting begins.**

The State Board of Elections shall promulgate rules for precinct officials to set up the voting place before voting begins. Those rules shall emphasize:

(1) Continual participation or monitoring by officials of more than one party.
(2) Security of official ballots, records, and equipment.

(3) The appearance as well as the reality of care, efficiency, impartiality, and honest election administration.

The county boards of elections and precinct officials shall adhere to those procedures.

"**§ 163-166.6. Designation of tasks.**

The State Board of Elections shall promulgate rules for the delegation of tasks among the election officials at each precinct. Those rules shall emphasize:

(1) The need to place primary managerial responsibility upon the chief judge.

(2) The need to have maximum multiparty participation in all duties where questions of partisan partiality might be raised.

(3) The need to provide flexibility of management to the county board of elections and to the chief judge, in consideration of different abilities of officials, the different availability of officials, and the different needs of voters precinct by precinct.

"**§ 163-166.7. Voting procedures.**

(a) Checking Registration. – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots.

(b) Distribution of Official Ballots. – If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

(1) The voting system remains secure throughout the period voting is being conducted.

(2) Only properly voted official ballots are introduced into the voting system.

(3) No official ballots leave the voting enclosure during the time voting is being conducted there.

(4) All improperly voted official ballots are returned to the precinct officials and marked as spoiled.
(5) Voters leave the voting place promptly after voting.
(6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.
(7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
(8) The registration records are kept secure.
(9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.

"**§ 163-166.8. Assistance to voters.**

(a) Any registered voter qualified to vote in the election shall be entitled to assistance with entering and exiting the voting booth and in preparing ballots in accordance with the following rules:

(1) Any voter is entitled to assistance from the voter's spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild, as chosen by the voter.
(2) A voter in any of the following four categories is entitled to assistance from a person of the voter's choice, other than the voter's employer or agent of that employer or an officer or agent of the voter's union:
a. A voter who, on account of physical disability, is unable to enter the voting booth without assistance.
b. A voter who, on account of physical disability, is unable to mark a ballot without assistance.
c. A voter who, on account of illiteracy, is unable to mark a ballot without assistance.
d. A voter who, on account of blindness, is unable to enter the voting booth or mark a ballot without assistance.

(b) A qualified voter seeking assistance in an election shall, upon arriving at the voting place, request permission from the chief judge to have assistance, stating the reasons. If the chief judge determines that such assistance is appropriate, the chief judge shall ask the voter to point out and identify the person the voter desires to provide such assistance. If the identified person meets the criteria in subsection (a) of this section, the chief judge shall request the person indicated to render the assistance. The chief judge, one of the judges, or one of the assistants may provide aid to the voter if so requested, if the election official is not prohibited by subdivision (a)(2) of this section. Under no circumstances shall any precinct official be assigned to assist a voter qualified for assistance, who was not specified by the voter.

(c) A person rendering assistance to a voter in an election shall be admitted to the voting booth with the voter being assisted. The State Board of Elections shall

promulgate rules governing voter assistance, and those rules shall adhere to the following guidelines:

(1) The person rendering assistance shall not in any manner seek to persuade or induce any voter to cast any vote in any particular way.

(2) The person rendering assistance shall not make or keep any memorandum of anything which occurs within the voting booth.

(3) The person rendering assistance shall not, directly or indirectly, reveal to any person how the assisted voter marked ballots, unless the person rendering assistance is called upon to testify in a judicial proceeding for a violation of the election laws.

"**§ 163-166.9. Curbside voting.**

In any election or referendum, if any qualified voter is able to travel to the voting place, but because of age or physical disability and physical barriers encountered at the voting place is unable to enter the voting enclosure to vote in person without physical assistance, that voter shall be allowed to vote either in the vehicle conveying that voter or in the immediate proximity of the voting place. The State Board of Elections shall promulgate rules for the administration of this section.

"**§ 163-166.10. Procedures after the close of voting.**

The State Board of Elections shall promulgate rules for closing the voting place and delivering voting information to the county board of elections for counting, canvassing, and record maintenance. Those rules shall emphasize the need for the appearance as well as the reality of security, accuracy, participation by representatives of more than one political party, openness of the process to public inspection, and honesty. The rules, at a minimum, shall include procedures to ensure all of the following:

(1) The return and accurate accounting of all official ballots, regular, provisional, voted, unvoted, and spoiled, according to the provisions of Articles 15 and 16 of this Chapter.

(2) The certification of ballots and voter-authorization documents by precinct officials of more than one political party.

(3) The delivery to the county board of elections of registration documents and information gleaned through the voting process that would be helpful in the accurate maintenance of the voter registration records.

(4) The return to the county board of all issued equipment.

(5) The restoration of the voting place to the condition in which it was found."

SECTION 3.1. If Senate Bill 14, 2001 Session, becomes law, then G.S. 163-166.10(1) as enacted by Section 3 of this act reads as rewritten:

"(1) The return and accurate accounting of all official ballots, regular, provisional, voted, unvoted, and spoiled, according to the provisions of ~~Articles 15 and 16~~ Article 15A of this Chapter."

SECTION 4. G.S. 163-114 reads as rewritten:

"**§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position	Vacancy is to be filled by
Any elective State office	appointment of State executive committee of political party in which vacancy occurs
United States Senator	
A district office, including:	
Member of the United States House of Representatives	
Judge of district court	Appropriate district executive committee of political party in which vacancy occurs
District Attorney	
State Senator in a multi-county senatorial district	
Member of State House of Representatives in a multi-county representative district	
State Senator in a single-county senatorial district	County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote
Member of State House of Representatives in a single-county representative district	
Any elective county office	

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of ~~G.S. 163-139~~ G.S. 163-165.3(c) shall apply. If any person nominated as a candidate of a political party vacates such

nomination and such vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

SECTION 5. G.S. 163-209 reads as rewritten:

"**§ 163-209. Names of presidential electors not printed on ballots.**

The names of candidates for electors of President and Vice-President nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. In the case of the unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their names, ~~in accordance with the provisions of G.S. 163-140~~ there shall be printed on the ballot the names of the candidates for President and Vice-President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 shall, no later than 12:00 noon on the first Friday in August, file with the State Board of Elections the name of a candidate for Vice-President, whose name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State."

SECTION 6. G.S. 163-294(b) reads as rewritten:

"(b) In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. In both the primary and election, a voter should not mark more names for any office than there are positions to be filled by ~~election, as provided in G.S. 163-135(e) and G.S. 163-151(2).~~ election. If two or more candidates receiving the highest

number of votes each received the same number of votes, the board of elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the third day (Sunday excepted) following the primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5."

SECTION 7. G.S. 163-299(b) reads as rewritten:

"(b) The form of municipal ballots to be used in partisan municipal elections shall be the same as the form prescribed in this Chapter for the county ballot. ~~A nonpartisan municipal ballot shall be divided into sections according to the offices to be filled. Within each section the names of the candidates for that office shall be printed. At the left of each name shall be printed a voting square, and all voting squares on the ballot shall be arranged in a perpendicular line. On the face of the ballot, above the list of candidates and below the title of the ballot shall be printed in heavy black type the following instructions: "If you tear or deface or wrongly mark this ballot, return it and get another."~~

SECTION 8. G.S. 163-299(d) reads as rewritten:

"(d) The provisions of ~~G.S. 163-151(1), (2) and (3)~~ Articles 13A and 15A of this Chapter shall apply to ballots used in municipal primaries and elections in the same manner as it is applied to county ~~ballots provided, however, the exceptions contained in G.S. 163-151 shall be adhered to if applicable.~~ ballots."

SECTION 9. G.S. 163-332(a) reads as rewritten:

"(a) General. – In elections there shall be official ballots. The ballots shall be printed to conform to the requirement of ~~G.S. 163-140(c)~~ G.S. 163-165.6(c) and to show the name of each person who has filed notice of candidacy, and the office for which each aspirant is a candidate.

Only those who have filed the required notice of candidacy with the proper board of elections, and who have paid the required filing fee or qualified by petition, shall have their names printed on the official primary ballots. Only those candidates properly nominated shall have their names appear on the official general election ballots."

SECTION 10. Article 25 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-327.1. Rules when vacancies for superior court judge are to be voted on.**

If a vacancy occurs in a judicial district for any offices of superior court judge, and on account of the occurrence of such vacancy, there is to be an election for one or more terms in that district to fill the vacancy or vacancies, at that same election in accordance with G.S. 163-9 and Article IV, Section 19 of the North Carolina Constitution, the nomination and election shall be determined by the following special rules in addition to any other provisions of law:

(1) If the vacancy occurs prior to the opening of the filing period under G.S. 163-323(b), nominations shall be made by primary election as provided by this Article, without designation as to the vacancy.

(2) If the vacancy occurs beginning on opening of the filing period under G.S. 163-323(b), and ending on the sixtieth day before the general election, candidate filing shall be as provided by G.S. 163-329 without designation as to the vacancy.

(3) The general election ballot shall contain, without designation as to vacancy, spaces for the election to fill the vacancy where nominations were made or candidates filed under subdivision (1) or (2) of this section. The persons receiving the highest numbers of votes equal to the term or terms to be filled shall be elected to the term or terms."

SECTION 11. This act becomes effective January 1, 2002.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 17

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S17-ARR-77 [v.4]

Date _____,2001

Comm. Sub. [YES]
Amends Title [YES]
Fourth Edition

Representative Justus

moves to amend the bill on page 1, line 9,
by inserting after the semicolon the following:

"AND TO PROVIDE FOR VOTER IDENTIFICATION AT THE POLLS;"

on page 10, line 23,
by inserting after the period the following:

"A voter shall display one of the following types of valid identification:

(1) A North Carolina drivers license.
(2) A special identification card issued under G.S. 20-37.7.
(3) A passport.
(4) An identification card issued by the United States Department of Defense.
(5) A social security card and one other type of identification showing the name and a picture of the voter.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 17

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S17-ARR-77 [v.4]

A voter who does not show one of those types of identification shall be allowed to mark a ballot. That ballot shall be sealed in an envelope on which it shall be noted that the voter did not display identification in compliance with the statute. The county board of elections shall determine if the voter is eligible to cast the ballot and, if so, shall count it, and if not, shall not count it. The State Board of Elections shall adopt rules which shall include instructions for county boards of elections in methods to determine the eligibility of persons who apply to vote without presenting identification."

SIGNED Rep Justus (agt)
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

VISITOR REGISTRATION SHEET

Election Law + Campaign Finance Reform

Name of Committee

Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cindy Hutton	CBA / ABate of NC
Joy Barbour	Concerned Bikers Assoc./ABATE of N.C.
[illegible]	CBA/ABATE NC High Point
[illegible]	Capitol Group
Gary Bartlett	State Board of Elections
John Phelps	NCLM
Alan Briggs	SOS
[illegible]	CCNC
[illegible]	NC-NW
John Cyrus	N.C. State Grange
Bill Cook	CPA
Ruth Sophia	NCDOT
Scott [illegible]	AP

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

August 22, 2001
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

HB 106 – School Election Option – Representative Goodwin

STAFF: **Bill Gilkeson**
Erika Churchill

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday August 22, 2001**

TIME: **11:00 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 106 – School Election Option – Representative Goodwin

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **2:00 pm on August 17, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust, Committee Assistant

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002

BILL SPONSOR: **Representative Goodwin**
Senator Hartsell

OFFICE: **503**
518

NOTIFICATION DATE: **August 17, 2001**

The House Committee on Election Law and Campaign Finance Reform will meet as follows:

DAY & DATE: **Wednesday, August 22, 2001**

TIME: **11:00 am**

LOCATION: **1228**

Your Bill (or Bills) will be discussed at this time:

HB 106 School Election Option

We would like to have you attend this meeting.

Representative Alexander - -
Chairman

Ann Faust (Committee Assistant)

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING
August 22, 2001
Room 1228
11:00 a.m.

The meeting of the Election Law and Campaign Finance Reform Committee was called to order by the Chair, Representative Alexander. Those present were Representatives Alexander, Michaux, Vice Chair, Nesbitt, Vice Chair, Arnold, Blue, Bonner, Goodwin, Justus, Kiser, Morris, Rayfield, Rogers, Starnes, Weatherly and Weiss.

Representative Alexander introduced Representative Goodwin and Senator Hartsell to present HB 106 AN ACT TO GIVE LOCAL BOARDS OF EDUCATION AUTHORITY TO CHANGE THE MANNER OF THEIR ELECTION INA MANNER MODELED AFTER AUTHORITY ALREADY GIVEN TO CITY AND COUNTY GOVERNING BOARDS for concurrence. Representative Goodwin explained that the original HB 106 passed the House this Session and dealt with school board law and a Senate companion bill passed, and a House version of 106 was in the Senate, and a vehicle was needed for a Senate bill on school board governance, Representative Goodwin agreed that Senator Hartsell's SB 789 which did not make crossover could be placed in HB 106. Representative Alexander introduced Senator Hartsell who explained the bill. Currently school boards are defined by statute to be made up of five members voted on countywide, although there are very few boards established in this fashion for different reasons. Currently, cities and counties may structure boards in particular ways, subject to voting rights issues and merger requirements. The General Assembly would continue to have oversight. The variety in the bill reflects the variety already in existence – number of members, mode of election, date of election, type of election, election of chairman separately from full board. The local board must adopt a resolution, notify the public and hold a public hearing on any change. A referendum on a provision would be held if 10% or 3,000 people (the lower number) petition for a referendum. A referendum is not required because a change may be minor and non-controversial. Discussion followed as to the reason for making changes. Senator Hartsell replied that following the census new regulations need to be established. The bill comes from the School Board Association and is really a matter of local control. Representative Starnes felt that the bill is too broad. After further discussion, Leanne Winner, Director of Governmental Relations for the School Board Association, was recognized to speak. She cited the following as reasons for the bill: timing of the census/demographic data; timing for the changes (while the General Assembly is in Session); giving school boards a tool to negotiate with the Department of Justice to avoid a costly lawsuit; if, hypothetically, a delegation did not get along, making changes could be impossible. Representative Bonner thought the bill was too broad and should require a referendum for changes in the established locally. Representative Starnes moved that the Committee do not concur. The motion failed.

The meeting was adjourned.

Martha Alexander, Committee Chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 5

HOUSE BILL 106

Committee Substitute Favorable 4/17/01
Third Edition Engrossed 4/25/01
Senate Judiciary I Committee Substitute Adopted 7/24/01
Fifth Edition Engrossed 7/31/01

Short Title: School Election Options. (Public)

Sponsors:

Referred to:

February 14, 2001

A BILL TO BE ENTITLED

AN ACT TO GIVE LOCAL BOARDS OF EDUCATION AUTHORITY TO CHANGE THE MANNER OF THEIR ELECTION IN A MANNER MODELED AFTER AUTHORITY ALREADY GIVEN TO CITY AND COUNTY GOVERNING BOARDS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 115C of the General Statutes is amended by adding several new sections to read:

"**§ 115C-37.2. Optional forms.**

Any local board of education may alter its form of government by adopting any one or combination of the options prescribed by this section:

(1) Terms of office of members of the local board of education: Members of the local board of education shall serve terms of office of two or four years. All of the terms need not be of the same length, and all of the terms need not expire in the same year.

(2) Number of members of the local board of education: The local board of education shall consist of any number of members no fewer than three nor more than 12.

(3) Mode of election of the local board of education:

a. All candidates shall be nominated and elected by all the qualified voters of the local school administrative unit.

b. The local school administrative unit shall be divided into single-member electoral districts; local board of education members shall be apportioned to the districts so that each member represents the same number of persons to the extent required by the one person, one vote mandate of the United States

Constitution, except for members apportioned to the local school administrative unit at large, if any; the qualified voters of each district shall nominate and elect candidates who reside in the district for seats apportioned to that district; and all the qualified voters of the local school administrative unit shall nominate and elect candidates apportioned to the local school administrative unit at large, if any.

c. The local school administrative unit shall be divided into single-member electoral districts; local board of education members shall be apportioned to the districts so that each member represents the same number of persons to the extent required by the one person, one vote mandate of the United States Constitution, except for members apportioned to the local school administrative unit at large; and candidates shall reside in and represent the districts according to the apportionment plan adopted, but all candidates shall be nominated and elected by all the qualified voters of the local school administrative unit.

d. The local school administrative unit shall be divided into electoral districts equal in number to one-half the number of local board of education seats; the local board of education seats shall be divided equally into "district seats" and "at-large seats", one each of which shall be apportioned to each district, so that each local board of education member represents the same number of persons to the extent required by the one person, one vote mandate of the United States Constitution, the qualified voters of each district shall nominate and elect candidates to the "district seats"; candidates for the "at-large seats" shall reside in and represent the districts according to the apportionment plan adopted, but all candidates for "at-large" seats shall be nominated and elected by all the qualified voters of the local school administrative unit.

e. The local school administrative unit shall be divided into single-member electoral districts; local board of education members shall be apportioned to the districts so that each member represents the same number of persons to the extent required by the one person, one vote mandate of the United States Constitution, except for members apportioned to the local school administrative unit at large, if any; in a nonpartisan primary, the qualified voters of each district shall nominate two candidates who reside in the district, and the qualified voters of the entire local school administrative unit shall nominate two candidates for each seat apportioned to the local school

administrative unit at large, if any; and all candidates shall be elected by all the qualified voters of the local school administrative unit.

If either of options b., c., d., or e. is adopted, the local board of education shall divide the local school administrative unit into the requisite number of single-member electoral districts according to the apportionment plan adopted and shall cause a map of the districts so laid out to be drawn up and filed in a manner similar to that provided by G.S. 160A-22 and G.S. 160A-23.

(4) Elections:

a. Partisan. – Local school administrative unit primary and general elections shall be conducted on a partisan basis as provided in Chapter 163 of the General Statutes for county boards of commissioners.

b. Nonpartisan plurality. – The results of local school administrative unit general elections shall be determined as provided in G.S. 163-292. If the board is elected in even-numbered years, the election shall be held either on the date of the primary or the date of the general election under G.S. 163-1. If the board is elected in odd-numbered years, the election shall be held on the date provided by G.S. 163-279.

c. Nonpartisan election and runoff election. – The results of local school administrative unit general elections and runoff elections shall be determined as provided in G.S. 163-293. If the board is elected in even-numbered years, the election shall be held on the date of the primary election under G.S. 163-1 and the runoff shall be held on the date of the second primary under G.S. 163-111. If the board is elected in odd-numbered years, the election shall be held on the date provided by G.S. 163-279.

d. Nonpartisan primary and election. – The results of local school administrative unit primary and general elections shall be determined as provided in G.S. 163-294. If the board is elected in even-numbered years, the primary shall be held on the date of the primary election under G.S. 163-1 and the general election shall be held on the date of the general election under G.S. 163-1. If the board is elected in odd-numbered years, the election shall be held on the date provided by G.S. 163-279.

Amendments to the form of government provided by this section do authorize changing the year of election from the odd-numbered to the even-numbered, or vice versa.

(5) Selection of chairman:

a. The chairman of the board shall be elected by the qualified voters of the local school administrative unit for a term of no fewer than two years nor more than four years.

b. The chairman of the board shall be elected by the board from among its membership to serve at its pleasure.

Under option a., the chairman of the board may be given the right to vote on all matters before the board or may be limited to voting only to break a tie. Under option b., the chairman of the board has the right to vote on all matters before the board unless board policy says otherwise. In both cases, the chairman of the board has no right to break a tie vote in which that person participated.

(6) If the board is elected in May, those members elected may assume office in:

a. July of that same calendar year; or

b. December of that same calendar year.

"**§ 115C-37.3. Amendment by resolution.**

(a) By following the procedure set out in this section, the local board of education may amend the local school administrative unit form of government by resolution to implement any of the optional forms set out in G.S. 115C-37.2. The local board of education shall first adopt a resolution of intent to consider a resolution amending the form of government. The resolution of intent shall describe the proposed form of government amendments briefly but completely and with reference to the pertinent provisions of G.S. 115C-37.2, but it need not contain the precise text of the form of government amendments necessary to implement the proposed changes. At the same time that a resolution of intent is adopted, the local board of education shall also call a public hearing on the proposed form of government amendments, the date of the hearing to be not more than 45 days after adoption of the resolution. A notice of the hearing shall be published at least once not less than 10 days prior to the date fixed for the public hearing and shall contain a summary of the proposed amendments. Following the public hearing but not earlier than the next regular meeting of the local board of education and not later than 60 days from the date of the hearing, the local board of education may adopt a resolution amending the form of government to implement the amendments proposed in the resolution of intent.

(b) The local board of education may, but shall not be required unless a referendum petition is received pursuant to G.S. 115C-37.4, to make any resolution adopted pursuant to this section effective only if approved by a vote of the people and may, by resolution adopted at the same time, call a special election for the purpose of submitting the resolution to a vote. The date fixed for the special election shall be not more than 90 days after adoption of the resolution.

(c) Within 10 days after a resolution is adopted under this section, the local board of education shall publish a notice stating that a resolution amending the form of government has been adopted and summarizing its contents and effect. If the resolution is made effective subject to a vote of the people, the local board of education shall

publish a notice of the election in accordance with G.S. 163-287 and need not publish a separate notice of adoption of the resolution.

(d) The local board of education may not commence proceedings under this section between the time of the filing of a valid initiative petition pursuant to G.S. 160A-104 and the date of any election called pursuant to such petition.

"**§ 115C-37.4. Referendum on form of government amendments by resolution.**

A resolution adopted under G.S. 115C-37.3 that is not made effective upon approval by a vote of the people shall be subject to a referendum petition. The local board of education shall submit a resolution adopted under G.S. 115C-37.3 to a vote of the people upon receipt of a referendum petition bearing the signatures and residence addresses of a number of qualified voters of the local school administrative unit equal to at least ten percent (10%) of the whole number of voters who are registered to vote in local school administrative unit elections according to the most recent figures certified by the State Board of Elections or 3,000, whichever is less. The date of the special election shall be fixed at not more than 120 nor fewer than 60 days after receipt of the petition. A referendum petition shall be addressed to the local board of education and shall identify the resolution to be submitted to a vote. A referendum petition must be filed with the local school administrative unit superintendent not later than 30 days after publication of the notice of adoption of the resolution.

"**§ 115C-37.5. Submission of propositions to voters; form of ballot.**

(a) A proposition to approve a resolution shall be printed on the ballot in substantially the following form:

"Shall the resolution (describe the effect of the resolution) be approved?

[ ] YES

[ ] NO"

The ballot shall be separate from all other ballots used at the election.

(b) If a majority of the votes cast on a proposition shall be in the affirmative, the plan contained therein shall be put into effect as provided in this Article. If a majority of the votes cast shall be against the proposition, the resolution or petition proposing the amendments shall be void and of no effect.

"**§ 115C-37.6. Amendment of form of government provisions dependent on form of government.**

The authority conferred by this Article to amend form of government provisions within the options set out in G.S. 115C-37.2 also includes authority to amend other form of government provisions dependent on the form of local school administrative unit government to conform them to the form of government amendments. By way of illustration and not limitation, if a form of government providing for a five-member local board of education is amended to increase the size of the local board of education to seven members, a form of government provision defining a quorum of the local board of education as three members shall be amended to define a quorum as four members.

"**§ 115C-37.7. Plan to continue for two years.**

Form of government amendments adopted as provided in this Article shall continue in force for at least two years after the beginning of the term of office of the officers elected thereunder.

"**§ 115C-37.8. Local school administrative unit officers to carry out plan.**

It shall be the duty of the local board of education, the local school administrative unit superintendent, and other local school administrative unit officials in office, and all boards of elections and election officials, when any plan of government is adopted as provided by this Article or is proposed for adoption, to comply with all requirements of this Article, to the end that all things may be done which are necessary for the nomination and election of the officers first to be elected under the new plan so adopted.

"**§ 115C-37.9. Effective date.**

The local board of education may submit new form of government amendments proposed under this Article at any regular or special election, or at a special election called for that sole purpose. Any amendment affecting the election of local school administrative unit officers shall be finally adopted and approved at least 90 days before the first election for local board of education members held thereunder.

"**§ 115C-37.10. Form of government to remain in force.**

The form of government of any local school administrative unit that adopts a new form of government as provided in this Article shall continue in full force and effect notwithstanding adoption of a new form of government, except to the extent modified by a resolution adopted under the authority conferred and pursuant to the procedures prescribed by this Article.

"**§ 115C-37.11. Filing certified true copies of form of government amendments.**

The local school administrative unit superintendent shall file a certified true copy of any form of government amendment adopted under this Article with the Secretary of State and the Legislative Library."

SECTION 2. G.S. 115C-35(a) reads as rewritten:

"(a) Except as otherwise altered in accordance with G.S. 115C-37.2, the ~~The~~ county board of education in each county shall consist of five members elected by the voters of the county at large for terms of four years: Provided, that where there are multiple local school administrative units located within the county, and unless the county board is responsible for appointing members of the board of education of a city administrative unit located within the county, only those voters who reside within the county school administrative unit boundary lines shall be eligible to vote for members of the county board of education. Where the county board is responsible for appointing members of the board of education of a city administrative unit located within the county, the voters residing within that city school administrative unit shall be eligible to vote for members of the county board of education.

The terms of office of the members of boards of education of all school administrative units in this State, who serve on June 25, 1975, shall continue until members are elected and qualified as provided in this section unless modified by local legislation."

SECTION 3. This act is effective when it becomes law.

Part 4. Modification of Form of Government.

§ 160A-101. Optional forms.

Any city may change its name or alter its form of government by adopting any one or combination of the options prescribed by this section:

(1) Name of the corporation:
The name of the corporation may be changed to any name not deceptively similar to that of another city in this State.

(2) Style of the corporation:
The city may be styled a city, town, or village.

(3) Style of the governing board:
The governing board may be styled the board of commissioners, the board of aldermen, or the council.

(4) Terms of office of members of the council:
Members of the council shall serve terms of office of either two or four years. All of the terms need not be of the same length, and all of the terms need not expire in the same year.

(5) Number of members of the council:
The council shall consist of any number of members not less than three nor more than 12.

(6) Mode of election of the council:

a. All candidates shall be nominated and elected by all the qualified voters of the city.

b. The city shall be divided into single-member electoral districts; council members shall be apportioned to the districts so that each member represents the same number of persons as nearly as possible, except for members apportioned to the city at large, if any; the qualified voters of each district shall nominate and elect candidates who reside in the district for seats apportioned to that district; and all the qualified voters of the city shall nominate and elect candidates apportioned to the city at large, if any.

c. The city shall be divided into single-member electoral districts; council members shall be apportioned to the districts so that each member represents the same number of persons as nearly as possible, except for members apportioned to the city at large; and candidates shall reside in and represent the districts according to the apportionment plan adopted, but all candidates shall be nominated and elected by all the qualified voters of the city.

d. The city shall be divided into electoral districts equal in number to one half the number of council seats; the council seats shall be divided equally into "ward seats" and "at-large seats," one each of which shall be apportioned to each district, so that each council member represents the same number of persons as nearly as possible; the qualified voters of each district shall nominate and elect candidates to the "ward seats"; candidates for the "at-large seats" shall reside in and represent the districts according to the apportionment plan adopted, but all candidates for "at-large" seats shall be nominated and elected by all the qualified voters of the city.

e. The city shall be divided into single-member electoral districts; council members shall be apportioned to the districts so that each member represents the same number of persons as nearly as possible, except for members apportioned to the city at large, if any; in a nonpartisan primary, the qualified voters of each district shall nominate two candidates who reside in the district, and the qualified voters of the entire city shall nominate two candidates for

each seat apportioned to the city at large, if any; and all candidates shall be elected by all the qualified voters of the city.

If either of options b, c, d or e is adopted, the council shall divide the city into the requisite number of single- member electoral districts according to the apportionment plan adopted, and shall cause a map of the districts so laid out to be drawn up and filed as provided by G.S. 160A-22 and 160A-23. No more than one half of the council may be apportioned to the city at large. An initiative petition may specify the number of single-member electoral districts to be laid out, but the drawing of district boundaries and apportionment of members to the districts shall be done in all cases by the council.

(7) Elections:

a. Partisan. – Municipal primaries and elections shall be conducted on a partisan basis as provided in G.S. 163- 291.

b. Nonpartisan Plurality. – Municipal elections shall be conducted as provided in G.S. 163-292.

c. Nonpartisan Election and Runoff Election. – Municipal elections and runoff elections shall be conducted as provided in G.S. 163-293.

d. Nonpartisan Primary and Election. – Municipal primaries and elections shall be conducted as provided in G.S. 163- 294.

(8) Selection of mayor:

a. The mayor shall be elected by all the qualified voters of the city for a term of not less than two years nor more than four years.

b. The mayor shall be selected by the council from among its membership to serve at its pleasure.

Under option a, the mayor may be given the right to vote on all matters before the council or he may be limited to voting only to break a tie. Under option b, the mayor has the right to vote on all matters before the council. In both cases the mayor has no right to break a tie vote in which he participated.

(9) Form of government:

a. The city shall operate under the mayor-council form of government in accordance with Part 3 of Article 7 of this Chapter.

b. The city shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of this Chapter and any charter provisions not in conflict therewith. (1969, c. 629, s. 2; 1971, c. 698, s. 1; c. 1076, s. 1; 1973, c. 426, s. 19; c. 1001, ss. 1, 2; 1975, c. 19, s. 64; c. 664, s. 6.)

Part 4. Modification in the Structure of the Board of Commissioners.

§ 153A-58. Optional structures.

A county may alter the structure of its board of commissioners by adopting one or any combination of the options prescribed by this section.

(1) Number of members of the board of commissioners: The board may consist of any number of members not less than three, except as limited by subdivision (2)d of this section.

(2) Terms of office of members of the board of commissioners:
- a. Members shall be elected for two-year terms of office.
- b. Members shall be elected for four-year terms of office.
- c. Members shall be elected for overlapping four-year terms of office.
- d. The board shall consist of an odd number of members, who are elected for a combination of four- and two-year terms of office, so that a majority of members is elected each two years. This option may be used only if all members of the board are nominated and elected by the voters of the entire county, and only if the chairman of the board is elected by and from the members of the board.

(3) Mode of election of the board of commissioners:
- a. The qualified voters of the entire county shall nominate all candidates for and elect all members of the board.

For options b, c, and d, the county shall be divided into electoral districts, and board members shall be apportioned to the districts so that the quotients obtained by dividing the population of each district by the number of commissioners apportioned to the district are as nearly equal as practicable.
- b. The qualified voters of each district shall nominate candidates and elect members who reside in the district for seats apportioned to that district; and the qualified voters of the entire county shall nominate candidates and elect members apportioned to the county at large, if any.
- c. The qualified voters of each district shall nominate candidates who reside in the district for seats apportioned to that district, and the qualified voters of the entire county shall nominate candidates for seats apportioned to the county at large, if any; and the qualified voters of the entire county shall elect all the members of the board.
- d. Members shall reside in and represent the districts according to the apportionment plan adopted, but the qualified voters of the entire county shall nominate all candidates for and elect all members of the board.

If any of options b, c, or d is adopted, the board shall divide the county into the requisite number of electoral districts according to the apportionment plan adopted, and shall cause a delineation of the districts so laid out to be drawn up and filed as required by G.S. 153A-20. No more than half the board may be apportioned to the county at large.

(4) Selection of chairman of the board of commissioners:
- a. The board shall elect a chairman from among its membership to serve a one-year term, as provided by G.S. 153A-39.
- b. The chairmanship shall be a separate office. The qualified voters of the entire county nominate candidates for and elect the chairman for a two- or four-year term. (1927, c. 91, s. 3; 1969, c. 717, s. 1; 1973, c. 822, s. 1.)

VISITOR REGISTRATION SHEET

Election Law & Campaign Finance Reform 8/22/01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CI ERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	[illegible]
MICHAEL CROWELL	LAWYER, RALEIGH
Leanne Winner	NCSBA
Steve Hoffman	NCSBA
Ann Bellamy	Bellamy Associates
Susan Harrison	WCPSS
Peyton Maynard	Maynard Associates
ELLIS HANKINS	NCLM
R. Paul Wilms	NCHBA
Regina Francis	Meck Cty
[signature]	Bode & Assoc.
Linda Dunn	NCASA

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

September 12, 2001
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

HB 106 – School Election Option – Representative Goodwin

STAFF: Bill Gilkeson
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

September 12, 2001

Room 1228
11:00 a.m.

The meeting was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Arnold, Bonner, Daughtry, Decker, Goodwin, Justus, Kiser, Rayfield, Rogers, Starnes, and Weiss.

Representative Alexander thanked staff and the sergeants at arms for their assistance.

Representative Alexander asked Representative Goodwin to continue presentation of HB 106 AN ACT TO GIVE LOCAL BOARDS OF EDUCATION AUTHORITY TO CHANGE THE MANNER OF THEIR ELECTION IN A MANNER MODELED AFTER AUTHORITY ALREADY GIVEN TO CITY AND COUNTY GOVERNING BOARDS which was explained by Senator Hartsell at the meeting on August 22. After discussion, Representative Michaux moved not to concur with the Senate Committee Substitute. The motion passed.

The meeting was adjourned.

Martha Alexander, Committee Chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 5

HOUSE BILL 106

Committee Substitute Favorable 4/17/01
Third Edition Engrossed 4/25/01
Senate Judiciary I Committee Substitute Adopted 7/24/01
Fifth Edition Engrossed 7/31/01

Short Title: School Election Options. (Public)

Sponsors:

Referred to:

February 14, 2001

A BILL TO BE ENTITLED

AN ACT TO GIVE LOCAL BOARDS OF EDUCATION AUTHORITY TO CHANGE THE MANNER OF THEIR ELECTION IN A MANNER MODELED AFTER AUTHORITY ALREADY GIVEN TO CITY AND COUNTY GOVERNING BOARDS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 115C of the General Statutes is amended by adding several new sections to read:

"**§ 115C-37.2. Optional forms.**

Any local board of education may alter its form of government by adopting any one or combination of the options prescribed by this section:

(1) Terms of office of members of the local board of education:
Members of the local board of education shall serve terms of office of two or four years. All of the terms need not be of the same length, and all of the terms need not expire in the same year.

(2) Number of members of the local board of education:
The local board of education shall consist of any number of members no fewer than three nor more than 12.

(3) Mode of election of the local board of education:

a. All candidates shall be nominated and elected by all the qualified voters of the local school administrative unit.

b. The local school administrative unit shall be divided into single-member electoral districts; local board of education members shall be apportioned to the districts so that each member represents the same number of persons to the extent required by the one person, one vote mandate of the United States

Constitution, except for members apportioned to the local school administrative unit at large, if any; the qualified voters of each district shall nominate and elect candidates who reside in the district for seats apportioned to that district; and all the qualified voters of the local school administrative unit shall nominate and elect candidates apportioned to the local school administrative unit at large, if any.

c. The local school administrative unit shall be divided into single-member electoral districts; local board of education members shall be apportioned to the districts so that each member represents the same number of persons to the extent required by the one person, one vote mandate of the United States Constitution, except for members apportioned to the local school administrative unit at large; and candidates shall reside in and represent the districts according to the apportionment plan adopted, but all candidates shall be nominated and elected by all the qualified voters of the local school administrative unit.

d. The local school administrative unit shall be divided into electoral districts equal in number to one-half the number of local board of education seats; the local board of education seats shall be divided equally into "district seats" and "at-large seats", one each of which shall be apportioned to each district, so that each local board of education member represents the same number of persons to the extent required by the one person, one vote mandate of the United States Constitution, the qualified voters of each district shall nominate and elect candidates to the "district seats"; candidates for the "at-large seats" shall reside in and represent the districts according to the apportionment plan adopted, but all candidates for "at-large" seats shall be nominated and elected by all the qualified voters of the local school administrative unit.

e. The local school administrative unit shall be divided into single-member electoral districts; local board of education members shall be apportioned to the districts so that each member represents the same number of persons to the extent required by the one person, one vote mandate of the United States Constitution, except for members apportioned to the local school administrative unit at large, if any; in a nonpartisan primary, the qualified voters of each district shall nominate two candidates who reside in the district, and the qualified voters of the entire local school administrative unit shall nominate two candidates for each seat apportioned to the local school

administrative unit at large, if any; and all candidates shall be elected by all the qualified voters of the local school administrative unit.

If either of options b., c., d., or e. is adopted, the local board of education shall divide the local school administrative unit into the requisite number of single-member electoral districts according to the apportionment plan adopted and shall cause a map of the districts so laid out to be drawn up and filed in a manner similar to that provided by G.S. 160A-22 and G.S. 160A-23.

(4) Elections:

a. Partisan. – Local school administrative unit primary and general elections shall be conducted on a partisan basis as provided in Chapter 163 of the General Statutes for county boards of commissioners.

b. Nonpartisan plurality. – The results of local school administrative unit general elections shall be determined as provided in G.S. 163-292. If the board is elected in even-numbered years, the election shall be held either on the date of the primary or the date of the general election under G.S. 163-1. If the board is elected in odd-numbered years, the election shall be held on the date provided by G.S. 163-279.

c. Nonpartisan election and runoff election. – The results of local school administrative unit general elections and runoff elections shall be determined as provided in G.S. 163-293. If the board is elected in even-numbered years, the election shall be held on the date of the primary election under G.S. 163-1 and the runoff shall be held on the date of the second primary under G.S. 163-111. If the board is elected in odd-numbered years, the election shall be held on the date provided by G.S. 163-279.

d. Nonpartisan primary and election. – The results of local school administrative unit primary and general elections shall be determined as provided in G.S. 163-294. If the board is elected in even-numbered years, the primary shall be held on the date of the primary election under G.S. 163-1 and the general election shall be held on the date of the general election under G.S. 163-1. If the board is elected in odd-numbered years, the election shall be held on the date provided by G.S. 163-279.

Amendments to the form of government provided by this section do authorize changing the year of election from the odd-numbered to the even-numbered, or vice versa.

(5) Selection of chairman:

a. The chairman of the board shall be elected by the qualified voters of the local school administrative unit for a term of no fewer than two years nor more than four years.

b. The chairman of the board shall be elected by the board from among its membership to serve at its pleasure.

Under option a., the chairman of the board may be given the right to vote on all matters before the board or may be limited to voting only to break a tie. Under option b., the chairman of the board has the right to vote on all matters before the board unless board policy says otherwise. In both cases, the chairman of the board has no right to break a tie vote in which that person participated.

(6) If the board is elected in May, those members elected may assume office in:

a. July of that same calendar year; or

b. December of that same calendar year.

"**§ 115C-37.3. Amendment by resolution.**

(a) By following the procedure set out in this section, the local board of education may amend the local school administrative unit form of government by resolution to implement any of the optional forms set out in G.S. 115C-37.2. The local board of education shall first adopt a resolution of intent to consider a resolution amending the form of government. The resolution of intent shall describe the proposed form of government amendments briefly but completely and with reference to the pertinent provisions of G.S. 115C-37.2, but it need not contain the precise text of the form of government amendments necessary to implement the proposed changes. At the same time that a resolution of intent is adopted, the local board of education shall also call a public hearing on the proposed form of government amendments, the date of the hearing to be not more than 45 days after adoption of the resolution. A notice of the hearing shall be published at least once not less than 10 days prior to the date fixed for the public hearing and shall contain a summary of the proposed amendments. Following the public hearing but not earlier than the next regular meeting of the local board of education and not later than 60 days from the date of the hearing, the local board of education may adopt a resolution amending the form of government to implement the amendments proposed in the resolution of intent.

(b) The local board of education may, but shall not be required unless a referendum petition is received pursuant to G.S. 115C-37.4, to make any resolution adopted pursuant to this section effective only if approved by a vote of the people and may, by resolution adopted at the same time, call a special election for the purpose of submitting the resolution to a vote. The date fixed for the special election shall be not more than 90 days after adoption of the resolution.

(c) Within 10 days after a resolution is adopted under this section, the local board of education shall publish a notice stating that a resolution amending the form of government has been adopted and summarizing its contents and effect. If the resolution is made effective subject to a vote of the people, the local board of education shall

publish a notice of the election in accordance with G.S. 163-287 and need not publish a separate notice of adoption of the resolution.

(d) The local board of education may not commence proceedings under this section between the time of the filing of a valid initiative petition pursuant to G.S. 160A-104 and the date of any election called pursuant to such petition.

"**§ 115C-37.4. Referendum on form of government amendments by resolution.**

A resolution adopted under G.S. 115C-37.3 that is not made effective upon approval by a vote of the people shall be subject to a referendum petition. The local board of education shall submit a resolution adopted under G.S. 115C-37.3 to a vote of the people upon receipt of a referendum petition bearing the signatures and residence addresses of a number of qualified voters of the local school administrative unit equal to at least ten percent (10%) of the whole number of voters who are registered to vote in local school administrative unit elections according to the most recent figures certified by the State Board of Elections or 3,000, whichever is less. The date of the special election shall be fixed at not more than 120 nor fewer than 60 days after receipt of the petition. A referendum petition shall be addressed to the local board of education and shall identify the resolution to be submitted to a vote. A referendum petition must be filed with the local school administrative unit superintendent not later than 30 days after publication of the notice of adoption of the resolution.

"**§ 115C-37.5. Submission of propositions to voters; form of ballot.**

(a) A proposition to approve a resolution shall be printed on the ballot in substantially the following form:

"Shall the resolution (describe the effect of the resolution) be approved?

[ ] YES

[ ] NO"

The ballot shall be separate from all other ballots used at the election.

(b) If a majority of the votes cast on a proposition shall be in the affirmative, the plan contained therein shall be put into effect as provided in this Article. If a majority of the votes cast shall be against the proposition, the resolution or petition proposing the amendments shall be void and of no effect.

"**§ 115C-37.6. Amendment of form of government provisions dependent on form of government.**

The authority conferred by this Article to amend form of government provisions within the options set out in G.S. 115C-37.2 also includes authority to amend other form of government provisions dependent on the form of local school administrative unit government to conform them to the form of government amendments. By way of illustration and not limitation, if a form of government providing for a five-member local board of education is amended to increase the size of the local board of education to seven members, a form of government provision defining a quorum of the local board of education as three members shall be amended to define a quorum as four members.

"**§ 115C-37.7. Plan to continue for two years.**

Form of government amendments adopted as provided in this Article shall continue in force for at least two years after the beginning of the term of office of the officers elected thereunder.

"**§ 115C-37.8. Local school administrative unit officers to carry out plan.**

It shall be the duty of the local board of education, the local school administrative unit superintendent, and other local school administrative unit officials in office, and all boards of elections and election officials, when any plan of government is adopted as provided by this Article or is proposed for adoption, to comply with all requirements of this Article, to the end that all things may be done which are necessary for the nomination and election of the officers first to be elected under the new plan so adopted.

"**§ 115C-37.9. Effective date.**

The local board of education may submit new form of government amendments proposed under this Article at any regular or special election, or at a special election called for that sole purpose. Any amendment affecting the election of local school administrative unit officers shall be finally adopted and approved at least 90 days before the first election for local board of education members held thereunder.

"**§ 115C-37.10. Form of government to remain in force.**

The form of government of any local school administrative unit that adopts a new form of government as provided in this Article shall continue in full force and effect notwithstanding adoption of a new form of government, except to the extent modified by a resolution adopted under the authority conferred and pursuant to the procedures prescribed by this Article.

"**§ 115C-37.11. Filing certified true copies of form of government amendments.**

The local school administrative unit superintendent shall file a certified true copy of any form of government amendment adopted under this Article with the Secretary of State and the Legislative Library."

SECTION 2. G.S. 115C-35(a) reads as rewritten:

"(a) Except as otherwise altered in accordance with G.S. 115C-37.2, the ~~The~~ county board of education in each county shall consist of five members elected by the voters of the county at large for terms of four years: Provided, that where there are multiple local school administrative units located within the county, and unless the county board is responsible for appointing members of the board of education of a city administrative unit located within the county, only those voters who reside within the county school administrative unit boundary lines shall be eligible to vote for members of the county board of education. Where the county board is responsible for appointing members of the board of education of a city administrative unit located within the county, the voters residing within that city school administrative unit shall be eligible to vote for members of the county board of education.

The terms of office of the members of boards of education of all school administrative units in this State, who serve on June 25, 1975, shall continue until members are elected and qualified as provided in this section unless modified by local legislation."

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 106:
School Election Options.

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Rep. Goodwin
Date:	August 22, 2001	**Summary by:**	R. Erika Churchill
Version:	Fifth Edition		Committee Co-Counsel

SUMMARY: House Bill 106 would give local boards of education authority to change their form of government and the manner of their elections. It is modeled after authority already given to city and county governing boards. The bill is before the House Election Law and Campaign Finance Reform Committee for concurrence.

CURRENT LAW: G.S. 115C-5(6) defines "local school administrative unit" as a subdivision of the public school system which is governed by a local board of education. It may be a city school administrative unit, a county school administrative unit, or a city-county school administrative unit. G.S. 115C-35 establishes that county boards of education shall consist of 5 members who serve 4 year terms elected by the voters of the county at large. Board members are elected in nonpartisan elections under G.S. 115C-37 in some counties and in partisan elections in other counties.

G.S. 153A-58 gives counties the authority to modify their forms of government. G.S. 160A-101 et. seq., gives cities the authority to modify their forms of government. House Bill 106 most closely resembles the authority granted to cities in Chapter 160A. (See applicable statutes attached.)

BILL ANALYSIS:

Section 1 of the bill provides that a local board of education may alter its form of government with regard to board members' terms of office and the number of total board members. With regard to modes of elections, local boards of education may select from five different formats:

1. General at-large voting.
2. Single-member districts with potential at-large members where voters select candidates who reside in their district and at-large candidates.
3. Single-member districts with at-large members; representation by adopted apportionment plan but election by all voters.
4. Electoral districts equal in number to half the board seats; board divided equally between "district seats" and "at-large" seats; each electoral district has two seats, one of each category; voters elect their district board representative and all voters select at-large representatives.
5. Hybrid single-member/electoral districts plan with potential at-large members; in a nonpartisan primary voters will select two candidates for each district for district representation and all voters shall select two candidates for each seat designated at-large.

For choices b, c, d, or e, a districting will have to be adopted and maps will have to drawn and filed.

The time of elections will be determined by which type of elections local boards of education use: partisan; nonpartisan plurality; nonpartisan election and runoff election; or nonpartisan primary and election. For most of these, whether the board is elected in even-numbered years or odd-numbered years determines the statutory scheme setting the exact date of elections.

The bill gives boards options for determining how a board chairperson is elected. The chosen option will govern the chairperson's voting power. The bill provides a procedure whereby a local board of education may amend the local school administrative unit form of government by resolution to implement any of the optional forms of government provided. The bill provides for a referendum of these forms of government amendments by resolution. The bill provides the ballot question and applicable procedures. Any amendments affecting a school board election must be finally adopted and approved at least 90 days prior to that election.

Section 2 of the bill makes a conforming change to the presumptive form of county school board organization.

EFFECTIVE DATE: When it becomes law.

*O. Walker Reagan substantially contributed to this summary.

H106-SMST-001

VISITOR REGISTRATION SHEET

Election Laws & Campg. Reform — 9-12-01
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Don Wright	State Bd of Elections
Jannie Woodlief	State Bd. of Education
Peter Hoffman	NCSBA
ELLIS HANKINS	NCLM
Susan Harrison	WCBS
Joanne Wanna	NCSBA
Richard Wilms	NCHBA
MICHAEL CROWELL	LAWYER, RALEIGH
Finis Dupree	NCASA
Ronnie Moore	N.C. Democratic Party

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday October 10, 2001**

TIME: **11:00 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 1195 – Annual Absentee/Forsyth Superior Ct. Judge– Representative Blue

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **4:40 pm on October 9, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust, Committee Assistant

Ann Faust (Rep. Alexander)

From: Ann Faust (Rep. Alexander)
Sent: Tuesday, October 23, 2001 4:37 PM
Subject: Election Law meeting notice for
Importance: High

CHANGE OF TIME FOR MEETING

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday October 24, 2001**

TIME: **8:30 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 1195 – Annual Absentee/Forsyth Superior Ct. Judge– Representative Blue

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **4:36 pm on October 23, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust, Committee Assistant

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

October 10, 2001
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

HB 1195 – Annual Absentee/Forsyth Superior Ct. Judge – Representative Blue

STAFF: Bill Gilkeson
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

October 10, 2001

Room 1228
11:00 a.m.

The meeting was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Blue, Bonner, Church, Decker, Goodwin, Kiser, Rayfield, Rogers, Starnes, Weatherly and Weiss.

Representative Alexander thanked staff and the sergeants at arms for their assistance.

Representative Alexander reported that the bill to be considered, Representative Blue's HB 1195 Annual Absentee/Forsyth Superior Ct. Judge, has passed the House and was returned to the Committee from the Senate for concurrence or non-concurrence. She introduced Representative Michaux to explain the Senate changes. The Senate added **Section 3** which realigned the precincts in Wake County for the election of one Superior Court Judge. One precinct was non-contiguous and that error was repaired. Discussion followed in which Representative Decker, from Wake County, explained and agreed with the realignment. Representative Michaux moved for concurrence.

Representative Blue then explained the changes to **Section 2** requiring that in order to obtain an absentee ballot, the voter or person designated by the voter had to request the ballot in writing or make the request on a form supplied by the County Board of Elections.

After discussion, the motion for concurrence with the Senate bill was passed.

The meeting was adjourned.

Martha Alexander, Committee Chair

Ann Faust, Committee Assistant

HOUSE BILL 1195:
Annual Absentee/Forsyth Superior Ct. Judge

BILL ANALYSIS

Committee:	House Election Laws	**Introduced by:**	Representative Blue
Date:	October 9, 2001	**Summary by:**	R. Erika Churchill
Version:	H1195-SMST-003		Committee Counsel

SUMMARY: ***The bill would allow a voter who is sick or physically disabled to request that the application for absentee ballot be honored for all primaries and elections in the calendar year of the date of the application and makes clarifying changes to the request process. The bill would also realign the superior court judge districts in Forsyth County.***

BILL ANALYSIS:

Section 1. The proposed committee substitute would allow an annual application for an absentee ballot by a voter who is sick or physically disabled, who states that the sickness or physical disability is expected to last for the requesting to vote absentee due to sickness or disability to request that the application be honored for all primaries and elections in the calendar year from the date of the application. Currently the application would be valid only for the primary or election at hand.

Section 2. The proposed committee substitute would clarify the manner in which the application for an absentee ballot is made. The request would need to be written, and done by the voter or the voter's authorized representative.

Sections 3 and 4. The proposed committee substitute would realign the superior court judge districts in Forsyth County, and make conforming changes.

EFFECTIVE DATE: With respect to the realignment of the Forsyth County superior court judge districts, the act would apply to appointments, primaries and elections on or after January 1, 2002. The remainder of the act would apply to primaries and elections held on or after January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 4

HOUSE BILL 1195

Second Edition Engrossed 4/26/01
Senate Judiciary I Committee Substitute Adopted 10/2/01
Corrected Copy 10/3/01

Short Title: Annual Absentee/Forsyth Superior Ct. Judge. (Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO GIVE ILL AND DISABLED CIVILIANS THE SAME RIGHT AS MILITARY PERSONNEL TO REQUEST ABSENTEE BALLOTS FOR AN ENTIRE CALENDAR YEAR AND BY PRESCRIBING A METHOD FOR MAKING ABSENTEE BALLOT REQUESTS, AND TO REALIGN THE SUPERIOR COURT DISTRICTS IN FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-226 is amended by adding a new subsection to read:

"(a2) Annual Request by Person With Sickness or Physical Disability. – If the applicant so requests and reports in the application that the voter has a sickness or physical disability that is expected to last the remainder of the calendar year, the application shall constitute a request for an absentee ballot for all of the primaries and elections held during the calendar year when the application is received."

SECTION 2. Article 20 of the General Statutes is amended by adding a new section to read:

"**§ 163-230.2. Method of requesting absentee ballots.**

(a) Valid Types of Written Requests. – A written request for an absentee ballot as required by G.S. 163-230.1 is valid only if it is written entirely by the requester personally, or is on a form generated by the county board of elections and signed by the requester. The county board of elections shall issue a request form only to the voter seeking to vote by absentee ballot or to a person authorized by G.S. 163-230.1 to make a request for the voter. If a requester, due to disability or illiteracy, is unable to complete a written request, that requester may receive assistance in writing that request from an individual of that requester's choice.

(b) Invalid Types of Written Requests. – A request is not valid if it does not comply with subsection (a) of this section. If a county board of elections receives a

request for an absentee ballot that does not comply with subsection (a) of this section, the board shall not issue an application and ballot under G.S. 163-230.1.

(c) Rules by State Board. – The State Board of Elections shall adopt rules for the enforcement of this section."

SECTION 3. G.S. 7A-41(b) reads as rewritten:

"(b) For superior court districts of less than a whole county, or with part of one county with part of another, the composition of the district and the number of judges is as follows:

(1) Superior Court District 7B consists of County Commissioner Districts 1, 2 and 3 of Wilson County, Blocks 127 and 128 of Census Tract 6 of Wilson County, and Townships 12 and 14 of Edgecombe County. It has one judge.

(2) Superior Court District 7C consists of the remainder of Edgecombe and Wilson Counties not in Judicial District 7B. It has one judge.

(3) Superior Court District 10A consists of Wake County Precincts 01-12, 01-13, 01-14, 01-18, 01-19, 01-20, 01-22, 01-25, 01-26, 01-28, 01-34, 01-35, 01-40, 01-50, 17-03, and 17-07. It has two judges.

(4) Superior Court District 10B consists of Wake County Precincts 01-01, 01-02, 01-03, 01-04, 01-05, 01-06, 01-07, 01-07A, 01-09, 01-10, 01-11, 01-16, 01-21, 01-23, 01-27, 01-29, 01-31, 01-32, 01-33, 01-36, 01-41, 01-48, 01-49, 03-00, 04-01, 04-02, 04-03, 04-04, 04-05, 04-06, 04-07, 04-08, 04-09, 04-10, 04-11, 04-12, 04-13, 04-14, 04-15, 04-16, 04-17, 04-18, 04-19, 04-20, 05-01, 05-02, 06-01, 06-02, 06-03, 07-01, 07-10, 11-01, 11-02, 12-01, 12-02, 12-03, 12-04, 12-05, 12-06, 18-01, 18-02, 18-03, 18-04, 18-05, 18-06, 18-07, 18-08, 20-01, 20-02, 20-03, 20-04, 20-05, 20-06, 20-07, 20-08, 20-09, and 20-10. It has two judges.

(5) Superior Court District 10C consists of Wake County Precincts 02-01, 02-02, 02-03, 02-04, 02-05, 02-06, 07-02, 07-12, 08-01, 08-02, 08-03, 08-04, 08-05, 08-06, 08-07, 08-08, 09-01, 09-02, 09-03, 10-01, 10-02, 10-03, 10-04, 14-01, 14-02, 15-01, 15-02, 15-03, 15-04, 16-01, 16-02, 16-03, 16-04, 16-05, 16-06, 16-07, 19-01, 19-02, 19-03, 19-04, 19-05, 19-06, 19-07, and 19-08. It has one judge.

(6) Superior Court District 10D consists of Wake County Precincts 01-15, 01-17, 01-30, 01-37, 01-38, 01-39, 01-42, 01-43, 01-44, 01-45, 01-46, 01-47, 01-51, 07-03, 07-04, 07-05, 07-06, 07-07, 07-07A, 07-09, 07-11, 13-01, 13-02, 13-03, 13-04, 13-05, 17-01, 17-02, 17-04, 17-05, 17-06, and 17-08. It has one judge.

(7) Superior Court District 12A consists of that part of Cross Creek Precinct #18 north of Raeford Road, Montclair Precinct, that part of Precinct 71-1 not in Judicial District 12B, Precinct 71-2, Morganton #2

Precinct, Cottonade Precinct, Cumberland Precincts 1 and 2, and Brentwood Precinct. It has one judge.

(8) Superior Court District 12B consists of all of State House of Representatives District 17, except for Westarea Precinct, and it also includes that part of Cross Creek Precinct #15 east of Village Drive. It has one judge.

(9) Superior Court District 12C consists of the remainder of Cumberland County not in Superior Court Districts 12A or 12B. It has two judges.

(10) Superior Court District 14A consists of Durham Precincts 9, 11, 12, 13, 14, 15, 18, 34, 40, 41, and 42, and that part of Durham Precinct 39 east of North Carolina Highway #751. It has one judge.

(11) Superior Court District 14B consists of the remainder of Durham County not in Superior Court District 14A. It has three judges.

(12) Superior Court District 18A consists of Fentress Precincts 1 and 2; Greensboro Precincts 4, 5, 6, 46, 52, 67, 68, 69, 70, 71, 72, 73, 74, and 75; North Clay Precinct; Pleasant Garden Precincts 1 and 2; and South Clay Precinct. It has one judge.

(13) Superior Court District 18B consists of High Point Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27; HP Precinct; Jamestown Precincts 1 and 5; North Deep River Precinct; and South Deep River Precinct. It has one judge.

(14) Superior Court District 18C consists of Center Grove Precincts 1, 2, and 3; Friendship Precincts 1, 2, 3, 4, and 5; Greensboro Precincts 17, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40A, 40B, 41, 42, 43, 64, 65, and 66; Jamestown Precincts 2, 3, and 4; Monroe Precinct 3; North Center Grove Precinct; Oak Ridge Precincts 1 and 2; Summerfield Precincts 1, 2, 3, and 4; and Stokesdale Precinct. It has one judge.

(15) Superior Court District 18D consists of Greensboro Precincts 1, 11, 12, 13, 14, 15, 16, 19, 35, 44, 45, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, and 63; and Sumner Precincts 1, 2, 3, and 4. It has one judge.

(16) Superior Court District 18E consists of Gibsonville Precinct; Greene Precinct; Greensboro Precincts 2, 3, 7, 8, 9, 10, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29; Jefferson Precincts 1, 2, 3, and 4; Monroe Precincts 1 and 2; North Madison Precinct; North Washington Precinct; Rock Creek Precincts 1 and 2; South Madison Precinct; and South Washington Precinct. It has one judge.

(17) Superior Court District 21A consists of ~~the Southwest Ward of Winston-Salem, and Precincts 80-6, 80-7, 80-8, 3-1, 9-1, 13-1, 13-2, 13-3, 7-1, 7-2, 7-3, 5-1, 5-2, 5-3, 12-2, and 12-3.~~ Forsyth County Precincts 051, 052, 053, 054, 055, 071, 072, 073, 074, 075, 091, 092,

122, 123, 131, 132, 133, 701, 702, 703, 704, 705, 706, 707, 708, 709, 806, 807, and 808. It has one judge.

(18) Superior Court District 21B consists of ~~the Northwest Ward, the South Ward, and the Southeast Ward of Winston-Salem, and Precincts 4-1 and 4-2.~~ Forsyth County Precincts 042, 043, 501, 502, 503, 504, 505, 506, 507, 601, 602, 603, 604, 605, 606, 607, 901, 902, 903, 904, 905, and 907. It has one judge.

(19) Superior Court District 21C consists of ~~Precincts 80-1, 80-2, 80-3, 80-4, 80-5, 80-9, 10-2, 10-3, 3-2, 3-3, 11-1, 11-2, 2-1, 6-1, 6-2, 6-3, 6-4, 1-1, 1-2, and 1-3.~~ Forsyth County Precincts 011, 012, 013, 014, 015, 021, 031, 032, 033, 034, 061, 062, 063, 064, 065, 066, 067, 068, 101, 111, 112, 801, 802, 803, 804, 805, 809, 906, 908, and 909. It has one judge.

(20) Superior Court District 21D consists of ~~the North Ward, the Northeast Ward, and the East Ward of Winston-Salem, and Precincts 8-2 and 8-3.~~ Forsyth County Precincts 081, 082, 083, 201, 203, 204, 205, 206, 207, 301, 302, 303, 304, 305, 306, 401, 402, 403, 404, and 405. It has one judge.

(21) Superior Court District 26A consists of Charlotte Precincts 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 31, 33, 39, 41, 42, 46, 52, 54, 55, 56, 58, 60, 77, 78, and 82, and Long Creek Precinct #2 of Mecklenburg County. It has two judges.

(22) Superior Court District 26B consists of Charlotte Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 17, 18, 20, 21, 28, 29, 30, 32, 34, 35, 36, 37, 38, 43, 44, 45, 47, 51, 61, 62, 63, 65, 66, 67, 68, 69, 71, 74, 83, 84, and 86, Crab Orchard Precincts 1 and 2, and Mallard Creek Precinct 1. It has two judges.

(23) Superior Court District 26C consists of the remainder of Mecklenburg County not in Superior Court Districts 26A or 26B. It has two judges.

(24) Superior Court District 19B1 consists of all of Montgomery County except for Star Precinct, the following precincts of Moore County: #8 West End, #9 Eastwood, #11 Vass, #12 Little River, #14 Taylortown, #17 South Southern Pines, #19 North Southern Pines; #20 West Aberdeen, #21 East Aberdeen, #22 Pinedene, #23 Pinebluff, and the remainder of Randolph County not in Superior Court District 19B2. It has one judge.

(25) Superior Court District 19B2 consists of Star Precinct in Montgomery County, the remainder of Moore County not in Superior Court District 19B1, and the following precincts of Randolph County: Archdale I, Archdale II, Archdale III, Brower, Coleridge, Franklinville, Grant, Level Cross, Liberty, New Market North, New Market South, Pleasant

Grove, Prospect, Providence, Ramseur, Richland, Staley, Trinity East, and Trinity West. It has one judge."

SECTION 4. G.S. 7A-41(c) reads as rewritten:

"(c) In subsection (b) above:

(1) The names and boundaries of townships are as they were legally defined and in effect as of January 1, 1980, and recognized in the 1980 U.S. Census;

(2) For Guilford County, the precincts are as they were legally defined and recognized as voting districts of the same name in the 2000 U.S. Census, except Greensboro Precincts 40A and 40B are as they were modified by the Guilford County Board of Elections and are as shown on the Legislative Services Office's redistricting computer database on May 1, 2001;

(2a) For Wake County, the precincts are as they were adopted by the Wake County Board of Elections and in effect as of January 1, 2001.

(3) For Mecklenburg and Durham Counties, precinct boundaries are as shown on the current maps in use by the appropriate county board of elections as of January 31, 1984, in accordance with G.S. 163-128(b);

(4) For Wilson County, commissioner districts are those in use for election of members of the county board of commissioners as of January 1, 1987;

(5) For Cumberland County, House District 17 is in accordance with the boundaries in effect on January 1, 1987. Precincts are in accordance with those as approved by the United States Department of Justice on February 28, 1986;

(6) For Forsyth County, ~~the boundaries of wards and precincts are those in effect on "WARD MAP 1985", published November 1985 by the City of Winston-Salem and Forsyth County;~~ the precincts are as they were legally defined and recognized in the 2000 U.S. Census as of January 1, 2001; and

(7) The names and boundaries of precincts in Montgomery, Moore, and Randolph Counties are those in existence on March 15, 1999.

If any changes in precinct boundaries, wards, commissioner districts, or House of Representative districts have been made since the dates specified, or are made, those changes shall not change the boundaries of the superior court districts; provided that if any of those boundaries have changed, a precinct is divided by a superior court judicial district boundary, and the precinct was not so divided at the time of enactment of this section in 1987, the boundaries of the superior court judicial district are changed to place the entirety of the precinct in the superior court judicial district where the majority of the residents of the precinct reside, according to the 1990 Federal Census if:

(1) Such change does not result in placing a superior court judge in another superior court district;

(2) Such change does not make a district that has an effective racial minority electorate not have an effective racial minority electorate; and

(3) The change is approved by the county board of elections where the precinct is located, State Board of Elections and by the Secretary of State upon finding that the change:

a. Will improve election administration; and

b. Complies with subdivisions (1) and (2) of this subsection."

SECTION 5. This act is effective when it becomes law. Sections 3 and 4 of this act apply to appointments made on or after January 1, 2002, and primaries and elections held on or after January 1, 2002. The remainder of this act applies to primaries and elections held on or after January 1, 2002.

VISITOR REGISTRATION SHEET

Election Laws & Campaign Reform — 10/10/01
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Phelps	NCLM
Talleetair Peddy	ADC
Deb Ross	ACLU
[illegible]	NCASA
Suzanne Williams	NCCCS
Fred Taylor	WRAL-TV

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

October 24, 2001
8:30:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

HB 1195 – Annual Absentee/Forsyth Superior Ct. Judge – Representative Blue

STAFF: Bill Gilkeson
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

October 24, 2001

Room 1228
8:30 a.m.

The meeting was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Bonner, Church, Goodwin, Kiser, Rayfield, Starnes, Weatherly and Weiss.

Representative Alexander thanked staff and the sergeants at arms for their assistance.

Representative Alexander reported that several members had requested reconsideration of Representative Blue's HB 1195 Annual Absentee/Forsyth Superior Ct. Judge, on which the committee voted to concur with Senate changes on October 10, 2001. Representative Weiss, having voted in the majority, moved that the vote to concur on HB 1195 be reconsidered. Representative Goodwin moved that the committee not concur. The motion passed unanimously.

There being no further business, the meeting was adjourned at 8:38 am.

Martha Alexander, Committee Chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 4

HOUSE BILL 1195

Second Edition Engrossed 4/26/01
Senate Judiciary I Committee Substitute Adopted 10/2/01
Corrected Copy 10/3/01

Short Title: Annual Absentee/Forsyth Superior Ct. Judge. (Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO GIVE ILL AND DISABLED CIVILIANS THE SAME RIGHT AS MILITARY PERSONNEL TO REQUEST ABSENTEE BALLOTS FOR AN ENTIRE CALENDAR YEAR AND BY PRESCRIBING A METHOD FOR MAKING ABSENTEE BALLOT REQUESTS, AND TO REALIGN THE SUPERIOR COURT DISTRICTS IN FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-226 is amended by adding a new subsection to read:

"(a2) Annual Request by Person With Sickness or Physical Disability. – If the applicant so requests and reports in the application that the voter has a sickness or physical disability that is expected to last the remainder of the calendar year, the application shall constitute a request for an absentee ballot for all of the primaries and elections held during the calendar year when the application is received."

SECTION 2. Article 20 of the General Statutes is amended by adding a new section to read:

"**§ 163-230.2. Method of requesting absentee ballots.**

(a) Valid Types of Written Requests. – A written request for an absentee ballot as required by G.S. 163-230.1 is valid only if it is written entirely by the requester personally, or is on a form generated by the county board of elections and signed by the requester. The county board of elections shall issue a request form only to the voter seeking to vote by absentee ballot or to a person authorized by G.S. 163-230.1 to make a request for the voter. If a requester, due to disability or illiteracy, is unable to complete a written request, that requester may receive assistance in writing that request from an individual of that requester's choice.

(b) Invalid Types of Written Requests. – A request is not valid if it does not comply with subsection (a) of this section. If a county board of elections receives a

122, 123, 131, 132, 133, 701, 702, 703, 704, 705, 706, 707, 708, 709, 806, 807, and 808. It has one judge.

(18) Superior Court District 21B consists of ~~the Northwest Ward, the South Ward, and the Southeast Ward of Winston-Salem, and Precincts 4-1 and 4-2.~~ Forsyth County Precincts 042, 043, 501, 502, 503, 504, 505, 506, 507, 601, 602, 603, 604, 605, 606, 607, 901, 902, 903, 904, 905, and 907. It has one judge.

(19) Superior Court District 21C consists of ~~Precincts 80-1, 80-2, 80-3, 80-4, 80-5, 80-9, 10-2, 10-3, 3-2, 3-3, 11-1, 11-2, 2-1, 6-1, 6-2, 6-3, 6-4, 1-1, 1-2, and 1-3.~~ Forsyth County Precincts 011, 012, 013, 014, 015, 021, 031, 032, 033, 034, 061, 062, 063, 064, 065, 066, 067, 068, 101, 111, 112, 801, 802, 803, 804, 805, 809, 906, 908, and 909. It has one judge.

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(24) Superior Court District 19B1 consists of all of Montgomery County except for Star Precinct, the following precincts of Moore County: #8 West End, #9 Eastwood, #11 Vass, #12 Little River, #14 Taylortown, #17 South Southern Pines, #19 North Southern Pines; #20 West Aberdeen, #21 East Aberdeen, #22 Pinedene, #23 Pinebluff, and the remainder of Randolph County not in Superior Court District 19B2. It has one judge.

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(2a) For Wake County, the precincts are as they were adopted by the Wake County Board of Elections and in effect as of January 1, 2001.

(3) For Mecklenburg and Durham Counties, precinct boundaries are as shown on the current maps in use by the appropriate county board of elections as of January 31, 1984, in accordance with G.S. 163-128(b);

(4) For Wilson County, commissioner districts are those in use for election of members of the county board of commissioners as of January 1, 1987;

(5) For Cumberland County, House District 17 is in accordance with the boundaries in effect on January 1, 1987. Precincts are in accordance with those as approved by the United States Department of Justice on February 28, 1986;

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(7) The names and boundaries of precincts in Montgomery, Moore, and Randolph Counties are those in existence on March 15, 1999.

If any changes in precinct boundaries, wards, commissioner districts, or House of Representative districts have been made since the dates specified, or are made, those changes shall not change the boundaries of the superior court districts; provided that if any of those boundaries have changed, a precinct is divided by a superior court judicial district boundary, and the precinct was not so divided at the time of enactment of this section in 1987, the boundaries of the superior court judicial district are changed to place the entirety of the precinct in the superior court judicial district where the majority of the residents of the precinct reside, according to the 1990 Federal Census if:

(1) Such change does not result in placing a superior court judge in another superior court district;

(2) Such change does not make a district that has an effective racial minority electorate not have an effective racial minority electorate; and

(3) The change is approved by the county board of elections where the precinct is located, State Board of Elections and by the Secretary of State upon finding that the change:

a. Will improve election administration; and

b. Complies with subdivisions (1) and (2) of this subsection."

SECTION 5. This act is effective when it becomes law. Sections 3 and 4 of this act apply to appointments made on or after January 1, 2002, and primaries and elections held on or after January 1, 2002. The remainder of this act applies to primaries and elections held on or after January 1, 2002.

CHANGE OF TIME FOR MEETING

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ELECTION LAW AND CAMPAIGN FINANCE REFORM** will meet as follows:

DAY & DATE: **Wednesday October 24, 2001**

TIME: **8:30 am**

LOCATION: **1228 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 1195 – Annual Absentee/Forsyth Superior Ct. Judge– Representative Blue

Respectfully,

Representative Martha Alexander
Chair

I hereby certify this notice was filed by the committee clerk at the following offices at **4:36 pm on October 23, 2001**

___Principal Clerk
___Reading Clerk - House Chamber

Ann Faust, Committee Assistant

VISITOR REGISTRATION SHEET

Election Laws & Campaign Finance Reform — 10/24/01
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	Capitol Group
John McHugh	Gov Office

2002

HOUSE ELECTION LAW & CAMPAIGN FINANCE REFORM

MINUTES

Member	Assistant	Phone	Room	House seat
Alexander, Martha, Chair	Ann Faust, Comm. Asst.	3-5807	2208	32
Michaux, Mickey, Vice chair	Anita Wilder	3-5772	1325	57
Nesbitt, Martin, Vice chair	Jan Lee	5-3001	420	20
Arnold, Gene	Mary Hayes	3-5802	604	102
Blue, Dan	Lin Threatt	5-2528	1227	80
Bonner, Donald	Phyllis Cameron	3-5803	1313	83
Church, Walter	Joyce Fuller	3-5805	1311	33
Daughtry, Leo	Bernice Bullard	3-5868	510	42
Decker, Michael	Linda Hines	3-5988	1021	87
Goodwin, Wayne	Kristin Corbett	3-5849	503	81
Justus, Larry	Carolyn Justus	3-5872	2204	13
Kiser, Joe	Marilyn Holder	3-5782	1317	100
Luebke, Paul	Joyce Harris	3-7663	529	44
Morris, Mia	Joy Feagin	3-5741	1315	65
Rayfield, John	Brenda Olls	3-5607	609	61
Redwine, David	Nancy Brantley	3-5829	635	19
Rogers, Gene	Sally Gillis	5-3023	416A	35
Starnes, Edgar	Pattie Fleming	5-9664	617	112
Thompson, Gregg	Edna Sykes	3-5828	1002	38

Weatherly, John	**Nancy Garriss**	**3-4838**	**502**	**93**
Weiss, Jennifer	**Susan Doty**	**3-5781**	**2221**	**16**

At Large

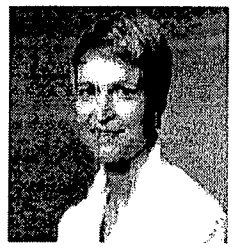
Baddour, Phil	**Tracy Dixon**	**5-0850**	**2301**	**31**
Cunningham, Pete	**Valerie Rustin**	**3-5778**	**541**	**7**
Dedmon, Andy	**Lisa Brown**	**3-5732**	**2213**	**12**
Earle, Beverly	**Ann Raeford**	**3-5747**	**535**	**95**
Joe Hackney	**Emily Freeman**	**3-5752**	**2207**	**69**

Staff

Erika Churchill	**3-2578**	**545**	
Bill Gilkeson	**3-2578**	**545**	

NORTH CAROLINA GENERAL ASSEMBLY

ELECTION LAW AND CAMPAIGN FINANCE REFORM
2001 – 2002 SESSION



Rep. Alexander
(Chair)



Rep. Michaux
(Vice-Chair)



Rep. Nesbitt
(Vice-Chair)



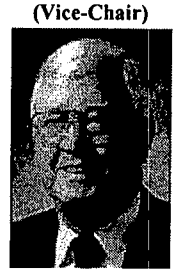
Rep. Arnold



Rep. Blue



Rep. Bonner



Rep. Church



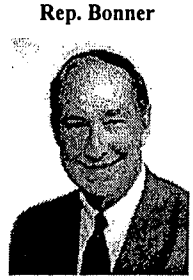
Rep. Daughtry



Rep. Decker



Rep. Goodwin



Rep. Justus



Rep. Kiser



Rep. Luebke



Rep. Morris



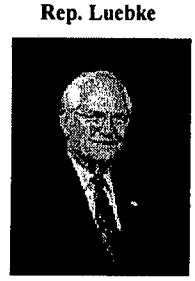
Rep. Rayfield



Rep. Rogers



Rep. Starnes



Rep. Weatherly



Rep. Weiss

ATTENDANCE

Election Law and Campaign Finance Reform

(Name of Committee)

DATES 2002	7/17	7/24	9/25	10/2											
Alexander, Martha, Chair	✓	✓	✓												
Michaux, Mickey, Vice Chair	✓	✓	✓	✓											
Nesbitt, Martin, Vice Chair	✓	✓	✓	✓											
Arnold, Gene	✓	✓	✓												
Blue, Dan															
Bonner, Donald	✓	✓	✓												
Church, Walter	✓	✓	✓	✓											
Daughtry, Leo	✓	✓	✓	✓											
Decker, Michael	✓	✓	✓												
Goodwin, Wayne	✓	✓	NP												
Justus, Larry	✓	✓	✓	✓											
Kiser, Joe		✓	✓												
Luebke, Paul	✓	✓													
Morris, Mia	✓	✓	✓												
Rayfield, John	✓	✓	✓	✓											
Redwine, David		✓	✓												
Rogers, Gene	✓	✓	✓												
Starnes, Edgar	✓	✓	✓												
Thompson, Gregg	✓	✓	✓												
Weatherly, John	✓	✓	✓	✓											
Weiss, Jennifer	✓	✓	✓												
Baddour, Phil		✓	✓												
Cunningham, Pete	✓	✓	✓												
Dedmon, Andy	✓														
Earle, Beverly	✓		✓												
Hackney, Joe	✓	✓													

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

July 17, 2002
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

SB 1054 – Judicial Campaign Reform Act. – Senator Gulley

STAFF: Bill Gilkeson
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

July 17, 2002

Room 1228
11:00 a.m.

The meeting was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Bonner, Church, Daughtry, Decker, Goodwin, Justus, Luebke, Morris, Rayfield, Rogers, Starnes, Thompson, Weatherly and Weiss, Cunningham, Dedmon, Earle and Hackney.

Representative Alexander thanked staff and the sergeants at arms for their assistance and introduced the pages.

Representative Alexander called on Representative Culpepper to present the Proposed Committee Substitute for Senate Bill 1054, the JUDICIAL CAMPAIGN REFORM ACT. Representative Luebke moved acceptance for discussion; the motion passed. Representative Culpepper reviewed the bill, stressing that the goal of the bill is to change the method of electing Supreme Court Justices and Court of Appeal Judges from partisan to non-partisan elections. Public money would be made available to those candidates who voluntarily qualify.

Following Representative Culpepper's presentation, Mr. Stan Sprague, Court Watch of North Carolina, Inc., was introduced and spoke in favor of the bill.

A. P. Carlton, President Elect of the American Bar Association was introduced and spoke in favor of the bill, personally and on behalf of the ABA. He said that the bill meets all the criteria of the ABA for non-partisan judiciary elections.

Discussion followed about judges' First Amendment rights, spending of "side" groups who are not regulated. Representative Culpepper said that "rescue funds" would be triggered by the high spending of opposing candidates who were not covered by the voluntary limit. Chris Heagarty, Executive Director of the North Carolina Center for Voter Education, answered questions about express and issue ads. Express ads would trigger rescue funds. Senator Gulley and Representative Michaux spoke to the issue of running against a candidate with unlimited funding of a judicial campaign and how to remain competitive. Senator Gulley said that this situation would also trigger rescue funds.

The meeting was adjourned at 1:52 am.

Martha Alexander

Martha Alexander, Chair

Ann Faust

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 1054

Judiciary I Committee Substitute Adopted 9/10/01
Finance Committee Substitute Adopted 11/13/01
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1054-CSRR-61 [v.13]

7/16/2002 10:59:15 PM

Short Title: Judicial Campaign Reform Act. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO REFORM THE METHOD OF ELECTING SUPREME COURT JUSTICES AND COURT OF APPEALS JUDGES AND TO ESTABLISH A FAIR ELECTIONS FUND THAT PROVIDES CANDIDATES FOR THESE OFFICES WITH AN ALTERNATIVE MEANS OF FINANCING THEIR CAMPAIGNS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 22D.

"The North Carolina Fair Elections Fund.

"**§ 163-278.61. Purpose of the North Carolina Fair Elections Fund.**

The purpose of this Article is to ensure the fairness of democratic elections in North Carolina and to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections. The potential for corruption and its appearance is especially problematic in elections of the judiciary, since impartiality is uniquely important to the integrity and credibility of the courts. Accordingly, this Article establishes the North Carolina Fair Elections Fund as an alternative source of campaign financing for candidates who demonstrate public support and voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for justice of the Supreme Court and judge of the Court of Appeals in elections to be held in 2004 and thereafter.

"**§ 163-278.62. Definitions.**

The following definitions apply in this Article:

(1) Board. – The State Board of Elections.

(2) Candidate. – An individual who becomes a candidate as described in G.S. 163-278.6(4). The term includes a political committee authorized by the candidate for that candidate's election.
(3) Certified candidate. – A candidate running for office who chooses to receive campaign funds from the Fund and who is certified under G.S. 163-278.64(c).
(4) Contested primary and contested general election. – An election in which there are more candidates than the number to be elected.
(5) Contribution. – Defined in G.S. 163-278.6.
(6) Expenditure. – Defined in G.S. 163-278.6.
(7) Fund. – The North Carolina Fair Elections Fund established in G.S. 163-278.63.
(8) Independent expenditure. – Defined in G.S. 163-278.6.
(9) Maximum qualifying contributions. – An amount of qualifying contributions equal to 60 times the filing fee for candidacy for the office.
(10) Minimum qualifying contributions. – An amount of qualifying contributions equal to 30 times the filing fee for candidacy for the office.
(11) Nonparticipating candidate. – A candidate running for office who is not seeking to be certified under G.S. 163-278.64(c).
(12) Office. – A position on the North Carolina Court of Appeals or North Carolina Supreme Court.
(13) Participating candidate. – A candidate for office who has filed a declaration of intent to participate under G.S. 163-278.64.
(14) Political committee. – Defined in G.S. 163-278.6.
(15) Qualifying contribution. – A contribution of not less than ten dollars ($10.00) and not more than five hundred dollars ($500.00) in the form of a check or money order to the candidate or the candidate's committee that meets both of the following conditions:
a. Made by any registered voter in this State.
b. Made during the qualifying period and obtained with the approval of the candidate or candidate's committee.
(16) Qualifying period. – The period beginning September 1 in the year before the election and ending on the day of the primary of the election year.
(17) Referendum committee. – Defined in G.S. 163-278.6.
(18) Trigger for rescue funds. – The dollar amount at which rescue funds are released for certified candidates. In the case of a primary, the trigger equals the maximum qualifying contributions for participating candidates. In the case of a contested general election, the trigger equals the base level of funding available under G.S. 163-278.65(b)(4).

"**§ 163-278.63. North Carolina Fair Elections Fund established; sources of funding.**

(a) Establishment of Fund. – The North Carolina Fair Elections Fund is

established to finance the election campaigns of certified candidates for office and to pay administrative and enforcement costs of the Board related to this Article. The Fund is a special, dedicated, nonlapsing, nonreverting fund. Any interest generated by the Fund is credited to the Fund. The Board shall administer the Fund.

(b) Sources of Funding. – Money received from all the following sources must be deposited in the Fund:

(1) Money from the North Carolina Candidates Financing Fund.

(2) Designations made to the Fair Elections Fund by individual taxpayers pursuant to G.S. 105-159.2.

(3) Any contributions made by attorneys in accordance with G.S. 105-41.

(4) Fair Elections Fund revenues distributed for an election that remain unspent or uncommitted at the time the recipient is no longer a certified candidate in the election.

(5) Money ordered returned to the Fair Elections Fund in accordance with G.S. 163-278.70.

(6) Voluntary donations made directly to the Fair Elections Fund. Corporations, other business entities, labor unions, and professional associations may make donations to the Fund.

(c) Determination of Fund Amount. – By October 1, 2003, and every two years thereafter, the Board, in conjunction with the Advisory Council for the Fair Elections Fund, shall prepare and provide to the Joint Legislative Commission on Governmental Operations of the General Assembly a report documenting, evaluating, and making recommendations relating to the administration, implementation, and enforcement of this Article. In its report, the Board shall set out the funds received to date and the expected needs of the Fund for the next election.

"**§ 163-278.64. Requirements for participation; certification of candidates.**

(a) Declaration of Intent to Participate. – Any individual choosing to receive campaign funds from the Fund shall first file with the Board a declaration of intent to participate in the act as a candidate for a stated office. The declaration of intent shall be filed before or during the qualifying period and before collecting any qualifying contributions. In the declaration, the candidate shall swear or affirm that only one political committee, identified with its treasurer, shall handle all contributions, expenditures, and obligations for the participating candidate and that the candidate will comply with the contribution and expenditure limits set forth in subsection (d) of this section and all other requirements set forth in this Article or adopted by the Board. Failure to comply is a violation of this Article.

(b) Demonstration of Support of Candidacy. – Except for candidates described elsewhere in this subsection, participating candidates who seek certification to receive campaign funds from the Fund shall first, during the qualifying period, obtain qualifying contributions from at least 350 registered voters in an aggregate sum that at least equals the amount of minimum qualifying contributions described in G.S. 163-278.62(10) but that does not exceed the amount of maximum qualifying contributions described in G.S. 163-278.62(9). Candidates who hold office on the Supreme Court or Court of Appeals and candidates who were elected to the Supreme Court or Court of Appeals within four

years of the beginning of the qualifying period are deemed to have demonstrated support and are not required to comply with the previous sentence of this subsection.

No payment, gift, or anything of value shall be given in exchange for a qualifying contribution.

(c) Certification of Candidates. – Upon receipt of a submittal of the record of demonstrated support by a participating candidate, the Board shall determine whether or not the candidate has complied with all the following requirements, if they apply to that candidate:

(1) Signed and filed a declaration of intent to participate in this Article.

(2) Submitted a report itemizing the appropriate number of qualifying contributions received from registered voters, which the Board shall verify through a random sample or other means it adopts. The report shall include the county of residence of each registered voter listed.

(3) Qualified to receive votes on the ballot as a candidate for the office.

(4) Otherwise met the requirements for participation in this Article.

The Board shall certify candidates complying with the requirements of this section as soon as possible and no later than five business days after receipt of a satisfactory record of demonstrated support. Candidates not required to obtain a minimum number of qualifying donations shall submit a record of any qualifying contributions received at the time they request certification according to procedures set forth by the Board.

(d) Restrictions on Contributions and Expenditures for Participating and Certified Candidates. – The following restrictions shall apply to contributions and expenditures with respect to participating and certified candidates:

(1) Beginning January 1 of the year before the election and before the filing of a declaration of intent, a candidate for office may accept in contributions up to ten thousand dollars ($10,000) from sources and in amounts permitted by Article 22A of this Chapter and may expend up to ten thousand dollars ($10,000) for any campaign purpose. A candidate who exceeds either of these limits shall be ineligible to file a declaration of intent or receive funds from the Fair Elections Fund.

(2) From the filing of a declaration of intent through the end of the qualifying period, a candidate shall expend no more than an amount equal to the maximum qualifying contributions for that candidate, not including possible rescue funds or the remaining money raised pursuant to subdivision (1) of this subsection. Contributions a candidate may use to expend to that limit shall be limited to qualifying contributions and personal and family contributions permitted by subdivision (4) of this subsection.

(3) After the qualifying period and through the date of the general election, the candidate shall expend only the funds the candidate receives from the Fund pursuant to G.S. 163-278.65(b)(4) plus any funds remaining from the qualifying period and possible rescue funds.

(4) During the qualifying period, the candidate may contribute up to one thousand dollars ($1,000) of that candidate's own money to the

campaign and may accept in contributions one thousand dollars ($1,000) from each member of that candidate's family consisting of spouse, parent, child, brother, and sister.

(5) A candidate and the candidate's committee shall limit the use of all revenues permitted by this subsection to expenditures for campaign-related purposes only. The Board shall publish guidelines outlining permissible campaign-related expenditures.

(6) Any contribution received by a participating or certified candidate that falls outside that permitted by this subsection shall be returned to the donor as soon as practicable. Contributions intentionally made, solicited, or accepted in violation of this Article are subject to civil penalties as specified in G.S. 163-278.70. The funds involved shall be forfeited to the Civil Penalty and Forfeiture Fund.

(7) A candidate shall return to the Fund any amount distributed for an election that is unspent and uncommitted at the date of the election, or at the time the individual ceases to be a certified candidate, whichever occurs first. For accounting purposes, all qualifying, personal, and family contributions shall be considered spent before revenue from the Fund is spent or committed.

(e) Revocation. – A candidate may revoke, in writing to the Board, a decision to participate in the Fair Elections Fund at any time before the deadline set by the Board for the candidate's submission of information for the Voter Guide described in G.S. 163-278.69. After a timely revocation, that candidate may accept and expend outside the limits of this Article without violating this Article. Within 10 days after revocation, a candidate shall return to the Board all money received from the Fund.

"**§ 163-278.65. Distribution from the Fund.**

(a) Timing of Fund Distribution. – The Board shall distribute to a certified candidate revenue from the Fund in an amount determined under subdivision (b)(4) of this section within five business days after the certified candidate's name is approved to appear on the ballot in a contested general election, but no earlier than five business days after the primary.

(b) Amount of Fund Distribution. – By August 1, 2003, and no less frequently than every two years thereafter, the Board shall determine the amount of funds, rounded to the nearest one hundred dollars ($100.00), to be distributed to certified candidates as follows:

(1) Uncontested primaries. – No funds shall be distributed.

(2) Contested primaries. – No funds shall be distributed except as provided in G.S. 163-278.67.

(3) Uncontested general elections. – No funds shall be distributed.

(4) Contested general elections. – Funds shall be distributed to a certified candidate for a position on the Court of Appeals in an amount equal to 125 times the candidate's filing fee as set forth in G.S. 163-107. Funds shall be distributed to a certified candidate for a position on the Supreme Court in an amount equal to 175 times the candidate's filing

fee as set forth in G.S. 163-107.

(c) Method of Fund Distribution. – The Board, in consultation with the State Treasurer and the State Controller, shall develop a rapid, reliable method of conveying funds to certified candidates. In all cases, the Board shall distribute funds to certified candidates in a manner that is expeditious, ensures accountability, and safeguards the integrity of the Fund. If the money in the Fund is insufficient to fully fund all certified candidates, then the available money shall be distributed proportionally, according to each candidate's eligible funding.

"**§ 163-278.66. Reporting requirements.**

(a) Reporting by Noncertified Candidates and Independent Expenditure Entities. – Any noncertified candidate with a certified opponent shall report total income, expenses, and obligations to the Board by facsimile machine or electronically within 24 hours after the total amount of campaign expenditures or obligations made, or funds raised or borrowed, exceeds eighty percent (80%) of the trigger for rescue funds as defined in G.S. 163-278.62(18). Any entity making independent expenditures in excess of three thousand dollars ($3,000) in support of or opposition to a certified candidate shall report the total funds received, spent, or obligated for those expenditures to the Board by facsimile machine or electronically within 24 hours after the total amount of expenditures or obligations made, or funds raised or borrowed, for the purpose of making the independent expenditures, exceeds fifty percent (50%) of the trigger for rescue funds. After this 24-hour filing, the noncertified candidate or independent expenditure entity shall comply with an expedited reporting schedule by filing additional reports after receiving each additional amount in excess of one thousand dollars ($1,000) or after making or obligating to make each additional expenditure(s) in excess of one thousand dollars ($1,000). The schedule and forms for reports required by this subsection shall be made according to procedures developed by the Board.

(b) Reporting by Participating and Certified Candidates. – Notwithstanding other provisions of law, participating and certified candidates shall report any money received, including all previously unreported qualifying contributions, all campaign expenditures, obligations, and related activities to the Board according to procedures developed by the Board. A certified candidate who ceases to be certified or ceases to be a candidate or who loses an election shall file a final report with the Board and return any unspent revenues received from the Fund. In developing these procedures, the Board shall utilize existing campaign reporting procedures whenever practical.

(c) Timely Access to Reports. – The Board shall ensure prompt public access to the reports received in accordance with this Article. The Board may utilize electronic means of reporting and storing information.

"**§ 163-278.67. Rescue funds.**

(a) When Rescue Funds Become Available. – When any report or group of reports shows that 'funds in opposition to a certified candidate or in support of an opponent to that candidate' as described in this section, exceed the trigger for rescue funds as defined in G.S. 163-278.62(18), the Board shall issue immediately to that certified candidate an additional amount equal to the reported excess within the limits set forth in this section. 'Funds in opposition to a certified candidate or in support of an

opponent to that candidate' shall be equal to the sum of the following:

(1) Campaign expenditures or obligations made, or funds raised or borrowed, whichever is greater, reported by any one uncertified opponent of a certified candidate. Where a certified candidate has more than one uncertified opponent, the measure shall be taken from the uncertified candidate showing the highest relevant dollar amount.

(2) The sum of all expenditures reported in accordance with G.S. 163-278.66 of entities making independent expenditures in opposition to the certified candidate or in support of any opponent of that certified candidate.

(b) Limit on Rescue Funds in Contested Primary. – Total rescue funds to a certified candidate in a contested primary shall be limited to an amount equal to two times the maximum qualifying contributions for the office sought.

(c) Limit on Rescue Funds in Contested General Election. – Total rescue funds to a certified candidate in a contested general election shall be limited to an amount equal to two times the amount described in G.S. 163-278.65(b)(4).

"**§ 163-278.68. Enforcement and administration.**

(a) Enforcement by the Board. – The Board, with the advice of the Advisory Council for the Fair Elections Fund, shall administer the provisions of this Article.

(b) Advisory Council for the Fair Elections Fund. – There is established under the Board the Advisory Council for the Fair Elections Fund to advise the Board on the rules, procedures, and opinions it adopts for the enforcement and administration of this Article and on the funding needs and operation of the Fair Elections Fund. The Advisory Council shall consist of five members to be appointed as follows:

(1) The Governor shall name two members from a list of individuals nominated by the State Chair of the political party with which the greatest number of registered voters is affiliated. The State Chair of that party shall submit to the Governor the names of five nominees.

(2) The Governor shall name two members from a list of individuals nominated by the State Chair of the political party with which the second greatest number of registered voters is affiliated. The State Chair of that party shall submit to the Governor the names of five nominees.

(3) The Board shall name one member by unanimous vote of all members of the Board. If the Board cannot reach unanimity on the appointment of that member, the Advisory Council shall consist of the remaining members.

No individual shall be eligible to be a member of the Advisory Council who would be ineligible to serve on a county board of elections in accordance with G.S. 163-30. The initial members shall be appointed by December 1, 2002. Of the initial appointees, two are appointed for one-year terms, two are appointed for two-year terms, and one is appointed for a three-year term according to random lot. Thereafter, appointees are appointed to serve four-year terms. An individual may not serve more than two full terms. The appointed members receive the legislative per diem pursuant to G.S.

120-3.1. One of the Advisory Council members shall be elected by the members as Chair. A vacancy during an unexpired term shall be filled in the same manner as the regular appointment for that term, but a vacancy appointment is only for the unexpired portion of the term.

(c) Appeals. – The initial decision on an issue concerning qualification, certification, or distribution of funds under this Article shall be made by the Executive Director of the Board. The procedure for challenging that decision is as follows:

(1) An individual or entity aggrieved by a decision by the Executive Director of the Board may appeal to the full Board within three business days of the 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 Board shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the decision of the Executive Director was improper. The Board shall rule on the appeal within three business days after the completion of the hearing.

(d) Board to Adopt Rules and Issue Opinions. – The Board shall adopt rules and issue opinions to ensure effective administration of this Article. Such rules and opinions shall include, but not be limited to, procedures for obtaining qualifying contributions, certification of candidates, addressing circumstances involving special elections, vacancies, recounts, withdrawals, or replacements, collection of revenues for the Fund, distribution of Fund revenue to certified candidates, return of unspent Fund disbursements, and compliance with this Article. For races involving special elections, recounts, vacancies, withdrawals, or replacement candidates, the Board shall establish procedures for qualification, certification, disbursement of Fund revenues, and return of unspent Fund revenues. The Board shall fulfill each of these duties in consultation with the Advisory Council on the Fair Elections Fund.

(e) Report to the Public. – The Advisory Council for the Fair Elections Fund shall issue a report by March 1, 2005, and every two years thereafter that evaluates and makes recommendations about the implementation of this Article and the feasibility of expanding its provisions to include other candidates for State office based on the experience of the Fund and the experience of similar programs in other states.

"**§ 163-278.69. Voter education.**

(a) Judicial Voter Guide. – The Board shall publish a Judicial Voter Guide that explains the functions of the appellate courts and the laws concerning the election of appellate judges, the purpose and function of the Fair Elections Fund, and the laws concerning voter registration. The Board shall distribute the Guide to as many voting-age individuals in the State as practical, through a mailing to all residences or other means it deems effective. The distribution shall occur no more than 28 days nor fewer than seven days before the primary and no more than 28 days nor fewer than seven days before the general election.

(b) Candidate Information. – The Judicial Voter Guide shall include information concerning all candidates for the Supreme Court and the Court of Appeals, as provided

by those candidates according to a format provided to the candidates by the Board. The Board shall request information for the Guide from each candidate according to the following format:

(1) Place of residence.
(2) Education.
(3) Occupation.
(4) Employer.
(5) Date admitted to the bar.
(6) Legal/judicial experience.
(7) Candidate statement, limited to 150 words. Concerning that statement, the Board shall send to the candidates instructions as follows: 'Your statement may include information such as your qualifications, your endorsements, your ratings, why you are seeking judicial office, why you would make a good judge, what distinguishes you from your opponent(s), your acceptance of spending and fund-raising limits to qualify to receive funds from the Fair Elections Fund, and any other information relevant to your candidacy. We will correct incidental errors of spelling, grammar, and punctuation which might prejudice the candidate's statement unfairly or confuse voters. We will make no changes to the content of any statement which would alter the meaning or substance of the statement. The State Board of Elections will reject any portion of any statement which it determines contains obscene, profane, or defamatory language.'

"**§ 163-278.70. Civil penalty.**

In addition to any other penalties that may be applicable, any individual, political committee, or other entity that violates any provision of this Article is subject to a civil penalty of up to ten thousand dollars ($10,000) per violation or three times the amount of any financial transactions involved in the violation, whichever is greater. In addition to any fine, for good cause shown, a candidate found in violation of this Article may be required to return to the Fund all amounts distributed to the candidate from the Fund. If the Board makes a determination that a violation of this Article has occurred, the Board shall calculate and assess the amount of the civil penalty and shall notify the entity that is assessed the civil penalty of the amount that has been assessed. The Board shall then proceed in the manner prescribed in G.S. 163-278.34. In determining whether or not a candidate is in violation of this Article, the Board may consider as a mitigating factor any circumstances out of the candidate's control."

SECTION 2. G.S. 163-278.13 reads as rewritten:

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

(a) No 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, 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.

(e2) The potential for corruption and its appearance resulting from campaign contributions is especially problematic in elections of the judiciary, since impartiality is uniquely important to the integrity and credibility of the courts. Accordingly, the following provisions shall apply with respect to candidates for justice of the Supreme Court, judge of the Court of Appeals, judge of the Superior Court, and judge of the District Court:

(1) No candidate shall accept, and no contributor shall make to that candidate, a contribution in any election exceeding one thousand dollars ($1,000) except as provided for elsewhere in this subsection.

(2) A candidate may accept, and a family contributor may make to that candidate, a contribution not exceeding two thousand dollars ($2,000) in an election if the contributor is that candidate's parent, child, brother, or sister.

(3) No candidate for justice of the Supreme Court or judge of the Court of Appeals shall accept, and no contributor shall make to that candidate, a contribution during the period beginning 21 days before the day of the general election and ending the day after the general election. This subdivision applies with respect to a candidate opposed in the general election by a certified candidate as defined in Article 22D of this Chapter who has not received the maximum rescue funds available under G.S. 163-278.67. The recipient of a contribution that apparently violates this subdivision has three days to return the contribution or file a detailed statement with the State Board of Elections explaining why the contribution does not violate this subdivision.

As used in this subsection, 'candidate' is also a political committee authorized by the candidate for that candidate's election. Nothing in this subsection shall prohibit a candidate or the spouse of that candidate from making a contribution or loan secured entirely by that individual's assets to that candidate's own campaign.

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

SECTION 3. G.S. 105-41(a)(1) reads as rewritten:

"**§ 105-41. Attorneys-at-law and other professionals.**

(a) Every individual in this State who practices a profession or engages in a business and is included in the list below must obtain from the Secretary a statewide license for the privilege of practicing the profession or engaging in the business. A license required by this section is not transferable to another person. The tax for each license is fifty dollars ($50.00).

(1) An attorney-at-law. In addition to the tax, a contribution of fifty dollars ($50.00) to support the Fair Elections Fund established by G.S. 163-278.63 shall be requested by providing for the contribution on the annual privilege license tax form. Payment of the contribution is not required and is not considered part of the tax owed.

...."

SECTION 4. Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-159.2. Designation of tax to North Carolina Fair Elections Fund.**

(a) Allocation to the North Carolina Fair Elections Fund. -- One dollar ($1.00) from the income taxes paid each year by each individual with an income tax liability of at least that amount shall be allocated to the North Carolina Fair Elections Fund established in Article 22D of Chapter 163 of the General Statutes, unless the taxpayer indicates an objection to the allocation on the income tax return in the manner described in subsection (b) of this section. In the case of a married couple filing a joint return, each individual shall have the option of objecting to the allocation. The amounts allocated under this subsection to the Fund shall be credited to it on a quarterly basis.

(b) Form. – Individual income tax returns shall include a place for the designation of one dollar ($1.00) to the North Carolina Fair Elections Fund with three options given to the taxpayer: 'For,' 'Against,' and 'No Opinion,' and the following statement: 'One dollar will go to the North Carolina Fair Elections Fund to support a nonpartisan court system, unless you fill in the circle labeled "Against." Your tax remains the same regardless of which circle you choose.' A paid preparer of tax returns shall not choose one of the three options for a taxpayer without the taxpayer's consent. The Department of Revenue shall not approve for use in preparing North Carolina income tax returns any software package if that software package defaults to the option 'Against' on that question.

(c) Instructions. – Individual income tax returns shall include in their instructions an explanatory statement for the designation described in subsection (b) of this section which shall read: 'To enhance the impartiality and integrity of the court system in the

State, the North Carolina Fair Elections Fund provides campaign money to candidates for the North Carolina Supreme Court and Court of Appeals who voluntarily accept strict campaign spending and fund-raising limits. The Fund also helps finance educational materials about voter registration, the role of the appellate courts, and the candidates seeking election as appellate judges in North Carolina. One dollar from the taxes you pay will go to the Fund unless you fill in the circle marked "Against." Regardless of what choice you make, your tax will not increase, nor will any refund you are entitled to be reduced.' The exact wording of this statement or the statement specified in subsection (b) of this section may be modified if the new wording does not change the statement's essential meaning and is approved by the State Board of Elections and the Advisory Council for the Fair Elections Fund."

SECTION 5. Article 22C of Chapter 163 of the General Statutes is repealed.

SECTION 6.(a) G.S. 105-269.6 is repealed.

SECTION 6.(b) The Secretary of Revenue shall transfer to the North Carolina Fair Elections Fund any funds contributed to the North Carolina Candidates Financing Fund pursuant to G.S. 105-269.6 before its repeal by this section.

SECTION 7. Subchapter 10 of Chapter 163 of the General Statutes reads as rewritten:

"SUBCHAPTER X. ELECTION OF APPELLATE, SUPERIOR, AND DISTRICT COURT JUDGES.

Article 25.

Nomination and Election of Appellate, Superior, and District Court Judges.

§ 163-321. Applicability.

The nomination and election of justices of the Supreme Court, judges of the Court of Appeals, and superior and district court judges of the General Court of Justice shall be as provided by this Article.

"§ 163-322. Nonpartisan primary election method.

(a) General. – Except as provided in G.S. 163-329, there shall be a primary to narrow the field of candidates to two candidates for each position to be filled if, when the filing period closes, there are more than two candidates for a single office or the number of candidates for a group of offices exceeds twice the number of positions to be filled. If only one or two candidates file for a single office, no primary shall be held for that office and the candidates shall be declared nominated. If the number of candidates for a group of offices does not exceed twice the number of positions to be filled, no primary shall be held for those offices and the candidates shall be declared nominated.

(b) Determination of Nominees. – In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. If two or more candidates receiving the highest number of votes each receive the same number of votes, the State Board of Elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the same date as the primary canvass fixed under G.S. 163-188. The canvass shall be conducted in accordance with Article 16 of this Chapter.

(c) Determination of Election Winners. – In the election, the names of those candidates declared nominated without a primary and those candidates nominated in the primary shall be placed on the ballot. The candidate for a single office receiving the highest number of votes shall be elected. Those candidates for a group of offices receiving the highest number of votes, equal in number to the number of positions to be filled, shall be elected. If two candidates receiving the highest number of votes each received the same number of votes, the State Board of Elections shall determine the winner by lot.

"**§ 163-323. Notice of candidacy.**

(a) Form of Notice. - Each person offering to be a candidate for election shall do so by filing a notice of candidacy with the State Board of Elections in the following form, inserting the words in parentheses when appropriate:

Date: _____

I hereby file notice that I am a candidate for election to the office of _____ in the regular election to be held _____, ____.

Signed: _____
(Name of Candidate)

Witness: _____

The notice of candidacy shall be either signed in the presence of the chairman or secretary of the State Board of Elections, or signed and acknowledged before an officer authorized to take acknowledgments who shall certify the notice under seal. An acknowledged and certified notice may be mailed to the State Board of Elections. In signing a notice of candidacy, the candidate shall use only the candidate's legal name and, in his discretion, any nickname by which commonly known. A candidate may also, in lieu of that candidate's first name and legal middle initial or middle name, if any, sign that candidate's nickname, provided the candidate appends to the notice of candidacy an affidavit that the candidate has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way the candidate's name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

A notice of candidacy signed by an agent or any person other than the candidate himself shall be invalid.

(b) (Effective until January 1, 2003) Time for Filing Notice of Candidacy. - Candidates seeking election to the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the first Monday in January and no later than 12:00 noon on the first Monday in February preceding the election:

Judges of the superior courts.

Judges of the district courts.

(b) (Effective January 1, 2003) Time for Filing Notice of Candidacy. - Candidates seeking election to the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the election:

Justices of the Supreme Court.

Judges of the Court of Appeals.

Judges of the superior courts.

Judges of the district courts.

(c) Withdrawal of Notice of Candidacy. - Any person who has filed a notice of candidacy for an office shall have the right to withdraw it at any time prior to the date on which the right to file for that office expires under the terms of subsection (b) of this section.

(d) Certificate That Candidate Is Registered Voter. - Candidates shall file along with their notice a certificate signed by the chairman of the board of elections or the supervisor of elections of the county in which they are registered to vote, stating that the person is registered to vote in that county, and if the candidacy is for superior court judge and the county contains more than one superior court district, stating the superior court district of which the person is a resident. In issuing such certificate, the chairman or supervisor shall check the registration records of the county to verify such information. During the period commencing 36 hours immediately preceding the filing deadline, the State Board of Elections shall accept, on a conditional basis, the notice of candidacy of a candidate who has failed to secure the verification ordered herein subject to receipt of verification no later than three days following the filing deadline. The State Board of Elections shall prescribe the form for such certificate, and distribute it to each county board of elections no later than the last Monday in December of each odd-numbered year.

(e) Candidacy for More Than One Office Prohibited. - No person may file a notice of candidacy for more than one office or group of offices described in subsection (b) of this section, or for an office or group of offices described in subsection (b) of this section and an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of candidacy with a board of elections under this section or under G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not later be filed for any other office or group of offices under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (c) of this section.

(f) Notice of Candidacy for Certain Offices to Indicate Vacancy. - In any election in which there are two or more vacancies for the office of justice of the Supreme Court, judge of the Court of Appeals, or district court judge to be filled by nominations, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which ~~he~~ the candidate seeks election. Votes cast for a candidate shall be effective only for ~~his~~

election to the vacancy for which the candidate has given notice of candidacy as provided in this subsection.

A person seeking election for a specialized district judgeship established under G.S. 7A-147 shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the specialized judgeship to which the person seeks nomination.

(g) No person may file a notice of candidacy for superior court judge unless that person is at the time of filing the notice of candidacy a resident of the judicial district as it will exist at the time the person would take office if elected. No person may be nominated as a superior court judge under G.S. 163-114 unless that person is at the time of nomination a resident of the judicial district as it will exist at the time the person would take office if elected. This subsection implements Article IV, Section 9(1) of the North Carolina Constitution which requires regular Superior Court Judges to reside in the district for which elected.

"**§ 163-324. Filing fees required of candidates; refunds.**

(a) Fee Schedule. – At the time of filing a notice of candidacy under this Article, each candidate shall pay to the State Board of Elections a filing fee for the office he seeks in the amount of one percent (1%) of the annual salary of the office sought.

(b) Refund of Fees. – If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section withdraws his notice of candidacy within the period prescribed in G.S. 163-323(c), he shall be entitled to have the fee he paid refunded. The chairman of the State Board of Elections shall cause a warrant to be drawn on the State Treasurer for the refund payment.

If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section dies prior to the date of the election, the personal representative of the estate shall be entitled to have the fee refunded if application is made to the board of elections to which the fee was paid no later than one year after the date of death, and refund shall be made in the same manner as in withdrawal of notice of candidacy.

"**§ 163-325. Petition in lieu of payment of filing fee.**

(a) General. - Any qualified voter who seeks election under this Article may, in lieu of payment of any filing fee required for the office he seeks, file a written petition requesting him to be a candidate for a specified office with the State Board of Elections.

(b) Requirements of Petition; Deadline for Filing. -- If the candidate is seeking the office of Justice of the Supreme Court, judge of the Court of Appeals, or superior or district court judge, that individual shall file a written petition with the State Board of Elections no later than 12:00 noon on Monday preceding the filing deadline before the primary. ~~The~~ If the office is Justice of the Supreme Court or judge of the Court of Appeals, the petition shall be signed by 10,000 registered voters in the State. If the office is superior court or district court judge, the petition shall be signed by ten percent (10%) of the registered voters of the election area in which the office will be voted for. The board of elections shall verify the names on the petition, and if the petition and notice of candidacy are found to be sufficient, the candidate's name shall be printed on the appropriate ballot. Petitions must be presented to the county board of elections for

verification at least 15 days before the petition is due to be filed with the State Board of Elections. The State Board of Elections may adopt rules to implement this section and to provide standard petition forms.

"**§ 163-326. Certification of notices of candidacy.**

(a) Names of Candidates Sent to Secretary of State. - Within three days after the time for filing notices of candidacy with the State Board of Elections under the provisions of G.S. 163-323(b) has expired, the chairman or secretary of that Board shall certify to the Secretary of State the name and address of each person who has filed with the State Board of Elections, indicating in each instance the office sought.

(b) Notification of Local Boards. - No later than 10 days after the time for filing notices of candidacy under the provisions of G.S. 163-323(b) has expired, the chairman of the State Board of Elections shall certify to the chairman of the county board of elections in each county in the appropriate district the names of candidates for nomination to the offices of Justice of the Supreme Court, judge of the Court of Appeals, and superior and district court judge who have filed the required notice and paid the required filing fee or presented the required petition to the State Board of Elections, so that their names may be printed on the official judicial ballot for Justice of the Supreme Court, judge of the Court of Appeals, and superior and district court.

(c) Receipt of Notification by County Board. -- Within two days after receipt of each of the letters of certification from the chairman of the State Board of Elections required by subsection (b) of this section, each county elections board chairman shall acknowledge receipt by letter addressed to the chairman of the State Board of Elections.

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

(a) Death or Disqualification of Candidate Before Primary. - If a candidate for nomination in a primary dies or becomes 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 Justice of the Supreme Court, judge of the Court of Appeals, or superior or district 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.

"**§ 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 before the election and before the ballots are printed, the State Board of Elections shall, upon notification of the 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 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) 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 vacated candidate shall remain on the ballots. If a 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.

"**§ 163-329. Elections to fill vacancy created after primary filing period to use plurality method.**

(a) General. - If a vacancy is created in the office of Justice of the Supreme Court, judge of the Court of Appeals, or judge of superior court after the filing period for the primary opens but more than 60 days before the general election, and under the Constitution of North Carolina an election is to be held for that position, such that the office shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be conducted without a primary using the plurality method as provided in subsection (b) of this section. If a vacancy is created in the office of Justice of the Supreme Court, judge of the Court of Appeals, or judge of superior court before the filing period for the primary opens, and under the Constitution of North Carolina an election is to be held for that position, such that the office shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be conducted in accordance with G.S. 163-322.

(b) Plurality Election Rules. - Elections under this section shall be conducted using the following rules:

(1) The filing period shall be prescribed by the State Board of Elections, but in no event may it be less than five working days. If a vacancy occurs in a second office in the same superior court district after the first filing period established under the section has closed, the State

Board of Elections shall reopen filing for a period of not less than five working days for the office of Justice of the Supreme Court, judge of the Court of Appeals, or superior court judge. All persons filing in either filing period shall run as a group and the election results shall be determined by subdivision (3) of this subsection.

(2) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared elected.

(3) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.

(4) If two or more candidates receiving the highest number of votes each receive the same number of votes, the board of elections shall resolve the tie in accordance with G.S. 163-182.8.

(5) Except as provided in this section, the provisions of this Article apply to elections conducted under this section.

"**§ 163-330. Voting in primary.**

Any person who will become qualified by age or residence to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary.

"**§ 163-331. Date of primary.**

The primary shall be held on the same date as established for primary elections under G.S. 163-1(b).

"**§ 163-332. Ballots.**

(a) General. - In elections there shall be official ballots. The ballots shall be printed to conform to the requirement of G.S. 163-165.6(c) and to show the name of each person who has filed notice of candidacy, and the office for which each aspirant is a candidate.

Only those who have filed the required notice of candidacy with the proper board of elections, and who have paid the required filing fee or qualified by petition, shall have their names printed on the official primary ballots. Only those candidates properly nominated shall have their names appear on the official general election ballots.

(b) Ballots to Be Furnished by County Board of Elections. - It shall be the duty of the county board of elections to print official ballots for the following offices to be voted for in the primary:

Justice of the Supreme Court.

Judge of the Court of Appeals.

Superior court judge.

District court judge.

In printing ballots, the county board of elections shall be governed by instructions of the State Board of Elections with regard to width, color, kind of paper, form, and size of type.

Three days before the election, the chairman of the county board of elections shall distribute official ballots to the chief judge of each precinct in his county, and the chief judge shall give a receipt for the ballots received. On the day of the primary, it shall be the chief judge's duty to have all the ballots so delivered available for use at the precinct voting place.

"**§ 163-333:** Repealed by Session Laws 2001-398, s. 15, effective January 1, 2002.

"**§ 163-334. Counting of ballots.**

Counting of ballots in primaries and elections held under this Article shall be under the same rules as for counting of ballots in nonpartisan municipal elections under Article 24 of this Chapter.

"**§ 163-335. Other rules.**

Except as provided by this Article, the conduct of elections shall be governed by Subchapter VI of this Chapter."

SECTION 8. G.S. 163-106(c) reads as rewritten:

"(c) (Effective January 1, 2003) Time for Filing Notice of Candidacy. – Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the primary:

Governor
Lieutenant Governor
All State executive officers
~~Justices of the Supreme Court, Judges of the Court of Appeals~~
United States Senators
Members of the House of Representatives of the United States
District attorneys

Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the county board of elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the primary:

State Senators
Members of the State House of Representatives
All county offices."

SECTION 9. G.S. 163-106(d) reads as rewritten:

"(d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any primary in which there are ~~two or more vacancies for Chief Justice and associate justices of the Supreme Court, two or more vacancies for judge of the Court of Appeals, or~~ two vacancies for United States Senator from North Carolina, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which he seeks nomination. Votes cast for a

candidate shall be effective only for his nomination to the vacancy for which he has given notice of candidacy as provided in this subsection."

SECTION 10. G.S. 163-107(a) reads as rewritten:

"(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate shall pay to the board of elections with which he files under the provisions of G.S. 163-106 a filing fee for the office he seeks in the amount specified in the following tabulation:

Office Sought	Amount of Filing
Governor	One percent (1%) of the annual salary of the office sought
Lieutenant Governor	One percent (1%) of the annual salary of the office sought
All State executive offices	One percent (1%) of the annual salary of the office sought
All ~~Justices, Judges, and~~ District Attorneys of the General Court of Justice ~~other than superior and district court judge~~	One percent (1%) of the annual salary of the office sought
United States Senator	One percent (1%) of the annual salary of the office sought
Members of the United States House of Representatives	One percent (1%) of the annual salary of the office sought
State Senator	One percent (1%) of the annual salary of the office sought
Member of the State House of Representatives	One percent (1%) of the annual salary of the office sought
All county offices not compensated by fees	One percent (1%) of the annual salary of the office sought
County commissioners, if compensated entirely by fees	Ten dollars ($10.00)
Members of county board of education, if compensated entirely by fees	Five dollars ($5.00)
Sheriff, if compensated entirely by fees	Forty dollars ($40.00), plus one percent (1%) of the income of the office above four thousand dollars ($4,000)
Clerk of superior court, if compensated entirely by fees	Forty dollars ($40.00), plus one percent (1%) of the income of the office above four thousand dollars ($4,000)
Register of deeds, if compensated entirely by fees	Forty dollars ($40.00), plus one percent (1%) of the income of the

	office above four thousand dollars ($4,000)
Any other county office, if compensated entirely by fees	Twenty dollars ($20.00), plus one percent (1%) of the income of the office above two thousand dollars ($2,000)
All county offices compensated partly by salary and partly by fees	One percent (1%) of the first annual salary to be received (exclusive of fees) "

SECTION 11. G.S. 163-107.1(b) reads as rewritten:

"(b) If the candidate is seeking the office of United States Senator, Governor, Lieutenant Governor, or any State executive officer, ~~Justice of the Supreme Court or Judge of the Court of Appeals,~~ the petition must be signed by 10,000 registered voters who are members of the political party in whose primary the candidate desires to run, except that in the case of a political party as defined by G.S. 163-96(a)(2) which will be making nominations by primary election, the petition must be signed by ten percent (10%) of the registered voters of the State who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 10,000 registered voters regardless of the voter's political party affiliation, whichever requirement is greater. The petition must be filed with the State Board of Elections not later than 12:00 noon on Monday preceding the filing deadline before the primary in which he seeks to run. The names on the petition shall be verified by the board of elections of the county where the signer is registered, and the petition must be presented to the county board of elections at least 15 days before the petition is due to be filed with the State Board of Elections. When a proper petition has been filed, the candidate's name shall be printed on the primary ballot."

SECTION 12. G.S. 163-111(c)(1) reads as rewritten:

"(1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing or by telegram with the Executive Director of the State Board of Elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the State Board of Elections. If the vote certification by the State Board of Elections determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the Executive Director of the State Board of Elections shall immediately notify such candidate and permit him to exercise any options available to him within a 48-hour period following the notification:

Governor,

Lieutenant Governor,
All State executive officers,
~~Justices, Judges, or~~ District Attorneys of the General Court of Justice, ~~other than superior and district court judges,~~
United States Senators,
Members of the United States House of Representatives,
State Senators in multi-county senatorial districts, and
Members of the State House of Representatives in multi-county representative districts."

SECTION 13. G.S. 163-123(g) reads as rewritten:

"(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan elections except for ~~superior court judge~~ elections under Article 25 of this Chapter."

SECTION 14. G.S. 163-165.6(b)(3) reads as rewritten:

"(3) Partisan ~~offices~~ offices, regardless of the size of the constituency, shall be listed before nonpartisan offices."

SECTION 15. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 16. Section 1 of this act is effective when it becomes law, provided that distributions from the Fund shall begin in the 2004 election year. Section 2 becomes effective January 1, 2003. Section 3 becomes effective July 1, 2003. Sections 4 and 6 become effective for taxable years beginning on or after January 1, 2003. Section 5 becomes effective January 1, 2003. Sections 7 through 13 become effective with respect to primaries and elections held on or after January 1, 2004. Except as otherwise provided in this act, this act is effective when it becomes law.

SENATE BILL 1054:
Judicial Campaign Reform Act

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	**Introduced by:**	Senator Gulley
Date:	July 17, 2002	**Summary by:**	Gilkeson/Cohen Staff Attorneys
Version:	S1054-CSRR-61 [v.13]		

SUMMARY: ***This is a proposed committee substitute for a bill passed by the Senate on November 20, 2001. Beginning in 2004, the PCS would provide what is intended to be full public financing in the general election for Court of Appeals and Supreme Court candidates who accept fundraising and spending limits. The chief funding mechanisms would be a voluntary $50 contribution requested from lawyers at the time they pay their privilege license tax and a $1 "reverse check-off" on individual State income tax forms. Under the "reverse check-off," $1 of a taxpayer's tax liability would be designated to the Fund rather than to the State's General Fund unless the taxpayer made the decision to mark "Against" on the tax form.***

The PCS would also lower the contribution limit for all judicial candidates to $1,000. In another major change to begin in 2004, Supreme Court and Court of Appeals candidates would be elected in nonpartisan primary and election method.

CONDITIONS FOR PARTICIPATION. Beginning in 2004, general election candidates for Supreme Court and Court of Appeals can receive a set amount of public funding if they voluntarily meet these conditions:

- Before filing a declaration of intent to enter the program, must not raise or spend more than $10,000 on campaign after the beginning of the year before the election. *(p. 4, lines 24-29)*
- After declaring intent to participate, raise the minimum in qualifying contributions as follows:
  1. Qualifying contributions must come in amounts between $10 and $500 each. *(p. 2, line 28)*
  2. They must come from North Carolina registered voters only. *(p. 2, line 31)*
  3. They must come from at least 350 contributors. *(p. 3, line 40)*
  4. They must be raised during the qualifying period, which begins September 1 of the year before the election and ends primary day. *(p. 2, lines 34-36)*
  5. The sum of the qualifying contributions must remain within a range pegged to a multiple of the filing fee for the office. The minimum is about $33,000 for Court of Appeals judges and the maximum is about $69,000 for Supreme Court justices. ***See Chart for details.*** The excess is returned to the donors or goes to the Fund. *(p. 2, line 14-19 and p. 3 lines 40-43)*
- Spend only up to the qualifying contribution cap during the primary, raised from qualifying contributions and personal/family contributions (up to $1,000 per family member). *(p. 4, lines 31-38 and p. 4 line 43 through p. 5, line 3)*

- Agree to spend only public funds and remaining qualifying donations in the general election. *(p. 4, lines 39-42)*

Candidates who hold office as statewide appellate judges or who were elected to the statewide appellate bench within the past 4 years are not required to raise the minimum qualifying contributions. They are deemed to have already shown that they have support. They are, however, required to abide by the spending limits and contribution limits. *(p. 3, line 43 through p. 4, line 2)*

BENEFITS OF PARTICIPATION. If the State Board of Elections certifies a candidate as meeting these conditions, the candidate can receive from the Fair Election Fund:

- In a contested primary, rescue funds to match opposition spending that exceeds about $67,000 – up to a total of about $135,000 in rescue funds. *(p. 6, line 38 through p. 7, line 13)*
- In the general election, an initial amount of 175% of the position's salary for Supreme Court candidates ($201,300) and 125% of the salary for Court of Appeals candidates ($137,500). *(p. 5, line 26 through p. 6, line 8)*
- In the general election, rescue funds to match opposition spending that exceeds the initial award, up to twice that amount. *(p. 7, lines 14-16)*

OTHER PROVISIONS IN THE PCS:

- Uses mixture of a voluntary $50 contribution requested from attorneys at the time they pay their privilege license tax, effective July 1, 2003; leftovers from Candidates Financing Fund; voluntary contributions generally; and a new $1 reverse check-off on the State individual income tax form, effective for the tax years beginning January 1, 2003. *(p. 3, lines 5-18; privilege license at p. 11, lines 8-20; reverse check-off at p. 11, line 21 through p. 12, line 11)*
- Provides a non-partisan primary and election system for election of appellate judges, the same as that now in place for Superior and District Court judges. Some cities use the same method for municipal offices. The nonpartisan primary is used to narrow the field of candidates to twice the number to be elected. (If only two candidates file, there is no contested primary.) The general election is between the candidates left after the primary. *(p. 12, line 17 through p. 22, line 17)*
- Lowers contributions limits to $1,000 for all judicial candidates. Family members may give $2,000. *(p. 9, line 37, through p. 10, line 33)*
- Provides in primary and general election a Voter Guide on all candidates in appellate judge contests. *(p. 8, line 34, through p. 9, line 23)*
- Provides substantial rescue money to a certified candidate who is hit with spending by an opposing non-certified candidate and/or by independent-expenditure activity that exceeds the spending limit accepted by the certified candidate. *(p. 6, line 38 through p. 7, line 16)* The bill provides for expedited reporting to make the rescue provision work. *(p. 6, lines 10-26)*
- To address last-minute "surprise attack," embargos fundraising in the 21 days before Election Day by a non-certified candidate who opposes a certified candidate who has not maxed out on getting rescue money. The non-certified candidate can still add more money from personal funds. *(p. 10, line 34 through p. 11, line 4)*

- Provides a civil fine of up to $10,000 for a violation of the Article, or up to treble the amount of any financial transactions involved in the violation, whichever is greater. A certified candidate in violation may have to give back all money received from the Fund. *(p. 9, lines 24-36)*

Chart – How Amounts Are Calculated in PCS for Senate Bill 1054

Office	Salary	Filing Fee *(1% of salary)*	Minimum Amount to be Raised in Qualifying Contributions *(30x filing fee)*	Maximum Amount to be Raised in Qualifying Contributions * *(60x filing fee)*	Distribution Amount – Court of Appeals # *(125x filing fee)*	Distribution Amount – Supreme Court # *(175x filing fee)*
Supreme Court **	$115,000	$1150	$34,500	$69,000 *		$201,300 #
Court of Appeals	$110,000	$1100	$33,000	$66,000 *	$137,500 #	

** Numbers slightly higher for Chief Justice.

* This is also the limit on spending during primary, unless rescue money is triggered. Total rescue money is capped at twice the amounts above: $132,000 for Court of Appeals and $138,000 for Supreme Court candidate.

This is also the limit on spending during the general election, unless rescue money is triggered. Total rescue money is capped at twice the amounts above: $275,000 for Court of Appeals to $402,600 for Supreme Court candidate.

SUMMARY OF CHANGES TO SENATE PASSED SB 1054: The new PCS presented tod makes the following changes to the bill the Senate passed last November 20:

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1. *Nonpartisan Primary and Election. It changes the method of electing Supreme Court justices and Court of Appeals judges to a nonpartisan primary and election, rather than the partisan primary and non-partisan general election that were in the Senate-passed bill. The change follows the same pattern as the election of Superior and District judges. (Pages 12-22.) It also removes from the bill the authority for the political party that nominated a candidate to spend up to 20% of the candidate's base level of public financing on a ticket campaign. (Gone from page 5 and page 11.)*

2. *No Petition. It removes the requirement that qualifying candidates must collect 2,000 names on a petition. (Gone from page 2 in the definitions and from page 3, line 37, through page 4, line 4.)*

3. *Voter Guide During Primary. It provides for distribution of the Judicial Voter Guide in the primary as well as the general election. The State Board of Elections is also given more discretion in distributing the Guide. (Page 8, lines 38-42.)*

4. *Higher Threshold Number for Qualifying Contributors. It raises from 250 to 350 the number of registered voters from whom qualifying contributions must be raised. (Page 3, line 40.)*

5. *Higher Dollar Ceiling for Qualifying Contributions. It raises the multiplier for maximum qualifying contributions from 45 to 60. (Page 2, line 15.)*

6. *Higher Dollar Floor for Qualifying Contributions. It raises the multiplier for minimum qualifying contributions from 20 to 30. (Page 2, line 18.)*

7. *Clearer Rules for Measuring of Opposition Spending to Trigger Rescue Funds. It clarifies that to calculate rescue funds, spending by the single highest-spending noncertified opposition candidate is used rather than the sum of spending by all noncertified opposition candidates. However, for independent expenditures, the sum of all such expenditures is the measure. (Page 7, lines 1-10.)*

8. *More Specific Expedited Reporting of Opposition Money. It specifies that if a non-certified candidate or independent expender reaches a money flow that triggers a 24-hour filing duty, that entity shall thereafter file a report after raising or spending every $1,000 increment. (Page 6, lines 22-25.) Senate passed S1054 required the same entities to follow an expedited reporting schedule that would have been designed by the State Board.*

9. *Change in Contribution Limits for all Judicial Candidates. It sets the contribution limit at $1,000 per donor per donee per election for all judicial candidates – Supreme Court, Court of Appeals, Superior Court, District Court. A special $2,000 limit is reserved for family members of the candidate. The Senate-passed bill set a $500 limit for appellate judge candidates only. It left the trial court judges at the standard $4,000 limit. (Page 10, lines 21-29)*

10. *Reverse Check-off Changes. It changes the wording that introduces the reverse check-off on the State Income Tax return by adding a brief description of the Fund's purpose: "to support a nonpartisan judicial system." It also adds a requirement that the State Department of Revenue approve for use in preparing returns no software package that defaults to "Against" on the Fund check-off. (Page 11, lines 35-41*

VISITOR REGISTRATION SHEET

Election Law & Campaign Reform — 7/17/02
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Shayna Waites	intern
Colin Rogister	NC Center for Voter Education 19 W Hargett St.
Jeff Nieman	NC Center for Voter Education 19 W Hargett st
ERIN BYRD	NCVCE PO Box 10402, RALEIGH NC 27605
Michelle Frazier	NC Bar Ass'n
Bob Phillips	NC Common Cause Ed. Fund
Peter Wale	Democracy S-E
Peter Reaves	NC PIRG
Kyki Dunton	NCPIRG
Brett Stohs	NC PIRG
Annemarie Knighton	Town of Edenton
John Morgan	GOO office
Katie Hall	NC State Univ.
Charles Cromer	NCATL
Stella Boswell	NCATL
STAN SPRAGUE	COUP WATCH, PO BOX 10971, GREENSBORO 27404
Don Wright	State Bd. of Elections
Ken Westerbook	State Bd of Elections
Bob Hall	Democracy South
Kim Harrell	Common Cause/NC
Chris Heagarty	NCCVE
Chris Fitzsimon	Common Sense Foundation
Rob Schofield	NC Justice Ctr.
Brian Harrison	Beaufort NC
Cathy Manbeck	citizen
Tre Jones	Democracy South / 105 W. Main St / Carrboro 27510
Jack McCracken	Common Cause/NC

VISITOR REGISTRATION SHEET

Election LAW & CAMPAIGN Reform 7/17/02
Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dennis Markatos	NC Common Cause Ed. Fund 601 Hargett St, Raleigh
Jessa Rutledge	NC Center for Vote Ed. 19 W Hargett St Raleigh
Emma Blose	Democracy South, Carrboro
Nikki Ross	Democracy South > Greenville, NC
Nicholas Dixon	Democracy South Greenville
Toccora Hardy	Democracy South → Greenville, NC
Beth Messersmith	Democracy South
Betty H. Landsbergen	NC Common Cause Ed. Fund 2346 Carolina Meadows Vila
Henry Landsberg	NC Center for Voter Educ. 5 Chapel Hill NC 27517
Omid Nasab	Hunton & Williams
Mary Katherine Hackney	Rep. Hackney
Alex Wayne	News & Record
Claire Flye	mast Drug Intern
Sara Rains	Rep. Luebke
Dean Shatley	Speaker Black
Julie Donnelly	NC Public Radio
Kelley Dean	Democracy South
MEIGHAN DAVIS	DEMOCRACY SOUTH, CARRBORO
Frances Ferris	Common Sense Foundation
Nolan Beall	Democracy South, Carrboro
Aaron Cohen	ESC
Andrea Schrag	Rep. Alexander
Katie Mills	Rep. Culpepper
G.I. Allison	Democracy South 105 W. main st. Carrboro, NC. 27510
Adam Sotak	Dem. South
Brock Towler	Democracy South
Denita Smith	Democracy South
Emma Thompson	Democracy South

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

July 24, 2002
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

SB 1054 – Judicial Campaign Reform Act. – Senator Gulley

STAFF: Bill Gilkeson
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

July 24, 2002

Room 1228
11:00 a.m.

The meeting was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Arnold, Bonner, Church, Daughtry, Decker, Goodwin, Justus, Kiser, Luebke, Morris, Rayfield, Redwine, Rogers, Starnes, Thompson, Weatherly, Weiss, Baddour, Cunningham, and Hackney.

Representative Alexander thanked staff and the sergeants at arms for their assistance and introduced the pages.

Representative Alexander presented SB 1054, the JUDICIAL CAMPAIGN REFORM ACT for further discussion. Mr. Michaux asked that Mr. Dick Taylor from the Academy of Trial Lawyers be allowed to speak on the bill. Mr. Taylor said that the Academy strongly supports non-partisan election of appellate court judges. Two issues of some concern in the public financing portion of the bill have to do with the "trigger" of the rescue funds on independent expenditures which raise serious constitutional questions. The ACLU and the national office of the Academy have said this portion of the bill was an unconstitutional restriction on free speech. The second issue is that if a candidate opts out of the system, there would still be a limit on the amount of funds that candidate could receive. In the event of a self-funded campaign, on which contributions cannot be limited, the opposing candidate would be hampered in the ability to run a competitive race by the $1,000 limit. Otherwise, the Academy of Trial Lawyers supports the bill.

Representative Alexander then recognized Representative Culpepper to review the Proposed Committee Substitute for Senate Bill 1054 briefly as follow up to the extensive review of the July 17th meeting. The three major components of the bill are: one, it changes the method of election of appellate court judges and justices from partisan to non-partisan elections; second, it reduces the maximum contribution to candidates for the Court of Appeals and Supreme Court from $4,000 to $1,000 per election and places a $2,000 per election limit on contributions from a candidate's family. No limits are placed on the limits of the candidate or spouse. The third component is that the bill provides for public financing for candidates for the Court of Appeals and Supreme Court who voluntarily accept certain fund raising and spending limits and meet certain qualifications designed to demonstrate that the candidate is a serious candidate for the office. There are no changes in qualification for filing. Representative Culpepper presented a list of attorneys and judges supporting non-partisan, public funding of these races. Mr. Gilkeson was asked to review opinions of two Circuit Courts – which offered different opinions. SB 1054 is patterned after the Maine bill, which was ruled acceptable.

Discussion followed on the legality of loans to a candidate; what to do in case the trigger funds are used up; the possibility of an outside group coming in and taking on a candidate with an independent expenditure. Mr. Gilkeson said that this would trigger rescue funds, the determining factor being whether the ad was a issue ad or not. The campaign fund was established in 1988 by a voluntary contribution from a tax refund, and other contributions could be made voluntarily.

Representative Michaux moved that the original bill be given an unfavorable report, the Committee Substitute be given a favorable report with a recommendation that the bill be sent to Finance. Representative Decker offered an amendment making two small changes in language. The amendment passed. The amendments are attached to these minutes. Representative Michaux amended his motion to move that the bill be amended into a Committee Substitute, the Committee Substitute be given a favorable report, unfavorable as to the original bill with the recommendation that the bill be sent to Finance. Representative Decker requested the "aye's and "no's,", and the motion passed by a 13 to 10 vote.

Representative Starnes asked what is the last date for triggering rescue funds? Senator Gulley responded that rescue funds could continue until the day of the election depending on the actions of the opposing candidate because there is immediate electronic reporting required during the last 21 days.

The meeting was adjourned.

Representative Martha Alexander, Chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 1054

Judiciary I Committee Substitute Adopted 9/10/01
Finance Committee Substitute Adopted 11/13/01
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1054-CSRR-61 [v.13]

7/16/2002 10:59:15 PM

Short Title: Judicial Campaign Reform Act. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO REFORM THE METHOD OF ELECTING SUPREME COURT JUSTICES AND COURT OF APPEALS JUDGES AND TO ESTABLISH A FAIR ELECTIONS FUND THAT PROVIDES CANDIDATES FOR THESE OFFICES WITH AN ALTERNATIVE MEANS OF FINANCING THEIR CAMPAIGNS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 22D.

"The North Carolina Fair Elections Fund.

"**§ 163-278.61. Purpose of the North Carolina Fair Elections Fund.**

The purpose of this Article is to ensure the fairness of democratic elections in North Carolina and to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections. The potential for corruption and its appearance is especially problematic in elections of the judiciary, since impartiality is uniquely important to the integrity and credibility of the courts. Accordingly, this Article establishes the North Carolina Fair Elections Fund as an alternative source of campaign financing for candidates who demonstrate public support and voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for justice of the Supreme Court and judge of the Court of Appeals in elections to be held in 2004 and thereafter.

"**§ 163-278.62. Definitions.**

The following definitions apply in this Article:

(1) Board. – The State Board of Elections.

(2) Candidate. – An individual who becomes a candidate as described in G.S. 163-278.6(4). The term includes a political committee authorized by the candidate for that candidate's election.
(3) Certified candidate. – A candidate running for office who chooses to receive campaign funds from the Fund and who is certified under G.S. 163-278.64(c).
(4) Contested primary and contested general election. – An election in which there are more candidates than the number to be elected.
(5) Contribution. – Defined in G.S. 163-278.6.
(6) Expenditure. – Defined in G.S. 163-278.6.
(7) Fund. – The North Carolina Fair Elections Fund established in G.S. 163-278.63.
(8) Independent expenditure. – Defined in G.S. 163-278.6.
(9) Maximum qualifying contributions. – An amount of qualifying contributions equal to 60 times the filing fee for candidacy for the office.
(10) Minimum qualifying contributions. – An amount of qualifying contributions equal to 30 times the filing fee for candidacy for the office.
(11) Nonparticipating candidate. – A candidate running for office who is not seeking to be certified under G.S. 163-278.64(c).
(12) Office. – A position on the North Carolina Court of Appeals or North Carolina Supreme Court.
(13) Participating candidate. – A candidate for office who has filed a declaration of intent to participate under G.S. 163-278.64.
(14) Political committee. – Defined in G.S. 163-278.6.
(15) Qualifying contribution. – A contribution of not less than ten dollars ($10.00) and not more than five hundred dollars ($500.00) in the form of a check or money order to the candidate or the candidate's committee that meets both of the following conditions:
a. Made by any registered voter in this State.
b. Made during the qualifying period and obtained with the approval of the candidate or candidate's committee.
(16) Qualifying period. – The period beginning September 1 in the year before the election and ending on the day of the primary of the election year.
(17) Referendum committee. – Defined in G.S. 163-278.6.
(18) Trigger for rescue funds. – The dollar amount at which rescue funds are released for certified candidates. In the case of a primary, the trigger equals the maximum qualifying contributions for participating candidates. In the case of a contested general election, the trigger equals the base level of funding available under G.S. 163-278.65(b)(4).

"**§ 163-278.63. North Carolina Fair Elections Fund established; sources of funding.**

(a) Establishment of Fund. – The North Carolina Fair Elections Fund is

established to finance the election campaigns of certified candidates for office and to pay administrative and enforcement costs of the Board related to this Article. The Fund is a special, dedicated, nonlapsing, nonreverting fund. Any interest generated by the Fund is credited to the Fund. The Board shall administer the Fund.

(b) Sources of Funding. – Money received from all the following sources must be deposited in the Fund:

(1) Money from the North Carolina Candidates Financing Fund.

(2) Designations made to the Fair Elections Fund by individual taxpayers pursuant to G.S. 105-159.2.

(3) Any contributions made by attorneys in accordance with G.S. 105-41.

(4) Fair Elections Fund revenues distributed for an election that remain unspent or uncommitted at the time the recipient is no longer a certified candidate in the election.

(5) Money ordered returned to the Fair Elections Fund in accordance with G.S. 163-278.70.

(6) Voluntary donations made directly to the Fair Elections Fund. Corporations, other business entities, labor unions, and professional associations may make donations to the Fund.

(c) Determination of Fund Amount. – By October 1, 2003, and every two years thereafter, the Board, in conjunction with the Advisory Council for the Fair Elections Fund, shall prepare and provide to the Joint Legislative Commission on Governmental Operations of the General Assembly a report documenting, evaluating, and making recommendations relating to the administration, implementation, and enforcement of this Article. In its report, the Board shall set out the funds received to date and the expected needs of the Fund for the next election.

"**§ 163-278.64. Requirements for participation; certification of candidates.**

(a) Declaration of Intent to Participate. – Any individual choosing to receive campaign funds from the Fund shall first file with the Board a declaration of intent to participate in the act as a candidate for a stated office. The declaration of intent shall be filed before or during the qualifying period and before collecting any qualifying contributions. In the declaration, the candidate shall swear or affirm that only one political committee, identified with its treasurer, shall handle all contributions, expenditures, and obligations for the participating candidate and that the candidate will comply with the contribution and expenditure limits set forth in subsection (d) of this section and all other requirements set forth in this Article or adopted by the Board. Failure to comply is a violation of this Article.

(b) Demonstration of Support of Candidacy. – Except for candidates described elsewhere in this subsection, participating candidates who seek certification to receive campaign funds from the Fund shall first, during the qualifying period, obtain qualifying contributions from at least 350 registered voters in an aggregate sum that at least equals the amount of minimum qualifying contributions described in G.S. 163-278.62(10) but that does not exceed the amount of maximum qualifying contributions described in G.S. 163-278.62(9). Candidates who hold office on the Supreme Court or Court of Appeals and candidates who were elected to the Supreme Court or Court of Appeals within four

years of the beginning of the qualifying period are deemed to have demonstrated support and are not required to comply with the previous sentence of this subsection.

No payment, gift, or anything of value shall be given in exchange for a qualifying contribution.

(c) Certification of Candidates. – Upon receipt of a submittal of the record of demonstrated support by a participating candidate, the Board shall determine whether or not the candidate has complied with all the following requirements, if they apply to that candidate:

(1) Signed and filed a declaration of intent to participate in this Article.

(2) Submitted a report itemizing the appropriate number of qualifying contributions received from registered voters, which the Board shall verify through a random sample or other means it adopts. The report shall include the county of residence of each registered voter listed.

(3) Qualified to receive votes on the ballot as a candidate for the office.

(4) Otherwise met the requirements for participation in this Article.

The Board shall certify candidates complying with the requirements of this section as soon as possible and no later than five business days after receipt of a satisfactory record of demonstrated support. Candidates not required to obtain a minimum number of qualifying donations shall submit a record of any qualifying contributions received at the time they request certification according to procedures set forth by the Board.

(d) Restrictions on Contributions and Expenditures for Participating and Certified Candidates. – The following restrictions shall apply to contributions and expenditures with respect to participating and certified candidates:

(1) Beginning January 1 of the year before the election and before the filing of a declaration of intent, a candidate for office may accept in contributions up to ten thousand dollars ($10,000) from sources and in amounts permitted by Article 22A of this Chapter and may expend up to ten thousand dollars ($10,000) for any campaign purpose. A candidate who exceeds either of these limits shall be ineligible to file a declaration of intent or receive funds from the Fair Elections Fund.

(2) From the filing of a declaration of intent through the end of the qualifying period, a candidate shall expend no more than an amount equal to the maximum qualifying contributions for that candidate, not including possible rescue funds or the remaining money raised pursuant to subdivision (1) of this subsection. Contributions a candidate may use to expend to that limit shall be limited to qualifying contributions and personal and family contributions permitted by subdivision (4) of this subsection.

(3) After the qualifying period and through the date of the general election, the candidate shall expend only the funds the candidate receives from the Fund pursuant to G.S. 163-278.65(b)(4) plus any funds remaining from the qualifying period and possible rescue funds.

(4) During the qualifying period, the candidate may contribute up to one thousand dollars ($1,000) of that candidate's own money to the

campaign and may accept in contributions one thousand dollars ($1,000) from each member of that candidate's family consisting of spouse, parent, child, brother, and sister.

(5) A candidate and the candidate's committee shall limit the use of all revenues permitted by this subsection to expenditures for campaign-related purposes only. The Board shall publish guidelines outlining permissible campaign-related expenditures.

(6) Any contribution received by a participating or certified candidate that falls outside that permitted by this subsection shall be returned to the donor as soon as practicable. Contributions intentionally made, solicited, or accepted in violation of this Article are subject to civil penalties as specified in G.S. 163-278.70. The funds involved shall be forfeited to the Civil Penalty and Forfeiture Fund.

(7) A candidate shall return to the Fund any amount distributed for an election that is unspent and uncommitted at the date of the election, or at the time the individual ceases to be a certified candidate, whichever occurs first. For accounting purposes, all qualifying, personal, and family contributions shall be considered spent before revenue from the Fund is spent or committed.

(e) Revocation. – A candidate may revoke, in writing to the Board, a decision to participate in the Fair Elections Fund at any time before the deadline set by the Board for the candidate's submission of information for the Voter Guide described in G.S. 163-278.69. After a timely revocation, that candidate may accept and expend outside the limits of this Article without violating this Article. Within 10 days after revocation, a candidate shall return to the Board all money received from the Fund.

"**§ 163-278.65. Distribution from the Fund.**

(a) Timing of Fund Distribution. – The Board shall distribute to a certified candidate revenue from the Fund in an amount determined under subdivision (b)(4) of this section within five business days after the certified candidate's name is approved to appear on the ballot in a contested general election, but no earlier than five business days after the primary.

(b) Amount of Fund Distribution. – By August 1, 2003, and no less frequently than every two years thereafter, the Board shall determine the amount of funds, rounded to the nearest one hundred dollars ($100.00), to be distributed to certified candidates as follows:

(1) Uncontested primaries. – No funds shall be distributed.

(2) Contested primaries. – No funds shall be distributed except as provided in G.S. 163-278.67.

(3) Uncontested general elections. – No funds shall be distributed.

(4) Contested general elections. – Funds shall be distributed to a certified candidate for a position on the Court of Appeals in an amount equal to 125 times the candidate's filing fee as set forth in G.S. 163-107. Funds shall be distributed to a certified candidate for a position on the Supreme Court in an amount equal to 175 times the candidate's filing

fee as set forth in G.S. 163-107.

(c) Method of Fund Distribution. – The Board, in consultation with the State Treasurer and the State Controller, shall develop a rapid, reliable method of conveying funds to certified candidates. In all cases, the Board shall distribute funds to certified candidates in a manner that is expeditious, ensures accountability, and safeguards the integrity of the Fund. If the money in the Fund is insufficient to fully fund all certified candidates, then the available money shall be distributed proportionally, according to each candidate's eligible funding.

"**§ 163-278.66. Reporting requirements.**

(a) Reporting by Noncertified Candidates and Independent Expenditure Entities. – Any noncertified candidate with a certified opponent shall report total income, expenses, and obligations to the Board by facsimile machine or electronically within 24 hours after the total amount of campaign expenditures or obligations made, or funds raised or borrowed, exceeds eighty percent (80%) of the trigger for rescue funds as defined in G.S. 163-278.62(18). Any entity making independent expenditures in excess of three thousand dollars ($3,000) in support of or opposition to a certified candidate shall report the total funds received, spent, or obligated for those expenditures to the Board by facsimile machine or electronically within 24 hours after the total amount of expenditures or obligations made, or funds raised or borrowed, for the purpose of making the independent expenditures, exceeds fifty percent (50%) of the trigger for rescue funds. After this 24-hour filing, the noncertified candidate or independent expenditure entity shall comply with an expedited reporting schedule by filing additional reports after receiving each additional amount in excess of one thousand dollars ($1,000) or after making or obligating to make each additional expenditure(s) in excess of one thousand dollars ($1,000). The schedule and forms for reports required by this subsection shall be made according to procedures developed by the Board.

(b) Reporting by Participating and Certified Candidates. – Notwithstanding other provisions of law, participating and certified candidates shall report any money received, including all previously unreported qualifying contributions, all campaign expenditures, obligations, and related activities to the Board according to procedures developed by the Board. A certified candidate who ceases to be certified or ceases to be a candidate or who loses an election shall file a final report with the Board and return any unspent revenues received from the Fund. In developing these procedures, the Board shall utilize existing campaign reporting procedures whenever practical.

(c) Timely Access to Reports. – The Board shall ensure prompt public access to the reports received in accordance with this Article. The Board may utilize electronic means of reporting and storing information.

"**§ 163-278.67. Rescue funds.**

(a) When Rescue Funds Become Available. – When any report or group of reports shows that 'funds in opposition to a certified candidate or in support of an opponent to that candidate' as described in this section, exceed the trigger for rescue funds as defined in G.S. 163-278.62(18), the Board shall issue immediately to that certified candidate an additional amount equal to the reported excess within the limits set forth in this section. 'Funds in opposition to a certified candidate or in support of an

opponent to that candidate' shall be equal to the sum of the following:

(1) Campaign expenditures or obligations made, or funds raised or borrowed, whichever is greater, reported by any one uncertified opponent of a certified candidate. Where a certified candidate has more than one uncertified opponent, the measure shall be taken from the uncertified candidate showing the highest relevant dollar amount.

(2) The sum of all expenditures reported in accordance with G.S. 163-278.66 of entities making independent expenditures in opposition to the certified candidate or in support of any opponent of that certified candidate.

(b) Limit on Rescue Funds in Contested Primary. – Total rescue funds to a certified candidate in a contested primary shall be limited to an amount equal to two times the maximum qualifying contributions for the office sought.

(c) Limit on Rescue Funds in Contested General Election. – Total rescue funds to a certified candidate in a contested general election shall be limited to an amount equal to two times the amount described in G.S. 163-278.65(b)(4).

"**§ 163-278.68. Enforcement and administration.**

(a) Enforcement by the Board. – The Board, with the advice of the Advisory Council for the Fair Elections Fund, shall administer the provisions of this Article.

(b) Advisory Council for the Fair Elections Fund. – There is established under the Board the Advisory Council for the Fair Elections Fund to advise the Board on the rules, procedures, and opinions it adopts for the enforcement and administration of this Article and on the funding needs and operation of the Fair Elections Fund. The Advisory Council shall consist of five members to be appointed as follows:

(1) The Governor shall name two members from a list of individuals nominated by the State Chair of the political party with which the greatest number of registered voters is affiliated. The State Chair of that party shall submit to the Governor the names of five nominees.

(2) The Governor shall name two members from a list of individuals nominated by the State Chair of the political party with which the second greatest number of registered voters is affiliated. The State Chair of that party shall submit to the Governor the names of five nominees.

(3) The Board shall name one member by unanimous vote of all members of the Board. If the Board cannot reach unanimity on the appointment of that member, the Advisory Council shall consist of the remaining members.

No individual shall be eligible to be a member of the Advisory Council who would be ineligible to serve on a county board of elections in accordance with G.S. 163-30. The initial members shall be appointed by December 1, 2002. Of the initial appointees, two are appointed for one-year terms, two are appointed for two-year terms, and one is appointed for a three-year term according to random lot. Thereafter, appointees are appointed to serve four-year terms. An individual may not serve more than two full terms. The appointed members receive the legislative per diem pursuant to G.S.

120-3.1. One of the Advisory Council members shall be elected by the members as Chair. A vacancy during an unexpired term shall be filled in the same manner as the regular appointment for that term, but a vacancy appointment is only for the unexpired portion of the term.

(c) Appeals. – The initial decision on an issue concerning qualification, certification, or distribution of funds under this Article shall be made by the Executive Director of the Board. The procedure for challenging that decision is as follows:

(1) An individual or entity aggrieved by a decision by the Executive Director of the Board may appeal to the full Board within three business days of the 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 Board shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the decision of the Executive Director was improper. The Board shall rule on the appeal within three business days after the completion of the hearing.

(d) Board to Adopt Rules and Issue Opinions. – The Board shall adopt rules and issue opinions to ensure effective administration of this Article. Such rules and opinions shall include, but not be limited to, procedures for obtaining qualifying contributions, certification of candidates, addressing circumstances involving special elections, vacancies, recounts, withdrawals, or replacements, collection of revenues for the Fund, distribution of Fund revenue to certified candidates, return of unspent Fund disbursements, and compliance with this Article. For races involving special elections, recounts, vacancies, withdrawals, or replacement candidates, the Board shall establish procedures for qualification, certification, disbursement of Fund revenues, and return of unspent Fund revenues. The Board shall fulfill each of these duties in consultation with the Advisory Council on the Fair Elections Fund.

(e) Report to the Public. – The Advisory Council for the Fair Elections Fund shall issue a report by March 1, 2005, and every two years thereafter that evaluates and makes recommendations about the implementation of this Article and the feasibility of expanding its provisions to include other candidates for State office based on the experience of the Fund and the experience of similar programs in other states.

"**§ 163-278.69. Voter education.**

(a) Judicial Voter Guide. – The Board shall publish a Judicial Voter Guide that explains the functions of the appellate courts and the laws concerning the election of appellate judges, the purpose and function of the Fair Elections Fund, and the laws concerning voter registration. The Board shall distribute the Guide to as many voting-age individuals in the State as practical, through a mailing to all residences or other means it deems effective. The distribution shall occur no more than 28 days nor fewer than seven days before the primary and no more than 28 days nor fewer than seven days before the general election.

(b) Candidate Information. – The Judicial Voter Guide shall include information concerning all candidates for the Supreme Court and the Court of Appeals, as provided

by those candidates according to a format provided to the candidates by the Board. The Board shall request information for the Guide from each candidate according to the following format:

(1) Place of residence.
(2) Education.
(3) Occupation.
(4) Employer.
(5) Date admitted to the bar.
(6) Legal/judicial experience.
(7) Candidate statement, limited to 150 words. Concerning that statement, the Board shall send to the candidates instructions as follows: 'Your statement may include information such as your qualifications, your endorsements, your ratings, why you are seeking judicial office, why you would make a good judge, what distinguishes you from your opponent(s), your acceptance of spending and fund-raising limits to qualify to receive funds from the Fair Elections Fund, and any other information relevant to your candidacy. We will correct incidental errors of spelling, grammar, and punctuation which might prejudice the candidate's statement unfairly or confuse voters. We will make no changes to the content of any statement which would alter the meaning or substance of the statement. The State Board of Elections will reject any portion of any statement which it determines contains obscene, profane, or defamatory language.'

"**§ 163-278.70. Civil penalty.**

In addition to any other penalties that may be applicable, any individual, political committee, or other entity that violates any provision of this Article is subject to a civil penalty of up to ten thousand dollars ($10,000) per violation or three times the amount of any financial transactions involved in the violation, whichever is greater. In addition to any fine, for good cause shown, a candidate found in violation of this Article may be required to return to the Fund all amounts distributed to the candidate from the Fund. If the Board makes a determination that a violation of this Article has occurred, the Board shall calculate and assess the amount of the civil penalty and shall notify the entity that is assessed the civil penalty of the amount that has been assessed. The Board shall then proceed in the manner prescribed in G.S. 163-278.34. In determining whether or not a candidate is in violation of this Article, the Board may consider as a mitigating factor any circumstances out of the candidate's control."

SECTION 2. G.S. 163-278.13 reads as rewritten:

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

(a) No 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, 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.

(e2) The potential for corruption and its appearance resulting from campaign contributions is especially problematic in elections of the judiciary, since impartiality is uniquely important to the integrity and credibility of the courts. Accordingly, the following provisions shall apply with respect to candidates for justice of the Supreme Court, judge of the Court of Appeals, judge of the Superior Court, and judge of the District Court:

(1) No candidate shall accept, and no contributor shall make to that candidate, a contribution in any election exceeding one thousand dollars ($1,000) except as provided for elsewhere in this subsection.

(2) A candidate may accept, and a family contributor may make to that candidate, a contribution not exceeding two thousand dollars ($2,000) in an election if the contributor is that candidate's parent, child, brother, or sister.

(3) No candidate for justice of the Supreme Court or judge of the Court of Appeals shall accept, and no contributor shall make to that candidate, a contribution during the period beginning 21 days before the day of the general election and ending the day after the general election. This subdivision applies with respect to a candidate opposed in the general election by a certified candidate as defined in Article 22D of this Chapter who has not received the maximum rescue funds available under G.S. 163-278.67. The recipient of a contribution that apparently violates this subdivision has three days to return the contribution or file a detailed statement with the State Board of Elections explaining why the contribution does not violate this subdivision.

As used in this subsection, 'candidate' is also a political committee authorized by the candidate for that candidate's election. Nothing in this subsection shall prohibit a candidate or the spouse of that candidate from making a contribution or loan secured entirely by that individual's assets to that candidate's own campaign.

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

SECTION 3. G.S. 105-41(a)(1) reads as rewritten:

"**§ 105-41. Attorneys-at-law and other professionals.**

(a) Every individual in this State who practices a profession or engages in a business and is included in the list below must obtain from the Secretary a statewide license for the privilege of practicing the profession or engaging in the business. A license required by this section is not transferable to another person. The tax for each license is fifty dollars ($50.00).

(1) An attorney-at-law. In addition to the tax, a contribution of fifty dollars ($50.00) to support the Fair Elections Fund established by G.S. 163-278.63 shall be requested by providing for the contribution on the annual privilege license tax form. Payment of the contribution is not required and is not considered part of the tax owed.

...."

SECTION 4. Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-159.2. Designation of tax to North Carolina Fair Elections Fund.**

(a) Allocation to the North Carolina Fair Elections Fund. – One dollar ($1.00) from the income taxes paid each year by each individual with an income tax liability of at least that amount shall be allocated to the North Carolina Fair Elections Fund established in Article 22D of Chapter 163 of the General Statutes, unless the taxpayer indicates an objection to the allocation on the income tax return in the manner described in subsection (b) of this section. In the case of a married couple filing a joint return, each individual shall have the option of objecting to the allocation. The amounts allocated under this subsection to the Fund shall be credited to it on a quarterly basis.

(b) Form. – Individual income tax returns shall include a place for the designation of one dollar ($1.00) to the North Carolina Fair Elections Fund with three options given to the taxpayer: 'For,' 'Against,' and 'No Opinion,' and the following statement: 'One dollar will go to the North Carolina Fair Elections Fund to support a nonpartisan court system, unless you fill in the circle labeled "Against." Your tax remains the same regardless of which circle you choose.' A paid preparer of tax returns shall not choose one of the three options for a taxpayer without the taxpayer's consent. The Department of Revenue shall not approve for use in preparing North Carolina income tax returns any software package if that software package defaults to the option 'Against' on that question.

(c) Instructions. – Individual income tax returns shall include in their instructions an explanatory statement for the designation described in subsection (b) of this section which shall read: 'To enhance the impartiality and integrity of the court system in the

State, the North Carolina Fair Elections Fund provides campaign money to candidates for the North Carolina Supreme Court and Court of Appeals who voluntarily accept strict campaign spending and fund-raising limits. The Fund also helps finance educational materials about voter registration, the role of the appellate courts, and the candidates seeking election as appellate judges in North Carolina. One dollar from the taxes you pay will go to the Fund unless you fill in the circle marked "Against." Regardless of what choice you make, your tax will not increase, nor will any refund you are entitled to be reduced.' The exact wording of this statement or the statement specified in subsection (b) of this section may be modified if the new wording does not change the statement's essential meaning and is approved by the State Board of Elections and the Advisory Council for the Fair Elections Fund."

SECTION 5. Article 22C of Chapter 163 of the General Statutes is repealed.

SECTION 6.(a) G.S. 105-269.6 is repealed.

SECTION 6.(b) The Secretary of Revenue shall transfer to the North Carolina Fair Elections Fund any funds contributed to the North Carolina Candidates Financing Fund pursuant to G.S. 105-269.6 before its repeal by this section.

SECTION 7. Subchapter 10 of Chapter 163 of the General Statutes reads as rewritten:

"SUBCHAPTER X. ELECTION OF APPELLATE, SUPERIOR, AND DISTRICT COURT JUDGES.

Article 25.

Nomination and Election of Appellate, Superior, and District Court Judges.

§ 163-321. Applicability.

The nomination and election of justices of the Supreme Court, judges of the Court of Appeals, and superior and district court judges of the General Court of Justice shall be as provided by this Article.

"§ 163-322. Nonpartisan primary election method.

(a) General. – Except as provided in G.S. 163-329, there shall be a primary to narrow the field of candidates to two candidates for each position to be filled if, when the filing period closes, there are more than two candidates for a single office or the number of candidates for a group of offices exceeds twice the number of positions to be filled. If only one or two candidates file for a single office, no primary shall be held for that office and the candidates shall be declared nominated. If the number of candidates for a group of offices does not exceed twice the number of positions to be filled, no primary shall be held for those offices and the candidates shall be declared nominated.

(b) Determination of Nominees. – In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. If two or more candidates receiving the highest number of votes each receive the same number of votes, the State Board of Elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the same date as the primary canvass fixed under G.S. 163-188. The canvass shall be conducted in accordance with Article 16 of this Chapter.

(c) Determination of Election Winners. – In the election, the names of those candidates declared nominated without a primary and those candidates nominated in the primary shall be placed on the ballot. The candidate for a single office receiving the highest number of votes shall be elected. Those candidates for a group of offices receiving the highest number of votes, equal in number to the number of positions to be filled, shall be elected. If two candidates receiving the highest number of votes each received the same number of votes, the State Board of Elections shall determine the winner by lot.

"**§ 163-323. Notice of candidacy.**

(a) Form of Notice. - Each person offering to be a candidate for election shall do so by filing a notice of candidacy with the State Board of Elections in the following form, inserting the words in parentheses when appropriate:

Date: _____

I hereby file notice that I am a candidate for election to the office of _____ in the regular election to be held _____, ____.

Signed: _____
(Name of Candidate)

Witness: _____

The notice of candidacy shall be either signed in the presence of the chairman or secretary of the State Board of Elections, or signed and acknowledged before an officer authorized to take acknowledgments who shall certify the notice under seal. An acknowledged and certified notice may be mailed to the State Board of Elections. In signing a notice of candidacy, the candidate shall use only the candidate's legal name and, in his discretion, any nickname by which commonly known. A candidate may also, in lieu of that candidate's first name and legal middle initial or middle name, if any, sign that candidate's nickname, provided the candidate appends to the notice of candidacy an affidavit that the candidate has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way the candidate's name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

A notice of candidacy signed by an agent or any person other than the candidate himself shall be invalid.

(b) (Effective until January 1, 2003) Time for Filing Notice of Candidacy. - Candidates seeking election to the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the first Monday in January and no later than 12:00 noon on the first Monday in February preceding the election:

Judges of the superior courts.

Judges of the district courts.

(b) (Effective January 1, 2003) Time for Filing Notice of Candidacy. - Candidates seeking election to the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the election:

Justices of the Supreme Court.

Judges of the Court of Appeals.

Judges of the superior courts.

Judges of the district courts.

(c) Withdrawal of Notice of Candidacy. - Any person who has filed a notice of candidacy for an office shall have the right to withdraw it at any time prior to the date on which the right to file for that office expires under the terms of subsection (b) of this section.

(d) Certificate That Candidate Is Registered Voter. - Candidates shall file along with their notice a certificate signed by the chairman of the board of elections or the supervisor of elections of the county in which they are registered to vote, stating that the person is registered to vote in that county, and if the candidacy is for superior court judge and the county contains more than one superior court district, stating the superior court district of which the person is a resident. In issuing such certificate, the chairman or supervisor shall check the registration records of the county to verify such information. During the period commencing 36 hours immediately preceding the filing deadline, the State Board of Elections shall accept, on a conditional basis, the notice of candidacy of a candidate who has failed to secure the verification ordered herein subject to receipt of verification no later than three days following the filing deadline. The State Board of Elections shall prescribe the form for such certificate, and distribute it to each county board of elections no later than the last Monday in December of each odd-numbered year.

(e) Candidacy for More Than One Office Prohibited. - No person may file a notice of candidacy for more than one office or group of offices described in subsection (b) of this section, or for an office or group of offices described in subsection (b) of this section and an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of candidacy with a board of elections under this section or under G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not later be filed for any other office or group of offices under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (c) of this section.

(f) Notice of Candidacy for Certain Offices to Indicate Vacancy. - In any election in which there are two or more vacancies for the office of justice of the Supreme Court, judge of the Court of Appeals, or district court judge to be filled by nominations, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which ~~he~~ the candidate seeks election. Votes cast for a candidate shall be effective only for ~~his~~

election to the vacancy for which the candidate has given notice of candidacy as provided in this subsection.

A person seeking election for a specialized district judgeship established under G.S. 7A-147 shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the specialized judgeship to which the person seeks nomination.

(g) No person may file a notice of candidacy for superior court judge unless that person is at the time of filing the notice of candidacy a resident of the judicial district as it will exist at the time the person would take office if elected. No person may be nominated as a superior court judge under G.S. 163-114 unless that person is at the time of nomination a resident of the judicial district as it will exist at the time the person would take office if elected. This subsection implements Article IV, Section 9(1) of the North Carolina Constitution which requires regular Superior Court Judges to reside in the district for which elected.

"**§ 163-324. Filing fees required of candidates; refunds.**

(a) Fee Schedule. – At the time of filing a notice of candidacy under this Article, each candidate shall pay to the State Board of Elections a filing fee for the office he seeks in the amount of one percent (1%) of the annual salary of the office sought.

(b) Refund of Fees. – If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section withdraws his notice of candidacy within the period prescribed in G.S. 163-323(c), he shall be entitled to have the fee he paid refunded. The chairman of the State Board of Elections shall cause a warrant to be drawn on the State Treasurer for the refund payment.

If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section dies prior to the date of the election, the personal representative of the estate shall be entitled to have the fee refunded if application is made to the board of elections to which the fee was paid no later than one year after the date of death, and refund shall be made in the same manner as in withdrawal of notice of candidacy.

"**§ 163-325. Petition in lieu of payment of filing fee.**

(a) General. - Any qualified voter who seeks election under this Article may, in lieu of payment of any filing fee required for the office he seeks, file a written petition requesting him to be a candidate for a specified office with the State Board of Elections.

(b) Requirements of Petition; Deadline for Filing. -- If the candidate is seeking the office of Justice of the Supreme Court, judge of the Court of Appeals, or superior or district court judge, that individual shall file a written petition with the State Board of Elections no later than 12:00 noon on Monday preceding the filing deadline before the primary. ~~The~~ If the office is Justice of the Supreme Court or judge of the Court of Appeals, the petition shall be signed by 10,000 registered voters in the State. If the office is superior court or district court judge, the petition shall be signed by ten percent (10%) of the registered voters of the election area in which the office will be voted for. The board of elections shall verify the names on the petition, and if the petition and notice of candidacy are found to be sufficient, the candidate's name shall be printed on the appropriate ballot. Petitions must be presented to the county board of elections for

verification at least 15 days before the petition is due to be filed with the State Board of Elections. The State Board of Elections may adopt rules to implement this section and to provide standard petition forms.

"**§ 163-326. Certification of notices of candidacy.**

(a) Names of Candidates Sent to Secretary of State. - Within three days after the time for filing notices of candidacy with the State Board of Elections under the provisions of G.S. 163-323(b) has expired, the chairman or secretary of that Board shall certify to the Secretary of State the name and address of each person who has filed with the State Board of Elections, indicating in each instance the office sought.

(b) Notification of Local Boards. - No later than 10 days after the time for filing notices of candidacy under the provisions of G.S. 163-323(b) has expired, the chairman of the State Board of Elections shall certify to the chairman of the county board of elections in each county in the appropriate district the names of candidates for nomination to the offices of Justice of the Supreme Court, judge of the Court of Appeals, and superior and district court judge who have filed the required notice and paid the required filing fee or presented the required petition to the State Board of Elections, so that their names may be printed on the official judicial ballot for Justice of the Supreme Court, judge of the Court of Appeals, and superior and district court.

(c) Receipt of Notification by County Board. -- Within two days after receipt of each of the letters of certification from the chairman of the State Board of Elections required by subsection (b) of this section, each county elections board chairman shall acknowledge receipt by letter addressed to the chairman of the State Board of Elections.

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

(a) Death or Disqualification of Candidate Before Primary. - If a candidate for nomination in a primary dies or becomes 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 Justice of the Supreme Court, judge of the Court of Appeals, or superior or district 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.

"**§ 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 before the election and before the ballots are printed, the State Board of Elections shall, upon notification of the 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 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) 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 vacated candidate shall remain on the ballots. If a 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.

"**§ 163-329. Elections to fill vacancy created after primary filing period to use plurality method.**

(a) General. - If a vacancy is created in the office of Justice of the Supreme Court, judge of the Court of Appeals, or judge of superior court after the filing period for the primary opens but more than 60 days before the general election, and under the Constitution of North Carolina an election is to be held for that position, such that the office shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be conducted without a primary using the plurality method as provided in subsection (b) of this section. If a vacancy is created in the office of Justice of the Supreme Court, judge of the Court of Appeals, or judge of superior court before the filing period for the primary opens, and under the Constitution of North Carolina an election is to be held for that position, such that the office shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be conducted in accordance with G.S. 163-322.

(b) Plurality Election Rules. - Elections under this section shall be conducted using the following rules:

(1) The filing period shall be prescribed by the State Board of Elections, but in no event may it be less than five working days. If a vacancy occurs in a second office in the same superior court district after the first filing period established under the section has closed, the State

Board of Elections shall reopen filing for a period of not less than five working days for the office of Justice of the Supreme Court, judge of the Court of Appeals, or superior court judge. All persons filing in either filing period shall run as a group and the election results shall be determined by subdivision (3) of this subsection.

(2) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared elected.

(3) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.

(4) If two or more candidates receiving the highest number of votes each receive the same number of votes, the board of elections shall resolve the tie in accordance with G.S. 163-182.8.

(5) Except as provided in this section, the provisions of this Article apply to elections conducted under this section.

"**§ 163-330. Voting in primary.**

Any person who will become qualified by age or residence to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary.

"**§ 163-331. Date of primary.**

The primary shall be held on the same date as established for primary elections under G.S. 163-1(b).

"**§ 163-332. Ballots.**

(a) General. - In elections there shall be official ballots. The ballots shall be printed to conform to the requirement of G.S. 163-165.6(c) and to show the name of each person who has filed notice of candidacy, and the office for which each aspirant is a candidate.

Only those who have filed the required notice of candidacy with the proper board of elections, and who have paid the required filing fee or qualified by petition, shall have their names printed on the official primary ballots. Only those candidates properly nominated shall have their names appear on the official general election ballots.

(b) Ballots to Be Furnished by County Board of Elections. - It shall be the duty of the county board of elections to print official ballots for the following offices to be voted for in the primary:

Justice of the Supreme Court.

Judge of the Court of Appeals.

Superior court judge.

District court judge.

In printing ballots, the county board of elections shall be governed by instructions of the State Board of Elections with regard to width, color, kind of paper, form, and size of type.

Three days before the election, the chairman of the county board of elections shall distribute official ballots to the chief judge of each precinct in his county, and the chief judge shall give a receipt for the ballots received. On the day of the primary, it shall be the chief judge's duty to have all the ballots so delivered available for use at the precinct voting place.

"**§ 163-333:** Repealed by Session Laws 2001-398, s. 15, effective January 1, 2002.

"**§ 163-334. Counting of ballots.**

Counting of ballots in primaries and elections held under this Article shall be under the same rules as for counting of ballots in nonpartisan municipal elections under Article 24 of this Chapter.

"**§ 163-335. Other rules.**

Except as provided by this Article, the conduct of elections shall be governed by Subchapter VI of this Chapter."

SECTION 8. G.S. 163-106(c) reads as rewritten:

"(c) (Effective January 1, 2003) Time for Filing Notice of Candidacy. – Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the primary:

Governor
Lieutenant Governor
All State executive officers
~~Justices of the Supreme Court, Judges of the Court of Appeals~~
United States Senators
Members of the House of Representatives of the United States
District attorneys

Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the county board of elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the primary:

State Senators
Members of the State House of Representatives
All county offices."

SECTION 9. G.S. 163-106(d) reads as rewritten:

"(d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any primary in which there are ~~two or more vacancies for Chief Justice and associate justices of the Supreme Court, two or more vacancies for judge of the Court of Appeals, or~~ two vacancies for United States Senator from North Carolina, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which he seeks nomination. Votes cast for a

candidate shall be effective only for his nomination to the vacancy for which he has given notice of candidacy as provided in this subsection."

SECTION 10. G.S. 163-107(a) reads as rewritten:

"(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate shall pay to the board of elections with which he files under the provisions of G.S. 163-106 a filing fee for the office he seeks in the amount specified in the following tabulation:

Office Sought	Amount of Filing
Governor	One percent (1%) of the annual salary of the office sought
Lieutenant Governor	One percent (1%) of the annual salary of the office sought
All State executive offices	One percent (1%) of the annual salary of the office sought
All ~~Justices, Judges, and~~ District Attorneys of the General Court of Justice ~~other than superior and district court judge~~	One percent (1%) of the annual salary of the office sought
United States Senator	One percent (1%) of the annual salary of the office sought
Members of the United States House of Representatives	One percent (1%) of the annual salary of the office sought
State Senator	One percent (1%) of the annual salary of the office sought
Member of the State House of Representatives	One percent (1%) of the annual salary of the office sought
All county offices not compensated by fees	One percent (1%) of the annual salary of the office sought
County commissioners, if compensated entirely by fees	Ten dollars ($10.00)
Members of county board of education, if compensated entirely by fees	Five dollars ($5.00)
Sheriff, if compensated entirely by fees	Forty dollars ($40.00), plus one percent (1%) of the income of the office above four thousand dollars ($4,000)
Clerk of superior court, if compensated entirely by fees	Forty dollars ($40.00), plus one percent (1%) of the income of the office above four thousand dollars ($4,000)
Register of deeds, if compensated entirely by fees	Forty dollars ($40.00), plus one percent (1%) of the income of the

	office above four thousand dollars ($4,000)
Any other county office, if compensated entirely by fees	Twenty dollars ($20.00), plus one percent (1%) of the income of the office above two thousand dollars ($2,000)
All county offices compensated partly by salary and partly by fees	One percent (1%) of the first annual salary to be received (exclusive of fees) "

SECTION 11. G.S. 163-107.1(b) reads as rewritten:

"(b) If the candidate is seeking the office of United States Senator, Governor, Lieutenant Governor, or any State executive officer, ~~Justice of the Supreme Court or Judge of the Court of Appeals,~~ the petition must be signed by 10,000 registered voters who are members of the political party in whose primary the candidate desires to run, except that in the case of a political party as defined by G.S. 163-96(a)(2) which will be making nominations by primary election, the petition must be signed by ten percent (10%) of the registered voters of the State who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 10,000 registered voters regardless of the voter's political party affiliation, whichever requirement is greater. The petition must be filed with the State Board of Elections not later than 12:00 noon on Monday preceding the filing deadline before the primary in which he seeks to run. The names on the petition shall be verified by the board of elections of the county where the signer is registered, and the petition must be presented to the county board of elections at least 15 days before the petition is due to be filed with the State Board of Elections. When a proper petition has been filed, the candidate's name shall be printed on the primary ballot."

SECTION 12. G.S. 163-111(c)(1) reads as rewritten:

"(1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing or by telegram with the Executive Director of the State Board of Elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the State Board of Elections. If the vote certification by the State Board of Elections determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the Executive Director of the State Board of Elections shall immediately notify such candidate and permit him to exercise any options available to him within a 48-hour period following the notification:

Governor,

Lieutenant Governor,
All State executive officers,
~~Justices, Judges, or~~ District Attorneys of the General Court of Justice, ~~other than superior and district court judges,~~
United States Senators,
Members of the United States House of Representatives,
State Senators in multi-county senatorial districts, and
Members of the State House of Representatives in multi-county representative districts."

SECTION 13. G.S. 163-123(g) reads as rewritten:

"(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan elections except for ~~superior court judge~~ elections under Article 25 of this Chapter."

SECTION 14. G.S. 163-165.6(b)(3) reads as rewritten:

"(3) Partisan ~~offices~~ offices, regardless of the size of the constituency, shall be listed before nonpartisan offices."

SECTION 15. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 16. Section 1 of this act is effective when it becomes law, provided that distributions from the Fund shall begin in the 2004 election year. Section 2 becomes effective January 1, 2003. Section 3 becomes effective July 1, 2003. Sections 4 and 6 become effective for taxable years beginning on or after January 1, 2003. Section 5 becomes effective January 1, 2003. Sections 7 through 13 become effective with respect to primaries and elections held on or after January 1, 2004. Except as otherwise provided in this act, this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 7-24-02

S. B. No. S1054-CSRR-161 V.13 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.) Decker
)
Sen.)

moves to amend the bill on page 11, lines 33 and line 38

( ) WHICH CHANGES THE TITLE

by deleting the phrase "three" and substituting the phrase "two"; and

ON page 11, line 34 by rewriting that line to read: "options given to the taxpayer: 'For,' and 'Against,' and the following;" and

ON pages 11, line 44 through page 12, line 1 by deleting the phrase "To enhance the impartiality and integrity of the court system in the State,".

Passed

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

ROLL CALL VOTE

13 YES 10 NO = _____(TOTAL)

HB# ____
SB# 1054

HOUSE STANDING COMMITTEE ON **Election Law and Campaign Finance Reform**

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		Alexander			
✓		Michaux			
✓		Nesbitt			
	✓	Arnold			
		Blue			
✓		Bonner			
✓		Church			
	✓	Daughtry			
	✓	Decker			
✓		Goodwin			
	✓	Justus			
	✓	Kiser			
✓		Luebke			
	✓	Morris			
	✓	Rayfield			
✓		Redwine			
✓		Rogers			
	✓	Starnes			
	✓	Thompson			
	✓	Weatherly			
✓		Weiss			
✓		Majority Leader: Baddour			Majority Whip: Dedmon
✓		Cunningham			Majority Whip: Earle
			✓		Speaker Pro Tem: Hackney

Ex officio Members

VISITOR REGISTRATION SHEET

Elections LAW + CAMPAIGN Reform 7/24/02
Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sara Rains	Rep Luebke's Office
Jesse Rutledge	Center for Voter Education
Kim Westbrook	State Board of Elections
Gary O. Bartlett	" " " "
Debra Shatley	Speaker's Office
Ashley Huffstetler	The Capitol Group
John McHugh	Gov Office
Chad Essick	Edmisten + Webb
Lisa Walker	NC CoNNect
Grady McMillan	NC. Conect.
Heather Jandon	NC CoNNet
Bob Hall	Democracy South
Christine Wilson	NC Ctr Voter Educ.
Jeff Nieman	NC Ctr Voter education
Michelle Frazier	NC Bar Ass'n
ERIN BYRD	NC Voters Clean Elections
Dick Taylor	NCAFL
Diane Winn	ACLU
Shaya Watts	intern
Bill Wilson	NCAFL
Emma Blose	Democracy South
Beth Messersmith	Democracy South
Tom Harrell	N.C. Common Cause
Peg Chapin	League of Women Voters
John Hennessy	NC Bar Assoc.
Colin Rogister	NC Center for Voter Education
TRE JONES	Democracy South
Katie Ulm	NC statesman

VISITOR REGISTRATION SHEET

Election Laws
Name of Committee

7/24/02
Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brett Stohs	NC PIRG
Aaron Cohen	ESC
Bill Holmes	The Associated Press
[illegible]	Freedom Voices
[illegible]	Democracy South
Julie Donnelly	NC Public Radio
VNCTV	
Bob Phillips	NC Common Cause Ed. Fund

AGENDA

HOUSE ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE

September 25, 2002
11:00 a.m.

Room 1228 LB

Representative Martha Alexander, Chair

CALL TO ORDER: Representative Alexander

SB 1054 – Judicial Campaign Reform Act. – Senator Gulley

STAFF: Bill Gilkeson
Erika Churchill

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

September 25, 2002

Room 1228
10:00 a.m.

The meeting of the Election Law and Campaign Finance Reform Committee was called to order by the Chair, Representative Martha Alexander. Those present at the meeting were Representatives Alexander, Michaux, Vice Chair; Nesbitt, Vice Chair; Arnold, Bonner, Church, Daughtry, Decker, Goodwin, Justus, Kiser, Morris, Rayfield, Redwine, Rogers, Starnes, Thompson, Weatherly, Weiss, Baddour, Cunningham and Earle.

SB 1054 was reconsidered, having been re-referred to the Committee from the House floor. Representative Michaux moved to amend the bill as follows: changing the title on page 1, line 19, by deleting the term "REVERSE $1 and substituting the term "POSITIVE $3", and on page 12, line 7, through page 13, line 1. The amendment is attached to these minutes. Representative Culpepper, who was handling the bill, supported the amendment. Following discussion concerning the amount of money available to support public financing, the fiscal impact of $3 being diverted from the General Fund to the North Carolina Public Campaign Financing Fund on some tax returns, determining that public financing would continue on a pro-rata basis until the Fund is depleted even if participation is poor, and questions about the cost of elections, and attorney contributions, Representative Michaux moved that the amendment be approved. Representative Daughtry requested the "ayes" and "noes." The amendment passed by a 13 to 9 vote which is attached to the minutes. Following further discussion, Representative Michaux then moved to roll the amendment into the Committee Substitute, unfavorable as to the original bill, favorable to the Committee Substitute. Representative Daughtry called for the "ayes" and "noes" and the motion carried 12 to 10. This vote is attached to the minutes.

There being no further business, the meeting was adjourned.

Martha Alexander, Chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 6

SENATE BILL 1054

Judiciary I Committee Substitute Adopted 9/10/01
Finance Committee Substitute Adopted 11/13/01
House Committee Substitute Favorable 7/29/02
House Committee Substitute #2 Favorable 8/22/02
Sixth Edition Engrossed 9/24/02

Short Title: Judicial Campaign Reform Act. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A NONPARTISAN METHOD OF ELECTING SUPREME COURT JUSTICES AND COURT OF APPEALS JUDGES BEGINNING IN 2004; TO SET $1,000 CONTRIBUTION LIMITS ($2,000 FROM FAMILY MEMBERS) FOR JUDICIAL CAMPAIGNS BEGINNING IN 2004; TO ESTABLISH A PUBLIC CAMPAIGN FINANCING FUND THAT PROVIDES APPELLATE JUDICIAL CANDIDATES WHO AGREE TO CONTRIBUTION AND EXPENDITURE RESTRICTIONS WITH AN ALTERNATIVE MEANS OF FINANCING THEIR CAMPAIGNS BEGINNING IN 2004; TO SAFEGUARD CANDIDATES WHO OPT TO USE THAT SYSTEM BY PROHIBITING CERTAIN CONTRIBUTIONS TO THEIR OPPONENTS DURING THE TWENTY-ONE DAYS BEFORE AN ELECTION AND BY PROVIDING RESCUE MONEY WHEN THEY FACE LARGE EXPENDITURES BY OPPONENTS OR LARGE INDEPENDENT EXPENDITURES; TO PROVIDE A JUDICIAL VOTER GUIDE TO BE FINANCED BY THE FUND; TO PROVIDE THAT THE FUND SHALL BE ADMINISTERED BY THE STATE BOARD OF ELECTIONS ASSISTED BY AN ADVISORY COUNCIL; AND TO PROVIDE THAT THE FUND SHALL BE FINANCED BY METHODS INCLUDING A REVERSE $1 CHECK-OFF ON THE NORTH CAROLINA INCOME TAX AND A $50 CONTRIBUTION BY ATTORNEYS WHEN THEY PAY THEIR PRIVILEGE LICENSE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 22D.

"The North Carolina Public Campaign Financing Fund.

"**§ 163-278.61. Purpose of the North Carolina Public Campaign Financing Fund.**

The purpose of this Article is to ensure the fairness of democratic elections in North Carolina and to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections, those effects being especially problematic in elections of the judiciary, since impartiality is uniquely important to the integrity and credibility of the courts. Accordingly, this Article establishes the North Carolina Public Campaign Financing Fund as an alternative source of campaign financing for candidates who demonstrate public support and voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for justice of the Supreme Court and judge of the Court of Appeals in elections to be held in 2004 and thereafter.

"**§ 163-278.62. Definitions.**

The following definitions apply in this Article:

(1) Board. – The State Board of Elections.

(2) Candidate. – An individual who becomes a candidate as described in G.S. 163-278.6(4). The term includes a political committee authorized by the candidate for that candidate's election.

(3) Certified candidate. – A candidate running for office who chooses to receive campaign funds from the Fund and who is certified under G.S. 163-278.64(c).

(4) Contested primary and contested general election. – An election in which there are more candidates than the number to be elected. A distribution from the Fund pursuant to this Article is not a 'contribution' and is not subject to the limitations of G.S. 163-278.13 or the prohibitions of G.S. 163-278.15 or G.S. 163-278.19.

(5) Contribution. – Defined in G.S. 163-278.6. A distribution from the Fund pursuant to this Article is not a 'contribution' and is not subject to the limitations of G.S. 163-278.13 or the prohibitions of G.S. 163-278.15 or 163-278.19.

(6) Expenditure. – Defined in G.S. 163-278.6.

(7) Fund. – The North Carolina Public Campaign Financing Fund established in G.S. 163-278.63.

(8) Independent expenditure. – Defined in G.S. 163-278.6.

(9) Maximum qualifying contributions. – An amount of qualifying contributions equal to 60 times the filing fee for candidacy for the office.

(10) Minimum qualifying contributions. – An amount of qualifying contributions equal to 30 times the filing fee for candidacy for the office.

(11) Nonparticipating candidate. – A candidate running for office who is not seeking to be certified under G.S. 163-278.64(c).

(12) Office. – A position on the North Carolina Court of Appeals or North Carolina Supreme Court.

(13) Participating candidate. – A candidate for office who has filed a declaration of intent to participate under G.S. 163-278.64.

(14) Political committee. – Defined in G.S. 163-278.6.

(15) Qualifying contribution. – A contribution of not less than ten dollars ($10.00) and not more than five hundred dollars ($500.00) in the form of a check or money order to the candidate or the candidate's committee that meets both of the following conditions:

a. Made by any registered voter in this State.

b. Made during the qualifying period and obtained with the approval of the candidate or candidate's committee.

(16) Qualifying period. – The period beginning September 1 in the year before the election and ending on the day of the primary of the election year.

(17) Referendum committee. – Defined in G.S. 163-278.6.

(18) Trigger for rescue funds. – The dollar amount at which rescue funds are released for certified candidates. In the case of a primary, the trigger equals the maximum qualifying contributions for participating candidates. In the case of a contested general election, the trigger equals the base level of funding available under G.S. 163-278.65(b)(4).

"**§ 163-278.63. North Carolina Public Campaign Financing Fund established; sources of funding.**

(a) Establishment of Fund. – The North Carolina Public Campaign Financing Fund is established to finance the election campaigns of certified candidates for office and to pay administrative and enforcement costs of the Board related to this Article. The Fund is a special, dedicated, nonlapsing, nonreverting fund. All expenses of administering this Article, including production and distribution of the Voter Guide required by G.S. 163-278.69 and personnel and other costs incurred by the Board, shall be paid from the Fund and not from the General Fund. Any interest generated by the Fund is credited to the Fund. The Board shall administer the Fund.

(b) Sources of Funding. – Money received from all the following sources must be deposited in the Fund:

(1) Money from the North Carolina Candidates Financing Fund.

(2) Designations made to the Public Campaign Financing Fund by individual taxpayers pursuant to G.S. 105-159.2.

(3) Any contributions made by attorneys in accordance with G.S. 105-41.

(4) Public Campaign Financing Fund revenues distributed for an election that remain unspent or uncommitted at the time the recipient is no longer a certified candidate in the election.

(5) Money ordered returned to the Public Campaign Financing Fund in accordance with G.S. 163-278.70.

(6) Voluntary donations made directly to the Public Campaign Financing Fund. Corporations, other business entities, labor unions, and professional associations may make donations to the Fund.

(c) Determination of Fund Amount. – By October 1, 2003, and every two years

thereafter, the Board, in conjunction with the Advisory Council for the Public Campaign Financing Fund, shall prepare and provide to the Joint Legislative Commission on Governmental Operations of the General Assembly a report documenting, evaluating, and making recommendations relating to the administration, implementation, and enforcement of this Article. In its report, the Board shall set out the funds received to date and the expected needs of the Fund for the next election.

"**§ 163-278.64. Requirements for participation; certification of candidates.**

(a) Declaration of Intent to Participate. – Any individual choosing to receive campaign funds from the Fund shall first file with the Board a declaration of intent to participate in the act as a candidate for a stated office. The declaration of intent shall be filed before or during the qualifying period and before collecting any qualifying contributions. In the declaration, the candidate shall swear or affirm that only one political committee, identified with its treasurer, shall handle all contributions, expenditures, and obligations for the participating candidate and that the candidate will comply with the contribution and expenditure limits set forth in subsection (d) of this section and all other requirements set forth in this Article or adopted by the Board. Failure to comply is a violation of this Article.

(b) Demonstration of Support of Candidacy. – Participating candidates who seek certification to receive campaign funds from the Fund shall first, during the qualifying period, obtain qualifying contributions from at least 350 registered voters in an aggregate sum that at least equals the amount of minimum qualifying contributions described in G.S. 163-278.62(10) but that does not exceed the amount of maximum qualifying contributions described in G.S. 163-278.62(9).

No payment, gift, or anything of value shall be given in exchange for a qualifying contribution.

(c) Certification of Candidates. – Upon receipt of a submittal of the record of demonstrated support by a participating candidate, the Board shall determine whether or not the candidate has complied with all the following requirements, if they apply to that candidate:

(1) Signed and filed a declaration of intent to participate in this Article.

(2) Submitted a report itemizing the appropriate number of qualifying contributions received from registered voters, which the Board shall verify through a random sample or other means it adopts. The report shall include the county of residence of each registered voter listed.

(3) Qualified to receive votes on the ballot as a candidate for the office.

(4) Otherwise met the requirements for participation in this Article.

The Board shall certify candidates complying with the requirements of this section as soon as possible and no later than five business days after receipt of a satisfactory record of demonstrated support.

(d) Restrictions on Contributions and Expenditures for Participating and Certified Candidates. – The following restrictions shall apply to contributions and expenditures with respect to participating and certified candidates:

(1) Beginning January 1 of the year before the election and before the filing of a declaration of intent, a candidate for office may accept in

contributions up to ten thousand dollars ($10,000) from sources and in amounts permitted by Article 22A of this Chapter and may expend up to ten thousand dollars ($10,000) for any campaign purpose. A candidate who exceeds either of these limits shall be ineligible to file a declaration of intent or receive funds from the Public Campaign Financing Fund.

(2) From the filing of a declaration of intent through the end of the qualifying period, a candidate shall expend no more than an amount equal to the maximum qualifying contributions for that candidate, not including possible rescue funds or the remaining money raised pursuant to subdivision (1) of this subsection. Contributions a candidate may use to expend to that limit shall be limited to qualifying contributions and personal and family contributions permitted by subdivision (4) of this subsection.

(3) After the qualifying period and through the date of the general election, the candidate shall expend only the funds the candidate receives from the Fund pursuant to G.S. 163-278.65(b)(4) plus any funds remaining from the qualifying period and possible rescue funds.

(4) During the qualifying period, the candidate may contribute up to one thousand dollars ($1,000) of that candidate's own money to the campaign and may accept in contributions one thousand dollars ($1,000) from each member of that candidate's family consisting of spouse, parent, child, brother, and sister.

(5) A candidate and the candidate's committee shall limit the use of all revenues permitted by this subsection to expenditures for campaign-related purposes only. The Board shall publish guidelines outlining permissible campaign-related expenditures.

(6) Any contribution received by a participating or certified candidate that falls outside that permitted by this subsection shall be returned to the donor as soon as practicable. Contributions intentionally made, solicited, or accepted in violation of this Article are subject to civil penalties as specified in G.S. 163-278.70. The funds involved shall be forfeited to the Civil Penalty and Forfeiture Fund.

(7) A candidate shall return to the Fund any amount distributed for an election that is unspent and uncommitted at the date of the election, or at the time the individual ceases to be a certified candidate, whichever occurs first. For accounting purposes, all qualifying, personal, and family contributions shall be considered spent before revenue from the Fund is spent or committed.

(e) Revocation. – A candidate may revoke, in writing to the Board, a decision to participate in the Public Campaign Financing Fund at any time before the deadline set by the Board for the candidate's submission of information for the Voter Guide described in G.S. 163-278.69. After a timely revocation, that candidate may accept and

expend outside the limits of this Article without violating this Article. Within 10 days after revocation, a candidate shall return to the Board all money received from the Fund.

"**§ 163-278.65. Distribution From the Fund.**

(a) Timing of Fund Distribution. – The Board shall distribute to a certified candidate revenue from the Fund in an amount determined under subdivision (b)(4) of this section within five business days after the certified candidate's name is approved to appear on the ballot in a contested general election, but no earlier than five business days after the primary.

(b) Amount of Fund Distribution. – By August 1, 2003, and no less frequently than every two years thereafter, the Board shall determine the amount of funds, rounded to the nearest one hundred dollars ($100.00), to be distributed to certified candidates as follows:

(1) Uncontested primaries. – No funds shall be distributed.

(2) Contested primaries. – No funds shall be distributed except as provided in G.S. 163-278.67.

(3) Uncontested general elections. – No funds shall be distributed.

(4) Contested general elections. – Funds shall be distributed to a certified candidate for a position on the Court of Appeals in an amount equal to 125 times the candidate's filing fee as set forth in G.S. 163-107. Funds shall be distributed to a certified candidate for a position on the Supreme Court in an amount equal to 175 times the candidate's filing fee as set forth in G.S. 163-107.

(c) Method of Fund Distribution. – The Board, in consultation with the State Treasurer and the State Controller, shall develop a rapid, reliable method of conveying funds to certified candidates. In all cases, the Board shall distribute funds to certified candidates in a manner that is expeditious, ensures accountability, and safeguards the integrity of the Fund. If the money in the Fund is insufficient to fully fund all certified candidates, then the available money shall be distributed proportionally, according to each candidate's eligible funding.

"**§ 163-278.66. Reporting requirements.**

(a) Reporting by Noncertified Candidates and Independent Expenditure Entities. – Any noncertified candidate with a certified opponent shall report total income, expenses, and obligations to the Board by facsimile machine or electronically within 24 hours after the total amount of campaign expenditures or obligations made, or funds raised or borrowed, exceeds eighty percent (80%) of the trigger for rescue funds as defined in G.S. 163-278.62(18). Any entity making independent expenditures in excess of three thousand dollars ($3,000) in support of or opposition to a certified candidate shall report the total funds received, spent, or obligated for those expenditures to the Board by facsimile machine or electronically within 24 hours after the total amount of expenditures or obligations made, or funds raised or borrowed, for the purpose of making the independent expenditures, exceeds fifty percent (50%) of the trigger for rescue funds. After this 24-hour filing, the noncertified candidate or independent expenditure entity shall comply with an expedited reporting schedule by filing additional reports after receiving each additional amount in excess of one thousand

dollars ($1,000) or after making or obligating to make each additional expenditure(s) in excess of one thousand dollars ($1,000). The schedule and forms for reports required by this subsection shall be made according to procedures developed by the Board.

(b) Reporting by Participating and Certified Candidates. – Notwithstanding other provisions of law, participating and certified candidates shall report any money received, including all previously unreported qualifying contributions, all campaign expenditures, obligations, and related activities to the Board according to procedures developed by the Board. A certified candidate who ceases to be certified or ceases to be a candidate or who loses an election shall file a final report with the Board and return any unspent revenues received from the Fund. In developing these procedures, the Board shall utilize existing campaign reporting procedures whenever practical.

(c) Timely Access to Reports. – The Board shall ensure prompt public access to the reports received in accordance with this Article. The Board may utilize electronic means of reporting and storing information.

"**§ 163-278.67. Rescue funds.**

(a) When Rescue Funds Become Available. – When any report or group of reports shows that 'funds in opposition to a certified candidate or in support of an opponent to that candidate' as described in this section, exceed the trigger for rescue funds as defined in G.S. 163-278.62(18), the Board shall issue immediately to that certified candidate an additional amount equal to the reported excess within the limits set forth in this section. 'Funds in opposition to a certified candidate or in support of an opponent to that candidate' shall be equal to the sum of the following:

(1) Campaign expenditures or obligations made, or funds raised or borrowed, whichever is greater, reported by any one uncertified opponent of a certified candidate. Where a certified candidate has more than one uncertified opponent, the measure shall be taken from the uncertified candidate showing the highest relevant dollar amount.

(2) The sum of all expenditures reported in accordance with G.S. 163-278.66 of entities making independent expenditures in opposition to the certified candidate or in support of any opponent of that certified candidate.

(b) Limit on Rescue Funds in Contested Primary. – Total rescue funds to a certified candidate in a contested primary shall be limited to an amount equal to two times the maximum qualifying contributions for the office sought.

(c) Limit on Rescue Funds in Contested General Election. – Total rescue funds to a certified candidate in a contested general election shall be limited to an amount equal to two times the amount described in G.S. 163-278.65(b)(4).

"**§ 163-278.68. Enforcement and administration.**

(a) Enforcement by the Board. – The Board, with the advice of the Advisory Council for the Public Campaign Financing Fund, shall administer the provisions of this Article.

(b) Advisory Council for the Public Campaign Financing Fund. – There is established under the Board the Advisory Council for the Public Campaign Financing Fund to advise the Board on the rules, procedures, and opinions it adopts for the

enforcement and administration of this Article and on the funding needs and operation of the Public Campaign Financing Fund. The Advisory Council shall consist of five members to be appointed as follows:

(1) The Governor shall name two members from a list of individuals nominated by the State Chair of the political party with which the greatest number of registered voters is affiliated. The State Chair of that party shall submit to the Governor the names of five nominees.

(2) The Governor shall name two members from a list of individuals nominated by the State Chair of the political party with which the second greatest number of registered voters is affiliated. The State Chair of that party shall submit to the Governor the names of five nominees.

(3) The Board shall name one member by unanimous vote of all members of the Board. If the Board cannot reach unanimity on the appointment of that member, the Advisory Council shall consist of the remaining members.

No individual shall be eligible to be a member of the Advisory Council who would be ineligible to serve on a county board of elections in accordance with G.S. 163-30. The initial members shall be appointed by December 1, 2002. Of the initial appointees, two are appointed for one-year terms, two are appointed for two-year terms, and one is appointed for a three-year term according to random lot. Thereafter, appointees are appointed to serve four-year terms. An individual may not serve more than two full terms. The appointed members receive the legislative per diem pursuant to G.S. 120-3.1. One of the Advisory Council members shall be elected by the members as Chair. A vacancy during an unexpired term shall be filled in the same manner as the regular appointment for that term, but a vacancy appointment is only for the unexpired portion of the term.

(c) Appeals. – The initial decision on an issue concerning qualification, certification, or distribution of funds under this Article shall be made by the Executive Director of the Board. The procedure for challenging that decision is as follows:

(1) An individual or entity aggrieved by a decision by the Executive Director of the Board may appeal to the full Board within three business days of the 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 Board shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the decision of the Executive Director was improper. The Board shall rule on the appeal within three business days after the completion of the hearing.

(d) Board to Adopt Rules and Issue Opinions. – The Board shall adopt rules and issue opinions to ensure effective administration of this Article. Such rules and opinions shall include, but not be limited to, procedures for obtaining qualifying contributions, certification of candidates, addressing circumstances involving special elections,

vacancies, recounts, withdrawals, or replacements, collection of revenues for the Fund, distribution of Fund revenue to certified candidates, return of unspent Fund disbursements, and compliance with this Article. The Board shall adopt procedures for the distribution of rescue money that further the purpose and avoid the subversion of G.S. 163-278.67. For races involving special elections, recounts, vacancies, withdrawals, or replacement candidates, the Board shall establish procedures for qualification, certification, disbursement of Fund revenues, and return of unspent Fund revenues. The Board shall fulfill each of these duties in consultation with the Advisory Council on the Public Campaign Financing Fund.

(e) Report to the Public. – The Advisory Council for the Public Campaign Financing Fund shall issue a report by March 1, 2005, and every two years thereafter that evaluates and makes recommendations about the implementation of this Article and the feasibility of expanding its provisions to include other candidates for State office based on the experience of the Fund and the experience of similar programs in other states. The Advisory Council shall also evaluate and make recommendations regarding how to address activities that could undermine the purpose of this Article, including spending that appears to target candidates receiving money from the Fund but that does not meet the definition of 'independent expenditures.'

"**§ 163-278.69. Voter education.**

(a) Judicial Voter Guide. – The Board shall publish a Judicial Voter Guide that explains the functions of the appellate courts and the laws concerning the election of appellate judges, the purpose and function of the Public Campaign Financing Fund, and the laws concerning voter registration. The Board shall distribute the Guide to as many voting-age individuals in the State as practical, through a mailing to all residences or other means it deems effective. The distribution shall occur no more than 28 days nor fewer than seven days before the primary and no more than 28 days nor fewer than seven days before the general election.

(b) Candidate Information. – The Judicial Voter Guide shall include information concerning all candidates for the Supreme Court and the Court of Appeals, as provided by those candidates according to a format provided to the candidates by the Board. The Board shall request information for the Guide from each candidate according to the following format:

(1) Place of residence.
(2) Education.
(3) Occupation.
(4) Employer.
(5) Date admitted to the bar.
(6) Legal/judicial experience.
(7) Candidate statement, limited to 150 words. Concerning that statement, the Board shall send to the candidates instructions as follows: 'Your statement may include information such as your qualifications, your endorsements, your ratings, why you are seeking judicial office, why you would make a good judge, what distinguishes you from your opponent(s), your acceptance of spending and fund-raising limits to

qualify to receive funds from the Public Campaign Financing Fund, and any other information relevant to your candidacy. The State Board of Elections will reject any portion of any statement which it determines contains obscene, profane, or defamatory language. The candidate shall have three days to resubmit the candidate statement if the Board rejects a portion of the statement.'

(c) Disclaimer. – The Judicial Voter Guide shall contain the following statement: 'The above statements do not express or reflect the opinions of the State Board of Elections.'

"**§ 163-278.70. Civil penalty.**

In addition to any other penalties that may be applicable, any individual, political committee, or other entity that violates any provision of this Article is subject to a civil penalty of up to ten thousand dollars ($10,000) per violation or three times the amount of any financial transactions involved in the violation, whichever is greater. In addition to any fine, for good cause shown, a candidate found in violation of this Article may be required to return to the Fund all amounts distributed to the candidate from the Fund. If the Board makes a determination that a violation of this Article has occurred, the Board shall calculate and assess the amount of the civil penalty and shall notify the entity that is assessed the civil penalty of the amount that has been assessed. The Board shall then proceed in the manner prescribed in G.S. 163-278.34. In determining whether or not a candidate is in violation of this Article, the Board may consider as a mitigating factor any circumstances out of the candidate's control."

SECTION 2. G.S. 163-278.13 reads as rewritten:

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

(a) No 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, 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.

(e2) In order to make meaningful the provisions of Article 22D of this Chapter, the following provisions shall apply with respect to candidates for justice of the Supreme Court and judge of the Court of Appeals:

(1) No candidate shall accept, and no contributor shall make to that candidate, a contribution in any election exceeding one thousand dollars ($1,000) except as provided for elsewhere in this subsection.

(2) A candidate may accept, and a family contributor may make to that candidate, a contribution not exceeding two thousand dollars ($2,000) in an election if the contributor is that candidate's parent, child, brother, or sister.

(3) No candidate shall accept, and no contributor shall make to that candidate, a contribution during the period beginning 21 days before the day of the general election and ending the day after the general election. This subdivision applies with respect to a candidate opposed in the general election by a certified candidate as defined in Article 22D of this Chapter who has not received the maximum rescue funds available under G.S. 163-278.67. The recipient of a contribution that apparently violates this subdivision has three days to return the contribution or file a detailed statement with the State Board of Elections explaining why the contribution does not violate this subdivision.

As used in this subsection, 'candidate' is also a political committee authorized by the candidate for that candidate's election. Nothing in this subsection shall prohibit a candidate or the spouse of that candidate from making a contribution or loan secured entirely by that individual's assets to that candidate's own campaign.

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

SECTION 3. G.S. 105-41(a)(1) reads as rewritten:

"**§ 105-41. Attorneys-at-law and other professionals.**

(a) Every individual in this State who practices a profession or engages in a business and is included in the list below must obtain from the Secretary a statewide license for the privilege of practicing the profession or engaging in the business. A license required by this section is not transferable to another person. The tax for each license is fifty dollars ($50.00).

(1) An attorney-at-law. In addition to the tax, whenever an attorney pays the tax, the Department must give that attorney an opportunity to make a contribution of fifty dollars ($50.00) to support the North Carolina

Public Campaign Financing Fund established by G.S. 163-278.63. Payment of the contribution is not required and is not considered part of the tax owed.

...."

SECTION 4. Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-159.2. Designation of tax to North Carolina Public Campaign Financing Fund.**

(a) Allocation to the North Carolina Public Campaign Financing Fund. – To ensure the financial viability of the North Carolina Public Campaign Financing Fund established in Article 22D of Chapter 163 of the General Statutes, the Department must allocate to that Fund one dollar ($1.00) from the income taxes paid each year by each individual with an income tax liability of at least that amount, unless the individual objects. A taxpayer must be given the opportunity to indicate an objection to that allocation in the manner described in subsection (b) of this section. In the case of a married couple filing a joint return, each individual must have the option of objecting to the allocation. The amounts allocated under this subsection to the Fund must be credited to it on a quarterly basis.

(b) Returns. – Individual income tax returns must give an individual an opportunity to object to the allocation of one dollar ($1.00) of the individual's tax liability to the North Carolina Public Campaign Financing Fund. The Department must make it clear to the taxpayer that the dollar will support a nonpartisan court system, that the dollar will go to the Fund if the taxpayer does not mark an objection, and that allocation of the dollar neither increases nor decreases the individual's tax liability. The following statement satisfies the intent of this requirement: 'One dollar ($1.00) will go to the North Carolina Public Campaign Financing Fund to support a nonpartisan court system, unless you object. Your tax remains the same whether or not you object.' The Department must consult with the State Board of Elections to ensure that the information given to taxpayers complies with the intent of this section.

The Department must inform the entities it approves to reproduce the return of the requirements of this section and that a return may not reflect an objection unless the individual completing the return decided to object to the allocation after being presented with the information required by subsection (c) of this section. No software package used in preparing North Carolina income tax returns may default to an objection. A paid preparer of tax returns may not mark an objection for a taxpayer without the taxpayer's consent.

(c) Instructions. – The instruction for individual income tax returns must include the following explanatory statement: 'The North Carolina Public Campaign Financing Fund provides campaign money to nonpartisan candidates for the North Carolina Supreme Court and Court of Appeals who voluntarily accept strict campaign spending and fund-raising limits. The Fund also helps finance educational materials about voter registration, the role of the appellate courts, and the candidates seeking election as appellate judges in North Carolina. One dollar ($1.00) from the taxes you pay will go to the Fund unless you mark an objection. Regardless of what choice you make, your tax

will not increase, nor will any refund you are entitled to be reduced.' "

SECTION 5. Article 22C of Chapter 163 of the General Statutes is repealed.

SECTION 6.(a) G.S. 105-269.6 is repealed.

SECTION 6.(b) In order to pay for its costs for the 2002-2003 fiscal year of programming, design, printing, and other expenses associated with implementing this act, the Secretary of Revenue may draw funds not to exceed one hundred seventy-eight thousand six hundred dollars ($178,600) from the North Carolina Candidates Financing Fund. After drawing those funds, the Secretary of Revenue shall transfer immediately to the North Carolina Public Campaign Financing Fund any remaining funds that were contributed to the North Carolina Candidates Financing Fund pursuant to G.S. 105-269.6 before its repeal by this section. Funds the Secretary of Revenue withdraws but then determines are not needed shall also be transferred to the North Carolina Public Campaign Financing Fund.

SECTION 7. Subchapter X of Chapter 163 of the General Statutes reads as rewritten:

"SUBCHAPTER X. ELECTION OF APPELLATE, ~~SUPERIOR~~ SUPERIOR, AND DISTRICT COURT JUDGES.

"Article 25.

"Nomination and Election of Appellate, ~~Superior~~ Superior, and District Court Judges.

"§ 163-321. Applicability.

The nomination and election of justices of the Supreme Court, judges of the Court of Appeals, and superior and district court judges of the General Court of Justice shall be as provided by this Article.

"§ 163-322. Nonpartisan primary election method.

(a) General. – Except as provided in G.S. 163-329, there shall be a primary to narrow the field of candidates to two candidates for each position to be filled if, when the filing period closes, there are more than two candidates for a single office or the number of candidates for a group of offices exceeds twice the number of positions to be filled. If only one or two candidates file for a single office, no primary shall be held for that office and the candidates shall be declared nominated. If the number of candidates for a group of offices does not exceed twice the number of positions to be filled, no primary shall be held for those offices and the candidates shall be declared nominated.

(b) Determination of Nominees. – In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. If two or more candidates receiving the highest number of votes each receive the same number of votes, the State Board of Elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the same date as the primary canvass fixed under G.S. 163-188. The canvass shall be conducted in accordance with Article 16 of this Chapter.

(c) Determination of Election Winners. – In the election, the names of those candidates declared nominated without a primary and those candidates nominated in the primary shall be placed on the ballot. The candidate for a single office receiving the

highest number of votes shall be elected. Those candidates for a group of offices receiving the highest number of votes, equal in number to the number of positions to be filled, shall be elected. If two candidates receiving the highest number of votes each received the same number of votes, the State Board of Elections shall determine the winner by lot.

"**§ 163-323. Notice of candidacy.**

(a) Form of Notice. – Each person offering to be a candidate for election shall do so by filing a notice of candidacy with the State Board of Elections in the following form, inserting the words in parentheses when appropriate:

Date: _____

I hereby file notice that I am a candidate for election to the office of _____ in the regular election to be held _____, ____.

Signed: _____
(Name of Candidate)

Witness: _____

The notice of candidacy shall be either signed in the presence of the chairman or secretary of the State Board of Elections, or signed and acknowledged before an officer authorized to take acknowledgments who shall certify the notice under seal. An acknowledged and certified notice may be mailed to the State Board of Elections. In signing a notice of candidacy, the candidate shall use only the candidate's legal name and, in his discretion, any nickname by which commonly known. A candidate may also, in lieu of that candidate's first name and legal middle initial or middle name, if any, sign that candidate's nickname, provided the candidate appends to the notice of candidacy an affidavit that the candidate has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way the candidate's name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

A notice of candidacy signed by an agent or any person other than the candidate himself shall be invalid.

(b) **(Effective until January 1, 2003)** Time for Filing Notice of Candidacy. – Candidates seeking election to the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the first Monday in January and no later than 12:00 noon on the first Monday in February preceding the election:

Judges of the superior courts.

Judges of the district courts.

(b) **(Effective January 1, 2003)** Time for Filing Notice of Candidacy. – Candidates seeking election to the following offices shall file their notice of candidacy

with the State Board of Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the election:

Justices of the Supreme Court.

Judges of the Court of Appeals.

Judges of the superior courts.

Judges of the district courts.

(c) Withdrawal of Notice of Candidacy. – Any person who has filed a notice of candidacy for an office shall have the right to withdraw it at any time prior to the date on which the right to file for that office expires under the terms of subsection (b) of this section.

(d) Certificate That Candidate Is Registered Voter. – Candidates shall file along with their notice a certificate signed by the chairman of the board of elections or the supervisor of elections of the county in which they are registered to vote, stating that the person is registered to vote in that county, and if the candidacy is for superior court judge and the county contains more than one superior court district, stating the superior court district of which the person is a resident. In issuing such certificate, the chairman or supervisor shall check the registration records of the county to verify such information. During the period commencing 36 hours immediately preceding the filing deadline, the State Board of Elections shall accept, on a conditional basis, the notice of candidacy of a candidate who has failed to secure the verification ordered herein subject to receipt of verification no later than three days following the filing deadline. The State Board of Elections shall prescribe the form for such certificate, and distribute it to each county board of elections no later than the last Monday in December of each odd-numbered year.

(e) Candidacy for More Than One Office Prohibited. – No person may file a notice of candidacy for more than one office or group of offices described in subsection (b) of this section, or for an office or group of offices described in subsection (b) of this section and an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of candidacy with a board of elections under this section or under G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not later be filed for any other office or group of offices under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (c) of this section.

(f) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any election in which there are two or more vacancies for the office of justice of the Supreme Court, judge of the Court of Appeals, or district court judge to be filled by nominations, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which ~~he~~ the candidate seeks election. Votes cast for a candidate shall be effective only for ~~his~~ election to the vacancy for which the candidate has given notice of candidacy as provided in this subsection.

A person seeking election for a specialized district judgeship established under G.S. 7A-147 shall, at the time of filing notice of candidacy, file with the State Board of

Elections a written statement designating the specialized judgeship to which the person seeks nomination.

(g) No person may file a notice of candidacy for superior court judge unless that person is at the time of filing the notice of candidacy a resident of the judicial district as it will exist at the time the person would take office if elected. No person may be nominated as a superior court judge under G.S. 163-114 unless that person is at the time of nomination a resident of the judicial district as it will exist at the time the person would take office if elected. This subsection implements Article IV, Section 9(1) of the North Carolina Constitution which requires regular Superior Court Judges to reside in the district for which elected.

"§ 163-324. Filing fees required of candidates; refunds.

(a) Fee Schedule. – At the time of filing a notice of candidacy under this Article, each candidate shall pay to the State Board of Elections a filing fee for the office he seeks in the amount of one percent (1%) of the annual salary of the office sought.

(b) Refund of Fees. – If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section withdraws his notice of candidacy within the period prescribed in G.S. 163-323(c), he shall be entitled to have the fee he paid refunded. The chairman of the State Board of Elections shall cause a warrant to be drawn on the State Treasurer for the refund payment.

If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section dies prior to the date of the election, the personal representative of the estate shall be entitled to have the fee refunded if application is made to the board of elections to which the fee was paid no later than one year after the date of death, and refund shall be made in the same manner as in withdrawal of notice of candidacy.

"§ 163-325. Petition in lieu of payment of filing fee.

(a) General. – Any qualified voter who seeks election under this Article may, in lieu of payment of any filing fee required for the office he seeks, file a written petition requesting him to be a candidate for a specified office with the State Board of Elections.

(b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking the office of justice of the Supreme Court, judge of the Court of Appeals, or superior or district court judge, that individual shall file a written petition with the State Board of Elections no later than 12:00 noon on Monday preceding the filing deadline before the primary. ~~The~~ If the office is justice of the Supreme Court or judge of the Court of Appeals, the petition shall be signed by 10,000 registered voters in the State. If the office is superior court or district court judge, the petition shall be signed by ten percent (10%) of the registered voters of the election area in which the office will be voted for. The board of elections shall verify the names on the petition, and if the petition and notice of candidacy are found to be sufficient, the candidate's name shall be printed on the appropriate ballot. Petitions must be presented to the county board of elections for verification at least 15 days before the petition is due to be filed with the State Board of Elections. The State Board of Elections may adopt rules to implement this section and to provide standard petition forms.

"§ 163-326. Certification of notices of candidacy.

(a) Names of Candidates Sent to Secretary of State. – Within three days after the time for filing notices of candidacy with the State Board of Elections under the provisions of G.S. 163-323(b) has expired, the chairman or secretary of that Board shall certify to the Secretary of State the name and address of each person who has filed with the State Board of Elections, indicating in each instance the office sought.

(b) Notification of Local Boards. – No later than 10 days after the time for filing notices of candidacy under the provisions of G.S. 163-323(b) has expired, the chairman of the State Board of Elections shall certify to the chairman of the county board of elections in each county in the appropriate district the names of candidates for nomination to the offices of justice of the Supreme Court, judge of the Court of Appeals, and superior and district court judge who have filed the required notice and paid the required filing fee or presented the required petition to the State Board of Elections, so that their names may be printed on the official judicial ballot for justice of the Supreme Court, judge of the Court of Appeals, and superior and district court.

(c) Receipt of Notification by County Board. – Within two days after receipt of each of the letters of certification from the chairman of the State Board of Elections required by subsection (b) of this section, each county elections board chairman shall acknowledge receipt by letter addressed to the chairman of the State Board of Elections.

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

(a) Death or Disqualification of Candidate Before Primary. – If a candidate for nomination in a primary dies or becomes 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 justice of the Supreme Court, judge of the Court of Appeals, or superior or district 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.

"**§ 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 before the election and before the ballots are printed, the State Board of Elections shall,

upon notification of the 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 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) 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 vacated candidate shall remain on the ballots. If a 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.

"**§ 163-329. Elections to fill vacancy created after primary filing period to use plurality method.**

(a) General. – If a vacancy is created in the office of justice of the Supreme Court, judge of the Court of Appeals, or judge of superior court after the filing period for the primary opens but more than 60 days before the general election, and under the Constitution of North Carolina an election is to be held for that position, such that the office shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be conducted without a primary using the plurality method as provided in subsection (b) of this section. If a vacancy is created in the office of justice of the Supreme Court, judge of the Court of Appeals, or judge of superior court before the filing period for the primary opens, and under the Constitution of North Carolina an election is to be held for that position, such that the office shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be conducted in accordance with G.S. 163-322.

(b) Plurality Election Rules. – Elections under this section shall be conducted using the following rules:

(1) The filing period shall be prescribed by the State Board of Elections, but in no event may it be less than five working days. If a vacancy occurs in a second office in the same superior court district after the first filing period established under the section has closed, the State Board of Elections shall reopen filing for a period of not less than five working days for the office of justice of the Supreme Court, judge of the Court of Appeals, or superior court judge. All persons filing in either filing period shall run as a group and the election results shall be determined by subdivision (3) of this subsection.

(2) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared elected.

(3) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.

(4) If two or more candidates receiving the highest number of votes each receive the same number of votes, the board of elections shall resolve the tie in accordance with G.S. 163-182.8.

(5) Except as provided in this section, the provisions of this Article apply to elections conducted under this section.

"**§ 163-330. Voting in primary.**

Any person who will become qualified by age or residence to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary.

"**§ 163-331. Date of primary.**

The primary shall be held on the same date as established for primary elections under G.S. 163-1(b).

"**§ 163-332. Ballots.**

(a) General. – In elections there shall be official ballots. The ballots shall be printed to conform to the requirement of G.S. 163-165.6(c) and to show the name of each person who has filed notice of candidacy, and the office for which each aspirant is a candidate.

Only those who have filed the required notice of candidacy with the proper board of elections, and who have paid the required filing fee or qualified by petition, shall have their names printed on the official primary ballots. Only those candidates properly nominated shall have their names appear on the official general election ballots.

(b) Ballots to Be Furnished by County Board of Elections. – It shall be the duty of the county board of elections to print official ballots for the following offices to be voted for in the primary:

Justice of the Supreme Court.

Judge of the Court of Appeals.

Superior court judge.

District court judge.

In printing ballots, the county board of elections shall be governed by instructions of the State Board of Elections with regard to width, color, kind of paper, form, and size of type.

Three days before the election, the chairman of the county board of elections shall distribute official ballots to the chief judge of each precinct in his county, and the chief judge shall give a receipt for the ballots received. On the day of the primary, it shall be

the chief judge's duty to have all the ballots so delivered available for use at the precinct voting place.

"**§ 163-333:** Repealed by Session Laws 2001-398, s. 15, effective January 1, 2002.

"**§ 163-334. Counting of ballots.**

Counting of ballots in primaries and elections held under this Article shall be under the same rules as for counting of ballots in nonpartisan municipal elections under Article 24 of this Chapter.

"**§ 163-335. Other rules.**

Except as provided by this Article, the conduct of elections shall be governed by Subchapter VI of this Chapter."

SECTION 8. G.S. 163-106(c) reads as rewritten:

"(c) **(Effective January 1, 2003)** Time for Filing Notice of Candidacy. – Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the primary:

Governor

Lieutenant Governor

All State executive officers

~~Justices of the Supreme Court, Judges of the Court of Appeals~~

United States Senators

Members of the House of Representatives of the United States

District attorneys

Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the county board of elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the primary:

State Senators

Members of the State House of Representatives

All county offices."

SECTION 9. G.S. 163-106(d) reads as rewritten:

"(d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any primary in which there are ~~two or more vacancies for Chief Justice and associate justices of the Supreme Court, two or more vacancies for judge of the Court of Appeals, or~~ two vacancies for United States Senator from North Carolina, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which he seeks nomination. Votes cast for a candidate shall be effective only for his nomination to the vacancy for which he has given notice of candidacy as provided in this subsection."

SECTION 10. G.S. 163-107(a) reads as rewritten:

"(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate shall pay to the board of elections with which he files under the provisions of G.S. 163-106 a filing fee for the office he seeks in the amount specified in the following tabulation:

Office Sought	Amount of Filing
Governor	One percent (1%) of the annual salary of the office sought
Lieutenant Governor	One percent (1%) of the annual salary of the office sought
All State executive offices	One percent (1%) of the annual salary of the office sought
All ~~Justices, Judges, and~~ District Attorneys of the General Court of Justice ~~other than superior and district court judge~~	One percent (1%) of the annual salary of the office sought
United States Senator	One percent (1%) of the annual salary of the office sought
Members of the United States House of Representatives	One percent (1%) of the annual salary of the office sought
State Senator	One percent (1%) of the annual salary of the office sought
Member of the State House of Representatives	One percent (1%) of the annual salary of the office sought
All county offices not compensated by fees	One percent (1%) of the annual salary of the office sought
County commissioners, if compensated entirely by fees	Ten dollars ($10.00)
Members of county board of education, if compensated entirely by fees	Five dollars ($5.00)
Sheriff, if compensated entirely by fees	Forty dollars ($40.00), plus one percent (1%) of the income of the office above four thousand dollars ($4,000)
Clerk of superior court, if compensated entirely by fees	Forty dollars ($40.00), plus one percent (1%) of the income of the office above four thousand dollars ($4,000)
Register of deeds, if compensated entirely by fees	Forty dollars ($40.00), plus one percent (1%) of the income of the office above four thousand dollars ($4,000)
Any other county office, if compensated entirely by fees	Twenty dollars ($20.00), plus one percent (1%) of the income of the office above two thousand dollars ($2,000)
All county offices compensated partly by salary and partly by fees	One percent (1%) of the first annual salary to be received (exclusive of fees)".

SECTION 11. G.S. 163-107.1(b) reads as rewritten:

"(b) If the candidate is seeking the office of United States Senator, Governor, Lieutenant Governor, or any State executive officer, ~~Justice of the Supreme Court or Judge of the Court of Appeals,~~ the petition must be signed by 10,000 registered voters who are members of the political party in whose primary the candidate desires to run, except that in the case of a political party as defined by G.S. 163-96(a)(2) which will be making nominations by primary election, the petition must be signed by ten percent (10%) of the registered voters of the State who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 10,000 registered voters regardless of the voter's political party affiliation, whichever requirement is greater. The petition must be filed with the State Board of Elections not later than 12:00 noon on Monday preceding the filing deadline before the primary in which he seeks to run. The names on the petition shall be verified by the board of elections of the county where the signer is registered, and the petition must be presented to the county board of elections at least 15 days before the petition is due to be filed with the State Board of Elections. When a proper petition has been filed, the candidate's name shall be printed on the primary ballot."

SECTION 12. G.S. 163-111(c)(1) reads as rewritten:

"(1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing or by telegram with the Executive Director of the State Board of Elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the State Board of Elections. If the vote certification by the State Board of Elections determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the Executive Director of the State Board of Elections shall immediately notify such candidate and permit him to exercise any options available to him within a 48-hour period following the notification:

Governor,
Lieutenant Governor,
All State executive officers,
~~Justices, Judges, or~~ District Attorneys of the General Court of Justice, ~~other than superior and district court judges,~~
United States Senators,
Members of the United States House of Representatives,
State Senators in multi-county senatorial districts, and
Members of the State House of Representatives in multi-county representative districts."

SECTION 13. G.S. 163-123(g) reads as rewritten:

"(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan elections except for ~~superior court judge~~ elections under Article 25 of this Chapter."

SECTION 14. G.S. 163-165.6(b)(3) reads as rewritten:

"(3) Partisan ~~offices~~ offices, regardless of the size of the constituency, shall be listed before nonpartisan offices."

SECTION 15. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 16. Section 1 of this act is effective when it becomes law, provided that distributions from the Fund shall begin in the 2004 election year. Section 2 becomes effective January 1, 2003. Section 3 becomes effective July 1, 2003. Sections 4 and 6(a) become effective for taxable years beginning on or after January 1, 2003. Section 5 becomes effective January 1, 2003. Sections 7 through 13 become effective with respect to primaries and elections held on or after January 1, 2004. Except as otherwise provided in this act, this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1054

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S1054-ARR-126 [v.4]

Date 9-25 ,2002

Comm. Sub. [YES]
Amends Title [YES]
Sixth Edition

Representative

moves to amend the bill on page 1, line 19,
by deleting the term "REVERSE $1" and substituting the term "POSITIVE $3"; and

on page 12, line 7, through page 13, line 1, by rewriting those lines to read:
""**§ 105-159.2. Designation of tax to North Carolina Public Campaign Financing Fund.**

(a) Allocation to the North Carolina Public Campaign Financing Fund. – To ensure the financial viability of the North Carolina Public Campaign Financing Fund established in Article 22D of Chapter 163 of the General Statutes, the Department must allocate to that Fund three dollars ($3.00) from the income taxes paid each year by each individual with an income tax liability of at least that amount, if the individual agrees. A taxpayer must be given the opportunity to indicate an agreement to that allocation in the manner described in subsection (b) of this section. In the case of a married couple filing a joint return, each individual must have the option of agreeing to the allocation. The amounts allocated under this subsection to the Fund must be credited to it on a quarterly basis.

(b) Returns. – Individual income tax returns must give an individual an opportunity to agree to the allocation of three dollars ($3.00) of the individual's tax liability to the North Carolina Public Campaign Financing Fund. The Department must make it clear to the taxpayer that the dollars will support a nonpartisan court system, that the dollars will go to the Fund if the taxpayer marks an agreement, and that

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1054

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1054-ARR-126 [v.4]

allocation of the dollars neither increases nor decreases the individual's tax liability. The following statement satisfies the intent of this requirement: 'Three dollars ($3.00) will go to the North Carolina Public Campaign Financing Fund to support a nonpartisan court system, if you agree. Your tax remains the same whether or not you agree.' The Department must consult with the State Board of Elections to ensure that the information given to taxpayers complies with the intent of this section.

The Department must inform the entities it approves to reproduce the return of the requirements of this section and that a return may not reflect an agreement or objection unless the individual completing the return decided to agree or object after being presented with the information required by subsection (c) of this section. No software package used in preparing North Carolina income tax returns may default to an agreement or objection. A paid preparer of tax returns may not mark an agreement or objection for a taxpayer without the taxpayer's consent.

(c) Instructions. – The instruction for individual income tax returns must include the following explanatory statement: 'The North Carolina Public Campaign Financing Fund provides campaign money to nonpartisan candidates for the North Carolina Supreme Court and Court of Appeals who voluntarily accept strict campaign spending and fund-raising limits. The Fund also helps finance educational materials about voter registration, the role of the appellate courts, and the candidates seeking election as appellate judges in North Carolina. Three dollars ($3.00) from the taxes you pay will go to the Fund if you mark an agreement. Regardless of what choice you make, your tax will not increase, nor will any refund you are entitled to be reduced.' ""

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

ELECTION LAW AND CAMPAIGN FINANCE REFORM COMMITTEE
MINUTES OF THE MEETING

October 2, 2002

House Chamber
5:20 p.m.

A special meeting of the Committee was called by the Vice Chair, Representative Martin Nesbitt, to consider action on HB 17 and HB 1243. A quorum was present.

Following introduction of HB17, Representative Michaux moved for an unfavorable report. The motion carried. Following introduction of HB 1243, Representative Michaux moved for an unfavorable report. The motion carried.

There being no further business, the meeting adjourned.

Martin Nesbitt, Vice Chair

Ann Faust, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 17

Short Title:	Voter I.D.	(Public)
Sponsors:	Representatives Justus; Barnhart, Capps, Carpenter, Davis, Esposito, Hilton, Kiser, McComas, Morris, Rayfield, Walend, and Weatherly.	
Referred to:	Election Law and Campaign Finance Reform.	

January 30, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT VOTERS BE ASKED TO PRESENT IDENTIFICATION BEFORE BEING ALLOWED TO VOTE.

The General Assembly of North Carolina enacts:

SECTION 1. 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. 163-119, 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. A voter shall display one of the following types of valid identification:

(1) A North Carolina drivers license.

(2) A special identification card issued under G.S. 20-37.7.

(3) A passport.

(4) An identification card issued by the United States Department of Defense.

(5) A social security card and one other type of identification showing the name and a picture of the voter.

A voter who does not show one of those types of identification shall be allowed to mark a ballot. That ballot shall be sealed in an envelope on which it shall be noted that the voter did not display identification in compliance with the statute. The county board of elections shall determine if the voter is eligible to cast the ballot and, if so, shall count it, and if not, shall not count it. The State Board of Elections shall promulgate rules which

shall include instructions for county boards of elections in methods to determine the eligibility of persons who apply to vote without presenting identification.

After examining the precinct registration records, the chief judge shall state whether the person seeking to vote is duly registered."

SECTION 2. G.S. 163-227.2(b) reads as rewritten:

"(b) Not earlier than the first business day after the twenty-fifth day before an election, in which absentee ballots are authorized, in which 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, except as provided in subsection ~~(f1)~~ (g) 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. A voter shall display one of the following types of valid identification:

(1) A North Carolina drivers license.
(2) A special identification card issued under G.S. 20-37.7.
(3) A passport.
(4) An identification card issued by the United States Department of Defense.
(5) A social security card and one other type of identification showing the name and a picture of the voter.

A voter who does not show one of those types of identification shall be allowed to mark a ballot. That ballot shall be sealed in an envelope on which it shall be noted that the voter did not display identification in compliance with the statute. The county board of elections shall determine if the voter is eligible to cast the ballot and, if so, shall count it, and if not, shall not count it. The State Board of Elections shall promulgate rules which shall include instructions for county boards of elections in methods to determine the eligibility of persons who apply to vote without presenting identification.

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 authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person."

SECTION 3. This act becomes effective January 1, 2002.

HOUSE BILL 1243

Short Title:	Voter Signatures.	(Public)
Sponsors:	Representatives Blust; Morris and Davis.	
Referred to:	Election Law and Campaign Finance Reform.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A VOTER SIGNATURE AT THE POLLS.

The General Assembly of North Carolina enacts:

SECTION 1. 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. 163-119, 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. If the chief judge states that the person is duly registered, the person shall sign the pollbook, other voting record, or voter authorization document in accordance with subsection (f) of this section before voting."

SECTION 2. G.S. 163-150(f) reads as rewritten:

"(f) Maintenance of Pollbook or Other Record of Voting. – At each primary, general or special election, the precinct chief judge shall appoint two precinct assistants (one from each political party as recommended by the county chairman thereof), one to be assigned to keep the pollbook or other voting record used in the county as approved by the State Board of Elections, and the other to keep the registration books under the supervision of the precinct officials. ~~The names of all persons voting shall be checked on the registration records and entered on the pollbook or other voting record.~~ The names of all persons voting shall be checked on the registration records and the voter, before voting, shall sign that voter's name on the pollbook, other voting record, or voter authorization document according to a procedure adopted by the county board of

elections with the approval of the State Board of Elections. If the voter is unable to sign, a precinct official shall enter the person's name on the same document before the voter votes. In an election where observers may be appointed under G.S. 163-45 each voter's party affiliation shall be entered in the proper column of the book or other approved record opposite his name. The precinct assistant shall make each entry at the time the ballots are handed to the voter. As soon as the polls are closed, the chief judge and judges of election shall sign the pollbook or other approved record immediately beneath the last voter's name entered therein. The chief judge or the judge appointed to attend the county canvass shall deliver the pollbook or other approved record to the chairman of the county board of elections at the time of the county canvass, and the chairman shall remain responsible for its safekeeping."

SECTION 3. This act becomes effective January 1, 2002.

Sharon Cram (Rep. McMahan)

From: Ann Faust (Rep. Alexander)
Sent: Wednesday, September 25, 2002 4:40 PM
To: Rep. Ed McMahan
Subject: Election Law 188 mcmahan

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative McMahan**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

If you would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance Reform, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative McMahan**
Bill Sponsor

SUBJECT: **HB 188, AN ACT TO REFORM THE ELECTION LAWS FOR THE PURPOSE OF MAKING VOTING SIMPLER AND FAIRER.** (Short Title)

I request that HB 188 not be considered by the Committee on Law and Campaign Finance Reform.

(Sponsor's Signature)

Regina Irwin (Rep. Dockham)

[redacted]n: Ann Faust (Rep. Alexander)
Sent: Wednesday, September 25, 2002 4:39 PM
To: Rep. Jerry Dockham
Subject: Election Law 188 dockham

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Dockham**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

[redacted] would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance R[redacted]m, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Dockham**
Bill Sponsor

SUBJECT: **HB 188, AN ACT TO REFORM THE ELECTION LAWS FOR THE PURPOSE OF MAKING VOTING SIMPLER AND FAIRER.** (Short Title)

I request that HB 188 not be considered by the Committee on Law and Campaign Finance Reform.

Jerry C. Dockham
(Sponsor's Signature)

[redacted]September 26, 2002 Date

Phyllis Cameron (Rep. Bonner)

From: Ann Faust (Rep. Alexander)
Sent: Tuesday, October 01, 2002 3:55 PM
To: Rep. Donald Bonner
Subject: Election Law 254 BONNER

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Bonner**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

If you would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance Reform, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Bonner**
Bill Sponsor

SUBJECT: **HB 254, AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION.**

I request that HB 254 not be considered by the Committee on Law and Campaign Finance Reform.

Donald G. Bonner
(Sponsor's Signature)

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Alexander**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

If you would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance Reform, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Alexander**
Bill Sponsor

SUBJECT: **HB 254, AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION.**

I request that HB 254 not be considered by the Committee on Law and Campaign Finance Reform.

Martha B. Alexander
(Sponsor's Signature)

September 25, 2002 Date

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Alexander**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

If you would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance Reform, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Alexander**
Bill Sponsor

SUBJECT: **HB 255, AN ACT TO REWRITE ARTICLE 15 AND ARTICLE 16 OF CHAPTER 163, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION.**

I request that HB 255 not be considered by the Committee on Law and Campaign Finance Reform.

Martha B. Alexander
(Sponsor's Signature)

September 25, 2002 Date

Phyllis Cameron (Rep. Bonner)

From: Ann Faust (Rep. Alexander)
Sent: Tuesday, October 01, 2002 3:55 PM
To: Rep. Donald Bonner
Subject: Election Law 255 bonner

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Bonner**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

If you would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance Reform, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Bonner**
Bill Sponsor

SUBJECT: **HB 255, AN ACT TO REWRITE ARTICLE 15 AND ARTICLE 16 OF CHAPTER 163, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION.**

I request that HB 255 not be considered by the Committee on **Election Law and Campaign Finance Reform.**

Donald C. Bonner
(Sponsor's Signature)

MEMORANDUM

Phyllis Cameron (Rep. Bonner)

From: Ann Faust (Rep. Alexander)
Sent: Tuesday, October 01, 2002 3:56 PM
To: Rep. Donald Bonner
Subject: Election Law 256 bonner

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Bonner**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

If you would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance Reform, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Bonner**
Bill Sponsor

SUBJECT: **HB 256, AN ACT TO MAKE MISCELLANEOUS CHANGES TO THE ELECTION LAWS.**

I request that HB 256 not be considered by the Committee on Election Law and Campaign Finance Reform.

Donald C. Bonner
(Sponsor's Signature)

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Alexander**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

If you would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance Reform, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Alexander**
Bill Sponsor

SUBJECT: **HB 256, AN ACT TO MAKE MISCELLANEOUS CHANGES TO THE ELECTION LAWS.**

I request that HB 256 not be considered by the Committee on Election Law and Campaign Finance Reform.

(Sponsor's Signature)

September 25, 2002 Date

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Alexander**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

If you would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance Reform, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Alexander**
Bill Sponsor

SUBJECT: **HB 257, AN ACT TO MAKE CHANGES TO THE BALLOT ACCESS LAWS.**

I request that HB 257 not be considered by the Committee on Election Law and Campaign Finance Reform.

Martha B. Alexander
(Sponsor's Signature)

September 25, 2002 Date

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Alexander**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

If you would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance Reform, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Alexander**
Bill Sponsor

SUBJECT: **HB 258, AN ACT TOCONTROL THE FLOW OF NATIONAL PARTY POLITICAL CONTRIBUTIONS INTO NORTH CAROLINA.** (Short Title)

I request that HB 258 not be considered by the Committee on Election Law and Campaign Finance Reform.

Martha B. Alexander
(Sponsor's Signature)

September 25, 2002 Date

Phyllis Cameron (Rep. Bonner)

From: Ann Faust (Rep. Alexander)
Sent: Tuesday, October 01, 2002 3:56 PM
To: Rep. Donald Bonner
Subject: Election Law 258 Bonner

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Bonner**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

If you would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance Reform, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Bonner**
Bill Sponsor

SUBJECT: **HB 258, AN ACT TOCONTROL THE FLOW OF NATIONAL PARTY POLITICAL CONTRIBUTIONS INTO NORTH CAROLINA.** (Short Title)

I request that HB 258 not be considered by the Committee on Election Law and Campaign Finance Reform.

Donald C. Bonner
(Sponsor's Signature)

Phyllis Cameron (Rep. Bonner)

From: Ann Faust (Rep. Alexander)
Sent: Tuesday, October 01, 2002 3:56 PM
To: Rep. Donald Bonner
Subject: Election Law 259 Bonner

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Bonner**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

If you would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance Reform, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Bonner**
Bill Sponsor

SUBJECT: **HB 259, AN ACT TO ABOLISH MUNICIPAL BOARDS OF ELECTIONS, REQUIRING THAT ALL ELECTIONS BE CONDUCTED BY COUNTY BOARDS OF ELECTIONS.** (Short Title)

I request that HB 259 not be considered by the Committee on Election Law and Campaign Finance Reform.

Donald C. Bonner

(Sponsor's Signature)

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Alexander**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

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MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Alexander**
Bill Sponsor

SUBJECT: **HB 259, AN ACT TO ABOLISH MUNICIPAL BOARDS OF ELECTIONS, REQUIRING THAT ALL ELECTIONS BE CONDUCTED BY COUNTY BOARDS OF ELECTIONS.** (Short Title)

I request that HB 259 not be considered by the Committee on Election Law and Campaign Finance Reform.

(Sponsor's Signature)

September 25, 2002 Date

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Alexander**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

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MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Alexander**
Bill Sponsor

SUBJECT: **HB 1047, AN ACT TO PROVIDE PROTECTION FOR REGISTERED VOTERS TO ADDRESS SAFETY MEASURES.** (Short Title)

I request that HB 1047 not be considered by the Committee on Election Law and Campaign Finance Reform.

Matthew B. Alexander
(Sponsor's Signature)

September 25, 2002
Date

MEMORANDUM

Jenny Cotten (Rep. Goodwin)

From: Ann Faust (Rep. Alexander)
Sent: Wednesday, September 25, 2002 3:47 PM
To: Rep. Wayne Goodwin
Subject: Election Law 1171 Goodwin

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Goodwin**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

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MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Goodwin**
Bill Sponsor

SUBJECT: **HB 1171, AN ACT TO LOWER CONTRIBUTION LIMITS FOR CANDIDATES FOR THE STATE COURT OF APPEALS AND THE STATE SUPREME COURT AND TO PROVIDE AN ALTERNATIVE MEANS OF FINANCING THEIR CAMPAIGNS.** (Short Title)

I request that HB 1171 not be considered by the Committee on Election Law and Campaign Finance Reform.

Wayne Goodwin
(Sponsor's Signature)

9/25/02 Date

Lin Threatt (Rep. Blue)

[redacted]: Ann Faust (Rep. Alexander)
Sent: Wednesday, September 25, 2002 3:48 PM
To: Rep. Dan Blue
Subject: Election Law 1185 bLUE

MEMORANDUM

DATE: **Septe mber 25, 2002**

TO: **Representative Blue**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

I [redacted] would like to request that your bill not be considered by the Committee on Election Law and Campaign Finance R[redacted]m, for your convenience, a printed form is included at the bottom of this page. Please complete, sign and return the form to Room 2208. This form may not be e-mailed because it requires the sponsor's signature.

MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Blue**
Bill Sponsor

SUBJECT: **HB 1185, AN ACT TO ADJUST THE PERIOD FOR NO-EXCUSE ONE-STOP ABSENTEE VOTING BY ALLOWING MORE TIME AFTER THE BOOKS CLOSE TO BEGIN THE PROCESS, BUT TO EXTEND IT TO INCLUDE THE SATURDY BEFORE THE ELECTION.** (Short Title)

I request that HB 1185 not be considered by the Committee on Election Law and Campaign Finance Reform.

(Sponsor's Signature)

[redacted] 9/25/02 Date

Lin Threatt (Rep. Blue)

From: Ann Faust (Rep. Alexander)
Sent: Wednesday, September 25, 2002 3:50 PM
To: Rep. Dan Blue
Subject: Election Law 1189 bLUE

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Blue**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

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MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Blue**
Bill Sponsor

SUBJECT: **HB 1189, AN ACT TO GIVE ILL AND DISABLED CIVILIANS THE SAME RIGHT AS MILITARY PERSONNEL TO REQUEST ABSENTEE BALLOTS FOR AN ENTIRE CALENDAR YEAR.**
(Short Title)

I request that HB 1189 not be considered by the Committee on Election Law and Campaign Finance Reform.

(Sponsor's Signature)

9/25/02 Date

MEMORANDUM

DATE: **October 2, 2002**

TO: **Representative Blue**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

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MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Blue**
Bill Sponsor

SUBJECT: **HB 1190, Work Leave to Vote** (Short Title)

I request that HB 1190 not be considered by the Committee on Election Law and Campaign Finance Reform.

Daniel D. Blue, Jr.
(Sponsor's Signature)

10-3-02 Date

Lin Threatt (Rep. Blue)

[redacted]: Ann Faust (Rep. Alexander)
Sent: Wednesday, September 25, 2002 3:52 PM
To: Rep. Dan Blue
Subject: Election Law 1194 Blue

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Blue**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

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MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Blue**
Bill Sponsor

SUBJECT: **HB 1194, AN ACT TO ELIMINATE THE REQUIREMENT THAT COUNTY BOARDS OF ELECTIONS CLOSE AT 5:00 P.M. ON THE LAST DAY FOR BOTER REGISTRATION.** (Short Title)

I request that HB 1194 not be considered by the Committee on Election Law and Campaign Finance Reform.

(Sponsor's Signature)

9/25/02 Date

Joyce Harris (Rep. Luebke)

From: Ann Faust (Rep. Alexander)
Sent: Wednesday, September 25, 2002 4:02
To: Rep. Paul Luebke
Subject: Election Law 1294 Luebke

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Luebke**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

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MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Luebke**
Bill Sponsor

SUBJECT: **HB 1294, AN ACT TO ALLOW VOTER REGISTRATION ON ELECTION DAY.** (Short Title)

I request that HB 1294 not be considered by the Committee on Election Law and Campaign Finance Reform.

(Sponsor's Signature)

Brenda Olls (Rep. Rayfield)

From: Ann Faust (Rep. Alexander)
Sent: Wednesday, October 02, 2002 12:58 PM
To: Rep. John Rayfield; Brenda Olls (Rep. Rayfield)
Subject: Election Law 1376 Rayfield

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Rayfield**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

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MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Rayfield**
Bill Sponsor

SUBJECT: **HB 1376, AN ACT TO REQUIRE STATE REIMBURSEMENT TO COUNTIES FOR THE COST OF CONDUCTING STATEWIDE PRIMARIES, ELECTION, AND REFERENDA, AND TO APPROPRIATE FUNDS.** (Short Title)

I request that HB 1376 not be considered by the Committee on Election Law and Campaign Finance Reform.

(Sponsor's Signature)

10-02-02 Date

MEMORANDUM

DATE: **Sepetember 25, 2002**

TO: **Representative Alexander**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

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MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Alexander**
Bill Sponsor

SUBJECT: **HB 1410, AN ACT TO PHASE IN A VOLUNTARY PROGRAM THAT GIVES CANDIDATES FOR CERTAIN ELECTIVE OFFICES THE OPTION OF CHOSING TO FINANCE THEIR CAMPAIGNS FROM A PUBLICLY SUPPORTED FUND, PROVIDED THAT THEY GAIN AUTHORIZATION TO DO SO FROM REGISTERED VOTERS AND THAT THEY ABIDE BY FUND-RAISING AND SPENDING LIMITS.** (Short Title)

I request that HB 1410 not be considered by the Committee on Election Law and Campaign Finance Reform.

(Sponsor's Signature)

Rep. Beverly Earle

From: Ann Faust (Rep. Alexander)
Sent: Wednesday, September 25, 2002 4:32 PM
To: Rep. Beverly Earle
Subject: Election Law 1410 Earle

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Earle**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

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MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Earle**
Bill Sponsor

SUBJECT: **HB 1410, AN ACT TO PHASE IN A VOLUNTARY PROGRAM THAT GIVES CANDIDATES FOR CERTAIN ELECTIVE OFFICES THE OPTION OF CHOSING TO FINANCE THEIR CAMPAIGNS FROM A PUBLICLY SUPPORTED FUND, PROVIDED THAT THEY GAIN AUTHORIZATION TO DO SO FROM REGISTERED VOTERS AND THAT THEY ABIDE BY FUND-RAISING AND SPENDING LIMITS.** (Short Title)

I request that HB 1410 not be considered by the Committee on Election Law and Campaign Finance Reform.

Beverly Earle

MEMORANDUM

Janette Lee (Rep. Nesbitt)

From: Ann Faust (Rep. Alexander)
Sent: Wednesday, September 25, 2002 4:34 PM
To: Rep. Martin Nesbitt
Subject: Election Law 1410 Nesbitt

MEMORANDUM

DATE: **September 25, 2002**

TO: **Representative Nesbitt**

FROM: **Representative Alexander**

SUBJECT: **Bills Pending in the Committee on Election Law and Campaign Finance Reform**

Pursuant to House Rule 36(a) all House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair(s) of the standing committee or permanent subcommittee that the bill not be considered.**

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MEMORANDUM

TO: **Representative Alexander**

FROM: **Representative Nesbitt**
Bill Sponsor

SUBJECT: **HB 1410, AN ACT TO PHASE IN A VOLUNTARY PROGRAM THAT GIVES CANDIDATES FOR CERTAIN ELECTIVE OFFICES THE OPTION OF CHOSING TO FINANCE THEIR CAMPAIGNS FROM A PUBLICLY SUPPORTED FUND, PROVIDED THAT THEY GAIN AUTHORIZATION TO DO SO FROM REGISTERED VOTERS AND THAT THEY ABIDE BY FUND-RAISING AND SPENDING LIMITS.** (Short Title)

I request that HB 1410 not be considered by the Committee on Election Law and Campaign Finance Reform.

Martin Nesbitt
(Sponsor's Signature)

9-25-02 Date

9/25/2002