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HOUSE BILL 128
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Short Title: Election Changes.

(Public)

Sponsors:

Referred to:

February 9, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE COUNTY BOARDS OF ELECTIONS TO TAKE STEPS
2 EARLIER TO COUNT MAILED ABSENTEE VOTES; TO CLARIFY HOW A
3 VOTER SHALL REPORT A MOVE; TO CLARIFY THE RESIDENCE FOR
4 VOTING PURPOSES OF CERTAIN PERSONS; TO AMEND THE STATUTES
5 RELATING TO CHALLENGES; TO SPECIFY HOW FINANCIAL
6 INSTITUTIONS MAY MAKE LOANS WITHOUT VIOLATING THE
7 PROHIBITION ON CORPORATE CONTRIBUTIONS; TO MAKE CHANGES
8 TO THE APPROPRIATIONS ACT AS IT RELATES TO ELECTIONS
9 APPOINTMENTS; TO PROVIDE THAT EXCEPT FOR THEIR ENVELOPE,
10 PROVISIONAL BALLOTS SHALL NOT BE MARKED TO BE IDENTIFIABLE
11 TO A VOTER; AND TO MAKE CHANGES TO THE PUBLIC CAMPAIGN
12 FUND.
13

14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** G.S. 163-234 is amended by adding a new subdivision to read:
16 "(2a) Notwithstanding the provisions of subdivision (2) of this section, a
17 county board of elections may, at each meeting at which it approves
18 absentee ballot applications pursuant to G.S. 163-230.1(c) and (c1),
19 remove those ballots from their envelopes and have them read by an
20 optical scanning machine, without printing the totals on the scanner.
21 The board shall complete the counting of these ballots at the times
22 provided in subdivision (2) of this section. The State Board of
23 Elections shall provide instructions to county boards of elections for
24 executing this procedure, and the instructions shall be designed to
25 ensure the accuracy of the count, the participation of board members
26 of both parties, and the secrecy of the results before election day. This
27 subdivision applies only in counties that use optical scan devices to
28 count absentee ballots."

1 (c) Grounds for Challenge. – Such challenge may be made only for one or more
2 of the following reasons:

- 3 (1) That a person is will not have been a resident of the State of North
4 Carolina, or at the address where the person claims residence for 30
5 days or more at the time of the next election.
6 (2) ~~That a person is not a resident of the county in which the person is~~
7 ~~registered, provided that no such challenge may be made if the person~~
8 ~~removed his residency and the period of removal has been less than 30~~
9 ~~days, or~~
10 (3) ~~That a person is not a resident of the precinct in which the person is~~
11 ~~registered, provided that no such challenge may be made if the person~~
12 ~~removed his residency and the period of removal has been less than 30~~
13 ~~days, or~~
14 (4) That a person is not 18 years of age, or if the challenge is made within
15 60 days before a primary, that the person will not be 18 years of age by
16 the next general ~~election, or election.~~
17 (5) That a person has been adjudged guilty of a felony and is ineligible to
18 vote under ~~G.S. 163-55(2), or G.S. 163-55(2).~~
19 (6), (7) Repealed by Session Laws 1985, c. 563, ss. 11.1, 11.2.
20 (7a) That a person is ~~dead, dead.~~
21 (8) That a person is not a citizen of the United ~~States, or States.~~
22 (9) ~~With respect to municipal registration only, that a person is not a~~
23 ~~resident of the municipality in which the person is registered.~~

24 (d) Preliminary Hearing. – When a challenge is made, the county board of
25 ~~election elections~~ shall schedule a preliminary hearing on the challenge, and shall take
26 ~~such that~~ testimony under oath and receive such other evidence proffered by the
27 challenger as may be offered. The burden of proof shall be on the challenger, and if no
28 testimony is presented, the board shall dismiss the challenge. If the challenger presents
29 evidence and if the board finds that probable cause exists that the person challenged is
30 not qualified to vote, then the board shall schedule a hearing on the challenge. If the
31 challenge is made for the reason stated in subdivision (1) of subsection (c) of this
32 section and the registrant acknowledges that the address on the registration records is
33 incorrect but the board finds that the registration records can be corrected so that the
34 voter can vote the proper ballot in the coming election, the board shall not schedule a
35 hearing on the challenge but shall correct the records, and the voter shall be allowed to
36 vote the proper ballot.

37 (e) Prima Facie Evidence That Voter No Longer Resides ~~in Precinct~~ at an
38 Address. – The presentation of a letter mailed by returnable first-class mail to the voter
39 at the address listed on the voter registration card and returned because the person does
40 not live at the address shall constitute prima facie evidence that the person no longer
41 resides ~~in the precinct at that address.~~

42 **"§ 163-86. Hearing on challenge.**

43 (a) A challenge made under G.S. 163-85 shall be heard and decided before the
44 date of the next primary or election, except that if the board finds that because of the

1 number of challenges, it cannot hold all hearings before the date of the election, it may
2 order the challenges to be heard and decided at the next time the challenged person
3 appears and seeks to vote, as if the challenge had been filed under G.S. 163-87. Unless
4 the hearing is ordered held under G.S. 163-87, it shall be heard and decided by the
5 board of elections.

6 (b) At least 10 days prior to the hearing scheduled under G.S. 163-86(c), the
7 board of elections shall mail by first-class mail, a written notice of the challenge to the
8 challenged voter, to the address of the voter listed in the registration records of the
9 county. The notice shall state succinctly the grounds asserted, and shall state the time
10 and place of the hearing. ~~If the hearing is to be held at the polls, the notice shall state~~
11 ~~that fact and shall list the date of the next scheduled election, the location of the voter's~~
12 ~~polling place, and the time the polls will be open.~~ A copy of the notice shall be sent to
13 the person making the challenge and to the ~~chairman~~ chair of each political party in the
14 county.

15 (c) At the time and place set for the hearing on a challenge entered prior to the
16 date of a primary or election, the county board of elections shall explain to the
17 challenged registrant the qualifications for registration and voting in this State. The
18 board chairman, or in his absence the board secretary, shall then administer the
19 following oath to the challenged registrant:

20 "You swear (or affirm) that the statements and information you shall give in this
21 hearing with respect to your identity and qualifications to be registered and to vote shall
22 be the truth, the whole truth, and nothing but the truth, so help you, God."

23 After swearing the challenged registrant, the board shall examine ~~him~~ that person as to
24 ~~his~~ that person's qualifications to be registered and to vote. If the challenged registrant
25 insists ~~that he is on being~~ qualified, the board shall tender to ~~him~~ the challenged
26 registrant the following oath or affirmation:

27 "You do solemnly swear (or affirm) that you are a citizen of the United States; that
28 you are at least 18 years of age or will become 18 by the date of the next general
29 election; that you have or will have resided ~~in this State and in the precinct for which~~
30 ~~registered~~ at the residence listed on your registration record for 30 days by the date of
31 the next general election; that you are not disqualified from voting by the Constitution
32 or the laws of this State; that your name is _____, and that in such name you
33 were duly registered as a voter of _____ ~~precinct;~~ at the address listed on the voter
34 registration records; and that you are the person you represent yourself to be, so help
35 you, God."

36 If the challenged registrant refuses to take the tendered oath, or submit to the board the
37 affidavit required by subsection (d), below, the challenge shall be sustained. If the
38 challenged registrant takes the tendered oath, the board may, nevertheless, sustain the
39 challenge if it finds the challenged registrant is not a legal voter.

40 The board, in conducting hearings on challenges, shall have authority to subpoena
41 any witnesses it may deem appropriate, and administer the necessary oaths or
42 affirmations to all witnesses brought before it to testify to the qualifications of the
43 persons challenged.

1 (d) Appearance by Challenged Registrant. – The challenged registrant shall
2 appear in person at the challenge hearing. If ~~he~~the challenged registrant is unable to
3 appear in person, ~~he~~that person may be represented by another person and must tender
4 to the county board of elections an affidavit that ~~he~~the challenged registrant is a citizen
5 of the United States, is at least 18 years of age or will become 18 by the date of the next
6 general election, has or will have resided ~~in this State and in the precinct for which~~
7 ~~registered~~at the address listed on the registration record for 30 days by the date of the
8 next general election, is not disqualified from voting by the Constitution or laws of this
9 State, is named _____ and was duly registered as a voter of _____ precinct
10 in such name, and is the person represented to be by the affidavit.

11 **"§ 163-87. Challenges allowed on day of primary or election.**

12 On the day of a primary or election, at the time a registered voter offers to vote, any
13 other registered voter of the precinct may exercise the right of challenge, and when he
14 does so may enter the voting enclosure to make the challenge, but he shall retire
15 therefrom as soon as the challenge is heard.

16 On the day of a primary or election, any other registered voter of the precinct may
17 challenge a person for one or more of the following reasons:

- 18 (1) One or more of the reasons listed in G.S. 163-85(c), or
- 19 (2) That the person has already voted in that primary or election, or
- 20 (3) That the person ~~presenting himself to vote is not who he represents~~
21 ~~himself is not who the person claims to be.~~

22 ~~On the day of a party primary, any voter of the precinct who is registered as a~~
23 ~~member of the political party conducting the primary may, at the time any registrant~~
24 ~~proposes to vote, challenge his right to vote upon the ground that he does not affiliate~~
25 ~~with the party conducting the primary or does not in good faith intend to support the~~
26 ~~candidates nominated in that party's primary, and it shall be the duty of the chief judge~~
27 ~~and judges of election to determine whether or not the challenged registrant has a right~~
28 ~~to vote in that primary according to the procedures prescribed in G.S. 163-88; provided~~
29 ~~that no challenge may be made on the grounds specified in the paragraph against an~~
30 ~~unaffiliated voter voting in the primary under G.S. 163-74(a1).~~

31 The chief judge, judge, or assistant appointed under G.S. 163-41 or 163-42 may
32 enter challenges under this section against voters in the precinct for which appointed
33 regardless of the place of residence of the chief judge, judge, or assistant.

34 If a person is challenged under this subsection, and the challenge is sustained under
35 ~~G.S. 163-85(e)(3), 163-85(c)(1)~~, the voter may still transfer ~~his~~ registration under
36 G.S. 163-82.15(e) if eligible under that section, and the registration shall not be
37 cancelled under G.S. 163-90.2(a) if the transfer is made. A person who has transferred
38 his registration under G.S. 163-82.15(e) may be challenged at the precinct to which the
39 registration is being transferred.

40 **"§ 163-88. Hearing on challenge made on day of primary or election.**

41 A challenge entered on the day of a primary or election shall be heard and decided
42 ~~by the chief judge and judges of election of the precinct in which the challenged~~
43 ~~registrant is registered before the polls are closed on the day the challenge is made.~~
44 ~~When the challenge is heard the precinct officials conducting the hearing shall explain~~

1 to the challenged registrant the qualifications for registration and voting in this State,
2 and shall examine him as to his qualifications to be registered and to vote. If the
3 challenged registrant insists that he is qualified, and if, by sworn testimony, he shall
4 prove his identity with the person in whose name he offers to vote and his continued
5 residence in the precinct since he was registered, one of the judges of election or the
6 chief judge shall tender to him the following oath or affirmation, omitting the portions
7 in brackets if the challenge is heard on the day of an election other than a primary:

8 "You do solemnly swear (or affirm) that you are a citizen of the United States; that
9 you are at least 18 years of age [or will become 18 by the date of the next general
10 election]; that you have [or will have] resided in this State and in the precinct for which
11 registered for 30 days [by the date of the next general election]; that you are not
12 disqualified from voting by the Constitution and laws of this State; that your name
13 is _____, and that in such name you were duly registered as a voter of this
14 precinct; that you are the person you represent yourself to be; [that you are affiliated
15 with the _____ party]; and that you have not voted in this [primary] election at
16 this or any other voting place. So help you, God."

17 If the challenged registrant refuses to take the tendered oath, the challenge shall be
18 sustained, and the precinct officials conducting the hearing shall mark the registration
19 records to reflect their decision, and they shall erase the challenged registrant's name
20 from the pollbook if it has been entered therein. If the challenged registrant takes the
21 tendered oath, the precinct officials conducting the hearing may, nevertheless, sustain
22 the challenge unless they are satisfied that the challenged registrant is a legal voter. If
23 they are satisfied that he is a legal voter, they shall overrule the challenge and permit
24 him to vote. Whenever any person's vote is received after having taken the oath
25 prescribed in this section, the chief judge or one of the judges of election shall write on
26 the registration record and on the pollbook opposite the registrant's name the word
27 "sworn."

28 Precinct election officials conducting hearings on challenges on the day of a primary
29 or election shall have authority to administer the necessary oaths or affirmations to all
30 witnesses brought before them to testify to the qualifications of the person challenged.
31 by the county board of elections on the day set for the county canvass. When the
32 challenge is made at the voting place, the chief judge shall, in a manner that minimizes
33 disruption to the voting place, explain to the challenged registrant and to the challenger
34 the process by which the county board of elections will decide the challenge. The chief
35 judge shall allow the voter to complete a challenged ballot as provided in G.S. 163-88.1.
36 The chief judge shall transmit the documentation of the challenge, including the
37 challenged ballot, to the county board of elections according to procedures that shall be
38 prescribed by the State Board of Elections. On the day of the canvass, the county board
39 shall conduct a hearing on the challenge according to procedures set forth in subsections
40 (c) and (d) of G.S. 163-86.

41 A letter or postal card mailed by returnable mail and returned by the United States
42 Postal Service purportedly because the person no longer lives at that address or because
43 a forwarding order has expired shall not be admissible evidence in a challenge heard
44 under this section which was made under G.S. 163-87.

"§ 163-88.1. Request for challenged ballot.

(a) ~~If the decision of the chief judge and judges pursuant to G.S. 163-88 is to sustain the challenge, the challenged voter~~ A voter challenged under G.S. 163-88 may request a challenged ballot by submitting an application to the chief judge, ~~such judge.~~ The application shall include as part thereof an affidavit that such the person possesses all the qualifications for voting and is entitled to vote at the election. The form of such the affidavit shall be prescribed by the State Board of Elections and shall be available at the polls.

(b) ~~Any person requesting a challenged ballot shall have the letter "C" entered at the appropriate place on the voter's permanent registration record. The voter's name shall be entered on a separate page in the pollbook entitled "Challenged Ballot," and serially numbered. The challenged ballot shall be the same type of ballot used for absentee voters, and the chief judge shall write across the top of the ballot "Challenged Ballot # _____," and shall insert the same serial number as entered in the pollbook. The chief judge shall deliver to such voter a challenged ballot together with an envelope marked "Challenged Ballot" and serially numbered. The challenged voter shall forthwith mark the ballot in the presence of the chief judge in such manner that the chief judge shall not know how the ballot is marked. He shall then fold the ballot in the presence of the chief judge so as to conceal the markings and deposit and seal it in the serially numbered envelope. He shall then deliver such envelope to the chief judge. The chief judge shall retain all such envelopes in an envelope provided by the county board of elections, which he shall seal immediately after the polls close, and deliver to the board chairman at the canvass.~~ The State Board of Elections shall adopt rules for the recording, transmission, and security of challenged ballots, to which the county boards of elections shall adhere.

(c) ~~The chairman of the county board of elections shall preserve such challenged ballots in the sealed envelopes for a period of six months after the election. However, in the case of a contested election, an election protest, either party to such action may request the court to order that the sealed envelopes containing challenged ballots be delivered to the board of elections by the chairman. If so ordered, the board of elections shall then to convene and consider each challenged ballot and rule as to which ballots shall be counted. In such that consideration, the board may take such further evidence as it deems necessary, and shall have the power of subpoena. If any ballots are ordered to be counted, they shall be added to the vote totals.~~

"§ 163-89. Procedures for challenging absentee ballots.

(a) Time for Challenge. – The absentee ballot of any voter may be challenged on the day of any ~~statewide primary or general election or county bond election~~ beginning no earlier than noon and ending no later than 5:00 P.M., or by the chief judge at the time of closing of the polls as provided in G.S. 163-232 and G.S. 163-251(b).

(b) Who May Challenge. – Any registered voter of the same precinct as the address the absentee voter claims on the affidavit may challenge that voter's absentee ballot.

(c) Form and Nature of Challenge. – Each challenged absentee ballot shall be challenged separately. The burden of proof shall be on the challenger. Each challenge

1 shall be made in writing and, if they are available, shall be made on forms prescribed by
2 the State Board of Elections. Each challenge shall specify the reasons why the ballot
3 does not comply with the provisions of this ~~Article~~ Chapter or why the absentee voter is
4 not legally entitled to vote in the particular primary or election. The challenge shall be
5 signed by the challenger.

6 (d) To Whom Challenge Addressed; to Whom Challenge Delivered. – Each
7 challenge shall be addressed to the county board of elections. It may be filed with the
8 board at its offices or with the chief judge of the precinct in which the challenger and
9 absentee voter are registered. If it is delivered to the chief judge, the chief judge shall
10 personally deliver the challenge to the ~~chairman of the~~ county board of elections on the
11 day of the county canvass.

12 (e) Hearing Procedure. – All challenges filed under this section shall be heard by
13 the county board of elections on the day set for the canvass of the returns. All members
14 of the board shall attend the canvass and all members shall be present for the hearing of
15 challenges to absentee ballots.

16 Before the board hears a challenge to an absentee ballot, the chairman shall mark the
17 word "challenged" after the voter's name in the register of absentee ballot applications
18 and ballots issued and in the pollbook of absentee voters.

19 The board then shall hear the challenger's reasons for the challenge, and it shall
20 make its decision without opening the container-return envelope or removing the ballots
21 from it.

22 The board shall have authority to administer the necessary oaths or affirmations to
23 all witnesses brought before it to testify to the qualifications of the voter challenged or
24 to the validity or invalidity of the ballot.

25 If the challenge is sustained, the chairman shall mark the word "sustained" after the
26 word "challenged" following the voter's name in the register of absentee ballot
27 applications and ballots issued and in the pollbook of absentee voters; the voter's ballots
28 shall not be counted; and the container-return envelope shall not be opened but shall be
29 marked "Challenge Sustained." All envelopes so marked shall be preserved intact by the
30 chairman for a period of six months from canvass day or longer if any contest then is
31 pending concerning the validity of any absentee ballot.

32 If the challenge is overruled, the absentee ballots shall be removed from the
33 container-return envelopes and counted by the board of elections, and the board shall
34 adjust the appropriate abstracts of returns to show that the ballots have been counted and
35 tallied in the manner provided for unchallenged absentee ballots.

36 If the challenge was delivered to the board by the chief judge of the precinct and was
37 sustained, the board shall reopen the appropriate ballot boxes, remove such ballots,
38 determine how those ballots were voted, deduct such ballots from the returns, and adjust
39 the appropriate abstracts of returns.

40 If the board determines that the challenged voter was eligible to vote part of the
41 challenged ballot but not all of it, the board shall count the part that the voter was
42 eligible to vote and not count the part that the voter was not eligible to vote.

1 Any voter whose ballots have been challenged may, either personally or through an
2 authorized representative, appear before the board at the hearing on the challenge and
3 present evidence as to the validity of the ballot.

4 **"§ 163-90. Challenge as felon; answer not to be used on prosecution.**

5 If any registered voter is challenged as having been convicted of any crime which
6 excludes him from the right of suffrage, he shall be required to answer any question in
7 relation to the alleged conviction, but his answers to such questions shall not be used
8 against him in any criminal prosecution.

9 **"§ 163-90.1. Burden of proof.**

10 (a) Challenges shall not be made indiscriminately and may only be made if the
11 challenger knows, suspects or reasonably believes such a person not to be qualified and
12 entitled to vote.

13 (b) No challenge shall be sustained unless the challenge is substantiated by
14 affirmative proof. In the absence of such proof, the presumption shall be that the voter is
15 properly registered or affiliated.

16 **"§ 163-90.2. Action when challenge sustained, overruled, or dismissed.**

17 (a) When any challenge is sustained for any cause listed under G.S. 163-85(c),
18 the board shall cancel the voter registration of the voter and shall remove his card from
19 the book, but shall maintain such record for at least six months and during the pendency
20 of any appeal.

21 ~~(b) When any challenge heard under G.S. 163-88 or 163-89 is sustained on the~~
22 ~~ground that the voter is not affiliated with the political party shown on his registration~~
23 ~~record, the board shall change the voter's party affiliation to "unaffiliated".~~

24 ~~(c) When any challenge made under G.S. 163-85 is overruled or dismissed, the~~
25 ~~board shall erase the word "challenged" which appears on the person's registration~~
26 ~~records.~~

27 (d) A decision by a county board of elections on any challenge made under the
28 provisions of this Article shall be appealable to the Superior Court of the county in
29 which the offices of that board are located within 10 days. Only those persons against
30 whom a challenge is sustained or persons who have made a challenge which is
31 overruled shall have standing to file such appeal.

32 **"§ 163-90.3. Making false affidavit perjury.**

33 Any person who shall knowingly make any false affidavit or shall knowingly swear
34 or affirm falsely to any matter or thing required by the terms of this Article to be sworn
35 or affirmed shall be guilty of a Class I felony."

36 **SECTION 4.** G.S. 163-165(6) reads as rewritten:

37 "(6) "Provisional official ballot" means an official ballot that is voted and
38 then placed in an envelope that contains an affidavit signed by the
39 voter certifying identity and eligibility to vote. Except for its envelope,
40 a provisional official ballot shall not be marked to make it identifiable
41 to the voter."

42 **SECTION 4.1.(a)** G.S. 163-278.19(a) reads as rewritten:

1 "(a) Except as provided in subsections (a2), (b), (d), (e), (f), and (g) of this section
2 it shall be unlawful for any corporation, business entity, labor union, professional
3 association or insurance company directly or indirectly:

- 4 (1) To make any contribution to a candidate or political committee ~~(except~~
5 ~~a loan of money by a national or State bank or federal or State savings~~
6 ~~and loan association made in accordance with the applicable banking~~
7 ~~or savings and loan association laws and regulations and in the~~
8 ~~ordinary course of business)~~ or to make any expenditure to support or
9 oppose the nomination or election of a clearly identified candidate;
10 (2) To pay or use or offer, consent or agree to pay or use any of its money
11 or property for any contribution to a candidate or political committee
12 or for any expenditure to support or oppose the nomination or election
13 of a clearly identified candidate; or
14 (3) To compensate, reimburse, or indemnify any person or individual for
15 money or property so used or for any contribution or expenditure so
16 made;

17 and it shall be unlawful for any officer, director, stockholder, attorney, agent or member
18 of any corporation, business entity, labor union, professional association or insurance
19 company to aid, abet, advise or consent to any such contribution or expenditure, or for
20 any person or individual to solicit or knowingly receive any such contribution or
21 expenditure. Supporting or opposing the election of clearly identified candidates
22 includes supporting or opposing the candidates of a clearly identified political party.
23 Any officer, director, stockholder, attorney, agent or member of any corporation,
24 business entity, labor union, professional association or insurance company aiding or
25 abetting in any contribution or expenditure made in violation of this section shall be
26 guilty of a Class 2 misdemeanor, and shall in addition be liable to such corporation,
27 business entity, labor union, professional association or insurance company for the
28 amount of such contribution or expenditure, and the same may be recovered of him
29 upon suit by any stockholder or member thereof."

30 **SECTION 4.1(b).** G.S. 163-278.19 is amended by adding a new subsection
31 to read:

32 "(a2) A financial institution may make a loan to a candidate or political committee
33 if all of the following conditions are met:

- 34 (1) The loan is made in accordance with applicable laws governing
35 financial institutions.
36 (2) The loan is made in the ordinary course of business.
37 (3) The loan is secured in the full amount by collateral placed by or
38 guaranties given by one or more individuals or entities who are not
39 prohibited by this Article from making contributions to the candidate
40 or political committee (subsequently referred to in this subsection as
41 "guarantor").
42 (4) The amount of each guaranty or the value of the collateral posted by
43 each guarantor does not exceed the contribution limitations applicable
44 under this Article to that guarantor, except that the value of collateral

1 posted by a guarantor may exceed the contribution limitations
2 applicable under this Article in cases where the amount of the loan
3 secured by that collateral does not itself exceed the contribution
4 limitations applicable to the guarantor.

5 During the time that any loan made under this subsection remains outstanding and
6 unpaid, then the amount of any guaranty or the value of any collateral posted for that
7 loan shall be considered to be a contribution by the guarantor for purposes of
8 determining the eligibility of any additional contributions made by that guarantor. If the
9 loan, or any portion of the loan, is repaid by the candidate or political committee to
10 whom the loan was made during the contribution limitation period for the same
11 "election" as defined in G.S. 163-278.13(d), in which the loan was made, the guarantor
12 shall be eligible to further contribute to that candidate or political committee up to the
13 amount of the repayment, as prorated to the amount of the guarantee or collateral repaid.
14 That amount of the collateral or loan guarantee shall be treated as a refunded
15 contribution and shall no longer count against the contribution limits under
16 G.S. 163-278.13 for that election for that guarantor.

17 Only the candidate or political committee to whom the loan was made may repay the
18 loan.

19 The candidate or political committee shall report the loan on its campaign report
20 required by G.S. 163-278.9, but if the loan meets the criteria of this subsection, the loan
21 shall not be reported or otherwise treated as a contribution. The candidate or political
22 committee shall report the collateral or loan guaranties as contributions from the entities
23 providing them and shall indicate on the report the loan to which they relate. The State
24 Board of Elections shall develop methods of reporting to implement this subsection."

25 **SECTION 4.2.** If Senate Bill 622, 2005 Regular Session, becomes law, then
26 Section 23A.3 of that act is repealed.

27 **SECTION 5.** Article 22D of Chapter 163 of the General Statutes is amended
28 by adding a new section to read:

29 **"§ 163-278.64A. Special participation provisions for candidates in plurality**
30 **elections.**

31 (a) Participation Provisions Modified. – Candidates in plurality elections as
32 provided in G.S. 163-329 may participate in the Fund subject to the provisions of
33 G.S. 163-278.64 as modified by this section.

34 (b) Qualifying. – The State Board of Elections shall designate a special
35 qualifying period for a plurality election of no less than four weeks. That qualifying
36 period shall begin at the close of the notice-of-candidacy filing period for the plurality
37 election. To receive certification, a participating candidate shall raise at least 225
38 qualifying contributions, totaling at least 20 times the amount of the filing fee for the
39 office, for a four-week qualifying period. If the State Board of Elections sets a longer
40 qualifying period, then for each additional week that the qualifying period extends
41 beyond four weeks, the minimum number of qualifying contributions required for
42 certification shall increase by 25, and the minimum amount of the qualifying
43 contributions shall increase by two times the filing fee. The minimum qualifying
44 contributions shall not exceed the limit set by G.S. 163-278.64(b).

1 (c) Allocations. – Certified candidates in plurality elections shall receive one
2 percent (1%) of the funding to which they would be eligible under G.S. 163-278.65
3 times the number of calendar days between the end of the special qualifying period and
4 the day of the general elections. That amount shall not exceed one hundred percent
5 (100%) of the funding to which they would be eligible under G.S. 163-278.65."

6 **SECTION 6.** G.S. 163-278.65(c) reads as rewritten:

7 "(c) Method of Fund Distribution. – The Board, in consultation with the State
8 Treasurer and the State Controller, shall develop a rapid, reliable method of conveying
9 funds to certified candidates. In all cases, the Board shall distribute funds to certified
10 candidates in a manner that is expeditious, ensures accountability, and safeguards the
11 integrity of the Fund. If the money in the Fund is insufficient to fully fund all certified
12 candidates, then the available money shall be distributed proportionally, according to
13 each candidate's eligible ~~funding~~ funding, and the candidate may raise additional
14 money in the same manner as a noncertified candidate for the same office up to the
15 unfunded amount of the candidate's eligible funding."

16 **SECTION 7.** G.S. 163-278.66(a) reads as rewritten:

17 "(a) Reporting by Noncertified Candidates and Independent Expenditure Entities.
18 – Any noncertified candidate with a certified opponent shall report total income,
19 expenses, and obligations to the Board by facsimile machine or electronically within 24
20 hours after the total amount of campaign expenditures or obligations made, or funds
21 raised or borrowed, exceeds eighty percent (80%) of the trigger for rescue funds as
22 defined in G.S. 163-278.62(18). Any entity making independent expenditures ~~in excess~~
23 ~~of three thousand dollars (\$3,000)~~ in support of or opposition to a certified candidate or
24 in support of a candidate opposing a certified candidate shall report the total funds
25 received, spent, or obligated for those expenditures to the Board by facsimile machine
26 or electronically within 24 hours after the total amount of expenditures or obligations
27 made, or funds raised or borrowed, for the purpose of making the independent
28 expenditures, exceeds ~~fifty percent (50%) of the trigger for rescue funds.~~ five thousand
29 dollars (\$5,000). After this 24-hour filing, the noncertified candidate or independent
30 expenditure entity shall comply with an expedited reporting schedule by filing
31 additional reports after receiving each additional amount in excess of one thousand
32 dollars (\$1,000) or after making or obligating to make each additional expenditure(s) in
33 excess of one thousand dollars (\$1,000). The schedule and forms for reports required by
34 this subsection shall be made according to procedures developed by the Board."

35 **SECTION 8.** G.S. 163-278.68(b) reads as rewritten:

36 "(b) Advisory Council for the Public Campaign ~~Financing~~ Fund. – There is
37 established under the Board the Advisory Council for the Public Campaign ~~Financing~~
38 Fund to advise the Board on the rules, procedures, and opinions it adopts for the
39 enforcement and administration of this Article and on the funding needs and operation
40 of the Public Campaign ~~Financing~~ Fund. The Advisory Council shall consist of five
41 members to be appointed as follows:

42 (1) The Governor shall name two members from a list of individuals
43 nominated by the State Chair of the political party with which the

1 greatest number of registered voters is affiliated. The State Chair of
2 that party shall submit to the Governor the names of five nominees.

3 (2) The Governor shall name two members from a list of individuals
4 nominated by the State Chair of the political party with which the
5 second greatest number of registered voters is affiliated. The State
6 Chair of that party shall submit to the Governor the names of five
7 nominees.

8 (3) The Board shall name one member by unanimous vote of all members
9 of the Board. If the Board cannot reach unanimity on the appointment
10 of that member, the Advisory Council shall consist of the remaining
11 members.

12 No individual shall be eligible to be a member of the Advisory Council who would
13 be ineligible to serve on a county board of elections in accordance with G.S. 163-30.
14 The initial members shall be appointed by December 1, 2002. Of the initial appointees,
15 two are appointed for one-year terms, two are appointed for two-year terms, and one is
16 appointed for a three-year term according to random lot. Thereafter, appointees are
17 appointed to serve four-year terms. An individual may not serve more than two full
18 ~~terms--terms, except that regardless of the time of appointment each term shall end on~~
19 December 31. A member shall continue on the Advisory Council beyond the expired
20 term until a successor is appointed. The appointed members receive the legislative per
21 diem pursuant to G.S. 120-3.1. One of the Advisory Council members shall be elected
22 by the members as Chair. A vacancy during an unexpired term shall be filled in the
23 same manner as the regular appointment for that term, but a vacancy appointment is
24 only for the unexpired portion of the term."

25 **SECTION 9.** G.S. 163-278.69(c) reads as rewritten:

26 "(c) Disclaimer. – The Judicial Voter Guide shall contain the following statement:
27 ~~"The above statements~~Statements by candidates do not express or reflect the opinions of
28 the State Board of Elections."

29 **SECTION 10.(a)** G.S. 163-278.13(e) reads as rewritten:

30 "(e) ~~This~~Except as provided in subsections (e2) and (e3) of this section, this
31 section shall not apply to any national, State, district or county executive committee of
32 any political party. For the purposes of this section only, the term "political party"
33 means only those political parties officially recognized under G.S. 163-96."

34 **SECTION 10.(b)** G.S. 163-278.13(e2) reads as rewritten:

35 "(e2) In order to make meaningful the provisions of Article 22D of this Chapter,
36 the following provisions shall apply with respect to candidates for justice of the
37 Supreme Court and judge of the Court of Appeals:

38 (1) No candidate shall accept, and no contributor shall make to that
39 candidate, a contribution in any election exceeding one thousand
40 dollars (\$1,000) except as provided for elsewhere in this subsection.

41 (2) A candidate may accept, and a family contributor may make to that
42 candidate, a contribution not exceeding two thousand dollars (\$2,000)
43 in an election if the contributor is that candidate's parent, child,
44 brother, or sister.

1 (3) No candidate shall accept, and no contributor shall make to that
2 candidate, a contribution during the period beginning 21 days before
3 the day of the general election and ending the day after the general
4 ~~election.~~ election if that contribution causes the candidate to exceed the
5 "trigger for rescue funds" defined in G.S. 163-278.62(18). This
6 subdivision applies with respect to a candidate opposed in the general
7 election by a certified candidate as defined in Article 22D of this
8 Chapter who has not received the maximum rescue funds available
9 under G.S. 163-278.67. The recipient of a contribution that apparently
10 violates this subdivision has three days to return the contribution or file
11 a detailed statement with the State Board of Elections explaining why
12 the contribution does not violate this subdivision.

13 As used in this subsection, "candidate" is also a political committee authorized by
14 the candidate for that candidate's election. Nothing in this subsection shall prohibit a
15 candidate or the spouse of that candidate from making a contribution or loan secured
16 entirely by that individual's assets to that candidate's own campaign."

17 **SECTION 10.(c)** G.S. 163-278.13 is amended by adding a new subsection
18 to read:

19 "(e3) Notwithstanding the provisions of subsections (a) and (b) of this section, no
20 candidate for superior court judge or district court judge shall accept, and no contributor
21 shall make to that candidate, a contribution in any election exceeding one thousand
22 dollars (\$1,000), except as provided in subsection (c) of this section. As used in this
23 subsection, "candidate" is also a political committee authorized by the candidate for that
24 candidate's election. Nothing in this subsection shall prohibit a candidate or the spouse
25 of that candidate from making a contribution or loan secured entirely by that
26 individual's assets to that candidate's own campaign."

27 **SECTION 11.** G.S. 105-159.2 reads as rewritten:

28 **"§ 105-159.2. Designation of tax to North Carolina Public Campaign Financing**
29 **Fund.**

30 (a) Allocation to the North Carolina Public Campaign ~~Financing~~ Fund. – To
31 ensure the financial viability of the North Carolina Public Campaign ~~Financing~~ Fund
32 established in Article 22D of Chapter 163 of the General Statutes, the Department must
33 allocate to that Fund three dollars (\$3.00) from the income taxes paid each year by each
34 individual with an income tax liability of at least that amount, if the individual agrees. A
35 taxpayer must be given the opportunity to indicate an agreement or objection to that
36 allocation in the manner described in subsection (b) of this section. In the case of a
37 married couple filing a joint return, each individual must have the option of agreeing or
38 objecting to the allocation. The amounts allocated under this subsection to the Fund
39 must be credited to it on a ~~quarterly~~ monthly basis.

40 (b) Returns. – Individual income tax returns must give an individual an
41 opportunity to agree to the allocation of three dollars (\$3.00) of the individual's tax
42 liability to the North Carolina Public Campaign ~~Financing~~ Fund. The Department must
43 make it clear to the taxpayer that the dollars will support a nonpartisan court system,
44 that the dollars will go to the Fund if the taxpayer marks an agreement, and that

1 allocation of the dollars neither increases nor decreases the individual's tax liability. The
2 following statement satisfies the intent of must be used to meet this requirement: "Three
3 dollars (\$3.00) will go to the North Carolina Public Campaign Financing Fund to
4 support a nonpartisan court system, if you agree. Your tax remains the same whether or
5 not you agree." This Fund pays for a nonpartisan voter guide and helps judicial
6 candidates who accept strict fund-raising limits. Do you agree to direct \$3.00 to this
7 Fund from the taxes you pay anyway? Marking Yes will not increase your tax or reduce
8 your refund.' The Department must consult with the State Board of Elections to ensure
9 that the information given to taxpayers complies with the intent of this section.

10 The Department must inform the entities it approves to reproduce the return ~~of that~~
11 they must comply with the requirements of this section and that a return may not reflect
12 an agreement or objection unless the individual completing the return decided to agree
13 or object after being presented with the statement required by subsection (b) of this
14 section and, as available background information or instructions, the information
15 required by subsection (c) of this section. No software package used in preparing North
16 Carolina income tax returns may default to an agreement or objection. A paid preparer
17 of tax returns may not mark an agreement or objection for a taxpayer without the
18 taxpayer's consent.

19 (c) Instructions. – The instruction for individual income tax returns must include
20 the following explanatory statement: 'The North Carolina Public Campaign ~~Financing~~
21 ~~Fund~~ provides campaign money to nonpartisan candidates for the ~~North Carolina N.C.~~
22 ~~Supreme Court and Court of Appeals~~ who voluntarily accept strict campaign spending
23 and fund-raising limits. The Fund also helps finance a Voter Guide with educational
24 materials about voter registration, the role of the appellate courts, and the candidates
25 seeking election as appellate judges in North Carolina. Three dollars (~~\$3.00~~) from the
26 taxes you pay will go to the Fund if you mark an agreement. Regardless of what choice
27 you make, your tax will not increase, nor will any refund you are entitled to be
28 reduced.'

29 **SECTION 12.** Sections 3 and 4 of this act becomes effective January 1,
30 2006. Section 10(c) of this act become effective January 1, 2006, and applies to
31 contributions made or accepted on or after that date. Contributions made or accepted
32 prior to that date shall count toward the cumulative limit after that date. The remainder
33 of this act is effective when it becomes law.