

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 12

Committee Substitute Favorable 5/4/95

Third Edition Engrossed 5/9/95

Senate Judiciary I/Constitution Committee Substitute Adopted 6/12/95

Short Title: Term Limits/Election Reform.

(Public)

Sponsors:

Referred to:

January 26, 1995

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE FOR TERM LIMITS FOR MEMBERS OF THE GENERAL ASSEMBLY, TO PROVIDE INCENTIVES FOR CANDIDATES FOR THE GENERAL ASSEMBLY TO LIMIT THEIR CAMPAIGN EXPENDITURES, AND TO ESTABLISH NORTH CAROLINIANS FOR POSITIVE CAMPAIGNS AND MAKE RELATED CHANGES.

The General Assembly of North Carolina enacts:

Section 1. Article II of the Constitution of North Carolina is amended by adding a new section to read:

"Sec. 25. Limitation of consecutive terms.

(1) No person shall be eligible for election to more than six consecutive terms of office as a member of the General Assembly. For the purpose of this section, a member of the General Assembly is a member of either the Senate or the House of Representatives. If a person is not elected to a full term, service caused by filling of a vacancy shall not be considered as election to a term for the purpose of this section.

1 (2) Effectiveness. Terms of office commencing prior to January 1, 1996, shall be
2 considered for the purpose of this section except that this sentence shall not forbid any
3 person in office on that date from completing that term of office.

4 (3) Filling of vacancy. A person disqualified by this section from election to the
5 next succeeding term as a member of the General Assembly may not fill a vacancy in that
6 succeeding term."

7 Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the
8 qualified voters of the State at a statewide election on November 7, 1995, which election
9 shall be conducted under the laws then governing elections in the State. Ballots, voting
10 systems, or both may be used in accordance with Chapter 163 of the General Statutes.
11 The question to be used in the voting systems and ballots shall be:

12 **"[] FOR [] AGAINST**

13 Constitutional amendments limiting members to six consecutive terms in the
14 General Assembly."

15 Sec. 3. If a majority of votes cast on the question are in favor of the
16 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
17 amendments to the Secretary of State. The constitutional amendments shall become
18 effective January 1, 1996. The Secretary of State shall enroll the amendments so certified
19 among the permanent records of that office.

20 –CANDIDATES FOR GENERAL ASSEMBLY: N.C. FAIR CAMPAIGN ACT.

21 Sec. 4. Chapter 163 of the General Statutes is amended by adding a new
22 Article to read:

23 **"ARTICLE 22D.**

24 **"NORTH CAROLINA FAIR CAMPAIGN ACT.**

25 **"§ 163-278.58. Purpose.**

26 The General Assembly finds that exorbitant campaign costs threaten valued traditions
27 of North Carolina: a citizen legislature, equal opportunity for access to the General
28 Assembly, and public trust in the institution of the General Assembly. The purpose of
29 the North Carolina Fair Campaign Act is to encourage candidates for the General
30 Assembly of North Carolina to limit their campaign expenditures by providing public
31 benefits as incentives to those candidates and to their supporters.

32 **"§ 163-278.59. Eligibility for public benefits: application, certification, and**
33 **decertification.**

34 (a) Eligibility. – The public benefits provided in G.S. 163-278.61 shall be made
35 available for an election cycle only with regard to an eligible candidate for the General
36 Assembly in that election cycle. For the purpose of this Article, an 'eligible candidate for
37 the General Assembly' for an election cycle is a candidate for the General Assembly who:

38 (1) Is certified for that election cycle by the State Board of Elections in
39 accordance with subsection (c) of this section to have agreed to abide by
40 the expenditure limits set out in G.S. 163-278.60; and

41 (2) Has not been determined by the State Board of Elections to have
42 violated the expenditure limits set out in G.S. 163-278.60 or withdrawn

1 application under G.S. 163-278.62 and therefore been decertified for
2 that election cycle in accordance with subsection (d) of this section.

3 For purposes of this Article, an 'election cycle' begins on January 1 of the year before the
4 year in which the general election shall be held for the office, and ends on December 31
5 next after that general election. For purposes of this Article, a first primary in which the
6 candidate is on the ballot, a second primary in which the candidate is on the ballot, and a
7 general election in which the candidate is on the ballot constitute a separate 'election'.

8 (b) Application. – Each individual who seeks to be an eligible candidate for the
9 General Assembly for an election cycle shall file an application on forms prescribed by
10 the State Board of Elections within 15 days of the filing of the initial organizational
11 report of that person's campaign for the office.

12 (c) Certification. – The State Board of Elections shall approve the application of
13 any individual who complies with subdivision (a)(1) of this section and shall certify that
14 individual as an eligible candidate for the General Assembly in that election cycle.

15 (d) Decertification. – If the State Board of Elections determines that an individual
16 certified under this section has violated the expenditure limits under G.S. 163-278.60 or if
17 the candidate withdraws application under G.S. 163-278.62, the State Board of Elections
18 shall decertify that candidate for that election cycle, and the public benefits set out in G.S.
19 163-278.61 shall not be provided to any person whose receipt of those benefits derives
20 from the eligibility of that candidate under this Article in that election cycle, except as
21 provided in G.S. 163-278.61(b)(1).

22 **"§ 163-278.60. Expenditure limits.**

23 (a) Limits for an Election. – Any eligible candidate for the General Assembly in
24 an election cycle shall limit total expenditures in the elections in that cycle as follows:

25 (1) For any general election that occurs after the candidate has been
26 certified under G.S. 163-278.59(c):

27 a. Sixty thousand dollars (\$60,000) for any one-seat Senate district
28 and seventy-five thousand dollars (\$75,000) for any two-seat
29 Senate district; and

30 b. Forty-five thousand dollars (\$45,000) for any one-seat House
31 district, sixty thousand dollars (\$60,000) for any two-seat House
32 district, and seventy-five thousand dollars (\$75,000) for any
33 three-seat House district.

34 (2) For any primary election that occurs after the candidate has been
35 certified under G.S. 163-278.59(c):

36 a. Forty-five thousand dollars (\$45,000) for any one-seat Senate
37 district and sixty thousand dollars (\$60,000) for any two-seat
38 Senate district; and

39 b. Thirty thousand dollars (\$30,000) for any one-seat House district,
40 forty thousand dollars (\$40,000) for any two-seat House district,
41 and fifty thousand dollars (\$50,000) for any three-seat House
42 district,

1 provided that the limit for a second primary in any of the categories in
2 this subdivision shall be one-half the amount shown in sub-subdivisions
3 a. and b. of this subdivision.

4 A candidate's expenditure limit for an election cycle includes the additional amount for a
5 primary only if a primary is held in the race and the candidate's name is on the ballot.

6 (b) Rules for Computing Expenditures, Cost-of-Election Index. – The State Board
7 of Elections shall promulgate rules for computing the total expenditures for an election,
8 using for guidance rules promulgated by the Federal Election Commission in the
9 enforcement of the Federal Election Campaign Laws. The State Board of Elections shall
10 formulate a 'cost-of-election' index rate, which takes into account changes in the State's
11 population, actual spending in previous legislative elections, and the consumer price
12 index for North Carolina. Beginning with the 2000 elections and every four years
13 thereafter, the State Board of Elections shall increase or decrease the expenditure limits in
14 subsection (a) of this section according to the cost-of-election index, rounding the limit
15 amount to the nearest one thousand dollars (\$1,000). The State Board of Elections shall
16 publish the adjusted rates pertaining to each election race at least 18 months before the
17 day of that election.

18 **"§ 163-278.61. Public benefits.**

19 (a) Availability of Public Benefits. – If a candidate is certified under G.S. 163-
20 278.59(c) as an eligible candidate for the General Assembly, the following public
21 benefits shall be made available:

- 22 (1) An individual income tax credit as provided under G.S. 105-151.25 for
23 the taxpayer who makes a contribution to that candidate for that election
24 cycle;
25 (2) Notwithstanding the provisions of G.S. 163-278.13, a contribution limit
26 of two thousand dollars (\$2,000) for any election while the candidate is
27 certified; and
28 (3) A conspicuous designation of that candidate's name on the ballot that
29 indicates to the voter that the candidate has agreed to abide by
30 expenditure limitations. The State Board of Elections shall promulgate
31 rules to ensure that this designation is executed in a manner that is
32 desirable for the candidate.

33 (b) Consequences of Decertification. – If an individual who was certified as an
34 eligible candidate for the General Assembly for an election cycle is decertified for that
35 election cycle under G.S. 163-278.59(d) before the end of that election cycle, the benefits
36 of subsection (a) of this section that derive from that candidate's eligibility in that election
37 cycle shall not be available to any person. Accordingly, if a candidate certified for an
38 election cycle is decertified before the end of that election cycle:

- 39 (1) An individual shall not receive a tax credit for a contribution to the
40 campaign of the candidate for that election cycle, although the
41 individual made the contribution while the candidate was certified for
42 that election. The candidate shall be personally liable to reimburse up to
43 seventy-five dollars (\$75.00) each individual who contributed to the

1 candidate's campaign during the time that the candidate was certified.
2 The candidate shall notify all contributors and pay the required
3 reimbursement to each individual contributor within five days of the
4 candidate's decertification. If an individual validly claims a tax credit
5 for a contribution made to a certified candidate who is not decertified
6 before the end of that election cycle but the candidate is discovered after
7 that date to have exceeded the spending limits, then the individual shall
8 receive the tax credit and the decertified candidate shall be subject to the
9 civil penalties provided in G.S. 163-278.64(c).

10 (2) A contribution shall not be permitted for an election during that election
11 cycle in an amount exceeding five hundred dollars (\$500.00) in
12 accordance with G.S. 163-278.13(b1) although the contribution was
13 made while the candidate was certified for that election cycle. To the
14 extent that the contribution in the previous sentence does not exceed two
15 thousand dollars (\$2,000), no criminal prosecution shall be brought
16 against a contributor, and the candidate's treasurer shall be required to
17 refund the excess to the contributor within five days of the candidate's
18 decertification. If the candidate remains certified through the end of that
19 election cycle, but the candidate is discovered after that date to have
20 exceeded the expenditure limits, the candidate's treasurer shall be
21 required to refund the excess to the contributor within five days of a
22 final judgment that the limits were exceeded.

23 If an eligible candidate is decertified before the ballot is printed for the election, the
24 board of elections responsible for the ballot shall not mark that candidate's name with the
25 designation required by subdivision (a)(3) of this section. If an eligible candidate is
26 decertified after the ballot is printed for the election, the board of elections responsible
27 for the ballot shall make a corrected designation of the candidate's name on the ballot
28 according to rules which shall be promulgated by the State Board of Elections.

29 **"§ 163-278.62. Withdrawal of application.**

30 A candidate, by written notice to the State Board of Elections not more than 70 days
31 before an election, may withdraw application for certification as an eligible candidate for
32 the General Assembly. If the candidate has been certified under G.S. 163-278.59(c)
33 before making the withdrawal request, the State Board of Elections shall
34 decertify the candidate under G.S. 163-278.59(d), noting on the decertification document
35 that the decertification was made because of a withdrawal.

36 **"§ 163-278.63. Reporting.**

37 In addition to the reports required by G.S. 163-278.9, the treasurer of any eligible
38 candidate for the General Assembly shall file under verification with the State Board of
39 Elections a report prior to the printing of the ballot for any election during the election
40 cycle. The State Board of Elections shall establish by February 1 of every election year a
41 schedule for all the reports required by this section for that year. In establishing the
42 schedule, the State Board of Elections shall require that a report be filed at the latest

1 reasonable date prior to the printing of the ballot that will enable the proper boards of
2 elections to complete their duties under this Article.

3 **"§ 163-278.63A. Reporting of election influence activities.**

4 In addition to the reports required by G.S. 163-278.9 and G.S. 163-278.63, the
5 treasurer of any eligible candidate for the General Assembly shall file under verification
6 with the State Board of Elections a report at the time set by law for the filing of the
7 postprimary report(s) and annual reports setting forth the name and address of any
8 person, group, or association who received any amount of money or any thing of value
9 paid, given, or transferred for the purpose of encouraging or influencing or attempting to
10 encourage or influence voters to support or oppose any candidate or to otherwise
11 influence the outcome of an election. For each person or group reported, the report shall
12 specify the amount of money or fairly and accurately describe the thing of value paid,
13 given, or transferred for the purposes specified in this section.

14 **"§ 163-278.64. Penalties.**

15 (a) Decertification Due to Withdrawal. – If an eligible candidate for the General
16 Assembly is decertified for an election due to timely withdrawal, no criminal penalty
17 shall attach to exceeding the expenditure limits of G.S. 163-278.60 after the candidate
18 gives written notice of withdrawal under G.S. 163-278.62.

19 (b) Misdemeanor Penalty. – Any eligible candidate for the General Assembly or
20 treasurer of that candidate's committee who willfully or wantonly exceeds the
21 expenditure limits of G.S. 163-278.60 for an election while the candidate is certified for
22 that election under G.S. 163-278.59 is guilty of a Class 2 misdemeanor.

23 (b1) No individual, candidate, or political committee may give or receive any
24 money or thing of value on the day of any primary, special, or general election for
25 purposes specified in G.S. 163-278.63A.

26 (b2) It shall be unlawful for any person to coerce, threaten, intimidate, or otherwise
27 oppress any voter with the intent to influence the voter to vote or refrain from voting for
28 any candidate in any primary, special, or general election or to otherwise discourage any
29 voter from exercising the lawful right to vote. A violation of this subsection is a Class 2
30 misdemeanor.

31 (b3) It shall be unlawful for any person, directly or indirectly, to seek, give, or
32 receive any money or the promise of money or any other thing of value in exchange for
33 an agreement to vote for any candidate. A violation of this subsection shall be a Class I
34 felony.

35 (c) Civil Penalty. – Any eligible candidate for the General Assembly or treasurer
36 of that candidate's committee who exceeds the expenditure limits of G.S. 163-278.60 for
37 an election while the candidate is certified for that election under G.S. 163-278.59 shall
38 pay a civil penalty equal to three times the amount that the expenditure limit was
39 exceeded. In addition, in the event that the discovery that a candidate exceeded the
40 expenditure limit is not made until after the election cycle, then the candidate shall pay a
41 civil penalty of up to fifty percent (50%) of that candidate's total contributions received
42 during the election cycle. All civil penalties paid under this subsection shall be deposited
43 in the General Fund.

1 **"§ 163-278.65. Enforcement.**

2 (a) Rules. – The State Board of Elections shall promulgate rules to enforce this
3 Article. The rules shall include a procedure for monitoring compliance based on the
4 reports under G.S. 163-278.63. The State Board of Elections and the Department of
5 Revenue shall jointly promulgate rules to enforce the tax credit provided under this
6 Article and under G.S. 105-151.25.

7 (b) Rights of Action. – The Attorney General shall bring civil actions in the
8 Superior Court of Wake County for such relief as is necessary to enforce this Article,
9 including the payment of reimbursements required by G.S. 163-278.61(b) and of civil
10 penalties required by G.S. 163-278.64(c). The Attorney General and the State Board of
11 Elections shall jointly promulgate rules to enforce the collection of reimbursements and
12 civil penalties under this Article. Any individual contributor may bring an action for
13 reimbursement under G.S. 163-278.61(b) in a court of competent jurisdiction."

14 Sec. 5. Division II of Article 4 of Chapter 105 of the General Statutes is
15 amended by adding a new section to read:

16 **"§ 105-151.25. Credit for making political contribution to an eligible candidate for**
17 **the General Assembly.**

18 A taxpayer who makes a political contribution for an election to an eligible candidate
19 for the General Assembly under G.S. 163-278.59 is allowed as a credit against the tax
20 imposed by this Division an amount equal to seventy-five percent (75%) of the
21 contribution made during the two taxable years of an election cycle as defined in G.S.
22 163-278.59. The credit allowed under this section may not exceed seventy-five dollars
23 (\$75.00) for a contribution by a taxpayer to any one candidate for the two taxable years
24 of the election cycle and may not exceed three hundred seventy-five dollars (\$375.00) for
25 any one taxpayer for the two taxable years of the election cycle. A credit allowed under
26 this section may be claimed by a taxpayer only after January 1 of the year after the
27 general election in the election cycle. The credit allowed under this section may not
28 exceed the amount of tax imposed by this Division for the taxable year reduced by the
29 sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

30 Sec. 6. G.S. 163-278.13 reads as rewritten:

31 **"§ 163-278.13. Limitation on contributions.**

32 (a) No individual or political committee shall contribute to any candidate or other
33 political committee any money or make any other contribution in any election in excess
34 of ~~four two~~ thousand dollars (~~\$4,000~~)-(\$2,000) for that election.

35 (b) No candidate or political committee shall accept or solicit any contribution
36 from any individual or other political committee of any money or any other contribution
37 in any election in excess of ~~four two~~ thousand dollars (~~\$4,000~~)-(\$2,000) for that election.

38 (b1) Notwithstanding the provisions of subsections (a), (b), and (c) of this section
39 and except as provided by Article 22D of this Chapter, no individual or political
40 committee shall contribute to any candidate for the General Assembly in any election in
41 excess of five hundred dollars (\$500.00) for that election, and no candidate for the
42 General Assembly shall accept or solicit any contribution in any election in excess of five
43 hundred dollars (\$500.00) for that election.

1 (c) Notwithstanding the provisions of subsections (a) and (b) of this section, it
2 shall be lawful for a candidate or a candidate's spouse, parents, brothers and sisters to
3 make a contribution to the candidate or to the candidate's treasurer of any amount of
4 money or to make any other contribution in any election in excess of ~~four~~ two thousand
5 dollars ~~(\$4,000)~~ (\$2,000) for that election.

6 (d) For the purposes of this section, the term "an election" means any primary,
7 second primary, or general election in which the candidate or political committee may be
8 involved, without regard to whether the candidate is opposed or unopposed in the
9 election.

10 (e) This section shall ~~not~~ apply to ~~any national, State, district or county district,~~
11 ~~county, precinct, or other executive committee committees~~ of any political party. The
12 limitation in this section on contributions to or from political party executive committees
13 shall apply collectively to all executive committees of the same political party nationally
14 or within the State. For the purposes of this section only, the term "political party" means only
15 those political parties officially recognized under G.S. 163-96. Contributions by political party
16 executive committees under G.S. 163-278.42 are subject to the limitations of this section.

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

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

23 ~~CANDIDATES FOR GOVERNOR AND LIEUTENANT GOVERNOR.~~

24 Sec. 7. Article 22C of Chapter 163 is repealed.

25 Sec. 8. Chapter 163 of the General Statutes is amended to add Article 22E to
26 read as follows:

27 **"ARTICLE 22E.**

28 **"NORTH CAROLINIANS FOR POSITIVE CAMPAIGNS.**

29 **"§ 163-278.70. Definitions.**

30 (1) 'Board' means the Board of Directors for North Carolinians for Positive
31 Campaigns.

32 (2) 'Candidate' means that as defined in G.S. 163-278.6(4).

33 (3) 'Communications media' means that as defined in G.S. 163-278.6(5).

34 (4) 'Competitive election' means a contested election for a political office in
35 North Carolina in which two or more candidates received in excess of
36 twenty-five percent (25%) of the votes cast in that election.

37 (5) 'Contribute' and 'contribution' means those as defined in G.S. 163-
38 278.6(6).

39 (6) 'Fund' means the Fund of North Carolinians for Positive Campaigns.

40 (7) 'NCPC' means North Carolinians for Positive Campaigns, Inc.

41 (8) 'Participating candidate' means a candidate who signs the affidavit and
42 the 'standard of conduct' pledge in G.S. 163-278.73(b) and G.S. 163-
43 278.74(b).

1 (9) 'Public office' means that as defined in G.S. 163-278.6(18).

2 (10) 'Qualifying candidate' means a participating candidate who meets the
3 requirements for public financing in a primary election in accordance
4 with G.S. 163-278.74 or in a general election in accordance with G.S.
5 163-278.73.

6 (11) 'Refusing candidate' means a candidate who refuses to follow the
7 campaign finance practices in G.S. 163-278.74.

8 **"§ 163-278.71. North Carolinians for Positive Campaigns; conditions.**

9 (a) Contracting With Corporation. – The State Board of Elections shall contract
10 with a privately chartered, not-for-profit corporation governed by a Board of Directors.
11 The corporation shall be called North Carolinians for Positive Campaigns, Inc.

12 (b) Eligibility for Contract. – In order to be awarded a contract with the State
13 Board of Elections and to receive State funds under this Article, NCPC shall meet the
14 following conditions:

15 (1) The Board shall consist of 12 members appointed as follows:

16 a. Three members appointed by the Majority Leader of the House
17 of Representatives, of whom one member must be registered
18 'unaffiliated'.

19 b. Three members appointed by the Minority Leader of the House
20 of Representatives, of whom one member must be registered
21 'unaffiliated'.

22 c. Three members appointed by the Majority Leader of the Senate,
23 of whom one member must be registered 'unaffiliated'.

24 d. Three members appointed by the Minority Leader of the Senate,
25 of whom one member must be registered 'unaffiliated'.

26 (2) Members of the Board shall serve four-year terms, except in the case of
27 initial terms as follows:

28 a. Terms of two members appointed by the Majority Leader of the
29 House of Representatives, two members appointed by the
30 Minority Leader of the Senate, one member appointed by the
31 Minority Leader of the House of Representatives, and one
32 member appointed by the Majority Leader of the Senate, shall
33 expire July 1, 1997.

34 b. Terms of two members appointed by the Minority Leader of the
35 House of Representatives, two members appointed by the
36 Majority Leader of the Senate, one member appointed by the
37 Majority Leader of the House of Representatives, and one
38 member appointed by the Minority Leader of the Senate, shall
39 expire July 1, 1999.

40 (3) At the end of a term, a member of the Board shall continue to serve until
41 a successor is appointed. A member who is appointed after a term has
42 begun serves only for the remainder of the term and until a successor is
43 appointed. A member who serves two consecutive full four-year terms

1 shall not be reappointed until four years after completion of those terms.
2 A vacancy in a legislative appointment shall be filled in accordance with
3 G.S. 120-122.

4 (4) The Board shall elect officers biennially. Officers shall serve no more
5 than two consecutive terms in an office.

6 (5) The Board shall appoint an executive director who shall serve at the
7 pleasure of the Board. The executive director shall administer the
8 affairs of the Board. The executive director may employ and direct staff
9 necessary to carry out the provisions of this Article.

10 (6) The Board shall meet as needed at the times and places it determines. A
11 majority of the fully authorized membership of the Board is a quorum.

12 (7) The Board shall agree to adopt procedures for its operations that are
13 comparable to those of the North Carolina Open Meetings Law, Article
14 33C of Chapter 143 of the General Statutes, and the Public Records
15 Law, Chapter 132 of the General Statutes, and to provide for
16 enforcement by the State Board of Elections.

17 (8) An individual shall not be eligible to serve on the Board if the
18 individual or the individual's spouse:

19 a. Has contributed more than two hundred fifty dollars (\$250.00) to
20 a single candidate for political office in North Carolina or any
21 political action committee in North Carolina for a period of five
22 years preceding the date of his or her appointment;

23 b. Filed as a candidate for public office during the 10 years prior to
24 appointment to the Board; or

25 c. Is an employee of the federal or State government or any local
26 government in North Carolina.

27 (9) Any Board member who files for public office or publicly declares an
28 intent to run for public office shall resign or be removed from the
29 Board.

30 (10) NCPC shall be subject to audit and review by the State Auditor under
31 Article 5A of Chapter 147 of the General Statutes. The State Auditor
32 shall conduct annual financial and compliance audits of NCPC.

33 **"§ 163-278.72. Candidate participation requirements in a primary election.**

34 (a) Affidavit and Pledge. – Any person who wants to qualify for the benefits of
35 public financing provided by NCPC in a primary election shall establish willingness to
36 participate by signing and submitting, within 15 days after that person's campaign's initial
37 organizational report is filed with the State Board of Elections, the following two
38 documents:

39 (1) An affidavit prepared by the State Board of Elections, stating that the
40 candidate agrees to follow the campaign finance practices established
41 under G.S. 163-278.77 in exchange for receiving the media access
42 services provided by the NCPC. The affidavit shall be sworn and
43 subscribed to by the candidate and notarized.

- 1 (2) A 'standard of conduct' pledge which shall read as follows:
2 'I will neither engage in or condone advertising or public statement that
3 personally attacks my opponent. If such is promulgated by my
4 supporters, I will promptly and publicly disavow it.'
5 The pledge will recognize that it is a moral obligation, and its terms are
6 not legally enforceable. The pledge will also make the assumption that
7 the candidate's opponent will follow the same standard of conduct.

8 Candidates who have existing campaign committees for public office shall be notified
9 of the requirements of qualifying for the benefits of public financing provided by NCPC
10 in a manner prescribed by the State Board of Elections.

11 (b) Threshold Showing of Support. – A participating candidate will be qualified to
12 receive the benefits of public financing provided by the Board if the candidate:

- 13 (1) Presents proof to the State Board of Elections, on or before the ninetieth
14 day preceding the primary election day for the office, that he or she has
15 met the threshold of raising ten percent (10%) of the expenditure limit
16 for that office during the primary election from no less than 1,000
17 individual residents of North Carolina. Only the first two hundred fifty
18 dollars (\$250.00) of a contribution shall be applicable for the purposes
19 of meeting this threshold. Contributions from out-of-state residents,
20 political committees, or any other person or entity besides an individual
21 resident of North Carolina shall not count toward the purposes of
22 meeting this threshold, or
23 (2) Demonstrates substantial popular support by filing with the Board of
24 Elections, on or before the ninetieth day before the primary election day
25 for the office, an officially authorized petition containing the signatures
26 of registered voters in the State of the party holding the primary totaling
27 no less than ten percent (10%) of the number of votes cast in the last
28 competitive primary election for the office.

29 **"§ 163-278.73. Candidate participation requirements in a general election.**

30 (a) Affidavit and Pledge. – All candidates who desire to qualify for the benefits of
31 public financing provided by NCPC in a general election shall establish their willingness
32 to participate by signing and submitting, at the same time that their campaign's initial
33 organizational report is filed with the State Board of Elections, the following two
34 documents:

- 35 (1) An affidavit prepared by the State Board of Elections, stating that the
36 candidate agrees to follow the campaign finance practices established
37 under G.S. 163-278.75 in exchange for receiving the media access
38 services provided by NCPC. The affidavit shall be sworn and
39 subscribed to by the candidate and notarized.
40 (2) A 'standard of conduct' pledge which shall read as follows:
41 'I will neither engage in or condone advertising or public statement that
42 personally attacks my opponent. If such is promulgated by my
43 supporters, I will promptly and publicly disavow it.'

1 The pledge will recognize that it is a moral obligation, and its terms are
2 not legally enforceable. The pledge will also make the assumption that
3 the candidate's opponent will follow the same standard of conduct.

4 Candidates who have existing campaign committees for public office shall be notified
5 of the requirements of qualifying for the benefits of public financing provided by NCPC
6 in a manner prescribed by the State Board of Elections.

7 (b) Threshold Showing of Support. – A participating candidate will be qualified to
8 receive the benefits of public financing provided by the Board if the candidate:

9 (1) Is the nominee of a party whose nominee in the last gubernatorial
10 election won at least thirty percent (30%) of the votes cast and agreed to
11 participate in accordance with G.S. 163-278.74; or

12 (2) Demonstrates substantial popular support by filing with the State Board
13 of Elections, on or before the ninetieth day before the general election
14 day for the office, an officially authorized petition containing the
15 signatures of registered voters in the State totaling no less than ten
16 percent (10%) of the number of votes cast in the last competitive
17 general election for the office.

18 **"§ 163-278.74. Designation of qualifying candidates.**

19 Within 15 days of the receipt of a participating candidate's contribution report or
20 petitions pursuant to G.S. 163-278.72 or G.S. 163-278.73, the State Board of Elections
21 shall review and, upon determining the report or petitions fulfill the appropriate
22 requirement, shall designate such a candidate as qualified for NCPC benefits.

23 **"§ 163-278.75. Campaign finance practices of participating candidates.**

24 (a) Applicability to Election Races. – The provisions of this section pertaining to
25 election races for Governor and Lieutenant Governor shall apply beginning in the year
26 2000.

27 (b) Campaign Expenditures. –

28 (1) A participating candidate in a gubernatorial election (primary, second
29 primary, or general election) shall agree to expend a base amount
30 maximum equal to one dollar (\$1.00) per the total number of votes cast
31 in the same type of election pertaining to that office which occurred
32 most recently in time and qualifies as a competitive election. The base
33 amount maximum shall be computed in the same way for races
34 pertaining to the Office of Lieutenant Governor, except the per voter
35 rate shall be fifty cents (50¢). A candidate's expenditure limit for an
36 election cycle includes the additional amount for a primary only if a
37 primary is held in the race and the candidate's name is on the ballot.

38 The State Board of Elections shall promulgate rules for computing the total
39 expenditures for an election, using for guidance rules promulgated by the Federal
40 Election Commission in the enforcement of the Federal Election Campaign Laws.

41 (2) In addition to the base amount maximum, the actual maximum amount
42 for the campaign of a participating candidate in an election race
43 pertaining to the Governor or Lieutenant Governor shall be increased by

1 a 'cost-of-election' index rate, which takes into account changes in the
2 State's population, the actual maximum amount for previous elections
3 and the consumer price index for North Carolina. The State Board of
4 Elections shall be responsible for formulating this cost-of-election index
5 and establishing the actual maximum amount for each election race,
6 which shall be rounded to the nearest one thousand dollars (\$1,000).
7 The State Board of Elections shall publish this maximum amount
8 pertaining to each election race at least two years before the day of that
9 election.

10 (c) Contribution Amounts. –

- 11 (1) A participating candidate shall agree that that candidate's campaign will
12 accept a total of no more than two thousand dollars (\$2,000) per election
13 in money or in-kind contributions from any individual (including
14 members of the candidate's family, other than the candidate's spouse) or
15 political committee, including a political party committee. Refusing
16 candidates may not exceed contributions limits beyond those established
17 in G.S. 163-278.13.
- 18 (2) Participating candidates shall agree to contribute or loan a total of no
19 more than thirty thousand dollars (\$30,000) per election in money or in-
20 kind contributions to their own campaign.

21 **"§ 163-278.76. Reporting requirements.**

22 In order to fulfill the purposes of this act regarding expenditure and contribution
23 practices in G.S. 163-278.75, the State Board of Elections shall promulgate rules
24 regarding disclosure to the Board, State Board of Elections, and the public of
25 contributions and expenditures, including special reporting during the final 15 days
26 before an election.

27 **"§ 163-278.77. Financing.**

28 (a) Receipt of Monies. –

- 29 (1) The Fund is authorized to accept funds received through grants, private
30 contributions, General Fund appropriations made by the General
31 Assembly, General Fund monies earmarked by taxpayers as provided in
32 G.S. 105-269.7, contributions made as provided in G.S. 105-269.6, and
33 through other appropriate and lawful means.
- 34 (2) The Fund may accept grants or other contributions in any amount from
35 corporations, labor unions, foundations, or any other person.
- 36 (3) The State Board of Elections shall promulgate rules requiring on a
37 periodic basis the Fund's disclosure of the source and amount of each
38 grant and private contribution, in excess of one hundred dollars
39 (\$100.00).

40 (b) Expenditure of Monies. –

- 41 (1) In the 1996 general election for Governor, NCPC is authorized to
42 expend all monies transferred to the Fund from the North Carolina
43 Candidates Financing Fund pursuant to G.S. 105-269.6 and monies that

1 the Fund otherwise receives up to a maximum of five hundred thousand
2 dollars (\$500,000) from its media account in order to sponsor debate
3 according to the rules set out in G.S. 163-278.78(c).

4 (2) In elections for Governor and Lieutenant Governor after 1996, NCPC is
5 authorized to expend monies from its media account to purchase media
6 access for participating candidates in the forms established pursuant to
7 G.S. 163-278.73 and G.S. 163-278.74 according to the following order
8 of priority:

9 a. The first two million dollars (\$2,000,000) in the general election
10 cycle for Governor;

11 b. The next four hundred thousand dollars (\$400,000) in the second
12 primary for Governor if there are at least two second primary
13 contests which both include one or more participating candidates,
14 or two hundred thousand dollars (\$200,000) if there is only a
15 single second primary including one or more participating
16 candidates;

17 c. The next one million dollars (\$1,000,000) in the primary cycle
18 for Governor;

19 d. The next one million dollars (\$1,000,000) in the general election
20 cycle for Lieutenant Governor;

21 e. The next two hundred thousand dollars (\$200,000) in the second
22 primary for Lieutenant Governor if there are at least two second
23 primary contests which both include one or more participating
24 candidates, or one hundred thousand dollars (\$100,000) if there is
25 only a single second primary including one or more participating
26 candidates; and

27 f. The next five hundred thousand dollars (\$500,000) in the primary
28 election cycle for Lieutenant Governor.

29 (3) In each of the primary and general elections listed in subdivision (2) of
30 this subsection, NCPC shall allocate money value to all participating
31 candidates for an office in equal proportions.

32 (4) None of the money value that NCPC allocates to participating
33 candidates shall be included in the expenditure limits under G.S. 163-
34 278.75(b).

35 (5) In addition to its media account, NCPC shall establish a separate
36 administrative account for all monies to be used for operation of the
37 NCPC. The amount of money placed in the administrative account shall
38 not exceed two hundred fifty thousand dollars (\$250,000) in the
39 aggregate during a calendar year through 1999. In the year 2000, the
40 Board may vote to increase this maximum amount up to five hundred
41 thousand dollars (\$500,000). No taxpayer money allocated to the Fund
42 under G.S. 105-269.6 and G.S. 105-269.7 nor any appropriations from
43 the General Fund shall be placed in the administrative account.

- 1 (6) Upon request by NCPC after 2000, the State Board of Elections shall
2 recommend to the General Assembly an expansion of the elections for
3 offices in which NCPC should provide media access for eligible
4 candidates. The recommendations of the State Board of Elections shall
5 specify the offices, the base amount maximum, the maximum
6 expenditure amount, and each office's position in NCPC's spending
7 priority.
- 8 (7) In any election cycle for an office listed in subdivision (2) of this
9 subsection, NCPC shall expend at least one-half of the spending
10 maximum or forego spending any monies in that election cycle for the
11 office.
- 12 (8) For the election cycle in the year 2000, NCPC shall disclose to the State
13 Board of Elections by July 1, 1999, the elections for office and the
14 specific amounts in which it shall provide media access services for
15 participating candidates pursuant to subdivision (2) of this subsection.
16 At the same time, the NCPC shall also establish its financial capacity to
17 expend these amounts by demonstrating that its media account contains
18 at least one hundred fifty percent (150%) of the total amount to be
19 expended pursuant to subdivision (2) of this subsection. The State
20 Board of Elections shall establish a reasonable date for these same
21 disclosures by NCPC in subsequent election cycles.

22 **"§ 163-278.78. NCPC sponsored activities.**

23 (a) 1996 General Election for Governor. – NCPC shall purchase or otherwise
24 negotiate access to television time for a one-hour debate involving candidates for
25 Governor during the 1996 general election. The format and other aspects of the debate
26 shall follow the rules established in subsection (c) of this section.

27 (b) Elections After 1996. –

- 28 (1) NCPC shall concentrate its purchase of media access or other negotiated
29 access for qualifying candidates for Governor and Lieutenant Governor
30 exclusively during the last 30 calendar days preceding the day of
31 election.
- 32 (2) NCPC shall purchase or otherwise negotiate access to television time
33 for two one-hour debates involving all qualifying candidates in the
34 general election for Lieutenant Governor, and one debate between the
35 eligible candidates in each primary for Governor and Lieutenant
36 Governor.
- 37 (3) Regarding any subsequent election for any other office that the General
38 Assembly authorizes money value to be allocated, NCPC shall purchase
39 or otherwise negotiate access for one debate per each primary and
40 general election contest involving qualifying candidates.
- 41 (4) The format of the debates as well as positive advertisements, the
42 purchase and placement of the debates, and other aspects will follow the
43 rules established in subsections (c) and (d) of this section.

1 (c) Debate Rules. –

2 (1) NCPC may cosponsor any election debate with any nonprofit
3 organization that it deems to be appropriate.

4 (2) During each debate, it shall be announced to the television audience that
5 each candidate has been requested to refrain from mentioning an
6 opponent's name or engage in any critical reference to an opponent.
7 This information shall be announced at the beginning and end of each
8 debate as well as at least two additional times during each debate.

9 (3) NCPC shall make its best effort to gain live television coverage of each
10 debate on the affiliate of at least one national television network in
11 every television market in the State. NCPC shall seek negotiations with
12 all such network affiliates and other television stations to carry live
13 coverage of each debate at the least possible rate of change.

14 (4) NCPC may decide to announce the names of particular financial
15 supporters of the funding for any debate.

16 (5) Qualifying candidates are not precluded from participating in a debate
17 other than one not sponsored by NCPC.

18 (6) For recommendations regarding debate format, NCPC shall seek to
19 appoint an advisory committee composed of two designees of the
20 president of the North Carolina Association of Broadcasters (NCAB),
21 and two designees of the North Carolina Press Association (NCPA). If
22 the President of either organization fails to make such designations, the
23 Board shall make its own designations from members of these
24 organizations. NCPC shall either accept or reject a recommended
25 debate format of the advisory committee in total. NCPC shall adopt
26 format(s) for debates between candidates in the 1996 general election
27 for Governor within 10 calendar days of the date of the primary
28 election. NCPC shall request the Presidents of NCAB and NCPA on
29 October 1, 1995, to designate members of the 1996 advisory committee.
30 For subsequent election cycles, NCPC shall adopt debate formats for
31 elections at least two years in advance of the date of the general election
32 for that election cycle.

33 (7) Regarding any election for which NCPC allocates money value to
34 qualifying candidates, and which contains only one qualifying
35 candidate, NCPC shall forego the format of a debate and purchase or
36 otherwise negotiate access for the qualifying candidate to obtain two 30-
37 minute advertising segments.

38 (d) Positive Issue Advertisement Rules. –

39 (1) The advertisements for which NCPC purchases or otherwise negotiates
40 access shall be one minute in length. Such advertisements shall contain
41 the following:

42 a. An introduction lasting up to 10 seconds in which an issue
43 question shall be posed to a candidate and it shall be announced

1 that the candidate has been requested to answer the question
2 without mentioning an opponent or otherwise making any critical
3 reference to an opponent or an opponent's supporter;

4 b. A middle segment lasting at least 30 seconds casting a
5 candidate's answer whose content and format shall be produced
6 according to the candidate's discretion; and

7 c. A conclusion lasting up to five seconds in which the issue
8 question is repeated and it is announced again that the candidate
9 was requested to avoid any criticism of an opponent or an
10 opponent's supporters.

11 (2) The advisory committee designated to recommend debate rules shall
12 also recommend the content of the questions and other specific aspects
13 of the format outlined above in subdivision (1) of this subsection.

14 (3) NCPC shall contract with a single corporate organization experienced in
15 purchasing access for advertisements on television in North Carolina.
16 The contracting process shall occur on an open and competitive basis.
17 The selected organization shall prepare a plan which will recommend a
18 statewide schedule for the broadcast of the positive-issue advertisements
19 in each election. NCPC shall accept or reject a recommended plan in
20 total. A plan recommended by the selection organization and adopted
21 by the Board shall require the placement of some but not all positive-
22 issue advertisements featuring an eligible candidate in particular time
23 periods and in particular media markets. The plan shall provide some
24 options so that the campaigns of qualifying candidates can choose some
25 time slots in particular markets for certain positive issue advertisements.

26 **"§ 163-278.79. Withdrawal.**

27 (a) Early Withdrawal. – Participating and qualifying candidates may withdraw
28 from participation without penalty within 10 days of the candidate filing period. Any
29 contributions received in excess of five hundred dollars (\$500.00) from individuals or
30 political committees shall be returned within 25 days of the candidate's withdrawal.

31 (b) Withdrawal by Participating Candidates. – A participating candidate who has
32 not qualified for NCPC benefits may withdraw from participation by filing a notice of
33 withdrawal with the State Board of Elections, provided no violations of G.S. 163-278.75
34 have occurred. Any contributions received in excess of five hundred dollars (\$500.00)
35 from individuals or political committees shall be returned to the State Board of Elections
36 for distributions within 24 hours of the candidate's withdrawal with a complete listing of
37 contributors who would receive the refunded contributions.

38 (c) Withdrawal by Qualifying Candidates. – A qualifying candidate may withdraw
39 from participation by filing a notice of withdrawal with the State Board of Elections,
40 provided no violations of G.S. 163-278.75 have occurred. Any contributions received in
41 excess of five hundred dollars (\$500.00) from individuals or political committees shall be
42 returned to the State Board of Elections for distributions within 24 hours of the
43 candidate's withdrawal with a complete listing of contributors who would receive the

1 refunded contributions. In the event benefits were received by the candidate from the
2 Fund, the State Board shall determine the monetary value of those benefits. Following
3 determination of the cost of these benefits, the candidate shall submit to the Board a
4 cashier's check for three times the amount determined by the State Board within 24 hours
5 of the Board's determination. The State Board shall transfer the check to NCPC for
6 deposit in its Fund.

7 **"§ 163-278.80. Enforcement.**

8 (a) Criminal Penalties. – For candidates and campaign committees that sign an
9 affidavit as outlined in G.S. 163-278.74, any individual, person, candidate, political
10 committee, or treasurer who willfully and intentionally violates any of the provisions of
11 this Article shall be guilty of a Class I felony.

12 (b) Civil Penalties. – A participating or qualifying candidate who exceeds the
13 spending limits of G.S. 163-278.75 without having withdrawn pursuant to G.S. 163-
14 278.79 shall be liable for civil penalties equal to three times the amount spent beyond the
15 limit. The penalty shall be paid into the Fund of NCPC.

16 (c) Rights of Action. – The Attorney General shall bring civil actions in the
17 Superior Court of Wake County for such relief as is necessary to enforce this Article,
18 including the payment of reimbursements required by G.S. 163-278.79 and civil penalties
19 required by subsection (b) of this section. Any individual contributor may bring an action
20 for reimbursement under G.S. 163-278.79 in a court of competent jurisdiction."

21 Sec. 9. G.S. 105-269.6 is amended to read as follows:

22 **"§ 105-269.6. Contribution of individual income tax refund to ~~Candidates Financing~~**
23 **Fund, ~~the Fund of North Carolinians for Positive Campaigns.~~**

24 An individual entitled to a refund of income taxes under Division II of Article 4 of
25 this Chapter may elect to contribute all or part of the refund to the ~~North Carolina~~
26 ~~Candidates Financing Fund~~ for the use of political campaigns as provided in Article 22C of
27 ~~Chapter 163 of the General Statutes.~~ Fund of North Carolinians for Positive Campaigns as
28 provided in Article 22D of Chapter 163 of the General Statutes. The Secretary of
29 Revenue shall provide appropriate language and space on the individual income tax form
30 in which make the election. The election becomes irrevocable upon filing the
31 individual's income tax return for the taxable year. The Secretary of Revenue shall, on a
32 quarterly basis, transmit the contributions made pursuant to this section to the State
33 Treasurer for credit to the ~~North Carolina Candidates Financing Fund.~~ Fund of North
34 Carolinians for Positive Campaigns. Any interest earned on funds so credited shall be
35 credited to the ~~Fund.~~ Fund of North Carolinians for Positive Campaigns. Any monies
36 designated to the North Carolina Candidates Financing Fund but not yet transferred shall
37 be transferred to the North Carolinians for Positive Campaigns Fund."

38 Sec. 10. Chapter 105 of the General Statutes is amended to create a section to
39 read as follows:

40 **"§ 105-269.7. Designation of tax by individual to the Fund of North Carolinians for**
41 **Positive Campaigns.**

42 (a) Every individual whose income tax liability for the taxable year is five dollars
43 (\$5.00) or more may designate on his or her income tax return that five dollars (\$5.00) of

1 the tax shall be credited to the Fund of North Carolinians for Positive Campaigns. In the
2 case of a married couple filing a joint return whose income tax liability for the taxable
3 year is ten dollars (\$10.00) or more, each spouse may designate on the income tax return
4 that five dollars (\$5.00) of the tax shall be credited to the Fund of North Carolinians for
5 Positive Campaigns.

6 (b) Amounts designated under subsection (a) of this section shall be credited to the
7 Fund of North Carolinians for Positive Campaigns on a quarterly basis. Interest earned
8 by the Fund shall be credited to the Fund. The Board of Directors of North Carolinians
9 for Positive Campaigns, which administers the Fund, shall make a quarterly report to the
10 State Board of Elections and the Joint Legislative Commission on Governmental
11 Operations stating the amount of funds received by the Fund for that quarter, the
12 cumulative total of funds received to date for the year, and an estimate of the probable
13 total amount to be received for that calendar year.

14 (c) The Secretary shall amend the income tax return in order that all taxpayers
15 desiring to make the political contributions authorized in this section may do so by
16 designating on the front face of the tax return. The line of authorization for the
17 designation shall be color contrasted with the color scheme of the remainder of the
18 income tax return. The return or its accompanying explanatory instruction shall readily
19 indicate that any such designations neither increases nor decreases an individual's tax
20 liability.

21 (d) A paid preparer of tax returns may not designate on a return that the taxpayer
22 does or does not desire to make the political contribution authorized in this section unless
23 the taxpayer or the taxpayer's spouse has consented to the designation."

24 Sec. 11. G.S. 163-278.13 reads as rewritten:

25 **"§ 163-278.13. Limitation on contributions.**

26 (a) No individual or political committee shall contribute to any candidate or other
27 political committee any money or make any other contribution in any election in excess
28 of ~~four thousand five hundred~~ dollars ~~(\$4,000)-(\$500.00)~~ for that election.

29 (b) No candidate or political committee shall accept or solicit any contribution
30 from any individual or other political committee of any money or any other contribution
31 in any election in excess of ~~four thousand five hundred~~ dollars ~~(\$4,000)-(\$500.00)~~ for that
32 election.

33 (b1) Notwithstanding the provisions of subsections (a), (b), and (c) of this section,
34 the contribution limit from a contributor to a participating candidate for Governor or
35 Lieutenant Governor, as defined in G.S. 163-278.70(8), or for an eligible candidate for
36 the General Assembly, as provided in Article 22D of this Chapter, is two thousand dollars
37 (\$2,000) for that election.

38 (c) Notwithstanding the provisions of subsections (a) and (b) of this section, it
39 shall be lawful for a candidate or a candidate's ~~spouse, parents, brothers and sisters~~ spouse
40 to make a contribution to the candidate or to the candidate's treasurer of any amount of
41 money or to make any other contribution in any election in excess of ~~four thousand five~~
42 hundred dollars ~~(\$4,000)-(\$500.00)~~ for that election.

1 (c1) Notwithstanding the provisions of subsection (c) of this section, the limit for a
2 contribution by a participating candidate as defined in G.S. 163-278.70(8) or participating
3 candidate's spouse to the candidate or to the candidate's treasurer is thirty thousand
4 dollars (\$30,000) for that election.

5 (d) For the purposes of this section, the term 'an election' means any primary,
6 second primary, or general election in which the candidate or political committee may be
7 involved, without regard to whether the candidate is opposed or unopposed in the
8 election.

9 (e) This section shall ~~not~~ apply to ~~any national, State, district or county district,~~
10 ~~county, precinct, or other executive committee committees~~ of any political party. The
11 limitation in this section on contributions to or from political party executive committees
12 shall apply collectively to all executive committees of the same political party nationally
13 or within the State. For the purposes of this section only, the term "political party" means only
14 those political parties officially recognized under G.S. 163-96. Contributions by political party
15 executive committees under G.S. 163-278.42 are subject to the limitations of this section.

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

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

22 Sec. 12. Sections 4, 6, and 8 of this act become effective January 1, 1996, and
23 shall apply to all primaries and elections held on or after that date, provided that the State
24 Board of Elections shall adopt procedures to allow candidates who have already filed
25 organizational reports before January 1, 1996, to apply for certification under G.S. 163-
26 278.59 as enacted by Section 4 of this act. Section 11 of this act becomes effective
27 January 1, 1997. Sections 7, 9, and 10 of this act become effective with respect to taxable
28 years beginning on or after January 1, 1995. Section 5 of this act becomes effective with
29 respect to the 1996 taxable year. All remaining sections of this act are effective upon
30 ratification.