

## Chapter 163A.

### Elections and Ethics Enforcement Act.

#### SUBCHAPTER I. GENERAL PROVISIONS.

##### Article 1.

##### Bipartisan State Board of Elections and Ethics Enforcement.

#### **§ 163A-1. Bipartisan State Board of Elections and Ethics Enforcement established.**

There is established the Bipartisan State Board of Elections and Ethics Enforcement, referred to as the State Board in this Chapter. (2017-6, s. 4(c).)

#### **§ 163A-2. Membership.**

(a) The State Board shall consist of nine individuals registered to vote in North Carolina, appointed by the Governor, as follows:

- (1) Four individuals registered with the political party with the highest number of registered affiliates in the State, from a list of six nominees submitted by the State party chairs of that party.
- (2) Four individuals registered with the political party with the second highest number of registered affiliates in the State, from a list of six nominees submitted by the State party chairs of that party.
- (3) One individual not registered with either the political party with the largest number of registered affiliates in the State or of the political party with the second-largest number of registered affiliates in the State, from a list of two nominees selected by the other eight members of the State Board.

The number of registered affiliates shall be as reflected by the latest registration statistics published by the State Board. The Governor shall make all appointments promptly upon receipt of the list of nominees from each nominating entity and in no instance shall appoint later than 30 days after receipt of the list.

(b) Within 14 days of appointment by the Governor of the eight members appointed under subdivisions (1) and (2) of subsection (a) of this section, the eight members shall hold an initial appointment selection meeting for the sole purpose of selecting two nominees who meet the qualifications for appointment under subdivision (3) of subsection (a) of this section and shall promptly submit those names to the Governor. No additional actions, other than the oath of office, shall be taken by the eight members appointed under subdivisions (1) and (2) of subsection (a) of this section at the appointment selection meeting.

(c) Beginning on May 1 of the odd-numbered year, members shall serve for two-year terms.

(d) Members may be removed from the State Board by the Governor, acting in the Governor's discretion. Vacancies created on the State Board by removal from office by the Governor shall be filled in accordance with subsection (e) of this section.

(e) Any vacancy occurring on the State Board shall be filled by an individual meeting the same appointment criteria under subsection (a) of this section as the vacating member. Any vacancy occurring in the State Board shall be filled by the Governor, and the person so appointed shall fill the unexpired term. The Governor shall fill vacancies as follows:

- (1) For a vacancy for an appointment under subdivision (1) or (2) of subsection (a) of this section, the Governor shall fill the vacancy from a list of two names

submitted by the State party chair of the political party with which the vacating member was affiliated if that list is submitted within 30 days of the occurrence of the vacancy.

- (2) For a vacancy for an appointment under subdivision (3) of subsection (a) of this section, the Governor shall fill the vacancy from a list of two names submitted by the remaining members of the State Board if that list is submitted within 30 days of the occurrence of the vacancy. The State Board shall hold a meeting within 21 days of the occurrence of the vacancy for the purpose of selecting two nominees for submission to the Governor to fill the vacancy.

(f) At the first meeting held after any new appointments are made, the members of the State Board shall take the following oath:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain, and defend the Constitution of said State; and that I will well and truly execute the duties of the office of member of the Bipartisan State Board of Elections and Ethics Enforcement according to the best of my knowledge and ability, according to law, so help me God."

(g) At the first meeting held after the appointment of the member under subdivision (3) of subsection (a) of this section, the State Board shall organize by electing one of its members chair and one of its members vice-chair, each to serve a two-year term as such. In 2017 and every four years thereafter, the chair shall be a member of the political party with the highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board, and the vice-chair a member of the political party with the second highest number of registered affiliates. In 2019 and every four years thereafter, the chair shall be a member of the political party with the second highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board, and the vice-chair a member of the political party with the highest number of registered affiliates.

(h) At the first meeting held after the appointment under subdivision (3) of subsection (a) of this section, the State Board shall elect one of its members as secretary, to serve a two-year term as such.

(i) No person shall be eligible to serve as a member of the State Board who meets any of the following criteria:

- (1) Holds any elective or appointive office under the government of the United States, the State of North Carolina, or any political subdivision thereof.
- (2) Holds any office in a political party or organization.
- (3) Is a candidate for nomination or election to any office.
- (4) Is a campaign manager or treasurer of any candidate in a primary or election.
- (5) Has served two full consecutive terms.

(j) No person while serving on the State Board shall do any of the following:

- (1) Make a reportable contribution to a candidate for a public office over which the State Board would have jurisdiction or authority.
- (2) Register as a lobbyist under Article 8 of this Chapter.
- (3) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the nomination or election of one or more clearly identified candidates for public office.

- (4) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the passage of one or more clearly identified referendum or ballot issue proposals.
- (5) Solicit contributions for a candidate, political committee, or referendum committee.

(k) State Board members shall receive per diem, subsistence, and travel, as provided in G.S. 138-5 and G.S. 138-6. (2017-6, s. 4(c); 2018-2, s. 8(b); 2018-13, s. 5.)

### **§ 163A-3. Meetings; quorum; majority.**

(a) The State Board shall meet at least monthly and at other times as called by its chair or by a majority of its members. In the case of a vacancy in the chair, meetings may be called by the vice-chair.

(b) A majority of the members constitutes a quorum for the transaction of business by the State Board.

(c) Unless otherwise specified in this Chapter, an affirmative vote of at least five members of the State Board shall be required for all actions by the State Board.

(d) If any member of the State Board fails to attend a meeting, and by reason thereof there is no quorum, the members present shall adjourn from day to day for not more than three days. By the end of which time, if there is no quorum, the Governor may summarily remove any member failing to attend and appoint a successor. (2017-6, s. 4(c).)

### **§ 163A-4. Powers of the State Board in the execution of State Board duties.**

(a) In the performance of the duties enumerated in Article 8 of Subchapter II of this Chapter and Subchapter III of this Chapter, the State Board shall have power to issue subpoenas, summon witnesses, and compel the production of papers, books, records, and other evidence. Such subpoenas for designated witnesses or identified papers, books, records, and other evidence shall be signed and issued by the chair.

(b) In the absence of the chair or upon the chair's refusal to act, the vice-chair may sign and issue subpoenas, summon witnesses, and compel the production of papers, books, records, and other evidence approved in accordance with subsection (a) of this section.

(c) In the performance of the duties enumerated in this Chapter, the State Board, acting through the chair, shall have the power to administer oaths. In the absence of the chair or upon the chair's refusal to act, any member of the State Board may administer oaths.

(d) Except as provided in subsection (a) of this section, the State Board, upon a vote of five or more of its members, may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of violations of the remainder this Chapter. The court shall authorize subpoenas under this subsection when the court determines they are necessary for the enforcement of this Chapter. Subpoenas issued under this subsection shall be enforceable by the court through contempt powers. Venue shall be with the Superior Court of Wake County for any nonresident person, or that person's agent, who makes a reportable expenditure under this Chapter, and personal jurisdiction may be asserted under G.S. 1-75.4. (2017-6, s. 4(c).)

### **§ 163A-5. Independent agency, staff, and offices.**

(a) The State Board shall be and remain an independent regulatory and quasi-judicial agency and shall not be placed within any principal administrative department. The State Board

shall exercise its statutory powers, duties, functions, and authority and shall have all powers and duties conferred upon the heads of principal departments under G.S. 143B-10.

(b) The State Board may employ professional and clerical staff, including an Executive Director. (2017-6, s. 4(c).)

**§ 163A-6. Executive Director of the State Board.**

(a) There is hereby created the position of Executive Director of the State Board, who shall perform all duties imposed by statute and such duties as may be assigned by the State Board.

(b) The State Board shall appoint an Executive Director for a term of two years with compensation to be determined by the Office of State Human Resources. The Executive Director shall serve beginning May 15 after the first meeting held after new appointments to the State Board are made, unless removed for cause, until a successor is appointed. In the event of a vacancy, the vacancy shall be filled for the remainder of the term.

(c) The Executive Director shall be responsible for staffing, administration, and execution of the State Board's decisions and orders and shall perform such other responsibilities as may be assigned by the State Board.

(d) The Executive Director shall be the chief State elections official. (2017-6, s. 4(c).)

**§ 163A-7. Criminal history record checks of current and prospective employees of the State Board and county directors of elections.**

(a) As used in this section, the term "current or prospective employee" means any of the following:

- (1) A current or prospective permanent or temporary employee of the State Board or a current or prospective county director of elections.
- (2) An employee or agent of a current or prospective contractor with the State Board.
- (3) Any other individual otherwise engaged by the State Board who has or will have the capability to update, modify, or change elections systems or confidential elections or ethics data.

(b) A criminal history record check shall be required of all current or prospective permanent or temporary employees of the State Board and all current or prospective county directors of elections, which shall be conducted by the Department of Public Safety as provided in G.S. 143B-968. The criminal history report shall be provided to the Executive Director, who shall keep all information obtained pursuant to this section confidential to the State Board, as provided in G.S. 143B-968(d). A criminal history report provided under this subsection is not a public record under Chapter 132 of the General Statutes.

(c) If the current or prospective employee's verified criminal history record check reveals one or more convictions, the conviction shall constitute just cause for not selecting the person for employment or for dismissing the person from current employment. The conviction shall not automatically prohibit employment.

(d) A prospective employee may be denied employment or a current employee may be dismissed from employment for refusal to consent to a criminal history record check or to submit fingerprints or to provide other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(e) A conditional offer of employment or appointment may be extended pending the results of a criminal history record check authorized by this section.

(f) A county board of elections shall require a criminal history record check of all current or prospective employees of the county board of elections, as defined in G.S. 163A-778(a)(1), who have or will have access to the statewide computerized voter registration system maintained under G.S. 163A-874 and for any additional position or function as the State Board may designate. The county director of elections shall provide the criminal history record of all current or prospective employees of the county board of elections required by this subsection or in designated positions to the Executive Director and State Board.

(g) Neither appointment as a precinct official or assistant under Part 4 of Article 16 of this Chapter nor employment at a one-stop early voting location shall require a criminal history record check unless the official, assistant, or employee performs a function designated by the State Board pursuant to subsection (f) of this section. (2018-13, s. 1(c).)

§ 163A-8: Reserved for future codification purposes.

§ 163A-9: Reserved for future codification purposes.

§ 163A-10: Reserved for future codification purposes.

§ 163A-11: Reserved for future codification purposes.

§ 163A-12: Reserved for future codification purposes.

§ 163A-13: Reserved for future codification purposes.

§ 163A-14: Reserved for future codification purposes.

§ 163A-15: Reserved for future codification purposes.

§ 163A-16: Reserved for future codification purposes.

§ 163A-17: Reserved for future codification purposes.

§ 163A-18: Reserved for future codification purposes.

§ 163A-19: Reserved for future codification purposes.

§ 163A-20: Reserved for future codification purposes.

§ 163A-21: Reserved for future codification purposes.

§ 163A-22: Reserved for future codification purposes.

§ 163A-23: Reserved for future codification purposes.

- § **163A-24**: Reserved for future codification purposes.
- § **163A-25**: Reserved for future codification purposes.
- § **163A-26**: Reserved for future codification purposes.
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- § **163A-28**: Reserved for future codification purposes.
- § **163A-29**: Reserved for future codification purposes.
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- § **163A-31**: Reserved for future codification purposes.
- § **163A-32**: Reserved for future codification purposes.
- § **163A-33**: Reserved for future codification purposes.
- § **163A-34**: Reserved for future codification purposes.
- § **163A-35**: Reserved for future codification purposes.
- § **163A-36**: Reserved for future codification purposes.
- § **163A-37**: Reserved for future codification purposes.
- § **163A-38**: Reserved for future codification purposes.
- § **163A-39**: Reserved for future codification purposes.
- § **163A-40**: Reserved for future codification purposes.
- § **163A-41**: Reserved for future codification purposes.
- § **163A-42**: Reserved for future codification purposes.
- § **163A-43**: Reserved for future codification purposes.
- § **163A-44**: Reserved for future codification purposes.
- § **163A-45**: Reserved for future codification purposes.
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- § **163A-59**: Reserved for future codification purposes.
- § **163A-60**: Reserved for future codification purposes.
- § **163A-61**: Reserved for future codification purposes.
- § **163A-62**: Reserved for future codification purposes.
- § **163A-63**: Reserved for future codification purposes.
- § **163A-64**: Reserved for future codification purposes.
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- § **163A-66**: Reserved for future codification purposes.
- § **163A-67**: Reserved for future codification purposes.
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§ 163A-93: Reserved for future codification purposes.

§ 163A-94: Reserved for future codification purposes.

§ 163A-95: Reserved for future codification purposes.

§ 163A-96: Reserved for future codification purposes.

§ 163A-97: Reserved for future codification purposes.

§ 163A-98: Reserved for future codification purposes.

§ 163A-99: Reserved for future codification purposes.

Articles 2 to 4

Reserved for Future Codification Purposes.

§§ 163A-100 through 163A-149: Reserved for future codification purposes.

## **SUBCHAPTER II. ETHICS AND LOBBYING.**

Article 5.

General Provisions.

### **§ 163A-150. Title.**

This Subchapter shall be known and may be cited as the "State Government Ethics Act". (2006-201, s. 1; 2017-6, s. 3.)

### **§ 163A-151. Purpose.**

The purpose of this Subchapter is to ensure that elected and appointed State agency officials exercise their authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence. To this end, it is the intent of the General Assembly in this Subchapter to ensure that standards of ethical conduct and standards regarding conflicts of interest are clearly established for elected and appointed State agency officials, that the State continually educates these officials on matters of ethical conduct and conflicts of interest, that potential and actual conflicts of interests are identified and resolved, and that violations of standards of ethical conduct and conflicts of interest are investigated and properly addressed. (2006-201, s. 1; 2017-6, s. 3.)

### **§ 163A-152. Definitions.**

The following definitions apply in this Subchapter:

- (1) **Blind trust.** – A trust established by or for the benefit of a covered person or a member of the covered person's immediate family for divestiture of all control and knowledge of assets. A trust qualifies as a blind trust under this subdivision if the covered person or a member of the covered person's immediate family has no knowledge of the holdings and sources of income of the trust, the trustee

- of the trust is independent of and not associated with or employed by the covered person or a member of the covered person's immediate family and is not a member of the covered person's extended family, and the trustee has sole discretion as to the management of the trust assets.
- (3) Board. – Any State board, commission, council, committee, task force, authority, or similar public body, however denominated, created by statute or executive order, as determined and designated by the State Board, except for those public bodies that have only advisory authority.
  - (5) Business. – Any of the following organized for profit:
    - a. Association.
    - b. Business trust.
    - c. Corporation.
    - d. Enterprise.
    - e. Joint venture.
    - f. Organization.
    - g. Partnership.
    - h. Proprietorship.
    - i. Vested trust.
    - j. Every other business interest, including ownership or use of land for income.
  - (7) Business with which associated. – A business in which the covered person or filing person or any member of that covered person's or filing person's immediate family does any of the following:
    - a. Is an employee.
    - b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned.
    - c. Owns a legal, equitable, or beneficial interest of ten thousand dollars (\$10,000) or more in the business or five percent (5%) of the business, whichever is less, other than as a trustee on a deed of trust.
    - d. Is a lobbyist registered under Article 8 of this Chapter.
 

For purposes of this subdivision, the term "business" shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:

      - 1. The covered person, filing person, or a member of the covered person's or filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.
      - 2. The fund is publicly traded, or the fund's assets are widely diversified.
  - (9) Reserved.
  - (11) Committee. – The Legislative Ethics Committee as created in Part 3 of Article 14 of Chapter 120 of the General Statutes.
  - (13) Compensation. – Any money, thing of value, or economic benefit conferred on or received by any covered person or filing person in return for services

- rendered or to be rendered by that covered person or filing person or another. This term does not include campaign contributions properly received and, reported as required by Article 23 of this Chapter.
- (15) Confidential information. – Information defined as confidential by the law.
  - (17) Constitutional officers of the State. – Officers whose offices are established by Article III of the North Carolina Constitution.
  - (19) Contract. – Any agreement, including sales and conveyances of real and personal property, and agreements for the performance of services.
  - (21) Covered person. – A legislator, public servant, or judicial officer, as identified by the State Board under G.S. 163A-155.
  - (23) Employing entity. – For public servants, any of the following bodies of State government of which the public servant is an employee or a member, or over which the public servant exercises supervision: agencies, authorities, boards, commissions, committees, councils, departments, offices, institutions and their subdivisions, and constitutional offices of the State. For legislators, it is the house of which the legislator is a member. For legislative employees, it is the authority that hired the individual. For judicial employees, it is the Chief Justice.
  - (25) Extended family. – Spouse, lineal descendant, lineal ascendant, sibling, spouse's lineal descendant, spouse's lineal ascendant, spouse's sibling, and the spouse of any of these individuals.
  - (27) Filing person. – An individual required to file a statement of economic interest under G.S. 163A-187.
  - (28), (29) Reserved for future codification purposes.
  - (30) Financial benefit. – A direct pecuniary gain or loss to the legislator, the public servant, or a person with which the legislator or public servant is associated, or a direct pecuniary loss to a business competitor of the legislator, the public servant, or a person with which the legislator or public servant is associated.
  - (32) Gift. – Anything of monetary value given or received without valuable consideration by or from a lobbyist, lobbyist principal, liaison personnel, or a person described under G.S. 163A-212(d)(1), (2), or (3). The following shall not be considered gifts under this subdivision:
    - a. Anything for which fair market value, or face value if shown, is paid by the covered person or legislative employee.
    - b. Commercially available loans made on terms not more favorable than generally available to the general public in the normal course of business if not made for lobbying.
    - c. Contractual arrangements or commercial relationships or arrangements made in the normal course of business if not made for lobbying.
    - d. Academic or athletic scholarships based on the same criteria as applied to the public.
    - e. Anything of value properly reported as required under Article 23 of this Chapter.
    - f. Expressions of condolence related to a death of an individual, sent within a reasonable time of the death, if the expression is one of the following:
      - 1. A sympathy card, letter, or note.

2. Flowers.
  3. Food or beverages for immediate consumption.
  4. Donations to a religious organization, charity, the State or a political subdivision of the State, not to exceed a total of two hundred dollars (\$200.00) per death per donor.
- (33) through (35) Reserved for future codification purposes.
- (36) Governmental unit. – A political subdivision of the State, and any other entity or organization created by a political subdivision of the State.
- (38) Honorarium. – Payment for services for which fees are not legally or traditionally required.
- (40) Immediate family. – An unemancipated child of the covered person residing in the household and the covered person's spouse, if not legally separated. A member of a covered person's extended family shall also be considered a member of the immediate family if actually residing in the covered person's household.
- (42) Judicial employee. – The director and assistant director of the Administrative Office of the Courts and any other individual, designated by the Chief Justice, employed in the Judicial Department whose annual compensation from the State is sixty thousand dollars (\$60,000) or more.
- (44) Judicial officer. – Justice or judge of the General Court of Justice, district attorney, clerk of court, or any individual elected or appointed to any of these positions prior to taking office.
- (46) Legislative action. – As the term is defined in G.S. 163A-250.
- (48) Legislative employee. – As the term is defined in G.S. 163A-250.
- (50) Legislator. – A member or presiding officer of the General Assembly, or an individual elected or appointed a member or presiding officer of the General Assembly before taking office.
- (52) Lobbying. – As the term is defined in G.S. 163A-250.
- (54) Nonprofit corporation or organization with which associated. – Any not for profit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the covered person, filing person, or any member of the covered person's or filing person's immediate family is a director, officer, governing board member, employee, lobbyist registered under Article 8 of this Chapter, or independent contractor. "Nonprofit corporation or organization with which associated" shall not include any board, entity, or other organization created by this State or by any political subdivision of this State.
- (56) Official action. – Any decision, including administration, approval, disapproval, preparation, recommendation, the rendering of advice, and investigation, made or contemplated in any proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, investigation, charge, or rule making.
- (58) Participate. – To take part in, influence, or attempt to influence, including acting through an agent or proxy.

- (60) Permanent designee. – An individual designated by a public servant to serve and vote in the absence of the public servant on a regular basis on a board on which the public servant serves.
- (62) Person. – Any individual, firm, partnership, committee, association, corporation, business, or any other organization or group of persons acting together. The term "person" does not include the State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State.
- (63), (64) Reserved for future codification purposes.
- (65) Person with which the legislator is associated. – Any of the following:
  - a. A member of the legislator's extended family.
  - b. A client of the legislator.
  - c. A business with which the legislator or a member of the legislator's immediate family is associated.
  - d. A nonprofit corporation or association with which the legislator or a member of the legislator's immediate family is associated.
  - e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State that employs the legislator or a member of the legislator's immediate family.
- (67) Person with which the public servant is associated. – Any of the following:
  - a. A member of the public servant's extended family.
  - b. A client of the public servant.
  - c. A business with which the public servant or a member of the public servant's immediate family is associated.
  - d. A nonprofit corporation or association with which the public servant or a member of the public servant's immediate family is associated.
  - e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State that employs the public servant or a member of the public servant's immediate family.
- (69) Political party. – Either of the two largest political parties in the State based on statewide voter registration at the applicable time.
- (70) Public servants. – All of the following:
  - a. Constitutional officers of the State and individuals elected or appointed as constitutional officers of the State prior to taking office.
  - b. Employees of the Office of the Governor.
  - c. Heads of all principal State departments, as set forth in G.S. 143B-6, who are appointed by the Governor.
  - d. The chief deputy and chief administrative assistant of each individual designated under sub-subdivision a. or c. of this subdivision.
  - e. Confidential assistants and secretaries as defined in G.S. 126-5(c)(2), to individuals designated under sub-subdivision a., c., or d. of this subdivision.

- f. Employees in exempt positions designated in accordance with G.S. 126-5(d)(1), (2), or (2a) and confidential secretaries to these individuals.
  - g. Any other employees or appointees in the principal State departments as may be designated by the Governor to the extent that the designation does not conflict with the State Personnel Act.
  - h. Judicial employees.
  - i. All voting members of boards, including ex officio members, permanent designees of any voting member, and members serving by executive, legislative, or judicial branch appointment.
  - j. For The University of North Carolina, the voting members of the Board of Governors of The University of North Carolina, the president, the vice-presidents, and the chancellors, the vice-chancellors, and voting members of the boards of trustees of the constituent institutions.
  - k. For the Community College System, the voting members of the State Board of Community Colleges, the President and the chief financial officer of the Community College System, the president, chief financial officer, and chief administrative officer of each community college, and voting members of the boards of trustees of each community college.
  - l. Members of the State Board, the executive director, and the assistant executive director of the State Board.
  - m. Individuals under contract with the State working in or against a position included under this subdivision.
  - n. The director of the Office of State Human Resources.
  - o. The State Controller.
  - p. The State Chief Information Officer, deputy chief information officers, chief financial officers, and general counsel of the Department of Information Technology.
  - q. The director of the State Museum of Art.
  - r. The executive director of the Agency for Public Telecommunications.
  - s. The Commissioner of Motor Vehicles.
  - t. The Commissioner of Banks and the chief deputy commissioners of the Banking Commission.
  - u. The executive director of the North Carolina Housing Finance Agency.
  - v. The executive director, chief financial officer, and chief operating officer of the North Carolina Turnpike Authority.
- (71) through (80) Reserved for future codification purposes.
- (81) State agency. – An agency in the executive branch of the government of this State, including the Governor's Office, a board, a department, a division, and any other unit of government in the executive branch.
- (83) Vested trust. – A trust, annuity, or other funds held by a trustee or other third party for the benefit of the covered person or a member of the covered person's immediate family, except a blind trust. A vested trust shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if:

- a. The covered person or a member of the covered person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund; and
- b. The fund is publicly traded, or the fund's assets are widely diversified. (2006-201, s. 1; 2007-347, ss. 7, 8; 2007-348, ss. 19-26; 2008-187, s. 44; 2008-213, ss. 40-54, 84(c); 2010-169, ss. 10, 17(n), (o); 2010-170, s. 14; 2013-382, s. 9.1(c); 2015-241, s. 7A.4(n); 2017-6, s. 3.)

**§ 163A-153. Application to Lieutenant Governor.**

For purposes of this Subchapter, the Lieutenant Governor shall be considered a legislator when carrying out the Lieutenant Governor's duties under Sec. 13 of Article II of the Constitution, and a public servant for all other purposes. (2006-201, s. 1; 2017-6, s. 3.)

**§ 163A-154. Powers and duties.**

(a) In addition to other powers and duties specified in this Subchapter, the State Board shall:

- (1) Provide reasonable assistance to covered persons in complying with this Subchapter.
- (2) Develop readily understandable forms, policies, and procedures to accomplish the purposes of the Subchapter.
- (3) Identify and publish the following:
  - a. A list of nonadvisory boards.
  - b. The names of individuals subject to this Subchapter as covered persons and legislative employees under G.S. 163A-155.
- (4) Receive and review all statements of economic interest filed with the State Board by prospective and actual covered persons as provided in G.S. 163A-193. Pursuant to G.S. 163A-189(c), this subdivision does not apply to statements of economic interest of legislators and judicial officers.
- (5) Conduct inquiries of alleged violations against judicial officers, legislators, and legislative employees in accordance with G.S. 163A-156.
- (6) Conduct inquiries into alleged violations against public servants in accordance with G.S. 163A-156.
- (7) Render advisory opinions in accordance with G.S. 163A-157 and G.S. 163A-252.
- (8) Initiate and maintain oversight of ethics educational programs for public servants and their staffs, and legislators and legislative employees, consistent with G.S. 163A-158.
- (9) Conduct a continuing study of governmental ethics in the State and propose changes to the General Assembly in the government process and the law as are conducive to promoting and continuing high ethical behavior by governmental officers and employees.
- (10) Adopt procedures and guidelines to implement this Subchapter.
- (11) Report annually to the General Assembly and the Governor on the State Board's activities and generally on the subject of public disclosure, ethics, and conflicts of interest, including recommendations for administrative and legislative action, as the State Board deems appropriate.

- (12) Publish annually statistics on complaints filed with or considered by the State Board, including the number of complaints filed, the number of complaints referred under G.S. 163A-156(c), the number of complaints dismissed under G.S. 163A-156(e)(4), the number of complaints dismissed under G.S. 163A-156(h), the number of complaints referred for criminal prosecution under G.S. 163A-156, the number of complaints dismissed under G.S. 163A-156(j), the number of complaints referred for appropriate action under G.S. 163A-156(j) or G.S. 163A-156(m)(3), and the number and age of complaints pending action by the State Board.
- (13) Perform other duties as may be necessary to accomplish the purposes of this Subchapter.

(b) The State Board may authorize the Executive Director and other staff of the State Board to evaluate statements of economic interest on behalf of the State Board as authorized under subdivision (a)(4) of this section.

(c) Except as otherwise provided in this Subchapter, the State Board shall be the sole State agency with authority to determine compliance with or violations of this Subchapter and to issue interpretations and advisory opinions under this Subchapter. Decisions and advisory opinions by the State Board under this Subchapter shall be binding on all other State agencies. (2006-201, s. 1; 2008-213, s. 55; 2008-215, s. 7; 2009-549, s. 8; 2013-360, s. 30.4(a); 2017-6, s. 3.)

#### **§ 163A-155. Identify and publish names of covered persons and legislative employees.**

The State Board shall identify and publish at least quarterly a listing of the names and positions of all individuals subject to this Subchapter as covered persons or legislative employees. The State Board shall also identify and publish at least annually a listing of all boards to which this Subchapter applies. This listing may be published electronically on a public Internet Web site maintained by the State Board. (2006-201, s. 1; 2008-213, s. 56; 2017-6, s. 3.)

#### **§ 163A-156. Inquiries by the State Board.**

(a) Jurisdiction. – The State Board may receive complaints alleging unethical conduct by covered persons and legislative employees and shall conduct inquiries of complaints alleging unethical conduct by covered persons and legislative employees, as set forth in this section.

(b) Notice of Allegation. – Upon receipt by the State Board of a written allegation of unethical conduct by a covered person or legislative employee, or the initiation by the State Board of an inquiry into unethical conduct under subsection (c) of this section, the State Board shall immediately notify the covered person or legislative employee subject to the allegation or inquiry in writing.

(c) Institution of Proceedings. – On its own motion, in response to a signed and sworn complaint of any individual filed with the State Board, or upon the written request of any public servant or those responsible for the hiring, appointing, or supervising of a public servant, the State Board shall conduct an inquiry into any of the following:

- (1) The application or alleged violation of this Subchapter.
- (2) For legislators, the application or alleged violations of Part 1 of Article 14 of Chapter 120 of the General Statutes.
- (3) An alleged violation of the criminal law by a covered person in the performance of that individual's official duties.
- (4) An alleged violation of G.S. 126-14.



Upon receipt of a referral under G.S. 147-64.6B or a report under G.S. 147-64.6(c)(19), the State Board may conduct an inquiry under this section on its own motion. Allegations of violations of the Code of Judicial Conduct shall be referred to the Judicial Standards Commission without investigation.

(d) **Complaints on Its Own Motion.** – An investigation initiated by the State Board on its own motion or upon written request of any public servant or those responsible for the hiring, appointing, or supervising of a public servant instituted under subsection (c) of this section shall be treated as a complaint for purposes of this section and need not be sworn or verified.

(e) **Complaint.** –

- (1) A sworn complaint filed under this Subchapter shall state the name, address, and telephone number of the individual filing the complaint, the name and job title or appointive position of the covered person or legislative employee against whom the complaint is filed, and a concise statement of the nature of the complaint and specific facts indicating that a violation of this Subchapter or Chapter 120 of the General Statutes or G.S. 126-14 or the criminal law in the performance of that individual's official duties has occurred, the date the alleged violation occurred, and either (i) that the contents of the complaint are within the knowledge of the individual verifying the complaint, or (ii) the basis upon which the individual verifying the complaint believes the allegations to be true.
- (2) Except as provided in subsection (f) of this section, a complaint filed under this Subchapter must be filed within two years of the date the complainant knew or should have known of the conduct upon which the complaint is based.
- (3) The State Board may decline to accept, refer, or conduct an inquiry into any complaint that does not meet all of the requirements set forth in subdivision (1) of this subsection, or the State Board may, in its sole discretion, request additional information to be provided by the complainant within a specified period of time of no less than five business days.
- (4) In addition to subdivision (3) of this subsection, the State Board may decline to accept, refer, or conduct an inquiry into a complaint if it determines that any of the following apply:
  - a. The complaint is frivolous or brought in bad faith.
  - b. The covered person or legislative employee and conduct complained of have already been the subject of a prior complaint.
  - c. The conduct complained of is primarily a matter more appropriately and adequately addressed and handled by other federal, State, or local agencies or authorities, including law enforcement authorities. If other agencies or authorities are conducting an investigation of the same actions or conduct involved in a complaint filed under this section, the State Board may stay its complaint inquiry pending final resolution of the other investigation.
- (5) The State Board shall send a copy of the complaint to the covered person or legislative employee who is the subject of the complaint and the employing entity, within 10 business days of the filing.

(f) **Conduct of Inquiry of Complaints by the State Board.** – The State Board shall conduct an inquiry into all complaints properly before the State Board in a timely manner. The State Board shall initiate an inquiry into a complaint within 10 business days of the filing of the complaint. The

State Board is authorized to initiate inquiries upon request of any member of the State Board if there is reason to believe that a covered person or legislative employee has or may have violated this Subchapter. State-Board-initiated complaint inquiries under this section shall be initiated within two years of the date the State Board knew of the conduct upon which the complaint is based, except when the conduct is material to the continuing conduct of the duties in office. In determining whether there is reason to believe that a violation has or may have occurred, a member of the State Board may take general notice of available information even if not formally provided to the State Board in the form of a complaint. The State Board may utilize the services of a hired investigator when conducting inquiries.

(g) Covered Person and Legislative Employees Cooperation With Inquiry. – Covered persons and legislative employees shall promptly and fully cooperate with the State Board in any State-Board-related inquiry. Failure to cooperate fully with the State Board in any inquiry shall be grounds for sanctions as set forth in G.S. 163A-415.

(h) Dismissal of Complaint After Preliminary Inquiry. – The State Board shall conclude the preliminary inquiry within 20 business days. The State Board shall dismiss the complaint, if at the end of its preliminary inquiry the State Board determines that any of the following apply:

- (1) The individual who is the subject of the complaint is not a covered person or legislative employee subject to the State Board's jurisdiction and authority under this Subchapter.
- (2) The complaint does not allege facts sufficient to constitute a violation within the jurisdiction of the State Board under subsection (c) of this section.
- (3) The complaint is determined to be frivolous or brought in bad faith.

(i) State Board Inquiries. – If at the end of its preliminary inquiry, the State Board determines to proceed with further inquiry into the conduct of a covered person or legislative employee, the State Board shall provide written notice to the individual who filed the complaint and the covered person or legislative employee as to the fact of the inquiry and the charges against the covered person or legislative employee. The covered person or legislative employee shall be given an opportunity to file a written response with the State Board.

(j) Action on Inquiries. – The State Board shall conduct inquiries into complaints to the extent necessary to either dismiss the complaint for lack of probable cause of a violation under this section, or:

- (1) For public servants, decide to proceed with a hearing under subsection (k) of this section.
- (2) For legislators, except the Lieutenant Governor, refer the complaint to the Committee.
- (3) For judicial officers, refer the complaint to the Judicial Standards Commission for complaints against justices and judges, to the senior resident superior court judge of the district or county for complaints against district attorneys, or to the chief district court judge for the district or county for complaints against clerks of court.
- (4) For legislative employees, refer the complaint to the employing entity.

(k) Hearing. –

- (1) The State Board shall give full and fair consideration to all complaints received against a public servant. If the State Board determines that the complaint cannot be resolved without a hearing, or if the public servant requests a hearing, a hearing shall be held.

- (2) The State Board shall send a notice of the hearing to the complainant, and the public servant. The notice shall contain the time and place for a hearing on the matter, which shall begin no less than 30 days and no more than 90 days after the date of the notice.
- (3) The State Board shall make available to the public servant or that public servant's private legal counsel all documents or other evidence which are intended to be presented at the hearing to the State Board or which a reasonable person would believe might exculpate the accused public servant at least 30 days prior to the date of the hearing held in connection with the investigation of a complaint. Any documents or other evidence discovered within less than 30 days of the hearing shall be furnished as soon as possible after discovery but prior to the hearing.
- (4) At any hearing held by the State Board:
  - a. Oral evidence shall be taken only on oath or affirmation.
  - b. The hearing shall be open to the public, except for matters involving minors, personnel records, or matters that could otherwise be considered in closed session under G.S. 143-318.11. In any event, the deliberations by the State Board on a complaint may be held in closed session.
  - c. The public servant being investigated shall have the right to present evidence, call and examine witnesses, cross-examine witnesses, introduce exhibits, and be represented by counsel.

(l) Settlement of Inquiries. – The public servant who is the subject of the complaint and the staff of the State Board may meet by mutual consent before the hearing to discuss the possibility of settlement of the inquiry or the stipulation of any issues, facts, or matters of law. Any proposed settlement of the inquiry is subject to the approval of the State Board.

(m) Disposition of Inquiries. – After hearing, the State Board shall dispose of the matter in one or more of the following ways:

- (1) If the State Board finds substantial evidence of an alleged violation of a criminal statute, the State Board shall refer the matter to the Attorney General for investigation and referral to the district attorney for possible prosecution.
- (2) If the State Board finds that the alleged violation is not established by clear and convincing evidence, the State Board shall dismiss the complaint.
- (3) If the State Board finds that the alleged violation of this Subchapter is established by clear and convincing evidence, the State Board shall do one or more of the following:
  - a. Issue a private admonishment to the public servant and notify the employing entity, if applicable. Such notification shall be treated as part of the personnel record of the public servant.
  - b. Refer the matter for appropriate action to the Governor and the employing entity that appointed or employed the public servant or of which the public servant is a member.
  - c. Refer the matter for appropriate action to the Chief Justice for judicial employees.
  - d. Refer the matter to the Principal Clerks of the House of Representatives and Senate of the General Assembly for constitutional officers of the State.

- e. Refer the matter for appropriate action to the principal clerk of the house of the General Assembly that elected the public servant for members of the Board of Governors and the State Board of Community Colleges.

(n) Notice of Dismissal. – Upon the dismissal of a complaint under this section, the State Board shall provide written notice of the dismissal to the individual who filed the complaint and the covered person or legislative employee against whom the complaint was filed. The State Board shall forward copies of complaints and notices of dismissal of complaints against legislators to the Committee, against legislative employees to the employing entity for legislative employees, and against judicial officers to the Judicial Standards Commission for complaints against justices and judges, and the senior resident superior court judge of the district or county for complaints against district attorneys, or the chief district court judge of the district or county for complaints against clerks of court. The State Board shall also forward a copy of the notice of dismissal to the employing entity of the covered person against whom a complaint was filed if the employing entity received a copy of the complaint under subdivision (5) of subsection (e) of this section. Except as provided in subsection (p) of this section, the complaint and notice of dismissal are confidential and not public records.

(o) Reports and Records. – The State Board shall render the results of its inquiry in writing. When a matter is referred under subdivision (j)(2) and (3), or subsection (m) of this section, the State Board's report shall consist of the complaint, response, and detailed results of its inquiry in support of the State Board's finding of a violation under this Subchapter.

(p) Confidentiality. – Complaints and responses filed with the State Board and reports and other investigative documents and records of the State Board connected to an inquiry under this section, including information provided pursuant to G.S. 147-64.6B or G.S. 147-64.6(c)(19), shall be confidential and not matters of public record, except as otherwise provided in this section or when the covered person or legislative employee under inquiry requests in writing that the complaint, response, and findings be made public. Once a hearing under this section commences, the complaint, response, and all other documents offered at the hearing in conjunction with the complaint, not otherwise privileged or confidential under law, shall be public records. If no hearing is held at such time as the State Board reports to the employing entity a recommendation of sanctions, the complaint and response shall be made public.

(q) Staff to the State Board may share with staff to the Committee information connected to an inquiry into the conduct of a legislator under this section. The State Board shall provide to the Committee copies of all reports, investigative documents, information, and other documents used by the State Board when it refers a complaint to the Committee under subdivision (2) of subsection (j) of this section. Upon written request by staff to the Committee, the State Board shall provide copies of all reports, investigative documents, information, and other documents used by the State Board when it dismisses a complaint against a legislator under subsection (n) of this section. The information and documents provided to the Committee and staff to the Committee and the written request provided to the State Board are confidential and are not public records as defined in G.S. 132-1.

(r) Recommendations of Sanctions. – After referring a matter under subsection (m) of this section, if requested by the entity to which the matter was referred, the State Board may recommend sanctions or issue rulings as it deems necessary or appropriate to protect the public interest and ensure compliance with this Subchapter. In recommending appropriate sanctions, the State Board may consider the following factors:

- (1) The public servant's prior experience in an agency or on a board and prior opportunities to learn the ethical standards for a public servant as set forth in Article 7 of this Chapter, including those dealing with conflicts of interest.
- (2) The number of ethics violations.
- (3) The severity of the ethics violations.
- (4) Whether the ethics violations involve the public servant's financial interest.
- (5) Whether the ethics violations were inadvertent or intentional.
- (6) Whether the public servant knew or should have known that the improper conduct was a violation of this Subchapter.
- (7) Whether the public servant has previously been advised or warned by the State Board.
- (8) Whether the conduct or situation giving rise to the ethics violation was pointed out to the public servant in the State Board's Statement of Economic Interest evaluation letter issued under G.S. 163A-189(e).
- (9) The public servant's motivation or reason for the improper conduct or action, including whether the action was for personal financial gain versus protection of the public interest.

In making recommendations under this subsection, if the State Board determines, after proper review and investigation, that sanctions are appropriate, the State Board may recommend any action it deems necessary to properly address and rectify any violation of this Subchapter by a public servant, including removal of the public servant from the public servant's State position. Nothing in this subsection is intended, and shall not be construed, to give the State Board any independent civil, criminal, or administrative investigative or enforcement authority over covered persons, or other State employees or appointees.

(s) Authority of Employing Entity. – Any action or failure to act by the State Board under this Subchapter, except G.S. 163A-157, shall not limit any authority of any of the applicable employing entities to discipline the covered person or legislative employee.

(t) Continuing Jurisdiction. – The State Board shall have continuing jurisdiction to investigate possible criminal violations of this Subchapter for a period of one year following the date an individual, who was formerly a public servant or legislative employee, ceases to be a public servant or legislative employee for any investigation that commenced prior to the date the public servant or legislative employee ceases to be a public servant or legislative employee.

(u) Reports. – The number of complaints referred under this section shall be reported under G.S. 163A-154(a)(12).

(v) Concurrent Jurisdiction. – Nothing in this section shall limit the jurisdiction of the Committee or the Judicial Standards Commission with regards to legislative or judicial misconduct, and jurisdiction under this section shall be concurrent with the jurisdiction of the Committee and the Judicial Standards Commission. (2006-201, s. 1; 2007-348, ss. 27-30; 2008-187, s. 21; 2008-213, ss. 1(b), 57; 2008-215, ss. 4, 5; 2009-549, ss. 9, 10, 11; 2010-169, s. 23(a)-(e), (h); 2012-182, s. 3; 2017-6, ss. 3, 5(e).)

**§ 163A-157. Request for advice.**

(a) At the request of any public servant or legislative employee, any individual who is responsible for the supervision or appointment of a public servant or legislative employee, legal counsel for any public servant or legislative employee, any ethics liaison under G.S. 163A-158, or any member of the State Board, the State Board shall render advice on specific questions involving

the meaning and application of this Subchapter and the public servant's or legislative employee's compliance therewith. Requests for advice and advice rendered in response to those requests shall relate prospectively to real or reasonably anticipated fact settings or circumstances.

(b) On its own motion, the State Board may render advisory opinions on specific questions involving the meaning and application of this Subchapter.

(c) A request for a formal advisory opinion under subsection (a) of this section shall be in writing, electronic or otherwise. The State Board shall issue formal advisory opinions having prospective application only. A public servant or legislative employee who relies upon the advice provided to that public servant or legislative employee on a specific matter addressed by the requested formal advisory opinion shall be immune from all of the following:

- (1) Investigation by the State Board, except for an inquiry under G.S. 163A-156(c)(3).
- (2) Any adverse action by the employing entity.

(d) At the request of a legislator, the State Board shall render advice on specific questions involving the meaning and application of this Subchapter and Part 1 of Article 14 of Chapter 120 of the General Statutes, and the legislator's compliance therewith. Requests for advice and advice rendered in response to those requests shall relate prospectively to real or reasonably anticipated fact settings or circumstances.

(e) A request by a legislator for a recommended formal advisory opinion shall be in writing, electronic or otherwise. The State Board shall issue recommended formal advisory opinions having prospective application only. Until action is taken by the Committee under G.S. 120-104, a legislator who relies upon the advice provided to that legislator on a specific matter addressed by the requested recommended formal advisory opinion shall be immune from all of the following:

- (1) Investigation by the Committee or State Board, except for an inquiry under G.S. 163A-156(c)(3).
- (2) Any adverse action by the house of which the legislator is a member.

Any recommended formal advisory opinion issued to a legislator under this subsection shall immediately be delivered to the chairs of the Committee, together with a copy of the request. Except for the Lieutenant Governor, the immunity granted under this subsection shall not apply after the time the Committee modifies or overturns the advisory opinion of the State Board in accordance with G.S. 120-104.

(f) At the request of the Auditor, the State Board shall render advisory opinions on specific questions involving the meaning and application of this Subchapter, Article 14 of Chapter 120 of the General Statutes, and Article 8 of this Chapter and an affected person's compliance therewith. The request shall be in writing, electronic or otherwise, and relate to real fact settings and circumstances. Except when the question involves a question governed by subsection (d) or (e) of this section, the State Board shall issue an advisory opinion under this subsection within 60 days of the receipt of all information deemed necessary by the State Board to render an opinion. If the question involves a question governed by subsection (d) or (e) of this section, the State Board shall comply with the provisions of that section [subsection] prior to responding to the Auditor by delivering the recommended advisory opinion to the Committee within 60 days of the receipt of all information deemed necessary by the State Board to render an opinion. The Committee shall act on the opinion within 30 days of receipt and the State Board shall deliver the opinion to the Auditor. If the Committee fails to act on a recommended advisory opinion under this subsection with 30 days of receipt, the State Board shall deliver its recommended advisory opinion to the

Auditor. Notwithstanding G.S. 163A-157(i), the Auditor may only release those portions of the advisory opinion necessary to comply with the requirements of G.S. 147-64.6(c)(1).

(g) Staff to the State Board may issue advice, but not formal or recommended formal advisory opinions, under procedures adopted by the State Board.

(h) The State Board shall publish its formal advisory opinions within 30 days of issuance. These formal advisory opinions shall be edited for publication purposes as necessary to protect the identities of the individuals requesting formal advisory opinions. When the State Board issues a recommended formal advisory opinion to a legislator under subsection (e) of this section, the State Board shall publish only the edited formal advisory opinion of the Committee within 30 days of receipt of the edited opinion from the Committee.

(i) Except as provided under subsections (f), (h) and (j) of this section, a request for advice, any advice provided by State Board staff, any formal or recommended formal advisory opinions, any supporting documents submitted or caused to be submitted to the State Board or State Board staff, and any documents prepared or collected by the State Board or State Board staff in connection with a request for advice are confidential. The identity of the individual making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual who requests advice or receives advice, including a formal or recommended formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice, any advice, and any documents related to requests for advice are not "public records" as defined in G.S. 132-1.

(j) Staff to the State Board may share all information and documents related to requests for advice, made by legislators under this section with staff to the Committee. The information and documents in the possession of staff to the Committee are confidential and are not public records.

(k) This section shall apply to judicial officers only for advice related to Article 6 of this Chapter.

(l) Requests for advice may be withdrawn by the requestor at any time prior to the issuance of the advice. (2006-201, s. 1; 2007-348, s. 31; 2008-213, ss. 2(b), 91.5; 2008-215, s. 6; 2009-570, s. 17; 2010-169, s. 17(p); 2016-125, 4th Ex. Sess., s. 3(e); 2017-6, ss. 2, 3, 5(f).)

### **§ 163A-158. Ethics education program.**

(a) The State Board shall develop and implement an ethics education and awareness program designed to instill in all covered persons and their immediate staffs, and legislative employees, a keen and continuing awareness of their ethical obligations and a sensitivity to situations that might result in real or potential conflicts of interest.

(b) The State Board shall offer basic ethics education and awareness presentations to all public servants and their immediate staffs, upon their election, appointment, or employment, and shall offer periodic refresher presentations as the State Board deems appropriate. Every public servant shall participate in an ethics presentation approved by the State Board within six months of the public servant's election, reelection, appointment, or employment, and shall attend refresher ethics education presentations at least every two years thereafter in a manner as the State Board deems appropriate.

(c) A public servant appointed to a board determined and designated as nonadvisory under G.S. 163A-154(a)(3) shall attend an ethics presentation approved by the State Board within six

months of notification of the designation by the State Board and at least every two years thereafter in a manner as the State Board deems appropriate.

(d) The State Board, jointly with the Committee, shall make basic ethics education and awareness presentations to all legislators and legislative employees upon their election, reelection, appointment, or employment and shall offer periodic refresher presentations as the State Board and the Committee deem appropriate. Every legislator shall participate in an ethics presentation approved by the State Board and Committee within two months of either the convening of the General Assembly to which the legislator is elected or within two months of the legislator's appointment, whichever is later. Every legislative employee shall participate in an ethics presentation approved by the State Board and Committee within three months of employment, and shall attend refresher ethics education presentations at least every two years thereafter, in a manner as the State Board and Committee deem appropriate.

(e) Upon request, the State Board shall assist each agency in developing in-house education programs and procedures necessary or desirable to meet the agency's particular needs for ethics education, conflict identification, and conflict avoidance.

(f) Each agency head shall designate an ethics liaison who shall maintain active communication with the State Board on all agency ethical issues. The ethics liaison shall attend ethics education and awareness programs as provided under this section and lobbying education and awareness programs as provided under G.S. 163A-253 and continuously assess and advise the State Board of any issues or conduct which might reasonably be expected to result in a conflict of interest and seek advice and rulings from the State Board as to their appropriate resolution.

(g) The State Board shall publish a newsletter containing summaries of the State Board's opinions, policies, procedures, and interpretive bulletins as issued from time to time. The newsletter shall be distributed to all covered persons and legislative employees. Publication under this subsection may be done electronically.

(h) The State Board shall assemble and maintain a collection of relevant State laws, rules, and regulations that set forth ethical standards applicable to covered persons. This collection shall be made available electronically as resource material to public servants, and ethics liaisons, upon request.

(i) This section shall not apply to judicial officers. (2006-201, s. 1; 2007-347, s. 9(a); 2008-213, ss. 59, 60; 2009-10, s. 4; 2009-549, s. 12; 2010-169, s. 22(a); 2017-6, s. 3.)

#### **§ 163A-159. Duties of heads of State agencies.**

(a) The head of each State agency, including the chair of each board subject to this Subchapter, shall take an active role in furthering ethics in public service and ensuring compliance with this Subchapter. The head of each State agency and the chair of each board shall make a conscientious, good-faith effort to assist public servants within the agency or on the board in monitoring their personal, financial, and professional affairs to avoid taking any action that results in a conflict of interest.

(b) The head of each State agency, including the chair of each board subject to this Subchapter, shall maintain familiarity with and stay knowledgeable of the reports, opinions, newsletters, and other communications from the State Board regarding ethics in general and the interpretation and enforcement of this Subchapter. The head of each State agency and the chair of each board shall also maintain familiarity with and stay knowledgeable of the State Board's reports, evaluations, opinions, or findings regarding individual public servants in that individual's agency



or on that individual's board, or under that individual's supervision or control, including all reports, evaluations, opinions, or findings pertaining to actual or potential conflicts of interest.

(c) When an actual or potential conflict of interest is cited by the State Board under G.S. 163A-189(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with this Subchapter.

(d) The head of each State agency, including the chair of each board subject to this Subchapter, shall periodically remind public servants under that individual's authority of the public servant's duties to the public under the ethical standards and rules of conduct in this Subchapter, including the duty of each public servant to continually monitor, evaluate, and manage the public servant's personal, financial, and professional affairs to ensure the absence of conflicts of interest.

(e) At the beginning of any meeting of a board, the chair shall remind all members of their duty to avoid conflicts of interest under this Subchapter. The chair also shall inquire as to whether there is any known conflict of interest with respect to any matters coming before the board at that time.

(f) The head of each State agency, including the chair of each board subject to this Subchapter, shall ensure that legal counsel employed by or assigned to their agency or board are familiar with the provisions of this Subchapter, including the Ethical Standards for Covered Persons set forth in Article 7 of this Chapter, and are available to advise public servants on the ethical considerations involved in carrying out their public duties in the best interest of the public. Legal counsel so engaged may consult with the State Board, seek the State Board's assistance or advice, and refer public servants and others to the State Board as appropriate.

(g) Taking into consideration the individual autonomy, needs, and circumstances of each agency and board, the head of each State agency, including the chair of each board subject to this Subchapter, shall consider the need for the development and implementation of in-house educational programs, procedures, or policies tailored to meet the agency's or board's particular needs for ethics education, conflict identification, and conflict avoidance. This includes the periodic presentation to all agency heads, their chief deputies or assistants, other public servants under their supervision or control, and members of boards, of the basic ethics education and awareness presentation outlined in G.S. 163A-158 and any other workshop or seminar program the agency head or board chair deems necessary in implementing this Subchapter. Agency heads and board chairs may request reasonable assistance from the State Board in complying with the requirements of this subsection.

(h) As soon as reasonably practicable after the designation, hiring, or promotion of their chief deputies, assistants, or other public servants under their supervision or control, or learning of the appointment or election of other public servants to a board covered under this Subchapter, all agency heads and board chairs shall (i) notify the State Board of such designation, hiring, promotion, appointment, or election and (ii) provide these public servants with copies of this Subchapter and all applicable financial disclosure forms, if these materials and forms have not been previously provided to these public servants in connection with their designation, hiring, promotion, appointment, or election. In order to avoid duplication of effort, agency heads and board chairs shall coordinate this effort with the State Board's staff. (2006-201, s. 1; 2007-347, s. 9(b); 2008-213, ss. 61, 62; 2017-6, s. 3.)

**§ 163A-160:** Reserved for future recodification.

§ 163A-161: Reserved for future recodification.

§ 163A-162: Reserved for future recodification.

§ 163A-163: Reserved for future recodification.

§ 163A-164: Reserved for future recodification.

§ 163A-165: Reserved for future recodification.

§ 163A-166: Reserved for future recodification.

§ 163A-167: Reserved for future recodification.

§ 163A-168: Reserved for future recodification.

§ 163A-169: Reserved for future recodification.

§ 163A-170: Reserved for future recodification.

§ 163A-171: Reserved for future recodification.

§ 163A-172: Reserved for future recodification.

§ 163A-173: Reserved for future recodification.

§ 163A-174: Reserved for future recodification.

§ 163A-175: Reserved for future recodification.

§ 163A-176: Reserved for future recodification.

§ 163A-177: Reserved for future recodification.

§ 163A-178: Reserved for future recodification.

§ 163A-179: Reserved for future recodification.

§ 163A-180: Reserved for future recodification.

§ 163A-181: Reserved for future recodification.

§ 163A-182: Reserved for future recodification.

§ 163A-183: Reserved for future recodification.

§ 163A-184: Reserved for future recodification.

§ 163A-185: Reserved for future recodification.

## Article 6.

### Public Disclosure of Economic Interests.

#### § 163A-186. Purpose.

The purpose of disclosure of the financial and personal interests by covered persons is to assist covered persons and those who appoint, elect, hire, supervise, or advise them identify and avoid conflicts of interest and potential conflicts of interest between the covered person's private interests and the covered person's public duties. It is critical to this process that current and prospective covered persons examine, evaluate, and disclose those personal and financial interests that could be or cause a conflict of interest or potential conflict of interest between the covered person's private interests and the covered person's public duties. Covered persons must take an active, thorough, and conscientious role in the disclosure and review process, including having a complete knowledge of how the covered person's public position or duties might impact the covered person's private interests. Covered persons have an affirmative duty to provide any and all information that a reasonable person would conclude is necessary to carry out the purposes of this Subchapter and to fully disclose any conflict of interest or potential conflict of interest between the covered person's public and private interests, but the disclosure, review, and evaluation process is not intended to result in the disclosure of unnecessary or irrelevant personal information. (2006-201, s. 1; 2008-213, s. 63; 2017-6, s. 3.)

#### § 163A-187. Statement of economic interest; filing required.

(a) Every covered person subject to this Subchapter who is elected, appointed, or employed, including one appointed to fill a vacancy in elective office, except for public servants (i) included under G.S. 163A-152(70)b., e., f., or g. whose annual compensation from the State is less than sixty thousand dollars (\$60,000), or (ii) who are ex officio student members under Chapters 115D and 116 of the General Statutes, shall file a statement of economic interest with the State Board prior to the covered person's initial appointment, election, or employment and no later than April 15 of every year thereafter, except as otherwise filed under subsections (d) and (f) of this section. A prospective covered person required to file a statement under this Subchapter shall not be appointed, employed, or receive a certificate of election, prior to submission by the State Board of the State Board's evaluation of the statement in accordance with this Article. The requirement for an annual filing under this subsection also shall apply to covered persons whose terms have expired but who continue to serve until the covered person's replacement is appointed. Once a statement of economic interest is properly completed and filed under this Article, the statement of economic interest does not need to be supplemented or refiled prior to the next due date set forth in this subsection.

(b) Notwithstanding subsection (a) of this section, individuals hired by, and appointees of, constitutional officers of the State may file a statement of economic interest within 30 days after their appointments or employment when the appointment or employment is made during the first 60 days of the constitutional officer's initial term in that constitutional office.

(c) Notwithstanding subsection (a) of this section, public servants, under G.S. 163A-152(70)j. and k., who have submitted a statement of economic interest under subsection (a) of this section, may be hired, appointed, or elected provisionally prior to submission by the State Board of the State Board's evaluation of the statement in accordance with this Article, subject to dismissal or removal based on the State Board's evaluation.

(d) A public servant reappointed to a board between January 1 and April 15 shall file a current statement of economic interest prior to the reappointment.

(e) A public servant appointed to a board determined and designated as nonadvisory under G.S. 163A-154(a)(3) shall file the initial statement of economic interest within 60 days of notification of the designation by the State Board and as provided in this section thereafter.

(f) A candidate for an office subject to this Article shall file the statement of economic interest with the State Board within 10 days of the filing deadline for the office the candidate seeks. An individual nominated under G.S. 163A-987 shall file the statement within three days following the individual's nomination, or not later than the day preceding the general election, whichever occurs first. An individual seeking to qualify as an unaffiliated candidate under G.S. 163A-1005 shall file the statement of economic interest within three days of filing the petition required under that section. An individual seeking to have write-in votes counted for that individual in a general election shall file a statement of economic interest within three days of the time the candidate files a declaration of intent under G.S. 163A-1006. A candidate of a new party chosen by convention shall file a statement of economic interest within three days of the time that the president of the convention certifies the names of its candidates to the State Board under G.S. 163A-953.

(g) In addition to subsections (a) and (f) of this section, a covered person holding elected office or a former covered person who held elected office subject to this Article shall file a statement of economic interest in all of the following instances, as specified:

- (1) Filed on or before April 15 of the year following the year a covered person or former covered person does not file a notice of candidacy or petition for election, or does not receive a certificate of election, to the position making that individual a covered person, with all information provided in the statement of economic interest current as of the last day of December of the preceding year.
- (2) Filed on or before April 15 of the year following the year the covered person or former covered person resigns from the position making that individual a covered person, with all information provided in the statement of economic interest current as of the last day in the position.

(h) The State Board shall provide for notification of the statement of economic interest requirements of this Article to be given to any candidate filing for nomination or election to those offices subject to this Article and to any nominee under G.S. 163A-987.

(i) Within 10 days of the filing deadline for office of a covered person, the executive director of the State Board shall send to the State Board a list of the names and addresses of each candidate who has filed as a candidate for office as a covered person. Within five days of an individual otherwise qualifying to be on the ballot, the State Board shall send notice of that qualification to the State Board.

(j) The State Board shall issue forms to be used for the statement of economic interest and shall revise the forms from time to time as necessary to carry out the purposes of this Subchapter. Except as otherwise set forth in this section and in G.S. 163A-159(h), upon notification by the employing entity, the State Board shall furnish to all other covered persons the appropriate forms

needed to comply with this Article. (2006-201, s. 1; 2007-29, s. 2; 2007-348, ss. 32, 33; 2008-213, s. 64; 2009-549, s. 13; 2010-169, ss. 12, 22(b); 2014-111, s. 13(a); 2017-6, s. 3.)

**§ 163A-188. Statements of economic interest as public records.**

(a) The statements of economic interest filed by prospective public servants under this Article for appointed or employed positions and written evaluations by the State Board of these statements are not public records until the prospective public servant is appointed or employed by the State. All other statements of economic interest and all other written evaluations by the State Board of those statements are public records.

(b) The statements of economic interest filed by prospective public servants, and the written evaluations by the State Board of those statements, for individuals elected by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the election and made available to all members of the General Assembly. The statements of economic interest filed by public servants elected to positions by the General Assembly, and written evaluations by the State Board of those statements, are not public records until the prospective public servant is sworn into office.

(c) The statements of economic interest filed by prospective public servants, and the written evaluations by the State Board of those statements, for individuals confirmed for appointment as a public servant by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the appointment. The statements of economic interest filed by prospective public servants for confirmation for appointment by the General Assembly, and written evaluations by the State Board of those statements, are public records at the time of the announcement of the appointment. (2006-201, s. 1; 2007-347, s. 10; 2008-213, ss. 65, 66; 2017-6, s. 3.)

**§ 163A-189. Contents of statement.**

(a) Any statement of economic interest filed under this Article shall be on a form prescribed by the State Board. Answers must be provided to all questions. The form shall include the following information about the filing person and the filing person's immediate family:

- (1) Except as otherwise provided in this subdivision, the name, current mailing address, occupation, employer, and business of the filing person. Any individual holding or seeking elected office for which residence is a qualification for office shall include a home address. A judicial officer may use a current mailing address instead of the home address on the form required in this subsection. The filing person may also use the initials instead of the name of any unemancipated child of the filing person who also resides in the household of the filing person. If the filing person provides the initials of an unemancipated child, the filing person shall concurrently provide the name of the unemancipated child to the State Board. The name of an unemancipated child provided by the filing person to the State Board shall not be a public record under Chapter 132 of the General Statutes and is privileged and confidential.
- (2) A list of each asset and liability included in this subdivision of whatever nature (including legal, equitable, or beneficial interest) with a value of at least ten thousand dollars (\$10,000) owned by the filing person and the filing person's immediate family, except assets or liabilities held in a blind trust. This list shall include the following:

- a. All real estate located in the State owned wholly or in part by the filing person or the filing person's immediate family, including descriptions adequate to determine the location by city and county of each parcel.
  - b. Real estate that is currently leased or rented to or from the State.
  - c. Personal property sold to or bought from the State within the preceding two years.
  - d. Personal property currently leased or rented to or from the State.
  - e. The name of each publicly owned company. For purposes of this sub-subdivision, the term "publicly owned company" shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:
    - 1. The filing person or a member of the filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.
    - 2. The fund is publicly traded, or the fund's assets are widely diversified.
  - f. The name of each nonpublicly owned company or business entity, including interests in sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations.
  - g. For each company or business entity listed under sub-subdivision f. of this subdivision, if known, a list of any other companies or business entities in which the company or business entity owns securities or equity interests exceeding a value of ten thousand dollars (\$10,000).
  - h. For a vested trust created, established, or controlled by the filing person of which the filing person or the members of the filing person's immediate family are the beneficiaries, excluding a blind trust, the name and address of the trustee, a description of the trust, and the filing person's relationship to the trust.
  - i. A list of all liabilities, excluding indebtedness on the filing person's primary personal residence, by type of creditor and debtor.
  - j. A list of all stock options in a company or business not otherwise disclosed on this statement.
- (3) The name of each source (not specific amounts) of income of more than five thousand dollars (\$5,000) received during the previous year by business or industry type, if that source is not listed under subdivision (2) of this subsection. Income shall include salary, wages, professional fees, honoraria, interest, dividends, rental income, and business income from any source other than capital gains, federal government retirement, military retirement, or social security income.
- (4) If the filing person is a practicing attorney, an indication of whether the filing person, or the law firm with which the filing person is affiliated, earned legal fees during the past year in excess of ten thousand dollars (\$10,000) from any of the following categories of legal representation:
- a. Administrative law.

- b. Admiralty law.
  - c. Corporate law.
  - d. Criminal law.
  - e. Decedents' estates law.
  - f. Environmental law.
  - g. Insurance law.
  - h. Labor law.
  - i. Local government law.
  - j. Negligence or other tort litigation law.
  - k. Real property law.
  - l. Securities law.
  - m. Taxation law.
  - n. Utilities regulation law.
- (5) Except for a filing person in compliance under subdivision (4) of this subsection, if the filing person is a licensed professional or provides consulting services, either individually or as a member of a professional association, a list of categories of business and the nature of services rendered, for which payment for services were charged or paid during the past year in excess of ten thousand dollars (\$10,000).
  - (6) An indication of whether the filing person, the filing person's employer, a member of the filing person's immediate family, or the immediate family member's employer is licensed or regulated by, or has a business relationship with, the board or employing entity with which the filing person is or will be associated. This subdivision does not apply to a legislator, a judicial officer, or that legislator's or judicial officer's immediate family.
  - (7) A list of societies, organizations, or advocacy groups, pertaining to subject matter areas over which the public servant's agency or board may have jurisdiction, in which the public servant or a member of the public servant's immediate family is a director, officer, or governing board member. This subdivision does not apply to a legislator, a judicial officer, or that legislator's or judicial officer's immediate family.
  - (8) A list of all things with a total value of over two hundred dollars (\$200.00) per calendar quarter given and received without valuable consideration and under circumstances that a reasonable person would conclude that the thing was given for lobbying, if such things were given by a person not required to report under Article 8 of this Chapter, excluding things given by a member of the filing person's extended family. The list shall include only those things received during the 12 months preceding the reporting period under subsection (d) of this section, and shall include the source of those things. The list required by this subdivision shall not apply to things of monetary value received by the filing person prior to the time the filing person filed or was nominated as a candidate for office, as described in G.S. 163A-187, or was appointed or employed as a covered person.
  - (9) A list of any felony convictions of the filing person, excluding any felony convictions for which a pardon of innocence or order of expungement has been granted.

- (10) Any other information that the filing person believes may assist the State Board in advising the filing person with regards to compliance with this Subchapter.
- (11) A list of any nonprofit corporation or organization with which associated during the preceding calendar year, including a list of which of those nonprofit corporations or organizations with which associated do business with the State or receive State funds and a brief description of the nature of the business, if known or with which due diligence could reasonably be known.
- (12) A statement of whether the filing person or the filing person's immediate family is or has been a lobbyist or lobbyist principal registered under Article 8 of this Chapter within the preceding 12 months.
- (13) A list of all contributions as defined in G.S. 163A-1411(13) with a cumulative total of more than one thousand dollars (\$1,000) made by the filing person only, during the preceding calendar year, to the candidate or candidate campaign committee of the covered person as defined in G.S. 163A-152(70)a. appointing the filing person to the covered board.
- (14) A statement indicating "Yes" or "No" as to whether the filing person engaged in each of the following activities during the preceding calendar year, with respect to or on the behalf of the candidate or candidate campaign committee of the covered person as defined in G.S. 163A-152(70)a. appointing the filing person: (i) collected contributions from multiple contributors, took possession of such multiple contributions, and transferred or delivered those collected multiple contributions, (ii) hosted a fund-raiser in the filing person's residence or place of business, or (iii) volunteered for campaign-related activity. This subdivision only applies to filing persons in the following categories:
  - a. A public servant, or a prospective appointee to, as defined in G.S. 163A-152(70)c.
  - b. A judicial officer that serves on, or a prospective appointee to, the Supreme Court, the Court of Appeals, the superior court, or the district court.
  - c. A covered person serving on, or a prospective appointee to, one of the following panels or boards:
    1. Alcoholic Beverage Control Commission.
    2. Coastal Resources Commission.
    3. State Board of Education.
    4. State Board.
    5. Division of Employment Security.
    6. Environmental Management Commission.
    7. Industrial Commission.
    8. State Human Resources Commission.
    9. Rules Review Commission.
    10. Board of Transportation.
    11. Board of Governors of the University of North Carolina.
    12. Utilities Commission.
    13. Wildlife Resources Commission.



- (15) The name of each business with which associated that the filing person or a member of the filing person's immediate family is an employee, director, officer, partner, proprietor, or member or manager.
- (16) For any company or business entity listed under subdivision (15) of this subsection and sub-subdivisions f. and g. of subdivision (2) of this subsection, if known, a statement whether that company or business entity has any material business dealings or business contracts with the State, or is regulated by the State, including a brief description of the business activity.

(b) The Supreme Court, the Committee, constitutional officers of the State, heads of principal departments, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, other boards, and the appointing authority or employing entity may require a filing person to file supplemental information in conjunction with the filing of that filing person's statement of economic interest. These supplemental filings requirements shall be filed with the State Board and included on the forms to be filed with the State Board. The State Board shall evaluate the supplemental forms as part of the statement of economic interest. The failure to file supplemental forms shall be subject to the provisions of G.S. 163A-190.

(c) Each statement of economic interest shall contain a certification by the filing person that the filing person has read the statement and that, to the best of the filing person's knowledge and belief, the statement is true, correct, and complete. The filing person's certification also shall provide that the filing person has not transferred, and will not transfer, any asset, interest, or other property with the intent to conceal it from disclosure while retaining an equitable interest therein.

(d) All information provided in the statement of economic interest shall be current as of the last day of December of the year preceding the date the statement of economic interest was due.

(e) The State Board shall prepare a written evaluation of each statement of economic interest relative to conflicts of interest and potential conflicts of interest. This subsection does not apply to statements of economic interest of legislators and judicial officers. The State Board shall submit the evaluation to all of the following:

- (1) The filing person who submitted the statement.
- (2) The head of the agency in which the filing person serves.
- (3) The Governor for gubernatorial appointees and employees in agencies under the Governor's authority.
- (4) The appointing or hiring authority for those public servants not under the Governor's authority.
- (5) The State Board for those filing persons who are elected.

(f) The State Board shall prepare a written evaluation of each statement of economic interest for nominees of the Board of Governors of The University of North Carolina elected pursuant to G.S. 116-6, and nominees of the State Board of Community Colleges elected pursuant to G.S. 115D-2.1 within seven days of the submission of the completed statement of economic interest to the State Board. (2006-201, s. 1; 2007-29, s. 1; 2007-348, s. 34; 2008-187, s. 32; 2008-213, ss. 67-72(a), 73, 74, 74.5, 91; 2009-549, s. 14; 2009-570, s. 45; 2010-169, ss. 13(a)-(d), 17(q), 22(b); 2011-401, s. 3.18; 2013-382, s. 9.1(c); 2017-6, s. 3.)

#### **§ 163A-190. Failure to file.**

(a) Within 30 days after the date due under G.S. 163A-187, the State Board shall notify filing persons who have failed to file or filing persons whose statement has been deemed

incomplete. For a filing person currently serving as a covered person, the State Board shall notify the filing person and the ethics liaison that if the statement of economic interest is not filed or completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be subject to a fine as provided for in this section.

(b) Any filing person who fails to file or complete a statement of economic interest within 30 days of the receipt of the notice, required under subsection (a) of this section, shall be subject to a fine of two hundred fifty dollars (\$250.00), to be imposed by the State Board.

(c) Failure by any filing person to file or complete a statement of economic interest within 60 days of the receipt of the notice, required under subsection (a) of this section, shall be deemed to be a violation of this Subchapter and shall be grounds for disciplinary action under G.S. 163A-415.

(d) Within 30 days after the date due under G.S. 163A-187, the State Board shall notify persons who are required to file a Statement of Economic Interest under G.S. 136-200.2(g)(3) or G.S. 136-211(f)(3) of a failure to file the Statement of Economic Interest or the filing of an incomplete Statement of Economic Interest. The State Board shall notify the filing person that if the Statement of Economic Interest is not filed or completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be fined and referred for prosecution after an additional 30 days, as provided for in this section:

- (1) Any filing person who fails to file a Statement of Economic Interest under G.S. 136-200.2(g)(3) or G.S. 136-211(f)(3) within 30 days of the receipt of the notice required under this section shall be fined two hundred fifty dollars (\$250.00) by the State Board for not filing or filing an incomplete Statement of Economic Interest, except in extenuating circumstances as determined by the State Board.
- (2) Failure by any filing person to file or complete the Statement of Economic Interest within 60 days of the receipt of the notice required under this subsection shall be a Class 1 misdemeanor. The State Board shall report such failure to the Director of the State Bureau of Investigation for investigation and referral to the District Attorney for possible prosecution, unless the State Board determines extenuating circumstances exist.

(e) Within 30 days after the date due under G.S. 163A-187, the State Board shall notify persons who are required to file an additional disclosure under G.S. 136-200.2(g)(4) or G.S. 136-211(f)(4) of a failure to file the additional disclosure or the filing of an incomplete additional disclosure. The State Board shall notify the filing person that if the additional disclosure is not filed or completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be fined and referred for prosecution after an additional 30 days, as provided for in this section:

- (1) Any filing person who fails to file or who files an incomplete additional disclosure within 30 days of the receipt of the notice required under this section shall be fined two hundred fifty dollars (\$250.00) for not filing or filing an incomplete additional disclosure, except in extenuating circumstances as determined by the State Board.
- (2) Failure by any filing person to file or complete the additional disclosure within 60 days of the receipt of the notice required under this subsection shall be a Class 1 misdemeanor. The State Board shall report such failure to the Director of the State Bureau of Investigation for investigation and referral to the District

Attorney for possible prosecution, unless the State Board determines extenuating circumstances exist. (2006-201, s. 1; 2008-213, s. 75; 2009-549, s. 15; 2014-58, s. 12(c); 2014-115, s. 56.6A(c); 2017-6, s. 3.)

**§ 163A-191. Concealing or failing to disclose material information.**

A filing person who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a statement of economic interest under this Article shall be guilty of a Class 1 misdemeanor and shall be subject to disciplinary action under G.S. 163A-415. (2006-201, s. 1; 2017-6, s. 3.)

**§ 163A-192. Penalty for false information.**

A filing person who provides false information on a statement of economic interest as required under this Article knowing that the information is false is guilty of a Class H felony and shall be subject to disciplinary action under G.S. 163A-415. (2006-201, s. 1; 2017-6, s. 3.)

**§ 163A-193. Review and evaluation of statements of economic interest.**

(a) The State Board shall receive and review all statements of economic interest pursuant to G.S. 163A-154(a)(4) and shall evaluate whether (i) the statements conform to the law and the rules of the State Board, and (ii) the financial interests and other information reported by prospective and actual covered persons reveal actual or potential conflicts of interest.

(b) Beginning July 1, 2013, the State Board shall establish a biennial cycle for evaluating statements of economic interest. The State Board shall evaluate each initial filing as provided in subsection (a) of this section.

(c) Notwithstanding subsection (b) of this section, statements filed by the following prospective and actual public servants shall be evaluated on an annual basis:

- (1) The University of North Carolina Board of Governors, subject to G.S. 163A-189(f).
- (2) The State Board of Community Colleges, subject to G.S. 163A-189(f).
- (3) The North Carolina Utilities Commission.
- (4) The North Carolina Industrial Commission.
- (5) Supplemental statements filed pursuant to Chapter 136 of the General Statutes.
- (6) Any other board or commission whose members are elected or confirmed by the General Assembly.

(d) Notwithstanding subsections (a) and (b) of this section, statements of economic interest filed by Constitutional officers of the State and individuals elected or appointed as Constitutional officers of the State prior to taking office shall be evaluated every four years upon election or appointment to office.

(e) A public servant who simultaneously serves on more than one covered board may file one statement of economic interest and that statement shall serve as disclosure for all the covered boards. If, during the biennial cycle, a public servant leaves one covered board and begins membership on another covered board, the public servant is not required to file another statement of economic interest, and the State Board is not required to evaluate the statement again in light of the subsequent appointment. The public servant must make subsequent filings pursuant to G.S. 163A-187(a) upon the expiration of the biennial cycle.

(f) Nothing in this section shall be construed to impair the State Board's duties and authority under G.S. 163A-190 and G.S. 163A-191. (2013-360, s. 30.4(b); 2017-6, s. 3.)

§ 163A-194: Reserved for future recodification.

§ 163A-195: Reserved for future recodification.

§ 163A-196: Reserved for future recodification.

§ 163A-197: Reserved for future recodification.

§ 163A-198: Reserved for future recodification.

§ 163A-199: Reserved for future recodification.

§ 163A-200: Reserved for future recodification.

§ 163A-201: Reserved for future recodification.

§ 163A-202: Reserved for future recodification.

§ 163A-203: Reserved for future recodification.

§ 163A-204: Reserved for future recodification.

§ 163A-205: Reserved for future recodification.

§ 163A-206: Reserved for future recodification.

§ 163A-207: Reserved for future recodification.

§ 163A-208: Reserved for future recodification.

§ 163A-209: Reserved for future recodification.

§ 163A-210: Reserved for future recodification.

## Article 7.

### Ethical Standards for Covered Persons.

#### **§ 163A-211. Use of public position for private gain.**

(a) Except as permitted under G.S. 163A-218, a covered person or legislative employee shall not knowingly use the covered person's or legislative employee's public position in an official action or legislative action that will result in financial benefit to the covered person or legislative employee, a member of the covered person's or legislative employee's extended family, or business with which the covered person or legislative employee is associated. This subsection shall not apply to financial or other benefits derived by a covered person or legislative employee that the covered person or legislative employee would enjoy to an extent no greater than that which other

citizens of the State would or could enjoy, or that are so remote, tenuous, insignificant, or speculative that a reasonable person would conclude under the circumstances that the covered person's or legislative employee's ability to protect the public interest and perform the covered person's or legislative employee's official duties would not be compromised.

(b) A covered person shall not mention or authorize another person to mention the covered person's public position in nongovernmental advertising that advances the private interest of the covered person or others. The prohibition in this subsection shall not apply to any of the following:

- (1) Political advertising.
- (2) News stories and articles.
- (3) The inclusion of a covered person's public position in a directory or a biographical listing.
- (4) The inclusion of a covered person's public position in an agenda or other document related to a meeting, conference, or similar event when the disclosure could reasonably be considered material by an individual attending the meeting, conference, or similar event.
- (5) The inclusion of a covered person's public position in a charitable solicitation for a nonprofit business entity qualifying under 26 U.S.C. § 501(c)(3).
- (6) The disclosure of a covered person's position to an existing or prospective customer, supplier, or client when the disclosure could reasonably be considered material by the customer, supplier, or client.
- (7) A letter of character reference for any of the following:
  - a. A student seeking admittance to a school or institution of higher education.
  - b. An individual seeking an academic scholarship.
  - c. An individual seeking leniency upon sentencing by the courts, or other matters related to probation or parole.
  - d. An individual seeking employment, at the request of that individual or in response to the inquiry of a potential employer as to the qualifications and character of that individual.

(c) Notwithstanding G.S. 163A-1432, no covered person shall use or permit the use of State funds for any advertisement or public service announcement in a newspaper, on radio, television, magazines, or billboards, that contains that covered person's name, picture, or voice, except in case of State or national emergency and only if the announcement is reasonably necessary to the covered person's official function. This subsection shall not apply to fund-raising on behalf of and aired on public radio or public television. (2006-201, s. 1; 2009-549, s. 16; 2011-393, s. 1; 2015-208, s. 1; 2017-6, s. 3.)

### **§ 163A-212. Gifts.**

(a) A covered person or a legislative employee shall not knowingly, directly or indirectly, ask, accept, demand, exact, solicit, seek, assign, receive, or agree to receive anything of value for the covered person or legislative employee, or for another person, in return for being influenced in the discharge of the covered person's or legislative employee's official responsibilities, other than that which is received by the covered person or the legislative employee from the State for acting in the covered person's or legislative employee's official capacity.

(b) A covered person may not solicit for a charitable purpose any thing of monetary value from any subordinate State employee. This subsection shall not apply to generic written

solicitations to all members of a class of subordinates. Nothing in this subsection shall prohibit a covered person from serving as the honorary head of the State Employees Combined Campaign.

(c) No public servant, legislator, or legislative employee shall knowingly accept a gift from a lobbyist or lobbyist principal registered under Article 8 of this Chapter. No legislator or legislative employee shall knowingly accept a gift from liaison personnel designated under Article 8 of this Chapter. No public servant, legislator, or legislative employee shall accept a gift knowing all of the following:

(1) The gift was obtained indirectly from a lobbyist, lobbyist principal, or liaison personnel registered under Article 8 of this Chapter.

(2) The lobbyist, lobbyist principal, or liaison personnel registered under Article 8 of this Chapter intended for an ultimate recipient of the gift to be a public servant, legislator, or legislative employee as provided in G.S. 163A-307.

(d) No public servant shall knowingly accept a gift from a person whom the public servant knows or has reason to know any of the following:

(1) Is doing or is seeking to do business of any kind with the public servant's employing entity.

(2) Is engaged in activities that are regulated or controlled by the public servant's employing entity.

(3) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the public servant's official duties.

(e) No public servant shall accept a gift knowing all of the following:

(1) The gift was obtained indirectly from a person described under subdivision (d)(1), (2), or (3) of this section.

(2) The person described under subdivision (d)(1), (2), or (3) of this section intended for an ultimate recipient of the gift to be a public servant.

(f) Subsections (c), (d), and (e) of this section shall not apply to any of the following:

(1) Food and beverages for immediate consumption in connection with any of the following:

a. An open meeting of a public body, provided that the open meeting is properly noticed under Article 33C of Chapter 143 of the General Statutes.

b. A gathering of a person or governmental unit with at least 10 or more individuals in attendance open to the general public, provided that a sign or other communication containing a message that is reasonably designed to convey to the general public that the gathering is open to the general public is displayed at the gathering.

c. A gathering of a person or governmental unit to which the entire board of which a public servant is a member, at least 10 public servants, all the members of the House of Representatives, all the members of the Senate, all the members of a county or municipal legislative delegation, all the members of a recognized legislative caucus with regular meetings other than meetings with one or more lobbyists, all the members of a committee, a standing subcommittee, a joint committee or joint commission of the House of Representatives, the Senate, or the General

Assembly, or all legislative employees are invited, and one of the following applies:

1. At least 10 individuals associated with the person or governmental unit actually attend, other than the covered person or legislative employee, or the immediate family of the covered person or legislative employee.
2. All shareholders, employees, board members, officers, members, or subscribers of the person or governmental unit located in North Carolina are notified and invited to attend.

For purposes of this sub-subdivision only, the term "invited" shall mean written notice from at least one host or sponsor of the gathering containing the date, time, and location of the gathering given at least 24 hours in advance of the gathering to the specific qualifying group listed in this sub-subdivision. If it is known at the time of the written notice that at least one sponsor is a lobbyist or lobbyist principal, the written notice shall also state whether or not the gathering is permitted under this section.

- (2) Informational materials relevant to the duties of the covered person or legislative employee.
- (3) Reasonable actual expenditures of the legislator, public servant, or legislative employee for food, beverages, registration, travel, lodging, other incidental items of nominal value, and entertainment, in connection with (i) a legislator's, public servant's, or legislative employee's attendance at an educational meeting for purposes primarily related to the public duties and responsibilities of the legislator, public servant, or legislative employee; (ii) a legislator's, public servant's, or legislative employee's participation as a speaker or member of a panel at a meeting; (iii) a legislator's or legislative employee's attendance and participation in meetings of a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or that the legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position, or as a member of a board, agency, or committee of such organization; or (iv) a public servant's attendance and participation in meetings as a member of a board, agency, or committee of a nonpartisan state, regional, national, or international organization of which the public servant's agency is a member or the public servant is a member by virtue of that public servant's public position, provided the following conditions are met:
  - a. The reasonable actual expenditures shall be made by a lobbyist principal, and not a lobbyist.
  - b. Any meeting must be attended by at least 10 or more participants, have a formal agenda, and notice of the meeting has been given at least 10 days in advance.
  - c. Any food, beverages, transportation, or entertainment must be provided to all attendees or defined groups of 10 or more attendees as part of the meeting or in conjunction with the meeting.

- d. Any entertainment must be incidental to the principal agenda of the meeting.
  - e. If the legislator, public servant, or legislative employee is participating as a speaker or member of a panel, then that legislator, public servant, or legislative employee must be a bona fide speaker or participant.
- (4) A plaque or similar nonmonetary memento recognizing individual services in a field or specialty or to a charitable cause.
  - (5) Gifts accepted on behalf of the State for use by the State or for the benefit of the State.
  - (6) Anything generally made available or distributed to the general public or all other State employees by lobbyists or lobbyist principals, or persons described in subdivisions (d)(1), (2), or (3) of this section.
  - (7) Gifts from the covered person's or legislative employee's extended family, or a member of the same household of the covered person or legislative employee.
  - (8) Gifts given to a public servant not otherwise subject to an exception under this subsection, where the gift is food and beverages, transportation, lodging, entertainment or related expenses associated with the public business of industry recruitment, promotion of international trade, or the promotion of travel and tourism, and the public servant is responsible for conducting the business on behalf of the State, provided all the following conditions apply:
    - a. The public servant did not solicit the gift, and the public servant did not accept the gift in exchange for the performance of the public servant's official duties.
    - b. The public servant reports electronically to the State Board within 30 days of receipt of the gift or of the date set for disclosure of public records under G.S. 132-6(d), if applicable. The report shall include a description and value of the gift and a description how the gift contributed to the public business of industry recruitment, promotion of international trade, or the promotion of travel and tourism. This report shall be posted to the State Board's public Web site.
    - c. A tangible gift, other than food or beverages, not otherwise subject to an exception under this subsection shall be turned over as State property to the Department of Commerce within 30 days of receipt, except as permitted under subsection (g) of this section.
  - (9) Gifts of personal property valued at less than one hundred dollars (\$100.00) given to a public servant in the commission of the public servant's official duties if the gift is given to the public servant as a personal gift in another country as part of an overseas trade mission, and the giving and receiving of such personal gifts is considered a customary protocol in the other country.
  - (10) Gifts given or received as part of a business, civic, religious, fraternal, personal, or commercial relationship provided all of the following conditions are met:
    - a. The relationship is not related to the public servant's, legislator's, or legislative employee's public service or position.
    - b. The gift is made under circumstances that a reasonable person would conclude that the gift was not given to lobby.



- (11) Food and beverages for immediate consumption and related transportation provided all of the following conditions are met:
- a. The food, beverage, or transportation is given by a lobbyist principal and not a lobbyist.
  - b. The food, beverage, or transportation is provided during a conference, meeting, or similar event and is available to all attendees of the same class as the recipient.
  - c. The recipient of the food, beverage, or transportation is a director, officer, governing board member, employee, or independent contractor of one of the following:
    1. The lobbyist principal giving the food, beverage, or transportation.
    2. A third party that received the funds to purchase the food, beverages, or transportation.
- (12) Food and beverages for immediate consumption at an organized gathering of a person, the State, or a governmental unit to which a public servant is invited to attend for purposes primarily related to the public servant's public service or position, and to which at least 10 individuals, other than the public servant, or the public servant's immediate family, actually attend, or to which all shareholders, employees, board members, officers, members, or subscribers of the person or governmental unit who are located in a specific North Carolina office or county are notified and invited to attend.

(g) A prohibited gift that would constitute an expense appropriate for reimbursement by the public servant's employing entity if it had been incurred by the public servant personally shall be considered a gift accepted by or donated to the State, provided the public servant has been approved by the public servant's employing entity to accept or receive such things of value on behalf of the State. The fact that the employing entity's reimbursement rate for the type of expense is less than the value of a particular gift shall not render the gift prohibited.

(h) A prohibited gift shall be, and a permissible gift may be, promptly declined, returned, paid for at fair market value, or donated to charity or the State.

(i) A covered person or legislative employee shall not accept an honorarium from a source other than the employing entity for conducting any activity where any of the following apply:

- (1) The employing entity reimburses the covered person or legislative employee for travel, subsistence, and registration expenses.
- (2) The employing entity's work time or resources are used.
- (3) The activity would be considered official duty or would bear a reasonably close relationship to the covered person's or legislative employee's official duties.

An outside source may reimburse the employing entity for actual expenses incurred by a covered person or legislative employee in conducting an activity within the duties of the covered person or legislative employee, or may pay a fee to the employing entity, in lieu of an honorarium, for the services of the covered person or legislative employee. An honorarium permissible under this subsection shall not be considered a gift for purposes of subsection (c) of this section.

(j) Acceptance or solicitation of a gift in compliance with this section without corrupt intent shall not constitute a violation of the statutes related to bribery under G.S. 14-217, 14-218, or 120-86. (2006-201, s. 1; 2007-347, s. 11; 2007-348, ss. 15(b), 35-41(a); 2008-213, ss. 77(a), 78(a), 79-82, 90; 2009-549, s. 17; 2010-169, ss. 15(b), (c), 17(r); 2017-6, s. 3.)

**§ 163A-213. Other compensation.**

A public servant or legislative employee shall not solicit or receive personal financial gain, other than that received by the public servant or legislative employee from the State, or with the approval of the employing entity, for acting in the public servant's or legislative employee's official capacity, or for advice or assistance given in the course of carrying out the public servant's or legislative employee's duties. (2006-201, s. 1; 2017-6, s. 3.)

**§ 163A-214. Use of information for private gain.**

A public servant or legislative employee shall not use or disclose nonpublic information gained in the course of, or by reason of, the public servant's or legislative employee's official responsibilities in a way that would affect a personal financial interest of the public servant or legislative employee, a member of the public servant's or legislative employee's extended family, or a person or governmental unit with whom or business with which the public servant or legislative employee is associated. A public servant or legislative employee shall not improperly use or improperly disclose any confidential information. (2006-201, s. 1; 2008-213, s. 83; 2017-6, s. 3.)

**§ 163A-215. Other rules of conduct.**

(a) A public servant shall make a due and diligent effort before taking any action, including voting or participating in discussions with other public servants on a board on which the public servant also serves, to determine whether the public servant has a conflict of interest. If the public servant is unable to determine whether or not a conflict of interest may exist, the public servant has a duty to inquire of the State Board as to that conflict.

(b) A public servant shall continually monitor, evaluate, and manage the public servant's personal, financial, and professional affairs to ensure the absence of conflicts of interest.

(c) A public servant shall obey all other civil laws, administrative requirements, and criminal statutes governing conduct of State government applicable to appointees and employees. (2006-201, s. 1; 2017-6, s. 3.)

**§ 163A-216. Public servant participation in official actions.**

(a) Except as permitted by subsection (d) of this section and under G.S. 163A-218, no public servant acting in that capacity, authorized to perform an official action requiring the exercise of discretion, shall participate in an official action by the employing entity if the public servant knows the public servant or a person with which the public servant is associated may incur a reasonably foreseeable financial benefit from the matter under consideration, which financial benefit would impair the public servant's independence of judgment or from which it could reasonably be inferred that the financial benefit would influence the public servant's participation in the official action.

(b) A public servant described in subsection (a) of this section shall abstain from taking any verbal or written action in furtherance of the official action. The public servant shall submit in writing to the employing entity the reasons for the abstention. When the employing entity is a board, the abstention shall be recorded in the employing entity's minutes.

(c) A public servant shall take appropriate steps, under the particular circumstances and considering the type of proceeding involved, to remove himself or herself to the extent necessary, to protect the public interest and comply with this Subchapter from any proceeding in which the

public servant's impartiality might reasonably be questioned due to the public servant's familial, personal, or financial relationship with a participant in the proceeding. A participant includes (i) an owner, shareholder, partner, member or manager of a limited liability company, employee, agent, officer, or director of a business, organization, or group involved in the proceeding, or (ii) an organization or group that has petitioned for rule making or has some specific, unique, and substantial interest in the proceeding. Proceedings include quasi-judicial proceedings and quasi-legislative proceedings. A personal relationship includes one in a leadership or policy-making position in a business, organization, or group.

(d) If a public servant is uncertain about whether the relationship described in subsection (c) of this section justifies removing the public servant from the proceeding under subsection (c) of this section, the public servant shall disclose the relationship to the individual presiding over the proceeding and seek appropriate guidance. The presiding officer, in consultation with legal counsel if necessary, shall then determine the extent to which the public servant will be permitted to participate. If the affected public servant is the individual presiding, then the vice-chair or any other substitute presiding officer shall make the determination. A good-faith determination under this subsection of the allowable degree of participation by a public servant is presumptively valid and only subject to review under G.S. 163A-156 upon a clear and convincing showing of mistake, fraud, abuse of discretion, or willful disregard of this Subchapter.

(e) This section shall not allow participation in an official action prohibited by G.S. 14-234. (2006-201, s. 1; 2007-347, s. 12; 2007-348, s. 42; 2008-213, s. 84(a); 2017-6, s. 3.)

#### **§ 163A-217. Legislator participation in legislative actions.**

(a) Except as permitted under G.S. 163A-218, no legislator shall participate in a legislative action if the legislator knows the legislator or a person with which the legislator is associated may incur a reasonably foreseeable financial benefit from the action, and if after considering whether the legislator's judgment would be substantially influenced by the financial benefit and considering the need for the legislator's particular contribution, including special knowledge of the subject matter to the effective functioning of the legislature, the legislator concludes that an actual financial benefit does exist which would impair the legislator's independence of judgment.

(b) The legislator shall submit in writing to the principal clerk of the house of which the legislator is a member the reasons for the abstention from participation in the legislative matter.

(c) If the legislator has a material doubt as to whether the legislator should act, the legislator may submit the question for an advisory opinion to the State Board in accordance with G.S. 163A-157 or the Legislative Ethics Committee in accordance with G.S. 120-104. (2006-201, s. 1; 2007-347, s. 13; 2008-213, s. 84(b); 2010-169, s. 22(c); 2017-6, s. 3.)

#### **§ 163A-218. Permitted participation exception.**

(a) Notwithstanding G.S. 163A-216 and G.S. 163A-217, a covered person may participate in an official action or legislative action under any of the following circumstances except as specifically limited:

- (1) The only interest or reasonably foreseeable benefit or detriment that accrues to the covered person, the covered person's extended family, business with which the covered person is associated, or nonprofit corporation or organization with which the covered person is associated as a member of a profession, occupation, or general class is no greater than that which could reasonably be foreseen to accrue to all members of that profession, occupation, or general class.

- (2) When an official or legislative action affects or would affect the covered person's compensation and allowances as a covered person.
- (3) Before the covered person participated in the official or legislative action, the covered person requested and received from the State Board or Committee a written advisory opinion that authorized the participation. In authorizing the participation under this subdivision, the State Board or Committee shall consider the need for the legislator's particular contribution, such as special knowledge of the subject matter, to the effective functioning of the General Assembly.
- (4) Before participating in an official action, a public servant made full written disclosure to the public servant's employing entity which then made a written determination that the interest or benefit would neither impair the public servant's independence of judgment nor influence the public servant's participation in the official action. The employing entity shall file a copy of that written determination with the State Board.
- (5) When action is ministerial only and does not require the exercise of discretion.
- (6) When a public or legislative body records in its minutes that it cannot obtain a quorum in order to take the official or legislative action because the covered person is disqualified from acting under G.S. 163A-216, G.S. 163A-217, or this section, the covered person may be counted for purposes of a quorum, but shall otherwise abstain from taking any further action.
- (7) When a public servant notifies the State Board in writing that the public servant, or someone whom the public servant appoints to act in the public servant's stead, or both, are the only individuals having legal authority to take an official action, and the public servant discloses in writing the circumstances and nature of the conflict of interest.

(b) This section shall not allow participation in an official action prohibited by G.S. 14-234.

(c) Notwithstanding G.S. 163A-217, if a legislator is employed or retained by, or is an independent contractor of, a governmental unit, and the legislator is the only member of the house elected from the district where that governmental unit is located, then the legislator may take legislative action on behalf of that governmental unit provided the legislator discloses in writing to the principal clerk the nature of the relationship with the governmental unit prior to, or at the time of, taking the legislative action.

(d) Notwithstanding G.S. 163A-216, service by the president, chief financial officer, chief administrative officer, or voting member of the board of trustees of a community college as an officer, employee, or member of the board of directors of a nonprofit corporation established under G.S. 115D-20(9) to support the community college shall not constitute a conflict of interest under G.S. 163A-216, provided that the majority of the nonprofit corporation's board of directors is not comprised of the president, chief financial officer, and chief administrative officer, or voting members of the board of trustees of the community college which the nonprofit corporation was created to support. (2006-201, s. 1; 2007-347, s. 14; 2008-213, s. 85; 2010-169, s. 22(d); 2017-6, s. 3.)

#### **§ 163A-219. Disqualification to serve.**

(a) Within 30 days of notice of the State Board's determination that a public servant has a disqualifying conflict of interest, the public servant shall eliminate the interest that constitutes the disqualifying conflict of interest or resign from the public position.

(b) Failure by a public servant to comply with subsection (a) of this section is a violation of this Subchapter for purposes of G.S. 163A-415.

(c) A decision under this section shall be considered a final decision for contested case purposes under Article 3 of Chapter 150B of the General Statutes.

(d) As used in this section, a disqualifying conflict of interest is a conflict of interest of such significance that the conflict of interest would prevent a public servant from fulfilling a substantial function or portion of the public servant's public duties. (2006-201, s. 1; 2017-6, s. 3.)

**§ 163A-220. Employment and supervision of members of covered person's or legislative employee's extended family.**

A covered person or legislative employee shall not cause the employment, appointment, promotion, transfer, or advancement of an extended family member of the covered person or legislative employee to a State office, or a position to which the covered person or legislative employee supervises or manages, except for positions at the General Assembly as permitted under G.S. 120-32(2). A public servant or legislative employee shall not supervise, manage, or participate in an action relating to the discipline of a member of the public servant's or legislative employee's extended family, except as specifically authorized by the public servant's or legislative employee's employing entity. (2006-201, s. 1; 2007-347, s. 15; 2017-6, s. 3.)

**§ 163A-221. Other ethics standards.**

(a) Nothing in this Subchapter shall prevent the Supreme Court, the Committee, the Legislative Services Commission, constitutional officers of the State, heads of principal departments, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, or other boards from adopting additional or supplemental ethics standards applicable to that public agency's operations.

(b) The Governor, as a constitutional officer of the State, shall have the authority to adopt additional and supplemental ethics standards applicable to any appointee of the Governor to any State board, commission, council, committee, task force, authority, or similar public body, however denominated, created by statute or executive order, whether advisory or nonadvisory in authority. If the Governor adopts such ethics standards, the standards shall be published in the North Carolina Register and made available to each appointee subject to the ethics standards.

(c) The Governor, as a constitutional officer of the State, shall have the authority to adopt minimum ethics standards applicable to any employee of a State agency. If the Governor adopts such standards, the ethics standards shall be published in the North Carolina Register and made available to each employee subject to the ethics standards. (2006-201, s. 1; 2010-169, s. 14; 2017-6, s. 3.)

**§ 163A-222:** Reserved for future recodification.

**§ 163A-223:** Reserved for future recodification.

**§ 163A-224:** Reserved for future recodification.

§ 163A-225: Reserved for future recodification.

§ 163A-226: Reserved for future recodification.

§ 163A-227: Reserved for future recodification.

§ 163A-228: Reserved for future recodification.

§ 163A-229: Reserved for future recodification.

§ 163A-230: Reserved for future recodification.

§ 163A-231: Reserved for future recodification.

§ 163A-232: Reserved for future recodification.

§ 163A-233: Reserved for future recodification.

§ 163A-234: Reserved for future recodification.

§ 163A-235: Reserved for future recodification.

§ 163A-236: Reserved for future recodification.

§ 163A-237: Reserved for future recodification.

§ 163A-238: Reserved for future recodification.

§ 163A-239: Reserved for future recodification.

§ 163A-240: Reserved for future recodification.

§ 163A-241: Reserved for future recodification.

§ 163A-242: Reserved for future recodification.

§ 163A-243: Reserved for future recodification.

§ 163A-244: Reserved for future recodification.

§ 163A-245: Reserved for future recodification.

§ 163A-246: Reserved for future recodification.

§ 163A-247: Reserved for future recodification.

§ 163A-248: Reserved for future recodification.

§ 163A-249: Reserved for future recodification.

Article 8.

Lobbying.

Part 1. General Provisions.

§ 163A-250. **Definitions.**

(a) As used in this Part, the following terms mean:

(1) Reserved.

(3) Designated individual. – A legislator, legislative employee, or public servant.

(5) Executive action. – The preparation, research, drafting, development, consideration, modification, amendment, adoption, approval, tabling, postponement, defeat, or rejection of a policy, guideline, request for proposal, procedure, regulation, or rule by a public servant purporting to act in an official capacity. This term does not include any of the following:

a. Present, prior, or possible proceedings of a contested case hearing under Chapter 150B of the General Statutes, of a judicial nature, or of a quasi-judicial nature.

b. A public servant's communication with a person, or another person on that person's behalf, with respect to any of the following:

1. Applying for a permit, license, determination of eligibility, or certification.

2. Making an inquiry about or asserting a benefit, claim, right, obligation, duty, entitlement, payment, or penalty.

3. Making an inquiry about or responding to a request for proposal made under Chapter 143 of the General Statutes.

4. Ratemaking.

c. Internal administrative functions, including those functions exempted from the definition of "rule" in G.S. 150B-2(8a).

d. Ministerial functions.

e. A public servant's communication with a person or another person on that person's behalf with respect to public comments made at an open meeting, or submitted as written comment, on a proposed executive action in response to a request for public comment, provided the identity of the person on whose behalf the comments are made is disclosed as part of the public participation, and no reportable expenditure is made.

(7) In session. – One of the following:

a. The General Assembly is in extra session from the date the General Assembly convenes until the General Assembly:

1. Adjourns sine die.

2. Recesses or adjourns for more than 10 days.

- b. The General Assembly is in regular session from the date set by law or resolution that the General Assembly convenes until the General Assembly:
  - 1. Adjourns sine die.
  - 2. Recesses or adjourns for more than 10 days.
- (9) Legislative action. – The preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter, whether or not the matter is identified by an official title, general title, or other specific reference, by a legislator or legislative employee acting or purporting to act in an official capacity. It also includes the consideration of any bill by the Governor for the Governor's approval or veto under Article II, Section 22(1) of the Constitution or for the Governor to allow the bill to become law under Article II, Section 22(7) of the Constitution.
- (11) Legislative employee. – Employees and officers of the General Assembly, consultants and counsel to committees of either house of the General Assembly or of legislative commissions, who are paid by State funds, and students at an accredited law school while in an externship program at the General Assembly approved by the Legislative Services Commission, but not including legislators, members of the Council of State, nonsupervisory employees of the Administrative Division's Facility Maintenance and Food Services staff, or pages.
- (13) Legislator. – As defined in G.S. 163A-152 and G.S. 163A-254.
- (15) Liaison personnel. – Any State employee, counsel employed under G.S. 147-17, or officer whose principal duties, in practice or as set forth in that individual's job description, include lobbying legislators or legislative employees.
- (17) Lobby or Lobbying. – Any of the following:
  - a. Influencing or attempting to influence legislative or executive action, or both, through direct communication or activities with a designated individual or that designated individual's immediate family.
  - b. Developing goodwill through communications or activities, including the building of relationships, with a designated individual or that designated individual's immediate family with the intention of influencing current or future legislative or executive action, or both.

The terms "lobby" or "lobbying" do not include communications or activities as part of a business, civic, religious, fraternal, personal, or commercial relationship which is not connected to legislative or executive action, or both.
- (19) Lobbyist. – An individual who engages in lobbying for payment and meets any of the following criteria:
  - a. Represents another person or governmental unit, but is not directly employed by that person or governmental unit.
  - b. Contracts for payment for lobbying.
  - c. Is employed by a person and a significant part of that employee's duties include lobbying. In no case shall an employee be considered a lobbyist



if in no 30-day period less than five percent (5%) of that employee's actual duties include engaging in lobbying as defined in subdivision (17)a. of this section or if in no 30-day period less than five percent (5%) of that employee's actual duties include engaging in lobbying as defined in subdivision (17)b. of this section.

The term "lobbyist" shall not include individuals who are specifically exempted from this Article by G.S. 163A-365 or registered as liaison personnel under Part 5 of this Article.

- (21) Lobbyist principal and principal. – The person or governmental unit on whose behalf the lobbyist lobbies and who makes payment for the lobbying. In the case where a lobbyist is paid by a law firm, consulting firm, or other entity retained by a person or governmental unit for lobbying, the principal is the person or governmental unit whose interests the lobbyist represents in lobbying. In the case of a lobbyist employed or retained by an association or other organization, the lobbyist principal is the association or other organization, not the individual members of the association or other organization.

The term "lobbyist principal" shall not include those designating registered liaison personnel under Part 5 of this Article.

- (22) through (31) Reserved for future codification purposes.
- (32) Payment. – Any money, thing of value, or economic benefit conveyed to the lobbyist for lobbying, other than reimbursement of actual travel, administrative expenses, or subsistence.
- (34) Reportable expenditure. – Any of the following that directly or indirectly is made to, at the request of, for the benefit of, or on the behalf of a designated individual or that individual's immediate family member:
- a. Any advance, contribution, conveyance, deposit, distribution, payment, gift, retainer, fee, salary, honorarium, reimbursement, loan, pledge, or thing of value greater than ten dollars (\$10.00) per designated individual per single calendar day.
  - b. A contract, agreement, promise, or other obligation whether or not legally enforceable.
- (36) Solicitation of others. – A solicitation of members of the public to communicate directly with or contact one or more designated individuals to influence or attempt to influence legislative or executive action to further the solicitor's position on that legislative or executive action, when that request is made by any of the following methods:
- a. A broadcast, cable, or satellite transmission.
  - b. An e-mail communication or a Web site posting.
  - c. A communication delivered by print media as defined in G.S. 163A-1475.
  - d. A letter or other written communication delivered by mail or by comparable delivery service.
  - e. Telephone.
  - f. A communication at a conference, meeting, or similar event.

The term "solicitation of others" does not include communications made by a person or by the person's agent to that person's stockholders, employees, board

members, officers, members, subscribers, or other recipients who have affirmatively assented to receive the person's regular publications or notices.

(b) Except as otherwise defined in this section, the definitions in Article 5 of this Chapter apply in this Article. (1933, c. 11, s. 1; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2001-424, s. 6.10(b); 2005-456, s. 1.; 2006-201, s. 18; 2007-347, s. 6(b); 2007-348, ss. 7, 8(a), (b); 2008-213, ss. 4-8, 90; 2009-129, s. 3; 2010-169, ss. 17(a)-(e); 2017-6, s. 3.)

### **§ 163A-251. Rules and forms.**

(a) The State Board shall adopt any rules or definitions necessary to interpret the provisions of this Article and adopt any rules necessary to administer the provisions of this Article.

(b) With respect to the forms adopted under subsection (a) of this section, the State Board shall adopt rules to protect from disclosure all confidential information under Chapter 132 of the General Statutes related to economic development initiatives or to industrial or business recruitment activities. The information shall remain confidential until the State, a unit of local government, or the business has announced a commitment by the business to expand or locate a specific project in this State or a final decision not to do so, and the business has communicated that commitment or decision to the State or local government agency involved with the project.

(c) In adopting rules under this Article, the State Board is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes, except that the State Board shall comply with G.S. 150B-21.2(d). At least 30 business days prior to adopting a rule, the State Board shall:

- (1) Publish the proposed rules in the North Carolina Register.
- (2) Submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet to be posted within five business days.
- (3) Notify those on the mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a rule and of the public hearing.
- (4) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.
- (5) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

A rule adopted under this subsection becomes effective the first day of the month following the month the final rule is submitted to the Codifier of Rules for entry into the North Carolina Administrative Code, and applies prospectively. A rule adopted by the State Board that does not comply with the procedural requirements of this subsection shall be null, void, and without effect. For purposes of this subsection, a rule is any State Board regulation, standard, or statement of general applicability that interprets an enactment by the General Assembly or Congress, or a regulation adopted by a federal agency, or that describes the procedure or practice requirements of the State Board. (1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 9; 2008-213, s. 9; 2010-169, s. 16; 2016-125, 4th Ex. Sess., s. 4; 2017-6, ss. 2, 3, 6.)

### **§ 163A-252. Request for advice.**

(a) At the request of any person, State agency, or governmental unit affected by this Article, the State Board shall render advice on specific questions involving the meaning and application of this Article and that person's, State agency's, or any governmental unit's compliance

therewith. Requests for advice and advice rendered in response to those requests shall relate to real or reasonably anticipated fact settings or circumstances.

(b) A request for a formal opinion under subsection (a) of this section shall be in writing, electronic or otherwise. The State Board shall issue formal advisory opinions having prospective application only. An individual, State agency, or governmental unit who relies upon the advice provided to that individual, State agency, or governmental unit on a specific matter addressed by a requested formal advisory opinion shall be immune from all of the following:

- (1) Investigation by the State Board.
- (2) Any adverse action by the employing entity.

(c) Staff to the State Board may issue advice, but not formal advisory opinions, under procedures adopted by the State Board.

(d) The State Board shall publish its formal advisory opinions within 30 days of issuance, edited as necessary to protect the identities of the individuals requesting opinions.

(e) Except as provided under subsection (d) of this section, a request for advice, any advice provided by State Board staff, any formal advisory opinions, any supporting documents submitted or caused to be submitted to the State Board or State Board staff, and any documents prepared or collected by the State Board or the State Board staff in connection with a request for advice are confidential. The identity of the individual, State agency, or governmental unit making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual, State agency, or governmental unit who requests advice or receives advice, including a formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice, any advice, and any documents related to requests for advice are not "public records" as defined in G.S. 132-1.

(f) Requests for advisory opinions may be withdrawn by the requestor at any time prior to the issuance of a formal advisory opinion. (2006-201, s. 18; 2007-348, s. 10; 2008-213, s. 2(c); 2009-570, s. 14; 2016-125, 4th Ex. Sess., s. 4; 2017-6, ss. 2, 3, 6.)

### **§ 163A-253. Lobbying education program; newsletter; resource collection.**

(a) The State Board shall develop and implement a lobbying education and awareness program designed to instill in all designated individuals, lobbyists, and lobbyists' principals a keen and continuing awareness of their obligations and sensitivity to situations that might result in real or potential violation of this Article or other related laws. The State Board shall make basic lobbying education and awareness presentations to all designated individuals upon their election, appointment, or hiring and shall offer periodic refresher presentations as the State Board deems appropriate. Every designated individual shall participate in a lobbying presentation approved by the State Board within six months of the designated individual's election, appointment, or hiring and shall attend refresher lobbying education presentations at least every two years thereafter in a manner the State Board deems appropriate. The State Board shall also make lobbying education and awareness programs available to lobbyists and lobbyists' principals. Upon request, the State Board shall assist each agency in developing in-house education programs and procedures necessary or desirable to meet the agency's particular needs for lobbying education.

(b) A designated individual appointed to a board determined and designated as nonadvisory under G.S. 163A-154(a)(3) by the State Board shall attend lobbying education and

awareness programs within six months of notification of the designation by the State Board and at least every two years thereafter in a manner as the State Board deems appropriate.

(c) The State Board shall publish a newsletter containing summaries of the advisory opinions, policies, procedures, and interpretive bulletins as issued from time to time, but no less than once per year. The newsletter shall be distributed to all designated individuals, lobbyists, and lobbyists' principals. Publication under this subsection may be done electronically.

(d) The State Board shall assemble and maintain a collection of relevant State laws, rules, and regulations that set forth lobbying standards applicable to designated individuals. The collection of laws, rules, and regulations shall be made available electronically as resource material to designated individuals, lobbyists, and lobbyists' principals upon request. (2006-201, s. 18; 2008-213, s. 11; 2009-549, s. 2; 2017-6, s. 3.)

**§ 163A-254. Article applies to candidates for certain offices.**

For purposes of this Article, the term "legislator" as defined in G.S. 163A-250(13) and the term "public servant" as defined in G.S. 163A-152(70)a. shall include an individual having filed a notice of candidacy for such office under G.S. 163A-972 or Part 2 of Article 19 of this Chapter or nominated under G.S. 163A-987 or G.S. 163A-953. (2006-201, s. 18; 2008-213, s. 12; 2017-6, s. 3.)

**§ 163A-255:** Reserved for future recodification.

**§ 163A-256:** Reserved for future recodification.

**§ 163A-257:** Reserved for future recodification.

**§ 163A-258:** Reserved for future recodification.

**§ 163A-259:** Reserved for future recodification.

**§ 163A-260:** Reserved for future recodification.

**§ 163A-261:** Reserved for future recodification.

**§ 163A-262:** Reserved for future recodification.

**§ 163A-263:** Reserved for future recodification.

**§ 163A-264:** Reserved for future recodification.

**§ 163A-265:** Reserved for future recodification.

**§ 163A-266:** Reserved for future recodification.

**§ 163A-267:** Reserved for future recodification.

**§ 163A-268:** Reserved for future recodification.

§ 163A-269: Reserved for future recodification.

## Part 2. Registration.

### § 163A-270. Lobbyist registration procedure.

(a) A lobbyist shall file a separate registration statement for each principal the lobbyist represents with the State Board before engaging in any lobbying. It shall be unlawful for an individual to lobby without registering within one business day of engaging in any lobbying as defined in G.S. 163A-250(a)(17) unless exempted by this Article.

(b) The form of the registration shall be prescribed by the State Board, be filed electronically, and shall include the registrant's full name, firm, complete address, and telephone number; the registrant's place of business; the full name, complete address, and telephone number of each principal the lobbyist represents; and a general description of the matters on which the registrant expects to act as a lobbyist.

(c) Each lobbyist shall electronically file an amended registration form with the State Board no later than 10 business days after any change in the information supplied in the lobbyist's last registration under subsection (b) of this section. Each supplementary registration shall include a complete statement of the information that has changed.

(d) Unless a resignation is filed under G.S. 163A-280, each registration statement of a lobbyist required under this Article shall be effective from the date of filing until January 1 of the following year. The lobbyist shall file a new registration statement after that date, and the applicable fee shall be due and payable.

(e) Each lobbyist shall identify himself or herself as a lobbyist prior to engaging in lobbying communications or activities with a designated individual. The lobbyist shall also disclose the identity of the lobbyist principal connected to that lobbying communication or activity.

(f) In addition to the information required for registration under subsection (b) of this section, former employees of a State agency who register as a lobbyist within six months after voluntary separation or separation for cause from employment with a State agency shall also indicate which State agency with which the former employee was employed. (1933, c. 11, s. 2; 1973, c. 1451; 1975, c. 820, s. 1; 1983, c. 713, s. 51; 1991, c. 740, s. 1.1; 2004-203, s. 50(a); 2006-201, s. 18; 2008-213, ss. 13, 90; 2009-549, s. 3; 2010-169, s. 4(c); 2013-360, s. 27.1(c); 2017-6, s. 3.)

### § 163A-271. Lobbyist's registration fee.

A fee of two hundred fifty dollars (\$250.00) is due and payable to the State Board at the time of each lobbyist registration. Fees so collected shall be deposited in the General Fund of the State. The fees required under this section shall be paid electronically. (1975, c. 852, s. 1; 1983, c. 713, s. 50; 1991, c. 740, s. 1.1; 2002-126, s. 29A.33; 2005-456, s. 1; 2006-201, s. 18; 2013-360, s. 27.1(a), (d); 2017-6, s. 3.)

§ 163A-272: Reserved for future codification purposes.

§ 163A-273: Reserved for future codification purposes.

§ 163A-274: Reserved for future codification purposes.

§ 163A-275: Reserved for future codification purposes.

**§ 163A-276. Lobbyist principal's authorization.**

(a) A written authorization signed by the lobbyist principal authorizing the lobbyist to represent the principal shall be filed with the State Board within 20 business days after the lobbyist's registration. If the written authorization is filed more than 20 business days after the lobbyist's registration and before January 1 of the following year, the lobbyist registration is effective from the date of filing of the lobbyist registration and all reports due under Part 4 of this Article shall be filed.

(b) The form of the written authorization shall be prescribed by the State Board, be filed electronically, and shall include the lobbyist principal's full name, complete address, and telephone number, name and title of any official authorized to sign for the lobbyist principal, and the name of each lobbyist registered to represent that principal.

(c) An amended authorization shall be electronically filed with the State Board no later than 10 business days after any change in the information on the principal's authorization. Each supplementary authorization shall include a complete statement of the information that has changed. (1933, c. 11, s. 4; 1961, c. 1151; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2007-347, s. 4; 2008-213, s. 90; 2009-549, s. 4; 2013-360, s. 27.1(e); 2017-6, s. 3.)

**§ 163A-277. Lobbyist principal's fees.**

A fee of two hundred fifty dollars (\$250.00) is due and payable to the State Board at the time the principal's first authorization statement is filed each calendar year for a lobbyist. Fees so collected shall be deposited in the General Fund of the State. The fees required under this section shall be paid electronically. (1933, c. 11, s. 4; 1961, c. 1151; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 90; 2013-360, s. 27.1(b), (f); 2017-6, s. 3.)

§ 163A-278: Reserved for future codification purposes.

§ 163A-279: Reserved for future codification purposes.

**§ 163A-280. Resignation and termination.**

(a) A registration of a lobbyist under G.S. 163A-270 and the written authorization of that lobbyist principal under G.S. 163A-276 are terminated upon the filing of either a lobbyist resignation or a principal termination with the State Board, whichever occurs first.

(b) Lobbyist resignations and lobbyist principal terminations are effective upon filing. (2009-549, s. 5; 2017-6, s. 3.)

§ 163A-281: Reserved for future codification purposes.

§ 163A-282: Reserved for future codification purposes.

§ 163A-283: Reserved for future codification purposes.

§ 163A-284: Reserved for future codification purposes.

**§ 163A-285. Other persons required to register.**

(a) A person not otherwise required to register under this Article shall register and report when the total expense incurred for solicitation of others exceeds three thousand dollars (\$3,000) during any 90-day period. Expenses incurred shall mean the costs of producing and transmitting the communication and, if the communication is made at a conference, meeting, or similar event, the costs of planning, hosting, sponsoring, and attending the conference, meeting, or similar event.

(b) A person required to register and report under this section shall be referred to as a "solicitor" for purposes of this Article.

(c) No fee shall be charged for registering as a solicitor.

(d) For purposes of this section, "incur" means the point at which a binding obligation arises. (2006-201, s. 18; 2007-348, s. 11; 2017-6, s. 3.)

**§ 163A-286:** Reserved for future codification purposes.

**§ 163A-287:** Reserved for future codification purposes.

**§ 163A-288:** Reserved for future codification purposes.

**§ 163A-289:** Reserved for future codification purposes.

**§ 163A-290. Publication and availability of registrations.**

(a) The State Board shall make available as soon as practicable the registrations of the lobbyists and liaison personnel in an electronic, searchable format.

(b) The State Board shall make available as soon as practicable the authorizations of the lobbyists' principals in an electronic, searchable format.

(c) The State Board shall make available as soon as practicable the registrations of other persons required by this Article to file a registration in an electronic, searchable format.

(d) Within 20 days after the convening of each session of the General Assembly, the State Board shall furnish each designated individual and the State Legislative Library a list of all persons who have registered as lobbyists and whom they represent. A supplemental list of lobbyists shall be furnished periodically every 20 days while the General Assembly is in session and every 60 days thereafter. For each special session of the General Assembly, a supplemental list of lobbyists shall be furnished to the State Legislative Library.

(e) All lists required by this section may be furnished electronically. (2006-201, s. 18; 2008-213, s. 15; 2017-6, s. 3.)

**§ 163A-291:** Reserved for future codification purposes.

**§ 163A-292:** Reserved for future codification purposes.

**§ 163A-293:** Reserved for future codification purposes.

**§ 163A-294:** Reserved for future codification purposes.

**§ 163A-295:** Reserved for future codification purposes.

§ 163A-296: Reserved for future codification purposes.

§ 163A-297: Reserved for future codification purposes.

§ 163A-298: Reserved for future codification purposes.

§ 163A-299: Reserved for future codification purposes.

§ 163A-300: Reserved for future codification purposes.

§ 163A-301: Reserved for future codification purposes.

§ 163A-302: Reserved for future codification purposes.

§ 163A-303: Reserved for future codification purposes.

§ 163A-304: Reserved for future codification purposes.

### Part 3. Prohibitions and Restrictions.

#### § 163A-305. Contingency fees prohibited.

(a) No individual shall act as a lobbyist and receive payment for lobbying that is dependent upon the result or outcome of any legislative or executive action.

(b) This section shall not apply to an individual doing business with the State who is engaged in sales with respect to that business with the State whose regular remuneration agreement includes commissions based on those sales. For purposes of this subsection, the term "regular remuneration" means any money, thing of value, or economic benefit conferred on or received by the individual in return for services rendered or to be rendered by that individual or another.

(c) Any payment to a lobbyist in violation of this section is subject to forfeiture and shall be paid into the Civil Penalty and Forfeiture Fund. (1933, c. 11, s. 3; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 16; 2010-169, s. 17(f); 2017-6, s. 3.)

#### § 163A-306. Election influence prohibited.

(a) No person shall attempt to influence the action of any designated individual by the promise of financial support of the designated individual's candidacy, or by threat of financial support in opposition to the designated individual's candidacy in any future election.

(b) No lobbyist, lobbyist principal, or other person required to register under this Article shall attempt to influence the action of any designated individual by the promise of financial support of the designated individual's candidacy, or by threat of financial support in opposition to the designated individual's candidacy in any future election. (1933, c. 11, s. 3; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 90; 2017-6, s. 3.)

#### § 163A-307. Gifts by lobbyists and lobbyist principals prohibited.

(a) Except as provided in subsection (b) of this section, no lobbyist or lobbyist principal may do any of the following:

(1) Knowingly give a gift to a designated individual.



- (2) Knowingly give a gift with the intent that a designated individual be an ultimate recipient.
- (b) Subsection (a) of this section shall not apply to gifts as described in G.S. 163A-212(f).
- (c) The offering or giving of a gift in compliance with this Article without corrupt intent shall not constitute a violation of the statutes related to bribery under G.S. 14-217, 14-218, or 120-86, but shall be subject to civil fines under G.S. 163A-397(b).
- (d) Gifts made to a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization, shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 163A-212(c).
- (e) Gifts made to a nonpartisan state, regional, national, or international organization of which a public servant's agency is a member or a public servant is a member or participant of by virtue of that public servant's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization, shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 163A-212(c). (2006-201, s. 18; 2007-348, s. 12(a), (b); 2008-213, ss. 17-19, 90; 2010-169, s. 15(a); 2017-6, s. 3.)

#### **§ 163A-308. Restrictions.**

- (a) No legislator or former legislator may register as a lobbyist under this Article:
- (1) While in office.
  - (2) Before the later of the close of session as set forth in G.S. 163A-250(a)(7)b.1 in which the legislator served or six months after leaving office.
- (b) No public servant or former public servant as defined in G.S. 163A-152(70)a. may register as a lobbyist under this Article while in office or within six months after leaving office.
- (c) No public servant or former public servant as defined in G.S. 163A-152(70)c. may register as a lobbyist under this Article within six months after separation from employment as a public servant. No other employee of any State agency may register as a lobbyist under this Article to lobby the State agency that previously employed the former employee within six months after voluntary separation or separation for cause from that State agency.
- (d) No individual registered as a lobbyist under this Article shall serve as a treasurer as defined in G.S. 163A-1411(95) or an assistant campaign treasurer for a political committee for the election of a member of the General Assembly or a Constitutional officer of the State.
- (e) A lobbyist shall not be eligible for appointment by a State official to, or service on, any body created under the laws of this State that has regulatory authority over the activities of a person or governmental unit that the lobbyist currently represents or has represented within 120 days after the expiration of the lobbyist's registration representing that person or governmental unit. Nothing herein shall be construed to prohibit appointment by any unit of local government.
- (f) Any appointment or registration made in violation of this section shall be void. (2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 13(a); 2008-213, ss. 20, 21; 2010-169, ss. 4(a), (b); 2017-6, s. 3.)

#### **§ 163A-309. Prohibition on the use of cash or credit of the lobbyist.**

No lobbyist or another acting on the lobbyist's behalf shall lobby by permitting a designated individual, or that designated individual's immediate family member, to use the cash or credit of

the lobbyist unless the lobbyist is in attendance at the time of the reportable expenditure. G.S. 163A-307 applies to this section. (2006-201, s. 18; 2008-213, s. 22; 2010-169, s. 17(g); 2017-6, s. 3.)

§ 163A-310: Reserved for future codification purposes.

§ 163A-311: Reserved for future codification purposes.

§ 163A-312: Reserved for future codification purposes.

§ 163A-313: Reserved for future codification purposes.

§ 163A-314: Reserved for future codification purposes.

§ 163A-315: Reserved for future codification purposes.

§ 163A-316: Reserved for future codification purposes.

§ 163A-317: Reserved for future codification purposes.

§ 163A-318: Reserved for future codification purposes.

§ 163A-319: Reserved for future codification purposes.

§ 163A-320: Reserved for future codification purposes.

§ 163A-321: Reserved for future codification purposes.

§ 163A-322: Reserved for future codification purposes.

§ 163A-323: Reserved for future codification purposes.

§ 163A-324: Reserved for future codification purposes.

#### Part 4. Reporting.

##### § 163A-325. Reporting of reportable expenditures.

(a) For purposes of this Article, all reportable expenditures made for lobbying shall be reported, including the following:

- (1) Reportable expenditures benefiting or made on behalf of a designated individual in the regular course of that designated individual's employment.
- (2) Reportable expenditures benefiting or made on behalf of a designated individual's immediate family member in the regular course of that immediate family member's employment.
- (3) Contractual arrangements or direct business relationships between a lobbyist or lobbyist principal and a designated individual, or that designated individual's

immediate family member, in effect during the reporting period or the previous 12 months.

- (4) Reportable expenditures reimbursed to a lobbyist in the ordinary course of business by the lobbyist principal or other employer.

(b) This section shall not apply to any reportable expenditure of cash, a cash equivalent, or a fixed asset made directly to a State agency that maintains an accounting of the reportable expenditure that is a public record. (2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 14; 2008-213, ss. 23, 90; 2010-169, s. 17(h); 2017-6, s. 3.)

**§ 163A-326. Reporting generally.**

(a) Reports shall be filed whether or not reportable expenditures are made and shall be due 15 business days after the end of the reporting period.

(b) For reportable expenditures, each report shall set forth all of the following:

- (1) The fair market value or face value if shown.
- (2) The date of the reportable expenditure.
- (3) A description of the reportable expenditure.
- (4) The name and address of the payee or beneficiary.
- (5) The name of any designated individual or that designated individual's immediate family member connected with the reportable expenditure.

(c) For purposes of subdivision (b)(5) of this section, when more than 15 designated individuals benefit from or request a reportable expenditure, no names of individuals need be reported provided that the report identifies the approximate number of designated individuals benefiting or requesting and the basis for their selection, including the name of the legislative body, committee, caucus, or other group whose membership list is a matter of public record in accordance with G.S. 132-1 or including a description of the group that clearly distinguishes its purpose or composition from the general membership of the General Assembly. The approximate number of immediate family members of designated individuals who benefited from the reportable expenditure shall be listed separately.

(d) For purposes of subdivision (b)(5) of this section, when the reportable expenditure is a gift given with the intent that a designated individual be the ultimate recipient and the lobbyist or lobbyist principal does not know the name or names of the designated individuals, the lobbyist or lobbyist principal shall report a description of the designated individuals and those designated individuals' immediate family members connected with the reportable expenditure that clearly distinguishes its purpose or composition, and an approximate number, if known.

(e) Reportable expenditures shall be reported using the following categories:

- (1) Transportation and lodging.
- (2) Entertainment.
- (3) Food and beverages.
- (4) Meetings and events.
- (5) Gifts.
- (6) Other reportable expenditures.

(f) Each report required by this Part shall be in the form prescribed by the State Board and filed electronically.

(g) When any report as required by this Part is not filed, the State Board shall send a certified letter, return receipt requested, advising the lobbyist, lobbyist principal, or other person required to report of the delinquency and the penalties provided by law. A late filing fee of fifty

dollars (\$50.00) per day, commencing on the tenth business day after the date the certified letter is received, applies to a report that is not timely filed. The cumulative late filing fee may not exceed five hundred dollars (\$500.00). Within 20 days of the receipt of the letter, the report shall be delivered or posted by United States mail to the State Board together with the late filing fee. Filing of the required report and payment of the additional fee within the time extended shall constitute compliance with this section.

(h) Failure to file a required report in one of the manners prescribed in this section shall void any and all registrations of the lobbyist, lobbyist principal, or solicitor. No lobbyist, lobbyist principal, or solicitor may register or reregister until full compliance with this section has occurred.

(i) Appeal of a decision by the State Board under this section shall be in accordance with Article 3 of Chapter 150B of the General Statutes.

(j) The State Board may adopt rules to facilitate complete and timely disclosure of required reporting, including additional categories of information, and to protect the addresses of payees under protective order issued pursuant to Chapter 50B of the General Statutes or participating in the Address Confidentiality Program pursuant to Chapter 15C of the General Statutes. The State Board shall not impose any penalties or late filing fees upon a lobbyist, lobbyist principal, or solicitor for subsequent failures to comply with the requirements of this section if the State Board failed to provide the required notification under subsection (g) of this section.

(k) Any reportable expenditure promptly paid for at fair market value or promptly returned to a lobbyist or lobbyist principal by a designated individual or a member of the designated individual's immediate family within the reporting period shall not be reported under G.S. 163A-327 or G.S. 163A-328, and if reported, the repayment or return of the expenditure at any time shall be reported by the lobbyist and lobbyist principal on the next report due under this Part.

(l) The State Board shall make available a report form that may be filed by a designated individual or a member of the designated individual's immediate family who promptly declines, returns, pays fair market value for, or donates a reportable expenditure in accordance with G.S. 163A-212(h). The State Board shall index the filing of this form together with the lobbyist or lobbyist principal who gave the reportable expenditure. (1933, c. 11, s. 5; 1973, c. 108, s. 70; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1991 (Reg. Sess., 1992), c. 1030, s. 51.9; 1999-338, s. 1; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 15(a); 2008-213, ss. 24, 25, 90; 2009-477, s. 1; 2009-549, s. 7(a); 2013-360, s. 27.1(g); 2017-6, s. 3.)

### **§ 163A-327. Lobbyist's reports.**

(a) Each lobbyist shall file quarterly reports under oath with the State Board with respect to each lobbyist principal.

(b) The report shall include all of the following for the reporting period:

- (1) All reportable expenditures made for lobbying.
- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000).
- (3) Reportable expenditures reimbursed by the lobbyist principal, or another person or governmental unit on the lobbyist principal's behalf.
- (4) All reportable expenditures for gifts given under G.S. 163A-212(f)(1)-(9), 163A-212(f)(11), 163A-212(f)(12), and all gifts given under G.S. 163A-212(f)(10) with a value of more than ten dollars (\$10.00).

(c) In addition to the reports required by this section, each lobbyist incurring reportable expenditures in any month while the General Assembly is in session with respect to lobbying legislators and legislative employees shall file a monthly reportable expenditure report. The monthly reportable expenditure report shall contain information required by this section with respect to all lobbying of legislators and legislative employees, and is due within 10 business days after the end of the month. The information on the monthly reportable expenditure report shall also be included in each quarterly report required by subsection (a) of this section. (1933, c. 11, s. 5; 1973, c. 108, s. 70; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1991 (Reg. Sess., 1992), c. 1030, s. 51.9; 1999-338, s. 1; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 41(b); 2008-213, ss. 27, 90; 2010-169, s. 17(i); 2017-6, s. 3.)

**§ 163A-328. Lobbyist principal's reports.**

(a) Each lobbyist principal shall file quarterly reports under oath with the State Board with respect to each lobbyist principal.

(b) The report shall be filed whether or not reportable expenditures are made, shall be due 15 business days after the end of the reporting period, and shall include all of the following for the reporting period:

- (1) All reportable expenditures made for lobbying.
- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000).
- (3) With respect to each lobbyist registered under G.S. 163A-276, reportable expenditures reimbursed or paid to lobbyists for lobbying that are not reported on the lobbyist's report, with an itemized description of those reportable expenditures.
- (4) All reportable expenditures for gifts given under G.S. 163A-212(f)(1)-(9), 163A-212(f)(11), 163A-212(f)(12), and all gifts given under G.S. 163A-212(f)(10) with a value of more than two hundred dollars (\$200.00).
- (5) With respect to each lobbyist registered under G.S. 163A-276, the name of each person or governmental unit not otherwise registered as a lobbyist principal for whom the lobbyist principal directs the lobbyist to lobby, whether for pay or not. If the lobbyist principal is an association or other organization, the lobbyist principal shall not be required to report under this subdivision any individual member of the association or other organization for which the lobbyist is directed to lobby by that lobbyist principal.

(c) In addition to the reports required by this section, each lobbyist principal incurring reportable expenditures in any month while the General Assembly is in session with respect to lobbying legislators and legislative employees shall file a monthly reportable expenditure report. The monthly reportable expenditure report shall contain information required by this section with respect to all lobbying of legislators and legislative employees, and is due within 10 business days after the end of the month. The information on the monthly report shall also be included in each quarterly report required by subsection (a) of this section.

(d) In addition to the reports required by this section, each lobbyist principal shall annually, in the last report for the registration period under G.S. 163A-270(d), report the cumulative combined total of all payments made during the registration period for all of the following:

- (1) All payments for lobbying.
- (2) Activities as described in subdivision (g)(2) of this section.

(e) The cumulative combined total of payments reported under subsection (d) of this section made during the registration period, as applicable:

- (1) If a lobbyist represents the lobbyist principal, but is not directly employed by that lobbyist principal, the portion of the payment that is for lobbying and to whom it was paid.
- (2) If a lobbyist is under contract with the lobbyist principal for lobbying, the portion of the contract that is reasonably allocated for lobbying.
- (3) If a lobbyist is a full-time employee of the principal, or is paid by means of an annual fee or retainer, the principal shall estimate and report the portion of the salary, fee, or retainer salary that is reasonably allocated for lobbying.

(f) Notwithstanding any other provision of this Part, the cumulative combined total of all payments for lobbying and other activities made by the principal to all lobbyists registered for that lobbyist principal shall be reported as one cumulative amount with no further division or allocation by individual lobbyist, activity, or any other categorization.

(g) For purposes of subsection (d) of this section, the following shall apply:

- (1) A lobbyist principal may rely upon a statement by the lobbyist estimating the portion of the salary or other payment that is reasonably allocated for lobbying.
- (2) In addition to reporting any payment to a lobbyist for lobbying under subsection (d) of this section, a lobbyist principal shall report, cumulatively for the year, any payment to a lobbyist for any of the following communications and activities that were used to lobby within the registration period under G.S. 163A-270(d):
  - a. Research.
  - b. Drafting of written communications.
  - c. Monitoring of proposed or pending legislative action or executive action, including time spent preparing communications with the lobbyist principal to relate information on proposed or pending legislative action or executive action.
  - d. Time spent advising and rendering opinions to the lobbyist principal as to the construction and effect of proposed or pending legislative action or executive action.
- (3) A lobbyist principal is required to report any payment to a lobbyist for any of the following:
  - a. Direct lobbying communications or direct lobbying activities with a designated individual or that designated individual's immediate family.
  - b. Communications or activities to develop goodwill, including the building of relationships, with a designated individual or that designated individual's immediate family member. (1933, c. 11, s. 5; 1973, c. 108, s. 70; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1991 (Reg. Sess., 1992), c. 1030, s. 51.10; 1999-338, s. 2; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 41(c); 2008-213, ss. 29(a), 90; 2010-169, s. 17(j); 2011-393, s. 2; 2017-6, s. 3.)

#### **§ 163A-329. Solicitor's reports.**

- (a) Each solicitor shall file quarterly reports under oath with the State Board.
- (b) The report shall include all of the following:

- (1) All reportable expenditures made for lobbying during the reporting period.
- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000). (2006-201, s. 18; 2010-169, s. 17(k); 2017-6, s. 3.)

**§ 163A-330. Report availability.**

- (a) All reports filed under this Article shall be open to public inspection upon filing.
- (b) The State Board shall coordinate with the State Board to create a searchable Web-based database of reports filed under this Article and reports filed under Articles 22 through 26 of this Chapter. (2006-201, s. 18; 2017-6, s. 3.)

**§ 163A-331:** Reserved for future codification purposes.

**§ 163A-332:** Reserved for future codification purposes.

**§ 163A-333:** Reserved for future codification purposes.

**§ 163A-334:** Reserved for future codification purposes.

**§ 163A-335:** Reserved for future codification purposes.

**§ 163A-336:** Reserved for future codification purposes.

**§ 163A-337:** Reserved for future codification purposes.

**§ 163A-338:** Reserved for future codification purposes.

**§ 163A-339:** Reserved for future codification purposes.

**§ 163A-340:** Reserved for future codification purposes.

**§ 163A-341:** Reserved for future codification purposes.

**§ 163A-342:** Reserved for future codification purposes.

**§ 163A-343:** Reserved for future codification purposes.

**§ 163A-344:** Reserved for future codification purposes.

Part 5. Liaison Personnel.

**§ 163A-345. Liaison personnel.**

- (a) All agencies and constitutional officers of the State, including all boards, departments, divisions, constituent institutions of The University of North Carolina, community colleges, and other units of government in the executive branch shall designate liaison personnel to lobby for legislative action. This subsection shall not apply to units of local government, or a State agency or board with no staff.

(b) No State agency or constitutional officer of the State may contract with individuals who are not employed by the State to lobby legislators and legislative employees. This subsection shall not apply to counsel employed by any agency, board, department, or division authorized to employ counsel under G.S. 147-17.

(c) No more than two individuals may be designated as liaison personnel for each agency and constitutional officers of the State, including all boards, departments, divisions, constituent institutions of The University of North Carolina, community colleges, and other units of government in the executive branch.

(d) The Chief Justice of the Supreme Court shall designate at least one, but no more than four, liaison personnel to lobby for legislative action for all offices, conferences, commissions, and other agencies established under Chapter 7A of the General Statutes. This subsection shall not apply to any office created under Article 60 of Chapter 7A of the General Statutes, so long as that office complies with subsection (a) of this section.

(e) Notwithstanding subsection (c) of this section, the Secretary of Public Safety shall designate at least one, but no more than five, liaison personnel to lobby for legislative action for all offices, commissions, and agencies within the Department of Public Safety, as established by Article 13 of Chapter 143B. (1933, c. 11, s. 7; 1975, c. 820, s. 1; 1977, c. 697; 1991, c. 740, s. 1.1; 1993, c. 553, s. 3; 2001-424, s. 6.10(a); 2005-456, s. 1; 2006-201, s. 18; 2007-347, s. 6(a); 2008-213, ss. 30-32; 2012-83, s. 6; 2017-6, s. 3.)

#### **§ 163A-346. Applicability of Article on liaison personnel.**

(a) Except as otherwise provided in this section, this Article shall not apply to liaison personnel.

(b) G.S. 163A-270 shall apply to liaison personnel. No registration fee shall be required for registration under this subsection.

(c) Liaison personal designated under this Part shall file reports under G.S. 163A-327.

(d) G.S. 163A-307 shall apply to liaison personnel with respect to legislators and legislative employees.

(e) The Board of Governors of the University of North Carolina and its constituent institutions, or the liaison personnel designated by that board or the constituent institutions, shall not give, for lobbying, athletic tickets to any designated individual, except for those who are described in G.S. 163A-152(70)j. or those who are students and receive tickets on the same basis as other students. (2001-424, s. 6.10(a); 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 33; 2010-169, s. 17(l); 2017-6, s. 3.)

#### **§ 163A-347. Local government liaison equivalents.**

(a) An individual who is an employee of a governmental unit whose principal duties, in practice or as set forth in that individual's job description, include lobbying for legislative action shall register under G.S. 163A-270.

(b) G.S. 163A-346 shall apply to an individual required to register under subsection (a) of this section.

(c) For purposes of publication of the registry under G.S. 163A-290, the State Board shall treat individuals registered under this section as liaison personnel. (2010-169, s. 5(a); 2017-6, s. 3.)

#### **§ 163A-348: Reserved for future codification purposes.**



§ 163A-349: Reserved for future codification purposes.

§ 163A-350: Reserved for future codification purposes.

§ 163A-351: Reserved for future codification purposes.

§ 163A-352: Reserved for future codification purposes.

§ 163A-353: Reserved for future codification purposes.

§ 163A-354: Reserved for future codification purposes.

§ 163A-355: Reserved for future codification purposes.

§ 163A-356: Reserved for future codification purposes.

§ 163A-357: Reserved for future codification purposes.

§ 163A-358: Reserved for future codification purposes.

§ 163A-359: Reserved for future codification purposes.

§ 163A-360: Reserved for future codification purposes.

§ 163A-361: Reserved for future codification purposes.

§ 163A-362: Reserved for future codification purposes.

§ 163A-363: Reserved for future codification purposes.

§ 163A-364: Reserved for future codification purposes.

#### Part 6. Exemptions.

##### **§ 163A-365. Persons exempted from this Article.**

Except as otherwise provided in Part 7, the provisions of this Article shall not be construed to apply to any of the following:

- (1) An individual solely engaged in expressing a personal opinion or stating facts or recommendations on legislative action or executive action to a designated individual and not acting as a lobbyist.
- (2) A person appearing before a committee, commission, board, council, or other collective body whose membership includes one or more designated individuals at the invitation or request of the committee or a member thereof and who does not act in any further activities as a lobbyist with respect to the legislative or executive action for which that person appeared.

- (3) A duly elected or appointed official or employee of the State, the United States, a county, municipality, school district, or other governmental agency, when acting solely in connection with matters pertaining to the office and public duties, except for a person designated as liaison personnel under G.S. 163A-345 or G.S. 163A-347. For purposes of this subdivision, an individual appointed as a county or city attorney under Part 7 of Article 5 of Chapter 153A of the General Statutes or Part 6 of Article 7 of Chapter 160A of the General Statutes, respectively, shall be considered an employee of the county or city.
- (4) A person performing professional services in drafting bills, or in advising and rendering opinions to clients, or to designated individuals on behalf of clients, as to the construction and effect of proposed or pending legislative or executive action where the professional services are not otherwise connected with the legislative or executive action.
- (5) A person who owns, publishes, or is an employee of any recognized news medium, while engaged in the acquisition and publication of news or news and commentary on behalf of that recognized news medium.
- (6) Designated individuals while acting in their official capacity.
- (7) A person responding to inquiries from a designated individual and who does not act in any further activities as a lobbyist in connection with that inquiry.
- (8) A person who is a political committee as defined in G.S. 163A-1411(74), that person's employee, or that person's contracted service provider.
- (9) Anything of value given or received in connection with seeking or hosting a national convention of a political party. (1933, c. 11, s. 7; 1975, c. 820, s. 1; 1977, c. 697; 1991, c. 740, s. 1.1; 1993, c. 553, s. 3; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 16; 2010-169, ss. 5(b), 20; 2017-6, s. 3.)

§ 163A-366: Reserved for future codification purposes.

§ 163A-367: Reserved for future codification purposes.

§ 163A-368: Reserved for future codification purposes.

§ 163A-369: Reserved for future codification purposes.

§ 163A-370: Reserved for future codification purposes.

§ 163A-371: Reserved for future codification purposes.

§ 163A-372: Reserved for future codification purposes.

§ 163A-373: Reserved for future codification purposes.

§ 163A-374: Reserved for future codification purposes.

§ 163A-375: Reserved for future codification purposes.

§ 163A-376: Reserved for future codification purposes.

§ 163A-377: Reserved for future codification purposes.

§ 163A-378: Reserved for future codification purposes.

§ 163A-379: Reserved for future codification purposes.

#### Part 7. Miscellaneous.

#### § 163A-380. Reportable expenditures made by persons exempted or not covered by this Article.

(a) If a designated individual accepts a reportable expenditure made for lobbying with a total value of over two hundred dollars (\$200.00) per calendar quarter from a person or group of persons acting together, exempted or not otherwise covered by this Article, the person, or group of persons, making the reportable expenditure shall report the date, a description of the reportable expenditure, the name and address of the person, or group of persons, making the reportable expenditure, the name of the designated individual accepting the reportable expenditure, and the estimated fair market value, or face value if shown, of the reportable expenditure.

(b) If the person making the reportable expenditure in subsection (a) of this section is outside North Carolina, and the designated individual accepting the reportable expenditure is also outside North Carolina at the time the designated individual accepts the reportable expenditure, then the designated individual accepting the reportable expenditure shall be responsible for filing the report or reporting the information in the designated individual's statement of economic interest in accordance with G.S. 163A-189(a)(8).

(c) If a designated individual accepts a scholarship related to that designated individual's public service or position valued over two hundred dollars (\$200.00) from a person, or group of persons, acting together, exempted or not covered by this Article, the person, or group of persons, granting the scholarship shall report the date of the scholarship, a description of the event involved, the name and address of the person, or group of persons, granting the scholarship, the name of the designated individual accepting the scholarship, and the estimated fair market value.

(d) If the person granting the scholarship in subsection (c) of this section is outside North Carolina, the designated individual accepting the scholarship shall be responsible for filing the report or reporting the information in the designated individual's statement of economic interest in accordance with G.S. 163A-189(a)(2).

(e) This section shall not apply to any of the following:

- (1) Anything of value properly reported as required under Article 23 of this Chapter.
- (2) Any reportable expenditure from a designated individual's extended family member to a designated individual.
- (3) Reportable expenditures associated primarily with the designated individual's employment or that designated individual's immediate family member's employment.
- (4) Reportable expenditures, other than food, beverages, travel, and lodging, which are received from a person who is a citizen of a country other than the United States or a state other than North Carolina and given during a ceremonial presentation or as a custom.

- (5) A thing of value that is paid for by the State.
- (6) A scholarship paid for by a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization.

(f) Within 15 business days after the end of the quarter in which the reportable expenditure was made, reports required by this section shall be filed electronically with the State Board in a form prescribed by the State Board. If the designated individual is required to file a statement of economic interest under G.S. 163A-189, then that designated individual may opt to report any information required by this section in the statement of economic interest.

(g) For purposes of this section, the term "scholarship" shall mean a grant-in-aid to attend a conference, meeting, or other similar event. For purposes of this section only, the term "person" shall include all persons as defined in G.S. 163A-152(62) and all governmental units as defined in G.S. 163A-152(36). (2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 17; 2008-213, ss. 37, 38(a), 39; 2009-549, s. 7(b); 2010-169, ss. 17(m), 22(f); 2010-170, s. 15; 2013-360, s. 27.1(h); 2017-6, s. 3.)

**§ 163A-381:** Reserved for future codification purposes.

**§ 163A-382:** Reserved for future codification purposes.

**§ 163A-383:** Reserved for future codification purposes.

**§ 163A-384:** Reserved for future codification purposes.

**§ 163A-385:** Reserved for future codification purposes.

**§ 163A-386:** Reserved for future codification purposes.

**§ 163A-387:** Reserved for future codification purposes.

**§ 163A-388:** Reserved for future codification purposes.

**§ 163A-389:** Reserved for future codification purposes.

**§ 163A-390:** Reserved for future codification purposes.

**§ 163A-391:** Reserved for future codification purposes.

**§ 163A-392:** Reserved for future codification purposes.

**§ 163A-393:** Reserved for future codification purposes.

**§ 163A-394:** Reserved for future codification purposes.

## Part 8. Violations and Enforcement of Lobbying Laws.

### **§ 163A-395. Powers and duties of the State Board.**

(a) The State Board shall perform systematic reviews of reports required to be filed under Parts 4 and 7 of this Article on a regular basis to assure complete and timely disclosure of reportable expenditures. The State Board shall refer to the State Board any complaints of violations of this Article other than those related solely to Parts 2, 4, or 7 of this Article.

(b) The State Board may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of violations of Parts 2, 4, or 7 of this Article. The court shall authorize subpoenas under this subsection when the court determines they are necessary for the enforcement of Parts 2, 4, and 7 of this Article. Subpoenas issued under this subsection shall be enforceable by the court through contempt powers. Venue shall be with the Superior Court of Wake County for any nonresident person, or that person's agent, who makes a reportable expenditure under this Article, and personal jurisdiction may be asserted under G.S. 1-75.4.

(c) Complaints of violations of Parts 2, 4, and 7 of this Article, all other records accumulated in conjunction with the investigation of these complaints, and any records accumulated in the performance of a systematic review shall be considered confidential records and may be released only by order of a court of competent jurisdiction. Any information obtained by the State Board from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation or systematic review shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization.

(d) The State Board shall publish annual statistics on complaints received and systematic reviews conducted under this section, including the number of systematic reviews, the number of complaints, the number of apparent violations of this Article referred to a district attorney, the number of complaints dismissed, and the number and age of complaints pending. Subject to the provisions of Chapter 132 of the General Statutes, the levy of all civil fines, including the amount of the fine and the identity of the person or governmental unit against whom it was levied, shall be a public record as defined in G.S. 132-1(a). (2005-456, s. 1; 2006-201, s. 18; 2006-259, s. 43.5(a); 2008-213, s. 34; 2010-169, s. 19(a); 2017-6, s. 3.)

### **§ 163A-396. Additional powers and duties of the State Board.**

(a) The State Board may investigate complaints of violations of this Article.

(b) Complaints of violations of this Article and all other records accumulated in conjunction with the investigation of these complaints shall be considered confidential records and may be released only by order of a court of competent jurisdiction. Any information obtained by the State Board from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization.

(c) The State Board shall publish annual statistics on complaints, including the number of complaints, the number of apparent violations of this Article referred to a district attorney, the number of dismissals, and the number and age of complaints pending. (2006-201, s. 18; 2006-259, s. 43.5(a); 2008-213, s. 35; 2010-169, s. 19(b); 2016-125, 4th Ex. Sess., s. 4; 2017-6, ss. 2, 3, 6.)

**§ 163A-397. Punishment for violation.**

(a) Whoever willfully violates any provision of Part 2 or Part 3 of this Article shall be guilty of a Class 1 misdemeanor, except as provided in those Parts. In addition, no lobbyist who is convicted of a violation of the provisions of this Article shall in any way act as a lobbyist for a period of two years from the date of conviction.

(b) In addition to the criminal penalties set forth in this section, the State Board may levy civil fines for a violation of any provision of this Article up to five thousand dollars (\$5,000) per violation. (1933, c. 11, s. 8; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1993, c. 539, s. 914; 1994, Ex. Sess., c. 24, s. 14(c); 2005-456, s. 1; 2006-201, s. 18; 2006-259, s. 43.5(a); 2016-125, 4th Ex. Sess., s. 4; 2017-6, ss. 2, 3, 6.)

**§ 163A-398. Enforcement by district attorney and Attorney General.**

(a) The State Board may investigate complaints of violations of this Article and shall report apparent violations of this Article to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or governmental unit who violates any provisions of this Article.

(b) Complaints of violations of this Article involving the State Board or any member employee of the State Board shall be referred to the Attorney General for investigation. The Attorney General shall, upon receipt of a complaint, make an appropriate investigation thereof, and the Attorney General shall forward a copy of the investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or governmental unit who violates any provisions of this Article. (1975, c. 820, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 112; 2005-456, s. 1; 2006-201, s. 18; 2006-259, s. 43.5(b); 2008-213, s. 36; 2016-125, 4th Ex. Sess., s. 4; 2017-6, ss. 2, 3, 6.)

**§ 163A-399:** Reserved for future codification purposes.

**§ 163A-400:** Reserved for future codification purposes.

**§ 163A-401:** Reserved for future codification purposes.

**§ 163A-402:** Reserved for future codification purposes.

**§ 163A-403:** Reserved for future codification purposes.

**§ 163A-404:** Reserved for future codification purposes.

**§ 163A-405:** Reserved for future codification purposes.

**§ 163A-406:** Reserved for future codification purposes.

**§ 163A-407:** Reserved for future codification purposes.

**§ 163A-408:** Reserved for future codification purposes.

**§ 163A-409:** Reserved for future codification purposes.

§ 163A-410: Reserved for future codification purposes.

§ 163A-411: Reserved for future codification purposes.

§ 163A-412: Reserved for future codification purposes.

§ 163A-413: Reserved for future codification purposes.

§ 163A-414: Reserved for future codification purposes.

## Article 9.

### Violation Consequences.

#### § 163A-415. Violation consequences.

(a) Violation of Articles 5, 6, 7, and 9 of this Chapter by any covered person or legislative employee is grounds for disciplinary action. Except as specifically provided in Articles 5, 6, 7, and 9 of this Chapter and for perjury under G.S. 163A-156 and G.S. 163A-189, no criminal penalty shall attach for any violation of Articles 5, 6, 7, or 9 of this Chapter.

(b) The willful failure of any public servant serving on a board to comply with Articles 5, 6, 7, and 9 of this Chapter is misfeasance, malfeasance, or nonfeasance. In the event of misfeasance, malfeasance, or nonfeasance, the offending public servant serving on a board is subject to removal from the board of which the public servant is a member. For appointees of the Governor and members of the Council of State, the appointing authority may remove the offending public servant. For appointees of the Speaker of the House of Representatives, the Speaker of the House of Representatives may remove the offending public servant. For appointees of the General Assembly made upon the recommendation of the Speaker of the House of Representatives, the Governor at the recommendation of the Speaker of the House of Representatives may remove the offending public servant. For appointees of the President Pro Tempore of the Senate, the President Pro Tempore of the Senate may remove the offending public servant. For appointees of the General Assembly made upon the recommendation of the President Pro Tempore of the Senate, the Governor at the recommendation of the President Pro Tempore of the Senate may remove the offending public servant. For public servants elected to a board by either the Senate or House of Representatives, the electing house of the General Assembly shall exercise the discretion of whether to remove the offending public servant. For all other appointees, the State Board shall exercise the discretion of whether to remove the offending public servant.

(c) The willful failure of any public servant serving as a State employee to comply with Articles 5, 6, 7, and 9 of this Chapter is a violation of a written work order, thereby permitting disciplinary action as allowed by the law, including termination from employment. For employees of State departments headed by a member of the Council of State, the appropriate member of the Council of State shall make all final decisions on the manner in which the offending public servant shall be disciplined. For public servants who are judicial employees, the Chief Justice shall make all final decisions on the matter in which the offending judicial employee shall be disciplined. For legislative employees, the Legislative Services Commission shall make or refer to the hiring authority all final decisions on the matter in which the offending legislative employee shall be disciplined. For public servants appointed or elected for The University of North Carolina or the

Community Colleges System, the appointing or electing authority shall make all final decisions on the matter in which the offending public servant shall be disciplined. For any other public servant serving as a State employee, the Governor shall make all final decisions on the manner in which the offending public servant shall be disciplined.

(d) The willful failure of any constitutional officer of the State to comply with Articles 5, 6, 7, and 9 of this Chapter is malfeasance in office for purposes of G.S. 123-5.

(e) The willful failure of a legislator, other than the Lieutenant Governor, to comply with Articles 5, 6, 7, and 9 of this Chapter is grounds for sanctions under G.S. 120-103.1.

(f) Nothing in this Subchapter affects the power of the State to prosecute any person for any violation of the criminal law.

(g) The State Board may seek to enjoin violations of G.S. 163A-214. (2006-201, s. 1; 2017-6, s. 3.)

§ 163A-416: Reserved for future codification purposes.

§ 163A-417: Reserved for future codification purposes.

§ 163A-418: Reserved for future codification purposes.

§ 163A-419: Reserved for future codification purposes.

§ 163A-420: Reserved for future codification purposes.

§ 163A-421: Reserved for future codification purposes.

§ 163A-422: Reserved for future codification purposes.

§ 163A-423: Reserved for future codification purposes.

§ 163A-424: Reserved for future codification purposes.

§ 163A-425: Reserved for future codification purposes.

§ 163A-426: Reserved for future codification purposes.

§ 163A-427: Reserved for future codification purposes.

§ 163A-428: Reserved for future codification purposes.

§ 163A-429: Reserved for future codification purposes.

§ 163A-430: Reserved for future codification purposes.

§ 163A-431: Reserved for future codification purposes.

§ 163A-432: Reserved for future codification purposes.



§ 163A-433: Reserved for future codification purposes.

§ 163A-434: Reserved for future codification purposes.

§ 163A-435: Reserved for future codification purposes.

§ 163A-436: Reserved for future codification purposes.

§ 163A-437: Reserved for future codification purposes.

§ 163A-438: Reserved for future codification purposes.

§ 163A-439: Reserved for future codification purposes.

§ 163A-440: Reserved for future codification purposes.

§ 163A-441: Reserved for future codification purposes.

§ 163A-442: Reserved for future codification purposes.

§ 163A-443: Reserved for future codification purposes.

§ 163A-444: Reserved for future codification purposes.

§ 163A-445: Reserved for future codification purposes.

§ 163A-446: Reserved for future codification purposes.

§ 163A-447: Reserved for future codification purposes.

§ 163A-448: Reserved for future codification purposes.

§ 163A-449: Reserved for future codification purposes.

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§ 163A-599: Reserved for future codification purposes.

#### Articles 10 to 14

Reserved for Future Codification Purposes.

§§ 163A-600 through 163A-699: Reserved for future codification purposes.

### **SUBCHAPTER III. ELECTION AND ELECTION LAWS.**

#### Article 15.

Time of Primaries and Elections.

##### Part 1. Time of Primaries and Elections.

#### **§ 163A-700. Time of regular elections and primaries.**

(a) Unless otherwise provided by law, elections for the officers listed in the tabulation contained in this section shall be conducted in all election precincts of the territorial units specified in the column headed "Jurisdiction" on the dates indicated in the column headed "Date of Election." Unless otherwise provided by law, officers shall serve for the terms specified in the column headed "Term of Office."

(b) On Tuesday next after the first Monday in March preceding each general election to be held in November for the officers referred to in subsection (a) of this section, there shall be held in all election precincts within the territory for which the officers are to be elected a primary election for the purpose of nominating candidates for each political party in the State for those offices.

(c) On Tuesday next after the first Monday in November in the year 1968, and every four years thereafter, or on such days as the Congress of the United States shall direct, an election shall be held in all of the election precincts of the State for the election of electors of President and Vice-President of the United States. The number of electors to be chosen shall be equal to the number of Senators and Representatives in Congress to which this State may be entitled. Presidential electors shall not be nominated by primary election; instead, they shall be nominated in a State convention of each political party as defined in G.S. 163A-950 unless otherwise provided by the plan of organization of the political party; provided, that in the case of a candidate for President of the United States who has qualified to have his name printed on the general election ballot as an unaffiliated candidate under G.S. 163A-1005, that candidate shall nominate



presidential electors. One presidential elector shall be nominated from each congressional district and two from the state-at-large, and in addition, the State convention of each party and the unaffiliated candidate shall each nominate first and second alternate electors who shall serve if their slate is elected as provided by G.S. 163A-1226 and if there is a vacancy as provided by G.S. 163A-1229.

(d) If primaries for the State Senate or State House of Representatives are temporarily moved from the date provided in subsection (b) of this section for any election year, all primaries shall be held on the same day.

OFFICE	JURISDICTION	DATE OF ELECTION	TERM OF OFFICE
Governor	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Lieutenant Governor	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Secretary of State	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Auditor	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Treasurer	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Superintendent of Public Instruction	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Attorney General	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Commissioner of Agriculture	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Commissioner	State		

of Labor		Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Commissioner of Insurance	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
All other State officers whose terms last for four years	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
All other State officers whose terms are not specified by law	State	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years, from first day of January next after election
State Senator	Senatorial district	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years
Member of State House of Representatives	Representative district	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years
Justices and Judges of the Appellate Division	State	Except as provided in Article 1A of Chapter 7A of the General Statutes, at the regular election for members of the General Assembly immediately preceding the termination of each regular term	Eight years, from first day of January next after election
Judges of the superior courts	Superior Court District	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Eight years, from first day of January after next election
Judges of the district courts	District court district	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Four years, from the first day in January next after election
District Attorney	District Attorney District	At the regular election for members of the General Assembly immediately	Four years, from first day of January next after election

Members of House of Representatives of the Congress of the United States	Congressional district, except as modified by G.S 163A-970	preceding the termination of each regular term Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years
United States Senators	State	At the regular election immediately preceding the termination of each regular term	Six years
County Commissioners	County	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Two years, from the first Monday in December next after election
Clerk of superior court	County	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Four years, from the first Monday in December next after election
Register of deeds	County	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Four years, from the first Monday in December next after election
Sheriff	County	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Four years, from the first Monday in December next after election
Coroner	County	At the regular election for members of the General Assembly immediately preceding the termination of a regular term	Four years, from the first Monday in December next after election
County Treasurer (in counties in which elected)	County	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years, from the first Monday in December next after election
All other county officers to be elected by the people	County	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years, from the first Monday in December next after election

(Const., art. 4, s. 24; 1901, c. 89, ss. 1-4, 73, 74, 77; Rev., ss. 4293, 4294, 4296-4299; 1915, c. 101, s. 1; 1917, c. 218; C.S., ss. 5914, 5915, 5917-5920, 6018; 1935, c. 362; 1939, c. 196; 1943, c. 134, s. 4; 1947, c. 505, s. 1; 1951, c. 1009, s. 2; 1953, c. 1191, s. 1; 1967, c. 775, s. 1; cc. 1264, 1271; 1969, c. 44, s. 80; 1971, c. 170; 1973, c. 793, s. 93; 1977, c. 265, s. 1; c. 661, s. 1; 1991 (Reg. Sess., 1992), c. 782, s. 1; 1993 (Reg. Sess., 1994), c. 738, s. 2; 1996, 2nd Ex. Sess., c. 9, s. 2; 2003-434, 1st Ex. Sess., s. 6; 2004-127, s. 12; 2005-425, s. 3.2; 2015-66, s. 3; 2017-3, s. 2; 2017-6, s. 3; 2018-21, s. 1.)

**§ 163A-701. Special elections.**

Special elections shall be called as permitted by law and conducted in accordance with G.S. 163A-1592. (2013-381, s. 10.2; 2017-6, s. 3.)

**§ 163A-702:** Reserved for future codification purposes.

**§ 163A-703:** Reserved for future codification purposes.

**§ 163A-704:** Reserved for future codification purposes.

**§ 163A-705:** Reserved for future codification purposes.

**§ 163A-706:** Reserved for future codification purposes.

**§ 163A-707:** Reserved for future codification purposes.

**§ 163A-708:** Reserved for future codification purposes.

**§ 163A-709:** Reserved for future codification purposes.

**§ 163A-710:** Reserved for future codification purposes.

**§ 163A-711:** Reserved for future codification purposes.

**§ 163A-712:** Reserved for future codification purposes.

**§ 163A-713:** Reserved for future codification purposes.

**§ 163A-714:** Reserved for future codification purposes.

**§ 163A-715:** Reserved for future codification purposes.

Part 2. Time of Elections to Fill Vacancies.

**§ 163A-716. Filling vacancies in State executive offices.**

If the office of Governor or Lieutenant Governor shall become vacant, the provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers shall be vacated by death, resignation, or otherwise than by expiration of term, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified: Secretary of State, Auditor, Treasurer,

Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance. Each such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 60 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired four-year term: Provided, that when a vacancy occurs in any of the offices named in this section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an acting officer to perform the duties of that office until a person is appointed or elected pursuant to this section and Article III, Section 7 of the State Constitution, to fill the vacancy and is qualified. (1901, c. 89, ss. 4, 73; Rev., s. 4299; C.S., s. 5920; 1967, c. 775, s. 1; 1983, c. 324, s. 1; 1985 (Reg. Sess., 1986), c. 920, s. 5; 2017-6, s. 3.)

#### **§ 163A-717. Filling vacancies in State and district judicial offices.**

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

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

Appointees for judges of the superior court from any district:

(1) With only one resident judge; or  
(2) In which no county is subject to section 5 of the Voting Rights Act of 1965, shall hold the office until the next election of members of the General Assembly that is held more than 60 days after the vacancy occurs, at which time an election shall be held to fill an eight-year term.

(c) When the unexpired term of the office in which the vacancy has occurred expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office.

(d) Vacancies in the office of district judge which occur before the expiration of a term shall not be filled by election. Vacancies in the office of district judge shall be filled in accordance with G.S. 7A-142. (1901, c. 89, ss. 4, 73; Rev. s. 4299; C.S., s. 5920; 1967, c. 775, s. 1; 1969, c. 44, s. 81; 1979, c. 494; 1981, c. 763, s. 3; 1985 (Reg. Sess., 1986), c. 920, s. 6; 1995, c. 98, s. 1; 1996, 2nd Ex. Sess., c. 9, s. 21; 2017-6, s. 3.)

#### **§ 163A-718. Filling vacancy in office of district attorney.**

Any vacancy occurring in the office of district attorney for causes other than expiration of term shall be filled by appointment of the Governor. An appointee shall hold his place until the next election for members of the General Assembly that is held more than 60 days after the vacancy

occurs, at which time an election shall be held to fill the unexpired term of the office: Provided, that when the unexpired term of the office in which the vacancy has occurred expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. (1901, c. 89, ss. 4, 73; Rev., s. 4299; C.S., s. 5920; 1967, c. 775, s. 1; 1973, c. 47, s. 2; 1977, c. 265, s. 2; 1985 (Reg. Sess., 1986), c. 920, s. 7; 2017-6, s. 3.)

**§ 163A-719. Filling vacancies in the General Assembly.**

(a) If a vacancy shall occur in the General Assembly by death, resignation, or otherwise than by expiration of term, the Governor shall immediately appoint for the unexpired part of the term the person recommended by the political party executive committee provided by this section. The Governor shall make the appointment within seven days of receiving the recommendation of the appropriate committee. If the Governor fails to make the appointment within the required period, he shall be presumed to have made the appointment and the legislative body to which the appointee was recommended is directed to seat the appointee as a member in good standing for the duration of the unexpired term.

(b) If the district consists solely of one county and includes all of that county, the Governor shall appoint the person recommended by the county executive committee of the political party with which the vacating member was affiliated when elected, it being the party executive committee of the county which the vacating member was resident.

(c) If the district consists solely of one county but includes less than all of the county, the Governor shall appoint the person recommended by the county executive committee of the political party with which the vacating member was affiliated when elected, it being the county executive committee of the county which the vacating member was resident, provided that in voting only those county executive committee members who reside in the district shall be eligible to vote.

(d) If the district consists of more than one county, the Governor shall appoint for the unexpired portion of the term the person recommended by the State House of Representatives district committee or the Senatorial district committee of the political party with which the vacating member was affiliated when elected. In the case where all of a county is included within a district, the county convention or county executive committee of that political party shall elect or appoint at least one member from that county to serve on the State House of Representatives district executive committee or State Senatorial district executive committee. In the case where only part of a county is included within a district, the county convention or county executive committee of that political party shall elect or appoint at least one member from that county to serve on the State House of Representatives district committee or the State Senatorial district committee, but only the delegates to the county convention or the members of the county executive committee who reside in the district may vote in electing the district committee member. When the State House of Representatives district committee or the State Senatorial district committee meets, a member shall be entitled to cast for his county (or the part of his county within the district) one vote for each 300 persons or major fraction thereof residing within that county, or in the case where less than the whole county is in the district one vote for each 300 persons or major fraction thereof residing in that part of the district within the county.

A county convention or county executive committee may elect more than one member to the district committee but in the event that more than one member is selected from that county, then each member shall cast an equal share of the votes allotted to the county.

(e) No person is eligible for appointment to fill a vacancy in the Senate or the House of Representatives under this section, unless that person would have been qualified to vote as an elector for that office if an election were to be held on the date of appointment. This section is intended to implement the provisions of Section 8 of Article VI of the Constitution. (1901, c. 89, s. 74; Rev., s. 4298; C.S., s. 5919; 1947, c. 505, s. 1; 1953, c. 1191, s. 1; 1967, c. 775, s. 1; 1973, c. 35; 1981 (Reg. Sess., 1982), c. 1265, s. 3; 2007-391, s. 27(b); 2017-6, s. 3.)

#### **§ 163A-720. Filling vacancy in United States Senate.**

Whenever there shall be a vacancy in the office of United States Senator from this State, whether caused by death, resignation, or otherwise than by expiration of term, the Governor shall appoint to fill the vacancy until an election shall be held to fill the office. If the Senator was elected as the nominee of a political party, the Governor shall appoint from a list of three persons recommended by the State executive committee of the political party with which the vacating member was affiliated when elected if that party executive committee makes recommendations within 30 days of the occurrence of the vacancy. The Governor shall issue a writ for the election of a Senator to be held at the time of the first election for members of the General Assembly that is held more than 60 days after the vacancy occurs. The person elected shall hold the office for the remainder of the unexpired term. The election shall take effect from the date of the canvassing of the returns. (1913, c. 114, ss. 1, 2; C.S., ss. 6002, 6003; 1929, c. 12, s. 2; 1955, c. 871, s. 6; 1967, c. 775, s. 1; 1985, c. 759, s. 2; 2013-381, s. 8.1; 2017-6, s. 3; 2018-102, s. 1.)

#### **§ 163A-721. Filling vacancy in United States House of Representatives.**

(a) Special Election. – If at any time after expiration of any Congress and before another election, or if at any time after an election, there shall be a vacancy in this State's representation in the House of Representatives of the United States Congress, the Governor shall issue a writ of election, and by proclamation fix the date on which an election to fill the vacancy shall be held in the appropriate congressional district.

(b) Nominating Procedures. – If a congressional vacancy occurs beginning on the tenth day before the filing period ends under G.S. 163A-974 preceding the next succeeding general election, candidates for the special election to fill the vacancy shall not be nominated in primaries. Instead, nominations may be made by the political party congressional district executive committees in the district in which the vacancy occurs. The chairman and secretary of each political party congressional district executive committee nominating a candidate shall immediately certify his name and party affiliation to the State Board so that it may be printed on the special election ballots.

If the congressional vacancy occurs before the tenth day before the filing period ends under G.S. 163A-974 prior to the next succeeding general election, the Governor shall call a special primary for the purpose of nominating candidates to be voted on in a special election called by the Governor in accordance with the provisions of subsection (a) of this section. Such a primary election shall be conducted in accordance with the general laws governing primaries, except that the opening and closing dates for filing notices of candidacy with the State Board shall be fixed by the Governor in his call for the special primary. The Governor may also fix the absentee voting period for the special election and for the special first primary, but such period shall not be less than 30 days. (1901, c. 89, s. 60; Rev., s. 4369; C.S., s. 6007; 1947, c. 505, s. 5; 1967, c. 775, s. 1; 1985, c. 759, ss. 3-5; 2017-6, s. 3.)

- § 163A-722: Reserved for future codification purposes.
- § 163A-723: Reserved for future codification purposes.
- § 163A-724: Reserved for future codification purposes.
- § 163A-725: Reserved for future codification purposes.
- § 163A-726: Reserved for future codification purposes.
- § 163A-727: Reserved for future codification purposes.
- § 163A-728: Reserved for future codification purposes.
- § 163A-729: Reserved for future codification purposes.
- § 163A-730: Reserved for future codification purposes.
- § 163A-731: Reserved for future codification purposes.
- § 163A-732: Reserved for future codification purposes.
- § 163A-733: Reserved for future codification purposes.
- § 163A-734: Reserved for future codification purposes.
- § 163A-735: Reserved for future codification purposes.
- § 163A-736: Reserved for future codification purposes.
- § 163A-737: Reserved for future codification purposes.
- § 163A-738: Reserved for future codification purposes.
- § 163A-739: Reserved for future codification purposes.

## Article 16.

### Election Officers.

#### Part 1. State Board Powers and Duties.

##### **§ 163A-740. Meetings of State Board; quorum; minutes.**

(a) Place of Meeting. – Except as provided in subsection (b), below, the State Board shall meet in its offices in the City of Raleigh, or at another place in Raleigh to be designated by the chairman. However, subject to the limitation imposed by subsection (b), below, upon the prior



written request of a majority of its members, the State Board shall meet at any other place in the State designated by a majority of its members.

(b) Meetings to Investigate Alleged Violations of This Chapter. – When called upon to investigate or hear sworn alleged violations of this Chapter, the State Board shall meet and hear the matter in the county in which the violations are alleged to have occurred.

(c) Minutes. – The State Board shall keep minutes recording all proceedings and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in the office of the State Board in Raleigh. (1901, c. 89, s. 7; Rev., ss. 2760, 4301, 4302; C.S., ss. 5922, 5923; 1933, c. 165, s. 1; 1945, c. 982; 1967, c. 775, s. 1; 1973, c. 793, s. 3; c. 1223, s. 1; 2016-125, 4th Ex. Sess., s. 5(b); 2017-6, ss. 2, 3, 7(b).)

### **§ 163A-741. Powers and duties of State Board.**

(a) The State Board shall have general supervision over the primaries and elections in the State, and it shall have authority to make such reasonable rules and regulations with respect to the conduct of primaries and elections as it may deem advisable so long as they do not conflict with any provisions of this Subchapter.

(b) From time to time, the State Board shall publish and furnish to the county boards of elections and other election officials a sufficient number of indexed copies of all election laws and State Board rules and regulations then in force. It shall also publish, issue, and distribute to the electorate such materials explanatory of primary and election laws and procedures as the State Board shall deem necessary.

(c) The State Board shall appoint, in the manner provided by law, all members of the county boards of elections and advise them as to the proper methods of conducting primaries and elections. The State Board shall require such reports from the county boards and election officers as are provided by law, or as are deemed necessary by the State Board, and shall compel observance of the requirements of the election laws by county boards of elections and other election officers. In performing these duties, the State Board shall have the right to hear and act on complaints arising by petition or otherwise, on the failure or neglect of a county board of elections to comply with any part of the election laws imposing duties upon such a board. The State Board shall have power to remove from office any member of a county board of elections for incompetency, neglect or failure to perform duties, fraud, or for any other satisfactory cause. Before exercising this power, the State Board shall notify the county board member affected and give that member an opportunity to be heard. When any county board member shall be removed by the State Board, the vacancy occurring shall be filled by the State Board.

(d) The State Board shall investigate when necessary or advisable, the administration of election laws, frauds and irregularities in elections in any county and municipality and special district, and shall report violations of the election laws to the Attorney General or district attorney or prosecutor of the district for further investigation and prosecution.

(e) The State Board shall determine, in the manner provided by law, the form and content of ballots, instruction sheets, pollbooks, tally sheets, abstract and return forms, certificates of election, and other forms to be used in primaries and elections. The State Board shall furnish to the county boards of elections the registration application forms required pursuant to G.S. 163A-862. The State Board shall direct the county boards of elections to purchase a sufficient quantity of all forms attendant to the registration and elections process. In addition, the State Board shall provide a source of supply from which the county boards of elections may purchase the quantity of pollbooks needed for the execution of its responsibilities. In the preparation of ballots,

pollbooks, abstract and return forms, and all other forms, the State Board may call to its aid the Attorney General of the State, and it shall be the duty of the Attorney General to advise and aid in the preparation of these books, ballots and forms.

(f) The State Board shall prepare, print, distribute to the county boards of elections all ballots for use in any primary or election held in the State which the law provides shall be printed and furnished by the State to the counties. The State Board shall instruct the county boards of elections as to the printing of county and local ballots.

(g) The State Board shall certify to the appropriate county boards of elections the names of candidates for district offices who have filed notice of candidacy with the State Board and whose names are required to be printed on county ballots.

(h) It shall be the duty of the State Board to tabulate the primary and election returns, to declare the results, and to prepare abstracts of the votes cast in each county in the State for offices which, according to law, shall be tabulated by the State Board.

(i) The State Board shall make recommendations to the Governor and legislature relative to the conduct and administration of the primaries and elections in the State as it may deem advisable.

(j) Notwithstanding the provisions of any other section of this Subchapter, the State Board is empowered to have access to any ballot boxes and their contents, any voting machines and their contents, any registration records, pollbooks, voter authorization cards or voter lists, any lists of absentee voters, any lists of presidential registrants under the Voting Rights Act of 1965 as amended, and any other voting equipment or similar records, books or lists in any precinct, county, municipality or electoral district over whose elections it has jurisdiction or for whose elections it has responsibility.

(j1) Notwithstanding G.S. 153A-98 or any other provision of law, all officers, employees, and agents of a county board of elections are required to give to the State Board, upon request, all information, documents, and data within their possession, or ascertainable from their records, including any internal investigation or personnel documentation and are required to make available, upon request pursuant to an investigation under subsection (d) of this section, any county board employee for interview and to produce any equipment, hardware, or software for inspection. These requirements are mandatory and shall be timely complied with as specified in a request made by any four members of the State Board.

(k) Notwithstanding the provisions contained in Article 21 of this Chapter the State Board shall be authorized, by resolution adopted prior to the printing of the primary ballots, to reduce the time by which absentee ballots are required to be printed and distributed for the primary election from 50 days to 45 days. This authority shall not be authorized for absentee ballots to be voted in the general election, except if the law requires ballots to be available for mailing 60 days before the general election, and they are not ready by that date, the State Board shall allow the counties to mail them out as soon as they are available.

(l) Notwithstanding any other provision of law, in order to obtain judicial review of any decision of the State Board rendered in the performance of its duties or in the exercise of its powers under this Subchapter, the person seeking review must file his petition in the Superior Court of Wake County.

(m) The State Board shall provide specific training to county boards of elections regarding rules for registering students.

(n) The State Board shall promulgate minimum requirements for the number of pollbooks, voting machines and curbside ballots to be available at each precinct, such that more of such will

be available at general elections and a sufficient number will be available to allow voting without excessive delay. The State Board shall provide for a training and screening program for chief judges and judges. The State Board shall provide additional testing of voting machines to ensure that they operate properly even with complicated ballots.

(o) The State Board shall require counties with voting systems to have sufficient personnel available on election day with technical expertise to make repairs in such equipment, to investigate election day problems, and assist in curbside voting.

(p) The State Board may assign responsibility for enumerated administrative matters to the Executive Director by resolution, if that resolution provides a process for the State Board to review any administrative decision made by the Executive Director.

(q) Nothing in this Subchapter shall grant authority to the State Board to alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted by the General Assembly.

(r) Nothing in this Subchapter shall grant authority to the State Board to alter, amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of local government other than a plan imposed by a court, a plan enacted by the General Assembly, or a plan adopted by the appropriate unit of local government under statutory or local act authority. (1901, c. 89, ss. 7, 11; Rev., ss. 4302, 4305; 1913, c. 138; C.S., ss. 5923, 5926; 1921, c. 181, s. 1; 1923, c. 196; 1933, c. 165, ss. 1, 2; 1945, c. 982; 1953, c. 410, s. 2; 1967, c. 775, s. 1; 1973, c. 47, s. 2; c. 793, s. 2; 1975, c. 19, s. 65; 1977, c. 661, s. 6; 1979, c. 411, s. 1; 1981, c. 556; 1985 (Reg. Sess., 1986), c. 986, ss. 2, 3; 1987, c. 485, ss. 2, 5; c. 509, s. 9; c. 642, s. 3; 1989, c. 635, s. 5; 1991, c. 727, ss. 5.2, 7; 1993 (Reg. Sess., 1994), c. 762, s. 12; 1995, c. 509, s. 114; 1999-424, s. 7(a); 2001-398, s. 4; 2009-537, s. 10; 2009-541, s. 1; 2011-31, s. 15; 2011-182, s. 3; 2016-125, 4th Ex. Sess., s. 20(b); 2017-6, s. 3; 2018-13, s. 3.2(a).)

#### **§ 163A-742. Power of State Board to promulgate temporary rules and regulations.**

In the event any portion of this Subchapter or any State election law or form of election of any county board of commissioners, local board of education, or city officer is held unconstitutional or invalid by a State or federal court or is unenforceable because of objection interposed by the United States Justice Department under the Voting Rights Act of 1965 and such ruling adversely affects the conduct and holding of any pending primary or election, the State Board shall have authority to make reasonable interim rules and regulations with respect to the pending primary or election as it deems advisable so long as they do not conflict with any provisions of this Subchapter and such rules and regulations shall become null and void 60 days after the convening of the next regular session of the General Assembly. The State Board shall also be authorized, upon recommendation of the Attorney General, to enter into agreement with the courts in lieu of protracted litigation until such time as the General Assembly convenes. (1981, c. 741; 1982, 2nd Ex. Sess., c. 3, s. 19.1; c. 1265, ss. 1, 2; 1985, c. 563, s. 15; 1986, Ex. Sess., c. 3, s. 1; 2017-6, s. 3.)

#### **§ 163A-743. State Board littering notification.**

At the time an individual files with the State Board a notice of candidacy pursuant to G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976, 163A-977, and 163A-978, 163A-985, 163A-1615, or 163A-1620, is certified to the State Board by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163A-987, is certified to the State Board

by a new political party as that party's nominee pursuant to G.S. 163A-953, qualifies with the State Board as an unaffiliated or write-in candidate pursuant to Part 2 of Article 19 of this Chapter, or formally initiates a candidacy with the State Board pursuant to any statute or local act, the State Board shall notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department of Transportation pursuant to G.S. 136-18. (2001-512, s. 7; 2017-3, s. 3; 2017-6, s. 3.)

**§ 163A-744. Power of State Board to maintain order.**

The State Board shall possess full power and authority to maintain order, and to enforce obedience to its lawful commands during its sessions, and shall be constituted an inferior court for that purpose. If any person shall refuse to obey the lawful commands of the State Board or its chairman, or by disorderly conduct in its hearing or presence shall interrupt or disturb its proceedings, it may, by an order in writing, signed by its chairman, and attested by its secretary, commit the person so offending to the common jail of the county for a period not exceeding 30 days. Such order shall be executed by any sheriff to whom the same shall be delivered, or if a sheriff shall not be present, or shall refuse to act, by any other person who shall be deputed by the State Board in writing, and the keeper of the jail shall receive the person so committed and safely keep him for such time as shall be mentioned in the commitment: Provided, that any person committed under the provisions of this section shall have the right to post a two hundred dollar (\$200.00) bond with the clerk of the superior court and appeal to the superior court for a trial on the merits of his commitment. (1901, c. 89, s. 72; Rev., s. 4376; C.S., s. 5977; 1955, c. 871, s. 4; 1967, c. 775, s. 1; 1995, c. 379, s. 14(e); 2017-6, s. 3.)

**§ 163A-745. Authority of State Board to assist in litigation.**

The State Board shall possess authority to assist any county board of elections in any matter in which litigation is contemplated or has been initiated, provided, the county board of elections in such county petitions, by majority resolution, for such assistance from the State Board and, provided further, that the State Board determines, in its sole discretion by majority vote, to assist in any such matter. It is further stipulated that the State Board shall not be authorized under this provision to enter into any litigation in assistance to counties, except in those instances where the uniform administration of this Subchapter has been, or would be threatened.

The Attorney General shall provide the State Board with legal assistance in execution of its authority under this section or, in the Attorney General's discretion, recommend that private counsel be employed.

If the Attorney General recommends employment of private counsel, the State Board may employ counsel with the approval of the Governor. (1969, c. 408, s. 1; 1973, c. 793, s. 6; 1983, c. 324, s. 2; 2011-31, s. 16; 2017-6, s. 3.)

**§ 163A-746:** Reserved for future codification purposes.

**§ 163A-747:** Reserved for future codification purposes.

**§ 163A-748:** Reserved for future codification purposes.

**§ 163A-749:** Reserved for future codification purposes.

**§ 163A-750. Emergency powers.**

(a) The Executive Director, as chief State elections official, may exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by any of the following:

- (1) A natural disaster.
- (2) Extremely inclement weather.
- (3) An armed conflict involving Armed Forces of the United States, or mobilization of those forces, including North Carolina National Guard and reserve components of the Armed Forces of the United States.

In exercising those emergency powers, the Executive Director shall avoid unnecessary conflict with the provisions of this Subchapter. The Executive Director shall adopt rules describing the emergency powers and the situations in which the emergency powers will be exercised.

(b) Nothing in this Subchapter shall grant authority to the State Board to alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted by the General Assembly.

(c) Nothing in this Subchapter shall grant authority to the State Board to alter, amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of local government other than a plan imposed by a court, a plan enacted by the General Assembly, or a plan adopted by the appropriate unit of local government under statutory or local act authority. (1999-455, s. 23; 2001-319, s. 11; 2011-183, s. 110; 2016-125, 4th Ex. Sess., s. 20(d); 2017-6, s. 3.)

**§ 163A-751:** Reserved for future codification purposes.

**§ 163A-752:** Reserved for future codification purposes.

**§ 163A-753:** Reserved for future codification purposes.

**§ 163A-754:** Reserved for future codification purposes.

**§ 163A-755:** Reserved for future codification purposes.

**§ 163A-756:** Reserved for future codification purposes.

**§ 163A-757:** Reserved for future codification purposes.

**§ 163A-758:** Reserved for future codification purposes.

**§ 163A-759:** Reserved for future codification purposes.

**§ 163A-760:** Reserved for future codification purposes.

**§ 163A-761:** Reserved for future codification purposes.

**§ 163A-762:** Reserved for future codification purposes.

§ 163A-763: Reserved for future codification purposes.

§ 163A-764: Reserved for future codification purposes.

§ 163A-765: Reserved for future codification purposes.

## Part 2. County Boards of Elections.

### § 163A-766. **County boards of elections; appointments; terms of office; qualifications; vacancies; oath of office; instructional meetings.**

(a) In every county of the State there shall be a county board of elections, to consist of four persons of good moral character who are registered voters in the county in which they are to act. Two of the members of the county board of elections shall be of the political party with the highest number of registered affiliates, and two shall be of the political party with the second highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board. In 2017, members of county boards of elections shall be appointed by the State Board on the second Tuesday in July. In 2019, members of county boards of elections shall be appointed by the State Board on the last Tuesday in June and every two years thereafter, and their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified.

(b) No person shall be eligible to serve as a member of a county board of elections who holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.

No person who holds any office in a state, congressional district, county or precinct political party or organization, or who is a campaign manager or treasurer of any candidate or political party in a primary or election, shall be eligible to serve as a member of a county board of elections, provided however that the position of delegate to a political party convention shall not be considered an office for the purpose of this section.

(c) No person shall be eligible to serve as a member of a county board of elections who is a candidate for nomination or election.

No person shall be eligible to serve as a member of a county board of elections who is the wife, husband, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, sister, sister-in-law, brother, brother-in-law, aunt, uncle, niece, or nephew of any candidate for nomination or election. Upon any member of the board of elections becoming ineligible, that member's seat shall be declared vacant. This paragraph only applies if the county board of elections is conducting the election for which the relative is a candidate.

(d) The State chair of each political party shall have the right to recommend to the State Board three registered voters in each county for appointment to the board of elections for that county. If such recommendations are received by the State Board 15 or more days before the last Tuesday in June 2017, and each two years thereafter, it shall be the duty of the State Board to appoint the county boards from the names thus recommended.

Whenever a vacancy occurs in the membership of a county board of elections for any cause the State chair of the political party of the vacating member shall have the right to recommend two registered voters of the affected county for such office, and it shall be the duty of the State Board to fill the vacancy from the names thus recommended.

At the meeting of the county board of elections required by G.S. 163A-767 to be held on Tuesday following the third Monday in July in the year of their appointment the members shall take the following oath of office:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States; and that I will well and truly execute the duties of the office of member of the \_\_\_\_\_ County Board of Elections to the best of my knowledge and ability, according to law; so help me God."

At the first meeting in July annually, the county boards shall organize by electing one of its members chair and one of its members vice-chair, each to serve a one-year term as such. In the odd-numbered year, the chair shall be a member of the political party with the highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board, and the vice-chair a member of the political party with the second highest number of registered affiliates. In the even-numbered year, the chair shall be a member of the political party with the second highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board, and the vice-chair a member of the political party with the highest number of registered affiliates.

Each member of the county board of elections shall attend each instructional meeting held pursuant to G.S. 163A-822, unless excused for good cause by the chair of the board, and shall be paid the sum of twenty-five dollars (\$25.00) per day for attending each of those meetings. (1901, c. 89, ss. 6, 11; Rev., ss. 4303, 4304, 4305; 1913, c. 138; C.S., ss. 5924, 5925, 5926; 1921, c. 181, s. 1; 1923, c. 111, s. 1; c. 196; 1933, c. 165, s. 2; 1941, c. 305, s. 1; 1945, c. 758, ss. 1, 2; 1949, c. 672, s. 1; 1953, c. 410, ss. 1, 2; c. 1191, s. 2; 1955, c. 871, s. 1; 1957, c. 182, s. 1; 1959, c. 1203, s. 1; 1967, c. 775, s. 1; 1969, c. 208, s. 1; 1973, c. 793, s. 7; c. 1094; c. 1344, s. 4; 1975, c. 19, s. 66; c. 159, s. 1; 1981, c. 954, s. 1; 1983, c. 617, ss. 1, 2; 1985, c. 472, s. 4; 1997-211, s. 1; 2016-125, 4th Ex. Sess., s. 5(h); 2017-6, ss. 2, 3, 7(h).)

### **§ 163A-767. Meetings of county boards of elections; quorum; majority; minutes.**

In each county of the State the members of the county board of elections shall meet at the courthouse or board office at noon on the Tuesday following the third Monday in July in the year of their appointment by the State Board and, after taking the oath of office provided in G.S. 163A-766, they shall organize by electing one member chair and another member secretary of the county board of elections. On the Tuesday following the third Monday in August of the year in which they are appointed the county board of elections shall meet and appoint precinct chief judges and judges of elections. The board may hold other meetings at such times as the chair of the board, or any three members thereof, may direct, for the performance of duties prescribed by law. Three members shall constitute a quorum for the transaction of board business. Except where required by law to act unanimously, a majority vote for action of the board shall require three of the four members. The chair shall notify, or cause to be notified, all members regarding every meeting to be held by the board.

The county board of elections shall keep minutes recording all proceedings and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in the board office and it shall be the responsibility of the secretary, elected by the board, to keep the required

minute book current and accurate. The secretary of the board may designate the director of elections to record and maintain the minutes under his or her supervision. (1901, c. 89, s. 11; Rev., ss. 4304, 4306; C.S., ss. 5925, 5927; 1921, c. 181, s. 2; 1923, c. 111, s. 1; 1927, c. 260, s. 1; 1933, c. 165, s. 2; 1941, c. 305, s. 1; 1945, c. 758, s. 2; 1953, c. 410, s. 1; c. 1191, s. 2; 1957, c. 182, s. 1; 1959, c. 1203, s. 1; 1966, Ex. Sess., c. 5, s. 2; 1967, c. 775, s. 1; 1969, c. 208, s. 2; 1975, c. 159, s. 2; 1977, c. 626; 1983, c. 617, s. 3; 1993 (Reg. Sess., 1994), c. 762, s. 13; 1995, c. 243, s. 1; 2016-125, 4th Ex. Sess., s. 5(i); 2017-6, ss. 2, 3, 7(i).)

**§ 163A-768. Compensation of members of county boards of elections.**

In full compensation of their services, members of the county board of elections (including the chairman) shall be paid by the county twenty-five dollars (\$25.00) per meeting for the time they are actually engaged in the discharge of their duties, together with reimbursement of expenditures necessary and incidental to the discharge of their duties; provided that members are not entitled to be compensated for more than one meeting held in any one 24-hour period. In its discretion, the board of county commissioners of any county may pay the chairman and members of the county board of elections compensation in addition to the per meeting and expense allowance provided in this paragraph.

In all counties the board of elections shall pay its clerk, assistant clerks, and other employees such compensation as it shall fix within budget appropriations. Counties which adopt full-time and permanent registration shall have authority to pay directors of elections whatever compensation they may fix within budget appropriations. (1901, c. 89, s. 11; Rev., s. 4303; C.S., s. 5925; 1923, c. 111, s. 1; 1933, c. 165, s. 2; 1941, c. 305, s. 1; 1945, c. 758, s. 2; 1953, c. 410, s. 1; c. 843; c. 1191, s. 2; 1955, c. 800; 1957, c. 182, s. 1; 1959, c. 1203, s. 1; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1971, c. 1166, s. 1; 1973, c. 793, s. 8; c. 1344, s. 5; 1977, c. 626, s. 1; 1991, c. 338, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 14; 1995, c. 243, s. 1; 2017-6, s. 3.)

**§ 163A-769. Powers and duties of county boards of elections.**

The county boards of elections within their respective jurisdictions shall exercise all powers granted to such boards in this Subchapter, and they shall perform all the duties imposed upon them by law, which shall include the following:

- (1) To make and issue such rules, regulations, and instructions, not inconsistent with law, with directives promulgated under the provisions of G.S. 163A-1073, or with the rules, orders, and directives established by the State Board, as it may deem necessary for the guidance of election officers and voters.
- (2) To appoint all chief judges, judges, assistants, and other officers of elections, and designate the precinct in which each shall serve; and, after notice and hearing, to remove any chief judge, judge of elections, assistant, or other officer of election appointed by it for incompetency, failure to discharge the duties of office, failure to qualify within the time prescribed by law, fraud, or for any other satisfactory cause. In exercising the powers and duties of this subdivision, the board may act only when a majority of its members are present at any meeting at which such powers or duties are exercised.
- (3) To investigate irregularities, nonperformance of duties, and violations of laws by election officers and other persons, and to report violations to the State Board. In exercising the powers and duties of this subdivision, the board may act only when a majority of its members are present at any meeting at which



such powers or duties are exercised. Provided that in any hearing on an irregularity no board of elections shall consider as evidence the testimony of a voter who cast a ballot, which ballot that voter was not eligible to cast, as to how that voter voted on that ballot.

- (4) As provided in G.S. 163A-1045, to establish, define, provide, rearrange, discontinue, and combine election precincts as it may deem expedient, and to fix and provide for places of registration and for holding primaries and elections.
- (5) To review, examine, and certify the sufficiency and validity of petitions and nomination papers.
- (6) To advertise and contract for the printing of ballots and other supplies used in registration and elections; and to provide for the delivery of ballots, pollbooks, and other required papers and materials to the voting places.
- (7) To provide for the purchase, preservation, and maintenance of voting booths, ballot boxes, registration and pollbooks, maps, flags, cards of instruction, and other forms, papers, and equipment used in registration, nominations, and elections; and to cause the voting places to be suitably provided with voting booths and other supplies required by law.
- (8) To provide for the issuance of all notices, advertisements, and publications concerning elections required by law. If the election is on a State bond issue, an amendment to the Constitution, or approval of an act submitted to the voters of the State, the State Board shall reimburse the county boards of elections for their reasonable additional costs in placing such notices, advertisements, and publications. In addition, the county board of elections shall give notice at least 20 days prior to the date on which the registration books or records are closed that there will be a primary, general or special election, the date on which it will be held, and the hours the voting places will be open for voting in that election. The notice also shall describe the nature and type of election, and the issues, if any, to be submitted to the voters at that election. Notice shall be given by advertisement at least once weekly during the 20-day period in a newspaper having general circulation in the county and by posting a copy of the notice at the courthouse door. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. This subdivision shall not apply in the case of bond elections called under the provisions of Chapter 159 [of the General Statutes].
- (9) To receive the returns of primaries and elections, canvass the returns, make abstracts thereof, transmit such abstracts to the proper authorities, and to issue certificates of election to county officers and members of the General Assembly except those elected in districts composed of more than one county.
- (10) To appoint and remove the board's clerk, assistant clerks, and other employees; and to appoint and remove precinct transfer assistants as provided in G.S. 163A-878(g).
- (11) To prepare and submit to the proper appropriating officers a budget estimating the cost of elections for the ensuing fiscal year.

- (12) To perform such other duties as may be prescribed by this Subchapter, by directives promulgated pursuant to G.S. 163A-1073, or by the rules, orders, and directives of the State Board.
- (13) Notwithstanding the provisions of any other section of this Subchapter, to have access to any ballot boxes and their contents, any voting machines and their contents, any registration records, pollbooks, voter authorization cards or voter lists, any lists of absentee voters, any lists of presidential registrants under the Voting Rights Act of 1965 as amended, and any other voting equipment or similar records, books or lists in any precinct or municipality over whose elections it has jurisdiction or for whose elections it has responsibility.
- (14) To make forms available for near relatives or personal representatives of a deceased voter's estate to provide signed statements of the status of a deceased voter to return to the board of elections of the county in which the deceased voter was registered. Forms may be provided, upon request, to any of the following: near relatives, personal representatives of a deceased voter's estate, funeral directors, or funeral service licensees.
- (15) Nothing in this Subchapter shall grant authority to county boards of elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted by the General Assembly.
- (16) Nothing in this Subchapter shall grant authority to county boards of elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of local government other than a plan imposed by a court, a plan enacted by the General Assembly, or a plan adopted by the appropriate unit of local government under statutory or local act authority. (1901, c. 89, s. 11; Rev., s. 4306; C.S., s. 5927; 1921, c. 181, s. 2; 1927, c. 260, s. 1; 1933, c. 165, s. 2; 1966, Ex. Sess., c. 5, s. 2; 1967, c. 775, s. 1; 1973, c. 793, ss. 9-11; 1983, c. 392, s. 1; 1989, c. 93, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 15; 1995 (Reg. Sess., 1996), c. 694, s. 1; 1997-510, s. 1; 1999-424, s. 7(b); 2009-541, s. 2; 2013-381, s. 39.1(a); 2016-125, 4th Ex. Sess., s. 20(c); 2017-6, s. 3.)

**§ 163A-770. Power of chairman to administer oaths.**

The chairman of the county board of elections is authorized to administer to election officials specified in Parts 2 and 4 of this Article and Part 1 of Article 21 the required oath, and may also administer the required oath to witnesses appearing before the county board at a duly called public hearing. (1981, c. 154; 2007-391, s. 5; 2008-187, s. 33(a); 2017-6, s. 3.)

**§ 163A-771. Chairman and county board to examine voting machines.**

Prior to each primary and general election the chairman and members of the county board of elections, in counties where voting machines are used, shall test vote, in a reasonable number of combinations, no less than ten percent (10%) of all voting machines programmed for each primary or election, such machines to be selected at random by the board after programming has been completed, and further, the board shall record the serial numbers of the machines test voted in the official minutes of the board. In the alternative, the board may cause the test voting required herein

to be performed by persons qualified to program and test voting equipment. (1981, c. 303; 2017-6, s. 3.)

**§ 163A-772. County board of elections littering notification.**

At the time an individual files with a county board of elections a notice of candidacy pursuant to G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976, 163A-977, and 163A-978, 163A-985, 163A-1615, or 163A-1620, is certified to a county board of elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163A-987, qualifies with a county board of elections as an unaffiliated or write-in candidate pursuant to Part 2 of Article 19 of this Chapter, or formally initiates with a county board of elections a candidacy pursuant to any statute or local act, the county board of elections shall notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156 and the rules adopted by the Department of Transportation pursuant to G.S. 136-18. (2001-512, s. 8; 2017-6, s. 3.)

**§ 163A-773. Power of county board of elections to maintain order.**

Each county board of elections shall possess full power to maintain order, and to enforce obedience to its lawful commands during its sessions, and shall be constituted an inferior court for that purpose. If any person shall refuse to obey the lawful commands of any county board of elections, or by disorderly conduct in its hearing or presence shall interrupt or disturb its proceedings, it may, by an order in writing, signed by its chairman, and attested by its secretary, commit the person so offending to the common jail of the county for a period not exceeding 30 days. Such order shall be executed by any sheriff to whom the same shall be delivered, or if a sheriff shall not be present, or shall refuse to act, by any other person who shall be deputed by the county board of elections in writing, and the keeper of the jail shall receive the person so committed and safely keep him for such time as shall be mentioned in the commitment: Provided, that any person committed under the provisions of this section shall have the right to post a two hundred dollar (\$200.00) bond with the clerk of the superior court and appeal to the superior court for a trial on the merits of his commitment. (1901, c. 89, s. 72; Rev., s. 4376; C.S., s. 5977; 1955, c. 871, s. 4; 1967, c. 775, s. 1; 2004-203, s. 57; 2017-6, s. 3.)

**§ 163A-774. Director of elections to county board of elections; appointment; compensation; duties; dismissal.**

(a) In the event a vacancy occurs in the office of county director of elections in any of the county boards of elections in this State, the county board of elections shall submit the name of the person it recommends to fill the vacancy, in accordance with provisions specified in this section, to the Executive Director of the State Board who shall issue a letter of appointment. A person shall not serve as a director of elections if he:

- (1) Holds any elective public office;
- (2) Is a candidate for any office in a primary or election;
- (3) Holds any office in a political party or committee thereof;
- (4) Is a campaign chairman or finance chairman for any candidate for public office or serves on any campaign committee for any candidate;
- (5) Has been convicted of a felony in any court unless his rights of citizenship have been restored pursuant to the provisions of Chapter 13 of the General Statutes of North Carolina;

- (6) Has been removed at any time by the State Board following a public hearing;  
or
- (7) Is a member or a spouse, child, spouse of child, parent, sister, or brother of a member of the county board of elections by whom he would be employed.

(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination, unless good cause exists to decline the appointment. The Executive Director may delay the issuance of appointment for a reasonable time if necessary to obtain a criminal history records check sought under G.S. 143B-968. The Executive Director shall apply the standards provided in G.S. 163A-7 in determining whether a nominee with a criminal history shall be selected. If the Executive Director determines a nominee shall not be selected and does not issue a letter of appointment, the decision of the Executive Director of the State Board shall be final unless the decision is, within 10 days from the official date on which it was made, deferred by the State Board. If the State Board defers the decision, then the State Board shall make a final decision on appointment of the director of elections and may direct the Executive Director to issue a letter of appointment. If an Executive Director issues a letter of appointment, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. The specified duties and responsibilities shall include adherence to the duties delegated to the county board of elections pursuant to G.S. 163A-769. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board. In the event the Executive Director is recused due to an actual or apparent conflict of interest from rendering a decision under this section, the chair and vice-chair of the State Board shall designate a member of staff to fulfill those duties.

(c) Compensation of Directors of Elections. – Compensation paid to directors of elections in all counties maintaining full-time registration (five days per week) shall be in the form of a salary in an amount recommended by the county board of elections and approved by the Board of County Commissioners and shall be commensurate with the salary paid to directors in counties similarly situated and similar in population and number of registered voters.

The Board of County Commissioners in each county, whether or not the county maintains full-time or modified full-time registration, shall compensate the director of elections at a minimum rate of twelve dollars (\$12.00) per hour for hours worked in attendance to his or her duties as prescribed by law, including rules and regulations adopted by the State Board. In addition, the county shall pay to the director an hourly wage of at least twelve dollars (\$12.00) per hour for all hours worked in excess of those prescribed in rules and regulations adopted by the State Board, when such additional hours have been approved by the county board of elections and such approval has been recorded in the official minutes of the county board of elections.

In addition to the compensation provided for herein, the director of elections to the county board of elections shall be granted the same vacation leave, sick leave, and petty leave as granted to all other county employees. It shall also be the responsibility of the Board of County Commissioners to appropriate sufficient funds to compensate a replacement for the director of elections when authorized leave is taken.

(d) Duties. – The director of elections may be empowered by the county board of elections to perform such administrative duties as might be assigned by the board and the chairman. In

addition, the director of elections may be authorized by the chairman to execute the responsibilities devolving upon the chairman provided such authorization by any chairman shall in no way transfer the responsibility for compliance with the law. The chairman shall remain liable for proper execution of all matters specifically assigned to him by law.

The county board of elections shall have authority, by resolution adopted by majority vote, to delegate to its director of elections so much of the administrative detail of the election functions, duties, and work of the board, its officers and members, as is now, or may hereafter be vested in the board or its members as the county board of elections may see fit: Provided, that the board shall not delegate to a director of elections any of its quasi-judicial or policy-making duties and authority. Such a resolution shall require adherence to the duties delegated to the county board of elections pursuant to G.S. 163A-769. Within the limitations imposed upon the director of elections by the resolution of the county board of elections the acts of a properly appointed director of elections shall be deemed to be the acts of the county board of elections, its officers and members.

(e) Training and Certification. – The State Board shall conduct a training program consisting of four weeks for each new county director of elections. The director shall complete that program. Each director appointed after May 1995 shall successfully complete a certification program as provided in G.S. 163A-889(b) within three years after appointment or by January 1, 2003, whichever occurs later. (1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1971, c. 1166, s. 2; 1973, c. 859, s. 1; 1975, c. 211, ss. 1, 2; c. 713; 1977, c. 265, s. 21; c. 626, s. 1; c. 1129, s. 1; 1981, cc. 84, 221; 1983, c. 697; 1985, c. 763; 1991, c. 338, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 16; 1995, c. 243, s. 1; 1999-426, s. 7(a); 2001-319, ss. 1(a), 1(b), 11; 2004-203, s. 58; 2009-541, ss. 3, 4(a); 2017-6, s. 3; 2018-13, s. 1(e).)

#### **§ 163A-775. Termination of county director of elections; suspension.**

(a) The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Director of the State Board the termination of the employment of the county board's director of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Director shall forward a copy of the petition by certified mail, return receipt requested, to the county director of elections involved. The county director of elections may reply to the petition within 15 days of receipt thereof. Within 20 days of receipt of the county director of elections' reply or the expiration of the time period allowed for the filing of the reply, the State Executive Director shall render a decision as to the termination or retention of the county director of elections. The decision of the Executive Director of the State Board shall be final unless the decision is, within 20 days from the official date on which it was made, deferred by the State Board. If the State Board defers the decision, then the State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard and to present witnesses and information to the State Board, and then notify the Executive Director of its decision in writing. Any one or more members of the State Board designated by the remaining members of the State Board may conduct the hearing and make a final determination on the termination. For the purposes of this section, the member(s) designated by the remaining members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163A-4. If the decision, rendered after the hearing, results in concurrence with the decision entered by the Executive Director, the decision becomes final. If the decision rendered after the hearing is contrary to that entered by the Executive Director, then the Executive Director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board or its designated member(s).

(b) Upon majority vote on the recommendation of the Executive Director, the State Board may initiate proceedings for the termination of a county director of elections for just cause. If the State Board votes to initiate proceedings for termination, the State Board shall state the reasons for the termination in writing and send a copy by certified mail, return receipt requested, to the county director of elections. The director has 15 days to reply in writing to the notice. The State Board shall also notify the chair of the county board of elections and the chair of the county board of commissioners that the State Board has initiated termination proceedings. The State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard, present witnesses, and provide information to the State Board. Any one or more members of the State Board designated by the remaining members of the State Board may conduct the hearing and make a final decision. For the purposes of this section, the member(s) designated by the remaining members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163A-4.

(c) A county director of elections may be suspended, with pay, without warning for causes relating to personal conduct detrimental to service to the county or to the State Board, pending the giving of written reasons, in order to avoid the undue disruption of work or to protect the safety of persons or property or for other serious reasons. Any suspension may be initiated by the Executive Director but may not be for more than five days. Upon placing a county director of elections on suspension, the Executive Director shall, as soon as possible, reduce to writing the reasons for the suspension and forward copies to the county director of elections, the members of the county board of elections, the chair of the county board of commissioners, and the State Board. If no action for termination has been taken within five days, the county director of elections shall be fully reinstated.

(d) Termination of any county director of elections shall comply with this section.

(e) In the event the Executive Director is recused due to an actual or apparent conflict of interest from rendering a decision under this section, the chair and vice-chair of the State Board shall designate a member of staff to fulfill those duties. (1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1971, c. 1166, s. 2; 1973, c. 859, s. 1; 1975, c. 211, ss. 1, 2; c. 713; 1977, c. 265, s. 21; c. 626, s. 1; c. 1129, s. 1; 1981, cc. 84, 221; 1983, c. 697; 1985, c. 763; 1991, c. 338, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 16; 1995, c. 243, s. 1; 1999-426, s. 7(a); 2001-319, ss. 1(a), 1(b), 11; 2004-203, s. 58; 2009-541, ss. 3, 4(a); 2017-6, s. 3; 2018-13, s. 3.3.)

#### **§ 163A-776. Modified full-time offices.**

The State Board shall promulgate rules permitting counties that have fewer than 6,501 registered voters to operate a modified full-time elections office to the extent that the operation of a full-time office is not necessary. Nothing in this section shall preclude any county from keeping an elections office open at hours consistent with the hours observed by other county offices. (1993 (Reg. Sess., 1994), c. 762, s. 6; 1999-426, s. 8(a); 2017-6, s. 3.)

#### **§ 163A-777. Duty of county board of commissioners.**

The respective boards of county commissioners shall appropriate reasonable and adequate funds necessary for the legal functions of the county board of elections, including reasonable and just compensation of the director of elections. (1999-424, s. 3(a); 2017-6, s. 3.)

#### **§ 163A-778. Criminal history record checks of current and prospective employees of county boards of elections.**

(a) As used in this section, the term "current or prospective employee" means a current or prospective permanent or temporary employee of a county board of elections who has or will have access to the statewide computerized voter registration system maintained under G.S. 163A-874 or has a position or function designated by the State Board as provided in G.S. 163A-7(f).

(b) The county board of elections shall require a criminal history record check of all current or prospective employees, which shall be conducted by the Department of Public Safety as provided in G.S. 143B-969. The criminal history report shall be provided to the county board of elections. A county board of elections shall provide the criminal history record of all current or prospective employees required by G.S. 163A-7 to the Executive Director and the State Board. The criminal history report shall be kept confidential as provided in G.S. 143B-969(d) and is not a public record under Chapter 132 of the General Statutes.

(c) If the current or prospective employee's verified criminal history record check reveals one or more convictions, the conviction shall constitute just cause for not selecting the person for employment, or for dismissing the person from current employment. The conviction shall not automatically prohibit employment.

(d) The county board of elections may deny employment to or dismiss from employment a current or prospective employee who refuses to consent to a criminal history record check or to submit fingerprints or to provide other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(e) The county board of elections may extend a conditional offer of employment or appointment pending the results of a criminal history record check authorized by this section.

(f) Neither appointment as a precinct official or assistant under Part 4 of Article 16 of this Chapter nor employment at a one-stop early voting location shall require a criminal history record check unless the official, assistant, or employee performs a function designated by the State Board pursuant to G.S. 163A-7(f). (2018-13, s. 1(d).)

§ 163A-779: Reserved for future codification purposes.

§ 163A-780: Reserved for future codification purposes.

§ 163A-781: Reserved for future codification purposes.

§ 163A-782: Reserved for future codification purposes.

§ 163A-783: Reserved for future codification purposes.

§ 163A-784: Reserved for future codification purposes.

§ 163A-785: Reserved for future codification purposes.

§ 163A-786: Reserved for future codification purposes.

§ 163A-787: Reserved for future codification purposes.

§ 163A-788: Reserved for future codification purposes.

§ 163A-789: Reserved for future codification purposes.

§ 163A-790: Reserved for future codification purposes.

§ 163A-791: Reserved for future codification purposes.

§ 163A-792: Reserved for future codification purposes.

§ 163A-793: Reserved for future codification purposes.

§ 163A-794: Reserved for future codification purposes.

Part 3. Political Activities by State Board and County Board of Elections Members and Employees.

**§ 163A-795. Applicability of Part.**

This Part applies to members and employees of the State Board and of each county board of elections. With regard to prohibitions in this Part concerning candidates, referenda, and committees, the prohibitions do not apply if the candidate or referendum will not be on the ballot in an area within the jurisdiction of the board, or if the political committee or referendum committee is not involved with an election or referendum that will be on the ballot in an area within the jurisdiction of the board. (2000-114, s. 1; 2007-391, s. 14(a); 2011-31, s. 17; 2017-6, s. 3.)

**§ 163A-796. Limitation on political activities.**

No individual subject to this Part shall:

- (1) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the nomination or election of one or more clearly identified candidates for public office.
- (2) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the passage of one or more clearly identified referendum proposals.
- (3) Solicit contributions for a candidate, political committee, or referendum committee.

Individual expressions of opinion, support, or opposition not intended for general public distribution shall not be deemed a violation of this Part. Nothing in this Part shall be deemed to prohibit participation in a political party convention as a delegate. Nothing in this Part shall be deemed to prohibit a board member or board employee from making a contribution to a candidate, political committee, or referendum committee. Nothing in this Part shall be deemed to prohibit a board member or board employee from advising other government entities as to technical matters related to election administration or revision of electoral district boundaries. (2000-114, s. 1; 2007-391, s. 14(a); 2017-6, s. 3.)

**§ 163A-797. Violation may be ground for removal.**

A violation of this Part may be a ground to remove a State Board member under G.S. 143B-16 or a county board of elections member under G.S. 163A-741(c). A violation of this Part may be a ground for dismissal of an employee of the State Board or of a county board of elections. No



criminal penalty shall be imposed for a violation of this Part. (2000-114, s. 1; 2007-391, s. 14(a); 2011-31, s. 18; 2017-6, s. 3.)

**§ 163A-798. Definitions.**

The provisions of Article 23 of this Chapter apply to the definition and proof of terms used in this Part. (2000-114, s. 1; 2017-6, s. 3.)

**§ 163A-799:** Reserved for future codification purposes.

**§ 163A-800:** Reserved for future codification purposes.

**§ 163A-801:** Reserved for future codification purposes.

**§ 163A-802:** Reserved for future codification purposes.

**§ 163A-803:** Reserved for future codification purposes.

**§ 163A-804:** Reserved for future codification purposes.

**§ 163A-805:** Reserved for future codification purposes.

**§ 163A-806:** Reserved for future codification purposes.

**§ 163A-807:** Reserved for future codification purposes.

**§ 163A-808:** Reserved for future codification purposes.

**§ 163A-809:** Reserved for future codification purposes.

**§ 163A-810:** Reserved for future codification purposes.

**§ 163A-811:** Reserved for future codification purposes.

**§ 163A-812:** Reserved for future codification purposes.

**§ 163A-813:** Reserved for future codification purposes.

**§ 163A-814:** Reserved for future codification purposes.

Part 4. Precinct Election Officials.

**§ 163A-815. Precinct chief judges and judges of election; appointment; terms of office; qualifications; vacancies; oaths of office.**

(a) Appointment of Chief Judge and Judges. – At the meeting required by G.S. 163A-767 to be held on the Tuesday following the third Monday in August of the year in which they are appointed, the county board of elections shall appoint one person to act as chief judge and two other persons to act as judges of election for each precinct in the county. Their terms of office shall

continue for two years from the specified date of appointment and until their successors are appointed and qualified, except that if a nonresident of the precinct is appointed as chief judge or judge for a precinct, that person's term of office shall end if the board of elections appoints a qualified resident of the precinct of the same party to replace the nonresident chief judge or judge. It shall be their duty to conduct the primaries and elections within their respective precincts. Persons appointed to these offices must be registered voters and residents of the county in which the precinct is located, of good repute, and able to read and write. Not more than one judge in each precinct shall belong to the same political party as the chief judge.

(b) The term "precinct official" shall mean chief judges and judges appointed pursuant to this section, and all assistants appointed pursuant to G.S. 163A-818, unless the context of a statute clearly indicates a more restrictive meaning.

No person shall be eligible to serve as a precinct official, as that term is defined above, who holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.

No person shall be eligible to serve as a precinct official who is a candidate for nomination or election.

No person shall be eligible to serve as a precinct official who holds any office in a state, congressional district, county, or precinct political party or political organization, or who is a manager or treasurer for any candidate or political party, provided however that the position of delegate to a political party convention shall not be considered an office for the purpose of this subsection.

(c) The chairman of each political party in the county where possible shall recommend two registered voters in each precinct who are otherwise qualified, are residents of the precinct, have good moral character, and are able to read and write, for appointment as chief judge in the precinct, and he shall also recommend where possible the same number of similarly qualified voters for appointment as judges of election in that precinct. If such recommendations are received by the county board of elections no later than the fifth day preceding the date on which appointments are to be made, it must make precinct appointments from the names of those recommended. Provided that if only one name is submitted by the fifth day preceding the date on which appointments are to be made, by a party for judge of election by the chairman of one of the two political parties in the county having the greatest numbers of registered voters in the State, the county board of elections must appoint that person.

If the recommendations of the party chairs for chief judge or judge in a precinct are insufficient, the county board of elections by unanimous vote of all of its members may name to serve as chief judge or judge in that precinct registered voters in that precinct who were not recommended by the party chairs. If, after diligently seeking to fill the positions with registered voters of the precinct, the county board still has an insufficient number of officials for the precinct, the county board by unanimous vote of all of its members may appoint to the positions registered voters in other precincts in the same county who meet the qualifications other than residence to be precinct officials in the precinct, provided that where possible the county board shall seek and adopt the recommendation of the county chairman of the political party affected. In making its appointments, the county board shall assure, wherever possible, that no precinct has a chief judge and judges all of whom are registered with the same party. In no instance shall the county board appoint nonresidents of the precinct to a majority of the three positions of chief judge and judge in a precinct.

(d) If, at any time other than on the day of a primary or election, a chief judge or judge of election shall be removed from office, or shall die or resign, or if for any other cause there be a vacancy in a precinct election office, the chairman of the county board of elections shall appoint another in his place, promptly notifying him of his appointment. If at all possible, the chairman of the county board of elections shall consult with the county chairman of the political party of the vacating official, and if the chairman of the county political party nominates a qualified voter of that precinct to fill the vacancy, the chairman of the county board of elections shall appoint that person. In filling such a vacancy, the chairman shall appoint a person who belongs to the same political party as that to which the vacating member belonged when appointed. If the chairman of the county board of elections did not appoint a person upon recommendation of the chairman of the party to fill such a vacancy, then the term of office of the person appointed to fill the vacancy shall expire upon the conclusion of the next canvass held by the county board of elections under this Subchapter, and any successor must be a person nominated by the chairman of the party of the vacating officer.

If any person appointed chief judge shall fail to be present at the voting place at the hour of opening the polls on primary or election day, or if a vacancy in that office shall occur on primary or election day for any reason whatever, the precinct judges of election shall appoint another to act as chief judge until such time as the chairman of the county board of elections shall appoint to fill the vacancy. If such appointment by the chairman of the county board of elections is not a person nominated by the county chairman of the political party of the vacating officer, then the term of office of the person appointed to fill the vacancy shall expire upon the conclusion of the next canvass held by the county board of elections under this Subchapter. If a judge of election shall fail to be present at the voting place at the hour of opening the polls on primary or election day, or if a vacancy in that office shall occur on primary or election day for any reason whatever, the chief judge shall appoint another to act as judge until such time as the chairman of the county board of elections shall appoint to fill the vacancy. Persons appointed to fill vacancies shall, whenever possible, be chosen from the same political party as the person whose vacancy is being filled, and all such appointees shall be sworn before acting.

(e) As soon as practicable, following their training as prescribed in G.S. 163A-889, each chief judge and judge of election shall take and subscribe the following oath of office to be administered by an officer authorized to administer oaths and file it with the county board of elections:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State not inconsistent with the Constitution of the United States; that I will administer the duties of my office as chief judge of (judge of election in) \_\_\_\_\_ precinct, \_\_\_\_\_ County, without fear or favor; that I will not in any manner request or seek to persuade or induce any voter to vote for or against any particular candidate or proposition; and that I will not keep or make any memorandum of anything occurring within a voting booth, unless I am called upon to testify in a judicial proceeding for a violation of the election laws of this State; so help me, God."

Notwithstanding the previous paragraph, a person appointed chief judge by the judges of election under this section, or appointed judge of election by the chief judge under this section may take the oath of office immediately upon appointment.

Before the opening of the polls on the morning of the primary or election, the chief judge shall administer the oath set out in the preceding paragraph to each assistant, and any judge of election not previously sworn, substituting for the words "chief judge of" the words "assistant in" or "judge of election in" whichever is appropriate.

(f) Special Registration Commissioners Abolished; Optional Training. – The office of special registration commissioner is abolished. The State Board and county boards of elections may provide training to persons assisting in voter registration.

(g) Publication of Names of Precinct Officials. – Immediately after appointing chief judges and judges as herein provided, the county board of elections shall publish the names of the persons appointed in some newspaper having general circulation in the county or, in lieu thereof, at the courthouse door, and shall notify each person appointed of his appointment, either by letter or by having a notice served upon him by the sheriff. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. (1901, c. 89, ss. 8, 9, 16; Rev., ss. 4307, 4308, 4309; C.S., ss. 5928, 5929, 5930; 1923, c. 111, s. 2; 1929, c. 164, s. 18; 1933, c. 165, s. 3; 1947, c. 505, s. 2; 1953, c. 843; c. 1191, s. 3; 1955, c. 800; 1957, c. 784, s. 1; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 435; c. 1223, s. 2; 1975, c. 159, ss. 3, 4; c. 711; c. 807, s. 1; 1979, c. 766, s. 1; c. 782; 1981, c. 628, ss. 1, 2; c. 954, ss. 2, 4; 1981 (Reg. Sess., 1982), c. 1265, s. 7; 1983, c. 617, s. 5; 1985, c. 387; c. 563, ss. 9, 10; c. 600, s. 7.1; c. 759, ss. 7, 7.1, 8; 1987, c. 80; c. 491, s. 4.1; 1987 (Reg. Sess., 1988), c. 1028, s. 12; 1989, c. 93, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 3; 1995 (Reg. Sess., 1996), c. 734, s. 1; 2017-6, s. 3.)

#### **§ 163A-816. Certain relatives prohibited from serving together.**

(a) The following categories of relatives are prohibited from serving as precinct officials of the same precinct: spouse, child, spouse of a child, sister or brother.

(b) No precinct official who is the wife, husband, mother, father, son, daughter, brother or sister of any candidate for nomination or election may serve as precinct official during any primary or election in which such candidate participates. The county board of elections shall temporarily disqualify any such official for the specific primary or election involved and shall have authority to appoint a substitute official, from the same political party, to serve only during the primary or election at which such conflict exists. (1975, c. 745; 1979, c. 411, s. 2; 2017-6, s. 3.)

#### **§ 163A-817. Discharge of precinct official unlawful.**

(a) No employer may discharge or demote any employee because the employee has been appointed as a precinct official and is serving as a precinct official on election day or canvass day.

(b) An employee discharged or demoted in violation of this section shall be entitled to be reinstated to that employee's former position. The burden of proof shall be upon the employee.

(c) The statute of limitations for actions under this section shall be one year pursuant to G.S. 1-54.

(d) This section does not apply unless the employee provides the employer with not less than 30 days written notice, before the date the leave is to begin, of the employee's intention to take leave to serve as a precinct official.

(e) As used in this section, "precinct official" has the same meaning as in G.S. 163A-815(a). (2001-169, s. 1; 2017-6, s. 3.)

#### **§ 163A-818. Assistants at polls; appointment; term of office; qualifications; oath of office.**

(a) Each county board of elections is authorized, in its discretion, to appoint two or more assistants for each precinct to aid the chief judge and judges. Not more than two assistants shall be appointed in precincts having 500 or less registered voters. Assistants shall be qualified voters of the county in which the precinct is located. When the board of elections determines that assistants are needed in a precinct an equal number shall be appointed from different political parties, unless the requirement as to party affiliation cannot be met because of an insufficient number of voters of different political parties within the county.

In the discretion of the county board of elections, a precinct assistant may serve less than the full day prescribed for chief judges and judges in G.S. 163A-823(a).

(b) The chairman of each political party in the county shall have the right to recommend from three to 10 registered voters in each precinct for appointment as precinct assistants in that precinct. If the recommendations are received by it no later than the thirtieth day prior to the primary or election, the board shall make appointments of the precinct assistants for each precinct from the names thus recommended. If the recommendations of the party chairs for precinct assistant in a precinct are insufficient, the county board of elections by unanimous vote of all of its members may name to serve as precinct assistant in that precinct registered voters in that precinct who were not recommended by the party chairs. If, after diligently seeking to fill the positions with registered voters of the precinct, the county board still has an insufficient number of precinct assistants for the precinct, the county board by unanimous vote of all of its members may appoint to the positions registered voters in other precincts in the same county who meet the qualifications other than residence to be precinct officials in the precinct. In making its appointments, the county board shall assure, wherever possible, that no precinct has precinct officials all of whom are registered with the same party. In no instance shall the county board appoint nonresidents of the precinct to a majority of the positions as precinct assistant in a precinct.

(c) In addition, a county board of elections by unanimous vote of all of its members may appoint any registered voter in the county as emergency election-day assistant, as long as that voter is otherwise qualified to be a precinct official. The State Board shall determine for each election the number of emergency election-day assistants each county may have, based on population, expected turnout, and complexity of election duties. The county board by unanimous vote of all of its members may assign emergency election-day assistants on the day of the election to any precinct in the county where the number of precinct officials is insufficient because of an emergency occurring within 48 hours of the opening of the polls that prevents an appointed precinct official from serving. A person appointed to serve as emergency election-day assistant shall be trained and paid like other precinct assistants in accordance with G.S. 163A-822. A county board of elections shall apportion the appointments as emergency election-day assistant among registrants of each political party so as to make possible the staffing of each precinct with officials of more than one party, and the county board shall make assignments so that no precinct has precinct officials all of whom are registered with the same party.

(d) Before entering upon the duties of the office, each assistant shall take the oath prescribed in G.S. 163A-815(a) to be administered by the chief judge of the precinct for which the assistant is appointed. Assistants serve for the particular primary or election for which they are appointed, unless the county board of elections appoints them for a term to expire on the date appointments are to be made pursuant to G.S. 163A-815. (1929, c. 164, s. 35; 1933, c. 165, s. 24; 1953, c. 1191, s. 3; 1967, c. 775, s. 1; 1973, c. 793, s. 95; c. 1359, ss. 1-3; 1975, c. 19, s. 67; 1977, c. 95, ss. 1, 2; 1981, c. 954, s. 3; 1983, c. 617, s. 4; 1985, c. 563, ss. 8, 8.1; 1993 (Reg. Sess., 1994), c. 762, s. 17; 1995 (Reg. Sess., 1996), c. 554, s. 1; c. 734, s. 2; 2011-31, s. 19; 2017-6, s. 3.)

**§ 163A-819. Student election assistants.**

A student of at least 17 years of age at the time of any election or primary in which the student works shall be eligible to be appointed as a student election assistant. To be eligible a student must have all the following qualifications:

- (1) Be a United States citizen.
- (2) Be a resident of the county in which the student is appointed.
- (3) Be enrolled in a secondary educational institution, including a home school as defined in G.S. 115C-563(a), with an exemplary academic record as determined by that institution.
- (4) Be recommended by the principal or director of the secondary educational institution in which the student is enrolled.
- (5) Have the consent of a parent, legal custodian, or guardian.

The county board of elections may appoint student election assistants, following guidelines which shall be issued by the State Board. No more than two student election assistants shall be assigned to any voting place. Every student election assistant shall work under the direct supervision of the election judges. The student election assistants shall attend the same training as a precinct assistant, shall be sworn in the same manner as a precinct assistant, and shall be compensated in the same manner as precinct assistants. The county board of elections shall prescribe the duties of a student election assistant, following guidelines which shall be issued by the State Board. Under no circumstances may students ineligible to register to vote be appointed and act as precinct judges or observers in any election. The date of birth of a student election assistant shall be kept confidential. (2003-278, s. 1; 2004-127, s. 17(e); 2017-6, s. 3.)

**§ 163A-820. Ballot counters; appointment; qualifications; oath of office.**

The county board of elections of any county may authorize the use of precinct ballot counters to aid the chief judges and judges of election in the counting of ballots in any precinct or precincts within the county. The county board of elections shall appoint the ballot counters it authorizes for each precinct or, in its discretion, the board may delegate authority to make such appointments to the precinct chief judge, specifying the number of ballot counters to be appointed for each precinct. A ballot counter must be a resident of the county in which the precinct is located.

No person shall be eligible to serve as a ballot counter, who holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.

No person shall be eligible to serve as a ballot counter, who serves as chairman of a state, congressional district, county, or precinct political party or political organization.

No person who is the wife, husband, mother, father, son, daughter, brother or sister of any candidate for nomination or election may serve as ballot counter during any primary or election in which such candidate qualifies.

No person shall be eligible to serve as a ballot counter who is a candidate for nomination or election.

Upon acceptance of appointment, each ballot counter shall appear before the precinct chief judge at the voting place immediately at the close of the polls on the day of the primary or election and take the following oath to be administered by the chief judge:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the

constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State not inconsistent with the Constitution of the United States; that I will honestly discharge the duties of ballot counter in \_\_\_\_ precinct, \_\_\_\_ County for primary (or election) held this day, and that I will fairly and honestly tabulate the votes cast in said primary (or election); so help me, God."

The names and addresses of all ballot counters serving in any precinct, whether appointed by the county board of elections or by the chief judge, shall be reported by the chief judge to the county board of elections at the county canvass following the primary or election. (1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1981, c. 954, s. 5; 1985, c. 563, s. 10.1; 1993 (Reg. Sess., 1994), c. 762, s. 18; 1995 (Reg. Sess., 1996), c. 734, s. 3; 2017-6, s. 3.)

### **§ 163A-821. Observers; appointment.**

(a) The chair of each political party in the county shall have the right to designate two observers to attend each voting place at each primary and election and such observers may, at the option of the designating party chair, be relieved during the day of the primary or election after serving no less than four hours and provided the list required by this section to be filed by each chair contains the names of all persons authorized to represent such chair's political party. The chair of each political party in the county shall have the right to designate 10 additional at-large observers who are residents of that county who may attend any voting place in that county. The list submitted by the chair of the political party may be amended between the one-stop period under G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304 and general election day to substitute one or all at-large observers for election day. Not more than two observers from the same political party shall be permitted in the voting enclosure at any time, except that in addition one of the at-large observers from each party may also be in the voting enclosure. This right shall not extend to the chair of a political party during a primary unless that party is participating in the primary. In any election in which an unaffiliated candidate is named on the ballot, the candidate or the candidate's campaign manager shall have the right to appoint two observers for each voting place consistent with the provisions specified herein. Persons appointed as observers must be registered voters of the county for which appointed and must have good moral character. No person who is a candidate on the ballot in a primary or election may serve as an observer or runner in that primary or election. Observers shall take no oath of office.

(b) Individuals authorized to appoint observers must submit in writing to the chief judge of each precinct a signed list of the observers appointed for that precinct, except that the list of at-large observers authorized in subsection (a) of this section shall be submitted to the county director of elections. Individuals authorized to appoint observers must, prior to 10:00 A.M. on the fifth day prior to any primary or general election, submit in writing to the chair of the county board of elections two signed copies of a list of observers appointed by them, designating the precinct or at-large status for which each observer is appointed. Before the opening of the voting place on the day of a primary or general election, the chair shall deliver one copy of the list to the chief judge for each affected precinct, except that the list of at-large observers shall be provided by the county director of elections to the chief judge. The chair shall retain the other copy. The chair, or the chief judge and judges for each affected precinct, may for good cause reject any appointee and require that another be appointed. The names of any persons appointed in place of those persons rejected shall be furnished in writing to the chief judge of each affected precinct no later than the time for opening the voting place on the day of any primary or general election, either by the chair of the county board of elections or the person making the substitute appointment.

If party chairs appoint observers at one-stop sites under G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304, those party chairs shall provide a list of the observers appointed before 10:00 A.M. on the fifth day before the observer is to observe. At-large observers may serve at any one-stop site.

(c) An observer shall do no electioneering at the voting place, and shall in no manner impede the voting process or interfere or communicate with or observe any voter in casting a ballot, but, subject to these restrictions, the chief judge and judges of elections shall permit the observer to make such observation and take such notes as the observer may desire.

(d) Whether or not the observer attends to the polls for the requisite time provided by this section, each observer shall be entitled to obtain at times specified by the State Board, but not less than three times during election day with the spacing not less than one hour apart, a list of the persons who have voted in the precinct so far in that election day. Counties that use an "authorization to vote document" instead of poll books may comply with the requirement in the previous sentence by permitting each observer to inspect election records so that the observer may create a list of persons who have voted in the precinct so far that election day; each observer shall be entitled to make the inspection at times specified by the State Board, but not less than three times during election day with the spacing not less than one hour apart.

Instead of having an observer receive the voting list, the county party chair may send a runner to do so, even if an observer has not been appointed for that precinct. The runner may be the precinct party chair or any person named by the county party chair. Each county party chair using runners in an election shall provide to the county board of elections before 10:00 A.M. on the fifth day before election day a list of the runners to be used. That party chair must notify the chair of the county board of elections or the board chair's designee of the names of all runners to be used in each precinct before the runner goes to the precinct. The runner may receive a voter list from the precinct on the same schedule as an observer. Whether obtained by observer or runner, each party is entitled to only one voter list at each of the scheduled times. No runner may enter the voting enclosure except when necessary to announce that runner's presence and to receive the list. The runner must leave immediately after being provided with the list. (1929, c. 164, s. 36; 1953, c. 843; 1955, c. 800; c. 871, s. 7; 1959, c. 616, s. 2; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 793, ss. 14, 94; 1977, c. 453; 1991, c. 727, s. 3; 1993 (Reg. Sess., 1994), c. 762, s. 19; 1995 (Reg. Sess., 1996), c. 688, s. 1; c. 734, s. 4.1; 2005-428, s. 1(a); 2007-391, s. 22; 2008-187, s. 33(a); 2013-381, s. 11.1; 2017-6, s. 3.)

#### **§ 163A-822. Compensation of precinct officials and assistants.**

The precinct chief judge shall be paid the state minimum wage for his services on the day of a primary, special or general election. Judges of election shall each be paid the state minimum wage for their services on the day of a primary, special or general election. Assistants, appointed pursuant to G.S. 163A-818, shall each be paid the state minimum wage for their services on the day of a primary, special or general election. Ballot counters appointed pursuant to G.S. 163A-820 shall be paid a minimum of five dollars (\$5.00) for their services on the day of a primary, general or special election. If an election official is being paid an hourly wage or daily fee on an election day and the official is performing additional election duties away from the assigned precinct voting place, the official shall not be entitled to any additional monies for those services, except for reimbursable expenses in performing the services.

If the county board of elections requests the presence of a chief judge or judge at the county canvass, the chief judge shall be paid the sum of twenty dollars (\$20.00) per day and judges shall



be paid the sum of fifteen dollars (\$15.00) per day. If the county board of elections requests a precinct official, including chief judge or judge, to personally deliver official ballots or other official materials to the county board of elections, the precinct official shall be paid the sum of twenty dollars (\$20.00) per day and judges shall be paid the sum of fifteen dollars (\$15.00) per day.

The chairman of the county board of elections, along with the director of elections, shall conduct an instructional meeting prior to each primary and general election which shall be attended by each chief judge and judge of election, unless excused by the chairman, and such precinct election officials shall be paid the sum of fifteen dollars (\$15.00) for attending the instructional meetings required by this section.

In its discretion, the board of county commissioners of any county may provide funds with which the county board of elections may pay chief judges, judges, assistants, and ballot counters in addition to the amounts specified in this section. Observers shall be paid no compensation for their services.

A person appointed to serve as chief judge, or judge of election when a previously appointed chief judge or judge fails to appear at the voting place or leaves his post on the day of an election or primary shall be paid the same compensation as the chief judge or judge appointed prior to that date.

For the purpose of this section, the phrase "the State minimum wage," means the amount set by G.S. 95-25.3(a). For the purpose of this section, no other provision of Article 2A of Chapter 95 of the General Statutes shall apply. (1901, c. 89, s. 42; Rev., s. 4311; C.S., s. 5932; 1927, c. 260, s. 2; 1931, c. 254, s. 16; 1933, c. 165, s. 3; 1935, c. 421, s. 1; 1939, c. 264, s. 1; 1941, c. 304, s. 1; 1945, c. 758, s. 3; 1947, c. 505, s. 11; 1951, c. 1009, s. 1; 1953, c. 843; 1955, c. 800; 1957, c. 182, s. 2; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1969, c. 24; 1971, c. 604; 1973, c. 793, ss. 15, 16, 94; 1977, c. 626, s. 1; 1979, c. 403; 1981, c. 796, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 762, s. 20; 1995, c. 243, s. 1; 2001-398, s. 5; 2003-278, s. 3; 2017-6, s. 3.)

### **§ 163A-823. Powers and duties of chief judges and judges of election.**

(a) The chief judges and judges of election shall conduct the primaries and elections within their respective precincts fairly and impartially, and they shall enforce peace and good order in and about the place of registration and voting. On the day of each primary and general and special election, the precinct chief judge and judges shall remain at the voting place from the time fixed by law for the commencement of their duties there until they have completed all those duties, and they shall not separate nor shall any one of them leave the voting place except for unavoidable necessity.

(b) On the day of an election or primary, the chief judge shall have charge of the registration list for the purpose of passing on the registration of persons who present themselves at the polls to vote.

(c) The chief judge and judges shall hear challenges of the right of registered voters to vote as provided by law.

(d) The chief judge and judges shall count the votes cast in their precincts and make such returns of the same as is provided by law.

(e) The chief judge and judges shall make such an accounting to the chairman of the county board of elections for ballots and for election supplies as is required by law.

(f) The chief judge and judges of election shall act by a majority vote on all matters not assigned specifically by law to the chief judge or to a judge. (1901, c. 89, s. 41; Rev., s. 4312;

C.S., s. 5933; 1933, c. 165, s. 3; 1939, c. 263, s. 3 1/2; 1947, c. 505, s. 3; 1967, c. 775, s. 1; 1973, c. 793, s. 17; 1993 (Reg. Sess., 1994), c. 762, s. 4; 2017-6, s. 3.)

**§ 163A-824. Maintenance of order at place of registration and voting.**

The chief judge and judges of election shall enforce peace and good order in and about the place of registration and voting. They shall especially keep open and unobstructed the place at which voters or persons seeking to register or vote have access to the place of registration and voting. They shall prevent and stop improper practices and attempts to obstruct, intimidate, or interfere with any person in registering or voting. They shall protect challenger and witnesses against molestation and violence in the performance of their duties, and they may eject from the place of registration or voting any challenger or witness for violation of any provisions of the election laws. They shall prevent riots, violence, tumult, or disorder.

In the discharge of the duties prescribed in the preceding paragraph of this section, the chief judge and judges may call upon the sheriff, the police, or other peace officers to aid them in enforcing the law. They may order the arrest of any person violating any provision of the election laws, but such arrest shall not prevent the person arrested from registering or voting if he is entitled to do so. The sheriff, police officers, and other officers of the peace shall immediately obey and aid in the enforcement of any lawful order made by the precinct election officials in the enforcement of the election laws. The chief judge and judges of election of any precinct, or any two of such election officials, shall have the authority to deputize any person or persons as police officers to aid in maintaining order at the place of registration or voting. (1901, c. 89, s. 72; Rev., s. 4376; C.S., s. 5977; 1955, c. 871, s. 4; 1967, c. 775, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 21; 2017-6, s. 3.)

**§ 163A-825:** Reserved for future codification purposes.

**§ 163A-826:** Reserved for future codification purposes.

**§ 163A-827:** Reserved for future codification purposes.

**§ 163A-828:** Reserved for future codification purposes.

**§ 163A-829:** Reserved for future codification purposes.

**§ 163A-830:** Reserved for future codification purposes.

**§ 163A-831:** Reserved for future codification purposes.

**§ 163A-832:** Reserved for future codification purposes.

**§ 163A-833:** Reserved for future codification purposes.

**§ 163A-834:** Reserved for future codification purposes.

**§ 163A-835:** Reserved for future codification purposes.

§ 163A-836: Reserved for future codification purposes.

§ 163A-837: Reserved for future codification purposes.

§ 163A-838: Reserved for future codification purposes.

§ 163A-839: Reserved for future codification purposes.

## Article 17.

### Qualifying to Vote.

#### Part 1. Qualifications of Voters.

#### § 163A-840. Registration a prerequisite to voting.

Only such persons as are legally registered shall be entitled to vote in any primary or election held under this Subchapter. (1901, c. 89, s. 12; Rev., s. 4317; C.S., s. 5938; 1967, c. 775, s. 1; 2017-6, s. 3.)

#### § 163A-841. Qualifications to vote; exclusion from electoral franchise.

(a) Residence Period for State Elections. – Every person born in the United States, and every person who has been naturalized, and who shall have resided in the State of North Carolina and in the precinct in which the person offers to vote for 30 days next preceding an election, shall, if otherwise qualified as prescribed in this Subchapter, be qualified to vote in the precinct in which the person resides. Removal from one precinct to another in this State shall not operate to deprive any person of the right to vote in the precinct from which the person has removed until 30 days after the person's removal.

Except as provided in this Subchapter, the following classes of persons shall not be allowed to vote in this State:

- (1) Persons under 18 years of age.
- (2) Any person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

(b) Precincts. – For purposes of qualification to vote in an election, a person's residence in a precinct shall be determined in accordance with G.S. 163A-842. Qualification to vote in referenda shall be treated the same as qualification for elections to fill offices.

(c) Elections. – For purposes of the 30-day residence requirement to vote in an election in subsection (a) of this section, the term "election" means the day of the primary, second primary, general election, special election, or referendum. (19th amendt. U.S. Const.; amendt. State Const., 1920; 1901, c. 89, ss. 14, 15; Rev., ss. 4315, 4316; C.S., ss. 5936, 5937; Ex. Sess. 1920, c. 18, s. 1; 1933, c. 165, s. 4; 1945, c. 758, s. 7; 1955, c. 871, s. 2; 1967, c. 775, s. 1; 1971, c. 1231, s. 1; 1973, c. 793, s. 18; 2005-2, s. 2; 2008-150, s. 5(a); 2009-541, s. 5; 2013-381, s. 49.1; 2017-6, s. 3.)

#### § 163A-842. Residence defined for registration and voting.

All election officials in determining the residence of a person offering to register or vote, shall be governed by the following rules, so far as they may apply:

- (1) That place shall be considered the residence of a person in which that person's habitation is fixed, and to which, whenever that person is absent, that person has the intention of returning[, subject to the following:].
  - a. In the event that a person's habitation is divided by a State, county, municipal, precinct, ward, or other election district, then the location of the bedroom or usual sleeping area for that person with respect to the location of the boundary line at issue shall be controlling as the residency of that person.
  - b. If the person disputes the determination of residency, the person may request a hearing before the county board of elections making the determination of residency. The procedures for notice of hearing and the conduct of the hearing shall be as provided in G.S. 163A-912. The presentation of an accurate and current determination of a person's residence and the boundary line at issue by map or other means available shall constitute prima facie evidence of the geographic location of the residence of that person.
  - c. In the event that a person's residence is not a traditional residence associated with real property, then the location of the usual sleeping area for that person shall be controlling as to the residency of that person. Residence shall be broadly construed to provide all persons with the opportunity to register and to vote, including stating a mailing address different from residence address.
- (2) A person shall not be considered to have lost that person's residence if that person leaves home and goes into another state, county, municipality, precinct, ward, or other election district of this State, for temporary purposes only, with the intention of returning.
- (3) A person shall not be considered to have gained a residence in any county, municipality, precinct, ward, or other election district of this State, into which that person comes for temporary purposes only, without the intention of making that county, municipality, precinct, ward, or other election district a permanent place of abode.
- (4) If a person removes to another state or county, municipality, precinct, ward, or other election district within this State, with the intention of making that state, county, municipality, precinct, ward, or other election district a permanent residence, that person shall be considered to have lost residence in the state, county, municipality, precinct, ward, or other election district from which that person has removed.
- (5) If a person removes to another state or county, municipality, precinct, ward, or other election district within this State, with the intention of remaining there an indefinite time and making that state, county, municipality, precinct, ward, or other election district that person's place of residence, that person shall be considered to have lost that person's place of residence in this State, county, municipality, precinct, ward, or other election district from which that person

has removed, notwithstanding that person may entertain an intention to return at some future time.

- (6) If a person goes into another state, county, municipality, precinct, ward, or other election district, or into the District of Columbia, and while there exercises the right of a citizen by voting in an election, that person shall be considered to have lost residence in that State, county, municipality, precinct, ward, or other election district from which that person removed.
- (7) School teachers who remove to a county, municipality, precinct, ward, or other election district in this State for the purpose of teaching in the schools of that county temporarily and with the intention or expectation of returning during vacation periods to live where their parents or other relatives reside in this State and who do not have the intention of becoming residents of the county, municipality, precinct, ward, or other election district to which they have moved to teach, for purposes of registration and voting shall be considered residents of the county, municipality, precinct, ward, or other election district in which their parents or other relatives reside.
- (8) If a person removes to the District of Columbia or other federal territory to engage in the government service, that person shall not be considered to have lost residence in this State during the period of such service unless that person votes in the place to which the person removed, and the place at which that person resided at the time of that person's removal shall be considered and held to be the place of residence.
- (9) If a person removes to a county, municipality, precinct, ward, or other election district to engage in the service of the State government, that person shall not be considered to have lost residence in the county, municipality, precinct, ward, or other election district from which that person removed, unless that person votes in the place to which the person removed, and the place at which that person resided at the time of that person's removal shall be considered and held to be the place of residence.
- (10) The establishment of a secondary residence by an elected official outside the district of the elected official shall not constitute prima facie evidence of a change of residence.
- (11) For the purpose of voting a spouse shall be eligible to establish a separate domicile.
- (12) So long as a student intends to make the student's home in the community where the student is physically present for the purpose of attending school while the student is attending school and has no intent to return to the student's former home after graduation, the student may claim the college community as the student's domicile. The student need not also intend to stay in the college community beyond graduation in order to establish domicile there. This subdivision is intended to codify the case law. (19th amendt. U.S. Const.; amendt. State Const., 1920; 1901, c. 89, s. 15; Rev., s. 4316; C.S., s. 5937; Ex. Sess. 1920, c. 18, s. 1; 1933, c. 165, s. 4; 1945, c. 758, s. 7; 1955, c. 871, s. 2; 1967, c. 775, s. 1; 1981, c. 184; 1991, c. 727, s. 5.1; 1993 (Reg. Sess., 1994), c. 762, s. 22; 2001-316, s. 1; 2005-428, s. 3(b); 2006-262, s. 2.1; 2017-6, s. 3.)

**§ 163A-843. Right to participate or vote in party primary.**

No person shall be entitled to vote or otherwise participate in the primary election of any political party unless that person complies with all of the following:

- (1) Is a registered voter.
- (2) Has declared and has had recorded on the registration book or record the fact that the voter affiliates with the political party in whose primary the voter proposes to vote or participate.
- (3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163A-989 may also vote in the primary if the voter is otherwise eligible to vote in that primary except for subdivisions (2) and (3) of the previous paragraph.

Any person who will become qualified by age to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163A-865(d) prior to the primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections. (1915, c. 101, s. 5; 1917, c. 218; C.S., s. 6027; 1959, c. 1203, s. 6; 1967, c. 775, s. 1; 1971, c. 1166, s. 4; 1973, c. 793, s. 20; 1981, c. 33, s. 1; 1983, c. 324, s. 3; 1987, c. 408, s. 4; c. 457, s. 1; 1991 (Reg. Sess., 1992), c. 1032, s. 5; 1993 (Reg. Sess., 1994), c. 762, s. 23; 2007-391, s. 28; 2008-187, s. 33(a); 2009-541, s. 6; 2013-381, s. 16.2; 2017-6, s. 3.)

**§ 163A-844:** Reserved for future codification purposes.

**§ 163A-845:** Reserved for future codification purposes.

**§ 163A-846:** Reserved for future codification purposes.

**§ 163A-847:** Reserved for future codification purposes.

**§ 163A-848:** Reserved for future codification purposes.

**§ 163A-849:** Reserved for future codification purposes.

**§ 163A-850:** Reserved for future codification purposes.

**§ 163A-851:** Reserved for future codification purposes.

**§ 163A-852:** Reserved for future codification purposes.

**§ 163A-853:** Reserved for future codification purposes.

**§ 163A-854:** Reserved for future codification purposes.

§ 163A-855: Reserved for future codification purposes.

§ 163A-856: Reserved for future codification purposes.

§ 163A-857: Reserved for future codification purposes.

§ 163A-858: Reserved for future codification purposes.

§ 163A-859: Reserved for future codification purposes.

## Part 2. Registration of Voters.

### § 163A-860. General principles of voter registration.

(a) Prerequisite to Voting. – No person shall be permitted to vote who has not been registered under the provisions of this Part or registered as previously provided by law.

(b) County Board's Duty to Register. – A county board of elections shall register, in accordance with this Part, every person qualified to vote in that county who makes an application in accordance with this Part.

(c) Permanent Registration. – Every person registered to vote by a county board of elections in accordance with this Part shall remain registered until:

- (1) The registrant requests in writing to the county board of elections to be removed from the list of registered voters; or
- (2) The registrant becomes disqualified through death, conviction of a felony, or removal out of the county; or
- (3) The county board of elections determines, through the procedure outlined in G.S. 163A-877, that it can no longer confirm where the voter resides. (1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1965, c. 1116, s. 1; 1967, c. 775, s. 1; 1973, c. 793, s. 25; 1975, c. 395; 1981, c. 39, s. 1; c. 87, s. 1; c. 308, s. 1; 1985, c. 211, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 762, s. 2; 2009-541, s. 7(a); 2013-381, s. 12.1(a); 2017-6, s. 3.)

### § 163A-861. Chief State Election Official.

The Executive Director of the State Board is the "Chief State Election Official" of North Carolina for purposes of P.L. 103-31, The National Voter Registration Act of 1993, subsequently referred to in this Part as the "National Voter Registration Act". As such the Executive Director is responsible for coordination of State responsibilities under the National Voter Registration Act. (1993 (Reg. Sess., 1994), c. 762, s. 2; 2001-319, s. 11; 2017-6, s. 3.)

### § 163A-862. Voter registration application forms.

(a) Form Developed by State Board. – The State Board shall develop an application form for voter registration. Any person may use the form to apply to do any of the following:

- (1) Register to vote.
- (2) Change party affiliation or unaffiliated status.
- (3) Report a change of address within a county.
- (4) Report a change of name.

The county board of elections for the county where the applicant resides shall accept the form as application for any of those purposes if the form is submitted as set out in G.S. 163A-862.

(b) Interstate Form. – The county board of elections where an applicant resides shall accept as application for any of the purposes set out in subsection (a) of this section the interstate registration form designed by the Federal Election Commission pursuant to section 9 of the National Voter Registration Act, if the interstate form is submitted in accordance with G.S. 163A-865.

(c) Agency Application Form. – The county board of elections where an applicant resides shall accept as application for any of the purposes set out in subsection (a) of this section a form developed pursuant to G.S. 163A-883 or G.S. 163A-884. (1991 (Reg. Sess., 1992), c. 1044, s. 18(a); 1993, c. 74, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 2009-541, s. 8(a); 2013-381, s. 12.1(b); 2017-6, s. 3.)

**§ 163A-863. Contents of application form.**

(a) Information Requested of Applicant. – The form required by G.S. 163A-862(a) shall request the applicant's:

- (1) Name,
- (2) Date of birth,
- (3) Residence address,
- (4) County of residence,
- (5) Date of application,
- (6) Gender,
- (7) Race,
- (8) Ethnicity,
- (9) Political party affiliation, if any, in accordance with subsection (d) of this section,
- (10) Telephone number (to assist the county board of elections in contacting the voter if needed in processing the application),
- (11) Drivers license number or, if the applicant does not have a drivers license number, the last four digits of the applicant's social security number,

and any other information the State Board finds is necessary to enable officials of the county where the person resides to satisfactorily process the application. The form shall require the applicant to state whether currently registered to vote anywhere, and at what address, so that any prior registration can be cancelled. The portions of the form concerning race and ethnicity shall include as a choice any category shown by the most recent decennial federal census to compose at least one percent (1%) of the total population of North Carolina. The county board shall make a diligent effort to complete for the registration records any information requested on the form that the applicant does not complete, but no application shall be denied because an applicant does not state race, ethnicity, gender, or telephone number. The application shall conspicuously state that provision of the applicant's telephone number is optional. If the county board maintains voter records on computer, the free list provided under this subsection shall include telephone numbers if the county board enters the telephone number into its computer records of voters.

(b) No Drivers License or Social Security Number Issued. – The State Board shall assign a unique identifier number to an applicant for voter registration if the applicant has not been issued either a current and valid drivers license or a social security number. That unique identifier number shall serve to identify that applicant for voter registration purposes.

(c) Notice of Requirements, Attestation, Notice of Penalty, and Notice of Confidentiality. – The form required by G.S. 163A-862(a) shall contain, in uniform type, the following:



- (1) A statement that specifies each eligibility requirement (including citizenship) and an attestation that the applicant meets each such requirement, with a requirement for the signature of the applicant, under penalty of a Class I felony under G.S. 163A-1389(13).
- (2) A statement that, if the applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.
- (3) A statement that, if the applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

(d) **Party Affiliation or Unaffiliated Status.** – The application form described in G.S. 163A-862(a) shall provide a place for the applicant to state a preference to be affiliated with one of the political parties in G.S. 163A-950, or a preference to be an "unaffiliated" voter. Every person who applies to register shall state his preference. If the applicant fails to declare a preference for a party or for unaffiliated status, that person shall be listed as "unaffiliated", except that if the person is already registered to vote in the county and that person's registration already contains a party affiliation, the county board shall not change the registrant's status to "unaffiliated" unless the registrant clearly indicates a desire in accordance with G.S. 163A-881 for such a change. An unaffiliated registrant shall not be eligible to vote in any political party primary, except as provided in G.S. 163A-989, but may vote in any other primary or general election. The application form shall so state.

(e) **Citizenship and Age Questions.** – Voter registration application forms shall include all of the following:

- (1) The following question and statement:
  - a. "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.
  - b. "If you checked 'no' in response to this question, do not submit this form."
- (2) The following question and statement:
  - a. "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether the applicant will be 18 years of age or older on election day.
  - b. "If you checked 'no' in response to this question, do not submit this form."

(f) **Correcting Registration Forms.** – If the voter fails to complete any required item on the voter registration form but provides enough information on the form to enable the county board of elections to identify and contact the voter, the voter shall be notified of the omission and given the opportunity to complete the form at least by 5:00 P.M. on the day before the county canvass as set in G.S. 163A-1172(b). If the voter corrects that omission within that time and is determined by the county board of elections to be eligible to vote, the board shall permit the voter to vote. If the information is not corrected by election day, the voter shall be allowed to vote a provisional official ballot. If the correct information is provided to the county board of elections by at least 5:00 P.M. on the day before the county canvass, the board shall count any portion of the provisional official ballot that the voter is eligible to vote. (1901, c. 89, s. 12; Rev., s. 4319; C.S., s. 5940; Ex. Sess. 1920, c. 93; 1933, c. 165, s. 5; 1951, c. 984, s. 1; 1953, c. 843; 1955, c. 800; c. 871, s. 2; 1957, c.

784, s. 2; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1971, c. 1166, s. 6; 1973, c. 793, s. 27; c. 1223, s. 3; 1975, c. 234, s. 2; 1979, c. 135, s. 1; c. 539, ss. 1-3; c. 797, ss. 1, 2; 1981, c. 222; c. 308, s. 2; 1991 (Reg. Sess., 1992), c. 1044, s. 18(a); 1993, c. 74, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1999-424, s. 7(c), (d); 1999-453, s. 8(a); 2003-226, s. 9; 2004-127, s. 4; 2005-428, s. 15; 2007-391, s. 20; 2008-187, s. 33(a); 2009-541, s. 9(a); 2013-381, s. 12.1(c); 2017-6, s. 3.)

**§ 163A-864. Distribution of application forms.**

The State Board shall make the forms described in G.S. 163A-862 available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration drives. (1991 (Reg. Sess., 1992), c. 1044, s. 18(a); 1993, c. 74, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 2017-6, s. 3.)

**§ 163A-865. Acceptance of application forms.**

(a) How the Form May Be Submitted. – The county board of elections shall accept any form described in G.S. 163A-862 if the applicant submits the form by mail, facsimile transmission, transmission of a scanned document, or in person. The applicant may delegate the submission of the form to another person. Any person who communicates to an applicant acceptance of that delegation shall deliver that form so that it is received by the appropriate county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (d) of this section for the next election. It shall be a Class 2 misdemeanor for any person to communicate to the applicant acceptance of that delegation and then fail to make a good faith effort to deliver the form so that it is received by the county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (d) of this section for the next election. It shall be an affirmative defense to a charge of failing to make a good faith effort to deliver a delegated form by the registration deadline that the delegatee informed the applicant that the form would not likely be delivered in time for the applicant to vote in the next election. It shall be a Class 2 misdemeanor for any person to sell or attempt to sell a completed voter registration form or to condition its delivery upon payment.

(b) Misdemeanors. – It shall be a Class 2 misdemeanor for any person to do any of the following:

- (1) To communicate to the applicant acceptance of the delegation described in subsection (a) of this section and then fail to make a good faith effort to deliver the form so that it is received by the county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (d) of this section for the next election. It shall be an affirmative defense to a charge of failing to make a good faith effort to deliver a delegated form by the registration deadline that the delegatee informed the applicant that the form would not likely be delivered in time for the applicant to vote in the next election.
- (2) To sell or attempt to sell a completed voter registration form or to condition its delivery upon payment.
- (3) To change a person's information on a voter registration form prior to its delivery to a county board of elections.
- (4) To coerce a person into marking a party affiliation other than the party affiliation the person desires.
- (5) To offer a person a voter registration form that has a party affiliation premarked unless the person receiving the form has requested the premarking.

(c) Signature. – The form shall be valid only if signed by the applicant. An electronically captured signature, including signatures on applications generated by computer programs of third-party groups, shall not be valid on a voter registration form, except as provided in Part 2 of Article 21 of this Chapter. Notwithstanding the provisions of this subsection, an electronically captured image of the signature of a voter on an electronic voter registration form offered by a State agency shall be considered a valid signature for all purposes for which a signature on a paper voter registration form is used.

(d) Registration Deadlines for a Primary or Election. – In order to be valid for a primary or election, the form:

- (1) If submitted by mail, must be postmarked at least 25 days before the primary or election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the primary or election,
- (2) If submitted in person, by facsimile transmission, or by transmission of a scanned document, must be received by the county board of elections by a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the primary or election,
- (3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the primary or election, except as provided in subsection (f) of this section.

(e) If the application is submitted by facsimile transmission or transmission of a scanned document, a permanent copy of the completed, signed form shall be delivered to the county board no later than 20 days before the election.

(f) Instances When Person May Register and Vote on Primary or Election Day. – If a person has become qualified to register and vote between the twenty-fifth day before a primary or election and primary or election day, then that person may apply to register on primary or election day by submitting an application form described in G.S. 163A-862(a) or (b) to:

- (1) A member of the county board of elections;
- (2) The county director of elections; or
- (3) The chief judge or a judge of the precinct in which the person is eligible to vote,

and, if the application is approved, that person may vote the same day. The official in subdivisions (1) through (3) of this subsection to whom the application is submitted shall decide whether the applicant is eligible to vote. The applicant shall present to the official written or documentary evidence that the applicant is the person he represents himself to be. The official, if in doubt as to the right of the applicant to register, may require other evidence satisfactory to that official as to the applicant's qualifications. If the official determines that the person is eligible, the person shall be permitted to vote in the primary or election and the county board shall add the person's name to the list of registered voters. If the official denies the application, the person shall be permitted to vote a challenged ballot under the provisions of G.S. 163A-915, and may appeal the denial to the full county board of elections. The State Board shall promulgate rules for the county boards of elections to follow in hearing appeals for denial of primary or election day applications to register. No person shall be permitted to register on the day of a second primary unless he shall have become qualified to register and vote between the date of the first primary and the date of the succeeding second primary.

(g) For purposes of subsection (f) of this section, persons who "become qualified to register and vote" during a time period:

- (1) Include those who during that time period are naturalized as citizens of the United States or who are restored to citizenship after a conviction of a felony; but
- (2) Do not include persons who reach the age of 18 during that time period, if those persons were eligible to register while 17 years old during an earlier period.

(h) The county board of elections shall forward by electronic means any application submitted for the purpose of preregistration to the State Board. No later than 60 days prior to the first election in which the applicant will be legally entitled to vote, the State Board shall notify the appropriate county board of elections to verify the qualifications and address of the applicant in accordance with G.S. 163A-867. (1901, c. 89, ss. 18, 21; Rev., ss. 4322, 4323; C.S., ss. 5946, 5947; 1923, c. 111, s. 3; 1933, c. 165, s. 5; 1947, c. 475; 1953, c. 843; 1955, c. 800; 1957, c. 784, ss., 3, 4; 1961, c. 382; 1963, c. 303, ss. 1, 2; 1967, c. 761, s. 3; c. 775, s. 1; 1969, c. 750, ss. 1, 2; 1977, c. 626, s. 1; 1979, c. 539, s. 5; c. 766, s., 2; 1981, c. 33, s. 2; 1981 (Reg. Sess., 1982), c. 1265, s. 6; 1983, c. 553; 1985, c. 260, s. 1; 1991, c. 363, s. 1; 1991 (Reg. Sess., 1992), c. 1032, s. 1; 1991 (Reg. Sess., 1992), c. 1044, s. 18(a); 1993, c. 74, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 243, s. 1; 1997-456, s. 27; 1999-426, s. 1(a), (b); 2001-315, s. 1; 2001-319, s. 6(a); 2003-226, s. 4; 2004-127, s. 9(a); 2007-253, s. 2; 2007-391, s. 16(a); 2008-150, s. 5(d), (e); 2009-541, s. 10(a); 2013-381, ss. 13.1, 16.3; 2017-6, s. 3.)

#### **§ 163A-866. Address and name changes at one-stop sites.**

Change of Registration at One-Stop Voting Site. – A person who is already registered to vote in the county may update the information in the registration record in accordance with procedures prescribed by the State Board, but an individual's party affiliation may not be changed during the one-stop voting period before any first or second partisan primary in which the individual is eligible to vote. (2007-253, s. 1; 2009-541, s. 11; 2013-381, ss. 16.1, 16.1A; 2017-6, s. 3.)

#### **§ 163A-867. Verification of qualifications and address of applicant; denial or approval of application.**

(a) Tentative Determination of Qualification. – When a county board of elections receives an application for registration submitted pursuant to G.S. 163A-865, the board either:

- (1) Shall make a determination that the applicant is not qualified to vote at the address given, or
- (2) Shall make a tentative determination that the applicant is qualified to vote at the address given, subject to the mail verification notice procedure outlined in subsection (c) of this section within a reasonable time after receiving the application.

(b) Denial of Registration. – If the county board of elections makes a determination pursuant to subsection (a) of this section that the applicant is not qualified to vote at the address given, the board shall send, by certified mail, a notice of denial of registration. The notice of denial shall contain the date on which registration was denied, and shall be mailed within two business days after denial. The notice of denial shall inform the applicant of alternatives that the applicant may pursue to exercise the franchise. If the applicant disagrees with the denial, the applicant may appeal the decision under G.S. 163A-882.

(c) Verification of Address by Mail. – If the county board of elections tentatively determines that the applicant is qualified to vote at the address given, then the county board shall send a notice to the applicant, by nonforwardable mail, at the address the applicant provides on the application form. The notice shall state that the county will register the applicant to vote if the Postal Service does not return the notice as undeliverable to the county board. The notice shall also inform the applicant of the precinct and voting place to which the applicant will be assigned if registered.

(d) Approval of Application. – If the Postal Service does not return the notice as undeliverable, the county board shall register the applicant to vote.

(e) Second Notice if First Notice Is Returned as Undeliverable. – If the Postal Service returns the notice as undeliverable, the county board shall send a second notice by nonforwardable mail to the same address to which the first was sent. If the second notice is not returned as undeliverable, the county board shall register the applicant to vote.

(f) Denial of Application Based on Lack of Verification of Address. – If the Postal Service returns as undeliverable the notice sent by nonforwardable mail pursuant to subsection (e) of this section, the county board shall deny the application. The county board need not try to notify the applicant further.

(g) Voting When Verification Process Is Incomplete. – In cases where an election occurs before the process of verification outlined in this section has had time to be completed, the county board of elections shall be guided by the following rules:

- (1) If the county board has made a tentative determination that an applicant is qualified to vote under subsection (a) of this section, then that person shall not be denied the right to vote in person in an election unless the Postal Service has returned as undeliverable two notices to the applicant: one mailed pursuant to subsection (c) of this section and one mailed pursuant to subsection (e) of this section. This subdivision does not preclude a challenge to the voter's qualifications under Part 3 of Article 17 of this Chapter.
- (2) If the Postal Service has returned as undeliverable a notice sent within 25 days before the election to the applicant under subsection (c) of this section, then the applicant may vote only in person in that first election and may not vote by absentee ballot except in person under G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304. The county board of elections shall establish a procedure at the voting site for:
  - a. Obtaining the correct address of any person described in this subdivision who appears to vote in person; and
  - b. Assuring that the person votes in the proper place and in the proper contests.

If a notice mailed under subsection (c) or subsection (e) of this section is returned as undeliverable after a person has already voted by absentee ballot, then that person's ballot may be challenged in accordance with G.S. 163A-916.

- (3) If a notice sent pursuant to subsection (c) or (e) of this section is returned by the Postal Service as undeliverable after a person has already voted in an election, then the county board shall treat the person as a registered voter but shall send a confirmation mailing pursuant to G.S. 163A-877(d)(2) and remove or retain the person on the registration records in accordance with that subdivision.

(1991 (Reg. Sess., 1992), c. 1044, s. 18(a); 1993, c. 74, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1999-455, s. 16; 2017-6, s. 3.)

**§ 163A-868. Declaration of religious objection to photograph.**

(a) At the time of approval of the application to register to vote, a voter with a sincerely held religious objection to being photographed may execute a declaration before an election official to that effect to be incorporated as part of the official record of voter registration.

(b) At any time after the voter has registered to vote that the voter has determined the voter has a sincerely held religious objection to being photographed, that voter may execute a declaration before an election official to be incorporated as part of the official record of that voter's voter registration.

(c) At any time after a voter has executed a declaration before an election official under this section and that voter no longer has a sincerely held religious objection to being photographed, that voter may request the cancellation of the declaration in writing to the county board.

(d) All declarations under subsections (a) and (b) of this section shall include a statement by the voter that the voter has a sincerely held religious objection to being photographed and a requirement for the signature of the voter, which includes a notice that a false or fraudulent declaration is a Class I felony pursuant to G.S. 163A-1389(13).

(e) The State Board shall adopt rules to establish a standard form for the administration of this section. (2013-381, s. 2.3; 2017-6, s. 3.)

**§ 163A-869. Voter registration cards.**

(a) Authority to Issue Card. – With the approval of the board of county commissioners, the county board of elections may issue to each voter in the county a voter registration card, or may issue cards to all voters registered after January 1, 1995.

(b) Content and Format of Card. – At a minimum, the voter registration card shall:

- (1) List the voter's name, address, and voting place;
- (2) Contain the address and telephone number of the county board of elections, along with blanks to report a change of address within the county, change of name, and change of party affiliation; and
- (3) Be wallet size.

No voter registration card may be issued by a county board of elections unless the State Board has approved the format of the card.

(c) Ways County Board and Registrant May Use Card. – If the county board of elections issues voter registration cards, the county board may use that card as a notice of tentative approval of the voter's application pursuant to G.S. 163A-867(c), provided that the mailing contains the statements and information required in that subsection. The county board may also satisfy the requirements of G.S. 163A-878(b), 163A-880(b), or 163A-881(b) by sending the registrant a replacement of the voter registration card to verify change of address, change of name, or change of party affiliation. A registrant may use the card to report a change of address, change of name, or change of party affiliation, satisfying G.S. 163A-878, 163A-880, or 163A-881.

(d) Card as Evidence of Registration. – A voter registration card shall be evidence of registration but shall not preclude a challenge as permitted by law.

(e) Display of Card May Not Be Required to Vote. – No county board of elections may require that a voter registration card be displayed in order to vote. A county board of elections may notify a voter that the voter's registration card may be used for the required identification in

conjunction with a reasonable impediment declaration in accordance with G.S. 163A-1147. (1901, c. 89, ss. 18, 21; Rev., ss. 4322, 4323; C.S., ss. 5946, 5947; 1923, c. 111, s. 3; 1933, c. 165, s. 5; 1947, c. 475; 1953, c. 843; 1955, c. 800; 1957, c. 784, ss. 3, 4; 1961, c. 382; 1963, c. 303, ss. 1, 2; 1967, c. 761, s. 3; c. 775, s. 1; 1969, c. 750, ss. 1, 2; 1977, c. 626, s. 1; 1979, c. 539, s. 5; c. 766, s. 2; 1981, c. 33, s. 2; 1981 (Reg. Sess., 1982), c. 1265, s. 6; 1983, c. 553; 1985, c. 260, s. 1; 1991, c. 363, s. 1; 1991 (Reg. Sess., 1992), c. 1032, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 2015-103, s. 8(f); 2017-6, s. 3.)

#### **§ 163A-870. Cancellation of prior registration.**

If an applicant indicates on an application form described in G.S. 163A-862 a current registration to vote in any other county, municipality, or state, the county board of elections, upon registering the person to vote, shall send a notice to the appropriate officials in the other county, municipality, or state and shall ask them to cancel the person's voter registration there. If an applicant completes an application form described in G.S. 163A-862 except that the applicant neglects to complete the portion of the form that authorizes cancellation of previous registration in another county, the State Board shall notify the county board of elections in the previous county of the new registration, and the board in the previous county shall cancel the registration. The State Board shall adopt rules to prevent disenfranchisement in the implementation of this section. Those rules shall include adequate notice to the person whose previous registration is to be cancelled. (1973, c. 793, s. 28; c. 1223, s. 4; 1977, c. 265, s. 3; 1983, c. 411, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 509, s. 115; 2005-428, s. 9; 2017-6, s. 3.)

#### **§ 163A-871. Official record of voter registration.**

(a) Official Record. – The State voter registration system is the official voter registration list for the conduct of all elections in the State. The State Board and the county board of elections may keep copies of voter registration data, including voter registration applications, in any medium and format expressly approved by the Department of Natural and Cultural Resources pursuant to standards and conditions established by the Department and mutually agreed to by the Department and the State Board. A completed and signed registration application form, if available, described in G.S. 163A-862, once approved by the county board of elections, becomes backup to the official registration record of the voter. Full or partial social security numbers, dates of birth, the identity of the public agency at which the voter registered under G.S. 163A-884, any electronic mail address submitted under Part 2 of Article 21 of this Chapter, and drivers license numbers that may be generated in the voter registration process, by either the State Board or a county board of elections, are confidential and shall not be considered public records and subject to disclosure to the general public under Chapter 132 of the General Statutes. Cumulative data based on those items of information may be publicly disclosed as long as information about any individual cannot be discerned from the disclosed data. Disclosure of information in violation of this subsection shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of information in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The signature of the voter, either on the paper application or an electronically captured image of it, may be viewed by the public but may not be copied or traced except by election officials for election administration purposes. Any such copy or tracing is not a public record.

(b) Paperless, Instant Electronic Transfer. – The application described in G.S. 163A-862 may be either a paper hard copy or an electronic document.

(c) Access to Registration Records. – Upon request by that person, the county board of elections shall provide to any person a list of the registered voters of the county or of any precinct or precincts in the county. The county board may furnish selective lists according to party affiliation, gender, race, date of registration, precinct name, precinct identification code, congressional district, senate district, representative district, and, where applicable, county commissioner district, city governing board district, fire district, soil and water conservation district, and voter history including primary, general, and special districts, or any other reasonable category. No list produced under this section shall contain a voter's date of birth. However, lists may be produced according to voters' ages. Both the following shall apply to all counties:

- (1) The county board of elections shall make the voter registration information available to the public on electronic or magnetic medium. For purposes of this section, "electronic or magnetic medium" means any of the media in use by the State Board at the time of the request.
- (2) Information requested on electronic or magnetic medium shall contain the following: voter name, county voter identification number, residential address, mailing address, sex, race, age but not date of birth, party affiliation, precinct name, precinct identification code, congressional district, senate district, representative district, and, where applicable, county commissioner district, city governing board district, fire district, soil and water conservation district, and any other district information available, and voter history including primary, general, and special districts, or any other reasonable category.

The county board shall require each person to whom a list is furnished to reimburse the board for the actual cost incurred in preparing it, except as provided in subsection (d) of this section. Actual cost for the purpose of this section shall not include the cost of any equipment or any imputed overhead expenses. When furnishing information under this subsection to a purchaser on a magnetic medium provided by the county board or the purchaser, the county board may impose a service charge of up to twenty-five dollars (\$25.00).

(d) Free Lists. – A county board shall provide, upon written request, one free list of all the registered voters in the county to the State chair of each political party and to the county chair of each political party once in every odd-numbered year, once during the first six calendar months of every even-numbered year, and once during the latter six calendar months of every even-numbered year. Each free list shall include the name, address, gender, age but not date of birth, race, political affiliation, voting history, precinct, precinct name, precinct identification code, congressional district, senate district, representative district, and, where applicable, county commissioner district, city governing board district, fire district, soil and water conservation district, and voter history including primary, general, and special districts of each registered voter. All free lists shall be provided as soon as practicable on one of any electronic or magnetic media, but no later than 30 days after written request. Each State party chair shall provide the information on the media received from the county boards or a copy of the media containing the data itself to candidates of that party who request the data in writing. As used in this section, "political party" means a political party as defined in G.S. 163A-950.

(e) Exception for Address of Certain Registered Voters. – Notwithstanding subsections (c) and (d) of this section, if a registered voter submits to the county board of elections a copy of a protective order without attachments, if any, issued to that person under G.S. 50B-3 or a lawful order of any court of competent jurisdiction restricting the access or contact of one or more persons with a registered voter or a current and valid Address Confidentiality Program authorization card



issued pursuant to the provisions of Chapter 15C of the General Statutes, accompanied by a signed statement that the voter has good reason to believe that the physical safety of the voter or a member of the voter's family residing with the voter would be jeopardized if the voter's address were open to public inspection, that voter's address is a public record but shall be kept confidential as long as the protective order remains in effect or the voter remains a certified program participant in the Address Confidentiality Program. That voter's name, precinct, and the other data contained in that voter's registration record shall remain a public record. That voter's signed statement submitted under this subsection is a public record but shall be kept confidential as long as the protective order remains in effect or the voter remains a certified program participant in the Address Confidentiality Program. It is the responsibility of the voter to provide the county board with a copy of the valid protective order in effect or a current and valid Address Confidentiality Program authorization card issued pursuant to the provisions of Chapter 15C of the General Statutes. The voter's actual address shall be used for any election-related purpose by any board of elections. That voter's address shall be available for inspection by a law enforcement agency or by a person identified in a court order, if inspection of the address by that person is directed by that court order. It shall not be a violation of this section if the address of a voter who is participating in the Address Confidentiality Program is discovered by a member of the public in public records disclosed by a county board of elections prior to December 1, 2001. Addresses required to be kept confidential by this section shall not be made available to the jury commission under the provisions of G.S. 9-2. (1901, c. 89, s. 83; Rev., s. 4382; C.S., s. 6016; 1931, c. 80; 1939, c. 263, s. 31/2; 1949, c. 916, ss. 6, 7; 1953, c. 843; 1955, c. 800; 1959, c. 883; 1963, c. 303, s. 1; 1965, c. 1116, s. 1; 1967, c. 775, s. 1; 1973, c. 793, ss. 22, 25; 1975, c. 12; c. 395; 1979, 2nd Sess., c. 1242; 1981, c. 39, s. 1; c. 87, s.1; c. 308, s. 1; c. 656; 1983, c. 218, ss. 1, 2; 1985, c. 211, ss. 1, 2; c. 472, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1995 (Reg. Sess., 1996), c. 688, s. 2; 2001-396, s. 1; 2002-171, s. 8; 2003-226, ss. 2, 3; 2003-278, s. 6; 2004-127, s. 17(c); 2005-428, s. 10(a), (b); 2007-391, s. 19; 2008-187, s. 33(a); 2009-541, s. 12; 2011-182, s. 9; 2015-241, s. 14.30(s); 2017-6, s. 3.)

#### **§ 163A-872. Permanent voter registration numbers.**

The statewide voter registration system shall assign to each voter a unique registration number. That number shall be permanent for that voter and shall not be changed or reassigned by the county board of elections. (2001-319, s. 8.1(a); 2003-226, s. 10; 2017-6, s. 3.)

#### **§ 163A-873. Confidentiality of date of birth.**

Boards of elections shall keep confidential the date of birth of every voter-registration applicant and registered voter, except in the following situations:

- (1) When a voter has filed notice of candidacy for elective office under G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976, 163A-977, and 163A-978, 163A-1005, 163A-1006, or 163A-1620, has been nominated as a candidate under G.S. 163A-953 or G.S. 163A-987, or has otherwise formally become a candidate for elective office. The exception of this subdivision does not extend to an individual who meets the definition of "candidate" only by beginning a tentative candidacy by receiving funds or making payments or giving consent to someone else to receive funds or transfer something of value for the purpose of exploring a candidacy.
- (2) When a voter is serving in an elective office.

- (3) When a voter has been challenged pursuant to Part 3 of Article 17 of this Chapter.
- (4) When a voter-registration applicant or registered voter expressly authorizes in writing the disclosure of that individual's date of birth.
- (5) When requested by a county jury commission established pursuant to G.S. 9-1 for purposes of preparing the master jury list in that county pursuant to G.S. 9-2.

The disclosure of an individual's age does not constitute disclosure of date of birth in violation of this section.

The county board of elections shall give precinct officials access to a voter's date of birth where necessary for election administration, consistent with the duty to keep dates of birth confidential.

Disclosure of a date of birth in violation of this section shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of a date of birth in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. (2004-127, s. 17(a); 2013-166, s. 1; 2017-3, s. 4; 2017-6, s. 3.)

#### **§ 163A-874. Establishment of statewide computerized voter registration.**

(a) **Statewide System as Official List.** – The State Board shall develop and implement a statewide computerized voter registration system to facilitate voter registration and to provide a central database containing voter registration information for each county. The system shall serve as the single system for storing and managing the official list of registered voters in the State. The system shall serve as the official voter registration list for the conduct of all elections in the State. The system shall encompass both software development and purchasing of the necessary hardware for the central and distributed-network systems.

(b) **Uses of Statewide System.** – The State Board shall develop and implement the system so that each county board of elections can do all the following:

- (1) Verify that an applicant to register in its county is not also registered in another county.
- (2) Be notified automatically that a registered voter in its county has registered to vote in another county.
- (3) Receive automatically data about a person who has applied to vote at a drivers license office or at another public agency that is authorized to accept voter registration applications.

(c) **Compliance With Federal Law.** – The State Board shall update the statewide computerized voter registration list and database to meet the requirements of section 303(a) of the Help America Vote Act of 2002 and to reflect changes when citizenship rights are restored under G.S. 13-1.

(d) **Role of County and State Boards of Elections.** – Each county board of elections shall be responsible for registering voters within its county according to law. Each county board of elections shall maintain its records by using the statewide computerized voter registration system in accordance with rules promulgated by the State Board. Each county board of elections shall enter through the computer system all additions, deletions, and changes in its list of registered voters promptly to the statewide computer system.

(e) **Cooperation on List for Jury Commission.** – The State Board shall assist the Division of Motor Vehicles in providing to the county jury commission of each county, as required by G.S. 20-43.4, a list of all registered voters in the county and all persons in the county with drivers license records. The list of registered voters provided by the State Board shall not include any

registered voter who has been inactive for eight years or more. (1993 (Reg. Sess., 1994), c. 762, s. 2; 2003-226, s. 6; 2007-512, s. 4; 2017-6, s. 3.)

**§ 163A-875. Promulgation of guidelines relating to computerized voter registration.**

The State Board shall make all guidelines necessary to administer the statewide voter registration system established by this Part. All county boards of elections shall follow these guidelines and cooperate with the State Board in implementing guidelines. These guidelines shall include provisions for all of the following:

- (1) Establishing, developing, and maintaining a computerized central voter registration file.
- (2) Linking the central file through a network with computerized voter registration files in each of the counties.
- (3) Interacting with the computerized drivers license records of the Division of Motor Vehicles and with the computerized records of other public agencies authorized to accept voter registration applications.
- (4) Protecting and securing the data.
- (5) Converting current voter registration records in the counties in computer files that can be used on the statewide computerized registration system.
- (6) Enabling the statewide system to determine whether the voter identification information provided by an individual is valid.
- (7) Enabling the statewide system to interact electronically with the Division of Motor Vehicles system to validate identification information.
- (8) Enabling the Division of Motor Vehicles to provide real-time interface for the validation of the drivers license number and last four digits of the social security number.
- (9) Notifying voter-registration applicants whose drivers license or last four digits of social security number does not result in a validation, attempting to resolve the discrepancy, initiating investigations under G.S. 163A-769(3) or challenges under Part 3 of Article 17 of this Chapter where warranted, and notifying any voters of the requirement under G.S. 163A-1144(d) to present identification when voting.
- (10) Enabling the statewide system to assign a unique identifier to each legally registered voter in the State.
- (11) Enabling the State Board to assist the Division of Motor Vehicles in providing to the jury commission of each county, as required by G.S. 20-43.4, a list of all registered voters in the county and all persons in the county with drivers license records.

These guidelines shall not be considered to be rules subject to Article 2A of Chapter 150B of the General Statutes. However, the State Board shall publish in the North Carolina Register the guidelines and any changes to them after adoption, with that publication noted as information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those guidelines shall be made available to the public upon request or otherwise by the State Board. (1993 (Reg. Sess., 1994), c. 762, s. 2; 2003-226, s. 7(a); 2007-391, s. 21(b); 2008-187, s. 33(a); 2013-410, s. 14(a); 2017-6, s. 3.)

**§ 163A-876. Access to statewide voter registration file.**

(a) Free Copy for Political Parties. – Beginning January 1, 1996, the State Board shall make available free of charge, upon written request, one magnetic copy of the statewide computerized voter registration file to the chairman of each political party as defined in G.S. 163A-950 as soon as practicable after the close of registration before every statewide primary and election. The file made available to the political party chairmen shall contain the name, address, gender, age but not date of birth, race, voting history, political affiliation, and precinct of every registered voter in the State. If a county board enters telephone numbers into its computer lists of registered voters, then the free list provided under this subsection shall include telephone numbers.

(b) Copies for Sale to Others. – Beginning January 1, 1996, the State Board shall sell, upon written request, to other public and private organizations and persons magnetic copies of the statewide computerized voter registration file. The State Board may sell selective lists of registered voters according to county, congressional or legislative district, party affiliation, gender, age but not date of birth, race, date of registration, or any other reasonable category, or a combination of categories. The State Board shall require all persons to whom any list is furnished under this subsection to reimburse the board for the actual cost incurred in preparing it. (1993 (Reg. Sess., 1994), c. 762, s. 2; 2004-127, s. 17(d); 2017-6, s. 3.)

#### **§ 163A-877. List maintenance.**

(a) Uniform Program. – The State Board shall adopt a uniform program that makes a diligent effort not less than twice each year:

- (1) To remove the names of ineligible voters from the official lists of eligible voters, and
- (2) To update the addresses and other necessary data of persons who remain on the official lists of eligible voters.

That program shall be nondiscriminatory and shall comply with the provisions of the Voting Rights Act of 1965, as amended, and with the provisions of the National Voter Registration Act. The State Board, in addition to the methods set forth in this section, may use other methods toward the ends set forth in subdivisions (1) and (2) of this subsection, including address-updating services provided by the Postal Service, and entering into data sharing agreements with other states to cross-check information on voter registration and voting records. Any data sharing agreement shall require the other state or states to comply with G.S. 163A-871 and G.S. 163A-873. Each county board of elections shall conduct systematic efforts to remove names from its list of registered voters in accordance with this section and with the program adopted by the State Board. The county boards of elections shall complete their list maintenance mailing program by April 15 of every odd-numbered year, unless the State Board approves a different date for the county.

(b) Death. – The Department of Health and Human Services shall furnish free of charge to the State Board every month, in a format prescribed by the State Board, the names of deceased persons who were residents of the State. The State Board shall distribute every month to each county board of elections the names on that list of deceased persons who were residents of that county. The Department of Health and Human Services shall base each list upon information supplied by death certifications it received during the preceding month. Upon the receipt of those names, each county board of elections shall remove from its voter registration records any person the list shows to be dead. Each county board of elections shall also remove from its voter registration records a person identified as deceased by a signed statement of a near relative or

personal representative of the estate of the deceased voter. The county board need not send any notice to the address of the person so removed.

(c) Conviction of a Felony. –

- (1) Report of Conviction Within the State. – The State Board, on or before the fifteenth day of every month, shall report to the county board of elections of that county the name, county of residence, and residence address if available, of each individual against whom a final judgment of conviction of a felony has been entered in that county in the preceding calendar month.
- (2) Report of Federal Conviction. – The Executive Director of the State Board, upon receipt of a notice of conviction sent by a United States Attorney pursuant to section 8(g) of the National Voter Registration Act, shall notify the appropriate county boards of elections of the conviction.
- (3) County Board's Duty Upon Receiving Report of Conviction. – When a county board of elections receives a notice pursuant to subdivision (1) or (2) of this subsection relating to a resident of that county and that person is registered to vote in that county, the board shall, after giving 30 days' written notice to the voter at his registration address, and if the voter makes no objection, remove the person's name from its registration records. If the voter notifies the county board of elections of his objection to the removal within 30 days of the notice, the chairman of the board of elections shall enter a challenge under G.S. 163A-911(c)(5), and the notice the county board received pursuant to this subsection shall be prima facie evidence for the preliminary hearing that the registrant was convicted of a felony.

(d) Change of Address. – A county board of elections shall conduct a systematic program to remove from its list of registered voters those who have moved out of the county, and to update the registration records of persons who have moved within the county. The county board shall remove a person from its list if the registrant:

- (1) Gives confirmation in writing of a change of address for voting purposes out of the county. "Confirmation in writing" for purposes of this subdivision shall include:
  - a. A report to the county board from the Department of Transportation or from a voter registration agency listed in G.S. 163A-884 that the voter has reported a change of address for voting purposes outside the county;
  - b. A notice of cancellation received under G.S. 163A-870; or
  - c. A notice of cancellation received from an election jurisdiction outside the State.
- (2) Fails to respond to a confirmation mailing sent by the county board in accordance with this subdivision and does not vote or appear to vote in an election beginning on the date of the notice and ending on the day after the date of the second general election for the United States House of Representatives that occurs after the date of the notice. A county board sends a confirmation notice in accordance with this subdivision if the notice:
  - a. Is a postage prepaid and preaddressed return card, sent by forwardable mail, on which the registrant may state current address;
  - b. Contains or is accompanied by a notice to the effect that if the registrant did not change residence but remained in the county, the registrant

should return the card not later than the deadline for registration by mail in G.S. 163A-865(d)(1); and

- c. Contains or is accompanied by information as to how the registrant may continue to be eligible to vote if the registrant has moved outside the county.

A county board shall send a confirmation mailing in accordance with this subdivision to every registrant after every congressional election if the county board has not confirmed the registrant's address by another means.

- (3) Any registrant who is removed from the list of registered voters pursuant to this subsection shall be reinstated if the voter appears to vote and gives oral or written affirmation that the voter has not moved out of the county but has maintained residence continuously within the county. That person shall be allowed to vote as provided in G.S. 163A-878(f).

(e) Cooperation on List Maintenance Efforts. – The State Board has the authority to perform list maintenance under this section with the same authority as a county board.

(f) Annual Report on List Maintenance Efforts. – County board of elections shall submit to the State Board an annual report, on or before September 1 of each year, of its list maintenance under this section. The State Board shall compile annual reports received from the county board of elections and submit the reports to the Joint Legislative Elections Oversight Committee on or before October 1 of each year. (1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1965, c. 1116, s. 1; 1967, c. 775, s. 1; 1973, c. 793, ss. 25, 28; c. 1223, s. 4; 1975, c. 395; 1977, c. 265, s. 3; 1981, c. 39, s. 1; c. 87, s. 1; c. 308, s. 1; 1983, c. 411, ss. 1, 2; 1985, c. 211, ss. 1, 2; 1987, c. 691, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1997-443, s. 11A.117; 1999-453, s. 7(a), (b); 2001-319, ss. 8(a), 11; 2005-428, s. 14; 2007-391, ss. 18, 32; 2008-187, s. 33(a); 2013-381, ss. 18.1, 39.1(b); 2014-111, s. 16; 2017-6, s. 3; 2018-112, s. 4.)

### **§ 163A-878. Change of address within the county.**

(a) Registrant's Duty to Report. – No registered voter shall be required to re-register upon moving from one precinct to another within the same county. Instead, a registrant shall notify the county board of the change of address by the close of registration for an election as set out in G.S. 163A-865(d). In addition to any other method allowed by G.S. 163A-865, the form may be submitted by electronic facsimile, under the same deadlines as if it had been submitted in person. The registrant shall make the notification by means of a voter registration form as described in G.S. 163A-862, or by another written notice, signed by the registrant, that includes the registrant's full name, former residence address, new residence address, and the registrant's attestation that the registrant moved at least 30 days before the next primary or election from the old to the new address.

(b) Verification of New Address by Mail. – When a county board of elections receives a notice that a registrant in that county has changed residence within the same county, the county board shall send a notice, by nonforwardable mail, to the registrant at the new address. The notice shall inform the registrant of any new precinct and voting place that will result from the change of address, and it shall state whether the registrant shall vote at the new voting place during the upcoming election or at a later election. If the Postal Service returns the county board's notice to the registrant as undeliverable, the county board shall either:

- (1) Send a second notice by nonforwardable mail to the new address and, if it is returned as undeliverable, send to the registrant's old address a confirmation notice as described in G.S. 163A-877(d)(2); or
- (2) Send to the registrant's old address a confirmation notice as described in G.S. 163A-877(d)(2) without first sending a second nonforwardable notice to the new address.

In either case, if the registrant does not respond to the confirmation notice as described in G.S. 163A-877(d)(2), then the county board shall proceed with the removal of the registrant from the list of voters in accordance with G.S. 163A-877(d).

(c) **Board's Duty to Make Change.** – If the county board confirms the registrant's new address in accordance with subsection (b) of this section, the county board shall as soon as practical change the record to reflect the new address.

(d) **Unreported Move Within the Same Precinct.** – A registrant who has moved from one address to another within the same precinct shall, notwithstanding failure to notify the county board of the change of address before an election, be permitted to vote at the voting place of that precinct upon oral or written affirmation by the registrant of the change of address before a precinct official at that voting place.

(e) **Unreported Move to Another Precinct Within the County.** – If a registrant has moved from an address in one precinct to an address in another precinct within the same county more than 30 days before an election and has failed to notify the county board of the change of address before the close of registration for that election, the county board shall permit that person to vote in that election. The county board shall permit the registrant described in this subsection to vote at the registrant's new precinct, upon the registrant's written affirmation of the new address, or, if the registrant prefers, at a central location in the county to be chosen by the county board. If the registrant appears at the old precinct, the precinct officials there shall (i) send the registrant to the new precinct or, (ii) if the registrant prefers, to the central location, according to rules which shall be prescribed by the State Board, or (iii) permit the voter to vote a provisional ballot and shall count the individual's provisional official ballot for all ballot items on which it determines that the individual was eligible under State or federal law to vote. At the new precinct, the registrant shall be processed by a precinct transfer assistant, according to rules which shall be prescribed by the State Board.

(f) **When Registrant Disputes Registration Records.** – If the registration records indicate that the registrant has moved outside the precinct, but the registrant denies having moved from the address within the precinct previously shown on the records, the registrant shall be permitted to vote at the voting place for the precinct where the registrant claims to reside, if the registrant gives oral or written affirmation before a precinct official at that voting place.

(g) **Precinct Transfer Assistants.** – The county board of elections shall either designate a board employee or appoint other persons to serve as precinct transfer assistants to receive the election-day transfers of the voters described in subsection (e) of this section. In addition, board members and employees may perform the duties of precinct transfer assistants. The State Board shall promulgate uniform rules to carry out the provisions of this section, and shall define in those rules the duties of the precinct transfer assistant. (1979, c. 135, s. 2; 1983, c. 392, s. 2; 1984, Ex. Sess., c. 3, ss. 1, 2; 1987, c. 549, s. 1; 1989, c. 427; 1991, c. 12, s. 1; 1991 (Reg. Sess., 1992), c. 1032, s. 3; 1993 (Reg. Sess., 1994), c. 762, s. 2; 2001-314, s. 1; 2005-2, s. 3; 2006-262, s. 2; 2014-111, s. 12(a); 2017-6, s. 3.)

**§ 163A-879. Administrative change of registration when county line is adjusted.**

When a boundary between counties is established by legislation or under G.S. 153A-18, the Executive Director shall direct the county boards of elections involved to administratively change the voter registration of any voter whose county of residence is altered by the establishment of the boundary. The voter shall not be required to submit a new application to register, and the provisions of G.S. 163A-842 shall apply to the determination of residency. The Executive Director shall prescribe a method of notifying the voter of the change of county registration, the correct precinct, and other relevant information. (2005-428, s. 3(a); 2017-6, s. 3.)

**§ 163A-880. Change of name.**

(a) Registrant's Duty to Report. – If the name of a registrant is changed in accordance with G.S. 48-1-104, G.S. 50-12, or Chapter 101 of the General Statutes, or if a married registrant assumes the last name of the registrant's spouse, the registrant shall not be required to re-register, but shall report the change of name to the county board not later than the last day for applying to register to vote for an election in G.S. 163A-865. The registrant shall report the change on a form described in G.S. 163A-862 or on a voter registration card described in G.S. 163A-869 or in another written statement that is signed, contains the registrant's full names, old and new, and the registrant's current residence address.

(b) Verification of New Name by Mail. – When a county board of elections receives a notice of name change from a registrant in that county, the county board shall send a notice, by nonforwardable mail, to the registrant's residence address. The notice shall state that the registrant's records will be changed to reflect the new name if the registrant does not respond that the name change is incorrect. If the Postal Service returns the county board's notice to the registrant as undeliverable, the county board shall send to the registrant's residence address a confirmation notice as described in G.S. 163A-877(d)(2).

If the registrant does not respond to the confirmation notice as described in G.S. 163A-877(d)(2), then the county board shall proceed with the removal of the registrant from the list of voters in accordance with G.S. 163A-877(d).

(c) Board's Duty to Make Change. – If the county board confirms the registrant's address in accordance with subsection (b) of this section and the registrant does not deny making the application for the name change, the county board shall as soon as practical change the record of the registrant's name to conform to that stated in the application.

(d) Unreported Name Change. – A registrant who has not reported a name change in accordance with subsection (a) of this section shall be permitted to vote if the registrant reports the name change to the chief judge at the voting place, or to the county board along with the voter's application for an absentee ballot. (1979, c. 480; 1981, c. 33, s. 3; 1989 (Reg. Sess., 1990), c. 991, s. 3; 1991 (Reg. Sess., 1992), c. 1032, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 457, s. 9; 2017-6, s. 3.)

**§ 163A-881. Change of party affiliation.**

(a) Registrant's Duty to Report. – Any registrant who desires to have the record of his party affiliation or unaffiliated status changed on the registration list shall, no later than the last day for making application to register under G.S. 163A-865 before the election, indicate the change on an application form as described in G.S. 163A-862 or on a voter registration card described in G.S. 163A-869. No registrant shall be permitted to change party affiliation or unaffiliated status



for a primary, second primary, or special or general election after the deadline for registration applications for that election as set out in G.S. 163A-865.

(b) **Verification of Affiliation Change by Mail.** – When a county board of elections receives a notice of change of party affiliation or unaffiliated status from a registrant in that county, the county board shall send a notice, by nonforwardable mail, to the registrant's residence address. The notice shall state that the registrant's records will be changed to reflect the change of status if the registrant does not respond by stating that he does not desire a change in status. The notice shall also inform the registrant of the time that the change of affiliation status will occur, and shall explain the provisions of subsection (d) of this section. If the Postal Service returns the county board's notice to the registrant as undeliverable, the county board shall send to the registrant's residence address a confirmation notice as described in G.S. 163A-877(d)(2). If the registrant does not respond to the confirmation notice as described in G.S. 163A-877(d)(2), then the county board shall proceed with the removal of the registrant from the list of voters in accordance with G.S. 163A-877(d).

(c) **Board's Duty to Make Change.** – If the county board confirms the registrant's address in accordance with subsection (b) of this section and the registrant does not deny making the application to change affiliated or unaffiliated status, the county board of elections shall as soon as practical change the record of the registrant's party affiliation, or unaffiliated status, to conform to that stated in the application. Thereafter the voter shall be considered registered and qualified to vote in accordance with the change, except as provided in subsection (d) of this section.

(d) **Deadline to Change Status Before Primary.** – If a registrant applies to change party affiliation or unaffiliated status later than the last day for applying to register under G.S. 163A-865 before a primary, the registrant shall not be entitled to vote in the primary of a party in which the registrant's status on that last day did not entitle the registrant to vote.

(e) **Authority of County Board or Director to Make Correction.** – If at any time the chairman or director of elections of the county board of elections is satisfied that an error has been made in designating the party affiliation of any voter on the registration records, then the chairman or director of elections of the county board of elections shall make the necessary correction after receiving from the voter a sworn statement as to the error and the correct status. (1939, c. 263, s. 6; 1949, c. 916, ss. 4, 8; 1953, c. 843; 1955, c. 800; c. 871, s. 3; 1957, c. 784, s. 5; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 793, ss. 30, 31; c. 1223, s. 5; 1975, c. 234, s. 2; 1977, c. 130, s. 1; c. 626, s. 1; 1981, c. 33, s. 4; c. 219, s. 4; 1983, c. 576, s. 4; 1987, c. 408, ss. 1, 6; 1989, c. 635, s. 2; 1991 (Reg. Sess., 1992), c. 1032, s. 4; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 243, s. 1; 2017-6, s. 3.)

### **§ 163A-882. Appeal from denial of registration.**

(a) **Right to Appeal.** – Any applicant who receives notice of denial of registration pursuant to G.S. 163A-867 may appeal the denial within five days after receipt of the notice of denial. The county board of elections shall promptly set a date for a public hearing. The notice of appeal shall be in writing and shall be signed by the appealing party, shall include the appealing party's name, date of birth, address, and reasons for the appeal.

(b) **Hearing Before County Board of Elections.** – The county board of elections shall set a date and time for a public hearing and shall notify the appealing party. Every person appealing to the county board of elections from denial of registration shall be entitled to a prompt and fair hearing on the question of the denied applicant's right and qualifications to register as a voter. All cases on appeal to a county board of elections shall be heard de novo.

Two members of the county board of elections shall constitute a quorum for the purpose of hearing appeals on questions of registration. The decision of a majority of the members of the board shall be the decision of the board. The board shall be authorized to subpoena witnesses and to compel their attendance and testimony under oath, and it is further authorized to subpoena papers and documents relevant to any matters pending before the board.

If at the hearing the board shall find that the person appealing from a denial of registration meets all requirements of law for registration as a voter in the county, the board shall enter an order directing that the appellant be registered and assign the appellant to the appropriate precinct. Not later than five days after an appeal is heard before the county board of elections, the board shall give written notice of its decision to the appealing party.

(c) Appeal to Superior Court. – Any person aggrieved by a final decision of a county board of elections denying registration may at any time within 10 days from the date on which he receives notice of the decision appeal to the superior court of the county in which the board is located. Upon such an appeal, the appealing party shall be the plaintiff and the county board of elections shall be the defendant, and the matter shall be heard de novo in the superior court in the manner in which other civil actions are tried and disposed of in that court.

If the decision of the court is that the order of the county board of elections shall be set aside, then the court shall enter its order so providing and adjudging that the plaintiff is entitled to be registered as a qualified voter in the precinct in which he originally made application to register, and in such case the plaintiff's name shall be entered in the registration book of that precinct. The court shall not order the registration of any person in a precinct in which he did not apply to register prior to the proceeding in court.

From the judgment of the superior court an appeal may be taken to the appellate division in the same manner as other appeals are taken from judgments of that court in civil actions. (1957, c. 287, dd. 2-4; 1967, c. 775, s. 1; 1969, c. 44, s. 82; 1981, c. 542, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 762, s. 2; 2017-6, s. 3.)

### **§ 163A-883. Voter registration at drivers license offices; coordination on data interface.**

(a) Voter Registration at Drivers License Offices. – The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to vote, or to update the voter's registration if the voter has changed his or her address or moved from one precinct to another or from one county to another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163A-870. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163A-870.

Registration shall become effective as provided in G.S. 163A-867. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163A-865(d)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate board of elections.

(b) Any person who willfully and knowingly and with fraudulent intent gives false information on the application [described in subsection (a) of this section] is guilty of a Class I felony.

(c) **Coordination on Data Interface.** – The Department of Transportation jointly with the State Board shall develop and operate a computerized interface to match information in the database of the statewide voter registration system with the drivers license information in the Division of Motor Vehicles to the extent required to enable the State Board and the Department of Transportation to verify the accuracy of the information provided on applications for voter registration, whether the applications were received at drivers license offices or elsewhere. The Department of Transportation and the State Board shall implement the provisions of this subsection so as to comply with section 303 of the Help America Vote Act of 2002. The Department of Transportation shall enter into an agreement with the Commissioner of Social Security so as to comply with section 303 of the Help America Vote Act of 2002. (1983, c. 854, s. 1; 1991 (Reg. Sess., 1992), c. 1044, s. 19(a); 1993, c. 74, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 2; 1998-149, s. 11.1; 2001-319, s. 7(a); 2003-226, s. 7(b); 2009-541, s. 13(a); 2013-381, s. 12.1(e); 2017-6, s. 3.)

#### **§ 163A-884. Voter registration at other public agencies.**

(a) **Voter Registration Agencies.** – Every office in this State which accepts:

- (1) Applications for a program of public assistance under Article 2 of Chapter 108A of the General Statutes or under Article 13 of Chapter 130A of the General Statutes;
- (2) Applications for State-funded State or local government programs primarily engaged in providing services to persons with disabilities, with such office designated by the State Board; or
- (3) Claims for benefits under Chapter 96 of the General Statutes, the Employment Security Law, is designated as a voter registration agency for purposes of this section.

(b) **Duties of Voter Registration Agencies.** – A voter registration agency described in subsection (a) of this section shall, unless the applicant declines, in writing, to register to vote:

- (1) Distribute with each application for service or assistance, and with each recertification, renewal, or change of address relating to such service or assistance:
  - a. The voter registration application form described in G.S. 163A-863(a) or (b); or
  - b. The voter registration agency's own form, if it is substantially equivalent to the form described in G.S. 163A-863(a) or (b) and has been approved

by the State Board, provided that the agency's own form may be a detachable part of the agency's paper application or may be a paperless computer process, as long as the applicant is required to sign an attestation as part of the application to register.

- (2) Provide a form that contains the elements required by section 7(a)(6)(B) of the National Voter Registration Act; and
- (3) Provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application as is provided by the office with regard to the completion of its own forms.

(c) Provided that voter registration agencies designated under subdivision (a)(3) of this section shall only be required to provide the services set out in this subsection to applicants for new claims, reopened claims, and changes of address under Chapter 96 of the General Statutes, the Employment Security Law.

(d) Home Registration for Disabled. – If a voter registration agency provides services to a person with disability at the person's home, the voter registration agency shall provide the services described in subsection (b) of this section at the person's home.

(e) Prohibitions. – Any person providing any service under subsection (b) of this section shall not:

- (1) Seek to influence an applicant's political preference or party registration, except that this shall not be construed to prevent the notice provided by G.S. 163A-863(d) to be given if the applicant refuses to declare his party affiliation;
- (2) Display any such political preference or party allegiance;
- (3) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or
- (4) Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(f) Confidentiality of Declination to Register. – No information relating to a declination to register to vote in connection with an application made at a voter registration agency may be used for any purpose other than voter registration.

(g) Transmittal From Agency to Board of Elections. – Any voter registration application completed at a voter registration agency shall be accepted by that agency in lieu of the applicant's mailing the application. Any such application so received shall be transmitted to the appropriate board of elections not later than five business days after acceptance, according to rules which shall be promulgated by the State Board.

(h) Twenty-Five-Day Deadline for an Election. – Applications to register accepted by a voter registration agency shall entitle a registrant to vote in any primary, general, or special election unless the registrant shall have made application later than the twenty-fifth calendar day immediately preceding such primary, general, or special election, provided that nothing shall prohibit voter registration agencies from continuing to accept applications during that period.

(i) Ineligible Applications Prohibited. – No person shall make application to register to vote under this section if that person is ineligible on account of age, citizenship, lack of residence for the period of time provided by law, or because of conviction of a felony. (1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 507, s. 25.10(c); 1995 (Reg. Sess., 1996), c. 608, s. 1; 2009-541, s. 14(a); 2013-381, s. 12.1(f); 2017-6, s. 3.)

**§ 163A-885. Voter registration upon restoration of citizenship.**

The State Board, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and the Administrative Office of the Courts shall jointly develop and implement educational programs and procedures for persons to apply to register to vote at the time they are restored to citizenship and all filings required have been completed under Chapter 13 of the General Statutes. Those procedures shall be designed to do both of the following:

- (1) Inform the person that the restoration of rights removes the person's disqualification from voting, but that in order to vote the person must register to vote.
- (2) Provide an opportunity to that person to register to vote.

At a minimum, the program shall include a written notice to the person whose citizenship has been restored, informing that person that the person may now register to vote, with a voter registration form enclosed with the notice. (2007-391, s. 26(a); 2011-145, s. 19.1(h); 2017-6, s. 3; 2017-186, s. 2(IIIIIIII).)

**§ 163A-886. Voter registration at military recruitment offices.**

The Executive Director, jointly with the Department of Defense, shall develop and implement procedures for persons to apply to register to vote at recruitment offices of the Armed Forces of the United States in compliance with section 7(c) of the National Voter Registration Act. (1993 (Reg. Sess., 1994), c. 762, s. 2; 2001-319, s. 11; 2011-183, s. 111; 2017-6, s. 3.)

**§ 163A-887. Voter registration at public libraries and public agencies.**

(a) Every library covered by G.S. 153A-272 shall make available to the public the application forms described in G.S. 163A-862, and shall keep a sufficient supply of the forms so that they are always available. Every library covered by G.S. 153A-272 shall designate at least one employee to assist voter registration applicants in completing the form during all times that the library is open.

(b) If approved by the State Board, the county board of elections, and the county board of commissioners, a county may offer voter registration in accordance with this section through the following additional public offices:

- (1) Senior centers or facilities operated by the county.
- (2) Parks and recreation services operated by the county. (1975, c. 234, s. 1; 1977, c. 626, s. 1; 1983, c. 588, ss. 2, 3; c. 707; 1991 (Reg. Sess., 1992), c. 973, ss. 1, 2; c. 1044, s. 19(b); 1993, c. 74, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 2; 2013-381, s. 5.1; 2017-6, s. 3.)

**§ 163A-888. Voter registration at public high schools.**

Every public high school shall make available to its students and others who are eligible to register to vote the application forms described in G.S. 163A-862, and shall keep a sufficient supply of the forms so that they are always available. A local board of education may, but is not required to, designate high school employees to assist in completing the forms. Only employees who volunteer for this duty may be designated by boards of education. (1975, c. 234, s. 1; 1977, c. 626, s. 1; 1983, c. 588, ss. 2, 3; c. 707; 1991 (Reg. Sess., 1992), c. 973, ss. 1, 2; c. 1044, s. 19(b); 1993, c. 74, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 2; 2009-541, s. 15(a); 2013-381, s. 12.1(d); 2017-6, s. 3.)

**§ 163A-889. Statewide training and certification for election officials.**

(a) Training. – The State Board shall conduct training programs in election law and procedures. Every county elections director shall receive training conducted by the State Board at least as often as required in the following schedule:

- (1) Once during each odd-numbered year before the municipal election held in the county;
- (2) Once during each even-numbered year before the first partisan primary; and
- (3) Once during each even-numbered year after the partisan primaries but before the general election.

Every member of a county board of elections shall receive training conducted by the State Board at least once during the six months after the member's initial appointment and at least once again during the first two years of the member's service. The State Board shall promulgate rules for the training of precinct officials, which shall be followed by the county boards of elections.

(b) Certification. – The State Board shall conduct a program for certification of election officials. The program shall include training in election law and procedures. Before issuing certification to an election official, the State Board shall administer an examination designed to determine the proficiency of the official in election law and procedures. The State Board shall set adequate standards for the passage of the examination. (1993 (Reg. Sess., 1994), c. 762, s. 2; 1995, c. 243, s. 1; 2001-319, s. 2(a); 2017-6, s. 3.)

**§ 163A-890. Rule-making authority.**

The State Board shall promulgate rules necessary to implement the provisions of this Part. (1993 (Reg. Sess., 1994), c. 762, s. 2; 2017-6, s. 3.)

**§ 163A-891. Help America Vote Act of 2002.**

As used in this Subchapter, the term "Help America Vote Act of 2002" means the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 U.S.C. §§ 15481-15485. Citations to titles and sections of the Help America Vote Act of 2002 are as they appear in the Public Law. The State Board shall have the authority to adopt rules and guidelines to implement the minimum requirements of the Help America Vote Act of 2002. (2003-226, s. 21; 2017-6, s. 3.)

**§ 163A-892. The HAVA Election Fund.**

There is established a special fund to be known as the Election Fund. All funds received for implementation of the Help America Vote Act of 2002, Public Law 107-252, shall be deposited in that fund. The State Board shall use funds in the Election Fund only to implement HAVA. (2003-12, s. 1; 2005-276, s. 23A.2(a); 2005-323, s. 7; 2006-264, s. 76(d); 2017-6, s. 3.)

**§ 163A-893:** Reserved for future codification purposes.

**§ 163A-894:** Reserved for future codification purposes.

**§ 163A-895:** Reserved for future codification purposes.

**§ 163A-896:** Reserved for future codification purposes.

§ 163A-897: Reserved for future codification purposes.

§ 163A-898: Reserved for future codification purposes.

§ 163A-899: Reserved for future codification purposes.

§ 163A-900: Reserved for future codification purposes.

§ 163A-901: Reserved for future codification purposes.

§ 163A-902: Reserved for future codification purposes.

§ 163A-903: Reserved for future codification purposes.

§ 163A-904: Reserved for future codification purposes.

§ 163A-905: Reserved for future codification purposes.

§ 163A-906: Reserved for future codification purposes.

§ 163A-907: Reserved for future codification purposes.

§ 163A-908: Reserved for future codification purposes.

§ 163A-909: Reserved for future codification purposes.

### Part 3. Challenges.

#### **§ 163A-910. Time for challenge other than on day of primary or election.**

The registration records of each county shall be open to inspection by any registered voter of the State, including any chief judge or judge of elections, during the normal business hours of the county board of elections on the days when the board's office is open. At those times the right of any person to register, remain registered, or vote shall be subject to objection and challenge. (1901, c. 89, s. 19; Rev., s. 4339; C.S., s. 5972; 1929, c. 164, s. 36; 1953, c. 843; 1955, c. 800; c. 871, s. 7; 1959, c. 616, s. 2; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 793, s. 33; 1993 (Reg. Sess., 1994), c. 762, s. 24; 2013-381, s. 20.1; 2017-6, s. 3.)

#### **§ 163A-911. Challenge procedure other than on day of primary or election.**

(a) Right to Challenge; When Challenge May Be Made. – Any registered voter of the county may challenge the right of any person to register, remain registered or vote in such county. No such challenge may be made after the twenty-fifth day before each primary, general, or special election.

(b) Challenges Shall Be Made to the County Board of Elections. – Each challenge shall be made separately, in writing, under oath and on forms prescribed by the State Board, and shall specify the reasons why the challenged voter is not entitled to register, remain registered, or vote. When a challenge is made, the board of elections shall cause the word "challenged" to be written

in pencil on the registration records of the voter challenged. The challenge shall be signed by the challenger and shall set forth the challenger's address.

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

- (1) That a person is not a resident of the State of North Carolina, or
- (2) That a person is not a resident of the county in which the person is registered, provided that no such challenge may be made if the person removed his residency and the period of removal has been less than 30 days, or
- (3) That a person is not a resident of the precinct in which the person is registered, provided that no such challenge may be made if the person removed his residency and the period of removal has been less than 30 days, or
- (4) That a person is not 18 years of age, or if the challenge is made within 60 days before a primary, that the person will not be 18 years of age by the next general election, or
- (5) That a person has been adjudged guilty of a felony and is ineligible to vote under G.S. 163A-841(a)(2), or
- (6) That a person is dead, or
- (7) That a person is not a citizen of the United States, or
- (8) With respect to municipal registration only, that a person is not a resident of the municipality in which the person is registered, or
- (9) That the person is not who he or she represents himself or herself to be.

(d) Preliminary Hearing. – When a challenge is made, the county board of election shall schedule a preliminary hearing on the challenge, and shall take such testimony under oath and receive such other evidence proffered by the challenger as may be offered. The burden of proof shall be on the challenger, and if no testimony is presented, the board shall dismiss the challenge. If the challenger presents evidence and if the board finds that probable cause exists that the person challenged is not qualified to vote, then the board shall schedule a hearing on the challenge.

(e) Prima Facie Evidence That Voter No Longer Resides in Precinct. – The presentation of a letter mailed by returnable first-class mail to the voter at the address listed on the voter registration card and returned because the person does not live at the address shall constitute prima facie evidence that the person no longer resides in the precinct. (1901, c. 89, s. 19; Rev., s. 4339; C.S., s. 5972; 1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 793, s. 34; 1979, c. 357, s. 1; 1985, c. 563, ss. 11-11.2, 11.5; c. 589, s. 60; 1993 (Reg. Sess., 1994), c. 762, s. 25; 2009-526, s. 1.2; 2009-541, s. 16.1(a); 2009-550, s. 11; 2010-96, s. 18; 2017-6, s. 3.)

### **§ 163A-912. Hearing on challenge.**

(a) A challenge made under G.S. 163A-911 shall be heard and decided before the date of the next primary or election, except that if the board finds that because of the number of challenges, it cannot hold all hearings before the date of the election, it may order the challenges to be heard and decided at the next time the challenged person appears and seeks to vote, as if the challenge had been filed under G.S. 163A-913. Unless the hearing is ordered held under G.S. 163A-913, it shall be heard and decided by the board of elections.

(b) At least 10 days prior to the hearing scheduled under G.S. 163A-912(c), the board of elections shall mail by first-class mail, a written notice of the challenge to the challenged voter, to the address of the voter listed in the registration records of the county. The notice shall state succinctly the grounds asserted, and shall state the time and place of the hearing. If the hearing is



to be held at the polls, the notice shall state that fact and shall list the date of the next scheduled election, the location of the voter's polling place, and the time the polls will be open. A copy of the notice shall be sent to the person making the challenge and to the chairman of each political party in the county.

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

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

After swearing the challenged registrant, the board shall examine him as to his qualifications to be registered and to vote. If the challenged registrant insists that he is qualified, the board shall tender to him the following oath or affirmation:

"You do solemnly swear (or affirm) that you are a citizen of the United States; that you are at least 18 years of age or will become 18 by the date of the next general election; that you have or will have resided in this State and in the precinct for which registered for 30 days by the date of the next primary or election; that you are not disqualified from voting by the Constitution or the laws of this State; that your name is \_\_\_\_\_, and that in such name you were duly registered as a voter of \_\_\_\_\_ precinct; and that you are the person you represent yourself to be, so help you, God." If the challenged registrant refuses to take the tendered oath, or submit to the board the affidavit required by subsection (d), below, the challenge shall be sustained. If the challenged registrant takes the tendered oath, the board may, nevertheless, sustain the challenge if it finds the challenged registrant is not a legal voter.

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

(d) Appearance by Challenged Registrant. – The challenged registrant shall appear in person at the challenge hearing. If he is unable to appear in person, he may be represented by another person and must tender to the county board of elections an affidavit that he is a citizen of the United States, is at least 18 years of age or will become 18 by the date of the next general election, has or will have resided in this State and in the precinct for which registered for 30 days by the date of the next primary or election, is not disqualified from voting by the Constitution or laws of this State, is named \_\_\_\_\_ and was duly registered as a voter of \_\_\_\_\_ precinct in such name, and is the person represented to be by the affidavit. (1901, c. 89, s. 22; Rev., s. 4340; C.S., s. 5973; 1955, c. 871, s. 2; 1967, c. 775, s. 1; 1971, c. 1231, s. 1; 1973, c. 793, s. 35; 1979, c. 357, s. 2; 2008-150, s. 5(b); 2017-6, s. 3.)

### **§ 163A-913. Challenges allowed on day of primary or election.**

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

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

- (1) One or more of the reasons listed in G.S. 163A-911(c).

- (2) That the person has already voted in that primary or election.
- (3) If the challenge is made with respect to voting in a partisan primary, that the person is a registered voter of another political party.
- (4) Except as provided in G.S. 163A-1145(d) and G.S. 163A-1146, the voter does not present photo identification in accordance with G.S. 163A-1145.

The chief judge, judge, or assistant appointed under G.S. 163A-815 or 163A-818 may enter challenges under this section against voters in the precinct for which appointed regardless of the place of residence of the chief judge, judge, or assistant.

If a person is challenged under this subsection, and the challenge is sustained under G.S. 163A-911(c)(3), the voter may still transfer that voter's registration under G.S. 163A-878(e) if eligible under that section, and the registration shall not be cancelled under G.S. 163A-919(a) if the transfer is made. A person who has transferred that voter's registration under G.S. 163A-911(c)(3) may be challenged at the precinct to which the registration is being transferred. (1915, c. 101, s. 11; 1917, c. 218; C.S., s. 6031; 1921, c. 181, s. 6; 1923, c. 111, s. 14; 1929, c. 164, s. 36; 1953, c. 843; 1955, c. 800; c. 871, s. 7; 1959, c. 616, s. 2; c. 1203, s. 7; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1985, c. 563, ss. 11.4, 14; 1987, c. 408, s. 7; 1993 (Reg. Sess., 1994), c. 762, s. 26; 1995 (Reg. Sess., 1996), c. 734, s. 4; 2006-262, s. 3(a); 2009-541, s. 16.1(b); 2013-381, ss. 2.9, 20.2; 2017-6, s. 3.)

#### **§ 163A-914. Hearing on challenge made on day of primary or election.**

(a) A challenge entered on the day of a primary or election shall be heard and decided by the chief judge and judges of election of the precinct in which the challenged registrant is registered before the polls are closed on the day the challenge is made. When the challenge is heard the precinct officials conducting the hearing shall explain to the challenged registrant the qualifications for registration and voting in this State, and shall examine him as to his qualifications to be registered and to vote. If the challenged registrant insists that he is qualified, and if, by sworn testimony, he shall prove his identity with the person in whose name he offers to vote and his continued residence in the precinct since he was registered, one of the judges of election or the chief judge shall tender to him the following oath or affirmation, omitting the portions in brackets if the challenge is heard on the day of an election other than a primary:

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

If the challenged registrant refuses to take the tendered oath, the challenge shall be sustained, and the precinct officials conducting the hearing shall mark the registration records to reflect their decision, and they shall erase the challenged registrant's name from the pollbook if it has been entered therein. If the challenged registrant takes the tendered oath, the precinct officials conducting the hearing may, nevertheless, sustain the challenge unless they are satisfied that the challenged registrant is a legal voter. If they are satisfied that he is a legal voter, they shall overrule the challenge and permit him to vote. Whenever any person's vote is received after having taken

the oath prescribed in this section, the chief judge or one of the judges of election shall write on the registration record and on the pollbook opposite the registrant's name the word "sworn."

(b) Precinct election officials conducting hearings on challenges on the day of a primary or election shall have authority to administer the necessary oaths or affirmations to all witnesses brought before them to testify to the qualifications of the person challenged.

(c) A letter or postal card mailed by returnable mail and returned by the United States Postal Service purportedly because the person no longer lives at that address or because a forwarding order has expired shall not be admissible evidence in a challenge heard under this section which was made under G.S. 163A-913. (1901, c. 89, s. 22; Rev., s. 4340; C.S., s. 5973; 1955, c. 871, s. 2; 1967, c. 775, s. 1; 1971, c. 1231, s. 1; 1973, c. 1223, s. 6; 1985, c. 380, ss. 1, 1.1; 1993 (Reg. Sess., 1994), c. 762, s. 27; 2017-6, s. 3.)

#### **§ 163A-915. Request for challenged ballot.**

(a) If the decision of the chief judge and judges pursuant to G.S. 163A-914 is to sustain the challenge, the challenged voter may request a challenged ballot by submitting an application to the chief judge, such application shall include as part thereof an affidavit that such person possesses all the qualifications for voting and is entitled to vote at the election. The form of such affidavit shall be prescribed by the State Board 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.

(c) The chairman of the county board of elections shall preserve such ballots in the sealed envelopes for a period of six months after the election. However, in the case of a contested election, 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 convene and consider each challenged ballot and rule as to which ballots shall be counted. In such 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. (1979, c. 357, s. 3; 1993 (Reg. Sess., 1994), c. 762, s. 28; 2017-6, s. 3.)

#### **§ 163A-916. 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. 163A-1311 and G.S. 163A-1365(b). The absentee ballot of any voter received

by the county board of elections pursuant to G.S. 163A-1310(b)(ii) or (iii) may be challenged no earlier than noon on the day following the election and no later than 5:00 p.m. on the next business day following the deadline for receipt of such absentee ballots.

(b) Who May Challenge. – Any registered voter of the same precinct as the absentee voter 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 shall be made in writing and, if they are available, shall be made on forms prescribed by the State Board. Each challenge shall specify the reasons why the ballot does not comply with the provisions of this Part or why the absentee voter is not legally entitled to vote in the particular primary or election. The challenge shall be signed by the challenger.

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

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

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

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

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

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

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

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

Any voter whose ballots have been challenged may, either personally or through an authorized representative, appear before the board at the hearing on the challenge and present evidence as to the validity of the ballot. (1939, c. 159, ss. 8, 9; 1945, c. 758, s. 8; 1953, c. 1114; 1963, c. 547, s.

8; 1965, c. 871; 1967, c. 775, s. 1; 1973, c. 536, s. 4; 1993 (Reg. Sess., 1994), c. 762, s. 29; 2009-537, s. 8(c); 2014-111, s. 15(d); 2017-6, s. 3.)

**§ 163A-917. Challenge as felon; answer not to be used on prosecution.**

If any registered voter is challenged as having been convicted of any crime which excludes him from the right of suffrage, he shall be required to answer any question in relation to the alleged conviction, but his answers to such questions shall not be used against him in any criminal prosecution. (1901, c. 89, s. 71; Rev., s. 3388; C.S., s. 5974; 1967, c. 775, s. 1; 2017-6, s. 3.)

**§ 163A-918. Burden of proof.**

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

(b) No challenge shall be sustained unless the challenge is substantiated by affirmative proof. In the absence of such proof, the presumption shall be that the voter is properly registered or affiliated. (1979, c. 357, s. 4; 2017-6, s. 3.)

**§ 163A-919. Action when challenge sustained, overruled, or dismissed.**

(a) When any challenge is sustained for any cause listed under G.S. 163A-911(c), the board shall cancel or correct the voter registration of the voter. The board shall maintain such record for at least six months and during the pendency of any appeal. The challenged ballot shall be counted for any ballot items for which the challenged voter is eligible to vote, as if it were a provisional official ballot under the provisions of G.S. 163A-1142(4).

(b) When any challenge made under G.S. 163A-911 is overruled or dismissed, the board shall erase the word "challenged" which appears on the person's registration records.

(c) A decision by a county board of elections on any challenge made under the provisions of this Part shall be appealable to the Superior Court of the county in which the offices of that board are located within 10 days. Only those persons against whom a challenge is sustained or persons who have made a challenge which is overruled shall have standing to file such appeal. (1979, c. 357, s. 4; 1987 (Reg. Sess., 1988), c. 1028, s. 11; 2006-262, s. 3(b); 2017-6, s. 3.)

**§ 163A-920. Making false affidavit perjury.**

Any person who shall knowingly make any false affidavit or shall knowingly swear or affirm falsely to any matter or thing required by the terms of this Part to be sworn or affirmed shall be guilty of a Class I felony. (1979, c. 357, s. 4; 1987, c. 565, s. 2; 2017-6, s. 3.)

**§ 163A-921:** Reserved for future codification purposes.

**§ 163A-922:** Reserved for future codification purposes.

**§ 163A-923:** Reserved for future codification purposes.

**§ 163A-924:** Reserved for future codification purposes.

**§ 163A-925:** Reserved for future codification purposes.

**§ 163A-926:** Reserved for future codification purposes.

§ 163A-927: Reserved for future codification purposes.

§ 163A-928: Reserved for future codification purposes.

§ 163A-929: Reserved for future codification purposes.

§ 163A-930: Reserved for future codification purposes.

§ 163A-931: Reserved for future codification purposes.

§ 163A-932: Reserved for future codification purposes.

§ 163A-933: Reserved for future codification purposes.

§ 163A-934: Reserved for future codification purposes.

#### Part 4. HAVA Administrative Complaint Procedure.

##### § 163A-935. **Complaint procedure.**

(a) The State Board shall establish a complaint procedure as required by section 402 of Title IV of the Help America Vote Act of 2002 for the resolution of complaints alleging violations of Title III of that Act.

(b) With respect to the adoption of the complaint procedure under this section, the State Board is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes. Prior to adoption or amendment of the complaint procedure under this section, the State Board shall complete all of the following:

- (1) Publish the proposed plan in the North Carolina Register at least 30 days prior to the adoption of the final complaint procedure.
- (2) Accept oral and written comments on the proposed complaint procedure.
- (3) Hold at least one public hearing on the proposed complaint procedure.

(c) Hearings and final determinations of complaints filed under the procedure adopted pursuant to this section are not subject to Articles 3 and 4 of Chapter 150B of the General Statutes. (2003-226, s. 17(a); 2017-6, s. 3.)

§ 163A-936: Reserved for future codification purposes.

§ 163A-937: Reserved for future codification purposes.

§ 163A-938: Reserved for future codification purposes.

§ 163A-939: Reserved for future codification purposes.

§ 163A-940: Reserved for future codification purposes.

§ 163A-941: Reserved for future codification purposes.

§ 163A-942: Reserved for future codification purposes.

§ 163A-943: Reserved for future codification purposes.

§ 163A-944: Reserved for future codification purposes.

§ 163A-945: Reserved for future codification purposes.

§ 163A-946: Reserved for future codification purposes.

§ 163A-947: Reserved for future codification purposes.

§ 163A-948: Reserved for future codification purposes.

§ 163A-949: Reserved for future codification purposes.

## Article 18.

### Political Parties.

#### § 163A-950. "Political party" defined; creation of new party.

(a) Definition. – A political party within the meaning of the election laws of this State shall be one of the following:

- (1) Any group of voters which, at the last preceding general State election, polled for its candidate for Governor, or for presidential electors, at least two percent (2%) of the entire vote cast in the State for Governor or for presidential electors.
- (2) Any group of voters which shall have filed with the State Board petitions for the formulation of a new political party which are signed by registered and qualified voters in this State equal in number to one-quarter of one percent (0.25%) of the total number of voters who voted in the most recent general election for Governor. Also the petition must be signed by at least 200 registered voters from each of three congressional districts in North Carolina. To be effective, the petitioners must file their petitions with the State Board before 12:00 noon on the first day of June preceding the day on which is to be held the first general State election in which the new political party desires to participate. The State Board shall forthwith determine the sufficiency of petitions filed with it and shall immediately communicate its determination to the State chair of the proposed new political party.
- (3) Any group of voters which shall have filed with the State Board documentation that the group of voters had a candidate nominated by that group on the general election ballot of at least seventy percent (70%) of the states in the prior Presidential election. To be effective, the group must file their documentation with the State Board before 12:00 noon on the first day of June preceding the day on which is to be held the first general State election in which the new political party desires to participate. The State Board shall forthwith verify the documentation filed with it and shall immediately communicate its determination to the State chair of the proposed new political party.

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

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

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

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

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

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

The group of petitioners shall submit the petitions to the chairman of the county board of elections in the county in which the signatures were obtained no later than 5:00 P.M. on the fifteenth day preceding the date the petitions are due to be filed with the State Board as provided in subsection [subdivision] (a)(2) of this section. Provided the petitions are timely submitted, the chairman of the county board of elections shall proceed to examine and verify the signatures under the provisions of this subsection. Verification shall be completed within two weeks from the date such petitions are presented. (1901, c. 89, s. 85; Rev., s. 4292; 1915, c. 101, s. 31; 1917, c. 218; C.S., ss. 5913, 6052; 1933, c. 165, ss. 1, 17; 1949, c. 671, ss. 1, 2; 1967, c. 775, s. 1; 1975, c. 179; 1979, c. 411, s. 3; 1981, c. 219, ss. 1-3; 1983, c. 576, ss. 1-3; 1997-456, s. 27; 1999-424, s. 5(a); 2004-127, s. 14; 2006-234, s. 1; 2017-6, s. 3; 2017-214, s. 1.)

#### **§ 163A-951. Termination of status as political party.**

When any political party fails to meet the test set forth in G.S. 163A-950(a)(1), it shall cease to be a political party within the meaning of the primary and general election laws and all other provisions of this Subchapter. (1901, c. 89, s. 85; Rev., s. 4292; C.S., s. 5913; 1933, c. 165, s. 1; 1949, c. 671, s. 1; 1967, c. 775, s. 1; 2006-234, s. 2; 2017-6, s. 3.)

#### **§ 163A-952. Voters affiliated with expired political party.**



The State Board shall be authorized to promulgate appropriate procedures to order the county boards of elections to change the registration affiliation of all voters who are recorded on the voter registration books as being affiliated with a political party which has lost its legal status as provided in G.S. 163A-951. The State Board shall not implement the authority contained in this section earlier than 90 days following the certification of the election in which the political party failed to continue its legal status as provided in G.S. 163A-951. All voters affiliated with such expired political party shall be changed to "unaffiliated designation" by the State Board's order and all such registrants shall be entitled to declare a political party affiliation as provided in G.S. 163A-881. (1975, c. 789; 1977, c. 408, s. 1; 2004-127, s. 10; 2017-6, s. 3.)

**§ 163A-953. General election participation by new political party.**

In the first general election following the date on which a new political party qualifies under the provisions of G.S. 163A-950, it shall be entitled to have the names of its candidates for national, State, congressional, and local offices printed on the official ballots upon paying a filing fee equal to that provided for candidates for the office in G.S. 163A-979 or upon complying with the alternative available to candidates for the office in G.S. 163A-980.

For the first general election following the date on which it qualifies under G.S. 163A-950, a new political party shall select its candidates by party convention. An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be eligible to have that individual's name placed on the general election ballot as a candidate for the new political party for the same office in that year. Following adjournment of the nominating convention, but not later than the first day of July prior to the general election, the president of the convention shall certify to the State Board the names of persons chosen in the convention as the new party's candidates in the ensuing general election. Any candidate nominated by a new party shall be affiliated with the party at the time of certification to the State Board. The requirement of affiliation with the party will be met if the candidate submits at or before the time of certification as a candidate an application to change party affiliation to that party. The State Board shall print names thus certified on the appropriate ballots as the nominees of the new party. The State Board shall send to each county board of elections the list of any new party candidates so that the county board can add those names to the appropriate ballot. (1901, c. 89, s. 85; Rev., s. 4292; C.S., s. 5913; 1933, c. 165, s. 1; 1949, c. 671, s. 1; 1967, c. 775, s. 1; 1979, c. 411, s. 4; 2002-159, s. 55(b); 2006-234, s. 3; 2008-150, s. 10.1(a); 2017-6, s. 3; 2018-13, s. 3.4.)

**§ 163A-954. Use of schools and other public buildings for political meetings.**

The governing authority having control over schools or other public buildings which have facilities for group meetings, or where polling places are located, is hereby authorized and directed to permit the use of such buildings without charge, except custodial and utility fees, by political parties, as defined in G.S. 163A-950, for the express purpose of annual or biennial precinct meetings and county and district conventions. Provided, that the use of such buildings by political parties shall not be permitted at times when school is in session or which would interfere with normal school activities or functions normally carried on in such school buildings, and such use shall be subject to reasonable rules and regulations of the school boards and other governing authorities. (1975, c. 465; 1983, c. 519, ss. 1, 2; 2017-6, s. 3.)

**§ 163A-955:** Reserved for future codification purposes.

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- § 163A-960: Reserved for future codification purposes.
- § 163A-961: Reserved for future codification purposes.
- § 163A-962: Reserved for future codification purposes.
- § 163A-963: Reserved for future codification purposes.
- § 163A-964: Reserved for future codification purposes.
- § 163A-965: Reserved for future codification purposes.
- § 163A-966: Reserved for future codification purposes.
- § 163A-967: Reserved for future codification purposes.
- § 163A-968: Reserved for future codification purposes.
- § 163A-969: Reserved for future codification purposes.

## Article 19.

### Nomination of Candidates.

#### Part 1. Primary Elections.

**§ 163A-970. Primaries governed by general election laws; authority of State Board to modify time schedule.**

Unless otherwise provided in this Subchapter, primary elections shall be conducted as far as practicable in accordance with the general election laws of this State. All provisions of this Subchapter and of other laws governing elections, not inconsistent with this Part and other provisions of law dealing specifically with primaries, shall apply as fully to primary elections and to the acts and things done thereunder as to general elections. Nevertheless, for purposes of primary elections the State Board may, by general rule, modify the general election law time schedule with regard to ascertaining, declaring, and reporting results.

All acts made criminal if committed in connection with a general election shall likewise be criminal, with the same punishment, when committed in a primary election held under the provisions of this Subchapter. (1915, c. 101, s. 3; 1917, c. 218; C.S., s. 6020; 1967, c. 775, s. 1; 2017-6, s. 3.)

**§ 163A-971. Payment of expense of conducting primary elections.**

The expense of printing and distributing the poll and registration books, blanks, and ballots for those offices required by G.S. 163-109(b) to be furnished by the State, and the per diem and expenses of the State Board while engaged in the discharge of primary election duties imposed by law upon that Board, shall be paid by the State.

The expenses of printing and distributing the ballots for those offices required by G.S. 163-109(c) to be furnished by counties, and the per diem (or salary) and expenses of the county board of elections and the chief judges and judges of election, while engaged in the discharge of primary election duties imposed by law upon them, shall be paid by the counties. (1915, c. 101, s. 7; 1917, c. 218; C.S., s. 6026; 1927, c. 260, s. 21; 1933, c. 165, s. 14; 1967, c. 775, s. 1; 1985, c. 563, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 30; 2017-6, s. 3.)

**§ 163A-972. Notices of candidacy; pledge; with whom filed; date for filing.**

(a) Notice and Pledge. – No one shall be voted for in a primary election without having filed a notice of candidacy with the appropriate board of elections, State or county, as required by this section and G.S. 163A-973, 163A-974, 163A-975, 163A-977, and 163A-978. To this end every candidate for selection as the nominee of a political party shall file with and place in the possession of the board of elections specified in G.S. 163A-974, a notice and pledge in the following form:

Date \_\_\_\_\_

I hereby file notice as a candidate for nomination as \_\_\_\_\_ in the \_\_\_\_\_ party primary election to be held on \_\_\_\_\_, \_\_\_\_\_ I affiliate with the \_\_\_\_\_ party, (and I certify that I am now registered on the registration records of the precinct in which I reside as an affiliate of the \_\_\_\_\_ party.)

I pledge that if I am defeated in the primary, I will not run for the same office as a write-in candidate in the next general election.

Signed \_\_\_\_\_  
(Name of Candidate)

Witness:

\_\_\_\_\_  
\_\_\_\_\_  
(Title of witness)

Each candidate shall sign the notice of candidacy in the presence of the chairman or secretary of the board of elections, State or county, with which the candidate files. In the alternative, a candidate may have the candidate's signature on the notice of candidacy acknowledged and certified to by an officer authorized to take acknowledgments and administer oaths, in which case the candidate may mail or deliver by commercial courier service the candidate's notice of candidacy to the appropriate board of elections.

(b) [Name of Candidate. –] In signing the notice of candidacy the candidate shall use only that candidate's legal name and may use any nickname by which he is commonly known. A candidate may also, in lieu of that candidate's legal first name and legal middle initial or middle name (if any) sign a nickname, provided that the candidate appends to the notice of candidacy an affidavit that the candidate has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way

that candidate's name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

(c) [Agent's Signature Invalid. –] A notice of candidacy signed by an agent or any person other than the candidate shall be invalid.

(d) [Forms Provided by State Board. –] Prior to the date on which candidates may commence filing, the State Board shall print and furnish, at State expense, to each county board of elections a sufficient number of the notice of candidacy forms prescribed by this subsection for use by candidates required to file with county boards of elections.

(e) Disclosure of Felony Conviction. – At the same time the candidate files notice of candidacy under this section and G.S. 163A-973, 163A-974, 163A-975, 163A-977, and 163A-978, the candidate shall file with the same office a statement answering the following question: "Have you ever been convicted of a felony?" The State Board shall adapt the notice of candidacy form to include the statement required by this subsection. The form shall make clear that a felony conviction need not be disclosed if the conviction was dismissed as a result of reversal on appeal or resulted in a pardon of innocence or expungement. The form shall require a candidate who answers "yes" to the question to provide the name of the offense, the date of conviction, the date of the restoration of citizenship rights, and the county and state of conviction. The form shall require the candidate to swear or affirm that the statements on the form are true, correct, and complete to the best of the candidate's knowledge or belief. The form shall be available as a public record in the office of the board of elections where the candidate files notice of candidacy and shall contain an explanation that a prior felony conviction does not preclude holding elective office if the candidate's rights of citizenship have been restored. This subsection shall also apply to individuals who become candidates for election by the people under G.S. 163A-987, 163A-1005, 163A-1006, 163A-953, 115C-37, 130A-50, Part 2 of Article 27 of this Chapter, or any other statute or local act. Those individuals shall complete the question at the time the documents are filed initiating their candidacy. The State Board shall adapt those documents to include the statement required by this subsection. If an individual does not complete the statement required by this subsection, the board of elections accepting the filing shall notify the individual of the omission, and the individual shall have 48 hours after notice to complete the statement. If the individual does not complete the statement at the time of filing or within 48 hours after the notice, the individual's filing is not complete, the individual's name shall not appear on the ballot as a candidate, and votes for the individual shall not be counted. It is a Class I felony to complete the form knowing that information as to felony conviction or restoration of citizenship is untrue. This subsection shall not apply to candidates required by G.S. 163A-187(f) to file Statements of Economic Interest. (1915, c. 101, ss. 6, 15; 1917, c. 218; C.S., ss. 6022, 6035; 1921, c. 217; 1923, c. 111, s. 13; C.S., s. 6055(a); 1927, c. 260, s. 19; 1929, c. 26, s. 1; 1933, c. 165, s. 12; 1937, c. 364; 1947, c. 505, s. 7; 1949, c. 672, s. 4; c. 932; 1951, c. 1009, s. 3; 1955, c. 755; c. 871, s. 1; 1959, c. 1203, s. 4; 1965, c. 262; 1967, c. 775, s. 1; c. 1063, s. 2; 1969, c. 44, s. 83; c. 1190, s. 56; 1971, cc. 189, 675, 798; 1973, c. 47, s. 2; c. 793, s. 36; c. 862; 1975, c. 844, s. 2; 1977, c. 265, ss. 4, 5; c. 408, s. 2; c. 661, ss. 2, 3; 1979, c. 24; c. 411, s. 5; 1981, c. 32, ss. 1, 2; 1983, c. 330, s. 1; 1985, c. 472, s. 2; c. 558, s. 1; c. 759, s. 6; 1985 (Reg. Sess., 1986), c. 957, s. 1; 1987, c. 509, s. 13; c. 738, s. 124; 1987 (Reg. Sess., 1988), c. 1028, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 31; 1995, c. 243, s. 1; 1996, 2nd Ex. Sess., c. 9, s. 8; 1999-456, s. 59; 2001-403, s. 3; 2001-466, s. 5.1(a); 2002-158, ss. 8, 9; 2002-159, s. 55(a); 2006-155, s. 2; 2007-369, s. 1; 2009-47, s. 1; 2013-381, s. 21.1; 2014-111, s. 1(a); 2016-125, 4th Ex. Sess., s. 21(a); 2017-3, s. 5; 2017-6, s. 3.)

**§ 163A-973. Eligibility to file.**

No person shall be permitted to file as a candidate in a party primary unless that person has been affiliated with that party for at least 90 days as of the date of that person filing such notice of candidacy. A person registered as "unaffiliated" shall be ineligible to file as a candidate in a party primary election. (1915, c. 101, ss. 6, 15; 1917, c. 218; C.S., ss. 6022, 6035; 1921, c. 217; 1923, c. 111, s. 13; C.S., s. 6055(a); 1927, c. 260, s. 19; 1929, c. 26, s. 1; 1933, c. 165, s. 12; 1937, c. 364; 1947, c. 505, s. 7; 1949, c. 672, s. 4; c. 932; 1951, c. 1009, s. 3; 1955, c. 755; c. 871, s. 1; 1959, c. 1203, s. 4; 1965, c. 262; 1967, c. 775, s. 1; c. 1063, s. 2; 1969, c. 44, s. 83; c. 1190, s. 56; 1971, cc. 189, 675, 798; 1973, c. 47, s. 2; c. 793, s. 36; c. 862; 1975, c. 844, s. 2; 1977, c. 265, ss. 4, 5; c. 408, s. 2; c. 661, ss. 2, 3; 1979, c. 24; c. 411, s. 5; 1981, c. 32, ss. 1, 2; 1983, c. 330, s. 1; 1985, c. 472, s. 2; c. 558, s. 1; c. 759, s. 6; 1985 (Reg. Sess., 1986), c. 957, s. 1; 1987, c. 509, s. 13; c. 738, s. 124; 1987 (Reg. Sess., 1988), c. 1028, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 31; 1995, c. 243, s. 1; 1996, 2nd Ex. Sess., c. 9, s. 8; 1999-456, s. 59; 2001-403, s. 3; 2001-466, s. 5.1(a); 2002-158, ss. 8, 9; 2002-159, s. 55(a); 2006-155, s. 2; 2007-369, s. 1; 2009-47, s. 1; 2013-381, s. 21.1; 2014-111, s. 1(a); 2016-125, 4th Ex. Sess., s. 21(a); 2017-3, s. 5; 2017-6, s. 3.)

**§ 163A-974. Time for filing notice of candidacy.**

(a) Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board no earlier than 12:00 noon on the first Monday in December and no later than 12:00 noon on the third Friday in December preceding the primary:

- Governor
- Lieutenant Governor
- All State executive officers
- Justices of the Supreme Court
- Judges of the Court of Appeals
- Judges of the superior court
- Judges of the district court
- United States Senators
- Members of the House of Representatives of the United States
- District attorneys

(b) Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the county board of elections no earlier than 12:00 noon on the first Monday in December and no later than 12:00 noon on the third Friday in December preceding the primary:

- State Senators
- Members of the State House of Representatives

All county offices. (1915, c. 101, ss. 6, 15; 1917, c. 218; C.S., ss. 6022, 6035; 1921, c. 217; 1923, c. 111, s. 13; C.S., s. 6055(a); 1927, c. 260, s. 19; 1929, c. 26, s. 1; 1933, c. 165, s. 12; 1937, c. 364; 1947, c. 505, s. 7; 1949, c. 672, s. 4; c. 932; 1951, c. 1009, s. 3; 1955, c. 755; c. 871, s. 1; 1959, c. 1203, s. 4; 1965, c. 262; 1967, c. 775, s. 1; c. 1063, s. 2; 1969, c. 44, s. 83; c. 1190, s. 56; 1971, cc. 189, 675, 798; 1973, c. 47, s. 2; c. 793, s. 36; c. 862; 1975, c. 844, s. 2; 1977, c. 265, ss. 4, 5; c. 408, s. 2; c. 661, ss. 2, 3; 1979, c. 24; c. 411, s. 5; 1981, c. 32, ss. 1, 2; 1983, c. 330, s. 1; 1985, c. 472, s. 2; c. 558, s. 1; c. 759, s. 6; 1985 (Reg. Sess., 1986), c. 957, s. 1; 1987, c. 509, s. 13; c. 738, s. 124; 1987 (Reg. Sess., 1988), c. 1028, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 31; 1995, c. 243, s. 1; 1996, 2nd Ex. Sess., c. 9, s. 8; 1999-456, s. 59; 2001-403, s. 3; 2001-466, s. 5.1(a); 2002-158, ss. 8, 9; 2002-159, s. 55(a); 2006-155, s. 2; 2007-369, s. 1; 2009-47, s. 1;

2013-381, s. 21.1; 2014-111, s. 1(a); 2016-125, 4th Ex. Sess., s. 21(a); 2017-3, s. 5; 2017-6, s. 3; 2018-21, s. 2.)

**§ 163A-975. Notice of candidacy for certain offices to indicate vacancy.**

In any primary in which there are two or more vacancies for associate justices for the Supreme Court, two or more vacancies for the Court of Appeals, two or more vacancies for superior or district court judge, or two vacancies for United States Senator from North Carolina, each candidate shall, at the time of filing notice of candidacy, file with the State Board a written statement designating the vacancy to which the candidate seeks nomination. The designation shall not be the name or names of any incumbent or other individual but shall be designated as determined by the State Board. A person seeking election for a specialized district judgeship established under G.S. 7A-147 shall, at the time of filing notice of candidacy, file with the State Board a written statement designating the specialized judgeship to which the person seeks nomination. Votes cast for a candidate shall be effective only for nomination to the vacancy for which the candidate has given notice of candidacy as provided in this section. (1915, c. 101, ss. 6, 15; 1917, c. 218; C.S., ss. 6022, 6035; 1921, c. 217; 1923, c. 111, s. 13; C.S., s. 6055(a); 1927, c. 260, s. 19; 1929, c. 26, s. 1; 1933, c. 165, s. 12; 1937, c. 364; 1947, c. 505, s. 7; 1949, c. 672, s. 4; c. 932; 1951, c. 1009, s. 3; 1955, c. 755; c. 871, s. 1; 1959, c. 1203, s. 4; 1965, c. 262; 1967, c. 775, s. 1; c. 1063, s. 2; 1969, c. 44, s. 83; c. 1190, s. 56; 1971, cc. 189, 675, 798; 1973, c. 47, s. 2; c. 793, s. 36; c. 862; 1975, c. 844, s. 2; 1977, c. 265, ss. 4, 5; c. 408, s. 2; c. 661, ss. 2, 3; 1979, c. 24; c. 411, s. 5; 1981, c. 32, ss. 1, 2; 1983, c. 330, s. 1; 1985, c. 472, s. 2; c. 558, s. 1; c. 759, s. 6; 1985 (Reg. Sess., 1986), c. 957, s. 1; 1987, c. 509, s. 13; c. 738, s. 124; 1987 (Reg. Sess., 1988), c. 1028, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 31; 1995, c. 243, s. 1; 1996, 2nd Ex. Sess., c. 9, s. 8; 1999-456, s. 59; 2001-403, s. 3; 2001-466, s. 5.1(a); 2002-158, ss. 8, 9; 2002-159, s. 55(a); 2006-155, s. 2; 2007-369, s. 1; 2009-47, s. 1; 2013-381, s. 21.1; 2014-111, s. 1(a); 2016-125, 4th Ex. Sess., s. 21(a); 2017-3, s. 5; 2017-6, s. 3; 2018-121, s. 4(b).)

**§ 163A-976. Withdrawal of notice of candidacy.**

Any person who has filed notice of candidacy for an office shall have the right to withdraw it at any time prior to the close of business on the third business day prior to the date on which the right to file for that office expires under the terms of G.S. 163A-974. If a candidate does not withdraw before the deadline, except as provided in G.S. 163A-985, his name shall be printed on the primary ballot, any votes for him shall be counted, and he shall not be refunded his filing fee. (1915, c. 101, ss. 6, 15; 1917, c. 218; C.S., ss. 6022, 6035; 1921, c. 217; 1923, c. 111, s. 13; C.S., s. 6055(a); 1927, c. 260, s. 19; 1929, c. 26, s. 1; 1933, c. 165, s. 12; 1937, c. 364; 1947, c. 505, s. 7; 1949, c. 672, s. 4; c. 932; 1951, c. 1009, s. 3; 1955, c. 755; c. 871, s. 1; 1959, c. 1203, s. 4; 1965, c. 262; 1967, c. 775, s. 1; c. 1063, s. 2; 1969, c. 44, s. 83; c. 1190, s. 56; 1971, cc. 189, 675, 798; 1973, c. 47, s. 2; c. 793, s. 36; c. 862; 1975, c. 844, s. 2; 1977, c. 265, ss. 4, 5; c. 408, s. 2; c. 661, ss. 2, 3; 1979, c. 24; c. 411, s. 5; 1981, c. 32, ss. 1, 2; 1983, c. 330, s. 1; 1985, c. 472, s. 2; c. 558, s. 1; c. 759, s. 6; 1985 (Reg. Sess., 1986), c. 957, s. 1; 1987, c. 509, s. 13; c. 738, s. 124; 1987 (Reg. Sess., 1988), c. 1028, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 31; 1995, c. 243, s. 1; 1996, 2nd Ex. Sess., c. 9, s. 8; 1999-456, s. 59; 2001-403, s. 3; 2001-466, s. 5.1(a); 2002-158, ss. 8, 9; 2002-159, s. 55(a); 2006-155, s. 2; 2007-369, s. 1; 2009-47, s. 1; 2013-381, s. 21.1; 2014-111, s. 1(a); 2017-3, s. 5; 2017-6, s. 3.)

**§ 163A-977. Certificate of registration to vote in county and party affiliation; cancellation of candidacy; residency requirements for judges.**

(a) Candidates required to file their notice of candidacy with the State Board under G.S. 163A-974 shall file along with their notice a certificate signed by the chairman of the board of elections or the director of elections of the county in which they are registered to vote, stating that the person is registered to vote in that county, if the candidacy is for superior court judge and the county contains more than one superior court district, stating the superior court district of which the person is a resident, stating the party with which the person is affiliated, and that the person has not changed his affiliation from another party or from unaffiliated within three months prior to the filing deadline under G.S. 163A-974. In issuing such certificate, the chairman or director shall check the registration records of the county to verify such information. During the period commencing 36 hours immediately preceding the filing deadline the State Board shall accept, on a conditional basis, the notice of candidacy of a candidate who has failed to secure the verification ordered herein subject to receipt of verification no later than three days following the filing deadline. The State Board of Elections shall prescribe the form for such certificate, and distribute it to each county board of elections no later than the last Monday in December of each odd-numbered year.

(b) When any candidate files a notice of candidacy with a board of elections under G.S. 163A-974 or under G.S. 163A-1615(2), the board of elections shall, immediately upon receipt of the notice of candidacy, inspect the registration records of the county, and cancel the notice of candidacy of any person who does not meet the constitutional or statutory qualifications for the office, including residency.

The board shall give notice of cancellation to any candidate whose notice of candidacy has been cancelled under this section by mail or by having the notice served on him by the sheriff, and to any other candidate filing for the same office. A candidate who has been adversely affected by a cancellation or another candidate for the same office affected by a substantiation under this section may request a hearing on the cancellation. If the candidate requests a hearing, the hearing shall be conducted in accordance with Part 3 of Article 19 of this Chapter.

(c) No person may file a notice of candidacy for superior court judge, unless that person is, at the time of filing the notice of candidacy, a resident of the judicial district as it will exist at the time the person would take office if elected. No person may be nominated as a superior court judge under G.S. 163A-987, unless that person is, at the time of nomination, a resident of the judicial district as it will exist at the time the person would take office if elected. This subsection implements Section 9(1) of Article IV of the North Carolina Constitution, which requires regular superior court judges to reside in the district for which elected. (1915, c. 101, ss. 6, 15; 1917, c. 218; C.S., ss. 6022, 6035; 1921, c. 217; 1923, c. 111, s. 13; C.S., s. 6055(a); 1927, c. 260, s. 19; 1929, c. 26, s. 1; 1933, c. 165, s. 12; 1937, c. 364; 1947, c. 505, s. 7; 1949, c. 672, s. 4; c. 932; 1951, c. 1009, s. 3; 1955, c. 755; c. 871, s. 1; 1959, c. 1203, s. 4; 1965, c. 262; 1967, c. 775, s. 1; c. 1063, s. 2; 1969, c. 44, s. 83; c. 1190, s. 56; 1971, cc. 189, 675, 798; 1973, c. 47, s. 2; c. 793, s. 36; c. 862; 1975, c. 844, s. 2; 1977, c. 265, ss. 4, 5; c. 408, s. 2; c. 661, ss. 2, 3; 1979, c. 24; c. 411, s. 5; 1981, c. 32, ss. 1, 2; 1983, c. 330, s. 1; 1985, c. 472, s. 2; c. 558, s. 1; c. 759, s. 6; 1985 (Reg. Sess., 1986), c. 957, s. 1; 1987, c. 509, s. 13; c. 738, s. 124; 1987 (Reg. Sess., 1988), c. 1028, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 31; 1995, c. 243, s. 1; 1996, 2nd Ex. Sess., c. 9, s. 8; 1999-456, s. 59; 2001-403, s. 3; 2001-466, s. 5.1(a); 2002-158, ss. 8, 9; 2002-159, s. 55(a); 2006-155, s. 2; 2007-369, s. 1; 2009-47, s. 1; 2013-381, s. 21.1; 2014-111, s. 1(a); 2017-3, s. 5; 2017-6, s. 3.)

**§ 163A-978. Prohibition on certain dual candidacies; exception.**

No person may file a notice of candidacy for more than one office described in G.S. 163A-974 for any one election. If a person has filed a notice of candidacy with a board of elections under G.S. 163A-972 for one office, then a notice of candidacy may not later be filed for any other office under G.S. 163A-972 when the election is on the same date unless the notice of candidacy for the first office is withdrawn under G.S. 163A-976; provided that this section shall not apply unless the deadline for filing notices of candidacy for both offices is the same. Notwithstanding this section, a person may file a notice of candidacy for a full term as United States Senator, and also file a notice of candidacy for the remainder of the unexpired term of that same seat in an election held under G.S. 163A-720, and may file a notice of candidacy for a full term as a member of the United States House of Representatives, and also file a notice of candidacy for the remainder of the unexpired term in an election held under G.S. 163A-721. (1915, c. 101, ss. 6, 15; 1917, c. 218; C.S., ss. 6022, 6035; 1921, c. 217; 1923, c. 111, s. 13; C.S., s. 6055(a); 1927, c. 260, s. 19; 1929, c. 26, s. 1; 1933, c. 165, s. 12; 1937, c. 364; 1947, c. 505, s. 7; 1949, c. 672, s. 4; c. 932; 1951, c. 1009, s. 3; 1955, c. 755; c. 871, s. 1; 1959, c. 1203, s. 4; 1965, c. 262; 1967, c. 775, s. 1; c. 1063, s. 2; 1969, c. 44, s. 83; c. 1190, s. 56; 1971, cc. 189, 675, 798; 1973, c. 47, s. 2; c. 793, s. 36; c. 862; 1975, c. 844, s. 2; 1977, c. 265, ss. 4, 5; c. 408, s. 2; c. 661, ss. 2, 3; 1979, c. 24; c. 411, s. 5; 1981, c. 32, ss. 1, 2; 1983, c. 330, s. 1; 1985, c. 472, s. 2; c. 558, s. 1; c. 759, s. 6; 1985 (Reg. Sess., 1986), c. 957, s. 1; 1987, c. 509, s. 13; c. 738, s. 124; 1987 (Reg. Sess., 1988), c. 1028, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 31; 1995, c. 243, s. 1; 1996, 2nd Ex. Sess., c. 9, s. 8; 1999-456, s. 59; 2001-403, s. 3; 2001-466, s. 5.1(a); 2002-158, ss. 8, 9; 2002-159, s. 55(a); 2006-155, s. 2; 2007-369, s. 1; 2009-47, s. 1; 2013-381, s. 21.1; 2014-111, s. 1(a); 2017-6, s. 3.)

**§ 163A-979. Filing fees required of candidates in primary; refunds.**

(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate shall pay to the board of elections with which the candidate files under the provisions of G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976, 163A-977, and 163A-978, a filing fee for the office sought in the amount specified in the following tabulation:

<b>Office Sought</b>	<b>Amount of Filing Fee</b>
Governor	One percent (1%) of the annual salary of the office sought
Lieutenant Governor	One percent (1%) of the annual salary of the office sought
All State executive offices	One percent (1%) of the annual salary of the office sought
All Justices, Judges, and District Attorneys of the General Court of Justice	One percent (1%) of the annual salary of the office sought
United States Senator	One percent (1%) of the annual salary of the office sought
Members of the United States House of Representatives	One percent (1%) of the annual salary of the office sought
State Senator	One percent (1%) of the annual salary of the office sought
Member of the State House of Representatives	One percent (1%) of the annual salary of the office sought



All county offices not compensated by fees	One percent (1%) of the annual salary of the office sought
All county offices compensated partly by salary and partly by fees	One percent (1%) of the first annual salary to be received (exclusive of fees)

The salary of any office that is the basis for calculating the filing fee is the starting salary for the office, rather than the salary received by the incumbent, if different. If no starting salary can be determined for the office, then the salary used for calculation is the salary of the incumbent, as of January 1 of the election year.

(b) Refund of Fees. – If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section, withdraws his notice of candidacy within the period prescribed in G.S. 163A-976, he shall be entitled to have the fee he paid refunded. If the fee was paid to the State Board, the chairman of that board shall cause a warrant to be drawn on the Treasurer of the State for the refund payment. If the fee was paid to a county board of elections, the chairman of the Board shall certify to the county finance officer that the refund should be made, and the county finance officer shall make the refund in accordance with the provisions of the Local Government Budget and Fiscal Control Act. If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section dies prior to the date of the primary election provided by G.S. 163A-700, the personal representative of the estate shall be entitled to have the fee refunded if application is made to the board of elections to which the fee was paid no later than one year after the date of death, and refund shall be made in the same manner as in withdrawal of notice of candidacy.

If any person files a notice of candidacy and pays a filing fee to a board of elections other than that with which he is required to file under the provisions of G.S. 163A-976, he shall be entitled to have the fee refunded in the manner prescribed in this subsection if he requests the refund before the date on which the right to file for that office expires under the provisions of G.S. 163A-976. (1915, c. 101, s. 4; 1917, c. 218; 1919, cc. 50, 139; C.S., ss. 6023, 6024; 1927, c. 260, s. 20; 1933, c. 165, s. 12; 1939, c. 264, s. 2; 1959, c. 1203, s. 5; 1967, c. 775, s. 1; 1969, c. 44, s. 84; 1973, c. 47, s. 2; c. 793, s. 37; 1977, c. 265, s. 6; 1983, c. 913, s. 56; 1995, c. 464, s. 1; 1996, 2nd Ex. Sess., c. 9, s. 9; 2001-403, s. 4; 2002-158, s. 10; 2005-428, s. 8; 2016-125, 4th Ex. Sess., s. 21(b); 2017-3, s. 6; 2017-6, s. 3.)

**§ 163A-980. Petition in lieu of payment of filing fee.**

(a) Any qualified voter who seeks nomination in the party primary of the political party with which he affiliates may, in lieu of payment of any filing fee required for the office he seeks, file a written petition requesting him to be a candidate for a specified office with the appropriate board of elections, State, county or municipal.

(b) If the candidate is seeking the office of United States Senator, Governor, Lieutenant Governor, any State executive officer, Justice of the Supreme Court, or Judge of the Court of Appeals, the petition must be signed by 10,000 registered voters who are members of the political party in whose primary the candidate desires to run, except that in the case of a political party as defined by G.S. 163A-950(a)(2) which will be making nominations by primary election, the petition must be signed by five percent (5%) of the registered voters of the State who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 8,000 registered voters regardless of the voter's political party affiliation, whichever requirement is greater. The petition must be filed with the State Board not later than 12:00 noon on Monday preceding the filing deadline before the primary in which he

seeks to run. The names on the petition shall be verified by the board of elections of the county where the signer is registered, and the petition must be presented to the county board of elections at least 15 days before the petition is due to be filed with the State Board. When a proper petition has been filed, the candidate's name shall be printed on the primary ballot.

(c) County, Municipal and District Primaries. – If the candidate is seeking one of the offices set forth in G.S. 163A-974 but which is not listed in subsection (b) of this section, or a municipal or any other office requiring a partisan primary which is not set forth in G.S. 163A-974 or 163A-975, the candidate shall file a written petition with the appropriate board of elections no later than 12:00 noon on Monday preceding the filing deadline before the primary. The petition shall be signed by five percent (5%) of the registered voters of the election area in which the office will be voted for, who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 200 registered voters regardless of said voter's political party affiliation, whichever requirement is greater. The board of elections shall verify the names on the petition, and if the petition is found to be sufficient, the candidate's name shall be printed on the appropriate primary ballot. Petitions for candidates for member of the U.S. House of Representatives, District Attorney, judge of the superior court, judge of the district court, and members of the State House of Representatives from multi-county districts or members of the State Senate from multi-county districts must be presented to the county board of elections for verification at least 15 days before the petition is due to be filed with the State Board, and such petition must be filed with the State Board no later than 12:00 noon on Monday preceding the filing deadline. The State Board may adopt rules to implement this section and to provide standard petition forms.

(d) Nonpartisan Primaries and Elections. – Any qualified voter who seeks to be a candidate in any nonpartisan primary or election may, in lieu of payment of the filing fee required, file a written petition signed by five percent (5%) of the registered voters in the election area in which the office will be voted for with the appropriate board of elections. Any qualified voter may sign the petition. The petition shall state the candidate's name, address and the office which he is seeking. The petition must be filed with the appropriate board of elections no later than 60 days prior to the filing deadline for the primary or election, and if found to be sufficient, the candidate's name shall be printed on the ballot. (1975, c. 853; 1977, c. 386; 1985, c. 563, s. 13; 1996, 2nd Ex. Sess., c. 9, s. 12; 2001-403, s. 7; 2002-158, s. 11; 2013-381, s. 22.1; 2016-125, 4th Ex. Sess., s. 21(c); 2017-3, s. 7; 2017-6, s. 3.)

#### **§ 163A-981. Certification of notices of candidacy.**

(a) Within three days after the time for filing notices of candidacy with the State Board under the provisions of G.S. 163A-974 has expired, the chairman or secretary of that Board shall certify to the Secretary of State the name, address, and party affiliation of each person who has filed with the State Board, indicating in each instance the office sought.

(b) No later than 10 days after the time for filing notices of candidacy under the provisions of G.S. 163A-974 has expired, the chairman of the State Board shall certify to the chairman of the county board of elections in each county in the appropriate district the names of candidates for nomination to the following offices who have filed the required notice and pledge and paid the required filing fee to the State Board, so that their names may be printed on the official county ballots: Superior court judge, district court judge, and district attorney.

(c) In representative districts composed of more than one county and in multi-county senatorial districts the chairman or secretary of the county board of elections in each county shall,

within three days after the time for filing notices of candidacy under the provisions of G.S. 163A-974 has expired, certify to the State Board (i) the names of all candidates who have filed notice of candidacy in his county for member of the State Senate, or, if such is the fact, that no candidates have filed in his county for that office, and (ii) the names of all candidates who have filed notice of candidacy in his county for the office of member of the State House of Representatives or, if such is the fact, that no candidates have filed in his county for that office. The chairman of the county board of elections shall forward a copy of this report to the chairman of the board of elections of each of the other counties in the representative or senatorial district. Within 10 days after the time for filing notices of candidacy for those offices has expired the chairman or secretary of the State Board shall certify to the chairman of the county board of elections in each county of each multi-county representative or senatorial district the names of all candidates for the House of Representatives and Senate which must be printed on the county ballots.

(d) Within two days after he receives each of the letters of certification from the chairman of the State Board required by subsections (b) and (c) of this section, each county elections board chairman shall acknowledge receipt by letter addressed to the chairman of the State Board. (1915, c. 101, s. 8; 1917, c. 218; C.S., s. 6028; 1927, c. 260, s. 22; 1966, Ex. Sess., c. 5, s. 8; 1967, c. 775, s. 1; 1973, c. 793, s. 38; 1979, c. 797, s. 5; 1983, c. 331, s. 1; 2017-6, s. 3.)

#### **§ 163A-982. Nomination of members of House of Representatives.**

Chapter 826, Session Laws of 1957; Chapter 484, Session Laws of 1961; Chapter 621, Session Laws of 1959; Chapter 894, Session Laws of 1945; Chapter 442, Session Laws of 1955; Chapter 103, Public-Local Laws of 1941; Chapter 439, Session Laws of 1955; Chapter 238, Session Laws of 1959; and all other special and local acts providing for the nomination of candidates for the State House of Representatives by convention in any county, are modified and amended as follows: In the several representative districts of the State containing two or more counties, each political party shall nominate candidates for membership in the State House of Representatives according to the provisions of the statewide primary law, Part 1 of Article 19 [of] this Chapter, or by district convention of the party when so provided by law. In a county assigned to a multi-county representative district, no political party shall nominate candidates for the State House of Representatives by party convention for the single county. (1966, Ex. Sess., c. 5, s. 16; 2017-6, s. 3.)

#### **§ 163A-983. Candidates declared nominees without primary.**

If a nominee for a single office is to be selected and only one candidate of a political party files for that office, or if nominees for two or more offices (constituting a group) are to be selected, and only the number of candidates equal to the number of the positions to be filled file for a political party for said offices, then the appropriate board of elections shall, upon the expiration of the filing period for said office, declare such persons as the nominees or nominee of that party, and the names shall not be printed on the primary ballot, but shall be printed on the general election ballot as candidate for that political party for that office. For the following offices, this declaration shall be made by the county board of elections with which the aspirant filed notice of candidacy: All county offices, State Senators in single-county senatorial districts, and members of the State House of Representatives in single-county representative districts. For all other offices, this declaration shall be made by the State Board. (1915, c. 101, ss. 13, 19; 1917, c. 218; C.S., ss. 6033, 6039; 1966,

Ex. Sess., c. 5, ss. 9, 11; 1967, c. 775, s. 1; 1973, c. 793, s. 42; 1975, c. 19, s. 68; 1981, c. 220, ss. 1, 2; 2017-6, s. 3.)

**§ 163A-984. Determination of primary results; second primaries.**

(a) Nomination Determined by Substantial Plurality; Definition of Substantial Plurality. – Except as otherwise provided in this section, nominations in primary elections shall be determined by a substantial plurality of the votes cast. A substantial plurality within the meaning of this section shall be determined as follows:

- (1) If a nominee for a single office is to be selected, and there is more than one person seeking nomination, the substantial plurality shall be ascertained by multiplying the total vote cast for all aspirants by thirty percent (30%). Any excess of the sum so ascertained shall be a substantial plurality, and the aspirant who obtains a substantial plurality shall be declared the nominee. If two candidates receive a substantial plurality, the candidate receiving the highest vote shall be declared the nominee.
- (2) If nominees for two or more offices (constituting a group) are to be selected, and there are more persons seeking nomination than there are offices, the substantial plurality shall be ascertained by dividing the total vote cast for all aspirants by the number of positions to be filled, and by multiplying the result by thirty percent (30%). Any excess of the sum so ascertained shall be a substantial plurality, and the aspirants who obtain a substantial plurality shall be declared the nominees. If more candidates obtain a substantial plurality than there are positions to be filled, those having the highest vote (equal to the number of positions to be filled) shall be declared the nominees.

(b) Right to Demand Second Primary. – If an insufficient number of aspirants receive a substantial plurality of the votes cast for a given office or group of offices in a primary, a second primary, subject to the conditions specified in this section, shall be held:

- (1) If a nominee for a single office is to be selected and no aspirant receives a substantial plurality of the votes cast, the aspirant receiving the highest number of votes shall be declared nominated by the appropriate board of elections unless the aspirant receiving the second highest number of votes shall request a second primary in accordance with the provisions of subsection (c) of this section. In the second primary only the two aspirants who received the highest and next highest number of votes shall be voted for.
- (2) If nominees for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a substantial plurality of the votes, those candidates equal in number to the positions remaining to be filled and having the highest number of votes shall be declared the nominees unless some one or all of the aspirants equal in number to the positions remaining to be filled and having the second highest number of votes shall request a second primary in accordance with the provisions of subsection (c) of this section. In the second primary to select nominees for the positions in the group remaining to be filled, the names of all those candidates receiving the highest number of votes and all those receiving the second highest number of votes and demanding a second primary shall be printed on the ballot.

(c) Procedure for Requesting Second Primary. –

- (1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing with the Executive Director of the State Board no later than 12:00 noon on the ninth day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the State Board. If the vote certification by the State Board determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the Executive Director of the State Board shall immediately notify such candidate and permit the candidate to exercise any options available to the candidate within a 48-hour period following the notification:
    - Governor,
    - Lieutenant Governor,
    - All State executive officers,
    - Justices, Judges, or District Attorneys of the General Court of Justice,
    - United States Senators,
    - Members of the United States House of Representatives,
    - State Senators in multi-county senatorial districts, and
    - Members of the State House of Representatives in multi-county representative districts.
  - (2) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below and desiring to do so, shall file a request for a second primary in writing with the chairman or director of the county board of elections no later than 12:00 noon on the ninth day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the county board of elections:
    - State Senators in single-county senatorial districts,
    - Members of the State House of Representatives in single-county representative districts, and
    - All county officers.
  - (3) Immediately upon receipt of a request for a second primary the appropriate board of elections, State or county, shall notify all candidates entitled to participate in the second primary, by telephone followed by written notice, that a second primary has been requested and of the date of the second primary.
- (d) Tie Votes; How Determined. –
- (1) In the event of a tie for the highest number of votes in a first primary between two candidates for party nomination for a single county, or single-county legislative district office, the board of elections of the county in which the two candidates were voted for shall conduct a recount and declare the results. If the recount shows a tie vote, a second primary shall be held on the date prescribed in subsection (e) of this section between the two candidates having an equal vote, unless one of the aspirants, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections with which he filed notice of candidacy. Should that be done, the

remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary.

- (2) In the event of a tie for the highest number of votes in a first primary between two candidates for a State office, for United States Senator, or for any district office (including State Senator in a multi-county senatorial district and member of the State House of Representatives in a multi-county representative district), no recount shall be held solely by reason of the tie, but the two candidates having an equal vote shall be entered in a second primary to be held on the date prescribed in subsection (e) of this section, unless one of the two candidates files a written notice of withdrawal with the State Board within three days after the result of the first primary has been officially declared and published. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary.
- (3) In the event one candidate receives the highest number of votes cast in a first primary, but short of a substantial plurality, and two or more of the other candidates receive the second highest number of votes cast in an equal number, the proper board of elections shall declare the candidate having the highest vote to be the party nominee, unless all but one of the tied candidates give written notice of withdrawal to the proper board of elections within three days after the result of the first primary has been officially declared. If all but one of the tied candidates withdraw within the prescribed three-day period, and the remaining candidate demands a second primary in accordance with the provisions of subsection (c) of this section, a second primary shall be held between the candidate who received the highest vote and the remaining candidate who received the second highest vote.

(e) Date of Second Primary; Procedures. – If a second primary is required under the provisions of this section, the appropriate board of elections, State or county, shall order that it be held 10 weeks after the first primary if any of the offices for which a second primary is required are for a candidate for the office of United States Senate or member of the United States House of Representatives. Otherwise, the second primary shall be held seven weeks after the first primary.

There shall be no registration of voters between the dates of the first and second primaries. Persons whose qualifications to register and vote mature after the day of the first primary and before the day of the second primary may register on the day of the second primary and, when thus registered, shall be entitled to vote in the second primary. The second primary is a continuation of the first primary and any voter who files a proper and timely written affirmation of change of address within the county under the provisions of G.S. 163A-878, in the first primary may vote in the second primary without having to refile that written affirmation if the voter is otherwise qualified to vote in the second primary. Subject to this provision for registration, the second primary shall be held under the laws, rules, and regulations provided for the first primary.

(f) No Third Primary Permitted. – In no case shall there be a third primary. The candidates receiving the highest number of votes in the second primary shall be nominated. If in a second primary there is a tie for the highest number of votes between two candidates, the proper party executive committee shall select the party nominee for the office in accordance with the provisions of G.S. 163A-987. (1915, c. 101, s. 24; 1917, c. 179, s. 2; c. 218; C.S., s. 6045; 1927, c. 260, s. 23; 1931, c. 254, s. 17; 1959, c. 1055; 1961, c. 383; 1966, Ex. Sess., c. 5, s. 13; 1967, c. 775, s. 1; 1969, c. 44, s. 85; 1973, c. 47, s. 2; c. 793, ss. 43, 44; 1975, c. 844, s. 3; 1977, c. 265, s. 9; 1981, c. 645, ss. 1, 2; 1989, c. 549; 1995, c. 243, s. 1; 1996, 2nd Ex. Sess., c. 9, s. 10; 1999-424, s. 7(e); 2001-319, s. 11; 2001-403, s. 5; 2002-158, s. 12; 2003-278, s. 10(d); 2006-192, s. 2; 2011-182, s. 4; 2016-125, 4th Ex. Sess., s. 21(d); 2017-3, s. 8; 2017-6, s. 3; 2017-214, s. 3.)

**§ 163A-985. Death of candidate before primary; vacancy in single office.**

(a) Death of One of Two Candidates within 30 Days after the Filing Period Closes. – If at the time the filing period closes, only two persons have filed notice of candidacy for nomination by a political party to a single office, and one of the candidates dies within 30 days after the filing period closes, then the proper board of elections shall, upon notice of the death, reopen the filing period for that party contest, for an additional three days. Should no candidate file during the three days, the board of elections shall certify the remaining candidate as the nominee of his party as provided in G.S. 163A-983.

(b) Death of One of More Than Two Candidates within 30 Days after the Filing Period Closes. – If at the close of the filing period more than two candidates have filed for a single-seat office, and within 30 days after the filing period closes the board of elections receives notice of a candidate's death, the board shall immediately open the filing period for that party contest, for three additional days in order for candidates to file for that office. The name of the deceased candidate shall not be printed on the ballot.

In the event a candidate's death occurs more than 30 days after the closing of the original filing period, the names of the remaining candidates shall be printed on the ballot. If the ballots have been printed at the time death occurs, the ballots shall not be reprinted and any votes cast for a deceased candidate shall not be counted or considered for any purpose. In the event the death of a candidate or candidates leaves only one candidate, then such candidate shall be certified as the party's nominee for that office.

(c) Vacancy in Group Offices within 30 Days after the Filing Period Closes. – If at the time the filing period closes more persons have filed notice of candidacy for nomination by a political party to an office constituting a group than there are positions to be filled, and a candidate or candidates die within 30 days after the filing period closes, and there remains only the number of candidates equal to or fewer than the number of positions to be filled, the appropriate board of elections shall reopen the filing period for that party contest, for three days for that office. Should no persons file during the three-day period, then those candidates already filed shall be certified as the party nominees for that office.

(d) Vacancy in Group Offices More Than 30 Days after the Filing Period Closes. – In the event a candidate or candidates death occurs more than 30 days after the original filing period closes for an office constituting a group, then regardless of the number of candidates filed for nomination, the board of elections shall be governed as follows:

- (1) If the ballots have not been printed at the time the board of elections receives notice of the death, the deceased candidate's name shall not be printed on the ballot.

- (2) If the ballots have been printed at the time the board of elections receives notice of the death, the ballots shall not be reprinted but votes cast for the deceased candidate shall not be counted for any purpose.
- (3) In the event the death of a candidate or candidates results in the number of candidates being equal to or less than the number of positions to be filled for that office, then the remaining candidates shall be certified as the party nominees for that office and no primary shall be held for that office.
- (4) If death or disqualification of candidates results in the number of candidates being less than the number of positions to be filled for that office, then the appropriate party executive committee shall, in accordance with G.S. 163A-987, make nominations of persons equal to the number of positions to be filled and no primary shall be held and those names shall be printed on the general election ballot. (1959, c. 1054; 1967, c. 775, s. 1; 1981, c. 434; 1991, Ex. Sess., c. 1; 1993, c. 553, s. 60; 2001-466, s. 1(f); 2003-278, s. 4; 2003-434, Ex. Sess., s. 5(e); 2004-127, s. 13; 2017-6, s. 3.)

**§ 163A-986. Nominee's right to withdraw as candidate.**

A person who has been declared the nominee of a political party for a specified office under the provisions of G.S. 163A-1184 or G.S. 163A-983, shall not be permitted to resign as a candidate unless, prior to the first day on which military and overseas absentee ballots are transmitted to voters under Part 2 of Article 21 of this Chapter, that [the] person submits to the board of elections which certified the nomination a written request that person be permitted to withdraw. (1929, c. 164, s. 8; 1967, c. 775, s. 1; 2001-398, s. 6; 2013-381, s. 23.1; 2017-6, s. 3.)

**§ 163A-987. Filling vacancies among party nominees occurring after nomination and before election.**

(a) If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position

President Vice President	Vacancy is to be filled by appointment of national executive committee of political party in which vacancy occurs
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Presidential elector or alternate elector Any elective State office United States Senator	Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs
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A district office, including: Member of the United States House of Representatives Judge of district court District Attorney	Appropriate district executive committee of political party in which vacancy occurs
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State Senator in a multi-county senatorial district  
Member of State House of Representatives in a multi-county representative district

State Senator in a single- county senatorial district  
Member of State House of Representatives in a single-county representative district  
Any elective county office

County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

Judge of superior court in a single-county judicial district where the district is the whole county or part of the county

County executive committee of political party in which vacancy occurs; provided, in the case of a superior court judge in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

Judge of superior court in a multicounty judicial district

Appropriate district executive committee of political party in which vacancy occurs.

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, that has jurisdiction over the ballot item under G.S. 163A-1171. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S. 163A-1107(c) shall apply. If a vacancy occurs in a nomination of a political party and that vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

(b) In a county which is partly in a multicounty judicial district, in choosing that county's member or members of the judicial district executive committee for the multicounty district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multicounty district may vote.

(c) In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

(d) In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote.

(e) An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be eligible to be nominated to fill a vacancy in the nomination of another party for the same office in the same year. (1929, c. 164, s. 19; 1967, c. 775, s. 1; 1973, c. 793, s. 45; 1981 (Reg. Sess., 1982), c. 1265, ss. 4, 5; 1987, c. 509, s. 10; c. 526; c. 738, s. 124; 1987 (Reg. Sess., 1988), c. 1037, s. 126.1; 1991, c. 727, s. 8; 1996, 2nd Ex. Sess., c. 9, s. 13; 2001-353, s. 1; 2001-403, s. 8; 2001-460, s. 4; 2003-142, s. 1; 2006-234, s. 6; 2017-3, s. 9; 2017-6, s. 3.)

**§ 163A-988. Special provisions for obtaining nominations when vacancies occur in certain offices.**

(a) If a vacancy occurs in the office of the clerk of superior court, otherwise than by expiration of the term, or if the people fail to elect, the vacancy shall be filled as provided in Sec. 9(3) of Article IV of the North Carolina Constitution. If the vacancy occurs after the time for filing notice of candidacy in the primary has expired in a year when a regular election is not being held to elect a clerk of the superior court by expiration of term, then the county executive committee of each political party shall nominate a candidate whose name shall appear on the general election ballot. The candidate elected in the general election shall serve the unexpired portion of the term of the person causing the vacancy.

(b) In the event a special election is called to fill a vacancy in the State's delegation in the United States House of Representatives, the provisions of G.S. 163A-721 shall apply.

(c) If a vacancy occurs in an elective State or district office (other than member of the United States House of Representatives) during the period opening 10 days before the filing period for the office ends and closing 30 days before the ensuing general election, a nomination shall be made by the proper executive committee of each political party as provided in G.S. 163A-987, and the names of the nominees shall be printed on the general election ballots.

(d) If a vacancy occurs on a county board of commissioners and G.S. 153A-27 or G.S. 153A-27.1 requires that a person shall be elected to the seat vacated for the remainder of the unexpired term, and the vacancy occurs:

(1) Beginning on the tenth day before the filing period ends under G.S. 163A-974, a nomination shall be made by the county executive committee of each political party and the names of the nominees shall be printed on the general election ballots.

(2) Prior to the tenth day before the filing period ends under G.S. 163A-974, nominations shall be made by primary election as provided by this Part.

(e) If a vacancy occurs in the office of United States Senator, and the vacancy occurs:

(1) Beginning on the tenth day before the filing period ends under G.S. 163A-974, a nomination shall be made by the State executive committee of each political party and the names of the nominees shall be printed on the general election ballots.

- (2) Prior to the tenth day before the filing period ends under G.S. 163A-974, nominations shall be made by primary election as provided by this Part. (1915, c. 101, s. 33; 1917, c. 179, s. 3; c. 218; C.S., s. 6053; 1923, c. 111, s. 16; 1955, c. 574; 1957, c. 1242; 1966, Ex. Sess., c. 5, s. 14; 1967, c. 775, s. 1; 1973, c. 793, s. 46; 1985, c. 563, ss. 7, 7.1; c. 759, s. 1; 1997-456, s. 27; 2017-6, s. 3.)

**§ 163A-989. Voting by unaffiliated voter in party primary.**

If a political party has, by action of its State Executive Committee reported to the State Board by resolution delivered no later than the first day of December preceding a primary, provided that unaffiliated voters may vote in the primary of that party, an unaffiliated voter may vote in the primary of that party by announcing that intention under G.S. 163A-1137(a). For a party to withdraw its permission, it must do so by action of its State Executive Committee, similarly reported to the State Board no later than the first day of December preceding the primary where the withdrawal is to become effective. (1993 (Reg. Sess., 1994), c. 762, s. 7; 2002-159, s. 21(a); 2017-6, s. 3.)

**§ 163A-990:** Reserved for future codification purposes.

**§ 163A-991:** Reserved for future codification purposes.

**§ 163A-992:** Reserved for future codification purposes.

**§ 163A-993:** Reserved for future codification purposes.

**§ 163A-994:** Reserved for future codification purposes.

**§ 163A-995:** Reserved for future codification purposes.

**§ 163A-996:** Reserved for future codification purposes.

**§ 163A-997:** Reserved for future codification purposes.

**§ 163A-998:** Reserved for future codification purposes.

**§ 163A-999:** Reserved for future codification purposes.

**§ 163A-1000:** Reserved for future codification purposes.

**§ 163A-1001:** Reserved for future codification purposes.

**§ 163A-1002:** Reserved for future codification purposes.

**§ 163A-1003:** Reserved for future codification purposes.

**§ 163A-1004:** Reserved for future codification purposes.

Part 2. Nomination by Petition.

**§ 163A-1005. Unaffiliated candidates nominated by petition.**

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

- (1) If the office is a statewide office, file written petitions with the State Board supporting the voter's candidacy for a specified office. These petitions must be filed with the State Board on or before 12:00 noon on the day of the primary election and must be signed by qualified voters of the State equal in number to one and a half percent (1.5%) of the total number of voters who voted in the most recent general election for Governor. Also, the petition must be signed by at least 200 registered voters from each of three congressional districts in North Carolina. The petitions shall be divided into sections based on the county in which the signatures were obtained. Provided the petitions are timely filed, the State Board shall require the filed petition be verified no later than 15 business days after canvass of the primary in one of the following ways:
  - a. The Executive Director shall examine the names on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in the designated county and shall attach to the petition a signed certificate. Said certificates shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers to be qualified and registered to vote in each county.
  - b. The chair shall examine the names on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in the chair's county and shall attach to the petition the chair's signed certificate. Said certificates shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers to be qualified and registered to vote in the chair's county. The chair shall return the petition and certificate to the State Board.

The State Board shall return a copy of each petition, together with a copy of the certificate required in this section, to the person who presented it to the State Board.

- (2) Except as provided in this subsection, if the office is a district office under the jurisdiction of the State Board under G.S. 163A-1171(b), file written petitions with the State Board supporting that voter's candidacy for a specified office. For district offices other than General Assembly seats, petitions must be filed with the State Board on or before 12:00 noon on the day of the primary election and must be signed by qualified voters of the district equal in number to one and a half percent (1.5%) of the total number of registered voters in the district as reflected by the voter registration records of the State Board as of January 1 of the year in which the general election is to be held. For General Assembly seats in which the district lies in more than one county, petitions must be filed with the State Board on or before 12:00 noon on the day of the primary election and must be signed by qualified voters of the district equal in number to four

percent (4%) of the total number of registered voters in the district as reflected by the voter registration records of the State Board as of January 1 of the year in which the general election is to be held. The petitions shall be divided into sections based on the county in which the signatures were obtained. The petitions shall be verified as specified in subdivision (1) of this subsection.

- (3) If the office is a county office or a single county legislative district, file written petitions with the chair or director of the county board of elections supporting the voter's candidacy for a specified county office. These petitions must be filed with the county board of elections on or before 12:00 noon on the day of the primary election and must be signed by qualified voters of the county equal in number to four percent (4%) of the total number of registered voters in the county as reflected by the voter registration records of the State Board as of January 1 of the year in which the general election is to be held, except if the office is for a district consisting of less than the entire county and only the voters in that district vote for that office, the petitions must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of voters in the district according to the voter registration records of the State Board as of January 1 of the year in which the general election is to be held. Each petition shall be presented to the chair or director of the county board of elections. The chair or director of the county board of elections shall verify the filed petition no later than 15 business days after canvass as provided in sub-subdivision b. of subdivision (1) of this subsection, and shall return a copy of each petition, together with a copy of the certificate required in this section, to the person who presented it to the county board of elections.
- (4) If the office is a partisan municipal office, file written petitions with the chair or director of the county board of elections in the county wherein the municipality is located supporting the voter's candidacy for a specified municipal office. These petitions must be filed with the county board of elections on or before the time and date specified in G.S. 163A-1624 and must be signed by the number of qualified voters specified in G.S. 163A-1624. The chair or director of the county board of elections shall verify the filed petition no later than 15 business days after canvass as provided in sub-subdivision b. of subdivision (1) of this subsection, and shall return a copy of each petition, together with a copy of the certificate required in this section, to the person who presented it to the county board of elections.
- (5) If the office is a superior court judge or a district court judge, regardless of whether the district lies entirely in one county or in more than one county, file written petitions with the State Board supporting that voter's candidacy for a specified office. These petitions must be filed with the State Board on or before 12:00 noon on the day of the primary election and must be signed by qualified voters of the district equal in number to two percent (2%) of the total number of registered voters in the district as reflected by the voter registration records of the State Board as of January 1 of the year in which the general election is to be held. The petitions shall be divided into sections based on the county in which the signatures were obtained. The petitions shall be verified as specified in subdivision (1) of this subsection.

Upon compliance with the provisions of subdivisions (1), (2), (3), (4), or (5) of this subsection, the board of elections with which the petitions have been timely filed shall cause the unaffiliated candidate's name to be printed on the general election ballots in accordance with Part 3 of Article 20 of this Chapter.

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

(c) Form of Petition. – Petitions requesting an unaffiliated candidate to be placed on the general election ballot shall contain on the heading of each page of the petition in bold print or in all capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN \_\_\_\_\_ COUNTY HEREBY PETITION ON BEHALF OF \_\_\_\_\_ AS AN UNAFFILIATED CANDIDATE FOR THE OFFICE OF \_\_\_\_\_ IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT UPON COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163A-1005."

(d) When any person files a petition with a board of elections under this section, the board of elections shall, immediately upon receipt of the petition, inspect the registration records of the county and cancel the petition of any person who does not meet the constitutional or statutory qualifications for the office, including residency.

The board shall give notice of cancellation to any person whose petition has been cancelled under this subsection by mail or by having the notice served on that person by the sheriff and to any other candidate filing for the same office. A person whose petition has been cancelled or another candidate for the same office affected by a substantiation under this subsection may request a hearing on the issue of constitutional or statutory qualifications for the office. If the person requests a hearing, the hearing shall be conducted in accordance with Part 3 of Article 19 of this Chapter.

(e) Any candidate seeking to have that candidate's name printed on the general election ballot under this section shall pay a filing fee equal to that provided for candidates for the office in G.S. 163A-979 or comply with the alternative available to candidates for the office in G.S. 163A-980. (1929, c. 164, s. 6; 1931, c. 223; 1935, c. 236; 1967, c. 775, s. 1; 1973, c. 793, s. 50; 1977, c. 408, s. 3; 1979, c. 23, ss. 1, 3; c. 534, s. 2; 1981, c. 637; 1991, c. 297, s. 1; 1995, c. 243, s. 1; 1996, 2nd Ex. Sess., c. 9, s. 14; 1999-424, s. 5(b); 2002-159, s. 21(b); 2004-127, s. 8(a); 2006-155, s. 3; 2006-234, ss. 4, 5; 2007-391, s. 8(a); 2007-484, s. 21; 2008-187, s. 33(a); 2017-3, s. 10; 2017-6, s. 3; 2017-214, s. 2(a).)

#### **§ 163A-1006. Declaration of intent and petitions for write-in candidates in partisan elections.**

(a) Procedure for Qualifying as a Write-In Candidate. – Any qualified voter who seeks to have write-in votes for him counted in a general election shall file a declaration of intent in accordance with subsection (b) of this section and petition(s) in accordance with subsection (c) of this section.

(b) Declaration of Intent. – The applicant for write-in candidacy shall file his declaration of intent at the same time and with the same board of elections as his petition, as set out in subsection (c) of this section. The declaration shall contain:

- (1) Applicant's name,
- (2) Applicant's residential address,
- (3) Declaration of applicant's intent to be a write-in candidate,

- (4) Title of the office sought,
  - (5) Date of the election,
  - (6) Date of the declaration,
  - (7) Applicant's signature.
- (c) Petitions for Write-in Candidacy. – An applicant for write-in candidacy shall:
- (1) If the office is a statewide office, file written petitions with the State Board supporting his candidacy for a specified office. These petitions shall be filed on or before noon on the 90th day before the general election. They shall be signed by 500 qualified voters of the State. No later than 5:00 p.m. on the fifteenth day preceding the date the petitions are due to be filed with the State Board, each petition shall be presented to the board of elections of the county in which the signatures were obtained. A petition presented to a county board of elections shall contain only names of voters registered in that county. Provided the petitions are timely submitted, the chairman of the county board of elections shall examine the names on the petition and place a check mark by the name of each signer who is qualified and registered to vote in his county. The chairman of the county board shall attach to the petition his signed certificate. On his certificate the chairman shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers who are qualified and registered to vote in his county and eligible to vote for that office. The chairman shall return each petition, together with the certificate required in this section, to the person who presented it to him for checking. The chairman of the county board shall complete the verification within two weeks from the date the petition is presented.
  - (2) If the office is a district office under the jurisdiction of the State Board under G.S. 163A-1171(b), file written petitions with the State Board supporting that applicant's candidacy for a specified office. These petitions must be filed with the State Board on or before noon on the 90th day before the general election and must be signed by 250 qualified voters. Before being filed with the State Board, each petition shall be presented to the board of elections of the county in which the signatures were obtained. A petition presented to a county board of elections shall contain only names of voters registered in that county who are eligible to vote for that office. The chairman of the county board shall examine the names on the petition and the procedure for certification shall be the same as specified in subdivision (1).
  - (3) If the office is a county office, or is a school administrative unit office elected on a partisan basis, or is a legislative district consisting of a single county or a portion of a county, file written petitions with the county board of elections supporting his candidacy for a specified office. A petition presented to a county board of elections shall contain only names of voters registered in that county. These petitions must be filed on or before noon on the 90th day before the general election and must be signed by 100 qualified voters who are eligible to vote for the office, unless fewer than 5,000 persons are eligible to vote for the office as shown by the most recent records of the appropriate board of elections. If fewer than 5,000 persons are eligible to vote for the office, an applicant's petition must be signed by not less than one percent (1%) of those registered

voters. Before being filed with the county board of elections, each petition shall be presented to the county board of elections for examination. The chairman of the county board of elections shall examine the names on the petition and the procedure for certification shall be the same as specified in subdivision (1).

(d) Form of Petition. – Petitions requesting the qualification of a write-in candidate in a general election shall contain on the heading of each page of the petition in bold print or in capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN \_\_\_\_\_ COUNTY HEREBY PETITION ON BEHALF OF \_\_\_\_\_ AS A WRITE-IN CANDIDATE IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT CANDIDATE BE PLACED ON THE LIST OF QUALIFIED WRITE-IN CANDIDATES WHOSE VOTES ARE TO BE COUNTED AND RECORDED IN ACCORDANCE WITH G.S. 163A-1006."

(e) Defeated Primary Candidate. – No person whose name appeared on the ballot in a primary election preliminary to the general election shall be eligible to have votes counted for him as a write-in candidate for the same office in that year.

(f) Counting and Recording of Votes. – If a qualified voter has complied with the provisions of subsections (a), (b), and (c) and is not excluded by subsection (e), the board of elections with which petition has been filed shall count votes for him according to the procedures set out in G.S. 163A-1166, and the appropriate board of elections shall record those votes on the official abstract. Write-in votes for names other than those of qualified write-in candidates shall not be counted for any purpose and shall not be recorded on the abstract.

(g) When any person files a petition with a board of elections under this section, the board of elections shall, immediately upon receipt of the petition, inspect the registration records of the county and cancel the petition of any person who does not meet the constitutional or statutory qualifications for the office, including residency.

The board shall give notice of cancellation to any person whose petition has been cancelled under this subsection by mail or by having the notice served on that person by the sheriff. A person whose petition has been cancelled or another candidate for the same office affected by a substantiation under this subsection may request a hearing on the issue of constitutional or statutory qualifications for the office. If the person requests a hearing, the hearing shall be conducted in accordance with Part 3 of Article 19 of this Chapter.

(h) Municipal Elections Excluded. – This section does not apply to municipal elections conducted under Article 27 of this Chapter. (1987, c. 393, ss. 1; 2; 1989, c. 92, s. 1; 1999-424, s. 5(c); 2001-319, s. 9(a); 2001-398, s. 7; 2001-403, s. 12; 2002-158, s. 13; 2004-127, s. 7; 2006-155, s. 4; 2007-391, s. 8(b); 2008-187, s. 33(a); 2017-3, s. 11; 2017-6, s. 3.)

**§ 163A-1007. No run for two separate offices at the same time.**

(a) No individual is eligible to have that individual's name on the general election ballot for two separate offices, unless one of the offices is for the remainder of the unexpired term for an office that requires an election to fill the unexpired portion of the term.

(b) This section shall apply to any individual nominated under Article 18 of this Chapter, filing under G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976, 163A-977, and 163A-978, or filing a petition under this Part. (2011-214, s. 1; 2017-6, s. 3.)

**§ 163A-1008:** Reserved for future codification purposes.



§ 163A-1009: Reserved for future codification purposes.

§ 163A-1010: Reserved for future codification purposes.

§ 163A-1011: Reserved for future codification purposes.

§ 163A-1012: Reserved for future codification purposes.

§ 163A-1013: Reserved for future codification purposes.

§ 163A-1014: Reserved for future codification purposes.

§ 163A-1015: Reserved for future codification purposes.

§ 163A-1016: Reserved for future codification purposes.

§ 163A-1017: Reserved for future codification purposes.

§ 163A-1018: Reserved for future codification purposes.

§ 163A-1019: Reserved for future codification purposes.

§ 163A-1020: Reserved for future codification purposes.

§ 163A-1021: Reserved for future codification purposes.

§ 163A-1022: Reserved for future codification purposes.

§ 163A-1023: Reserved for future codification purposes.

§ 163A-1024: Reserved for future codification purposes.

### Part 3. Challenge to Candidacy.

#### § 163A-1025. **Definitions.**

As used in this Part, the following terms mean:

- (1) Reserved.
- (2) Candidate. – A person having filed a notice of candidacy under the appropriate statute for any elective office in this State.
- (3) Challenger. – Any qualified voter registered in the same district as the office for which the candidate has filed or petitioned.
- (4) Office. – The elected office for which the candidate has filed or petitioned. (2006-155, s. 1; 2006-259, s. 48(a); 2017-6, s. 3.)

#### § 163A-1026. **When and how a challenge to a candidate may be made.**

(a) When. – A challenge to a candidate may be filed under this Part with the board of elections receiving the notice of the candidacy or petition no later than 10 business days after the close of the filing period for notice of candidacy or petition.

(b) How. – The challenge must be made in a verified affidavit by a challenger, based on reasonable suspicion or belief of the facts stated. Grounds for filing a challenge are that the candidate does not meet the constitutional or statutory qualifications for the office, including residency.

(c) If Defect Discovered After Deadline, Protest Available. – If a challenger discovers one or more grounds for challenging a candidate after the deadline in subsection (a) of this section, the grounds may be the basis for a protest under G.S. 163A-1177. (2006-155, s. 1; 2017-6, s. 3.)

#### **§ 163A-1027. Panel to conduct the hearing on a challenge.**

Upon filing of a challenge, a panel shall hear the challenge, as follows:

- (1) Single county. – If the district for the office subject to the challenge covers territory in all or part of only one county, the panel shall be the county board of elections of that county.
- (2) Multicounty but less than entire State. – If the district for the office subject to the challenge contains territory in more than one county but is less than the entire State, the State Board shall appoint a panel within two business days after the challenge is filed. The panel shall consist of at least one member of the county board of elections in each county in the district of the office. The panel shall have an odd number of members, no fewer than three and no more than five. In appointing members to the panel, the State Board shall appoint members from each county in proportion to the relative total number of registered voters of the counties in the district for the office. If the district for the office subject to the challenge covers more than five counties, the panel shall consist of five members with at least one member from the county receiving the notice of candidacy or petition and at least one member from the county of residency of the challenger. The State Board shall, to the extent possible, appoint members affiliated with different political parties in proportion to the representation of those parties on the county boards of elections in the district for the office. The State Board shall designate a chair for the panel. A meeting of the State Board to appoint a panel under this subdivision shall be treated as an emergency meeting for purposes of G.S. 143-318.12.
- (3) Entire State. – If the district for the office subject to the challenge consists of the entire State, the panel shall be the State Board. (2006-155, s. 1; 2017-6, s. 3.)

#### **§ 163A-1028. Conduct of hearing by panel.**

- (a) The panel conducting a hearing under this Part shall do all of the following:
  - (1) Within five business days after the challenge is filed, designate and announce the time of the hearing and the facility where the hearing will be held. The hearing shall be held at a location in the district reasonably convenient to the public, and shall preferably be held in the county receiving the notice of the candidacy or petition. If the district for the office covers only part of a county,

the hearing shall be at a location in the county convenient to residents of the district, but need not be in the district.

- (2) Allow for depositions prior to the hearing, if requested by the challenger or candidate before the time of the hearing is designated and announced.
- (3) Issue subpoenas for witnesses or documents, or both, upon request of the parties or upon its own motion.
- (4) Render a written decision within 20 business days after the challenge is filed and serve that written decision on the parties.

(b) Notice of Hearing. – The panel shall give notice of the hearing to the challenger, to the candidate, other candidates filing or petitioning to be elected to the same office, to the county chair of each political party in every county in the district for the office, and to those persons who have requested to be notified. Each person given notice shall also be given a copy of the challenge or a summary of its allegations.

Failure to comply with the notice requirements in this subsection shall not delay the holding of a hearing nor invalidate the results if the individuals required by this section to be notified have been notified.

(c) Conduct of Hearing. – The hearing under this Part shall be conducted as follows:

- (1) The panel may allow evidence to be presented at the hearing in the form of affidavits supporting documents, or it may examine witnesses. The chair or any two members of the panel may subpoena witnesses or documents. The parties shall be allowed to issue subpoenas for witnesses or documents, or both, including a subpoena of the candidate. Each witness must be placed under oath before testifying. The State Board shall provide the wording of the oath to the panel.
- (2) The panel may receive evidence at the hearing from any person with information concerning the subject of the challenge, and such presentation of evidence shall be subject to Chapter 8C of the General Statutes. The challenger shall be permitted to present evidence at the hearing, but the challenger shall not be required to testify unless subpoenaed by a party. The panel may allow evidence to be presented by a person who is present.
- (3) The hearing shall be recorded by a reporter or by mechanical means, and the full record of the hearing shall be preserved by the panel until directed otherwise by the State Board.

(d) Findings of Fact and Conclusions of Law by Panel. – The panel shall make a written decision on each challenge by separately stating findings of facts, conclusions of law, and an order.

(e) Rules by State Board. – The State Board shall adopt rules providing for adequate notice to parties, scheduling of hearings, and the timing of deliberations and issuance of decisions. (2006-155, s. 1; 2017-6, s. 3.)

### **§ 163A-1029. Burden of proof.**

(a) The burden of proof shall be upon the candidate, who must show by a preponderance of the evidence of the record as a whole that he or she is qualified to be a candidate for the office.

(b) If the challenge is based upon a question of residency, the candidate must show all of the following:

- (1) An actual abandonment of the first domicile, coupled with an intent not to return to the first domicile.

- (2) The acquisition of a new domicile by actual residence at another place.
- (3) The intent of making the newer domicile a permanent domicile. (2006-155, s. 1; 2017-6, s. 3.)

**§ 163A-1030. Appeals.**

(a) Appeals from Single or Multicounty Panel. – The decision of a panel created under G.S. 163A-1027(1) or G.S. 163A-1027(2) may be appealed as of right to the State Board by any of the following:

- (1) The challenger.
- (2) A candidate adversely affected by the panel's decision.

Appeal must be taken within two business days after the panel serves the written decision on the parties. The written appeal must be delivered or deposited in the mail to the State Board by the end of the second business day after the written decision was filed by the panel. The State Board shall prescribe forms for filing appeals from a panel's decision in a challenge. The State Board shall base its appellate decision on the whole record of the hearing conducted by the panel and render its opinion on an expedited basis. From the final order or decision by the State Board under this subsection, appeal as of right lies directly to the Court of Appeals. Appeal shall be filed no later than two business days after the State Board files its final order or decision in its office.

(b) Appeals from Statewide Panel. – The decision of a panel created under G.S. 163A-1027(3) may be appealed as of right to the Court of Appeals by any of the following:

- (1) The challenger.
- (2) A candidate adversely affected by the panel's decision.

Appeal must be taken within two business days after the panel files the written decision. The written appeal must be delivered or deposited in the mail to the Court of Appeals by the end of the second business day after the written decision was filed by the panel. (2006-155, s. 1; 2017-6, s. 3.)

**§ 163A-1031:** Reserved for future codification purposes.

**§ 163A-1032:** Reserved for future codification purposes.

**§ 163A-1033:** Reserved for future codification purposes.

**§ 163A-1034:** Reserved for future codification purposes.

**§ 163A-1035:** Reserved for future codification purposes.

**§ 163A-1036:** Reserved for future codification purposes.

**§ 163A-1037:** Reserved for future codification purposes.

**§ 163A-1038:** Reserved for future codification purposes.

**§ 163A-1039:** Reserved for future codification purposes.

**§ 163A-1040:** Reserved for future codification purposes.

§ 163A-1041: Reserved for future codification purposes.

§ 163A-1042: Reserved for future codification purposes.

§ 163A-1043: Reserved for future codification purposes.

§ 163A-1044: Reserved for future codification purposes.

## Article 20.

### Conduct of Primaries and Elections.

#### Part 1. Precincts and Voting Places.

#### **§ 163A-1045. Election precincts and voting places established or altered.**

(a) Each county shall be divided into a convenient number of precincts for the purpose of voting. Upon a resolution adopted by the county board of elections and approved by the Executive Director of the State Board voters from a given precinct may be temporarily transferred, for the purpose of voting, to an adjacent precinct. Any such transfers shall be for the period of time equal only to the term of office of the county board of elections making such transfer. When such a resolution has been adopted by the county board of elections to assign voters from more than one precinct to the same precinct, then the county board of elections shall maintain separate registration and voting records, consistent with the procedure prescribed by the State Board, so as to properly identify the precinct in which such voters reside. The polling place for a precinct shall be located within the precinct or on a lot or tract adjoining the precinct.

Except as provided by Part 2 of Article 20 of this Chapter, the county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts or voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, discontinuing, or creating a precinct or voting place, the board shall give 45 days' notice thereof prior to the next primary or election. Notice shall be given by advertisement in a newspaper having general circulation in the county, by posting a copy of the resolution at the courthouse door and at the office of the county board of elections, and by mailing a copy of the resolution to the chairman of every political party in the county. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. No later than 30 days prior to the primary or election, the county board of elections shall mail a notice of precinct change to each registered voter who as a result of the change will be assigned to a different voting place.

(b) Each county board of elections shall prepare a map of the county on which the precinct boundaries are drawn or described, shall revise the map when boundaries are changed, and shall keep a copy of the current map on file and posted for public inspection at the office of the Board of Elections, and shall file a copy with the State Board. (Rev., s. 4313; 1913, c. 53; C.S., s. 5934; 1921, c. 180; 1933, c. 165, s. 3; 1967, c. 775, s. 1; 1969, c. 570; 1973, c. 793, ss. 51-53; 1975, c. 798, s. 2; 1979, c. 785; 1981, c. 515, s. 1; 1985, c. 757, s. 205(b); 1989, c. 93, s. 4; c. 440, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 33; 1995, c. 423, s. 1; 2001-353, s. 2; 2006-264, s. 20; 2017-6, s. 3.)

**§ 163A-1046. Structure at voting place; marking off limits of voting place.**

(a) At the voting place in each precinct established under the provisions of G.S. 163A-1045, the county board of elections shall provide or procure by lease or otherwise a suitable structure or part of a structure in which registration and voting may be conducted. To this end, the county board of elections shall be entitled to demand and use any school or other State, county, or municipal building, or a part thereof, or any other building, or a part thereof, which is supported or maintained, in whole or in part by or through tax revenues provided, however, that this section shall not be construed to permit any board of elections to demand and use any tax exempt church property for such purposes without the express consent of the individual church involved, for the purpose of conducting registration and voting for any primary or election, and it may require that the requisitioned premises, or a part thereof, be vacated for these purposes.

(b) If a county board of elections requires that a tax-supported building be used as a voting place, that county board of elections may require that those in control of that building provide parking that is adequate for voters at the precinct, as determined by the county board of elections.

(c) The county board of elections shall inspect each precinct voting place to ascertain how it should be arranged for voting purposes, and shall direct the chief judge and judges of any precinct to define the voting place by roping off the area or otherwise enclosing it or by marking its boundaries. The boundaries of the voting place shall at any point lie no more than 100 feet from each ballot box or voting machine. The space so roped off or enclosed or marked for the voting place may contain area both inside and outside the structure in which registration and voting are to take place. (1929, c. 164, s. 17; 1967, c. 775, s. 1; 1973, c. 793, s. 54; 1983, c. 411, s. 3; 1993 (Reg. Sess., 1994), c. 762, s. 34; 1999-426, s. 5(a); 2017-6, s. 3.)

**§ 163A-1047. Satellite voting places.**

A county board of elections by unanimous vote may, upon approval of a request submitted in writing to the State Board, establish a plan whereby elderly or disabled voters in a precinct may vote at designated sites within the precinct other than the regular voting place for that precinct. Any approval under this section is only effective for one year and shall be annually reviewed for extension. The State Board shall approve a county board's proposed plan if:

- (1) All the satellite voting places to be used are listed in the county's written request;
- (2) The plan will in the State Board's judgment overcome a barrier to voting by the elderly or disabled;
- (3) Adequate security against fraud is provided for; and
- (4) The plan does not unfairly favor or disfavor voters with regard to race or party affiliation. (1991 (Reg. Sess., 1992), c. 1032, s. 10; 2013-381, s. 26.1(a); 2017-6, s. 3.)

**§ 163A-1048. Out-of-precinct voting places.**

A county board of elections, by unanimous vote of all its members, may establish a voting place for a precinct that is located outside that precinct. The county board's proposal is subject to approval by the Executive Director of the State Board. The county board shall submit its proposal in writing to the Executive Director. Approval by the Executive Director of the county's proposed plan shall be conditioned upon the county board of elections' demonstrating that:

- (1) No facilities adequate to serve as a voting place are located in the precinct;

- (2) Adequate notification and publicity are provided to notify voters in the precinct of the new polling location;
- (3) The plan does not unfairly favor or disfavor voters with regard to race or party affiliation;
- (4) The new voting place meets all requirements for voting places including accessibility for elderly and disabled voters; and
- (5) The proposal provides adequately for security against fraud.

Any approval granted by the Executive Director for a voting place outside the precinct is effective only for one primary and election and must be reevaluated by the county board of elections and the Executive Director annually to determine whether it is still the only available alternative for that precinct. (1999-426, s. 3(a); 2001-319, ss. 3(a), 11; 2017-6, s. 3.)

**§ 163A-1049. Temporary use of two voting places for certain precincts.**

A county board of elections, by unanimous vote of all its members, may propose to designate two voting places to be used temporarily for the same precinct. The temporary designation of a voting place shall continue only for the term of office of the county board of elections making the designation. For any precinct that is temporarily given two voting places, the county board shall assign every voter to one or the other of those voting places.

The county board's proposal is subject to approval by the Executive Director of the State Board. The county board shall submit its proposal in writing to the Executive Director. The Executive Director shall approve that proposal only if it finds all of the following:

- (1) That the precinct has more registered voters than can adequately be accommodated by any single potential voting place available for the precinct.
- (2) That no boundary line that complies with Part 2 of Article 20 of this Chapter can be identified that adequately divides the precinct.
- (3) That the county board can account for, by street address number, the location of every registered voter in the precinct and fix that voter's residence with certainty on a map.
- (4) That no more than three other precincts in the same county will have two voting places.
- (5) That both voting places for the precinct would have adequate facilities for the elderly and disabled.
- (6) That the proposal provides adequately for security against fraud.
- (7) That the proposal does not unfairly favor or disfavor voters with regard to race or party affiliation.

The county board shall designate a full set of precinct officials, in the manner set forth in Part 4 of Article 16 of this Chapter, for each voting place designated for the precinct. (1999-426, s. 4(a); 2001-319, ss. 4(a), 4(b), 11; 2017-6, s. 3.)

**§ 163A-1050. Accessible polling places.**

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

(b) Words in this section have the meanings prescribed by P.L. 98-435, except that the term "disabled" in this section has the same meaning as "handicapped" in P.L. 98-435. (1999-424, s. 3(b); 2017-6, s. 3.)

§ 163A-1051: Reserved for future codification purposes.

§ 163A-1052: Reserved for future codification purposes.

§ 163A-1053: Reserved for future codification purposes.

§ 163A-1054: Reserved for future codification purposes.

§ 163A-1055: Reserved for future codification purposes.

§ 163A-1056: Reserved for future codification purposes.

§ 163A-1057: Reserved for future codification purposes.

§ 163A-1058: Reserved for future codification purposes.

§ 163A-1059: Reserved for future codification purposes.

§ 163A-1060: Reserved for future codification purposes.

§ 163A-1061: Reserved for future codification purposes.

§ 163A-1062: Reserved for future codification purposes.

§ 163A-1063: Reserved for future codification purposes.

§ 163A-1064: Reserved for future codification purposes.

#### Part 2. Precinct Boundaries.

#### § 163A-1065. **Participation in the 2020 Census Redistricting Data Program of the United States Census Bureau.**

(a) Participation. – The State of North Carolina shall participate in the 2020 Census Redistricting Data Program, conducted pursuant to P.L. 94-171, of the United States Bureau of the Census, so that the State will receive 2020 Census data by voting districts.

(b) Reporting of Voting Districts. – The Executive Director of the State Board shall report to the Bureau of the Census this State's voting precincts as of January 1, 2018, to be used in the 2020 Census as voting districts. Before making that report, the Executive Director shall consult with the Legislative Services Office concerning the accuracy of the information to be reported. The Executive Director shall submit the report to the Bureau of the Census in time to comply with the deadlines of that Bureau for the 2020 Census Redistricting Data Program. The Executive Director, with the assistance of the county boards of elections, shall participate in the Bureau of



the Census's verification program and notify the Bureau of the Census of any errors in the entry of the voting districts in time for those errors to be corrected.

(c) Additional Rules. – The Executive Director and the Legislative Services Officer shall develop a systematic method for review and input by the Legislative Services Office prior to the submission required by subsection (b) of this section. (2016-109, s. 7(a); 2017-6, s. 3.)

§ 163A-1066: Reserved for future codification purposes.

§ 163A-1067: Reserved for future codification purposes.

§ 163A-1068: Reserved for future codification purposes.

§ 163A-1069: Reserved for future codification purposes.

§ 163A-1070: Reserved for future codification purposes.

**§ 163A-1071. (Effective until January 1, 2020) Alterations to approved precinct boundaries.**

(a) No county board of elections may change any precinct boundary unless the Executive Director of the State Board determines that the county board has a current capability of complying with G.S. 163-132.1B(a2) [now repealed] by reporting all election returns by voting tabulation district as required by G.S. 163A-1079. If the Executive Director so determines, the county board may make any changes to precinct boundaries, provided that all proposed new precincts shall consist solely of contiguous territory. The State Board may set uniform standards for precinct boundaries, which the county boards of elections shall follow. The county board of elections shall report every change in precinct boundary to the Executive Director in a format required by the Executive Director.

The county boards of elections shall report precinct boundary changes to the Executive Director in the manner the Executive Director directs. No newly created or altered precinct boundary is effective until approved by the Executive Director of the State Board as being in compliance with this section.

(b), (c) Reserved

(d) The Executive Director of the State Board shall examine the maps of the proposed new or altered precincts and any required written descriptions. If the Executive Director of the State Board determines that all precinct boundaries are in compliance with this section, the Executive Director of the State Board shall approve the maps and written descriptions as filed and these precincts shall be the official precincts.

(e) If the Executive Director of the State Board determines that the proposed precinct boundaries are not in compliance with subsection (a) of this section, the Executive Director shall not approve those precinct boundaries. The Executive Director shall notify the county board of elections of his disapproval specifying the reasons. The county board of elections may then resubmit new precinct maps and written descriptions to cure the reasons for their disapproval. (1985, c. 757, s. 205(a); 1987 (Reg. Sess., 1988), c. 1074, s. 2; 1991 (Reg. Sess., 1992), c. 927, s. 1; 1993, c. 352, s. 3; 1993 (Reg. Sess., 1994), c. 762, s. 71; 1995, c. 423, ss. 2, 3; 1999-227, ss. 1, 2; 2001-319, ss. 10.1, 11; 2001-487, s. 96; 2002-159, s. 56; 2003-434, 1st Ex. Sess., s. 13; 2004-127, s. 1(a); 2007-391, s. 6(b); 2008-187, s. 33(b); 2017-6, s. 3.)

**§ 163A-1071. (Effective January 1, 2020) Alterations to approved precinct boundaries.**

(a) No county board of elections may change any precinct boundary unless approved by the Executive Director of the State Board.

(b) The State Board shall set uniform standards for precinct boundaries that the county boards of elections shall follow. Any uniform standards for precinct boundaries set by the State Board shall comply with all of the following:

- (1) Precinct boundaries shall coincide with Census block boundaries.
- (2) Precincts shall consist solely of contiguous territory.
- (3) Precincts shall consist of territory and population that allows for efficient and accurate administration of elections, taking into consideration available polling places and access to polling places.
- (4) The county shall be able to reallocate any out of precinct ballots cast by a voter to the precinct associated with that voter's voter registration for purposes of reporting the results of an election.

(c) The county board of elections shall report every change in precinct boundary to the Executive Director in a format required by the Executive Director.

No newly created or altered precinct boundary is effective until approved by the Executive Director of the State Board as being in compliance with this section.

(d) The Executive Director of the State Board shall examine the maps of the proposed new or altered precincts and any required written descriptions. If the Executive Director of the State Board determines that all precinct boundaries are in compliance with this section, the Executive Director of the State Board shall approve the maps and written descriptions as filed and these precincts shall be the official precincts for voting.

(e) If the Executive Director of the State Board determines that the proposed precinct boundaries are not in compliance with subsection (b) of this section, the Executive Director shall not approve those precinct boundaries. The Executive Director shall notify the county board of elections of the disapproval specifying the reasons. The county board of elections may then resubmit new precinct maps and written descriptions to cure the reasons for the disapproval. (1985, c. 757, s. 205(a); 1987 (Reg. Sess., 1988), c. 1074, s. 2; 1991 (Reg. Sess., 1992), c. 927, s. 1; 1993, c. 352, s. 3; 1993 (Reg. Sess., 1994), c. 762, s. 71; 1995, c. 423, ss. 2, 3; 1999-227, ss. 1, 2; 2001-319, ss. 10.1, 11; 2001-487, s. 96; 2002-159, s. 56; 2003-434, 1st Ex. Sess., s. 13; 2004-127, s. 1(a); 2007-391, s. 6(b); 2008-187, s. 33(b); 2016-109, s. 8(a); 2017-6, s. 3.)

**§ 163A-1072. Alterations to precinct names.**

No county board of elections shall assign to any precinct a name that has been used after January 1, 1999, for a precinct comprising different territory. That requirement does not apply to a precinct change made under G.S. 163A-1071(a)(3). The county board of elections shall submit to the Executive Director of the State Board for approval every proposed change to a precinct name, and the Executive Director shall approve a name change only if it complies with this section. (2004-127, s. 1(b); 2017-6, s. 3.)

**§ 163A-1073. Directives.**

The Executive Director of the State Board may promulgate directives concerning its duties and those of the county boards of elections under this Part. (1985, c. 757, s. 205(a); 1987 (Reg. Sess., 1988), c. 1074, s. 2; 2001-319, s. 11; 2017-6, s. 3.)

**§ 163A-1074. Cooperation of State and local agencies.**

The Office of State Budget and Management, the Department of Transportation and county and municipal planning departments shall cooperate and assist the Legislative Services Office, the Executive Director of the State Board and the county boards of elections in the implementation of this Part. (1985, c. 757, s. 205(a); 1987, c. 715, s. 4; 1987 (Reg. Sess., 1988), c. 1074, s. 2; 1989, c. 440, s. 3, c. 770, s. 75.3; 2000-140, ss. 93.1(c); 2001-319, s. 11; 2001-424, s. 12.2(b); 2017-6, s. 3.)

**§ 163A-1075. Exemption from Administrative Procedure Act.**

The State Board is exempt from the provisions of Chapter 150B of the General Statutes while acting under the authority of this Part. Appeals from a final decision of the Executive Director of the State Board under this Part shall be taken to the State Board within 30 days of that decision. The State Board shall approve, disapprove or modify the Executive Director's decision within 30 days of receipt of notice of appeal. Failure of the State Board to act within 30 days of receipt of notice of appeal shall constitute a final decision approving that of the Executive Director. Appeals from a final decision of the State Board under this Part shall be taken to the Superior Court of Wake County. (1987, c. 715, s. 4; 1987 (Reg. Sess., 1988), c. 1074, s. 2; 2001-319, s. 11; 2017-6, s. 3.)

**§ 163A-1076. Local acts and township lines.**

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

(b) Precinct boundaries established, retained or changed under this Part, or changed to follow a district line where a precinct has been divided in a districting plan, may cross township lines. (1987, c. 715, s. 4; 1989, c. 440, s. 5; 1991 (Reg. Sess., 1992), c. 927, s. 1; 1995, c. 423, s. 2; 2017-6, s. 3.)

**§ 163A-1077. Retention of precinct maps.**

The Executive Director of the State Board shall retain the maps and written descriptions which he approves pursuant to G.S. 163A-1071. (1991 (Reg. Sess., 1992), c. 927, s. 1; 2001-319, s. 11; 2017-6, s. 3.)

**§ 163A-1078. U.S. Census data by voting tabulation district.**

The State shall request the U.S. Bureau of the Census for each decennial census to provide summaries of census data by voting tabulation district and shall participate in any U.S. Bureau of the Census' program to effectuate this provision. (1991 (Reg. Sess., 1992), c. 927, s. 1; 2007-391, s. 6(e); 2008-187, s. 33(b); 2017-6, s. 3.)

**§ 163A-1079. Voting data maintained by precinct.**

(a) Each county board of elections shall maintain voting data by voting precinct so that precinct returns for each item on the ballot shall include the votes cast by all residents of that voting precinct who voted, regardless of where the voter voted. The county board shall not be required to report returns by voting precinct for voters who voted other than at the voting precinct associated with that voter's voter registration until 30 days after the election. In reporting returns, the county board shall not compromise the secrecy of an individual's ballot.

(b) The 30-day deadline for reporting returns by voting precinct does not relieve the county board of the duty to report all returns as soon as practicable after the election according to other categories specified by the State Board.

(c) The State Board shall adopt rules for the enforcement of this section. (2001-466, s. 2; 2003-183, s. 1; 2005-323, s. 1(e); 2007-391, s. 6(c); 2008-187, s. 33(b); 2016-109, s. 9(a); 2017-6, s. 3.)

§ 163A-1080: Reserved for future codification purposes.

§ 163A-1081: Reserved for future codification purposes.

§ 163A-1082: Reserved for future codification purposes.

§ 163A-1083: Reserved for future codification purposes.

§ 163A-1084: Reserved for future codification purposes.

§ 163A-1085: Reserved for future codification purposes.

§ 163A-1086: Reserved for future codification purposes.

§ 163A-1087: Reserved for future codification purposes.

§ 163A-1088: Reserved for future codification purposes.

§ 163A-1089: Reserved for future codification purposes.

§ 163A-1090: Reserved for future codification purposes.

§ 163A-1091: Reserved for future codification purposes.

§ 163A-1092: Reserved for future codification purposes.

§ 163A-1093: Reserved for future codification purposes.

§ 163A-1094: Reserved for future codification purposes.

### Part 3. Voting.

#### Subpart 1. Definitions.

#### § 163A-1095. Definitions.

In addition to the definitions stated below, the definitions set forth in Part 4 of Article 20 of this Chapter also apply to this Part. As used in this Part:

- (1) **(Effective until December 1, 2019 – see note)** "Ballot" means an instrument on which a voter indicates that voter's choice for a ballot item so that it may be recorded as a vote for or against a certain candidate or referendum proposal.

The term "ballot" may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, the face of a lever voting machine, the image on a direct record electronic unit, or a ballot used on any other voting system.

- (1) **(Effective December 1, 2019 – see note)** "Ballot" means an instrument on which a voter indicates that voter's choice for a ballot item so that it may be recorded as a vote for or against a certain candidate or referendum proposal, and is evidenced by an individual paper document that bears marks made by the voter by hand or through electronic means, whether preprinted or printed in the voting enclosure.
- (2) "Ballot item" means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.
- (3) "Ballot style" means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.
- (4) "Election" means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.
- (5) "Official ballot" means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections. The term does not include a sample ballot or a specimen ballot.
- (6) "Provisional official ballot" means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote. Except for its envelope, a provisional official ballot shall not be marked to make it identifiable to the voter.
- (7) "Referendum" means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.
- (8) "Voting booth" means the private space in which a voter is to mark an official ballot.
- (9) "Voting enclosure" means the room within the voting place that is used for voting.
- (10) "Voting place" means the building or area of the building that contains the voting enclosure.
- (11) "Voting system" means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment. (2001-460, s. 3; 2001-466, s. 3(a), (b); 2002-159, s. 21(h); 2006-262, s. 4; 2013-381, ss. 30.1, 30.2; 2015-103, ss. 4(a), 5(a), 6(b); 2017-6, s. 3; 2018-13, s. 3.11(b).)

§ 163A-1096: Reserved for future codification purposes.

§ 163A-1097: Reserved for future codification purposes.

§ 163A-1098: Reserved for future codification purposes.

§ 163A-1099: Reserved for future codification purposes.

§ 163A-1100: Reserved for future codification purposes.

§ 163A-1101: Reserved for future codification purposes.

§ 163A-1102: Reserved for future codification purposes.

§ 163A-1103: Reserved for future codification purposes.

§ 163A-1104: Reserved for future codification purposes.

## Subpart 2. Ballots and Voting Systems.

### § 163A-1105. Scope and general rules.

- (a) Scope. – This Part shall apply to all elections in this State.
- (b) Requirements of Official Ballots in Voting. – In any election conducted under this Part:
  - (1) All voting shall be by official ballot.
  - (2) Only votes cast on an official ballot shall be counted.
- (c) Compliance With This Part. – All ballots shall comply with the provisions of this Part.
- (d) Other Uses Prohibited. – An official ballot shall not be used for any purpose not authorized by this Part.
- (e) Voted ballots and paper and electronic records of individual voted ballots shall be treated as confidential, and no person other than elections officials performing their duties may have access to voted ballots or paper or electronic records of individual voted ballots except by court order or order of the appropriate board of elections as part of the resolution of an election protest or investigation of an alleged election irregularity or violation. Voted ballots and paper and electronic records of individual voted ballots shall not be disclosed to members of the public in such a way as to disclose how a particular voter voted, unless a court orders otherwise. Any person who has access to an official voted ballot or record and knowingly discloses in violation of this section how an individual has voted that ballot is guilty of a Class 1 misdemeanor. (2001-460, s. 3; 2002-159, s. 55(o); 2005-323, s. 1(f); 2007-391, s. 9(a); 2017-6, s. 3.)

### § 163A-1106. Sample ballots.

- (a) County Board to Produce and Distribute Sample Ballots. – The county board of elections shall produce sample ballots, in all the necessary ballot styles of the official ballot, for every election to be held in the county. The sample ballots shall be given an appearance that clearly distinguishes them from official ballots. The county board shall distribute sample ballots to the chief judge of every precinct in which the election is to be conducted. The chief judge shall post a sample ballot in the voting place and may use it for instructional purposes. The county board of elections may use the sample ballot for other informational purposes.
- (b) Document Resembling an Official Ballot to Contain Disclaimer. – No person other than a board of elections shall produce or disseminate a document substantially resembling an official

ballot unless the document contains on its face a prominent statement that the document was not produced by a board of elections and is not an official ballot. (2001-460, s. 3; 2017-6, s. 3.)

**§ 163A-1107. Responsibilities for preparing official ballots.**

(a) State Board Responsibilities. – The State Board shall certify the official ballots and voter instructions to be used in every election that is subject to this Part. In conducting its certification, the State Board shall adhere to the following:

- (1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification and times for the State Board to complete the certification.
- (2) The State Board shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.
- (3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.
- (4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Part and standards adopted by the State Board.
- (5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.
- (6) The State Board is not required to certify or review every official ballot style in the county but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

The State Board shall be responsible for oversight of all ballot coding. In order to produce the data necessary for equipment programming, each county shall either contract with a qualified vendor certified by the State Board or be certified by the State Board to produce the data.

(b) County Board Responsibilities. – Each county board of elections shall prepare and produce official ballots for all elections in that county. The county board of elections shall submit the format of each official ballot and set of instructions to the State Board for review and certification in accordance with the schedule established by the State Board. The county board of elections shall follow the directions of the State Board in placing candidates, referenda, and other material on official ballots and in placing instructions.

(c) Late Changes in Ballots. – The State Board shall promulgate rules for late changes in ballots. The rules shall provide for the reprinting, where practical, of official ballots as a result of replacement candidates to fill vacancies in accordance with G.S. 163A-987 or other late changes. If an official ballot is not reprinted, a vote for a candidate who has been replaced in accordance with G.S. 163A-987 will count for the replacement candidate.

(d) Special Ballots. – The State Board, with the approval of a county board of elections, may produce special official ballots, such as those for disabled voters, where production by the State Board would be more practical than production by the county board. (2001-460, s. 3; 2007-391, s. 24(a); 2008-187, s. 33(a); 2009-541, s. 18(a); 2017-6, s. 3.)

**§ 163A-1108. Standards for official ballots.**

The State Board shall ensure that official ballots throughout the State have all the following characteristics:

- (1) Are readily understandable by voters.
- (2) Present all candidates and questions in a fair and nondiscriminatory manner.
- (3) Allow every voter to cast a vote in every ballot item without difficulty.
- (4) Facilitate an accurate vote count.
- (5) Are uniform in content and format, subject to varied presentations required or made desirable by different voting systems. (2001-460, s. 3; 2013-381, s. 29.1; 2017-6, s. 3.)

**§ 163A-1109. Punch-card ballots and lever machines.**

(a) No ballot may be used in any referendum, primary, or other election as an official ballot if it requires the voter to punch out a hole with a stylus or other tool.

(b) No lever machine voting system may be used in any referendum, primary, or other election as a means of voting the official ballot. A "lever machine voting system" is a voting system on which the voter casts a vote by pressing a lever and the vote is mechanically recorded by the machine.

(c) In any counties that used punch-card ballots as official ballots or lever machines in the election of November 2000, and in any municipalities located in those counties, this section becomes effective January 1, 2006. It is the intent of the General Assembly that any county that uses county funds to replace voting equipment to satisfy this section shall be given priority in appropriations to counties for voting equipment. (2001-310, ss. 1, 3; 2003-226, s. 12; 2017-6, s. 3.)

**§ 163A-1110. Butterfly ballots.**

No butterfly ballot may be used as an official ballot in any referendum, primary, or other election. The term "butterfly ballot" means a ballot having more than one column listing ballot choices that share a common column for designating those choices. (2001-310, ss. 2, 3; 2017-6, s. 3.)

**§ 163A-1111. (Effective December 1, 2019) Prohibited voting systems.**

A voting system that does not use or produce a ballot shall not be used in any referendum, primary, or other election as a means of voting or counting an official ballot. (2015-103, s. 5(b); 2017-6, s. 3.)

**§ 163A-1112. Contents of official ballots.**

(a) Except as provided in this section, each official ballot shall contain all the following elements:

- (1) The heading prescribed by the State Board. The heading shall include the term "Official Ballot".
- (2) The title of each office to be voted on and the number of votes allowed in each ballot item.
- (3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976,



163A-977, and 163A-978, or on petition forms filed in accordance with G.S. 163A-1005. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent. The State Board shall establish a review procedure that local boards of elections shall follow to ensure that candidates' names appear on the official ballot in accordance with this subdivision.

- (4) Party designations in partisan ballot items.
- (5) A means by which the voter may cast write-in votes, as provided in G.S. 163A-1006. No space for write-ins is required unless a write-in candidate has qualified under G.S. 163A-1006 or unless the ballot item is exempt from G.S. 163A-1006.
- (6) Instructions to voters, unless the State Board allows instructions to be placed elsewhere than on the official ballot.
- (7) The printed title and facsimile signature of the chair of the county board of elections.
- (8) The designation of vacancy sought, for any vacancy for the office of Justice or judge of the courts. The designation shall not be the name or names of any incumbent or other individual but shall be designated as determined by the State Board.

(b) Notwithstanding subsection (a) of this section, an official ballot created and printed by use of a voting system in the voting enclosure shall be counted if all of the following apply:

- (1) Each of the following are printed on that official ballot:
  - a. The date of the election.
  - b. The precinct name or a unique identification code associated with that ballot style.
  - c. The choices made by the voter for all ballot items in which the voter cast a vote.
- (2) The electronic display of the voting system seen by the voter contains all of the information required by subsection (a) of this section.
- (3) The voter is capable of reviewing the printed official ballot, and voiding that ballot, prior to casting that voter's ballot.
- (4) The voter's choices in and on the electronic display are removed prior to the next voter using that voting equipment. (2001-460, s. 3; 2003-209, s. 1; 2007-391, s. 10; 2008-187, s. 33(a); 2015-103, s. 4(b); 2015-292, s. 1; 2016-125, 4th Ex. Sess., s. 21(g); 2017-3, s. 12; 2017-6, s. 3; 2018-121, s. 4(a).)

**§ 163A-1113. Ballots may be combined.**

Notwithstanding any other statute or local act, a county board of elections, with the approval of the State Board, may combine ballot items on the same official ballot. (2007-391, s. 7; 2008-187, s. 33(a); 2017-6, s. 3.)

**§ 163A-1114. Arrangement of official ballots.**

(a) Order of Precedence Generally. – Candidate ballot items shall be arranged on the official ballot before referenda.

(b) Order of Precedence for Candidate Ballot Items. – The State Board shall promulgate rules prescribing the order of offices to be voted on the official ballot. Those rules shall adhere to the following guidelines:

- (1) Federal offices shall be listed before State and local offices. Member of the United States House of Representatives shall be listed immediately after United States Senator.
- (2) State and local offices shall be listed according to the size of the electorate.
- (3) Partisan offices, regardless of the size of the constituency, shall be listed before nonpartisan offices.
- (4) When offices are in the same class, they shall be listed in alphabetical order by office name, or in numerical or alphabetical order by district name. Governor and Lieutenant Governor, in that order, shall be listed before other Council of State offices. The Supreme Court shall be listed before the Court of Appeals. Judicial offices and district attorney shall be listed, in that order, after other offices in the same class. Mayor shall be listed before other citywide offices. Chair of a board, where elected separately, shall be listed before other board seats having the same electorate. Chief Justice shall be listed before Associate Justices.
- (5) Ballot items for full terms of an office shall be listed before ballot items for partial terms of the same office.
- (6) Ballot items for retention elections held under Article 1A of Chapter 7A of the General Statutes shall be grouped with like State offices, but shall be listed after offices for which an election is conducted under Article 25 of this Chapter.

(c) Order of Candidates on Official Ballots. – The order in which candidates shall appear on official ballots in any election ballot item shall be either alphabetical order or reverse alphabetical order by the last name of the candidate, which order shall be determined each election by drawing at the State Board of Elections and Ethics Enforcement after the closing of the filing period for all offices on the ballot.

(d), (e) Repealed by Session Laws 2018-99, s. 1, effective June 26, 2018, and applicable to elections held on or after that date.

(f) No Straight-Party Voting. – Each official ballot shall not contain any place that allows a voter with one mark to vote for the candidates of a party for more than one office.

(g) Write-In Voting. – Each official ballot shall be so arranged so that voters may cast write-in votes for candidates except where prohibited by G.S. 163A-1006 or other statutes governing write-in votes. Instructions for general election ballots shall clearly advise voters of the rules of this subsection and of the statutes governing write-in voting.

(h) Order of Precedence for Referenda. – Without referencing a numerical order or other reference of order by category or within a category, the referendum questions to be voted on shall be arranged on the official ballot in the following order:

- (1) Proposed amendments to the North Carolina Constitution, in the chronological order in which the proposals were approved by the General Assembly. Proposed amendments shall be designated by only the phrase "Constitutional Amendment" prior to setting forth the referendum question.
- (2) Other referenda to be voted on by all voters in the State, in the chronological order in which the proposals were approved by the General Assembly.
- (3) Referenda to be voted on by fewer than all the voters in the State, in the chronological order of the acts by which the referenda were properly authorized. (2001-460, s. 3; 2002-158, s. 14; 2013-381, ss. 31.1, 32.1; 2014-111, s. 2; 2015-66, s. 4; 2016-109, ss. 3, 4(a); 2017-6, s. 3; 2018-13, s. 3.6; 2018-99, s. 1; 2018-131, 1st Ex. Sess., s. 1(a).)

**§ 163A-1115. Voting systems: powers and duties of State Board.**

(a) **(Effective until December 1, 2019, for certain counties – see note)** Only voting systems that have been certified by the State Board in accordance with the procedures set forth by the State Board and subject to the standards set forth in this section and that have not been subsequently decertified shall be permitted for use in elections in this State. Those certified voting systems shall be valid in any election held in the State or in any county, municipality, or other electoral district in the State. Subject to all other applicable rules adopted by the State Board and, with respect to federal elections, subject to all applicable federal regulations governing voting systems, paper ballots marked by the voter and counted by hand shall be deemed a certified voting system. The State Board shall certify optical scan voting systems, optical scan with ballot markers voting systems, and direct record electronic voting systems if any of those systems meet all applicable requirements of federal and State law. The State Board may certify voting systems only if they meet the requirements set forth in this section and only if they generate either a paper ballot or a paper record by which voters may verify their votes before casting them and which provides a backup means of counting the vote that the voter casts. Those voting systems may include optical scan and direct record electronic (DRE) voting systems. Among other requirements as set by the State Board, the certification requirements shall require at least all of the following elements:

- (1) That the vendor post a performance bond or letter of credit to cover damages resulting from defects in the voting system, expenses associated with State or federal decertification of the voting system, and to protect against the vendor's insolvency or financial inability to make State or federally mandated modifications or updates to the voting system. Damages may include, among other items, any costs of conducting a new county or statewide election attributable to those defects. The bond or letter of credit shall be maintained in the amount determined by the State Board as sufficient for the cost of a new statewide election or in the amount of ten million dollars (\$10,000,000), whichever is greater.
- (2) That the voting system comply with all federal requirements for voting systems.
- (3) That the voting system must have the capacity to include in voting district returns the votes cast by voters outside of the precinct associated with that voter's voter registration.
- (4) With respect to electronic voting systems, that the voting system generate a paper record of each individual vote cast, which paper record shall be maintained in a secure fashion and shall serve as a backup record for purposes

of any hand-to-eye count, hand-to-eye recount, or other audit. Electronic systems that employ optical scan technology to count paper ballots shall be deemed to satisfy this requirement.

- (5) With respect to DRE voting systems, that the paper record generated by the system be viewable by the voter before the vote is cast electronically, and that the system permit the voter to correct any discrepancy between the electronic vote and the paper record before the vote is cast.
- (6) With respect to all voting systems using electronic means, that the vendor provide access to all of any information required to be placed in escrow by a vendor pursuant to G.S. 163A-1118 for review and examination by the State Board; the Department of Information Technology; the State chairs of each political party recognized under G.S. 163A-950; the purchasing county; and designees as provided in subdivision (9) of subsection (f) of this section.
- (7) That the vendor must quote a statewide uniform price for each unit of the equipment.
- (8) That the vendor must separately agree with the purchasing county that if it is granted a contract to provide software for an electronic voting system but fails to debug, modify, repair, or update the software as agreed or in the event of the vendor having bankruptcy filed for or against it, the source code described in G.S. 163A-1118(a) shall be turned over to the purchasing county by the escrow agent chosen under G.S. 163A-1118(a)(1) for the purposes of continuing use of the software for the period of the contract and for permitting access to the persons described in subdivision (6) of this subsection for the purpose of reviewing the source code.

As part of the certification requirements, the State Board shall address the mandatory terms of the contract for the purchase of the voting system and the maintenance and training related to that voting system.

(a) **(Effective June 20, 2018, as to certain counties, and December 1, 2019, as to all other counties – see note)** Only voting systems that have been certified by the State Board in accordance with the procedures set forth by the State Board and subject to the standards set forth in this section and that have not been subsequently decertified shall be permitted for use in elections in this State. Those certified voting systems shall be valid in any election held in the State or in any county, municipality, or other electoral district in the State. Subject to all other applicable rules adopted by the State Board and, with respect to federal elections, subject to all applicable federal regulations governing voting systems, paper ballots marked by the voter and counted by hand shall be deemed a certified voting system. The State Board shall certify optical scan voting systems, optical scan with ballot markers voting systems, and direct record electronic voting systems if any of those systems meet all applicable requirements of federal and State law. The State Board may certify voting systems only if they meet the requirements set forth in this section and only if they generate a paper ballot which provides a backup means of counting the vote that the voter casts. Those voting systems may include optical scan and direct record electronic (DRE) voting systems that produce a paper ballot. Among other requirements as set by the State Board, the certification requirements shall require at least all of the following elements:

- (1) That the vendor post a performance bond or letter of credit to cover damages resulting from defects in the voting system, expenses associated with State or federal decertification of the voting system, and to protect against the vendor's

insolvency or financial inability to make State or federally mandated modifications or updates to the voting system. Damages may include, among other items, any costs of conducting a new county or statewide election attributable to those defects. The bond or letter of credit shall be maintained in the amount determined by the State Board as sufficient for the cost of a new statewide election or in the amount of ten million dollars (\$10,000,000), whichever is greater.

- (2) That the voting system comply with all federal requirements for voting systems.
- (3) That the voting system must have the capacity to include in voting district returns the votes cast by voters outside of the precinct associated with that voter's voter registration.
- (4) With respect to electronic voting systems, that the voting system generate a paper ballot of each individual vote cast, which paper ballot shall be maintained in a secure fashion and shall serve as a backup record for purposes of any hand-to-eye count, hand-to-eye recount, or other audit. Electronic systems that employ optical scan technology to count paper ballots shall be deemed to satisfy this requirement.
- (5) With respect to DRE voting systems, that the paper ballot generated by the system be viewable by the voter before the vote is cast electronically, and that the system permit the voter to correct any discrepancy between the electronic vote and the paper ballot before the vote is cast.
- (6) With respect to all voting systems using electronic means, that the vendor provide access to all of any information required to be placed in escrow by a vendor pursuant to G.S. 163A-1118 for review and examination by the State Board; the Department of Information Technology; the State chairs of each political party recognized under G.S. 163A-950; the purchasing county; and designees as provided in subdivision (9) of subsection (f) of this section.
- (7) That the vendor must quote a statewide uniform price for each unit of the equipment.
- (8) That the vendor must separately agree with the purchasing county that if it is granted a contract to provide software for an electronic voting system but fails to debug, modify, repair, or update the software as agreed or in the event of the vendor having bankruptcy filed for or against it, the source code described in G.S. 163A-1118(a) shall be turned over to the purchasing county by the escrow agent chosen under G.S. 163A-1118(a)(1) for the purposes of continuing use of the software for the period of the contract and for permitting access to the persons described in subdivision (6) of this subsection for the purpose of reviewing the source code.

As part of the certification requirements, the State Board shall address the mandatory terms of the contract for the purchase of the voting system and the maintenance and training related to that voting system.

(b) Federal Assistance. – The State Board may use guidelines, information, testing reports, certification, decertification, recertification, and any relevant data produced by the Election Assistance Commission, its Standards Board, its Board of Advisors, or the Technical Guidelines Development Committee as established in Title II of the Help America Vote Act of 2002 with regard to any action or investigation the State Board may take concerning a voting system. The

State Board may use, for the purposes of voting system certification, laboratories accredited by the Election Assistance Commission under the provisions of section 231(2) of the Help America Vote Act of 2002.

(c) Only electronic poll books or ballot duplication systems that have been certified by the State Board in accordance with procedures and subject to standards adopted by the State Board, or which have been developed or maintained by the State Board, shall be permitted for use in elections in this State. Among other requirements as set by the State Board, the certification requirements shall require that a vendor meet at least all of the following elements:

- (1) That the vendor post a bond or letter of credit to cover damages resulting from defects in the electronic poll book or ballot duplication system. Damages may include, among other items, any costs of conducting a new election attributable to those defects.
- (2) That the vendor provide access to all of any information required to be placed in escrow by a vendor pursuant to G.S. 163A-1118 for review and examination by the State Board, the Department of Information Technology, the State chairs of each political party recognized under G.S. 163A-950, the purchasing county, and designees as provided in subdivision (9) of subsection (f) of this section.
- (3) That the vendor must quote a statewide uniform price for each unit of the equipment.
- (4) That the vendor must separately agree with the purchasing county that if it is granted a contract to provide software for an electronic poll books or ballot duplication system but fails to debug, modify, repair, or update the software as agreed or, in the event of the vendor having bankruptcy filed for or against it, the source code described in G.S. 163A-1118(a) shall be turned over to the purchasing county by the escrow agent chosen under G.S. 163A-1118(a)(1) for the purposes of continuing use of the software for the period of the contract and for permitting access to the persons described in subdivision (2) of this subsection for the purpose of reviewing the source code.

(d) The State Board may also, upon notice and hearing, decertify types, makes, and models of voting systems. Upon decertifying a type, make, or model of voting system, the State Board shall determine the process by which the decertified system is discontinued in any county. A county may appeal a decision by the State Board concerning the process by which the decertified system is discontinued in that county to the Superior Court of Wake County. The county has 30 days from the time it receives notice of the State Board's decision on the process by which the decertified system is discontinued in that county to make that appeal.

(e) Prior to certifying a voting system, the State Board shall review, or designate an independent expert to review, all source code made available by the vendor pursuant to this section and certify only those voting systems compliant with State and federal law. At a minimum, the State Board's review shall include a review of security, application vulnerability, application code, wireless security, security policy and processes, security/privacy program management, technology infrastructure and security controls, security organization and governance, and operational effectiveness, as applicable to that voting system. Any portion of the report containing specific information related to any trade secret as designated pursuant to G.S. 132-1.2 shall be confidential and shall be accessed only under the rules adopted pursuant to subdivision (9) of subsection (f) of this section. The State Board may hear and discuss the report of any such review under G.S. 143-318.11(a)(1).

(f) **(Effective until December 1, 2019 – see note)** Subject to the provisions of this Subchapter, the State Board shall prescribe rules for the adoption, handling, operation, and honest use of certified voting systems, including all of the following:

- (1) Procedures for county boards of elections to utilize when recommending the purchase of a certified voting system for use in that county.
- (2) Form of official ballot labels to be used on voting systems.
- (3) Operation and manner of voting on voting systems.
- (4) Instruction of precinct officials in the use of voting systems.
- (5) Instruction of voters in the use of voting systems.
- (6) Assistance to voters using voting systems.
- (7) Duties of custodians of voting systems.
- (8) Examination and testing of voting systems in a public forum in the county before and after use in an election.
- (9) Notwithstanding G.S. 132-1.2, procedures for the review and examination of any information placed in escrow by a vendor pursuant to G.S. 163A-1118 by only the following persons:
  - a. State Board.
  - b. Department of Information Technology.
  - c. The State chairs of each political party recognized under G.S. 163A-950.
  - d. The purchasing county.

Each person listed in sub-subdivisions a. through d. of this subdivision may designate up to three persons as that person's agents to review and examine the information. No person shall designate under this subdivision a business competitor of the vendor whose proprietary information is being reviewed and examined. For purposes of this review and examination, any designees under this subdivision and the State party chairs shall be treated as public officials under G.S. 132-2.

- (10) With respect to electronic voting systems, procedures to maintain the integrity of both the electronic vote count and the paper record. Those procedures shall at a minimum include procedures to protect against the alteration of the paper record after a machine vote has been recorded and procedures to prevent removal by the voter from the voting enclosure of any paper record or copy of an individually voted ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper record.
- (11) Compliance with section 301 of the Help America Vote Act of 2002.

Any rules adopted under this subsection shall be in conjunction with procedures and standards adopted under G.S. 163A-1166, are exempt from Chapter 150B of the General Statutes, and are subject to the same procedures for notice and publication set forth in G.S. 163A-1166.

(f) **(Effective December 1, 2019 – see note)** Subject to the provisions of this Subchapter, the State Board shall prescribe rules for the adoption, handling, operation, and honest use of certified voting systems, including all of the following:

- (1) Procedures for county boards of elections to utilize when recommending the purchase of a certified voting system for use in that county.
- (2) Form of official ballot labels to be used on voting systems.

- (3) Operation and manner of voting on voting systems.
- (4) Instruction of precinct officials in the use of voting systems.
- (5) Instruction of voters in the use of voting systems.
- (6) Assistance to voters using voting systems.
- (7) Duties of custodians of voting systems.
- (8) Examination and testing of voting systems in a public forum in the county before and after use in an election.
- (9) Notwithstanding G.S. 132-1.2, procedures for the review and examination of any information placed in escrow by a vendor pursuant to G.S. 163A-1118 by only the following persons:
  - a. State Board.
  - b. Department of Information Technology.
  - c. The State chairs of each political party recognized under G.S. 163A-950.
  - d. The purchasing county.

Each person listed in sub-subdivisions a. through d. of this subdivision may designate up to three persons as that person's agents to review and examine the information. No person shall designate under this subdivision a business competitor of the vendor whose proprietary information is being reviewed and examined. For purposes of this review and examination, any designees under this subdivision and the State party chairs shall be treated as public officials under G.S. 132-2.

- (10) With respect to electronic voting systems, procedures to maintain the integrity of both the electronic vote count and the paper ballot. Those procedures shall at a minimum include procedures to protect against the alteration of the paper ballot after a machine vote has been recorded and procedures to prevent removal by the voter from the voting enclosure of any individually voted paper ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper ballot.
- (11) Compliance with section 301 of the Help America Vote Act of 2002.

Any rules adopted under this subsection shall be in conjunction with procedures and standards adopted under G.S. 163A-1166, are exempt from Chapter 150B of the General Statutes, and are subject to the same procedures for notice and publication set forth in G.S. 163A-1166.

(g) The State Board shall facilitate training and support of the voting systems utilized by the counties. The training may be conducted through the use of videoconferencing or other technology.

(h) Neither certification of electronic poll books, ballot duplication systems, or voting systems under this section shall constitute a license under Chapter 150B of the General Statutes.

(i) The State Board in writing may decertify or otherwise halt the use of electronic poll books in North Carolina. Any such action is appealable only to the Superior Court of Wake County.

(j) No voting system used in any election in this State shall be connected to a network, and any feature allowing connection to a network shall be disabled. Prohibited network connections include the Internet, intranet, fax, telephone line, networks established via modem, or any other wired or wireless connection. (2001-460, s. 3; 2003-226, s. 11; 2005-323, s. 1(a)-(d); 2006-264, s. 76(a); 2007-391, s. 6(d); 2008-187, s. 33(b); 2009-541, s. 19; 2013-381, s. 30.3; 2015-103, ss.



6(b), 10, 11(a); 2015-241, s. 7A.4(gg); 2016-109, s. 9(b); 2017-6, s. 3; 2018-13, ss. 3.6A, 3.7(a), 3.8(a), 3.11(b).)

**§ 163A-1116. Voting systems: powers and duties of board of county commissioners.**

The board of county commissioners, with the approval of the county board of elections, may adopt and acquire only a voting system of a type, make, and model certified by the State Board for use in some or all voting places in the county at some or all elections.

The board of county commissioners may decline to adopt and acquire any voting system recommended by the county board of elections but may not adopt and acquire any voting system that has not been approved by the county board of elections. Article 8 of Chapter 143 of the General Statutes does not apply to the purchase of a voting system certified by the State Board. (2001-460, s. 3; 2005-323, s. 3; 2017-6, s. 3.)

**§ 163A-1117. Voting systems: powers and duties of county board of elections.**

(a) Before approving the adoption and acquisition of any voting system by the board of county commissioners, the county board of elections shall do all of the following:

- (1) Recommend to the board of county commissioners which type of voting system should be acquired by the county.
- (2) Witness a demonstration, in that county or at a site designated by the State Board, of the type of voting system to be recommended and also witness a demonstration of at least one other type of voting system certified by the State Board.
- (3) Test, during an election, the proposed voting system in at least one precinct in the county where the voting system would be used if adopted.

(b) After the acquisition of any voting system, the county board of elections shall comply with any requirements of the State Board regarding training and support of the voting system by completing all of the following:

- (1) The county board of elections shall comply with all specifications of its voting system vendor for ballot printers. The county board of elections is authorized to contract with noncertified ballot printing vendors, so long as the noncertified ballot printing vendor meets all specifications and all quality assurance requirements as set by the State Board.
- (2) The county board of elections shall annually maintain software license and maintenance agreements necessary to maintain the warranty of its voting system. A county board of elections may employ qualified personnel to maintain a voting system in lieu of entering into maintenance agreements necessary to maintain the warranty of its voting system. State Board is not required to provide routine maintenance to any county board of elections that does not maintain the warranty of its voting system. If the State Board provides any maintenance to a county that has not maintained the warranty of its voting system, the county shall reimburse the State for the cost. The State Board shall annually report to the House and Senate Committees on Appropriations, to the Fiscal Research Division, and to the Joint Legislative Commission on Governmental Operations on implementation of this subdivision. If requested by the county board of elections, the State Board may enter into contracts on behalf of that county under this subdivision, but such contracts must also be

approved by the county board of elections. Any contract entered into under this subdivision shall be paid from non-State funds. Neither a county nor the State Board shall enter into any contract with any vendor for software license and maintenance agreements unless the vendor agrees to (i) operate a training program for qualification of county personnel under this subsection with training offered within the State of North Carolina and (ii) not dishonor warranties merely because the county is employing qualified personnel to maintain the voting system as long as the county:

- a. Pays the costs of the annual software licensing agreement for that county.
  - b. Ensures that equipment (i) remains in full compliance with State certification requirements and (ii) remains in stock and supply available to the county for up to five years after the vendor discontinues distribution or sale of the equipment.
  - c. Maintains a tracking record to record and timely report all hardware issues and all repairs and provides those records for review by the vendor and by the State Board.
  - d. Provides that only parts provided by the vendor would be used to repair the vendor's equipment, contingent on (i) the county being able to purchase necessary parts in a timely manner from the vendor and (ii) the vendor providing the equipment at least at the lowest price at which it sells the equipment to any other customer in the United States.
  - e. Accepts financial responsibility for expenses related to voting equipment failure during an election if the failure is caused solely by work of the county technician.
- (3) The county board of elections shall not replace any voting system, or any portion thereof, without approval of the State Board.
  - (4) The county board of elections may have its voting system repaired pursuant to its maintenance agreement but shall notify the State Board at the time of every repair, according to guidelines that shall be provided by the State Board. (2001-460, s. 3; 2005-323, s. 4; 2007-391, s. 25; 2008-187, s. 33(a); 2009-541, s. 20; 2011-145, s. 26.3(a); 2012-142, s. 23.3(a); 2017-6, s. 3.)

**§ 163A-1118. Voting systems: requirements for voting systems vendors; penalties.**

(a) Duties of Vendor. – Every vendor that has a contract to provide a voting system in North Carolina shall do all of the following:

- (1) The vendor shall place in escrow with an independent escrow agent approved by the State Board all software that is relevant to functionality, setup, configuration, and operation of the voting system, including, but not limited to, a complete copy of the source and executable code, build scripts, object libraries, application program interfaces, and complete documentation of all aspects of the system including, but not limited to, compiling instructions, design documentation, technical documentation, user documentation, hardware and software specifications, drawings, records, and data. The State Board may require in its request for proposal that additional items be escrowed, and if any vendor that agrees in a contract to escrow additional items, those items shall be

subject to the provisions of this section. The documentation shall include a list of programmers responsible for creating the software and a sworn affidavit that the source code includes all relevant program statements in low-level and high-level languages.

- (2) The vendor shall notify the State Board of any change in any item required to be escrowed by subdivision (1) of this subsection.
- (3) The chief executive officer of the vendor shall sign a sworn affidavit that the source code and other material in escrow is the same being used in its voting systems in this State. The chief executive officer shall ensure that the statement is true on a continuing basis.
- (4) The vendor shall promptly notify the State Board and the county board of elections of any county using its voting system of any decertification of the same system in any state, of any defect in the same system known to have occurred anywhere, and of any relevant defect known to have occurred in similar systems.
- (5) The vendor shall maintain an office in North Carolina with staff to service the contract.

(b) Penalties. – Willful violation of any of the duties in subsection (a) of this section is a Class G felony. Substitution of source code into an operating voting system without notification as provided by subdivision (a)(2) of this section is a Class I felony. In addition to any other applicable penalties, violations of this section are subject to a civil penalty to be assessed by the State Board in its discretion in an amount of up to one hundred thousand dollars (\$100,000) per violation. A civil penalty assessed under this section shall be subject to the provisions of G.S. 163A-1451(e).

(c) Definitions. – For the purposes of this section, the term "voting system" shall include an electronic poll book or a ballot duplication system. (2005-323, s. 2(a); 2017-6, s. 3; 2018-13, s. 3.7(b).)

#### **§ 163A-1119. Adequacy of voting system for each precinct.**

The county board of elections shall make available for each precinct voting place an adequate quantity of official ballots or equipment. When the board of county commissioners has decided to adopt and purchase or lease a voting system for voting places under the provisions of G.S. 165-165.8 [G.S. 163A-1116], the board of county commissioners shall, as soon as practical, provide for each of those voting places sufficient equipment of the approved voting system in complete working order. If it is impractical to furnish each voting place with the equipment of the approved voting system, that which has been obtained may be placed in voting places chosen by the county board of elections. In that case, the county board of elections shall choose the voting places and allocate the equipment in a way that as nearly as practicable provides equal access to the voting system for each voter. The county board of elections shall appoint as many voting system custodians as may be necessary for the proper preparation of the system for each election and for its maintenance, storage, and care. The Executive Director of the State Board may permit a county board of elections to provide more than one type of voting system in a precinct, but only upon a finding that doing so is necessary to comply with federal or State law. (2001-460, s. 3; 2005-428, s. 2; 2017-6, s. 3.)

**§ 163A-1120:** Reserved for future codification purposes.

§ 163A-1121: Reserved for future codification purposes.

§ 163A-1122: Reserved for future codification purposes.

§ 163A-1123: Reserved for future codification purposes.

§ 163A-1124: Reserved for future codification purposes.

§ 163A-1125: Reserved for future codification purposes.

§ 163A-1126: Reserved for future codification purposes.

§ 163A-1127: Reserved for future codification purposes.

§ 163A-1128: Reserved for future codification purposes.

§ 163A-1129: Reserved for future codification purposes.

#### Subpart 3. Procedures at the Voting Place.

##### § 163A-1130. Hours for voting.

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. If the polls are delayed in opening for more than 15 minutes, or are interrupted for more than 15 minutes after opening, the State Board may extend the closing time by an equal number of minutes. As authorized by law, the State Board shall be available either in person or by teleconference on the day of election to approve any such extension. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

Any voter who votes after the statutory poll closing time of 7:30 P.M. by virtue of a federal or State court order or any other lawful order, including an order of a county board of elections, shall be allowed to vote, under the provisions of that order, only by using a provisional official ballot. Any special provisional official ballots cast under this section shall be separated, counted, and held apart from other provisional ballots cast by other voters not under the effect of the order extending the closing time of the voting place. If the court order has not been reversed or stayed by the time of the county canvass, the total for that category of provisional ballots shall be added to the official canvass. (2001-460, s. 3; 2003-226, s. 14; 2013-381, s. 33.1; 2017-6, s. 3.)

##### § 163A-1131. Duties of county board of elections.

The county board of elections shall:

- (1) Provide for the timely delivery to each voting place of the supplies, records, and equipment necessary for the conduct of the election.
- (2) Ensure that adequate procedures are in place at each voting place for a safe, secure, fair, and honest election.
- (3) Respond to precinct officials' questions and problems where necessary.

- (4) Provide adequate technical support for the voting system, which shall be done in conjunction with the State Board. (2001-460, s. 3; 2009-541, s. 21; 2017-6, s. 3.)

**§ 163A-1132. Arrangement of the voting enclosure.**

Each voting enclosure shall contain at a minimum:

- (1) A sufficient number of private spaces for all voters to mark their official ballots in secrecy.
- (2) Adequate space and furniture for the separate functions of:
  - a. The checking of voter registration records.
  - b. The distribution of official ballots.
  - c. Private discussion with voters concerning irregular situations.
- (3) A telephone or some facility for communication with the county board of elections.

The equipment and furniture in the voting enclosure shall be arranged so that it can be generally seen from the public space of the enclosure. (2001-460, s. 3; 2017-6, s. 3.)

**§ 163A-1133. Limited access to the voting enclosure.**

(a) **Persons Who May Enter Voting Enclosure.** – During the time allowed for voting in the voting place, only the following persons may enter the voting enclosure:

- (1) An election official.
- (2) An observer appointed pursuant to G.S. 163A-821.
- (3) A runner appointed pursuant to G.S. 163A-821, but only to the extent necessary to announce that runner's presence and to receive the voter list as provided in G.S. 163A-821.
- (4) A person seeking to vote in that voting place on that day but only while in the process of voting or seeking to vote.
- (5) A voter in that precinct while entering or explaining a challenge pursuant to G.S. 163A-913 or G.S. 163A-914.
- (6) A person authorized under G.S. 163A-1139 to assist a voter but, except as provided in subdivision (7) of this section, only while assisting that voter.
- (7) Minor children of the voter under the age of 18, or minor children under the age of 18 in the care of the voter, but only while accompanying the voter and while under the control of the voter.
- (8) Persons conducting or participating in a simulated election within the voting place or voting enclosure, if that simulated election is approved by the county board of elections.
- (9) Any other person determined by election officials to have an urgent need to enter the voting enclosure but only to the extent necessary to address that need.

(b) **Photographing Voters Prohibited.** – No person shall photograph, videotape, or otherwise record the image of any voter within the voting enclosure, except with the permission of both the voter and the chief judge of the precinct. If the voter is a candidate, only the permission of the voter is required. This subsection shall also apply to one-stop sites under G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304. This subsection does not apply to cameras used as a regular part of the security of the facility that is a voting place or one-stop site.

(c) Photographing Voted Ballot Prohibited. – No person shall photograph, videotape, or otherwise record the image of a voted official ballot for any purpose not otherwise permitted under law. (2001-460, s. 3; 2005-428, s. 1(b); 2007-391, s. 23; 2008-187, s. 33(a); 2017-6, s. 3.)

**§ 163A-1134. Limitation on activity in the voting place and in a buffer zone around it.**

(a) Buffer Zone. – No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place. In determining the dimensions of that buffer zone for each voting place, the county board of elections shall, where practical, set the limit at 50 feet from the door of entrance to the voting place, measured when that door is closed, but in no event shall it set the limit at more than 50 feet or at less than 25 feet.

(b) Area for Election-Related Activity. – Except as provided in subsection (c) of this section, the county board of elections shall also provide an area adjacent to the buffer zone for each voting place in which persons or groups of persons may distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity.

(c) Special Agreements About Election-Related Activity. – The Executive Director of the State Board may grant special permission for a county board of elections to enter into an agreement with the owners or managers of a nonpublic building to use the building as a voting place on the condition that election-related activity as described in subsection (b) of this section not be permitted on their property adjacent to the buffer zone, if the Executive Director finds all of the following:

- (1) That no other suitable voting place can be secured for the precinct.
- (2) That the county board will require the chief judge of the precinct to monitor the grounds around the voting place to ensure that the restriction on election-related activity shall apply to all candidates and parties equally.
- (3) That the pattern of voting places subject to agreements under this subsection does not disproportionately favor any party, racial or ethnic group, or candidate.

An agreement under this subsection shall be valid for as long as the nonpublic building is used as a voting place.

(d) Notice About Buffer Zone and Area for Election-Related Activity. – No later than 30 days before each election, the county board of elections shall make available to the public the following information concerning each voting place:

- (1) The door from which the buffer zone is measured.
- (2) The distance the buffer zone extends from that door.
- (3) Any available information concerning where political activity, including sign placement, is permitted beyond the buffer zone.

(e) Buffer Zone and Area for Election-Related Activity at One-Stop Sites. – Except as modified in this subsection, the provisions of this section shall apply to one-stop voting sites in G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304.

- (1) Subsection (c) of this section shall not apply.
- (2) The notice in subsection (d) of this section shall be provided no later than 10 days before the opening of one-stop voting at the site. (2001-460, s. 3; 2003-365, s. 1; 2007-391, s. 13; 2008-187, s. 33(a); 2009-541, s. 22(a); 2017-6, s. 3.)

**§ 163A-1135. Procedures at voting place before voting begins.**

The State Board shall promulgate rules for precinct officials to set up the voting place before voting begins. Those rules shall emphasize:

- (1) Continual participation or monitoring by officials of more than one party.
- (2) Security of official ballots, records, and equipment.
- (3) The appearance as well as the reality of care, efficiency, impartiality, and honest election administration.

The county boards of elections and precinct officials shall adhere to those procedures. (2001-460, s. 3; 2017-6, s. 3.)

**§ 163A-1136. Designation of tasks.**

The State Board shall promulgate rules for the delegation of tasks among the election officials at each precinct. Those rules shall emphasize:

- (1) The need to place primary managerial responsibility upon the chief judge.
- (2) The need to have maximum multiparty participation in all duties where questions of partisan partiality might be raised.
- (3) The need to provide flexibility of management to the county board of elections and to the chief judge, in consideration of different abilities of officials, the different availability of officials, and the different needs of voters precinct by precinct. (2001-460, s. 3; 2017-6, s. 3.)

**§ 163A-1137. Voting procedures.**

(a) **Checking Registration.** – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address and presenting photo identification in accordance with G.S. 163A-1145. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots. If a precinct official states that the person is duly registered, the person shall sign the pollbook, other voting record, or voter authorization document in accordance with subsection (c) of this section before voting.

(b) **Distribution of Official Ballots.** – If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) **(Effective until December 1, 2019 – see note)** The State Board shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

- (1) The voting system remains secure throughout the period voting is being conducted.

- (2) Only properly voted official ballots or paper records of individual voted ballots are introduced into the voting system.
- (3) Except as provided by G.S. 163A-1140, no official ballots leave the voting enclosure during the time voting is being conducted there. The rules shall also provide that during that time no one shall remove from the voting enclosure any paper record or copy of an individually voted ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper record.
- (4) All improperly voted official ballots or paper records of individual voted ballots are returned to the precinct officials and marked as spoiled.
- (5) Voters leave the voting place promptly after voting.
- (6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.
- (7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
- (8) The registration records are kept secure. The State Board shall permit the use of electronic registration records in the voting place in lieu of or in addition to a paper pollbook or other registration record.
- (9) Party observers are given access as provided by G.S. 163A-821 to current information about which voters have voted.
- (10) The voter, before voting, shall sign that voter's name on the pollbook, other voting record, or voter authorization document. If the voter is unable to sign, a precinct official shall enter the person's name on the same document before the voter votes.

(c) **(Effective December 1, 2019 – see note)** The State Board shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

- (1) The voting system remains secure throughout the period voting is being conducted.
- (2) Only properly voted official ballots are introduced into the voting system.
- (3) Except as provided by G.S. 163A-1140, no official ballots leave the voting enclosure during the time voting is being conducted there. The rules shall also provide that during that time no one shall remove from the voting enclosure any paper record or copy of an individually voted ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper record.
- (4) All improperly voted official ballots are returned to the precinct officials and marked as spoiled.
- (5) Voters leave the voting place promptly after voting.
- (6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.



- (7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
- (8) The registration records are kept secure. The State Board shall permit the use of electronic registration records in the voting place in lieu of or in addition to a paper pollbook or other registration record.
- (9) Party observers are given access as provided by G.S. 163A-821 to current information about which voters have voted.
- (10) The voter, before voting, shall sign that voter's name on the pollbook, other voting record, or voter authorization document. If the voter is unable to sign, a precinct official shall enter the person's name on the same document before the voter votes. (2001-460, s. 3; 2003-226, s. 14.1; 2005-323, s. 1(a1); 2005-428, s. 12; 2013-381, ss. 2.5, 30.4; 2015-103, s. 6(b); 2017-6, s. 3; 2018-13, s. 3.11(b).)

**§ 163A-1138. Voter education and information.**

(a) Posting the Information. – For each election that involves candidates for federal or State office, each county board of elections shall post at each active voting place the following information in a manner and format approved by the State Board:

- (1) A sample ballot as required by G.S. 163A-1106.
- (2) The date of the election and the hours the voting place will be open.
- (3) Instructions on how to vote, including how to cast a vote or correct a vote on the voting systems available for use in that voting place.
- (4) Instructions on how to cast a provisional ballot.
- (5) Instructions to mail-in registrants and first-time voters on how to comply with the requirements in section 303(b) of the Help America Vote Act of 2002 concerning voter identifications.
- (6) General information on voting rights under applicable federal and State law, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if the voter believes those rights have been violated.
- (7) General information on federal and State laws that prohibit acts of fraud and misrepresentation as to voting and elections.

(b) Intent. – The posting required by subsection (a) of this section is intended to meet the mandate of the voting information requirements in section 302(b) of the Help America Vote Act of 2002. (2003-226, s. 8; 2017-6, s. 3.)

**§ 163A-1139. Assistance to voters.**

(a) Any registered voter qualified to vote in the election shall be entitled to assistance with entering and exiting the voting booth and in preparing ballots in accordance with the following rules:

- (1) Any voter is entitled to assistance from the voter's spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild, as chosen by the voter.

- (2) A voter in any of the following four categories is entitled to assistance from a person of the voter's choice, other than the voter's employer or agent of that employer or an officer or agent of the voter's union:
  - a. A voter who, on account of physical disability, is unable to enter the voting booth without assistance.
  - b. A voter who, on account of physical disability, is unable to mark a ballot without assistance.
  - c. A voter who, on account of illiteracy, is unable to mark a ballot without assistance.
  - d. A voter who, on account of blindness, is unable to enter the voting booth or mark a ballot without assistance.

(b) A qualified voter seeking assistance in an election shall, upon arriving at the voting place, request permission from the chief judge to have assistance, stating the reasons. If the chief judge determines that such assistance is appropriate, the chief judge shall ask the voter to point out and identify the person the voter desires to provide such assistance. If the identified person meets the criteria in subsection (a) of this section, the chief judge shall request the person indicated to render the assistance. The chief judge, one of the judges, or one of the assistants may provide aid to the voter if so requested, if the election official is not prohibited by subdivision (a) (2) of this section. Under no circumstances shall any precinct official be assigned to assist a voter qualified for assistance, who was not specified by the voter.

(c) A person rendering assistance to a voter in an election shall be admitted to the voting booth with the voter being assisted. The State Board shall promulgate rules governing voter assistance, and those rules shall adhere to the following guidelines:

- (1) The person rendering assistance shall not in any manner seek to persuade or induce any voter to cast any vote in any particular way.
- (2) The person rendering assistance shall not make or keep any memorandum of anything which occurs within the voting booth.
- (3) The person rendering assistance shall not, directly or indirectly, reveal to any person how the assisted voter marked ballots, unless the person rendering assistance is called upon to testify in a judicial proceeding for a violation of the election laws. (2001-460, s. 3; 2017-6, s. 3.)

#### **§ 163A-1140. Curbside voting.**

(a) In any election or referendum, if any qualified voter is able to travel to the voting place, but because of age or physical disability and physical barriers encountered at the voting place is unable to enter the voting enclosure to vote in person without physical assistance, that voter shall be allowed to vote either in the vehicle conveying that voter or in the immediate proximity of the voting place.

(b) Any qualified voter voting under this section shall comply with G.S. 163A-1145(a) by one of the following means:

- (1) Presenting photo identification in accordance with G.S. 163A-1145.
- (2) Presenting a copy of a document listed in G.S. 163A-1144(a)(2).

(c) The State Board shall adopt rules for the administration of this section. (2001-460, s. 3; 2013-381, s. 2.6; 2017-6, s. 3.)

#### **§ 163A-1141. Procedures after the close of voting.**

The State Board shall promulgate rules for closing the voting place and delivering voting information to the county board of elections for counting, canvassing, and record maintenance. Those rules shall emphasize the need for the appearance as well as the reality of security, accuracy, participation by representatives of more than one political party, openness of the process to public inspection, and honesty. The rules, at a minimum, shall include procedures to ensure all of the following:

- (1) The return and accurate accounting of all official ballots, regular, provisional, voted, unvoted, and spoiled, according to the provisions of Part 4 of Article 20 of this Chapter.
- (2) The certification of ballots and voter-authorization documents by precinct officials of more than one political party.
- (3) The delivery to the county board of elections of registration documents and information gleaned through the voting process that would be helpful in the accurate maintenance of the voter registration records.
- (4) The return to the county board of all issued equipment.
- (5) The restoration of the voting place to the condition in which it was found. (2001-460, ss. 3, 3.1; 2017-6, s. 3.)

**§ 163A-1142. Provisional voting requirements.**

If an individual seeking to vote claims to be a registered voter in a jurisdiction as provided in G.S. 163A-860 and though eligible to vote in the election does not appear on the official list of eligible registered voters in the voting place, that individual may cast a provisional official ballot as follows:

- (1) An election official at the voting place shall notify the individual that the individual may cast a provisional official ballot in that election.
- (2) The individual may cast a provisional official ballot at that voting place upon executing a written affirmation before an election official at the voting place, stating that the individual is a registered voter in the jurisdiction as provided in G.S. 163A-860 in which the individual seeks to vote and is eligible to vote in that election.
- (3) A voter who has moved within the county more than 30 days before election day but has not reported the move to the board of elections shall not be required on that account to vote a provisional ballot at the one-stop site, as long as the one-stop site has available all the information necessary to determine whether a voter is registered to vote in the county and which ballot the voter is eligible to vote based on the voter's proper residence address. The voter with that kind of unreported move shall be allowed to vote the same kind of absentee ballot as other one-stop voters as provided in G.S. 163A-1300.
- (4) At the time the individual casts the provisional official ballot, the election officials shall provide the individual written information stating that anyone casting a provisional official ballot can ascertain whether and to what extent the ballot was counted and, if the ballot was not counted in whole or in part, the reason it was not counted. The State Board or the county board of elections shall establish a system for so informing a provisional voter. It shall make the system available to every provisional voter without charge, and it shall build into it

reasonable procedures to protect the security, confidentiality, and integrity of the voter's personal information and vote.

- (5) The cast provisional official ballot and the written affirmation shall be secured by election officials at the voting place according to guidelines and procedures adopted by the State Board. At the close of the polls, election officials shall transmit the provisional official ballots cast at that voting place to the county board of elections for prompt verification according to guidelines and procedures adopted by the State Board. (2003-226, s. 15; 2005-2, s. 4; 2005-428, s. 6(b); 2013-381, s. 49.3; 2014-111, s. 12(b); 2017-6, s. 3.)

**§ 163A-1143. Notation on provisional ballot.**

Whenever a voter is permitted to vote a provisional ballot, the election official issuing the ballot shall annotate in writing or other means on the ballot that it is a provisional ballot. (2013-381, s. 52.1; 2017-6, s. 3.)

**§ 163A-1144. Requirements for certain voters who register by mail.**

(a) Voting in Person. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, shall present to a local election official at a voting place before voting there one of the following:

- (1) A current and valid photo identification.
- (2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(b) Voting Mail-In Absentee. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, in order to cast a mail-in absentee vote, shall submit with the mailed-in absentee ballot one of the following:

- (1) A copy of a current and valid photo identification.
- (2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(c) Notation of Identification Proof. – The county board of elections shall note the type of identification proof submitted by the voter under the provisions of subsection (a) or (b) of this section and may dispose of the tendered copy of identification proof as soon as the type of proof is noted in the voter registration records.

(d) Voting When Identification Numbers Do Not Match. – Regardless of whether an individual has registered by mail or by another method, if the individual has provided with the registration form a drivers license number or last four digits of a Social Security number but the computer validation of the number as required by G.S. 163A-875 did not result in a match, and the number has not been otherwise validated by the board of elections, in the first election in which the individual votes that individual shall submit with the ballot the form of identification described in subsection (a) or subsection (b) of this section, depending upon whether the ballot is voted in person or absentee. If that identification is provided and the board of elections does not determine that the individual is otherwise ineligible to vote a ballot, the failure of identification numbers to

match shall not prevent that individual from registering to vote and having that individual's vote counted.

(e) **The Right to Vote Provisionally.** – If an individual is required under subsection (a), (b), or (d) of this section to present identification in order to vote, but that individual does not present the required identification, that individual may vote a provisional official ballot. If the voter is at the voting place, the voter may vote provisionally there without unnecessary delay. If the voter is voting by mail-in absentee ballot, the mailed ballot without the required identification shall be treated as a provisional official ballot.

(f) **Exemptions.** – This section does not apply to any of the following:

- (1) An individual who registers by mail and submits as part of the registration application either of the following:
  - a. A copy of a current and valid photo identification.
  - b. A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.
- (2) An individual who registers by mail and submits as part of the registration application the individual's drivers license number or at least the last four digits of the individual's social security number where an election official matches either or both of the numbers submitted with an existing State identification record bearing the same number, name, and date of birth contained in the submitted registration. If any individual's number does not match, the individual shall provide identification as required in subsection (d) of this section in the first election in which the individual votes.
- (3) An individual who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act.
- (4) An individual who is entitled to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act.
- (5) An individual who is entitled to vote otherwise than in person under any other federal law. (2003-226, s. 16; 2004-127, s. 3; 2007-391, s. 21(a); 2008-187, s. 33(a); 2013-381, s. 16.4; 2013-410, s. 14(b); 2017-6, s. 3.)

**§ 163A-1145. Photo identification requirement for voting in person.**

(a) Every qualified voter voting in person in accordance with this Article, G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304, or G.S. 163A-1167 shall present photo identification bearing any reasonable resemblance to that voter to a local election official at the voting place before voting, except as follows:

- (1) For a registered voter voting curbside, that voter shall present identification under G.S. 163A-1140.
- (2) For a registered voter who has a sincerely held religious objection to being photographed and has filed a declaration in accordance with G.S. 163A-868 at least 25 days before the election in which that voter is voting in person, that voter shall not be required to provide photo identification.
- (3) For a registered voter who is a victim of a natural disaster occurring within 60 days before election day that resulted in a disaster declaration by the President of the United States or the Governor of this State who declares the lack of photo identification due to the natural disaster on a form provided by the State Board,

that voter shall not be required to provide photo identification in any county subject to such declaration. The form shall be available from the State Board, from each county board of elections in a county subject to the disaster declaration, and at each polling place and one-stop early voting site in that county. The voter shall submit the completed form at the time of voting.

(b) Any voter who complies with subsection (a) of this section shall be permitted to vote.

(c) Any voter who does not comply with subsection (a) of this section shall be notified of the following options:

(1) The voter is permitted to vote a provisional official ballot which shall be counted in accordance with G.S. 163A-1167.

(2) The voter is permitted to complete a reasonable impediment declaration, as provided in G.S. 163A-1147, and vote a provisional official ballot which shall be counted in accordance with G.S. 163A-1168.

(3) The voter is permitted to complete a written request for an absentee ballot in accordance with G.S. 163A-1301 until the deadline for submission of requests for absentee ballots provided in G.S. 163A-1308.

(d) The local election official to whom the photo identification is presented shall determine if the photo identification bears any reasonable resemblance to the voter presenting the photo identification. If it is determined that the photo identification does not bear any reasonable resemblance to the voter, the local election official shall comply with G.S. 163A-1146.

(e) Except as provided in subsection (f) of this section, as used in this section, "photo identification" means any one of the following that contains a photograph of the registered voter, has a printed expiration date, and is unexpired, unless otherwise noted:

(1) A North Carolina drivers license issued under Article 2 of Chapter 20 of the General Statutes, including a learner's permit or a provisional license, provided that it shall be acceptable if it has a printed expiration date that is not more than four years before it is presented for voting.

(2) A special identification card for nonoperators issued under G.S. 20-37.7, provided that it shall be acceptable if it has a printed expiration date that is not more than four years before it is presented for voting.

(3) A United States passport.

(4) A United States military identification card, except there is no requirement that it have a printed expiration or issuance date.

(5) A Veterans Identification Card issued by the United States Department of Veterans Affairs for use at Veterans Administration medical facilities facilities, except there is no requirement that it have a printed expiration or issuance date.

(6) A tribal enrollment card issued by a federally recognized tribe, provided that if the tribal enrollment card does not contain a printed expiration date, it shall be acceptable if it has a printed issuance date that is not more than eight years before it is presented for voting.

(7) A tribal enrollment card issued by a tribe recognized by this State under Chapter 71A of the General Statutes, provided that card meets all of the following criteria:

a. Is issued in accordance with a process approved by the State Board that requires an application and proof of identity equivalent to the

requirements for issuance of a special identification card by the Division of Motor Vehicles under G.S. 20-7 and G.S. 20-37.7.

b. Is signed by an elected official of the tribe.

(8) A drivers license or nonoperators identification card issued by another state, the District of Columbia, or a territory or commonwealth of the United States, but only if the voter's voter registration was within 90 days of the election.

(f) Any voter 70 years of age or older shall be permitted to present an expired form of photo identification listed in subsection (e) of this section, if that identification expired at any point after that voter's 70th birthday. (2013-381, s. 2.1; 2014-111, s. 7; 2015-103, s. 8(a); 2017-6, s. 3.)

**§ 163A-1146. Evaluation of determination of nonreasonable resemblance of photo identification.**

(a) Any local election official that determines the photo identification presented by a voter in accordance with G.S. 163A-1145 does not bear any reasonable resemblance to that voter shall notify the judges of election of the determination.

(b) When notified under subsection (a) of this section, the judges of election present shall review the photo identification presented and the voter to determine if the photo identification bears any reasonable resemblance to that voter. The judges of election present may consider information presented by the voter in addition to the photo identification and shall construe all evidence presented in a light most favorable to the voter.

(c) A voter subject to subsections (a) and (b) of this section shall be permitted to vote unless the judges of election present unanimously agree that the photo identification presented does not bear any reasonable resemblance to that voter. The failure of the judges of election present to unanimously agree that photo identification presented by a voter does not bear any reasonable resemblance to that voter shall be dispositive of any challenges that may otherwise be made under G.S. 163A-911(c)(9).

(d) A voter subject to subsections (a) and (b) of this section shall be permitted to vote a provisional ballot in accordance with G.S. 163A-915 if the judges of election present unanimously agree that the photo identification presented does not bear any reasonable resemblance to that voter.

(e) At any time a voter presents photo identification to a local election official other than on election day, the county board of elections shall have available to the local election official judges of election for the review required under subsection (b) of this section, appointed with the same qualifications as is in Part 4 of Article 16 of this Chapter, except that the individuals may (i) reside anywhere in the county or (ii) be an employee of the county or the State. Neither the local election official nor the judges of election may be a county board member. The county board is not required to have the same judges of election available throughout the time period a voter may present photo identification other than on election day but shall have at least two judges, who are not of the same political party affiliation, available at all times during that period.

(f) Any local or State employee appointed to serve as a judge of election may hold that office in addition to the number permitted by G.S. 128-1.1.

(g) The county board of elections shall cause to be made a record of all voters subject to subsection (c) of this section. The record shall include all of the following:

(1) The name and address of the voter.

(2) The name of the local election official under subsection (a) of this section.

- (3) The names and a record of how each judge of election voted under subsection (b) of this section.
  - (4) The date of the determinations under subsections (a) and (b) of this section.
  - (5) A brief description of the photo identification presented by the voter.
- (h) For purposes of this section, the term "judges of election" shall have the following meanings:
- (1) On election day, the chief judge and judges of election as appointed under Part 4 of Article 16 of this Chapter.
  - (2) Any time other than on election day, the individuals appointed under subsection (e) of this section.
- (i) The State Board shall adopt rules for the administration of this section. (2013-381, s. 2.2; 2014-111, s. 6; 2017-6, s. 3.)

**§ 163A-1147. Reasonable impediment declarations.**

(a) Any voter who does not comply with the photo identification requirement of G.S. 163A-1145(a) due to a reasonable impediment that prevents the voter from obtaining photo identification may vote a provisional official ballot in accordance with this section.

(b) The voter shall complete a reasonable impediment declaration on a form provided by the State Board declaring that the voter meets all of the following criteria:

- (1) Is the same individual who personally appeared at the polling place.
- (2) Cast the provisional ballot while voting in person in accordance with this Part or G.S. 163A-1301, 163A-1302, 163A-1303, and 163A-1304.
- (3) Suffers from a reasonable impediment that prevents the voter from obtaining photo identification. The voter also shall list the impediment, as set forth in subsection (e) of this section, unless otherwise prohibited by State or federal law.

(c) The voter shall also present identification in the form of (i) a copy of a document listed in G.S. 163A-1144(a)(2) or the voter registration card issued to the voter by the county board of elections or (ii) the last four digits of the voter's Social Security number and the voter's date of birth. Upon compliance with this section, the voter may cast a provisional ballot. The declaration and a notation on the declaration form that the voter has provided the required identification shall be submitted with the provisional ballot envelope to the county board of elections and shall be counted in accordance with G.S. 163A-1168.

(d) If a voter fails to present identification, as required in subsection (c) of this section, but completes a reasonable impediment declaration, the voter shall be permitted to vote a provisional official ballot. The declaration and a notation on the declaration form that the voter has not provided the required identification shall be submitted with the provisional ballot envelope to the county board of elections. The ballot shall be counted in accordance with G.S. 163A-1168 if the voter presents the required identification to the county board of elections in accordance with G.S. 163A-1168.

(e) The reasonable impediment declaration form provided by the State Board shall, at a minimum, include the following:

- (1) Separate boxes that a voter may check to identify the reasonable impediment, including at least the following:
  - a. Lack of transportation.
  - b. Disability or illness.



- c. Lack of birth certificate or other documents needed to obtain photo identification.
  - d. Work schedule.
  - e. Family responsibilities.
  - f. Lost or stolen photo identification.
  - g. Photo identification applied for but not received by the voter voting in person.
  - h. Other reasonable impediment. If the voter checks the "other reasonable impediment" box, a further brief written identification of the reasonable impediment shall be required, including the option to indicate that State or federal law prohibits listing the impediment.
- (2) A space for the voter to provide the last four digits of the Social Security number and the voter's date of birth, if the voter opts to provide this information as identification in accordance with subsection (c) of this section.
  - (3) A space to note whether the voter has provided a copy of the document listed in G.S. 163A-1144(a)(2) or the voter registration card issued to the voter by the county board of elections. (2015-103, s. 8(d); 2017-6, s. 3.)

§ 163A-1148: Reserved for future codification purposes.

§ 163A-1149: Reserved for future codification purposes.

§ 163A-1150: Reserved for future codification purposes.

§ 163A-1151: Reserved for future codification purposes.

§ 163A-1152: Reserved for future codification purposes.

§ 163A-1153: Reserved for future codification purposes.

§ 163A-1154: Reserved for future codification purposes.

§ 163A-1155: Reserved for future codification purposes.

§ 163A-1156: Reserved for future codification purposes.

§ 163A-1157: Reserved for future codification purposes.

§ 163A-1158: Reserved for future codification purposes.

§ 163A-1159: Reserved for future codification purposes.

§ 163A-1160: Reserved for future codification purposes.

§ 163A-1161: Reserved for future codification purposes.

§ 163A-1162: Reserved for future codification purposes.

§ 163A-1163: Reserved for future codification purposes.

§ 163A-1164: Reserved for future codification purposes.

Part 4. Counting Official Ballots, Canvassing Votes, Hearing Protests, and Certifying Results.

**§ 163A-1165. Definitions.**

In addition to the definitions stated below, the definitions set forth in Part 3 of Article 20 of this Chapter also apply to this Part. As used in this Part, the following definitions apply:

- (1) "Abstract" means a document signed by the members of the board of elections showing the votes for each candidate and ballot proposal on the official ballot in the election. The abstract shall show a total number of votes for each candidate in each precinct and a total for each candidate in the county. It shall also show the number of votes for each candidate among the absentee official ballots, among the provisional official ballots, and in any other category of official ballots that is not otherwise reported.
- (2) "Certificate of election" means a document prepared by the official or body with the legal authority to do so, conferring upon a candidate the right to assume an elective office as a result of being elected to it.
- (3) "Composite abstract" means a document signed by the members of the State Board showing the total number of votes for each candidate and ballot proposal and the number of votes in each county. A composite abstract does not include precinct returns.
- (4) "Protest" means a complaint concerning the conduct of an election which, if supported by sufficient evidence, may require remedy by one or more of the following:
  - a. A correction in the returns.
  - b. A discretionary recount as provided in G.S. 163A-1174.
  - c. A new election as provided in G.S. 163A-1181. (2001-398, s. 3; 2010-96, ss. 19, 35; 2017-6, s. 3.)

**§ 163A-1166. (Effective until December 1, 2019 - see note) Principles and rules for counting official ballots.**

(a) General Principles That Shall Apply. – The following general principles shall apply in the counting of official ballots, whether the initial count or any recount:

- (1) Only official ballots shall be counted.
- (2) No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to clearly determine the voter's choice.
- (3) If it is impossible to clearly determine a voter's choice in a ballot item, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which the voter's choice can be clearly determined.
- (4) If an official ballot is marked in a ballot item with more choices than there are offices to be filled or propositions that may prevail, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which there is no overvote and the voter's choice can be clearly determined.

- (5) If an official ballot is rejected by a scanner or other counting machine, but human counters can clearly determine the voter's choice, the official ballot shall be counted by hand and eye.
- (6) Write-in votes shall not be counted in party primaries or in referenda, but shall be counted in general elections if all of the following are true:
  - a. The write-in vote is written by the voter or by a person authorized to assist the voter pursuant to G.S. 163A-1139.
  - b. The write-in vote is not cast for a candidate who has failed to qualify under G.S. 163A-1006 as a write-in candidate.
  - c. The voter's choice can be clearly determined.

(b) Procedures and Standards. – The State Board shall adopt uniform and nondiscriminatory procedures and standards for voting systems. The standards shall define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. The State Board shall adopt those procedures and standards at a meeting occurring not earlier than 15 days after the State Board gives notice of the meeting. The procedures and standards adopted shall apply to all elections occurring in the State and shall be subject to amendment or repeal by the State Board acting at any meeting where notice that the action has been proposed has been given at least 15 days before the meeting. These procedures and standards shall not be considered to be rules subject to Article 2A of Chapter 150B of the General Statutes. However, the State Board shall publish in the North Carolina Register the procedures and standards and any changes to them after adoption, with that publication noted as information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those procedures and standards shall be made available to the public upon request or otherwise by the State Board. For optical scan and direct record electronic voting systems, and for any other voting systems in which ballots are counted other than on paper by hand and eye, those procedures and standards shall do both of the following:

- (1) Provide for a sample hand-to-eye count of the paper ballots or paper records of a statewide ballot item in every county. The presidential ballot item shall be the subject of the sampling in a presidential election. If there is no statewide ballot item, the State Board shall provide a process for selecting district or local ballot items to adequately sample the electorate. The State Board shall approve in an open meeting the procedure for randomly selecting the sample precincts for each election. The random selection of precincts for any county shall be done publicly after the initial count of election returns for that county is publicly released or 24 hours after the polls close on election day, whichever is earlier. The sample chosen by the State Board shall be of one or more full precincts, full counts of mailed absentee ballots, full counts of one or more one-stop early voting sites, or a combination. The size of the sample of each category shall be chosen to produce a statistically significant result and shall be chosen after consultation with a statistician. The actual units shall be chosen at random. In the event of a material discrepancy between the electronic or mechanical count and a hand-to-eye count, the hand-to-eye count shall control, except where paper ballots or records have been lost or destroyed or where there is another reasonable basis to conclude that the hand-to-eye count is not the true count. If the discrepancy between the hand-to-eye count and the mechanical or electronic count is significant, a complete hand-to-eye count shall be conducted.

- (2) Provide that if the voter selects votes for more than the number of candidates to be elected or proposals to be approved in a ballot item, the voting system shall do all the following:
  - a. Notify the voter that the voter has selected more than the correct number of candidates or proposals in the ballot item.
  - b. Notify the voter before the vote is accepted and counted of the effect of casting overvotes in the ballot item.
  - c. Provide the voter with the opportunity to correct the official ballot before it is accepted and counted. (2001-398, s. 3; 2003-226, s. 13; 2005-323, s. 5(a); 2006-192, s. 7(a); 2006-264, s. 76(b); 2013-381, s. 32.2; 2017-6, s. 3.)

**§ 163A-1166. (Effective December 1, 2019 - see note) Principles and rules for counting official ballots.**

(a) **General Principles That Shall Apply.** – The following general principles shall apply in the counting of official ballots, whether the initial count or any recount:

- (1) Only official ballots shall be counted.
- (2) No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to clearly determine the voter's choice.
- (3) If it is impossible to clearly determine a voter's choice in a ballot item, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which the voter's choice can be clearly determined.
- (4) If an official ballot is marked in a ballot item with more choices than there are offices to be filled or propositions that may prevail, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which there is no overvote and the voter's choice can be clearly determined.
- (5) If an official ballot is rejected by a scanner or other counting machine, but human counters can clearly determine the voter's choice, the official ballot shall be counted by hand and eye.
- (6) Write-in votes shall not be counted in party primaries or in referenda, but shall be counted in general elections if all of the following are true:
  - a. The write-in vote is written by the voter or by a person authorized to assist the voter pursuant to G.S. 163A-1139.
  - b. The write-in vote is not cast for a candidate who has failed to qualify under G.S. 163A-1006 as a write-in candidate.
  - c. The voter's choice can be clearly determined.

(b) **Procedures and Standards.** – The State Board shall adopt uniform and nondiscriminatory procedures and standards for voting systems. The standards shall define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. The State Board shall adopt those procedures and standards at a meeting occurring not earlier than 15 days after the State Board gives notice of the meeting. The procedures and standards adopted shall apply to all elections occurring in the State and shall be subject to amendment or repeal by the State Board acting at any meeting where notice that the action has been proposed has been given at least 15 days before the meeting. These procedures and standards shall not be considered to be rules subject to Article 2A of Chapter 150B of the General Statutes. However, the State Board shall publish in the North Carolina Register the procedures and standards and any

changes to them after adoption, with that publication noted as information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those procedures and standards shall be made available to the public upon request or otherwise by the State Board. For optical scan and direct record electronic voting systems, and for any other voting systems in which ballots are counted other than on paper by hand and eye, those procedures and standards shall do both of the following:

- (1) Provide for a sample hand-to-eye count of the paper ballots of a statewide ballot item in every county. The presidential ballot item shall be the subject of the sampling in a presidential election. If there is no statewide ballot item, the State Board shall provide a process for selecting district or local ballot items to adequately sample the electorate. The State Board shall approve in an open meeting the procedure for randomly selecting the sample precincts for each election. The random selection of precincts for any county shall be done publicly after the initial count of election returns for that county is publicly released or 24 hours after the polls close on election day, whichever is earlier. The sample chosen by the State Board shall be of one or more full precincts, full counts of mailed absentee ballots, full counts of one or more one-stop early voting sites, or a combination. The size of the sample of each category shall be chosen to produce a statistically significant result and shall be chosen after consultation with a statistician. The actual units shall be chosen at random. In the event of a material discrepancy between the electronic or mechanical count and a hand-to-eye count, the hand-to-eye count shall control, except where paper ballots have been lost or destroyed or where there is another reasonable basis to conclude that the hand-to-eye count is not the true count. If the discrepancy between the hand-to-eye count and the mechanical or electronic count is significant, a complete hand-to-eye count shall be conducted.
- (2) Provide that if the voter selects votes for more than the number of candidates to be elected or proposals to be approved in a ballot item, the voting system shall do all the following:
  - a. Notify the voter that the voter has selected more than the correct number of candidates or proposals in the ballot item.
  - b. Notify the voter before the vote is accepted and counted of the effect of casting overvotes in the ballot item.
  - c. Provide the voter with the opportunity to correct the official ballot before it is accepted and counted. (2001-398, s. 3; 2003-226, s. 13; 2005-323, s. 5(a); 2006-192, s. 7(a); 2006-264, s. 76(b); 2013-381, ss. 30.5, 32.2; 2015-103, s. 6(b); 2017-6, s. 3.)

**§ 163A-1167. Counting of provisional official ballots cast due to failure to provide photo identification when voting in person.**

(a) Unless disqualified for some other reason provided by law, the county board of elections shall find that a voter's provisional official ballot cast as a result of failing to present photo identification when voting in person in accordance with G.S. 163A-1145 is valid and direct that the provisional ballot be opened and counted in accordance with this Subchapter if the voter complies with this section.

(b) A voter who casts a provisional official ballot wholly or partly as a result of failing to present photo identification when voting in person in accordance with G.S. 163A-1145 may

comply with this section by appearing in person at the county board of elections and doing one of the following:

- (1) Presenting photo identification as defined in G.S. 163A-1145(e) that bears any reasonable resemblance to the voter. The local election official to whom the photo identification is presented shall determine if the photo identification bears any reasonable resemblance to that voter. If not, that local election official shall comply with G.S. 163A-1146.
- (2) Presenting any of the documents listed in G.S. 163A-1144(a)(2) and declaring that the voter has a sincerely held religious objection to being photographed. That voter shall also be offered an opportunity to execute a declaration under G.S. 163A-1175 for future elections.

(c) All identification under subsection (b) of this section shall be presented to the county board of elections not later than 12:00 noon the day prior to the time set for the convening of the election canvass pursuant to G.S. 163A-1172.

(d) If the county board of elections determines that a voter has also cast a provisional official ballot for a cause other than the voter's failure to provide photo identification in accordance with G.S. 163A-1145, the county board shall do all of the following:

- (1) Note on the envelope containing the provisional official ballot that the voter has complied with the proof of identification requirement.
- (2) Proceed to determine any other reasons for which the provisional official ballot was cast provisionally before ruling on the validity of the voter's provisional official ballot. (2013-381, s. 2.8; 2017-6, s. 3.)

**§ 163A-1168. Counting of provisional official ballots cast following completion of a reasonable impediment declaration when voting in person.**

(a) The county board of elections shall find that a voter's provisional official ballot cast following completion of a declaration of reasonable impediment in accordance with G.S. 163A-1147 is valid and direct that the provisional ballot be opened and counted in accordance with this Subchapter, unless any of the following apply:

- (1) The county board of elections has grounds, including an impediment evidentiary challenge by a voter, as provided in subsection (b) of this section, to believe the declaration is factually false, merely denigrated the photo identification requirement, or made obviously nonsensical statements.
- (2) The voter failed to present identification in the form of one of the following:
  - a. Either a copy of a document listed in G.S. 163A-1144(a)(2) or the voter registration card issued to the voter by the county board of elections when voting or at the county board of elections.
  - b. The voter's last four digits of the Social Security number and date of birth.
- (3) The voter provided the last four digits of the voter's Social Security number and date of birth as the form of identification required under G.S. 163A-1147(c) and the county board of elections could not confirm the voter's registration using that information.
- (4) The voter is disqualified for some other reason provided by law.

(b) An impediment evidentiary challenge may be made only on a form developed by the State Board as follows:

- (1) Any registered voter of the county may make the challenge by submitting clear and convincing evidence in writing on a signed form to the county board of elections challenging the factual veracity of the impediment.
- (2) Challenges shall be submitted no later than 5:00 P.M. on the third business day following the election.
- (3) The county board shall hear evidentiary challenges on the day set for the canvass of the returns.
- (4) A voter whose declaration has been challenged may personally, or through an authorized representative, appear before the county board and present evidence supporting the factual veracity of the impediment.
- (5) In considering the challenge, the county board shall construe all evidence presented in the light most favorable to the voter submitting the reasonable impediment declaration.
- (6) The county board shall not find a challenge valid if it provides only evidence regarding the reasonableness of the impediment.
- (7) The county board may find the challenge valid if the evidence demonstrates the declaration merely denigrated the photo identification requirement, made obviously nonsensical statements, or made statements or selected a reasonable impediment check box that was factually false.

(c) A voter who failed to present identification required in G.S. 163A-1147(c) when completing the reasonable impediment affidavit may comply with the identification requirement by appearing in person at the county board of elections to present the identification no later than 12:00 noon the day prior to the time set for the convening of the election canvass pursuant to G.S. 163A-1172.

(d) If the county board of elections determines that a voter has also cast a provisional official ballot for a cause other than the voter's failure to provide photo identification in accordance with G.S. 163A-1145(a), the county board shall do all of the following:

- (1) Note on the envelope containing the provisional official ballot that the voter has complied with the reasonable impediment declaration requirement.
- (2) Proceed to determine any other reasons for which the provisional official ballot was cast provisionally before ruling on the validity of the voter's provisional official ballot.

(e) Within 60 days after each election, the county board of elections shall provide to the State Board a report of those reasonable impediments identified in that election by voters. The State Board shall use the information in the reports to identify and address obstacles to obtaining photo identification. (2015-103, s. 8(e); 2017-6, s. 3.)

#### **§ 163A-1169. Initial counting of official ballots.**

(a) The initial counting of official ballots shall be conducted according to the following principles:

- (1) Vote counting at the precinct shall occur immediately after the polls close and shall be continuous until completed.
- (2) Vote counting at the precinct shall be conducted with the participation of precinct officials of all political parties then present. Vote counting at the county board of elections shall be conducted in the presence or under the supervision of board members of all political parties then present.

- (3) Any member of the public wishing to witness the vote count at any level shall be allowed to do so. No witness shall interfere with the orderly counting of the official ballots. Witnesses shall not participate in the official counting of official ballots.
- (4) If the county board of elections finds that an individual voting a provisional official ballot (i) was registered in the county as provided in G.S. 163A-1166, (ii) voted in the proper precinct under G.S. 163A-841 and G.S. 163A-842, and (iii) was otherwise eligible to vote, the provisional official ballots shall be counted by the county board of elections before the canvass. Except as provided in G.S. 163A-1184(e), if the county board finds that an individual voting a provisional official ballot (i) did not vote in the proper precinct under G.S. 163A-841 and G.S. 163A-842, (ii) is not registered in the county as provided in G.S. 163A-860, or (iii) is otherwise not eligible to vote, the ballot shall not be counted. If a voter was properly registered to vote in the election by the county board, no mistake of an election official in giving the voter a ballot or in failing to comply with G.S. 163A-1184 or G.S. 163A-1142 shall serve to prevent the counting of the vote on any ballot item the voter was eligible by registration and qualified by residency to vote.
- (5) Precinct officials shall provide a preliminary report of the vote counting to the county board of elections as quickly as possible. The preliminary report shall be unofficial and has no binding effect upon the official county canvass to follow.
- (6) In counties that use any certified mechanical or electronic voting system, subject to the sample counts under G.S. 163A-1166 and subdivision (2) of subsection (b) of this section, and of a hand-to-eye recount under G.S. 163A-1174 and G.S. 163A-1175, a board of elections shall rely in its canvass on the mechanical or electronic count of the vote rather than the full hand-to-eye count of the paper ballots or records. In the event of a material discrepancy between the electronic or mechanical count and a hand-to-eye count or recount, the hand-to-eye count or recount shall control, except where paper ballots or records have been lost or destroyed or where there is another reasonable basis to conclude that the hand-to-eye count is not the true count.

(b) The State Board shall promulgate rules for the initial counting of official ballots. All election officials shall be governed by those rules. In promulgating those rules, the State Board shall adhere to the following guidelines:

- (1) For each voting system used, the rules shall specify the role of precinct officials and of the county board of elections in the initial counting of official ballots.
- (2) **(Effective until December 1, 2019 – see note)** For optical scan and direct record electronic voting systems, and for any other voting systems in which ballots are counted other than on paper by hand and eye, those rules shall provide for a sample hand-to-eye count of the paper ballots or paper records of a sampling of a statewide ballot item in every county. The presidential ballot item shall be the subject of the sampling in a presidential election. If there is no statewide ballot item, the State Board shall provide a process for selecting district or local ballot items to adequately sample the electorate. The State Board shall approve in an open meeting the procedure for randomly selecting



the sample precincts for each election. The random selection of precincts for any county shall be done publicly after the initial count of election returns for that county is publicly released or 24 hours after the polls close on election day, whichever is earlier. The sample chosen by the State Board shall be of one or more full precincts, full counts of mailed absentee ballots, and full counts of one or more one-stop early voting sites. The size of the sample of each category shall be chosen to produce a statistically significant result and shall be chosen after consultation with a statistician. The actual units shall be chosen at random. In the event of a material discrepancy between the electronic or mechanical count and a hand-to-eye count, the hand-to-eye count shall control, except where paper ballots or records have been lost or destroyed or where there is another reasonable basis to conclude that the hand-to-eye count is not the true count. If the discrepancy between the hand-to-eye count and the mechanical or electronic count is significant, a complete hand-to-eye count shall be conducted. The sample count need not be done on election night.

- (2) **(Effective December 1, 2019 – see note)** For optical scan and direct record electronic voting systems, and for any other voting systems in which ballots are counted other than on paper by hand and eye, those rules shall provide for a sample hand-to-eye count of the paper ballots of a sampling of a statewide ballot item in every county. The presidential ballot item shall be the subject of the sampling in a presidential election. If there is no statewide ballot item, the State Board shall provide a process for selecting district or local ballot items to adequately sample the electorate. The State Board shall approve in an open meeting the procedure for randomly selecting the sample precincts for each election. The random selection of precincts for any county shall be done publicly after the initial count of election returns for that county is publicly released or 24 hours after the polls close on election day, whichever is earlier. The sample chosen by the State Board shall be of one or more full precincts, full counts of mailed absentee ballots, and full counts of one or more one-stop early voting sites. The size of the sample of each category shall be chosen to produce a statistically significant result and shall be chosen after consultation with a statistician. The actual units shall be chosen at random. In the event of a material discrepancy between the electronic or mechanical count and a hand-to-eye count, the hand-to-eye count shall control, except where paper ballots have been lost or destroyed or where there is another reasonable basis to conclude that the hand-to-eye count is not the true count. If the discrepancy between the hand-to-eye count and the mechanical or electronic count is significant, a complete hand-to-eye count shall be conducted. The sample count need not be done on election night.
- (3) The rules shall provide for accurate unofficial reporting of the results from the precinct to the county board of elections with reasonable speed on the night of the election.
- (4) The rules shall provide for the prompt and secure transmission of official ballots from the voting place to the county board of elections.

The State Board shall direct the county boards of elections in the application of the principles and rules in individual circumstances. (2001-398, s. 3; 2005-2, s. 5; 2005-323, s. 5(b); 2006-192, s.

7(b); 2006-264, s. 76(c); 2013-381, ss. 30.6, 49.4; 2014-111, s. 12(c); 2015-103, s. 6(b); 2017-6, s. 3; 2018-13, s. 3.11(b).)

**§ 163A-1170. Responsibility of chief judge.**

The chief judge of each precinct shall be responsible for the adherence of the precinct officials to the State Board rules for counting, reporting, and transmitting official ballots. (2001-398, s. 3; 2017-6, s. 3.)

**§ 163A-1171. Jurisdiction for certain ballot items.**

(a) Jurisdiction of County Board of Elections. – As used in this Part, the county board of elections shall have jurisdiction over the following:

- (1) Offices of that county, including clerk of superior court and register of deeds.
- (2) Membership in either house of the General Assembly from a district lying entirely within that county.
- (3) Offices of municipalities, unless the municipality has a valid board of election.
- (4) Referenda in which only residents of that county are eligible to vote.

(b) Jurisdiction of State Board. – As used in this Part, the State Board shall have jurisdiction over the following:

- (1) National offices.
- (2) State offices.
- (3) District offices (including General Assembly seats) in which the district lies in more than one county.
- (4) Superior court judge, district court judge, and district attorney, regardless of whether the district lies entirely in one county or in more than one county.
- (5) Referenda in which residents of more than one county are eligible to vote.

(c) For the purposes of this Part, having jurisdiction shall mean that the appropriate board shall do all of the following with regard to the ballot item:

- (1) Canvass for the entire electorate for the ballot item.
- (2) Prepare abstracts or composite abstracts for the entire electorate for the ballot item.
- (3) Issue certificates of nomination and election. (2001-398, s. 3; 2017-6, s. 3.)

**§ 163A-1172. Canvassing votes.**

(a) The Canvass. – As used in this Part, the term "canvass" means the entire process of determining that the votes have been counted and tabulated correctly, culminating in the authentication of the official election results. The board of elections conducting a canvass has authority to send for papers and persons and to examine them and pass upon the legality of disputed ballots.

(b) Canvassing by County Board of Elections. – The county board of elections shall meet at 11:00 A.M. on the tenth day after every election to complete the canvass of votes cast and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. If, despite due diligence by election officials, the initial counting of all the votes has not been completed by that time, the county board may hold the canvass meeting a reasonable time thereafter. The canvass meeting shall be at the county board of elections office, unless the county board, by unanimous vote of all its members, designates another site within the county. The county board shall examine the returns from precincts, from absentee

official ballots, from the sample hand-to-eye paper ballot counts, and from provisional official ballots and shall conduct the canvass.

(c) Canvassing by State Board. – After each general election, the State Board shall meet at 11:00 A.M. on the Tuesday three weeks after election day to complete the canvass of votes cast in all ballot items within the jurisdiction of the State Board and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. After each primary, the State Board shall fix the date of its canvass meeting. If, by the time of its scheduled canvass meeting, the State Board has not received the county canvasses, the State Board may adjourn for not more than 10 days to secure the missing abstracts. In obtaining them, the State Board is authorized to secure the originals or copies from the appropriate clerks of superior court or county boards of elections, at the expense of the counties. (2001-398, s. 3; 2003-278, s. 10(a); 2005-323, s. 5(c); 2005-428, s. 11(a); 2016-109, s. 1; 2017-6, s. 3.)

### **§ 163A-1173. Abstracts.**

(a) Abstracts to Be Prepared by County Board of Elections. – As soon as the county canvass has been completed, the county board of elections shall prepare abstracts of all the ballot items in a form prescribed by the State Board. The county board shall prepare those abstracts in triplicate originals. The county board shall retain one of the triplicate originals, and shall distribute one each to the clerk of superior court for the county and the State Board. The State Highway Patrol may, upon request of the State Board, be responsible for the delivery of the abstracts from each county to the State Board. The State Board shall forward the original abstract it receives to the Secretary of State.

(b) Composite Abstracts to Be Prepared by the State Board. – As soon as the State canvass has been completed, the State Board shall prepare composite abstracts of all those ballot items. It shall prepare those composite abstracts in duplicate originals. It shall retain one of the originals and shall send the other original to the Secretary of State.

(c) Duty of the Secretary of State. – The Secretary of State shall maintain the certified copies of abstracts received from the county and State boards of elections. The Secretary shall keep the abstracts in a form readily accessible and useful to the public.

(d) Forms by State Board. – The State Board shall prescribe forms for all abstracts. Those forms shall be uniform and shall, at a minimum, state the name of each candidate and the office sought and each referendum proposal, the number of votes cast for each candidate and proposal, the candidate or proposal determined to have prevailed, and a statement authenticating the count. (2001-398, s. 3; 2017-6, s. 3.)

### **§ 163A-1174. Ordering recounts.**

(a) Discretionary Recounts. – The county board of elections or the State Board may order a recount when necessary to complete the canvass in an election. The county board may not order a recount where the State Board has already denied a recount to the petitioner.

(b) Mandatory Recounts for Ballot Items Within the Jurisdiction of the County Board of Elections. – In a ballot item within the jurisdiction of the county board of elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate is not more than one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item not more than one percent (1%) of the votes cast for those two candidates. The demand for a recount must be made in writing

and must be received by the county board of elections by 5:00 P.M. on the first business day after the canvass. The recount shall be conducted under the supervision of the county board of elections.

(c) **Mandatory Recounts for Ballot Items Within the Jurisdiction of the State Board.** – In a ballot item within the jurisdiction of the State Board, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate are not more than the following:

- (1) For a nonstatewide ballot item, one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item, one percent (1%) of the votes cast for those two candidates.
- (2) For a statewide ballot item, one-half of one percent (0.5%) of the votes cast in the ballot item, or 10,000 votes, whichever is less.

The demand for a recount must be in writing and must be received by the State Board by noon on the second business day after the county canvass. If at that time the available returns show a candidate not entitled to a mandatory recount, but the Executive Director determines subsequently that the margin is within the threshold set out in this subsection, the Executive Director shall notify the eligible candidate immediately and that candidate shall be entitled to a recount if that candidate so demands within 48 hours of notice. The recount shall be conducted under the supervision of the State Board.

(d) **Rules for Conducting Recounts.** – The State Board shall promulgate rules for conducting recounts. Those rules shall be subject to the following guidelines:

- (1) The rules shall specify, with respect to each type of voting system, when and to what extent the recount shall consist of machine recounts and hand-to-eye recounts. Hand-to-eye recounts shall also be ordered as provided by G.S. 163A-1175.
- (2) The rules shall provide guidance in interpretation of the voter's choice.
- (3) The rules shall specify how the goals of multipartisan participation, opportunity for public observation, and good order shall be balanced. (2001-398, s. 3; 2003-278, ss. 10(b), 10(c); 2005-323, s. 6(a); 2005-428, s. 11(b); 2017-6, s. 3.)

#### **§ 163A-1175. Additional provisions for hand-to-eye recounts.**

(a) The rules promulgated by the State Board for recounts shall provide that if the initial recount is not hand-to-eye, and if the recount does not reverse the results, the candidate who had originally been entitled to a recount may, within 24 hours of the completion of the first recount, demand a second recount on a hand-to-eye basis in a sample of precincts. If the initial recount was not hand-to-eye and it reversed the results, the candidate who had initially been the winner shall have the same right to ask for a hand-to-eye recount in a sample of precincts.

That sample shall be all the ballots in three percent (3%) of the precincts casting ballots in each county in the jurisdiction of the office, rounded up to the next whole number of precincts. For the purpose of that calculation, each one-stop (early) voting site shall be considered to be a precinct. The precincts to be recounted by a hand-to-eye count shall be chosen at random within each county. If the results of the hand-to-eye recount differ from the previous results within those precincts to the extent that extrapolating the amount of the change to the entire jurisdiction (based on the proportion of ballots recounted to the total votes cast for that office) would result in the reversing of the results, then the State Board shall order a hand-to-eye recount of the entire jurisdiction in which the election is held. There shall be no cost to the candidate for that recount in the entire jurisdiction.

(b) Recounts under this section shall be governed by rules adopted under G.S. 163A-1174(d).

(c) No complete hand-to-eye recount shall be conducted under this section if one has already been done under another provision of law. (2005-323, s. 6(b); 2017-6, s. 3.)

**§ 163A-1176. Determining result in case of a tie.**

If the count, upon completion of canvass by the proper board of elections, shows a tie vote other than in a primary, the tie shall be resolved as follows:

- (1) If more than 5,000 voters cast official ballots in the ballot item, the State Board shall order a new election in which only the candidates or positions tied will be on the official ballot. The State Board shall set the schedule for publication of the notice, preparation of absentee official ballots, and the other actions necessary to conduct the election. Eligibility to vote in the new election shall be determined by the voter's eligibility at the time of the new election.
- (2) If 5,000 or fewer voters cast official ballots in the ballot item, the board of elections with jurisdiction to certify the election shall break the tie by a method of random selection to be determined by the State Board. (2001-398, s. 3; 2017-6, s. 3.)

**§ 163A-1177. Filing an election protest.**

(a) **Who May File a Protest With County Board.** – A protest concerning the conduct of an election may be filed with the county board of elections by any registered voter who was eligible to vote in the election or by any person who was a candidate for nomination or election in the election.

(b) **How Protest May Be Filed.** – The following principles shall apply to the filing of election protests with the county board of elections:

- (1) The protest shall be in writing and shall be signed by the protester. It shall include the protester's name, address, and telephone number and a statement that the person is a registered voter in the jurisdiction or a candidate.
- (2) The protest shall state whether the protest concerns the manner in which votes were counted and results tabulated or concerns some other irregularity.
- (3) The protest shall state what remedy the protester is seeking.
- (4) The timing for filing a protest shall be as follows:
  - a. If the protest concerns the manner in which votes were counted or results tabulated, the protest shall be filed before the beginning of the county board of election's canvass meeting.
  - b. If the protest concerns the manner in which votes were counted or results tabulated and the protest states good cause for delay in filing, the protest may be filed until 5:00 P.M. on the second business day after the county board of elections has completed its canvass and declared the results.
  - c. If the protest concerns an irregularity other than vote counting or result tabulation, the protest shall be filed no later than 5:00 P.M. on the second business day after the county board has completed its canvass and declared the results.

- d. If the protest concerns an irregularity on a matter other than vote counting or result tabulation and the protest is filed before election day, the protest proceedings shall be stayed, unless a party defending against the protest moves otherwise, until after election day if any one of the following conditions exists:
  1. The ballot has been printed.
  2. The voter registration deadline for that election has passed.
  3. Any of the proceedings will occur within 30 days before election day.

(c) State Board to Prescribe Forms. – The State Board shall prescribe forms for filing protests. (2001-398, s. 3; 2005-428, s. 4; 2017-6, s. 3.)

**§ 163A-1178. Consideration of protest by county board of elections.**

(a) Preliminary Consideration. – The following principles shall apply to the initial consideration of election protests by the county board of elections:

- (1) The county board shall, as soon as possible after the protest is filed, meet to determine whether the protest substantially complies with G.S. 163A-1177 and whether it establishes probable cause to believe that a violation of election law or irregularity or misconduct has occurred. If the board determines that one or both requirements are not met, the board shall dismiss the protest. The board shall notify both the protester and the State Board. The protester may file an amended protest or may appeal to the State Board. If the board determines that both requirements are met, it shall schedule a hearing.
- (2) If a protest was filed before the canvass and concerns the counting and tabulating of votes, the county board shall resolve the protest before the canvass is completed. If necessary to provide time to resolve the protest, the county board may recess the canvass meeting, but shall not delay the completion of the canvass for more than three days unless approved by the State Board. Resolution of the protest shall not delay the canvass of ballot items unaffected by the protest. The appeal of a dismissal shall not delay the canvass.
- (3) If a protest concerns an irregularity other than the counting or tabulating of votes, that protest shall not delay the canvass.

(b) Notice of Hearing. – The county board shall give notice of the protest hearing to the protester, any candidate likely to be affected, any election official alleged to have acted improperly, and those persons likely to have a significant interest in the resolution of the protest. Each person given notice shall also be given a copy of the protest or a summary of its allegations. The manner of notice shall be as follows:

- (1) If the protest concerns the manner in which the votes were counted or the results tabulated, the protester shall be told at the time of filing that the protest will be heard at the time of the canvass. Others shall be notified as far in advance of the canvass as time permits.
- (2) If the protest concerns a matter other than the manner in which votes were counted or results tabulated, the county board shall comply with rules to be promulgated by the State Board concerning reasonable notice of the hearing.

Failure to comply with the notice requirements in this subsection shall not delay the holding of a hearing nor invalidate the results if it appears reasonably likely that all interested persons were aware of the hearing and had an opportunity to be heard.

(c) Conduct of Hearing. – The following principles shall apply to the conduct of a protest hearing before the county board of elections:

- (1) The county board may allow evidence to be presented at the hearing in the form of affidavits or it may examine witnesses. The chair or any two members of the board may subpoena witnesses or documents. Each witness must be placed under oath before testifying.
- (2) The county board may receive evidence at the hearing from any person with information concerning the subject of the protest. The person who made the protest shall be permitted to present allegations and introduce evidence at the hearing. Any other person to whom notice of hearing was given, if present, shall be permitted to present evidence. The board may allow evidence by affidavit. The board may permit evidence to be presented by a person to whom notice was not given, if the person apparently has a significant interest in the resolution of the protest that is not adequately represented by other participants.
- (3) The hearing shall be recorded by a reporter or by mechanical means, and the full record of the hearing shall be preserved by the county board until directed otherwise by the State Board.

(d) Findings of Fact and Conclusions of Law by County Board. – The county board shall make a written decision on each protest which shall state separately each of the following:

- (1) Findings of fact. – The findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them.
- (2) Conclusions of law. – The conclusions the county board may state, and their consequences for the board's order, are as follows:
  - a. "The protest should be dismissed because it does not substantially comply with G.S. 163A-1177." If the board makes this conclusion, it shall order the protest dismissed.
  - b. "The protest should be dismissed because there is not substantial evidence of a violation of the election law or other irregularity or misconduct." If the county board makes this conclusion, it shall order the protest dismissed.
  - c. "The protest should be dismissed because there is not substantial evidence of any violation, irregularity, or misconduct sufficient to cast doubt on the results of the election." If the county board makes this conclusion, it shall order the protest dismissed.
  - d. "There is substantial evidence to believe that a violation of the election law or other irregularity or misconduct did occur, and might have affected the outcome of the election, but the board is unable to finally determine the effect because the election was a multicounty election." If the county board makes this conclusion, it shall order that the protest and the county board's decision be sent to the State Board for action by it.

- e. "There is substantial evidence to believe that a violation of the election law or other irregularity or misconduct did occur and that it was sufficiently serious to cast doubt on the apparent results of the election." If the county board makes this conclusion, it may order any of the following as appropriate:
  - 1. That the vote total as stated in the precinct return or result of the canvass be corrected and new results declared.
  - 2. That votes be recounted.
  - 3. That the protest and the county board's decision be sent to the State Board for action by it.
  - 4. Any other action within the authority of the county board.

- (3) An order. – Depending on the conclusion reached by the county board, its order shall be as directed in subdivision (c)(2). If the county board is not able to determine what law is applicable to the Findings of Fact, it may send its findings of fact to the State Board for it to determine the applicable law.

(e) Rules by State Board. – The State Board shall promulgate rules providing for adequate notice to parties, scheduling of hearings, and the timing of deliberations and issuance of decision. (2001-398, s. 3; 2017-6, s. 3.)

**§ 163A-1179. Appeal of a protest decision by the county board to the State Board.**

(a) Notice and Perfection of Appeal. – The decision by the county board of elections on an election protest may be appealed to the State Board by any of the following:

- (1) The person who filed the protest.
- (2) A candidate or elected official adversely affected by the county board's decision.
- (3) Any other person who participated in the hearing and has a significant interest adversely affected by the county board's decision.

Written notice of the appeal must be given to the county board within 24 hours after the county board files the written decision at its office. The appeal to the State Board must be in writing. The appeal must be delivered or deposited in the mail, addressed to the State Board, by the appropriate one of the following: (i) the end of the second day after the day the decision was filed by the county board in its office, if the decision concerns a first primary; or (ii) the end of the fifth day after the day the decision was filed in the county board office, if the decision concerns an election other than a first primary.

The State Board shall prescribe forms for filing appeals from the county board.

(b) Consideration of Appeal by State Board. – In its consideration of an appeal from a decision of a county board of elections on a protest, the State Board may do any of the following:

- (1) Decide the appeal on the basis of the record from the county board, as long as the county board has made part of the record a transcript of the evidentiary hearing.
- (2) Request the county board or any interested person to supplement the record from the county board, and then decide the appeal on the basis of that supplemented record.
- (3) Receive additional evidence and then decide the appeal on the basis of the record and that additional evidence.



- (4) Hold its own hearing on the protest and resolve the protest on the basis of that hearing.
- (5) Remand the matter to the county board for further proceedings in compliance with an order of the State Board.

The State Board shall follow the procedures set forth in subsections (c) and (d) of G.S. 163A-1178 except where they are clearly inapplicable.

The State Board shall give notice of its decision as required by G.S. 163A-1183, and may notify the county board and other interested persons in its discretion. (2001-398, s. 3; 2017-6, s. 3.)

#### **§ 163A-1180. Authority of State Board over protests.**

The State Board may consider protests that were not filed in compliance with G.S. 163A-1177, may initiate and consider complaints on its own motion, may intervene and take jurisdiction over protests pending before a county board, and may take any other action necessary to assure that an election is determined without taint of fraud or corruption and without irregularities that may have changed the result of an election. Where a known group of voters cast votes that were lost beyond retrieval or where a known group of voters was given an incorrect ballot style, the State Board may authorize a county board of elections to allow those voters to recast their votes during a period of two weeks after the canvass by the State Board required in G.S. 163A-1172(c). If there is no State Board canvass after the election, the State Board may authorize the county board to allow the recasting of votes during the two weeks after the county canvass set in G.S. 163A-1172(a). If the State Board approves a recasting of votes under this section, any procedures the county board uses to contact those voters and allow them to recast their votes shall be subject to approval by the State Board. Those recast votes shall be added to the returns and included in the canvass. The recasting of those votes shall not be deemed a new election for purposes of G.S. 163A-1181. (2001-398, s. 3; 2005-428, s. 17; 2007-391, s. 12; 2008-187, s. 33(a); 2017-6, s. 3.)

#### **§ 163A-1181. New elections.**

(a) When State Board May Order New Election. – The State Board may order a new election, upon agreement of at least five of its members, in the case of any one or more of the following:

- (1) Ineligible voters sufficient in number to change the outcome of the election were allowed to vote in the election, and it is not possible from examination of the official ballots to determine how those ineligible voters voted and to correct the totals.
- (2) Eligible voters sufficient in number to change the outcome of the election were improperly prevented from voting.
- (3) Other irregularities affected a sufficient number of votes to change the outcome of the election.
- (4) Irregularities or improprieties occurred to such an extent that they taint the results of the entire election and cast doubt on its fairness.

(b) State Board to Set Procedures. – The State Board shall determine when a new election shall be held and shall set the schedule for publication of the notice, preparation of absentee official ballots, and the other actions necessary to conduct the election.

(c) Eligibility to vote in the new election shall be determined by the voter's eligibility at the time of the new election, except that in a primary, no person who voted in the initial primary

of one party shall vote in the new election in the primary of another party. The State Board shall adopt rules to effect the provisions of this subsection.

(d) Jurisdiction in Which New Election Held. – The new election shall be held in the entire jurisdiction in which the original election was held.

(e) Which Candidates to Be on Official Ballot. – All the candidates who were listed on the official ballot in the original election shall be listed in the same order on the official ballot for the new election, except in either of the following:

(1) If a candidate dies or otherwise becomes ineligible between the time of the original election and the new election, that candidate may be replaced in the same manner as if the vacancy occurred before the original election.

(2) If the election is for a multiseat office, and the irregularities could not have affected the election of one or more of the candidates, the new election, upon agreement of at least five members of the State Board, may be held among only those candidates whose election could have been affected by the irregularities.

(f) Tie Votes. – If ineligible voters voted in an election and it is possible to determine from the official ballots the way in which those votes were cast and to correct the results, and consequently the election ends in a tie, the provisions of G.S. 163A-1176 concerning tie votes shall apply. (2001-398, s. 3; 2003-278, s. 8(a); 2008-150, s. 2(a); 2016-125, 4th Ex. Sess., s. 5(j); 2017-6, ss. 2, 3, 7(j).)

#### **§ 163A-1182. Contested elections for Council of State offices.**

(a) Application of Procedures. – A contested election for any elective office established by Article III of the Constitution shall be determined by joint ballot of both houses of the General Assembly under Article VI, Section 5 of the Constitution in accordance with the provisions of this section. Except as provided by this section, the provisions of Article 3 of Chapter 120 shall apply to contested elections under this section and shall govern standing, notice of intent to contest, answers, service of process, evidence, the petition, procedures, grounds, and relief except as provided in this section. All filings shall be with the Principal Clerk of the House of Representatives.

(b) Notice of Intent. – Notice of the intent to contest the election under this section shall be filed with the Principal Clerk of the House of Representatives as if it were a contested election for the House of Representatives as prescribed in Article 3 of Chapter 120.

(c) Jurisdiction. – When a contest arises out of the general election, the General Assembly elected at the same time shall hear and decide it. Any other contest shall be heard by the General Assembly sitting at the time of the election.

(d) Committee. – A contest filed under this section shall initially be heard before a select committee consisting of five Senators appointed by the President Pro Tempore and five Representatives appointed by the Speaker of the House of Representatives. Not more than three members of the Senate appointed by the President Pro Tempore shall be members of the same political party. Not more than three members of the House of Representatives appointed by the Speaker shall be members of the same political party. That committee shall have the same power as a committee under Article 3 of Chapter 120 and may adopt supplemental rules as necessary to govern its proceedings. The committee shall report its findings as to the law and the facts and make recommendations to the General Assembly for its action.

(e) Final Determination. – The final determination on the recommendations of the committee shall be made by the General Assembly, both houses sitting in joint session in the Hall

of the House of Representatives, with the Speaker of the House of Representatives presiding. The vote shall be taken as provided by Article VI, Section 5 of the Constitution. In order to find for the contestant or contestee and order the contestant or contestee elected, the vote on the joint ballot must include the affirmative vote of a majority of the members of the General Assembly voting on the issue. The ballots shall be in writing and are subject to the provisions of G.S. 143-318.13(b).

(f) Basis for Decision. –

(1) If the contest is as to the eligibility or qualifications of the contestee, the General Assembly shall determine if the contestee is eligible and qualified. If it determines that the contestee is not eligible or not qualified, it shall order a new election.

(2) If the contest is as to the conduct or results of the election, the General Assembly shall determine which candidate received the highest number of votes. If it can determine which candidate received the highest number of votes, it shall declare that candidate to be elected. If it cannot determine which candidate received the highest number of votes, it may order a new election, or may order such other relief as may be necessary and proper. If it determines that two or more candidates shall be equal and highest in votes, the provisions of G.S. 147-4 shall apply.

(g) Final Determination. – A copy of the final determination of the General Assembly under this section shall be filed with the Secretary of State and with the State Board.

(h) Copies. – The Principal Clerk of the House of Representatives shall make copies of any filings and transmit them to the Principal Clerk for the Senate.

(i) Applicability. – This section applies only to a general or special election and does not apply to the primary or any other part of the nominating process.

(j) Judicial Proceedings Abated. – Notwithstanding any other provision of law, upon the initiation of a contest under this Part, any judicial proceedings involving either the contestant or the contestee encompassing the issues set forth in the notice of intent or an answer thereto concerning the election that is the subject of the contest shall abate. The clerk shall file a copy of the notice of intent and final determination with the court in any judicial proceeding pending prior to the filing of the notice of intent.

(k) General Assembly Determination Not Reviewable. – The decision of the General Assembly in determining the contest of the election pursuant to this section may not be reviewed by the General Court of Justice.

(l) Definition. – As used in this section, "contest" means a challenge to the apparent election for any elective office established by Article III of the Constitution or to request the decision of an undecided election to any elective office established by Article III of the Constitution, where the challenge or the request is filed in accordance with the timing and procedures of this section. (2005-3, s. 3(a); 2017-6, s. 3.)

### **§ 163A-1183. Appeal of a final decision to superior court; appeal to the General Assembly or a house thereof.**

(a) Final Decision. – A copy of the final decision of the State Board on an election protest shall be served on the parties personally or through delivery by U.S. mail or a designated delivery service authorized under 26 U.S.C. § 7502(f)(2) if that delivery provides a record of the date and time of delivery to the address provided by the party. A decision to order a new election is considered a final decision for purposes of seeking review of the decision.

(b) **Timing of Right of Appeal.** – Except in the case of a general or special election to either house of the General Assembly or to an office established by Article III of the Constitution, an aggrieved party has the right to appeal the final decision to the Superior Court of Wake County within 10 days of the date of service.

After the decision by the State Board has been served on the parties, the certification of nomination or election or the results of the referendum shall issue pursuant to G.S. 163A-1184 unless an appealing party obtains a stay of the certification from the Superior Court of Wake County within 10 days after the date of service. The court shall not issue a stay of certification unless the petitioner shows the court that the petitioner has appealed the decision of the State Board, that the petitioner is an aggrieved party, and that the petitioner is likely to prevail in the appeal.

If service is by mail or a designated delivery service, the additional time after service provided in Rule 6(e) of the North Carolina Rules of Civil Procedure shall apply to both the time for appeal and the time to obtain a stay under this subsection.

(c) **Contests for General Assembly and Executive Branch Offices.** – In the case of a general or special election to either house of the General Assembly or to an office established by Article III of the Constitution, an unsuccessful candidate has the right to appeal the final decision to the General Assembly in accordance with Article 3 of Chapter 120 and G.S. 163A-1182, as appropriate.

After the decision by the State Board has been served on the parties, the certification of nomination or election shall issue pursuant to G.S. 163A-1184 unless a contest of the election is initiated pursuant to Article 3 of Chapter 120 or G.S. 163A-1182, as appropriate.

(d) Attorney's fees shall not be awarded against the State Board in any election protest brought under this Part. (2001-398, s. 3; 2003-278, s. 8(b); 2005-3, s. 4; 2008-150, s. 4(a); 2009-541, s. 27; 2017-6, s. 3.)

**§ 163A-1184. Certificate of nomination or election, or certificate of the results of a referendum.**

(a) **Issued by County Board of Elections.** – In ballot items within the jurisdiction of the county board of elections, the county board shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the county board six days after the completion of the canvass pursuant to G.S. 163A-1172, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

- (1) The certificate shall be issued five days after the protest is dismissed or denied by the county board of elections, unless that decision has been appealed to the State Board.
- (2) The certificate shall be issued on the tenth day after the final decision of the State Board, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163A-1183.
- (3) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has stayed the certification, the certificate shall be issued five days after the entry of a final order in the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.

- (4) No certificate of election need be issued for any member of the General Assembly following a contest of the election pursuant to Article 3 of Chapter 120.

(b) Issued by State Board. – In ballot items within the jurisdiction of the State Board, the State Board shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the State Board six days after the completion of the canvass pursuant to G.S. 163A-1172, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

- (1) The certificate shall be issued 10 days after the final decision of the State Board on the election protest, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163A-1183.
- (2) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has stayed the certification, the certificate shall be issued five days after the entry of a final order in the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.
- (3) The certificate shall be issued immediately upon the filing of a copy of the determination of the General Assembly with the State Board in contested elections involving any elective office established by Article III of the Constitution.
- (4) No certificate of election need be issued for any member of the General Assembly following a contest of the election pursuant to Article 3 of Chapter 120.

(c) Copy to Secretary of State. – The State Board shall provide to the Secretary of State a copy of each certificate of nomination or election, or certificate of the results of a referendum, issued by it. The Secretary shall keep the certificates in a form readily accessible and useful to the public.

(d) Determining Results. – In a primary for party nomination, the results shall be determined in accordance with G.S. 163A-984. In a general election, the individuals having the highest number of votes for each office shall be declared elected to the office, and the certificate shall be issued accordingly. In a referendum, the ballot proposal receiving the highest number of votes shall be declared to have prevailed, and the certificate shall be issued accordingly. (2001-398, s. 3; 2003-278, s. 10(k); 2005-3, s. 5; 2005-428, s. 13; 2007-391, s. 11; 2007-484, s. 22; 2008-187, s. 33(a); 2017-6, s. 3.)

#### **§ 163A-1185. Governor to issue commissions for certain offices.**

The Secretary of State shall send a notice to the Governor that a certificate of election has been issued for any of the following offices, and upon receiving the notice, the Governor shall provide to each such elected official a commission attesting to that person's election or retention:

- (1) Members of the United States House of Representatives.
- (2) Justices, judges, and district attorneys of the General Court of Justice. (2001-398, s. 3; 2015-66, s. 5; 2017-6, s. 3.)

#### **§ 163A-1186. Summary of officials' duties under this Part.**

(a) This Section a Summary. – The provisions of this section provide a nonexclusive summary of the duties given to officials under this Part. The legal duty is contained, not in this section, but in the other sections of this Part.

(b) Duties of the Precinct Officials. – Precinct officials, in accordance with rules of the State Board and under the supervision of the county board of elections, shall perform all of the following:

- (1) Count votes when votes are required to be counted at the voting place. G.S. 163A-1169.
- (2) Make an unofficial report of returns to the county board of elections. G.S. 163A-1169.
- (3) Certify the integrity of the vote and the security of the official ballots at the voting place. G.S. 163A-1169.
- (4) Return official ballots and equipment to the county board of elections. G.S. 163A-1169.

(c) Duties of the County Board of Elections. – The county board of elections, in accordance with rules of the State Board, shall perform all of the following:

- (1) Count absentee and provisional official ballots and other official ballots required to be initially counted by the county board of elections. G.S. 163A-1169.
- (2) Canvass results in all ballot items on the official ballot in the county. G.S. 163A-1172.
- (3) Order a recount in any ballot item on the official ballot in the county, where necessary to complete the canvass, and where not prohibited from doing so. G.S. 163A-1174.
- (4) Conduct any recount that has been ordered by the county board of elections or the State Board or that has been properly demanded in accordance with G.S. 163A-1174(b).
- (5) Conduct hearings in election protests as provided in G.S. 163A-1178.
- (6) Prepare abstracts of returns in all the ballot items in the county. G.S. 163A-1173.
- (7) Retain one original abstract and distribute the other two originals as follows:
  - a. One to the clerk of superior court in the county.
  - b. One to the State Board. G.S. 163A-1173.
- (8) Issue a certificate of nomination or election or a certificate of the results of a referendum in each ballot item within the jurisdiction of the county board of elections. Provide a copy of the certificate to the clerk of court. G.S. 163A-1184.

(d) Duties of the State Board. – The State Board shall perform all the following:

- (1) Promulgate rules as directed in this Part. G.S. 163A-1166, 163A-1169, 163A-1174, 163A-1178, and 163A-1181.
- (2) Provide supervisory direction to the county boards of elections as provided in this Part. G.S. 163A-1166 and G.S. 163A-1169.
- (3) Canvass the results in ballot items within the jurisdiction of the State Board. G.S. 163A-1172.
- (4) Order and supervise a recount in any ballot item within the jurisdiction of the State Board, where necessary to complete the canvass. G.S. 163A-1174.

- (5) Hear and decide appeals from decisions of county boards of elections in election protests. G.S. 163A-1179.
- (6) Order new elections in accordance with G.S. 163A-1184.
- (7) Prepare, in duplicate originals, composite abstracts of ballot items within the jurisdiction of the State Board. G.S. 163A-1173.
- (8) Retain one original of the composite abstract and deliver to the Secretary of State the other original composite abstract of the results of ballot items within the jurisdiction of the State Board. G.S. 163A-1173.
- (9) Certify the results of any election within the jurisdiction of the State Board and provide a copy to the Secretary of State. G.S. 163A-1184.

(e) Duties of the Secretary of State. – The Secretary of State shall retain and compile in a useful form all the abstracts and returns provided by the county boards of elections and the State Board. G.S. 163A-1173.

(f) Duty of the Governor. – The Governor shall issue a commission to any person elected to an office listed in G.S. 163A-1185 upon notification from the Secretary of State that a certificate of election has been issued to the person. G.S. 163A-1185. (2001-398, s. 3; 2017-6, s. 3.)

§ **163A-1187**: Reserved for future codification purposes.

§ **163A-1188**: Reserved for future codification purposes.

§ **163A-1189**: Reserved for future codification purposes.

§ **163A-1190**: Reserved for future codification purposes.

§ **163A-1191**: Reserved for future codification purposes.

§ **163A-1192**: Reserved for future codification purposes.

§ **163A-1193**: Reserved for future codification purposes.

§ **163A-1194**: Reserved for future codification purposes.

§ **163A-1195**: Reserved for future codification purposes.

§ **163A-1196**: Reserved for future codification purposes.

§ **163A-1197**: Reserved for future codification purposes.

§ **163A-1198**: Reserved for future codification purposes.

§ **163A-1199**: Reserved for future codification purposes.

§ **163A-1200**: Reserved for future codification purposes.

§ **163A-1201**: Reserved for future codification purposes.

§ 163A-1202: Reserved for future codification purposes.

§ 163A-1203: Reserved for future codification purposes.

§ 163A-1204: Reserved for future codification purposes.

Part 5. Members of United States House of Representatives

§ 163A-1205. (See editor's note) Congressional districts specified.

(a) For purposes of nominating and electing members of the House of Representatives of the Congress of the United States in 2016 and every two years thereafter; the State of North Carolina shall be divided into 13 districts as follows:

**District 01:** Bertie County, Durham County: VTD 01, VTD 02, VTD 03, VTD 04, VTD 05, VTD 06, VTD 07, VTD 08, VTD 09, VTD 10, VTD 12, VTD 13, VTD 14, VTD 15, VTD 16, VTD 17, VTD 18, VTD 19, VTD 20, VTD 21, VTD 22, VTD 23, VTD 24, VTD 25, VTD 26, VTD 27, VTD 28, VTD 29, VTD 30-1, VTD 30-2, VTD 31, VTD 32, VTD 34, VTD 36, VTD 37, VTD 38, VTD 39, VTD 40, VTD 41, VTD 42, VTD 43, VTD 44, VTD 45, VTD 46, VTD 47, VTD 48, VTD 50, VTD 51, VTD 52, VTD 54, VTD 55; Edgecombe County, Gates County, Granville County, Halifax County, Hertford County, Martin County, Northampton County, Pitt County: VTD 0301, VTD 0401, VTD 0501, VTD 1201, VTD 1501, VTD 1503, VTD 1504, VTD 1505A, VTD 1505B, VTD 1506, VTD 1507, VTD 1507B, VTD 1508A, VTD 1508B, VTD 1509: Block(s) 1470003021000, 1470003021001, 1470003021002, 1470003021003, 1470003021004, 1470003021005, 1470003021006, 1470003021007, 1470003021008, 1470003021009, 1470003021010, 1470003021011, 1470003021012, 1470003021013, 1470003021014, 1470003021015, 1470003021016, 1470003022000, 1470003022001, 1470003022002, 1470003022003, 1470003022004, 1470003022005, 1470003022006, 1470003022007, 1470003022008, 1470003022009, 1470003022010, 1470003022011, 1470003022012, 1470003022013, 1470003022014, 1470003022015, 1470003022016, 1470003022021, 1470003023000, 1470003023001, 1470003023002, 1470003023003, 1470003023004, 1470003023005, 1470003023006, 1470003023007, 1470003023008, 1470003023009, 1470003023010, 1470003023013, 1470003023014, 1470003023025, 1470003023026, 1470004003005, 1470004003015, 1470004004003, 1470004004004, 1470009002028, 1470009002029, 1470009002030, 1470009002043, 1470009002059, 1470009002060, 1470009002061, 1470009002062, 1470009002063, 1470009002064, 1470009002065, 1470009002066, 1470009002067, 1470009002068, 1470009002069, 1470009002070, 1470009002071, 1470009002072, 1470009002074, 1470009002075, 1470009002102, 1470009002103, 1470009002104, 1470009002105, 1470009002106, 1470010011033, 1470010011034, 1470010011035, 1470010011036, 1470010011037, 1470010011038, 1470010011039, 1470010011040, 1470010011041, 1470010011042, 1470010011043, 1470010011044, 1470010011045, 1470010011046, 1470010011047, 1470010011048, 1470010011049, 1470010011050; VTD 1512A, VTD 1512B; Vance County, Warren County, Washington County, Wilson County: VTD PRGA, VTD PRSA, VTD PRST, VTD PRTA: Block(s) 1950014001025, 1950014001033, 1950014001042, 1950014001043, 1950014001045, 1950014001046, 1950014001047, 1950014001048, 1950014001051, 1950014001054, 1950014001055, 1950014001056, 1950014001057, 1950014001059; VTD PRTO, VTD PRWA, VTD PRWB, VTD PRWC, VTD PRWD, VTD PRWE, VTD PRWH,



VTD PRWI, VTD PRWJ, VTD PRWK, VTD PRWL, VTD PRWM, VTD PRWN, VTD PRWP, VTD PRWQ, VTD PRWR.

**District 02:** Franklin County, Harnett County, Johnston County: VTD PR05, VTD PR09, VTD PR10, VTD PR11A, VTD PR11B, VTD PR12, VTD PR19, VTD PR20, VTD PR21, VTD PR24, VTD PR25, VTD PR26: Block(s) 1010406001016, 1010408001000, 1010408001001, 1010408001002, 1010408001017, 1010408001018; VTD PR27, VTD PR28, VTD PR29A, VTD PR29B, VTD PR30, VTD PR31A, VTD PR31B, VTD PR32, VTD PR34; Nash County, Wake County: VTD 01-42, VTD 01-47, VTD 02-01, VTD 02-02, VTD 02-03, VTD 02-04, VTD 02-05, VTD 02-06, VTD 03-00, VTD 04-07, VTD 06-01, VTD 06-04, VTD 06-05, VTD 06-06, VTD 06-07, VTD 08-04, VTD 08-07, VTD 08-08, VTD 09-01, VTD 09-02, VTD 09-03, VTD 10-01, VTD 10-02, VTD 10-03, VTD 10-04, VTD 12-01, VTD 12-02, VTD 12-04, VTD 12-05, VTD 12-06, VTD 12-07, VTD 12-08, VTD 12-09, VTD 13-10, VTD 13-11, VTD 14-01, VTD 14-02, VTD 15-01, VTD 15-02, VTD 15-03, VTD 15-04, VTD 16-01, VTD 16-05: Block(s) 1830528021000, 1830528021001, 1830528021002, 1830528021003, 1830528021004, 1830528021005, 1830528021006, 1830528021007, 1830528021008, 1830528021009, 1830528021010, 1830528021011, 1830528021012, 1830528021013, 1830528021014, 1830528021015, 1830528021016, 1830528021017, 1830528021018, 1830528021019, 1830528021021, 1830528021022, 1830528021023, 1830528021024, 1830528021025, 1830528021026, 1830528021027, 1830528021028, 1830528021029, 1830528021030, 1830528021032, 1830528023006, 1830528023007, 1830528023008, 1830528023009, 1830528023010, 1830528023011, 1830528023012, 1830528023014, 1830528023015, 1830528023016, 1830528023017, 1830528023018, 1830528023019, 1830528023020, 1830528023021, 1830528024008, 1830528024010, 1830528024012, 1830528024014, 1830528024017, 1830528024018, 1830528024019, 1830528024021, 1830530093000, 1830530093001, 1830530093002, 1830530093003, 1830530093004, 1830530093005, 1830530093006, 1830530093007, 1830530093008, 1830530093009, 1830530093010, 1830530093011, 1830530093012, 1830530093013, 1830530093014, 1830530093015, 1830530093016, 1830530093017, 1830530093018, 1830530093019, 1830530093020, 1830530093021, 1830545002052, 1830545002069, 1830545002071, 1830545002078, 1830545002079; VTD 16-09, VTD 17-06, VTD 18-02, VTD 18-03, VTD 18-04, VTD 18-05, VTD 18-07, VTD 19-03, VTD 19-04, VTD 19-05, VTD 19-06, VTD 19-07, VTD 19-09, VTD 19-10, VTD 19-11, VTD 19-12, VTD 20-05, VTD 20-06, VTD 20-08, VTD 20-11, VTD 20-12; Wilson County: VTD PRBL, VTD PRCR, VTD PROL, VTD PRSP, VTD PRTA: Block(s) 1950014001000, 1950014001001, 1950014001002, 1950014001003, 1950014001004, 1950014001005, 1950014001006, 1950014001007, 1950014001008, 1950014001009, 1950014001010, 1950014001011, 1950014001012, 1950014001013, 1950014001014, 1950014001015, 1950014001016, 1950014001017, 1950014001018, 1950014001019, 1950014001020, 1950014001021, 1950014001022, 1950014001023, 1950014001024, 1950014001026, 1950014001027, 1950014001028, 1950014001029, 1950014001030, 1950014001031, 1950014001032, 1950014001034, 1950014001035, 1950014001036, 1950014001037, 1950014001038, 1950014001039, 1950014001040, 1950014001041, 1950014001044, 1950014001049, 1950014001050, 1950014001052, 1950014001053, 1950014001058, 1950014001060, 1950014001061, 1950014002000, 1950014002001, 1950014002002, 1950014002003, 1950014002004, 1950014002005, 1950014002006, 1950014002007, 1950014002008, 1950014002009, 1950014002010, 1950014002011, 1950014002012, 1950014002013, 1950014002014, 1950014002015,

1950014002016, 1950014002017, 1950014002018, 1950014002019, 1950014002020,  
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1950014002076, 1950015002000, 1950015002001, 1950015002002, 1950015002013,  
1950015002014, 1950015002015, 1950015002017, 1950015002019.

**District 03:** Beaufort County, Camden County, Carteret County, Chowan County, Craven County, Currituck County, Dare County, Greene County, Hyde County, Jones County, Lenoir County, Onslow County, Pamlico County, Pasquotank County, Perquimans County, Pitt County: VTD 0101, VTD 0200A, VTD 0200B, VTD 0601, VTD 0701, VTD 0800A, VTD 0800B, VTD 0901, VTD 1001, VTD 1101, VTD 1102A, VTD 1102B, VTD 1301, VTD 1402A, VTD 1402B, VTD 1403A, VTD 1403B, VTD 1509: Block(s) 1470001005024, 1470002021024, 1470002021025, 1470002021026, 1470003022017, 1470003022018, 1470003022019, 1470003022020, 1470004003010, 1470004003011, 1470004003012, 1470004003013, 1470004003014, 1470004003016, 1470004003017, 1470004003018, 1470004003019, 1470004003020, 1470004003021, 1470004003022, 1470004003023, 1470004003024, 1470004003025, 1470004003026, 1470004003027, 1470004003028, 1470004003029, 1470004003030, 1470004003031, 1470004004005; VTD 1510A, VTD 1510B, VTD 1511A, VTD 1511B; Tyrrell County.

**District 04:** Durham County: VTD 33, VTD 35, VTD 53-1, VTD 53-2; Orange County, Wake County: VTD 01-01, VTD 01-02, VTD 01-03, VTD 01-04, VTD 01-05, VTD 01-06, VTD 01-07, VTD 01-09, VTD 01-10, VTD 01-11, VTD 01-12, VTD 01-13, VTD 01-14, VTD 01-15, VTD 01-16, VTD 01-17, VTD 01-18, VTD 01-19, VTD 01-20, VTD 01-21, VTD 01-22, VTD 01-23, VTD 01-25, VTD 01-26, VTD 01-27, VTD 01-28, VTD 01-29, VTD 01-30, VTD 01-31, VTD 01-32, VTD 01-33, VTD 01-34, VTD 01-35, VTD 01-36, VTD 01-37, VTD 01-38, VTD 01-39, VTD 01-40, VTD 01-41, VTD 01-43, VTD 01-44, VTD 01-45, VTD 01-46, VTD 01-48, VTD 01-49, VTD 01-50, VTD 01-51, VTD 04-01, VTD 04-02, VTD 04-03, VTD 04-04, VTD 04-05, VTD 04-06, VTD 04-08, VTD 04-09, VTD 04-10, VTD 04-11, VTD 04-12, VTD 04-13, VTD 04-14, VTD 04-15, VTD 04-16, VTD 04-17, VTD 04-18, VTD 04-19, VTD 04-20, VTD 04-21, VTD 05-01, VTD 05-03, VTD 05-04, VTD 05-05, VTD 05-06, VTD 07-01, VTD 07-02, VTD 07-03, VTD 07-04, VTD 07-05, VTD 07-06, VTD 07-07, VTD 07-09, VTD 07-10, VTD 07-11, VTD 07-12, VTD 07-13, VTD 08-02, VTD 08-03, VTD 08-05, VTD 08-06, VTD 08-09, VTD 08-10, VTD 08-11, VTD 11-01, VTD 11-02, VTD 13-01, VTD 13-02, VTD 13-05, VTD 13-06, VTD 13-07, VTD 13-08, VTD 13-09, VTD 16-02, VTD 16-03, VTD 16-04, VTD 16-05: Block(s) 1830528021031, 1830528023013, 1830528023025, 1830528023026, 1830528024007, 1830528024009, 1830528024011, 1830528024013, 1830528024015, 1830528024016; VTD 16-06, VTD 16-07, VTD 16-08, VTD 17-01, VTD 17-02, VTD 17-03, VTD 17-04, VTD 17-05, VTD 17-07, VTD 17-08, VTD 17-09, VTD 17-10, VTD 17-11, VTD

18-01, VTD 18-06, VTD 18-08, VTD 19-16, VTD 19-17, VTD 20-01, VTD 20-02, VTD 20-03, VTD 20-04, VTD 20-09, VTD 20-10.

**District 05:** Alexander County, Alleghany County, Ashe County, Avery County, Catawba County: VTD 29: Block(s) 0350103011000, 0350103011003, 0350103011004, 0350103011005, 0350103011006, 0350103011007, 0350103011008, 0350103011009, 0350103011010, 0350103011011, 0350103011012, 0350103011013, 0350103011014, 0350103011015, 0350103011016, 0350103011017, 0350103011018, 0350103011019, 0350103011020, 0350103011021, 0350103011022, 0350103011023, 0350103011024, 0350103011025, 0350103011026, 0350103011027, 0350103011028, 0350103011029, 0350103011030, 0350103011031, 0350103011032, 0350103011033, 0350103011034, 0350103011035, 0350103011036, 0350103011037, 0350103011038, 0350103012000, 0350103012001, 0350103012002, 0350103012003, 0350103012004, 0350103012005, 0350103012006, 0350103012007, 0350103012008, 0350103012009, 0350103012010, 0350103012011, 0350103012012, 0350103012013, 0350103012014, 0350103012015, 0350103012016, 0350103012017, 0350103012018, 0350103012019, 0350103012020, 0350103012021, 0350103012022, 0350103012023, 0350103012024, 0350103012025, 0350103012026, 0350103012027, 0350103012028, 0350103012029, 0350103012030, 0350103012031, 0350103012032, 0350103012033, 0350103012034, 0350103012035, 0350103012036, 0350103012037, 0350103012038, 0350103012039, 0350103012040, 0350103012041, 0350103012042, 0350103012043, 0350103021000, 0350103021001, 0350103021004, 0350103021005, 0350103021006, 0350103021018, 0350103021019, 0350103021020, 0350103021021, 0350103023000, 0350103023001, 0350103023002, 0350103023004, 0350103023005, 0350103023006, 0350103023010, 0350103023011, 0350103023012, 0350103023015, 0350103023016, 0350103023017, 0350103023018, 0350103023022, 0350103032001, 0350103032002, 0350103032003, 0350103032004, 0350103032006, 0350103032014; VTD 38, VTD 39; Forsyth County, Stokes County, Surry County, Watauga County, Wilkes County, Yadkin County.

**District 06:** Alamance County, Caswell County, Chatham County, Guilford County: VTD CG1, VTD CG2, VTD CG3A, VTD CG3B, VTD G02, VTD G03, VTD G04, VTD G05, VTD G06, VTD G07, VTD G08, VTD G09, VTD G10, VTD G24, VTD G25, VTD G26, VTD G27, VTD G28, VTD G29, VTD G40A2, VTD G68, VTD G71: Block(s) 0810110001038, 0810110001039, 0810110001053, 0810110001054, 0810110001058, 0810111011003, 0810111011004, 0810111011005, 0810111011006, 0810111011007, 0810111011008, 0810111011009, 0810111011010, 0810111011011, 0810111011013, 0810111011014, 0810111011015, 0810111011016, 0810111011017, 0810111011018, 0810111011019, 0810111011020, 0810111011021, 0810111011022, 0810111011023, 0810111011024, 0810111012000, 0810111012001, 0810111012002, 0810111012003, 0810111012004, 0810111012005, 0810111012006, 0810111012007, 0810111012008, 0810111012009, 0810111012010, 0810111012011, 0810111012012, 0810111012013, 0810111012014, 0810111012015, 0810111012016, 0810111012017, 0810111012018, 0810111012019, 0810111012020, 0810111012021, 0810111012022, 0810111012023, 0810111012024, 0810111012025, 0810111012026, 0810111012027, 0810111012028, 0810111012029, 0810111012030, 0810111012031, 0810111012032, 0810111012033, 0810111012034, 0810111012035, 0810111012036, 0810111012037, 0810111012039, 0810111012040, 0810111012041, 0810127072022, 0810128032015, 0810128032016, 0810128032017, 0810128032018, 0810128032019; VTD G72, VTD GIB, VTD GR, VTD JEF1, VTD JEF2,

VTD JEF3, VTD JEF4, VTD MON1, VTD MON2, VTD MON3, VTD NCGR1, VTD NCGR2, VTD NCLAY2, VTD NMAD, VTD NWASH, VTD OR1, VTD OR2, VTD RC1, VTD RC2, VTD SCLAY, VTD SF1, VTD SF2, VTD SF3, VTD SF4, VTD SMAD, VTD STOK, VTD SWASH; Lee County, Person County, Randolph County, Rockingham County.

**District 07:** Bladen County: VTD P25: Block(s) 0179506004038, 0179506004039, 0179506005007, 0179506005008, 0179506005009, 0179506005010, 0179506005011, 0179506005012, 0179506005013, 0179506005014, 0179506005015, 0179506005016, 0179506005017, 0179506005018, 0179506005022, 0179506005038, 0179506005039, 0179506005040, 0179506005041, 0179506005043, 0179506005044, 0179506005045, 0179506005046, 0179506005048, 0179506005049, 0179506005050, 0179506005051, 0179506005052, 0179506005054, 0179506005055, 0179506005056, 0179506005057, 0179506005058, 0179506005059, 0179506005060, 0179506005061, 0179506005062, 0179506005063, 0179506006000, 0179506006001, 0179506006002, 0179506006003, 0179506006004, 0179506006005, 0179506006006, 0179506006007, 0179506006010, 0179506007012; VTD P30, VTD P502, VTD P55, VTD P65, VTD P75; Brunswick County, Columbus County, Duplin County, Johnston County: VTD PR01, VTD PR02, VTD PR03, VTD PR04, VTD PR06, VTD PR07, VTD PR08, VTD PR13, VTD PR14, VTD PR15, VTD PR16, VTD PR17, VTD PR18, VTD PR22, VTD PR23, VTD PR26: Block(s) 1010406001000, 1010406001001, 1010406001002, 1010406001003, 1010406001004, 1010406001005, 1010406001006, 1010406001007, 1010406001008, 1010406001009, 1010406001010, 1010406001011, 1010406001012, 1010406001013, 1010406001014, 1010406001015, 1010406001017, 1010406001018, 1010406001019, 1010406001020, 1010406001021, 1010406001022, 1010406001023, 1010406001024, 1010406001025, 1010406001026, 1010406001027, 1010406001028, 1010406001029, 1010406001030, 1010406001031, 1010406001032, 1010406001033, 1010406001034, 1010406002001, 1010406002002, 1010406002003, 1010406002004, 1010406002005, 1010406002006, 1010406002007, 1010406002008, 1010406002009, 1010406002010, 1010406002011, 1010406002012, 1010406002013, 1010406002014, 1010406002015, 1010406002016, 1010406002017, 1010406002018, 1010406002019, 1010406002020, 1010406002021, 1010406002022, 1010406002023, 1010406002025, 1010406002026, 1010406002027, 1010406002028, 1010406002029, 1010406002030, 1010406002031, 1010406002032, 1010406002037, 1010406002038, 1010406002039, 1010406003000, 1010406003001, 1010406003002, 1010406003003, 1010406003004, 1010406003005, 1010406003006, 1010406003007, 1010406003008, 1010406003009, 1010406003010, 1010406003011, 1010406003012, 1010406003013, 1010406003014, 1010406003015, 1010406003016, 1010406003017, 1010406003018, 1010406003019, 1010406003020, 1010406003021, 1010406003022, 1010406003032, 1010406003033, 1010406003034, 1010406003035, 1010407002018, 1010407002019, 1010407002020, 1010407002021, 1010407002022, 1010407002023, 1010407002024, 1010407002025, 1010407002026, 1010407002027, 1010407002028, 1010407002029, 1010407002030, 1010407002031, 1010407002035, 1010407002036, 1010407002037, 1010407002038, 1010407002039, 1010407002040, 1010407002041, 1010407002042, 1010407002043, 1010407002044, 1010407002045, 1010407002046, 1010407002047, 1010407002054, 1010407002055, 1010407003029, 1010407003030, 1010407003031, 1010407003032, 1010407003033, 1010407003034, 1010407003035, 1010407003036, 1010407003041, 1010407003042, 1010408001003, 1010408001004, 1010408001008, 1010408001009, 1010408001010, 1010408001011, 1010408001012,

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1010408001043, 1010408001044, 1010408001046, 1010412022000, 1010412022001,  
1010412022002, 1010412022003, 1010412022004, 1010412022030, 1010412022058,  
1010412022059, 1010412022060, 1010412022065; VTD PR33; New Hanover County, Pender  
County, Sampson County, Wayne County.

**District 08:** Cabarrus County, Cumberland County: VTD AH49, VTD CC03, VTD CC04, VTD  
CC06, VTD CC07, VTD CC08: Block(s) 0510007021000, 0510007021001, 0510007021002,  
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0510007021021, 0510007022002, 0510007022003, 0510007022004, 0510007022005,  
0510008003003, 0510008003014, 0510008003015, 0510008003020, 0510008003021,  
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VTD CC14, VTD CC15, VTD CC17, VTD CC18, VTD CC19, VTD CC21, VTD CC24, VTD  
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G8, VTD LI65, VTD LR63, VTD MB62, VTD MR02; Hoke County, Montgomery County,  
Moore County, Rowan County: VTD 01, VTD 02, VTD 03, VTD 04, VTD 05, VTD 06, VTD  
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**District 09:** Anson County, Bladen County: VTD P10, VTD P15, VTD P201, VTD P202, VTD P25: Block(s) 0179506005064, 0179506005065, 0179506006008, 0179506006009, 0179506006011, 0179506006012, 0179506006013, 0179506006014, 0179506006015, 0179506006016, 0179506006017, 0179506006018, 0179506006019, 0179506006020, 0179506006021, 0179506006022, 0179506006023, 0179506006024, 0179506006025, 0179506006026, 0179506006027, 0179506006028, 0179506006029, 0179506006030, 0179506006031, 0179506006032, 0179506006033, 0179506006034, 0179506006035, 0179506006036, 0179506006037, 0179506006038, 0179506006039, 0179506006040, 0179506006041, 0179506006042, 0179506006043, 0179506006044, 0179506006045, 0179506006046, 0179506006047, 0179506006048, 0179506006049, 0179506006050, 0179506006051, 0179506006052, 0179506006053, 0179506006054, 0179506006055, 0179506006056, 0179506006057, 0179506006058, 0179506006059, 0179506006060, 0179506006061, 0179506006062, 0179506006063, 0179506006064, 0179506006065, 0179506006066, 0179506006067, 0179506007000, 0179506007003, 0179506007004, 0179506007011, 0179506007029, 0179506007030, 0179506007060, 0179506007061, 0179506007062, 0179506007063, 0179506007064, 0179506007065, 0179506007066, 0179506007067, 0179506007068, 0179506007069, 0179506007070, 0179506007071, 0179506007072, 0179506007073, 0179506007074, 0179506007075, 0179506007076, 0179506007077, 0179506007078, 0179506007082, 0179506007083, 0179506007084, 0179506007085, 0179506007086, 0179506007087, 0179506007088, 0179506007089; VTD P35, VTD P40, VTD P45, VTD P501, VTD P60, VTD P70, VTD P80; Cumberland County: VTD AL51, VTD CC01, VTD CC05, VTD CC08: Block(s) 0510007021019, 0510007021022, 0510007021023, 0510007021024, 0510007021025, 0510007022000, 0510007022001, 0510007022009, 0510007022012, 0510008003029, 0510008003037; VTD CC16, VTD EO61-1, VTD EO61-2, VTD G1, VTD G3, VTD G6, VTD G9, VTD SH77; Mecklenburg County: VTD 001, VTD 002: Block(s) 1190026001002, 1190026001003, 1190026001004, 1190026001005, 1190026001011, 1190026001012, 1190026001013, 1190026001014, 1190026001015, 1190026001016, 1190026001017, 1190026001018, 1190026001019, 1190026001020; VTD 008, VTD 018, VTD 019, VTD 032, VTD 048, VTD 057, VTD 069, VTD 070, VTD 071, VTD 072, VTD 073, VTD 074, VTD 075, VTD 076, VTD 086, VTD 090, VTD 091, VTD 092, VTD 093, VTD 096, VTD 100, VTD 101, VTD 103, VTD 110, VTD 111, VTD 112, VTD 113, VTD 114, VTD 118, VTD 119, VTD 121, VTD 131, VTD 136, VTD 137, VTD 139.1, VTD 144, VTD 215, VTD 216, VTD 217, VTD 218, VTD 219, VTD 220, VTD 221, VTD 226, VTD 227, VTD 232, VTD 233, VTD 236; Richmond County, Robeson County, Scotland County, Union County.

**District 10:** Buncombe County: VTD 01.1, VTD 02.1, VTD 03.1, VTD 06.1, VTD 07.1, VTD 09.1, VTD 10.1, VTD 100.1, VTD 102.1, VTD 103.1, VTD 104.1, VTD 11.1, VTD 12.1, VTD 14.2: Block(s) 0210002001019, 0210002001020, 0210002001035, 0210003001031, 0210003001032, 0210009002023, 0210010001000, 0210010001001, 0210010001002, 0210010001003, 0210010001004, 0210010001005, 0210010001006, 0210010001008, 0210010001009, 0210010001042, 0210011001000, 0210011001001, 0210011001002,

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 64.1, VTD 65.1, VTD 66.1; Catawba County: VTD 01, VTD 02, VTD 03, VTD 04, VTD 05,  
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0970612054090, 0970612054091; Lincoln County, Polk County, Rutherford County.

**District 11:** Buncombe County: VTD 04.1, VTD 05.1, VTD 101.1, VTD 105.1, VTD 106.1, VTD 107.1, VTD 13.1, VTD 14.2; Block(s) 0210011001023, 0210011001030, 0210011001036; VTD 15.1, VTD 24.1, VTD 26.1, VTD 30.1, VTD 31.1, VTD 41.1, VTD 44.1, VTD 45.1, VTD 46.1, VTD 47.1, VTD 48.1, VTD 49.1, VTD 50.1, VTD 52.1, VTD 53.1, VTD 58.1, VTD 59.1, VTD 63.1, VTD 67.1, VTD 68.1, VTD 69.1, VTD 70.1, VTD 71.1; Burke County, Caldwell County, Cherokee County, Clay County, Graham County, Haywood County, Henderson County, Jackson County, Macon County, Madison County, McDowell County, Mitchell County, Swain County, Transylvania County, Yancey County.

**District 12:** Mecklenburg County: VTD 002: Block(s) 1190024001000, 1190024001001, 1190024001002, 1190024001003, 1190024001004, 1190024001005, 1190024001006, 1190024001007, 1190024001009, 1190024001010, 1190024001011, 1190024001012, 1190024001013, 1190024001014, 1190024001015, 1190024001016, 1190024001017, 1190024001018, 1190024001019, 1190024002000, 1190024002001, 1190024002002, 1190024002003, 1190024002004, 1190024002005, 1190024002006, 1190024002007, 1190024002008, 1190024002009, 1190024002010, 1190024002011, 1190024002012, 1190024003000, 1190024003001, 1190024003002, 1190024003003, 1190024003004, 1190024003007, 1190024003008, 1190024003018, 1190025001013, 1190025001014, 1190025001015, 1190025001016, 1190025001017, 1190025001018, 1190025001019, 1190025001020, 1190025002027, 1190025002029, 1190025002030, 1190025002031, 1190025002032, 1190025002041, 1190025002042, 1190025002043, 1190026001000, 1190026001001, 1190026001006, 1190026001007, 1190026001008, 1190026001009, 1190026001010, 1190026001021, 1190026001022, 1190026001023, 1190026001024,



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**District 13:** Davidson County, Davie County, Guilford County: VTD FEN1, VTD FEN2, VTD FR1, VTD FR2, VTD FR3, VTD FR4, VTD FR5, VTD G01, VTD G11, VTD G12, VTD G13, VTD G14, VTD G15, VTD G16, VTD G17, VTD G18, VTD G19, VTD G20, VTD G21, VTD G22, VTD G23, VTD G30, VTD G31, VTD G32, VTD G33, VTD G34, VTD G35, VTD G36, VTD G37, VTD G38, VTD G39, VTD G40A1, VTD G40B, VTD G41, VTD G42, VTD G43, VTD G44, VTD G45, VTD G46, VTD G47, VTD G48, VTD G49, VTD G50, VTD G51, VTD G52, VTD G53, VTD G54, VTD G55, VTD G56, VTD G57, VTD G58, VTD G59, VTD G60, VTD G61, VTD G62, VTD G63, VTD G64, VTD G65, VTD G66, VTD G67, VTD G69, VTD G70, VTD G71: Block(s) 0810111012038; VTD G73, VTD G74, VTD G75, VTD H01, VTD H02, VTD H03, VTD H04, VTD H05, VTD H06, VTD H07, VTD H08, VTD H09, VTD H10, VTD H11, VTD H12, VTD H13, VTD H14, VTD H15, VTD H16, VTD H17, VTD H18, VTD H19A, VTD H19B, VTD H20A, VTD H20B, VTD H21, VTD H22, VTD H23, VTD H24, VTD H25, VTD H26, VTD H27, VTD HP, VTD JAM1, VTD JAM2, VTD JAM3, VTD JAM4, VTD JAM5, VTD NCLAY1, VTD NDRI, VTD PG1, VTD PG2, VTD SDRI, VTD SUM1, VTD SUM2, VTD SUM3, VTD SUM4; Iredell County: VTD BA, VTD BE, VTD CC1, VTD CC2, VTD CC3, VTD CC4, VTD CD, VTD CH-A, VTD CH-B, VTD CS, VTD DV1-A, VTD DV1-B, VTD DV2-A, VTD DV2-B, VTD EM, VTD FT: Block(s) 0970612012021, 0970612012022, 0970612012023, 0970612012024, 0970612012025, 0970612012026, 0970612012027, 0970612012028, 0970612012029, 0970612012030, 0970612012031, 0970612013029, 0970612013030, 0970612013031, 0970612013032, 0970612013033, 0970612013034, 0970612013039, 0970612013040, 0970612013041, 0970612013042, 0970612021000, 0970612021001, 0970612021002, 0970612021003, 0970612021004, 0970612021005, 0970612021006, 0970612021007, 0970612021008, 0970612021009, 0970612021010, 0970612021011, 0970612021012, 0970612021013, 0970612021014, 0970612021017, 0970612021020, 0970612021021, 0970612021022, 0970612021023, 0970612021024, 0970612021025, 0970612021026, 0970612021027, 0970612021028, 0970612021029, 0970612021030, 0970612021031, 0970612021032, 0970612021033, 0970612021034, 0970612021035, 0970612021037, 0970612021038, 0970612021039,

0970612021040, 0970612021048, 0970612021049, 0970612022009, 0970612022010, 0970612022011, 0970612022012, 0970612022014, 0970612022015, 0970612022016, 0970612022017, 0970612022018, 0970612022019, 0970612022020, 0970612022021, 0970612022022, 0970612022023, 0970612022024, 0970612022025, 0970612022026, 0970612022027, 0970612022028, 0970612022029, 0970612022033, 0970612022036, 0970612022037, 0970612022038, 0970612022052, 0970612023000, 0970612023001, 0970612023002, 0970612023003, 0970612023004, 0970612023005, 0970612023006, 0970612023007, 0970612023008, 0970612023009, 0970612023010, 0970612023011, 0970612023016, 0970612023022, 0970612023023, 0970612023024, 0970612023025, 0970612023030, 0970612023031, 0970612023032, 0970612023033, 0970612023034, 0970612023035, 0970612023036, 0970612023037, 0970612023047, 0970612023048, 0970612023049, 0970612023053, 0970612031004, 0970612031005, 0970612031006, 0970612031013, 0970612031014, 0970612031015, 0970612052001, 0970612052015; VTD NH, VTD OL, VTD SB, VTD SH-A, VTD SH-B, VTD ST1, VTD ST2, VTD ST3, VTD ST4, VTD ST5, VTD ST6, VTD TB, VTD UG; Rowan County: VTD 07, VTD 11, VTD 12, VTD 21, VTD 24, VTD 27, VTD 28; Block(s) 1590505001000, 1590505001001, 1590505001004, 1590505001005, 1590505001007, 1590505001008, 1590505001037, 1590507003000, 1590507003009, 1590507003011, 1590507003023, 1590507003027, 1590507003028, 1590507003029, 1590507003031, 1590507003032, 1590507004000, 1590507004001, 1590507004002, 1590507004003, 1590507004004, 1590507004005, 1590507004007, 1590507004008, 1590507004009, 1590507004010, 1590507004011, 1590507004012, 1590507004013, 1590507004014, 1590507004015, 1590507004016, 1590507004017, 1590507004018, 1590507004024, 1590507004025, 1590507004026, 1590507004027, 1590507004028, 1590507004029, 1590507004030, 1590507004033, 1590507004034, 1590507004035, 1590507004036, 1590507004037, 1590507004038, 1590507004039, 1590507004040, 1590507004041, 1590507004042, 1590520002000; VTD 29, VTD 32, VTD 34, VTD 35, VTD 36, VTD 38, VTD 39, VTD 40, VTD 41, VTD 42, VTD 45.

(b) The names and boundaries of voting tabulation districts, tracts, block groups, and blocks specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles.

(c) If any voting tabulation district boundary is changed, that change shall not change the boundary of a congressional district, which shall remain the same as it is depicted by the 2010 Census Redistricting TIGER/Line Shapefiles.

(d) The Legislative Services Officer shall certify a true copy of the block assignment file associated with any mapping software used to generate the language in subsection (a) of this section. The certified true copy of the block assignment file shall be delivered by the Legislative Services Officer to the Principal Clerk of the Senate and the Principal Clerk of the House of Representatives. If any area within North Carolina is not assigned to a specific district by subsection (a) of this section, the certified true copy of the block assignment file delivered to the Principal Clerk of the Senate and the Principal Clerk of the House of Representatives shall control. (Rev., s. 4366; 1911, c. 97; C.S., s. 6004; 1931, c. 216; 1941, c. 3; 1961, c. 864; 1966, Ex. Sess., c. 7, s. 1; 1967, c. 775, s. 1; c. 1109; 1971, c. 257; 1981, c. 894; 1982, Ex. Sess., c. 7; 1991, c. 601, s. 1; c. 761, s. 33(a), (b); 1991, Ex. Sess., c. 7, s. 1; 1993, c. 553, s. 66; 1997-11, ss. 1, 2; 1997-456, ss. 27, 52; 1998-2, ss. 1, 1.1; 2001-471, s. 1; 2001-479, ss. 1, 2; 2011-403, s. 1; 2011-414, s. 2; 2016-1, Ex. Sess., s. 1; 2017-6, s. 3.)

**§ 163A-1206. Severability of congressional apportionment acts.**

If any provision of any act of the General Assembly that apportions congressional districts is held invalid by any court of competent jurisdiction, the invalidity shall not affect other provisions that can be given effect without the invalid provision; and to this end the provisions of any said act are severable. (1981, c. 771, s. 2; 2017-6, s. 3.)

**§ 163A-1207. Election after reapportionment of members of House of Representatives.**

Whenever, by a new apportionment of members of the United States House of Representatives, the number of Representatives from North Carolina shall be changed, and neither the Congress nor the General Assembly shall provide for electing them, the following procedures shall apply:

- (1) If the number of Representatives is increased, the Representative from each of the existing congressional districts shall be elected by the qualified voters of his district, and the additional Representatives apportioned to North Carolina shall be elected on a single ballot by the qualified voters of the whole State.
- (2) If the number of Representatives is decreased, existing congressional district lines shall be ignored, and all Representatives apportioned to North Carolina shall be elected on a single ballot by the qualified voters of the whole State. (1901, c. 89, s. 58; Rev., s. 4368; C.S., s. 6006; 1967, c. 775, s. 1; 2017-6, s. 3.)

**§ 163A-1208:** Reserved for future codification purposes.

**§ 163A-1209:** Reserved for future codification purposes.

**§ 163A-1210:** Reserved for future codification purposes.

**§ 163A-1211:** Reserved for future codification purposes.

**§ 163A-1212:** Reserved for future codification purposes.

**§ 163A-1213:** Reserved for future codification purposes.

**§ 163A-1214:** Reserved for future codification purposes.

**§ 163A-1215:** Reserved for future codification purposes.

**§ 163A-1216:** Reserved for future codification purposes.

**§ 163A-1217:** Reserved for future codification purposes.

**§ 163A-1218:** Reserved for future codification purposes.

**§ 163A-1219:** Reserved for future codification purposes.

**§ 163A-1220:** Reserved for future codification purposes.

**§ 163A-1221:** Reserved for future codification purposes.

§ 163A-1222: Reserved for future codification purposes.

§ 163A-1223: Reserved for future codification purposes.

§ 163A-1224: Reserved for future codification purposes.

#### Part 6. Presidential Electors.

##### **§ 163A-1225. Conduct of presidential election.**

Unless otherwise provided, the election of presidential electors shall be conducted and the returns made in the manner prescribed by this Subchapter for the election of State officers. (1901, c. 89, s. 79; Rev., s. 4371; C.S., s. 6009; 1933, c. 165, s. 11; 1967, c. 775, s. 1; 2017-6, s. 3.)

##### **§ 163A-1226. Names of presidential electors not printed on ballots; notification.**

(a) The names of candidates for electors of President and Vice-President nominated by any political party recognized in this State under G.S. 163A-950, or nominated under G.S. 163A-700(c) by a candidate for President of the United States who has qualified to have his or her name printed on the general election ballot as an unaffiliated candidate under G.S. 163A-1005, shall be filed with the Secretary of State but shall not be printed on the ballot. In the case of the unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their names, there shall be printed on the ballot the names of the candidates for President and Vice-President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his or her name printed on the general election ballot under G.S. 163A-1005. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163A-1005 shall, no later than 12:00 noon on the first Friday in August, file with the State Board the name of a candidate for Vice-President, whose name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State.

(b) Upon receiving the filing of a name as a candidate for elector under this section, the Secretary of State shall notify that candidate of the dual-office holding requirements of the North Carolina Constitution and the General Statutes, including specifically that if a person elected as elector holds another elective office at the time of taking the oath of office as elector, that other office is vacated upon taking the oath of office. (1901, c. 89, s. 78; Rev., s. 4372; C.S., s. 6010; 1933, c. 165, s. 11; 1949, c. 672, s. 2; 1967, c. 775, s. 1; 1991 (Reg. Sess., 1992), c. 782, s. 2; 2001-460, s. 5; 2009-96, s. 2; 2017-6, s. 3.)

##### **§ 163A-1227. Notification of political parties of dual-office holding rules.**

During January of each year in which electors are elected, the Secretary of State shall notify each political party authorized to nominate electors of (i) the requirement under G.S. 163A-700(c) to nominate first and second alternate electors, and (ii) the dual-office holding requirements of the North Carolina Constitution and the General Statutes, including specifically that if a person elected as elector holds another elective office at the time of taking the oath of office as elector, that other office is vacated upon taking the oath of office. (2009-96, s. 3; 2017-6, s. 3.)

**§ 163A-1228. Elector may be held in addition to other appointive offices.**

The office of elector may be held in addition to the maximum number of appointive offices allowed by G.S. 128-1.1. (2009-96, s. 1; 2017-6, s. 3.)

**§ 163A-1229. Governor to proclaim results; casting State's vote for President and Vice-President.**

Upon receipt of the certifications prepared by the State Board and delivered in accordance with G.S. 163A-1184, the Secretary of State, under seal of the office, shall notify the Governor of the names of the persons elected to the office of elector for President and Vice-President of the United States as stated in the abstracts of the State Board. Thereupon, the Governor shall immediately issue a proclamation setting forth the names of the electors and instructing them to be present in the old Hall of the House of Representatives in the State Capitol in the City of Raleigh at noon on the first Monday after the second Wednesday in December next after their election, at which time the electors shall meet and vote on behalf of the State for President and Vice-President of the United States. The Governor shall cause this proclamation to be published in the daily newspapers published in the City of Raleigh. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. The Secretary of State is responsible for making the actual arrangements for the meeting, preparing the agenda, and inviting guests.

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

In case of the absence, ineligibility or resignation of any elector chosen, or if the proper number of electors shall for any cause be deficient, the first and second alternates, respectively, who were nominated under G.S. 163A-700(c), shall fill the first two vacancies. If the alternates are absent, ineligible, resign, or were not chosen, or if there are more than two vacancies, then the electors present at the required meeting shall forthwith elect from the citizens of the State a sufficient number of persons to fill the deficiency, and the persons chosen shall be deemed qualified electors to vote for President and Vice-President of the United States. (1901, c. 89, s. 81; Rev., s. 4374; 1917, c. 176, s. 2; C.S., ss. 5916, 6012; 1923, c. 111, s. 12; 1927, c. 260, s. 17; 1933, c. 165, s. 11; 1935, c. 143, s. 2; 1967, c. 775, s. 1; 1969, c. 949, ss. 1, 2; 1981, c. 35, s. 1; 1989, c. 93, s. 5; 1993 (Reg. Sess., 1994), c. 738, s. 1; 2001-398, s. 8; 2017-6, s. 3.)

**§ 163A-1230. Compensation of presidential electors.**

Presidential electors shall be paid, for attending the meeting held in the City of Raleigh on the first Monday after the second Wednesday in December next after their election, the sum of forty-four dollars (\$44.00) per day and traveling expenses at the rate of seventeen cents (17¢) per

mile in going to and returning home from the required meeting. (1901, c. 89, s. 84; Rev., s. 2761; C.S., s. 3878; 1933, c. 5; 1967, c. 775, s. 1; 1979, c. 1008; 2017-6, s. 3.)

**§ 163A-1231. Penalty for failure of presidential elector to attend and vote.**

Any presidential elector having previously signified his consent to serve as such, who fails to attend and vote for the candidate of the political party which nominated such elector, for President and Vice-President of the United States at the time and place directed in G.S. 163A-1229 (except in case of sickness or other unavoidable accident) shall forfeit and pay to the State five hundred dollars (\$500.00), to be recovered by the Attorney General in the Superior Court of Wake County. In addition to such forfeiture, refusal or failure to vote for the candidates of the political party which nominated such elector shall constitute a resignation from the office of elector, his vote shall not be recorded, and the remaining electors shall forthwith fill such vacancy as hereinbefore provided.

The clear proceeds of forfeitures provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1901, c. 89, s. 83; Rev., s. 4375; C.S., s. 6013; 1933, c. 165, s. 11; 1967, c. 775, s. 1; 1969, c. 949, s. 3; 1998-215, s. 131; 2017-6, s. 3.)

**§ 163A-1232. Appointment of Presidential Electors by General Assembly in certain circumstances, by the Governor in certain other circumstances.**

(a) Appointment by General Assembly if No Proclamation by Six Days Before Electors' Meeting Day. – As permitted by 3 U.S.C. § 2, whenever the appointment of any Presidential Elector has not been proclaimed under G.S. 163A-1229 before noon on the date for settling controversies specified by 3 U.S.C. § 5, and upon the call of an extra session pursuant to the North Carolina Constitution for the purposes of this section, the General Assembly may fill the position of any Presidential Electors whose election is not yet proclaimed.

(b) Appointment by Governor if No Appointment by the Day Before Electors' Meeting Day. – If the appointment of any Presidential Elector has not been proclaimed under G.S. 163A-1229 before noon on the date for settling controversies specified by 3 U.S.C. § 5, nor appointed by the General Assembly by noon on the day before the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then the Governor shall appoint that Elector.

(c) Standard for Decision by General Assembly and Governor. – In exercising their authority under subsections (a) and (b) of this section, the General Assembly and the Governor shall designate Electors in accord with their best judgment of the will of the electorate. The decisions of the General Assembly or Governor under subsections (a) and (b) of this section are not subject to judicial review, except to ensure that applicable statutory and constitutional procedures were followed. The judgment itself of what was the will of the electorate is not subject to judicial review.

(d) Proclamation Before Electors' Meeting Day Controls. – If the proclamation of any Presidential Elector under G.S. 163A-1229 is made any time before noon on the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then that proclamation shall control over an appointment made by the General Assembly or the Governor. This section does not preclude litigation otherwise provided by law to challenge the validity of the proclamation or the procedures that resulted in that proclamation. (2001-289, s. 2; 2017-6, s. 3.)

**§ 163A-1233:** Reserved for future codification purposes.

§ 163A-1234: Reserved for future codification purposes.

§ 163A-1235: Reserved for future codification purposes.

§ 163A-1236: Reserved for future codification purposes.

§ 163A-1237: Reserved for future codification purposes.

§ 163A-1238: Reserved for future codification purposes.

§ 163A-1239: Reserved for future codification purposes.

§ 163A-1240: Reserved for future codification purposes.

§ 163A-1241: Reserved for future codification purposes.

§ 163A-1242: Reserved for future codification purposes.

§ 163A-1243: Reserved for future codification purposes.

§ 163A-1244: Reserved for future codification purposes.

§ 163A-1245: Reserved for future codification purposes.

§ 163A-1246: Reserved for future codification purposes.

§ 163A-1247: Reserved for future codification purposes.

§ 163A-1248: Reserved for future codification purposes.

§ 163A-1249: Reserved for future codification purposes.

#### Part 7. Presidential Preference Primary Act.

**§ 163A-1250. (See editor's note for 2016 primary) Short title.**

This Part may be cited as the "Presidential Preference Primary Act." (1971, c. 225; 1975, c. 744; 2017-6, s. 3.)

**§ 163A-1251. Primary to be held; date; qualifications and registration of voters.**

On the Tuesday after the first Monday in March, 2020, and every four years thereafter, the voters of this State shall be given an opportunity to express their preference for the person to be the presidential candidate of their political party.

Any person otherwise qualified who will become qualified by age to vote in the general election held in the same year of the presidential preference primary shall be entitled to register and vote in the presidential preference primary. Such persons may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163A-865 prior to the said

primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections. (1971, c. 225; 1975, c. 744; c. 844, s. 18; 1977, c. 19; c. 661, s. 7; 1983, c. 331, s. 5; 1985 (Reg. Sess., 1986), c. 927, s. 1; 1987, c. 457, s. 3; 1991, c. 689, s. 15(a); 1991 (Reg. Sess., 1992), c. 1032, s. 6; 1999-424, s. 7(j); 2013-381, s. 35.1; 2017-6, s. 3; 2018-21, s. 3.)

#### **§ 163A-1252. Conduct of election.**

The presidential preference primary election shall be conducted and canvassed by the same authority and in the manner provided by law for the conduct and canvassing of the primary election for the office of Governor and all other offices enumerated in G.S. 163A-1171(b) and under the same provisions stipulated in G.S. 163A-1172(c). The State Board shall have authority to promulgate reasonable rules and regulations, not inconsistent with provisions contained herein, pursuant to the administration of this Part. (1971, c. 225; 1975, c. 744; 1987, c. 81, s. 2; 1991, c. 689, s. 15(b); 2001-398, s. 9; 2017-6, s. 3.)

#### **§ 163A-1253. Nomination by State Board.**

No later than 90 days preceding the North Carolina presidential preference primary, the chair of each political party shall submit to the State Board a list of its presidential candidates to be placed on the presidential preference primary ballot. The list must be comprised of candidates whose candidacy is generally advocated and recognized in the news media throughout the United States or in North Carolina, unless any such candidate executes and files with the chair of the political party an affidavit stating without qualification that the candidate is not and does not intend to become a candidate for nomination in the North Carolina Presidential Preference Primary Election. The State Board shall prepare and publish a list of the names of the presidential candidates submitted. The State Board shall convene in Raleigh on the first Tuesday in March preceding the presidential preference primary election. At the meeting required by this section, the State Board shall nominate as presidential primary candidates all candidates affiliated with a political party, recognized pursuant to the provisions of Article 18 of this Chapter, who have been submitted to the State Board. Additionally, the State Board, by vote of at least three of its members in the affirmative, may nominate as a presidential primary candidate any other person affiliated with a political party that it finds is generally advocated and recognized in the news media throughout the United States or in North Carolina as candidates for the nomination by that party. Immediately upon completion of these requirements, the State Board shall release to the news media all such nominees selected. Provided, however, nothing shall prohibit the partial selection of nominees prior to the meeting required by this section, if all provisions herein have been complied with. (1971, c. 225; 1975, c. 744; 1983, c. 729; 1987, c. 81, s. 1; c. 549, s. 6.1; 1991, c. 689, s. 15(c); 2003-278, s. 9(a); 2007-391, s. 33; 2008-187, s. 33(a); 2013-381, ss. 35.2, 36.1; 2017-6, s. 3.)

#### **§ 163A-1254. Nomination by petition.**

Any person seeking the endorsement by the national political party for the office of President of the United States, or any group organized in this State on behalf of, and with the consent of, such person, may file with the State Board petitions signed by 10,000 persons who, at the time they signed are registered and qualified voters in this State and are affiliated, by such registration,



with the same political party as the candidate for whom the petitions are filed. Such petitions shall be presented to the county board of elections 10 days before the filing deadline and shall be certified promptly by the chairman of the board of elections of the county in which the signatures were obtained and shall be filed by the petitioners with the State Board no later than 5:00 P.M. on the Monday prior to the date the State Board is required to meet as directed by G.S. 163A-1253.

The petitions must state the name of the candidate for nomination, along with a letter of approval signed by such candidate. Said petitions must also state the name and address of the chairman of any such group organized to circulate petitions authorized under this section. The requirement for signers of such petitions shall be the same as now required under provisions of G.S. 163A-950(b)(1) and (2). The requirement of the respective chairmen of county boards of elections shall be the same as now required under the provisions of G.S. 163A-950 as they relate to the chairman of the county board of elections.

The State Board shall forthwith determine the sufficiency of petitions filed with it and shall immediately communicate its determination to the chairman of such group organized to circulate petitions. The form and style of petition shall be as prescribed by the State Board. (1971, c. 225; 1975, c. 744; 2002-159, s. 55(e); 2003-278, s. 9(b); 2004-127, s. 6; 2017-6, s. 3.)

#### **§ 163A-1255. Notification to candidates.**

The State Board shall forthwith contact each person who has been nominated by the State Board or by petition and notify him in writing that his name will be printed as a candidate of a specified political party on the North Carolina presidential preference primary ballot. A candidate who participates in the North Carolina presidential preference primary of a particular party shall have his name placed on the general election ballot only as a nominee of that political party. The State Board shall send a copy of the "Presidential Preference Primary Act" to each candidate with the notice specified above. (1971, c. 225; 1975, c. 744; 1987, c. 549, s. 6.2; 2017-6, s. 3.)

#### **§ 163A-1256. Voting in presidential preference primary; ballots.**

The names of all candidates in the presidential preference primary shall appear at an appropriate place on the ballot or voting machine. In addition the State Board shall provide a category on the ballot or voting machine allowing voters in each political party to vote an "uncommitted" or "no preference" status. The voter shall be able to cast his ballot for one of the presidential candidates of a political party or for an "uncommitted" or "no preference" status, but shall not be permitted to vote for candidates or "uncommitted" status of a political party different from his registration. Persons registered as "Unaffiliated" shall not participate in the presidential primary except as provided in G.S. 163A-989. (1971, c. 225; 1975, c. 744; 1993 (Reg. Sess., 1994), c. 762, s. 52; 2004-127, s. 11; 2017-6, s. 3.)

#### **§ 163A-1257. Allocation of delegate positions to reflect division of votes in the primary.**

(a) Upon completion and certification of the primary results by the State Board, the Secretary of State shall certify the results to the State chairman of each political party.

Each political party shall allocate delegate positions in a manner which reflects the division of votes of the party primary consistent with the national party rules of that political party.

(b) In case of conflict between subsection (a) of this section and the national rules of a political party, the State executive committee of that party has the authority to resolve the conflict by adopting for that party the national rules, which shall then supercede any provision in subsection (a) of this section with which it conflicts, provided that the executive committee shall take only

such action under this subsection necessary to resolve the conflict. (1971, c. 225; 1975, c. 744; 1979, c. 800; 1983, c. 216, ss. 1, 2; 2017-6, s. 3.)

**§ 163A-1258. National committee to be notified of provisions under this Part.**

It shall be the responsibility of the State chairman of each political party, qualified under the laws of this State, to notify his party's national committee no later than January 30 of each year in which such presidential preference primary shall be conducted of the provisions contained under this Part. (1971, c. 225; 1975, c. 744; 2017-6, s. 3.)

**§ 163A-1259:** Reserved for future codification purposes.

**§ 163A-1260:** Reserved for future codification purposes.

**§ 163A-1261:** Reserved for future codification purposes.

**§ 163A-1262:** Reserved for future codification purposes.

**§ 163A-1263:** Reserved for future codification purposes.

**§ 163A-1264:** Reserved for future codification purposes.

**§ 163A-1265:** Reserved for future codification purposes.

**§ 163A-1266:** Reserved for future codification purposes.

**§ 163A-1267:** Reserved for future codification purposes.

**§ 163A-1268:** Reserved for future codification purposes.

**§ 163A-1269:** Reserved for future codification purposes.

**§ 163A-1270:** Reserved for future codification purposes.

**§ 163A-1271:** Reserved for future codification purposes.

**§ 163A-1272:** Reserved for future codification purposes.

**§ 163A-1273:** Reserved for future codification purposes.

**§ 163A-1274:** Reserved for future codification purposes.

Part 8. Petitions for Elections and Referenda.

**§ 163A-1275. Registration of notice of circulation of petition.**

From and after July 1, 1957, notice of circulation of a petition calling for any election or referendum shall be registered with the county board of elections with which the petition is to be

filed, and the date of registration of the notice shall be the date of issuance and commencement of circulation of the petition. (1957, c. 1239, s. 1; 1967, c. 775, s. 1; 2017-6, s. 3.)

**§ 163A-1276. Petition void after one year from registration.**

Petitions calling for elections and referenda shall be and become void and of no further effect one year after the date the notice of circulation is registered with the county board of elections with which it is required to be filed; and notwithstanding any public, special, local, or private act to the contrary, no election or referendum shall thereafter be called or held pursuant to or based upon any such void petition. (1957, c. 1239, s. 2; 1967, c. 775, s. 1; 2017-6, s. 3.)

**§ 163A-1277. Limitation on petitions circulated prior to July 1, 1957.**

Petitions calling for elections or referenda which were circulated prior to July 1, 1957, shall be and become void and of no further force and effect one year after the date of issuance of such petitions for circulation; and notwithstanding any public, special, local, or private act to the contrary, no election or referendum shall be called or held pursuant to or based upon any such void petition from and after July 1, 1957. (1957, c. 1239, s. 3; 1967, c. 775, s. 1; 2017-6, s. 3.)

**§ 163A-1278. Persons may not sign name of another to petition.**

- (a) No person may sign the name of another person to any of the following:
  - (1) Any petition calling for an election or referendum.
  - (2) Any petition under G.S. 163A-950 for the formulation of a new political party.
  - (3) Any petition under G.S. 163A-980 requesting a person to be a candidate.
  - (4) Any petition under G.S. 163A-1005 to have the name of an unaffiliated candidate placed on the general election ballot, or under G.S. 163A-1624 to have the name of an unaffiliated or nonpartisan candidate placed on the regular municipal election ballot.
  - (5) Any petition under G.S. 163A-1254 to place a name on the ballot under the Presidential Preference Primary Act.
  - (6) Any petition under G.S. 163A-1006 to qualify as a write-in candidate.
- (b) Any name signed on a petition, in violation of this section, shall be void.
- (c) Any person who willfully violates this section is guilty of a Class 2 misdemeanor. (1977, c. 218, s. 1; 1979, c. 534, s. 1; 1987, c. 565, s. 6; 1993, c. 539, s. 1104; 1994, Ex. Sess., c. 24, s. 14(c); 2003-278, s. 7; 2017-6, s. 3.)

**§ 163A-1279:** Reserved for future codification purposes.

**§ 163A-1280:** Reserved for future codification purposes.

**§ 163A-1281:** Reserved for future codification purposes.

**§ 163A-1282:** Reserved for future codification purposes.

**§ 163A-1283:** Reserved for future codification purposes.

**§ 163A-1284:** Reserved for future codification purposes.

§ 163A-1285: Reserved for future codification purposes.

§ 163A-1286: Reserved for future codification purposes.

§ 163A-1287: Reserved for future codification purposes.

§ 163A-1288: Reserved for future codification purposes.

§ 163A-1289: Reserved for future codification purposes.

§ 163A-1290: Reserved for future codification purposes.

§ 163A-1291: Reserved for future codification purposes.

§ 163A-1292: Reserved for future codification purposes.

§ 163A-1293: Reserved for future codification purposes.

§ 163A-1294: Reserved for future codification purposes.

## Article 21.

### Absentee Voting.

#### Part 1. Absentee Ballot.

##### **§ 163A-1295. Who may vote an absentee ballot.**

(a) Who May Vote Absentee Ballot; Generally. – Any qualified voter of the State may vote by absentee ballot in a statewide primary, general, or special election on constitutional amendments, referenda or bond proposals, and any qualified voter of a county is authorized to vote by absentee ballot in any primary or election conducted by the county board of elections, in the manner provided in this Part.

(b) Annual Request by Person With Sickness or Physical Disability. – If the applicant so requests and reports in the application that the voter has a sickness or physical disability that is expected to last the remainder of the calendar year, the application shall constitute a request for an absentee ballot for all of the primaries and elections held during the calendar year when the application is received.

(c) Absentee Ballots; Exceptions. – Notwithstanding the authority contained in G.S. 163A-1295(a), absentee ballots shall not be permitted in fire district elections.

(d) The Term "Election". – As used in this Article, unless the context clearly requires otherwise, the term "election" includes a general, primary, second primary, runoff election, bond election, referendum, or special election.

(e) The Term "Verifiable Legal Guardian." – An individual appointed guardian under Chapter 35A of the General Statutes. For a corporation appointed as a guardian under that Chapter, the corporation may submit a list of 10 named individuals to the State Board who may act for that corporation under this Part. (1939, c. 159, s. 1; 1963, c. 457, s. 1; 1967, c. 775, s. 1; c. 952, s. 1;

1973, c. 536, s. 1; c. 1018; 1977, c. 469, s. 1; 1979, c. 140, s. 1; 1995 (Reg. Sess., 1996), c. 561, s. 1; c. 734, s. 5; 1999-455, s. 1; 2001-337, s. 1; 2001-507, s. 1; 2013-381, s. 4.5; 2017-6, s. 3.)

**§ 163A-1296. Absentee voting in primary.**

A qualified voter may vote by absentee ballot in a partisan primary provided the qualified voter is affiliated, at the time the qualified voter makes application for absentee ballots, with the political party in whose primary the qualified voter wishes to vote, except that an unaffiliated voter may vote in a party primary if permitted under G.S. 163A-989. The official registration records of the county in which the voter is registered shall be proof of whether the qualified voter is affiliated with a political party and of the party, if any, with which the qualified voter is affiliated. (1977, c. 469, s. 1; 1999-455, s. 2; 2017-6, s. 3.)

**§ 163A-1297. Absentee voting in municipal elections.**

Absentee voting by qualified voters residing in a municipality shall be in accordance with the authorization specified in G.S. 163A-1630. (1977, c. 469, s. 1; 2017-6, s. 3.)

**§ 163A-1298. Certain acts declared felonies.**

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

- (1) For any person except the voter's near relative or the voter's verifiable legal guardian to assist the voter to vote an absentee ballot when the voter is voting an absentee ballot other than under the procedure described in G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304; provided that if there is not a near relative or legal guardian available to assist the voter, the voter may request some other person to give assistance.
- (2) For any person to assist a voter to vote an absentee ballot under the absentee voting procedure authorized by G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304 except as provided in that section.
- (3) For a voter who votes an absentee ballot under the procedures authorized by G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304 to vote that voter's absentee ballot outside of the voting booth or private room provided to the voter for that purpose in or adjacent to the office of the county board of elections or at the additional site provided by G.S. 163A-1302, or to receive assistance except as provided in G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304.
- (4) For any owner, manager, director, employee, or other person, other than the voter's near relative or verifiable legal guardian, to (i) make a written request pursuant to G.S. 163A-1308 or (ii) sign an application or certificate as a witness, on behalf of a registered voter, who is a patient in any hospital, clinic, nursing home or rest home in this State or for any owner, manager, director, employee, or other person other than the voter's near relative or verifiable legal guardian, to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot. This subdivision does not apply to members, employees, or volunteers of the county board of elections, if those members, employees, or volunteers are working as part of a multipartisan team trained and authorized

by the county board of elections to assist voters with absentee ballots. Each county board of elections shall train and authorize such teams, pursuant to procedures which shall be adopted by the State Board. If neither the voter's near relative nor a verifiable legal guardian is available to assist the voter, and a multipartisan team is not available to assist the voter within seven calendar days of a telephonic request to the county board of elections, the voter may obtain such assistance from any person other than (i) an owner, manager, director, employee of the hospital, clinic, nursing home, or rest home in which the voter is a patient or resident; (ii) an individual who holds any elective office under the United States, this State, or any political subdivision of this State; (iii) an individual who is a candidate for nomination or election to such office; or (iv) an individual who holds any office in a State, congressional district, county, or precinct political party or organization, or who is a campaign manager or treasurer for any candidate or political party; provided that a delegate to a convention shall not be considered a party office. None of the persons listed in (i) through (iv) of this subdivision may sign the application or certificate as a witness for the patient.

- (5) For any person to take into that person's possession for delivery to a voter or for return to a county board of elections the absentee ballot of any voter, provided, however, that this prohibition shall not apply to a voter's near relative or the voter's verifiable legal guardian.
- (6) Except as provided in subsections (1), (2), (3) and (4) of this section, G.S. 163A-1310(a), and G.S. 163A-1300(e), for any voter to permit another person to assist the voter in marking that voter's absentee ballot, to be in the voter's presence when a voter votes an absentee ballot, or to observe the voter mark that voter's absentee ballot.

(b) The State Board or a county board of elections, upon receipt of a sworn affidavit from any qualified voter of the State or the county, as the case may be, attesting to first-person knowledge of any violation of subsection (a) of this section, shall transmit that affidavit to the appropriate district attorney, who shall investigate and prosecute any person violating subsection (a). (1979, c. 799, s. 4; 1983, c. 331, s. 2; 1985, c. 563, s. 4; 1987, c. 565, s. 7; c. 583, ss. 8, 10; 1995, c. 243, s. 1; 1999-455, s. 3; 2005-428, s. 5(b); 2007-391, s. 29(a); 2013-381, s. 4.6(a); 2014-111, s. 15(a); 2017-6, s. 3.)

### **§ 163A-1299. Second primary; applications for absentee ballots for voting in second primary.**

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

In addition, a voter entitled to absentee ballots under the provisions of this Part who did not make application for the primary or who failed to apply for a second primary ballot at the time of application for a first primary ballot may make a written request for absentee ballots for a second

primary not earlier than the day a second primary is called and not later than the date and time provided by G.S. 163A-1308.

All procedures with respect to absentee ballots in a second primary shall be the same as with respect to absentee ballots in a first primary except as otherwise provided by this section. (1973, c. 536, s. 1; 1977, c. 469, s. 1; 1981, c. 560, s. 1; 1985, c. 600, s. 3; 1999-455, s. 5; 2017-6, s. 3.)

**§ 163A-1300. Alternate procedures for requesting application for absentee ballot; "one-stop" voting procedure in board office.**

(a) Any voter eligible to vote by absentee ballot under G.S. 163A-1295 may request an application for absentee ballots, complete the application, and vote under the provisions of this section and G.S. 163A-1301, 163A-1302, 163A-1303, and 163A-1304.

(b) **(Effective until January 1, 2019 – see note)** Not earlier than the third Wednesday before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than 1:00 P.M. on the last Saturday before that election, the voter shall appear in person only at the office of the county board of elections, except as provided in G.S. 163A-1303. A county board of elections shall conduct one-stop voting on the last Saturday before the election from 8:00 A.M. until 1:00 P.M. and may conduct one-stop early voting until 5:00 P.M. on that Saturday. That voter shall enter the voting enclosure at the board office through the appropriate entrance and shall at once state his or her name and place of residence to an authorized member or employee of the board and present photo identification in accordance with G.S. 163A-1145. In a primary election, the voter shall also state the political party with which the voter affiliates and in whose primary the voter desires to vote, or if the voter is an unaffiliated voter permitted to vote in the primary of a particular party under G.S. 163A-989, the voter shall state the name of the authorizing political party in whose primary he wishes to vote. The board member or employee to whom the voter gives this information shall announce the name and residence of the voter in a distinct tone of voice. After examining the registration records, an employee of the board shall state whether the person seeking to vote is duly registered. If the voter is found to be registered that voter may request that the authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163A-1391. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person.

(b) **(Effective January 1, 2019 – see note)** Not earlier than the third Wednesday before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than 7:00 P.M. on the last Friday before that election, the voter shall appear in person only at the office of the county board of elections, except as provided in G.S. 163A-1303. That voter shall enter the voting enclosure at the board office through the appropriate entrance and shall at once state his or her name and place of residence to an authorized member or employee of the board and present photo identification in accordance with G.S. 163A-1145. In a primary election, the voter shall also state the political party with which the voter affiliates and in whose primary the voter desires to vote, or if the voter is an unaffiliated voter permitted to vote in the primary of a particular party under G.S. 163A-989, the voter shall state the name of the authorizing political party in whose primary he wishes to vote. The board member or employee to whom the voter gives this information shall announce the name and residence of the voter in a distinct tone of voice. After examining the registration records, an employee of the board shall state whether the person seeking to vote is duly registered. If the voter is found to be registered that voter may request that the authorized member or employee of the board furnish the voter with an application form as

specified in G.S. 163A-1391. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person.

(c) If the application is properly filled out, the authorized member or employee shall enter the voter's name in the register of absentee requests, applications, and ballots issued and shall furnish the voter with the ballots to which the application for absentee ballots applies. The voter thereupon shall vote in accordance with subsection (e) of this section.

All actions required by this subsection shall be performed in the office of the board of elections, except that the voting may take place in an adjacent room as provided by subsection (e) of this section. The application under this subsection shall be signed in the presence of the chair, member, director of elections of the board, or full-time employee, authorized by the board who shall sign the application and certificate as the witness and indicate the official title held by him or her. Notwithstanding G.S. 163A-1310(a), in the case of this subsection, only one witness shall be required on the certificate.

(d) Only the chairman, member, employee, or director of elections of the board shall keep the voter's application for absentee ballots in a safe place, separate and apart from other applications and container-return envelopes. If the voter's application for absentee ballots is disapproved by the board, the board shall so notify the voter stating the reason for disapproval by first-class mail addressed to the voter at that voter's residence address and at the address shown in the application for absentee ballots; and the board shall enter a challenge under G.S. 163A-916.

(e) The voter shall vote that voter's absentee ballot in a voting booth in the office of the county board of elections, and the county board of elections shall provide a voting booth for that purpose, provided however, that the county board of elections may in the alternative provide a private room for the voter adjacent to the office of the board, in which case the voter shall vote that voter's absentee ballot in that room. A voter at a one-stop site shall be entitled to the same assistance as a voter at a voting place on election day under G.S. 163A-1139. The State Board shall, where appropriate, adapt the rules it adopts under G.S. 163A-1139 to one-stop voting.

(f) At any site where one-stop absentee voting is conducted, there shall be a curtained or otherwise private area where the voter may mark the ballot unobserved.

(g) A voter who has moved within the county more than 30 days before election day but has not reported the move to the board of elections shall not be required on that account to vote a provisional ballot at the one-stop site, as long as the one-stop site has available all the information necessary to determine whether a voter is registered to vote in the county and which ballot the voter is eligible to vote based on the voter's proper residence address. The voter with that kind of unreported move shall be allowed to vote the same kind of absentee ballot as other one-stop voters.

(h) Notwithstanding the exception specified in G.S. 163A-776, counties which operate a modified full-time office shall remain open five days each week during regular business hours consistent with daily hours presently observed by the county board of elections, commencing with the date prescribed in G.S. 163A-1300(b) and continuing until 5:00 P.M. on the Friday prior to that election and shall also be open on the last Saturday before the election. A county board may conduct one-stop absentee voting during evenings or on weekends, as long as the hours are part of a plan submitted and approved according to G.S. 163A-1303. The boards of county commissioners shall provide necessary funds for the additional operation of the office during that time.

(i) Notwithstanding the provisions of G.S. 163A-916(a) and (b), a challenge may be entered against a voter at a one-stop site under G.S. 163A-1303 or during one-stop voting at the county board office. The challenge may be entered by a person conducting one-stop voting under this section and G.S. 163A-1301, 163A-1302, 163A-1303, and 163A-1304 or by another



registered voter who resides in the same precinct as the voter being challenged. If challenged at the place where one-stop voting occurs, the voter shall be allowed to cast a ballot in the same way as other voters. The challenge shall be made on forms prescribed by the State Board. The challenge shall be heard by the county board of elections in accordance with the procedures set forth in G.S. 163A-916(e). (1973, c. 536, s. 1; 1975, c. 844, s. 12; 1977, c. 469, s. 1; c. 626, s. 1; 1979, c. 107, s. 14; c. 799, ss. 1-3; 1981, c. 305, s. 2; 1985, c. 600, s. 4; 1987, c. 583, s. 4; 1989, c. 520; 1989 (Reg. Sess., 1990), c. 991, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 53; 1995, c. 243, s. 1; c. 509, ss. 117, 118; 1995 (Reg. Sess., 1996), c. 561, s. 4; 1997-510, s. 2; 1999-455, s. 6; 2000-136, s. 2; 2001-319, s. 5(a)-(c); 2001-337, s. 2; 2001-353, s. 9; 2003-278, s. 11; 2005-428, ss. 5(a), 6(a), 7; 2007-253, s. 3; 2007-391, s. 34(a); 2009-541, s. 23; 2013-381, ss. 2.7, 16.5, 25.1, 25.2, 25.3, 30.7; 2014-111, s. 3; 2015-103, ss. 6(b), 8(b), (c); 2017-6, s. 3; 2018-13, s. 3.11(b); 2018-112, s. 1; 2018-129, s. 1(a).)

**§ 163A-1301. Option to request absentee ballot at one-stop voting locations.**

(a) Until the deadline for submission of requests for absentee ballots provided in G.S. 163A-1308, any voter who fails to present an eligible form of photo identification in accordance with G.S. 163A-1145 shall be notified of the option to complete a written request form for an absentee ballot at that one-stop absentee voting location. The county board of elections shall notify the voter of each of the following:

- (1) The option to request an absentee ballot to vote in that election, whether requested at that one-stop absentee voting location or as provided in G.S. 163A-1309.
- (2) The instructions for completing the absentee ballot request in accordance with G.S. 163A-1308, along with the deadlines for returning the absentee ballot.
- (3) The means by which the voter may transmit the executed ballot to the county board of elections as provided in G.S. 163A-1310, including through delivery in person to an election official at a one-stop voting location.

Upon receiving notice pursuant to this subsection, a voter shall sign a form acknowledging that the voter was notified of the option to request and vote an absentee ballot. The list of names of those voters who signed an acknowledgment is a public record.

(b) The State Board shall adopt rules requiring signage to be displayed until the deadline for submission of requests for absentee ballots provided in G.S. 163A-1308 at all one-stop absentee voting locations notifying voters who do not have eligible photo identification of the option to request an absentee ballot as provided in subsection (a) of this section. (1973, c. 536, s. 1; 1975, c. 844, s. 12; 1977, c. 469, s. 1; c. 626, s. 1; 1979, c. 107, s. 14; c. 799, ss. 1-3; 1981, c. 305, s. 2; 1985, c. 600, s. 4; 1987, c. 583, s. 4; 1989, c. 520; 1989 (Reg. Sess., 1990), c. 991, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 53; 1995, c. 243, s. 1; c. 509, ss. 117, 118; 1995 (Reg. Sess., 1996), c. 561, s. 4; 1997-510, s. 2; 1999-455, s. 6; 2000-136, s. 2; 2001-319, s. 5(a)-(c); 2001-337, s. 2; 2001-353, s. 9; 2003-278, s. 11; 2005-428, ss. 5(a), 6(a), 7; 2007-253, s. 3; 2007-391, s. 34(a); 2009-541, s. 23; 2013-381, ss. 2.7, 16.5, 25.1, 25.2, 25.3, 30.7; 2014-111, s. 3; 2015-103, ss. 6(b), 8(b), (c); 2017-6, s. 3.)

**§ 163A-1302. (Effective until December 1, 2019 - see note) One-stop voting – counties having voting systems with retrievable ballots.**

If a county uses a voting system with retrievable ballots, that county's board of elections may by resolution elect to conduct one-stop absentee voting according to the provisions of this section.

In a county in which the board has opted to do so, a one-stop voter shall cast the ballot and then shall deposit the ballot in the ballot box or voting system in the same manner as if such box or system was in use in a precinct on election day. At the end of each business day, or at any time when there will be no employee or officer of the board of elections on the premises, the ballot box or system shall be secured in accordance with a plan approved by the State Board, which shall include that no additional ballots have been placed in the box or system. Any county board desiring to conduct one-stop voting according to this section shall submit a plan for doing so to the State Board. The State Board shall adopt standards for conducting one-stop voting under this section and shall approve any county plan that adheres to its standards. The county board shall adhere to its State Board-approved plan. The plan shall provide that each one-stop ballot shall have a ballot number on it in accordance with G.S. 163A-1308(c), or shall have an equivalent identifier to allow for retrievability. The standards shall address retrievability in one-stop voting on direct record electronic equipment where no paper ballot is used. (1973, c. 536, s. 1; 1975, c. 844, s. 12; 1977, c. 469, s. 1; c. 626, s. 1; 1979, c. 107, s. 14; c. 799, ss. 1-3; 1981, c. 305, s. 2; 1985, c. 600, s. 4; 1987, c. 583, s. 4; 1989, c. 520; 1989 (Reg. Sess., 1990), c. 991, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 53; 1995, c. 243, s. 1; c. 509, ss. 117, 118; 1995 (Reg. Sess., 1996), c. 561, s. 4; 1997-510, s. 2; 1999-455, s. 6; 2000-136, s. 2; 2001-319, s. 5(a)-(c); 2001-337, s. 2; 2001-353, s. 9; 2003-278, s. 11; 2005-428, ss. 5(a), 6(a), 7; 2007-253, s. 3; 2007-391, s. 34(a); 2009-541, s. 23; 2013-381, ss. 2.7, 16.5, 25.1, 25.2, 25.3, 30.7; 2014-111, s. 3; 2015-103, ss. 6(b), 8(b), (c); 2017-6, s. 3.)

**§ 163A-1302. (Effective December 1, 2019 - see note) Alternate procedures for requesting application for absentee ballot; "one-stop" voting procedure in board office.**

If a county uses a voting system with retrievable ballots, that county's board of elections may by resolution elect to conduct one-stop absentee voting according to the provisions of this section. In a county in which the board has opted to do so, a one-stop voter shall cast the ballot and then shall deposit the ballot in the ballot box or voting system in the same manner as if such box or system was in use in a precinct on election day. At the end of each business day, or at any time when there will be no employee or officer of the board of elections on the premises, the ballot box or system shall be secured in accordance with a plan approved by the State Board, which shall include that no additional ballots have been placed in the box or system. Any county board desiring to conduct one-stop voting according to this section shall submit a plan for doing so to the State Board. The State Board shall adopt standards for conducting one-stop voting under this section and shall approve any county plan that adheres to its standards. The county board shall adhere to its State Board-approved plan. The plan shall provide that each one-stop ballot shall have a ballot number on it in accordance with G.S. 163A-1308(c), or shall have an equivalent identifier to allow for retrievability. (1973, c. 536, s. 1; 1975, c. 844, s. 12; 1977, c. 469, s. 1; c. 626, s. 1; 1979, c. 107, s. 14; c. 799, ss. 1-3; 1981, c. 305, s. 2; 1985, c. 600, s. 4; 1987, c. 583, s. 4; 1989, c. 520; 1989 (Reg. Sess., 1990), c. 991, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 53; 1995, c. 243, s. 1; c. 509, ss. 117, 118; 1995 (Reg. Sess., 1996), c. 561, s. 4; 1997-510, s. 2; 1999-455, s. 6; 2000-136, s. 2; 2001-319, s. 5(a)-(c); 2001-337, s. 2; 2001-353, s. 9; 2003-278, s. 11; 2005-428, ss. 5(a), 6(a), 7; 2007-253, s. 3; 2007-391, s. 34(a); 2009-541, s. 23; 2013-381, ss. 2.7, 16.5, 25.1, 25.2, 25.3, 30.7; 2014-111, s. 3; 2015-103, ss. 6(b), 8(b), (c); 2017-6, s. 3.)

**§ 163A-1303. Sites and hours for one-stop voting.**

(a) Notwithstanding any other provision of G.S. 163A-1300, 163A-1301, 163A-1302, this section, and G.S. 163A-1304, a county board of elections by unanimous vote of all its members

may provide for one or more sites in that county for absentee ballots to be applied for and cast under these sections. Every individual staffing any of those sites shall be a member or full-time employee of the county board of elections or an employee of the county board of elections whom the board has given training equivalent to that given a full-time employee. Those sites must be approved by the State Board as part of a Plan for Implementation approved by both the county board of elections and by the State Board which shall also provide adequate security of the ballots and provisions to avoid allowing persons to vote who have already voted. The Plan for Implementation shall include a provision for the presence of political party observers at each one-stop site equivalent to the provisions in G.S. 163A-821 for party observers at voting places on election day. A county board of elections may propose in its Plan not to offer one-stop voting at the county board of elections office; the State Board may approve that proposal in a Plan only if the Plan includes at least one site reasonably proximate to the county board of elections office and the State Board finds that the sites in the Plan as a whole provide adequate coverage of the county's electorate. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county.

(b) The State Board shall not approve, either in a Plan approved unanimously by a county board of elections or in an alternative Plan proposed by a member or members of that board, a one-stop site in a building that the county board of elections is not entitled under G.S. 163A-1046 to demand and use as an election-day voting place, unless the State Board finds that other equally suitable sites were not available and that the use of the sites chosen will not unfairly advantage or disadvantage geographic, demographic, or partisan interests of that county. In providing the site or sites for one-stop absentee voting under G.S. 163A-1300, 163A-1301, 163A-1302, this section, and G.S. 163A-1304, the county board of elections shall make a request to the State, county, city, local school board, or other entity in control of the building that is supported or maintained, in whole or in part, by or through tax revenues at least 90 days prior to the start of one-stop absentee voting under these sections. The request shall clearly identify the building, or any specific portion thereof, requested the dates and times for which that building or specific portion thereof is requested and the requirement of an area for election related activity. If the State, local governing board, or other entity in control of the building does not respond to the request within 20 days, the building or specific portion thereof may be used for one-stop absentee voting as stated in the request. If the State, local governing board, or other entity in control of the building or specific portion thereof responds negatively to the request within 20 days, that entity and the county board of elections shall, in good faith, work to identify a building or specific portion thereof in which to conduct one-stop absentee voting under G.S. 163A-1300, 163A-1301, 163A-1302, this section, and G.S. 163A-1304. If no building or specific portion thereof has been agreed upon within 45 days from the date the county board of elections received a response to the request, the matter shall be resolved by the State Board.

(c) For all sites approved for one-stop voting under this section, a county board of elections shall provide the following:

- (1) Each one-stop site across the county shall be open at that same location during the period required by G.S. 163A-1300(b).

- (2) If any one-stop site across the county is opened on any day during the period required by G.S. 163A-1300(b), all one-stop sites shall be open on that day.
- (3) On each weekday during the period required by G.S. 163A-1300(b), all one-stop sites shall be open from 7:00 A.M. to 7:00 P.M.
- (4) **(Effective until January 1, 2019 – see note)** If the county board of elections opens one-stop sites on Saturdays other than the last Saturday before the election during the period required by G.S. 163A-1300(b), then all one-stop sites shall be open for the same number of hours uniformly throughout the county on those Saturdays.
- (4) **(Effective January 1, 2019 – see note)** If the county board of elections opens one-stop sites on Saturdays during the period required by G.S. 163A-1300(b), then all one-stop sites shall be open for the same number of hours uniformly throughout the county on those Saturdays.
- (5) If the county board of elections opens one-stop sites on Sundays during the period required by G.S. 163A-1300(b), then all one-stop sites shall be open for the same number of hours uniformly throughout the county on those Sundays.

(d) Notwithstanding subsection (c) of this section, a county board of elections by unanimous vote of all its members may propose a Plan for Implementation providing for a site in that county for absentee ballots to be applied for and cast with days and hours that vary from the county board of elections, or its alternate, and other additional one-stop sites in that county. If the county board of elections is unable to reach unanimity in favor of a Plan for Implementation, a member or members of the county board of elections may petition the State Board to adopt a plan for the county and the State Board may adopt a Plan for Implementation for that county. However, any Plan of Implementation approved under this subsection shall provide for uniform location, days, and hours for that one site throughout the period required by subsection (a) of this section. This subsection applies only to a county which includes a barrier island that meets the following conditions:

- (1) It has permanent inhabitation of residents residing in an unincorporated area.
- (2) It is bounded on the east by the Atlantic Ocean and on the west by a coastal sound.
- (3) It contains either a National Wildlife Refuge or a portion of a National Seashore.
- (4) It has no bridge access to the mainland of the county and is only accessible by marine vessel. (1973, c. 536, s. 1; 1975, c. 844, s. 12; 1977, c. 469, s. 1; c. 626, s. 1; 1979, c. 107, s. 14; c. 799, ss. 1-3; 1981, c. 305, s. 2; 1985, c. 600, s. 4; 1987, c. 583, s. 4; 1989, c. 520; 1989 (Reg. Sess., 1990), c. 991, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 53; 1995, c. 243, s. 1; c. 509, ss. 117, 118; 1995 (Reg. Sess., 1996), c. 561, s. 4; 1997-510, s. 2; 1999-455, s. 6; 2000-136, s. 2; 2001-319, s. 5(a)-(c); 2001-337, s. 2; 2001-353, s. 9; 2003-278, s. 11; 2005-428, ss. 5(a), 6(a), 7; 2007-253, s. 3; 2007-391, s. 34(a); 2009-541, s. 23; 2013-381, ss. 2.7, 16.5, 25.1, 25.2, 25.3, 30.7; 2014-111, s. 3; 2015-103, ss. 6(b), 8(b), (c); 2017-6, s. 3; 2018-112, s. 2; 2018-129, ss. 1(b), 2.)

**§ 163A-1304:** Repealed by Session Laws 2018-112, s. 3, effective June 27, 2018.

**§ 163A-1305. Date by which absentee ballots must be available for voting.**

(a) A board of elections shall provide absentee ballots of the kinds needed 60 days prior to the statewide general election in even-numbered years and 50 days prior to the date on which any other election shall be conducted, unless 45 days is authorized by the State Board under G.S. 163A-741(k) or there shall exist an appeal before the State Board or the courts not concluded, in which case the board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. Provided, in a presidential election year, the board of elections shall provide general election ballots no later than three days after nomination of the presidential and vice presidential candidates if that nomination occurs later than 63 days prior to the statewide general election and makes compliance with the 60-day deadline impossible. However, in the case of municipal elections, absentee ballots shall be made available no later than 30 days before an election. In every instance the board of elections shall exert every effort to provide absentee ballots, of the kinds needed by the date on which absentee voting is authorized to commence.

(b) Second Primary. – The board of elections shall provide absentee ballots, of the kinds needed, as quickly as possible after the ballot information for a second primary has been determined. (1973, c. 1275; 1977, c. 469, s. 1; 1985 (Reg. Sess., 1986), c. 986, s. 2; 1987, c. 485, ss. 2, 5; c. 509, s. 9; 1989, c. 635, s. 5; 2001-353, s. 4; 2002-159, s. 55(i); 2009-537, s. 2; 2013-381, s. 17(a); 2017-6, s. 3.)

**§ 163A-1306. Register of absentee requests, applications, and ballots issued; a public record.**

The State Board shall approve an official register in which the county board of elections in each county of the State shall record the following information:

- (1) Name of voter for whom application and ballots are being requested, and, if applicable, the name and address of the voter's near relative or verifiable legal guardian who requested the application and ballots for the voter.
- (2) Number of assigned voter's application when issued.
- (3) Precinct in which applicant is registered.
- (4) Address to which ballots are to be mailed, or, if the voter voted pursuant to G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304, a notation of that fact.
- (5) Date request for application for ballots is received by the county board of elections.
- (6) The voter's party affiliation.
- (7) The date the ballots were mailed or delivered to the voter.
- (8) Whatever additional information and official action may be required by this Part.

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

The register of absentee requests, applications and ballots issued shall constitute a public record and shall be opened to the inspection of any registered voter of the county within 60 days before and 30 days after an election in which absentee ballots were authorized, or at any other time when good and sufficient reason may be assigned for its inspection. (1939, c. 159, ss. 3, 9; 1945, c. 758, s. 8; 1953, c. 1114; 1963, c. 457, s. 3; 1965, c. 1208; 1967, c. 775, s. 1; c. 952, s. 4; 1973, c. 536, s. 1; 1977, c. 469, s. 1; 1991, c. 636, s. 21; 1999-455, s. 7; 2009-537, s. 3; 2017-6, s. 3.)

**§ 163A-1307. Absentee ballots, applications on container-return envelopes, and instruction sheets.**

(a) Absentee Ballot Form. – In accordance with the provisions of G.S. 163A-1308, persons entitled to vote by absentee ballot shall be furnished with official ballots.

(b) Application on Container-Return Envelope. – In time for use not later than 60 days before a statewide general election in an even-numbered year, and not later than 50 days before a statewide primary, other general election or county bond election, the county board of elections shall print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the county board of elections. However, in the case of municipal elections, sufficient container-return envelopes shall be made available no later than 30 days before an election. Each container-return envelope shall have printed on it an application which shall be designed and prescribed by the State Board, providing for all of the following:

- (1) The voter's certification of eligibility to vote the enclosed ballot and of having voted the enclosed ballot in accordance with this Part.
- (2) A space for identification of the envelope with the voter and the voter's signature.
- (3) A space for the identification of the two persons witnessing the casting of the absentee ballot in accordance with G.S. 163A-1310, those persons' signatures, and those persons' addresses.
- (4) A space for the name and address of any person who, as permitted under G.S. 163A-1298(a), assisted the voter if the voter is unable to complete and sign the certification and that individual's signature.
- (5) A space for approval by the county board of elections.
- (6) A space to allow reporting of a change of name as provided by G.S. 163A-880.
- (7) A prominent display of the unlawful acts under G.S. 163A-1298 and G.S. 163A-1389, except if there is not room on the envelope, the State Board may provide for that disclosure to be made on a separate piece of paper to be included along with the container-return envelope.

The container-return envelope shall be printed in accordance with the instructions of the State Board.

(c) Instruction Sheets. – In time for use not later than 60 days before a statewide general election in an even-numbered year, and not later than 50 days before a statewide primary, other general or county bond election, the county board of elections shall prepare and print a sufficient number of sheets of instructions on how voters are to prepare absentee ballots and return them to the county board of elections. However, in the case of municipal elections, instruction sheets shall be made available no later than 30 days before an election. (1929, c. 164, s. 39; 1939, c. 159, ss. 3, 4; 1943, c. 751, s. 2; 1963, c. 457, ss. 3, 4; 1965, c. 1208; 1967, c. 775, s. 1; c. 851, s. 1; c. 952, s. 5; 1973, c. 536, s. 1; 1975, c. 844, s. 13; 1977, c. 469, s. 1; 1985, c. 562, ss. 3, 4; 1985 (Reg. Sess., 1986), c. 986, s. 2; 1987, c. 485, ss. 2, 5; c. 509, s. 9; c. 583, s. 3; 1989, c. 635, s. 5; 1995 (Reg. Sess., 1996), c. 561, s. 5; 1999-455, s. 8; 2009-537, s. 4; 2013-381, s. 4.1; 2017-6, s. 3.)

**§ 163A-1308. Simultaneous issuance of absentee ballots with application.**

(a) A qualified voter who desires to vote by absentee ballot, or that voter's near relative or verifiable legal guardian, shall complete a request form for an absentee application and absentee ballots so that the county board of elections receives that completed request form not later than 5:00 P.M. on the Tuesday before the election. That completed written request form shall be in

compliance with G.S. 163A-1309. The county board of elections shall enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163A-1306 as soon as each item of that information becomes available. Upon receiving the completed request form, the county board of elections shall cause to be mailed to that voter a single package that includes all of the following:

- (1) The official ballots that voter is entitled to vote.
- (2) A container-return envelope for the ballots, printed in accordance with G.S. 163A-1307.
- (3) An instruction sheet.

The ballots, envelope, and instructions shall be mailed to the voter by the county board's chairman, member, officer, or employee as determined by the board and entered in the register as provided by this Part.

(b) **Absence for Sickness or Physical Disability.** – Notwithstanding the provisions of subsection (a) of this section, if a voter expects to be unable to go to the voting place to vote in person on election day because of that voter's sickness or other physical disability, that voter or that voter's near relative or verifiable legal guardian may make the request under subsection (a) of this section in person to the board of elections of the county in which the voter is registered after 5:00 p.m. on the Tuesday before the election but not later than 5:00 p.m. on the day before the election. The county board of elections shall treat that completed request form in the same manner as a request under subsection (a) of this section but may personally deliver the application and ballots to the voter or that voter's near relative or verifiable legal guardian.

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

- (1) On the top margin of each ballot the applicant is entitled to vote, the chair, a member, officer, or employee of the board of elections shall write or type the words "Absentee Ballot No. \_\_\_\_ " or an abbreviation approved by the State Board and insert in the blank space the number assigned the applicant's application in the register of absentee requests, applications, and ballots issued. That person shall not write, type, or print any other matter upon the ballots transmitted to the absentee voter. Alternatively, the board of elections may cause to be barcoded on the ballot the voter's application number, if that barcoding system is approved by the State Board.
- (2) The chair, member, officer, or employee of the board of elections shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163A-1307(b), the absentee voter's name, the absentee voter's application number, and the designation of the precinct in which the voter is registered. If the ballot is barcoded under this section, the envelope may be barcoded rather than having the actual number appear. The person placing the ballots in the envelopes shall leave the container-return envelope holding the ballots unsealed.
- (3) The chair, member, officer, or employee of the board of elections shall then place the unsealed container-return envelope holding the ballots together with printed instructions for voting and returning the ballots, in an envelope

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

The county board of elections may receive completed written request forms for applications at any time prior to the election but shall not mail applications and ballots to the voter or issue applications and ballots in person earlier than 60 days prior to the statewide general election in an even-numbered year, or earlier than 50 days prior to any other election, except as provided in G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304. No election official shall issue applications for absentee ballots except in compliance with this Part.

(d) The application shall be completed and signed by the voter personally, the ballots marked, the ballots sealed in the container-return envelope, and the certificate completed as provided in G.S. 163A-1310.

(e) At its next official meeting after return of the completed container-return envelope with the voter's ballots, the county board of elections shall determine whether the container-return envelope has been properly executed. If the board determines that the container-return envelope has been properly executed, it shall approve the application and deposit the container-return envelope with other container-return envelopes for the envelope to be opened and the ballots counted at the same time as all other container-return envelopes and absentee ballots.

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

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

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

The decision of the board on the validity of an application for absentee ballots shall be final subject only to such review as may be necessary in the event of an election contest. The county board of elections shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.

(g) The State Board, by rule or by instruction to the county board of elections, shall establish procedures to provide appropriate safeguards in the implementation of this section.

(h) For the purpose of this Part, "near relative" means spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild. (1983, c. 304, s. 1; 1985, c. 759, ss. 5.1-5.5; 1991, c. 727, s. 6.3; 1993, c.



553, s. 67; 1995, c. 243, s. 1; 1999-455, s. 10; 2001-337, s. 3; 2002-159, s. 55(m); 2009-537, s. 5; 2013-381, s. 4.2; 2017-6, s. 3.)

**§ 163A-1309. Method of requesting absentee ballots.**

(a) Valid Types of Written Requests. – A completed written request form for an absentee ballot as required by G.S. 163A-1308 is valid only if it is on a form created by the State Board and signed by the voter requesting absentee ballots or that voter's near relative or verifiable legal guardian. The State Board shall make the form available at its offices, online, and in each county board of elections office, and that form may be reproduced. A voter may make a request in person or by writing to the county board for the form to request an absentee ballot. The request form for an absentee ballot shall require at least the following information:

- (1) The name and address of the residence of the voter.
- (2) The name and address of the voter's near relative or verifiable legal guardian if that individual is making the request.
- (3) The address of the voter to which the application and absentee ballots are to be mailed if different from the residence address of the voter.
- (4) One or more of the following in the order of preference:
  - a. The number of the voter's North Carolina drivers license issued under Article 2 of Chapter 20 of the General Statutes, including a learner's permit or a provisional license.
  - b. The number of the voter's special identification card for nonoperators issued under G.S. 20-37.7.
  - c. The last four digits of the applicant's social security number.
- (5) The voter's date of birth.
- (6) The signature of the voter or of the voter's near relative or verifiable legal guardian if that individual is making the request.

(b) A completed request form for an absentee ballot shall be deemed a request to update the official record of voter registration for that voter and shall be confirmed in writing in accordance with G.S. 163A-877(d).

(c) The completed request form for an absentee ballot shall be delivered to the county board of elections. If the voter does not include the information requested in subdivision (a)(4) of this section, a copy of a document listed in G.S. 163A-1144(a)(2) shall accompany the completed request form.

(d) Upon receiving a completed request form for an absentee ballot, the county board shall confirm that voter's registration. If that voter is confirmed as a registered voter of the county, the absentee ballots and certification form shall be mailed to the voter, unless personally delivered in accordance with G.S. 163A-1308(b). If the voter's official record of voter registration conflicts with the completed request form for an absentee ballot or cannot be confirmed, the voter shall be so notified. If the county board cannot resolve the differences, no application or absentee ballots shall be issued.

(e) Invalid Types of Written Requests. – A request is not valid if it does not comply with subsection (a) of this section. If a county board of elections receives a request for an absentee ballot that does not comply with subsection (a) of this section, the board shall not issue an application and ballot under G.S. 163A-1308.

(f) Rules by State Board. – The State Board shall adopt rules for the enforcement of this section. (2002-159, s. 57(a); 2013-381, s. 4.3; 2017-6, s. 3.)

**§ 163A-1310. Voting absentee ballots and transmitting them to the county board of elections.**

(a) Procedure for Voting Absentee Ballots. – In the presence of two persons who are at least 18 years of age, and who are not disqualified by G.S. 163A-1298(a)(4) or G.S. 163A-1317(c), the voter shall do all of the following:

- (1) Mark the voter's ballots, or cause them to be marked by that person in the voter's presence according to the voter's instruction.
- (2) Fold each ballot separately, or cause each of them to be folded in the voter's presence.
- (3) Place the folded ballots in the container-return envelope and securely seal it, or have this done in the voter's presence.
- (4) Make the application printed on the container-return envelope according to the provisions of G.S. 163A-1307(b) and make the certificate printed on the container-return envelope according to the provisions of G.S. 163A-1307(b).
- (5) Require those two persons in whose presence the voter marked that voter's ballots to sign the application and certificate as witnesses and to indicate those persons' addresses. Failure to list a ZIP code does not invalidate the application and certificate.

Alternatively to the prior paragraph of this subsection, any requirement for two witnesses shall be satisfied if witnessed by one notary public, who shall comply with all the other requirements of that paragraph. The notary shall affix a valid notarial seal to the envelope, and include the word "Notary Public" below his or her signature.

The persons in whose presence the ballot is marked shall at all times respect the secrecy of the ballot and the privacy of the absentee voter, unless the voter requests assistance and that person is otherwise authorized by law to give assistance. When thus executed, the sealed container-return envelope, with the ballots enclosed, shall be transmitted in accordance with the provisions of subsection (b) of this section to the county board of elections which issued the ballots.

(b) Transmitting Executed Absentee Ballots to County Board of Elections. – The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the county board of elections who issued those ballots as follows:

- (1) All ballots issued under the provisions of this Part and Part 2 of Article 21 of this Chapter shall be transmitted by mail or by commercial courier service, at the voter's expense, or delivered in person, or by the voter's near relative or verifiable legal guardian and received by the county board not later than 5:00 p.m. on the day of the statewide primary or general election or county bond election. Ballots issued under the provisions of Part 2 of Article 21 of this Chapter may also be electronically transmitted.
- (2) If ballots are received later than the hour stated in subdivision (1) of this subsection, those ballots shall not be accepted unless one of the following applies:
  - a. Federal law so requires.
  - b. The ballots issued under this Part are postmarked and that postmark is dated on or before the day of the statewide primary or general election or county bond election and are received by the county board of elections not later than three days after the election by 5:00 p.m.

- c. The ballots issued under Part 2 of Article 21 of this Chapter are received by the county board of elections not later than the end of business on the business day before the canvass conducted by the county board of elections held pursuant to G.S. 163A-1172.

(c) For purposes of this section, "Delivered in person" includes delivering the ballot to an election official at a one-stop voting site under G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304 during any time that site is open for voting. The ballots shall be kept securely and delivered by election officials at that site to the county board of elections office for processing. (1939, c. 159, ss. 2, 5; 1941, c. 248; 1943, c. 736; c. 751, s. 1; 1945, c. 758, s. 5; 1963, c. 457, ss. 2, 5; 1967, c. 775, s. 1; 1971, c. 1247, s. 3; 1973, c. 536, s. 1; 1977, c. 469, s. 1; 1979, c. 799, s. 5; 1985, c. 562, ss. 1, 2; 1987, c. 583, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 991, s. 4; 1999-455, s. 11; 2009-537, ss. 6, 8(a); 2011-182, s. 5; 2013-381, s. 4.4; 2014-111, s. 11; 2017-6, s. 3.)

**§ 163A-1311. Certified list of executed absentee ballots; distribution of list.**

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

"State of North Carolina  
County of \_\_\_\_\_

I, \_\_\_\_\_, chair of the \_\_\_\_\_ County board of elections, do hereby certify that the foregoing is a list of all executed absentee ballots to be voted in the election to be conducted on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, which have been approved by the county board of elections and which have been returned no later than 5:00 p.m. on the day before the election. I certify that the chair, member, officer, or employee of the board of elections has not delivered ballots for absentee voting to any person other than the voter, by mail or by commercial courier service or in person, except as provided by law, and have not mailed or delivered ballots when the request for the ballot was received after the deadline provided by law.

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Signature of chair of  
county board of elections)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
Witness my hand and official seal.

\_\_\_\_\_  
(Signature of officer  
administering oath)

\_\_\_\_\_  
(Title of officer)"

(b) No later than 10:00 a.m. on election day, the county board of elections shall cause one copy of the list of executed absentee ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately (i) submitted electronically in a manner approved by the State Board or (ii) deposited as "first-class" mail to the State Board. The board shall retain one copy in the board office for public inspection and the board shall cause two copies of the

appropriate precinct list to be delivered to the chief judge of each precinct in the county. The county board of elections shall be authorized to call upon the sheriff of the county to distribute the list to the precincts. In addition the county board of elections shall, upon request, provide a copy of the complete list to the chair of each political party, recognized under the provisions of G.S. 163A-950, represented in the county.

The chief judge shall post one copy of the list immediately in a conspicuous location in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made to absentee ballots as provided in G.S. 163A-916.

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

(d) All lists required by this section shall be retained by the county board of elections for a period of 22 months after which they may then be destroyed. (1939, c. 159, s. 6; 1943, c. 751, s. 3; 1963, c. 457, s. 6; 1967, c. 775, s. 1; 1973, c. 536, s. 1; 1977, c. 469, s. 1; 1981, c. 155, s. 1; c. 305, s. 4; 1985, c. 600, s. 7; 1993 (Reg. Sess., 1994), c. 762, s. 54; 1999-455, s. 12; 1999-456, s. 59; 2015-103, s. 3(a); 2017-6, s. 3.)

**§ 163A-1312. Certified list of executed absentee ballots received on or after election day; publication of list.**

(a) The county board of elections shall prepare, or cause to be prepared, a list in at least triplicate, of all absentee ballots issued under Part 1 of Article 21 of this Chapter returned to the county board of elections to be counted, which have been approved by the county board of elections, have not been included on the certified list prepared pursuant to G.S. 163A-1311, and which have been postmarked by the day of the statewide primary or general election or county bond election and received by the county board of elections not later than three days after the election by 5:00 p.m. The list shall be supplemented with new information each business day following the day of the election until the deadline for receipt of such absentee ballots. At the end of the list, the chairman shall execute the following certificate under oath:

"State of North Carolina

County of \_\_\_\_\_

I, \_\_\_\_\_, chairman of the \_\_\_\_\_ County Board of Elections, do hereby certify that the foregoing is a list of all executed absentee ballots to be voted in the election to be conducted on the \_\_\_\_\_ day of \_\_\_\_\_, which have been approved by the county board of elections and which have been postmarked by the day of the statewide primary or general election or county bond election and received by the county board of elections not later than three days after the election by 5:00 p.m. I certify that the chairman, member, officer, or employee of the board of elections has not delivered ballots for absentee voting to any person other than the voter, by mail or by commercial courier service or in person, except as provided by law, and have not mailed or delivered ballots when the request for the ballot was received after the deadline provided by law.

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Signature of chairman of

county board of elections)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
Witness my hand and official seal.

\_\_\_\_\_  
(Signature of officer  
administering oath)

\_\_\_\_\_  
(Title of officer)"

(b) The county board of elections shall prepare, or cause to be prepared, a list in at least triplicate, of all military-overseas ballots issued under Part 2 of Article 21 of this Chapter and returned to the county board of elections to be counted, which have been approved by the county board of elections, have not been included on the certified list prepared pursuant to G.S. 163A-1311, and which have been received by the county board of elections not later than three days after the election by 5:00 p.m. The list shall be supplemented with new information each business day following the day of the election until the deadline for receipt of such absentee ballots. At the end of the list, the chair shall execute the following certificate under oath:

"State of North Carolina  
County of \_\_\_\_\_

I, \_\_\_\_\_, chair of the \_\_\_\_\_ County Board of Elections, do hereby certify that the foregoing is a list of all executed military-overseas ballots to be voted in the election to be conducted on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, which have been approved by the county board of elections, and which have been postmarked by the day of the statewide primary or general election or county bond election and received by the county board of elections not later than three days after the election by 5:00 p.m. I further certify that I have issued ballots to no other persons than those listed herein and further that I have not delivered military-overseas ballots to persons other than those listed herein; that this list constitutes the only precinct registration of covered voters whose names have not heretofore been entered on the regular registration of the appropriate precinct.

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Signature of chair of  
county board of elections)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
Witness my hand and official seal.

\_\_\_\_\_  
(Signature of officer  
administering oath)

\_\_\_\_\_  
(Title of officer)"

(c) The board shall post one copy of the most current version of each list in the board office in a conspicuous location for public inspection and shall retain one copy until all challenges of absentee ballots have been heard by the county board of elections. The county board of elections shall cause one copy of each of the final lists of executed absentee ballots required under subsection (a) and subsection (b) of this section to be (i) submitted electronically in a manner approved by the State Board or (ii) deposited as "first-class" mail to the State Board. The final lists shall be

electronically submitted or mailed no later than 10:00 a.m. of the next business day following the deadline for receipt of such absentee ballots. Challenges shall be made to absentee ballots as provided in G.S. 163A-916. In addition the county board of elections shall, upon request, provide a copy of each of the lists to the chair of each political party, recognized under the provisions of G.S. 163A-950, represented in the county.

(d) All lists required by this section shall be retained by the county board of elections for a period of 22 months after which they may then be destroyed. (2009-537, s. 8(b); 2011-182, s. 6; 2015-103, s. 3(b); 2017-6, s. 3.)

#### **§ 163A-1313. Applications for absentee ballots; how retained.**

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

All applications for absentee ballots shall be retained by the county board of elections for a period of one year after which they may be destroyed. (1939, c. 159, s. 7; 1943, c. 751, s. 4; 1963, c. 457, s. 7; 1967, c. 775, s. 1; 1973, c. 536, s. 1; c. 1075, s. 5; 1977, c. 469, s. 1; 1999-455, s. 13; 2017-6, s. 3.)

#### **§ 163A-1314. Withdrawal of absentee ballots not allowed.**

No person shall be permitted to withdraw an absentee ballot after such ballot has been mailed to or returned to the county board of elections. (1973, c. 536, s. 1; 1977, c. 469, s. 1; 2017-6, s. 3.)

#### **§ 163A-1315. Counting absentee ballots by county board of elections.**

All absentee ballots returned to the county board of elections in the container-return envelopes shall be retained by the board to be counted by the county board of elections as herein provided.

- (1) Only those absentee ballots returned to the county board of elections no later than 5:00 p.m. on the day before election day in a properly executed container-return envelope or absentee ballots received pursuant to G.S. 163A-1310(b)(ii) or (iii) shall be counted, except to the extent federal law requires otherwise.
- (2) The county board of elections shall meet at 5:00 p.m. on election day in the board office or other public location in the county courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 p.m. on election day and those received pursuant to G.S. 163A-1310(b)(ii) or (iii). Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, provided the elector shall not in any manner interfere with the election officials in the discharge of their duties.

Provided, that the county board of elections is authorized to begin counting absentee ballots issued under Part 2 of Article 21 of this Chapter between the hours of 9:00 A.M. and 5:00 P.M. and to begin counting all absentee ballots between the hours of 2:00 p.m. and 5:00 p.m. upon the adoption of a resolution at least two weeks prior to the election wherein the hour and place of counting absentee ballots shall be stated. Such resolution also may provide for an additional meeting following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to G.S. 163A-1310(b)(ii) or (iii) as provided in subdivision (11) of this section. A copy of the resolutions

shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable necessity, except that if the count has been completed prior to the time the polls close, it shall be suspended until that time pending receipt of any additional ballots. Nothing in this section shall prohibit a county board of elections from taking preparatory steps for the count earlier than the times specified in this section, as long as the preparatory steps do not reveal to any individual not engaged in the actual count election results before the times specified in this subdivision for the count to begin. By way of illustration and not limitation, a preparatory step for the count would be the entry of tally cards from direct record electronic voting units into a computer for processing. The board shall not announce the result of the count before 7:30 p.m.

- (3) Notwithstanding the provisions of subdivision (2) of this section, a county board of elections may, at each meeting at which it approves absentee ballot applications pursuant to G.S. 163A-1308(e) and (f), remove those ballots from their envelopes and have them read by an optical scanning machine, without printing the totals on the scanner. The board shall complete the counting of these ballots at the times provided in subdivision (2) of this section. The State Board shall provide instructions to county boards of elections for executing this procedure, and the instructions shall be designed to ensure the accuracy of the count, the participation of board members of both parties, and the secrecy of the results before election day. This subdivision applies only in counties that use optical scan devices to count absentee ballots.
- (4) The counting of absentee ballots shall not commence until a majority and at least one board member of each political party represented on the board is present and that fact is publicly declared and entered in the official minutes of the county board.
- (5) The county board of elections may employ such assistants as deemed necessary to count the absentee ballots, but each board member present shall be responsible for and observe and supervise the opening and tallying of the ballots.
- (6) As each ballot envelope is opened, the board shall cause to be entered into a pollbook designated "Pollbook of Absentee Voters" the name of the absentee voter, or if the pollbook is computer-generated, the board shall check off the name. Preserving secrecy, the ballots shall be placed in the appropriate ballot boxes, at least one of which shall be provided for each type of ballot. The "Pollbook of Absentee Voters" shall also contain the names of all persons who voted under G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304, but those names may be printed by computer for inclusion in the pollbook.

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

If one-stop ballots under G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304 are counted electronically, that count shall commence at the time the polls close. If one-stop ballots are paper ballots counted manually, that count shall commence at the same time as other absentee ballots are counted.

If a challenge transmitted to the board on canvass day by a chief judge is sustained, the ballots challenged and sustained shall be withdrawn from the appropriate boxes, as provided in G.S. 163A-916(e).

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

- (7) Upon completion of the counting process the board members shall cause the results of the tally to be entered on the absentee abstract prescribed by the State Board. The abstract shall be signed by the members of the board in attendance and the original mailed immediately to the State Board. The county board of elections may have a separate count on the abstract for one-stop absentee ballots under G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304.
- (8) One copy of the absentee abstract shall be retained by the county board of elections and the totals appearing thereon shall be added to the final totals of all votes cast in the county for each office as determined on the official canvass.
- (9) In the event a political party does not have a member of the county board of elections present at the meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party chairman of said absent member, or a member of the party's county executive committee, is in attendance. Such person shall act as an official witness to the counting and shall sign the absentee ballot abstract as an "observer".
- (10) The county board of elections shall retain all container-return envelopes and absentee ballots, in a safe place, for at least four months, and longer if any contest is pending concerning the validity of any ballot.
- (11) The county board of elections shall meet after election day and prior to the date of canvass to determine where the container-return envelopes for absentee ballots received pursuant to G.S. 163A-1310(b)(ii) or (iii) has been properly executed. The county board of elections shall comply with the requirements of G.S. 163A-1308 for approval of applications. Any absentee ballots received pursuant to G.S. 163A-1310(b)(ii) or (iii) shall be counted by the county board of elections on the day of canvass. The county board of elections is also authorized to meet following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to G.S. 163A-1310(b)(ii) or (iii) upon the adoption of a resolution pursuant to subdivision (2) of this section. The county board of elections shall comply with all other requirements of this section for the counting of such absentee ballots. (1939, c. 159, ss. 8, 9; 1945, c. 758, s. 8; 1953, c. 1114; 1963, c. 547, s. 8; 1967, c. 775, s. 1; c. 851, s. 2; 1973, c. 536, s. 1; 1975, c. 798, s. 3; 1977, c. 469, s. 1; c. 626, s. 1; 1989, c. 93,



s. 7; 1993 (Reg. Sess., 1994), c. 762, s. 55; 1995, c. 243, s. 1; 1999-455, s. 14; 2005-159, s. 1; 2006-262, s. 1; 2009-537, s. 8(d); 2011-182, s. 7; 2017-6, s. 3.)

**§ 163A-1316. Violations by county board of elections.**

The county board of elections shall be sole custodian of blank applications for absentee ballots, official ballots, and container-return envelopes for absentee ballots. The board shall issue and deliver blank applications for absentee ballots in strict accordance with the provisions of G.S. 163A-1308. The issuance of ballots to persons whose requests for absentee ballots have been received by the county board of elections under the provisions of G.S. 163A-1308 is the responsibility and duty of the county board of elections.

It shall be the duty of the county board of elections to keep current all records required by this Part and to make promptly all reports required by this Part. If that duty has been assigned to the chair, member, officer, or employee of the board of elections, that person shall carry out the duty.

The willful violation of this section shall constitute a Class 2 misdemeanor. (1939, c. 159, s. 14; 1963, c. 457, s. 10; 1967, c. 775, s. 1; 1977, c. 469, s. 1; 1987, c. 565, s. 9; 1993, c. 539, s. 1105; 1994, Ex. Sess., c. 24, s. 14(c); 1999-455, s. 15; 2017-6, s. 3.)

**§ 163A-1317. Certain violations of absentee ballot law made criminal offenses.**

(a) False Statements under Oath Made Class 2 Misdemeanor. – If any person shall willfully and falsely make any affidavit or statement, under oath, which affidavit or statement under oath, is required to be made by the provisions of this Part, he shall be guilty of a Class 2 misdemeanor.

(b) False Statements Not under Oath Made Class 2 Misdemeanor. – Except as provided by G.S. 163A-1389(16), if any person, for the purpose of obtaining or voting any official ballot under the provisions of this Part, shall willfully sign any printed or written false statement which does not purport to be under oath, or which, if it purports to be under oath, was not duly sworn to, he shall be guilty of a Class 2 misdemeanor.

(c) Candidate Witnessing Absentee Ballots of Nonrelative Made Class 2 Misdemeanor. – A person is guilty of a Class 2 misdemeanor if that person acts as a witness under G.S. 163A-1310(a) in any primary or election in which the person is a candidate for nomination or election, unless the voter is the candidate's near relative as defined in G.S. 163A-1308(h).

(d) Fraud in Connection with Absentee Vote; Forgery. – Any person attempting to aid and abet fraud in connection with any absentee vote cast or to be cast, under the provisions of this Part, shall be guilty of a misdemeanor. Attempting to vote by fraudulently signing the name of a regularly qualified voter is a Class I felony.

(e) Violations Not Otherwise Provided for Made Class 2 Misdemeanors. – If any person shall willfully violate any of the provisions of this Part, or willfully fail to comply with any of the provisions thereof, for which no other punishment is herein provided, he shall be guilty of a Class 2 misdemeanor. (1929, c. 164, s. 40; 1939, c. 159, ss. 12, 13, 15; 1967, c. 775, s. 1; 1977, c. 469, s. 1, 1985, c. 562, s. 6; 1987, c. 565, s. 8; 1993, c. 539, ss. 1106, 1324; 1994, Ex. Sess., c. 24, s. 14(c); 1999-455, s. 22; 2014-111, s. 15(b); 2017-6, s. 3.)

**§ 163A-1318. Reports of violations to district attorneys.**

It shall be the duty of the State Board to report to the district attorney of the appropriate prosecutorial district, any violation of this Part, or the failure of any person charged with a duty under its provisions to comply with and perform that duty, and it shall be the duty of the district

attorney to cause such a person to be prosecuted therefor. (1939, c. 159, s. 16; 1967, c. 775, s. 1; 1977, c. 469, s. 1; 2017-6, s. 3.)

**§ 163A-1319. Part 2 of Article 21 relating to absentee voting by military and overseas voters not applicable.**

Except as otherwise provided therein, Part 2 of Article 21 of this Chapter shall not apply to or modify the provisions of this Part. (1963, c. 457, s. 11; 1967, c. 775, s. 1; 1977, c. 469, s. 1; 2011-182, s. 8; 2017-6, s. 3.)

**§ 163A-1320:** Reserved for future codification purposes.

**§ 163A-1321:** Reserved for future codification purposes.

**§ 163A-1322:** Reserved for future codification purposes.

**§ 163A-1323:** Reserved for future codification purposes.

**§ 163A-1324:** Reserved for future codification purposes.

**§ 163A-1325:** Reserved for future codification purposes.

**§ 163A-1326:** Reserved for future codification purposes.

**§ 163A-1327:** Reserved for future codification purposes.

**§ 163A-1328:** Reserved for future codification purposes.

**§ 163A-1329:** Reserved for future codification purposes.

**§ 163A-1330:** Reserved for future codification purposes.

**§ 163A-1331:** Reserved for future codification purposes.

**§ 163A-1332:** Reserved for future codification purposes.

**§ 163A-1333:** Reserved for future codification purposes.

**§ 163A-1334:** Reserved for future codification purposes.

Part 2. Uniform Military and Overseas Voters Act.

Subpart 1. Uniform Military and Overseas Voters Act.

**§ 163A-1335. Short title.**

This Part may be cited as the Uniform Military and Overseas Voters Act. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1336. Definitions.**

As used in this Part:

- (1) "Covered voter" means any of the following:
  - a. A uniformed-service voter or an overseas voter who is registered to vote in this State.
  - b. A uniformed-service voter defined in subdivision (7) of this section whose voting residence is in this State and who otherwise satisfies this State's voter eligibility requirements.
  - c. An overseas voter who, before leaving the United States, was last eligible to vote in this State and, except for a State residency requirement, otherwise satisfies this State's voter eligibility requirements.
  - d. An overseas voter who, before leaving the United States, would have been last eligible to vote in this State had the voter then been of voting age and, except for a State residency requirement, otherwise satisfies this State's voter eligibility requirements.
  - e. An overseas voter who was born outside the United States, is not described in sub-subdivision c. or d. of this subdivision, and, except for a State residency requirement, otherwise satisfies this State's voter eligibility requirements, if:
    1. The last place where a parent or legal guardian of the voter was, or under this Part would have been, eligible to vote before leaving the United States is within this State; and
    2. The voter has not previously registered to vote in any other state.
- (2) "Dependent" means an individual recognized as a dependent by a uniformed service.
- (3) "Military-overseas ballot" means any of the following:
  - a. A federal write-in absentee ballot described in the Uniformed and Overseas Citizens Absentee Voting Act, section 103, 42 U.S.C. § 1973ff-2.
  - b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this Part.
  - c. A ballot cast by a covered voter in accordance with this Part.
- (4) "Overseas voter" means a United States citizen who is outside the United States.
- (5) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (6) "Uniformed service" means any of the following:
  - a. Active and reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States.
  - b. The Merchant Marine, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration of the United States.
  - c. The National Guard and state militia units.
- (7) "Uniformed-service voter" means an individual who is qualified to vote and is one of the following:

- a. A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty.
  - b. A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States.
  - c. A member of the National Guard or State militia unit who is on activated status.
  - d. A spouse or dependent of a member referred to in this subdivision.
- (8) "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1337. Elections covered.**

The voting procedures in this Part apply to all of the following:

- (1) A primary, general, or special election for federal or State office.
- (2) A State ballot measure.
- (3) A primary, general, special, or runoff election for local government office or a local ballot measure if absentee balloting is allowed under Part 1 of Article 21 of this Chapter. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1338. Role of State Board.**

(a) The State Board is the State official responsible for implementing this Part and the State's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff, et seq.

(b) The State Board shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots. The State Board may delegate the responsibility under this subsection only to the State office designated in compliance with the Uniformed and Overseas Citizens Absentee Voting Act, section 102(b)(1), 42 U.S.C. § 1973ff-1(b)(1).

(c) The State Board shall establish an electronic transmission system through which covered voters may apply for and receive voter registration materials, military-overseas ballots, and other information under this Part.

(d) The State Board shall develop standardized absentee-voting materials, including privacy and transmission envelopes and their electronic equivalents, authentication materials, and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in this State, and, to the extent reasonably possible, shall do so in coordination with other states.

(e) The State Board shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of an overseas-military ballot. The declaration shall be based on the declaration prescribed to accompany a federal write-in absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act, section 103, 42 U.S.C. § 1973ff-2, as modified to be consistent with this Part. The State Board shall ensure that a form for the execution of the declaration, including an indication of the date of

execution of the declaration, is a prominent part of all balloting materials for which the declaration is required. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1339. Overseas voter's registration address.**

In registering to vote, an overseas voter who is eligible to vote in this State shall use and shall be assigned to the precinct of the address of the last place of residence of the voter in this State, or, in the case of a voter described by G.S. 163A-1336(1)e., the address of the last place of residence in this State of the parent or legal guardian of the voter. If that address is no longer a recognized residential address, the voter shall be assigned an address for voting purposes. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1340. Methods of registering to vote.**

(a) In addition to any other approved method for registering to vote, a covered voter may use a federal postcard application, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, section 101(b)(2), 42 U.S.C. § 1973ff(b)(2), or the application's electronic equivalent, to apply to register to vote.

(b) A covered voter may use the declaration accompanying the federal write-in absentee ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, section 103, 42 U.S.C. § 1973ff-2, to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot.

(c) The State Board shall ensure that the electronic transmission system described in G.S. 163A-1338(c) is capable of accepting both a federal postcard application and any other approved electronic registration application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to register to vote.

(d) A covered voter's registration to vote by any method authorized by this section may be received at any time prior to the primary or election, but no later than 5:00 P.M. on the day before the primary or election. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1341. Methods of applying for military-overseas ballot.**

(a) A covered voter who is registered to vote in this State may apply for a military-overseas ballot using either the regular application provided by Part I of Article 21 of this Chapter or the federal postcard application, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, section 101(b)(2), 42 U.S.C. § 1973ff(b)(2), or the application's electronic equivalent.

(b) A covered voter who is not registered to vote in this State may use the federal postcard application or the application's electronic equivalent simultaneously to apply to register to vote under G.S. 163A-1340 and to apply for a military-overseas ballot.

(c) The State Board shall ensure that the electronic transmission system described in G.S. 163A-1338(c) is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.

(d) A covered voter may use the declaration accompanying the federal write-in absentee ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, section 103, 42 U.S.C. § 1973ff-2, as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official no later than 5:00 P.M. on the day before the election.

(e) To receive the benefits of this Part, a covered voter shall inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include any of the following:

- (1) The use of a federal postcard application or federal write-in absentee ballot.
- (2) The use of an overseas address on an approved voter registration application or ballot application.
- (3) The inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.

(f) This Part does not preclude a covered voter from voting an absentee ballot under Part 1 of Article 21 of this Chapter. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1342. Timeliness and scope of application for military-overseas ballot.**

An application for a military-overseas ballot is timely if received by the appropriate election official by 5:00 P.M. of the day before the election or primary. An application from a covered voter for a military-overseas ballot shall be considered a valid absentee ballot request for any election covered under G.S. 163A-1337 held during the calendar year in which the application was received. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1343. Transmission of unvoted ballots.**

(a) Not later than 60 days before the statewide general election in even-numbered years and not later than 50 days before any other election, the county board of elections shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application, except for a second primary. Provided, in a presidential election year, the board of elections shall provide general election ballots no later than three days after nomination of the presidential and vice presidential candidates if that nomination occurs later than 63 days prior to the statewide general election and makes compliance with the 60-day deadline impossible. However, in the case of municipal elections, absentee ballots shall be made available no later than 30 days before an election. For a second primary which includes a candidate for federal office, the county board of elections shall transmit a ballot and balloting material to all covered voters who by that date submit a valid military-overseas ballot application no later than 45 days before the second primary. For a second primary which does not include a candidate for federal office, the transmission of the ballot and ballot materials shall be as soon as practicable and shall be transmitted electronically no later than three business days and by mail no later than 15 days from the date the appropriate board of elections orders that the second primary be held pursuant to G.S. 163A-984. If additional offices are added to the ballot to fill a vacancy occurring after the deadline provided by this subsection, those ballots shall be transmitted as soon as practicable.

(b) A covered voter who requests that a ballot and balloting materials be sent to the voter by electronic transmission may choose facsimile transmission or electronic mail delivery, or, if offered by the voter's jurisdiction, Internet delivery. The election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.

(c) If a ballot application from a covered voter arrives after the jurisdiction begins transmitting ballots and balloting materials to voters, the official charged with distributing a ballot and balloting materials shall transmit them to the voter not later than two business days after the application arrives. (2011-182, s. 1; 2013-381, s. 17(b); 2017-6, s. 3.)

**§ 163A-1344. Timely casting of ballot.**

To be valid, a military-overseas ballot shall either be received by the appropriate county board of elections no later than the close of the polls, or the covered voter shall submit the ballot for mailing, electronic transmission, or other authorized means of delivery not later than 12:01 A.M., at the place where the voter completes the ballot, on the date of the election. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1345. Federal write-in absentee ballot.**

A covered voter may use the federal write-in absentee ballot, in accordance with the Uniformed and Overseas Citizens Absentee Voting Act, section 103, 42 U.S.C. § 1973ff-2, to vote for all offices and ballot measures in a covered election. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1346. Receipt of voted ballot.**

(a) A valid military-overseas ballot cast in accordance with G.S. 163A-1344 shall be counted if it is delivered to the address that the appropriate State or local election office has specified by the end of business on the business day before the canvass conducted by the county board of elections held pursuant to G.S. 163A-1172 to determine the final official results.

(b) If the ballot is timely received, it may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1347. Declaration.**

Each military-overseas ballot shall include or be accompanied by a declaration signed by the voter declaring that a material misstatement of fact in completing the document may be grounds for a conviction of perjury under the laws of the United States or this State. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1348. Confirmation of receipt of application and voted ballot.**

The State Board, in coordination with local election officials, shall implement an electronic free access system by which a covered voter may determine by telephone, electronic mail, or Internet whether:

- (1) The voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted; and
- (2) The voter's military-overseas ballot has been received and the current status of the ballot. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1349. Use of voter's electronic mail address.**

(a) The county board of elections shall request an electronic mail address from each covered voter who registers to vote after January 1, 2012. An electronic mail address provided by a covered voter is not a public record under Chapter 132 of the General Statutes. The address may be used only for official communication with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission, and verifying the voter's mailing address and physical location, as needed. The request for an electronic mail address shall describe the purposes for which the electronic mail address may be used and include a statement that any other use or disclosure of the electronic mail address is prohibited.

(b) A covered voter who provides an electronic mail address may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the calendar year of the date of the application or another shorter period the voter specifies, including for any runoff elections that occur as a result of such elections. An election official shall provide a military-overseas ballot to a voter who makes a request for each election to which the request is applicable. A covered voter entitled to receive a military-overseas ballot for a primary election under this subsection is also entitled to receive a military-overseas ballot for the general election. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1350. Publication of election notice.**

(a) Not later than 100 days before a regularly scheduled election to which this Part applies, and as soon as practicable in the case of an election or vacancy election not regularly scheduled, each county board of elections shall prepare an election notice for that jurisdiction to be used in conjunction with the federal write-in absentee ballot described in G.S. 163A-1345. For a second primary required by G.S. 163A-984, the county board of elections shall prepare, no later than the day following the date the appropriate board of elections orders that a second primary be held, an election notice for that jurisdiction to be used in conjunction with the federal write-in absentee ballot. The election notice shall contain a list of all of the ballot measures and federal, State, and local offices that, as of that date, the official expects to be on the ballot on the date of the election. The notice also shall contain specific instructions for how a voter is to indicate on the federal write-in absentee ballot the voter's choice for each office to be filled and for each ballot measure to be contested.

(b) A covered voter may request a copy of an election notice. The official charged with preparing the election notice shall send the notice to the voter by facsimile, electronic mail, or regular mail, as the voter requests.

(c) As soon as ballot styles are printed, the county board of elections shall update the notice with the certified candidates for each office and ballot measure questions and make the updated notice publicly available.

(d) A county board of elections that maintains an Internet Web site shall make updated versions of its election notices regularly available on the Web site. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1351. Prohibition of nonessential requirements.**

(a) If a voter's mistake or omission in the completion of a document under this Part does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document. Failure to satisfy a nonessential requirement, such as using paper or envelopes of a specified size or weight, does not invalidate a document submitted under this Part. In any write-in ballot authorized by this Part or in any vote for a write-in candidate on a regular ballot, if the intention of the voter is discernable under this State's uniform definition of what constitutes a vote, as required by the Help America Vote Act, 42 U.S.C. § 15481(a)(6), an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be accepted as a valid vote.

(b) An authentication, other than the declaration specified in G.S. 163A-1347 or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under this Part. The declaration and any information in the declaration



may be compared against information on file to ascertain the validity of the document. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1352. Issuance of injunction or other equitable relief.**

A court may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with, or enforce, this Part on application by:

- (1) A covered voter alleging a grievance under this Part; or
- (2) An election official in this State. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1353. Uniformity of application and construction.**

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1354. Relation to Electronic Signatures in Global and National Commerce Act.**

This Part modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b). (2011-182, s. 1; 2017-6, s. 3.)

**§ 163A-1355:** Reserved for future codification purposes.

**§ 163A-1356:** Reserved for future codification purposes.

**§ 163A-1357:** Reserved for future codification purposes.

**§ 163A-1358:** Reserved for future codification purposes.

**§ 163A-1359:** Reserved for future codification purposes.

**§ 163A-1360:** Reserved for future codification purposes.

**§ 163A-1361:** Reserved for future codification purposes.

**§ 163A-1362:** Reserved for future codification purposes.

**§ 163A-1363:** Reserved for future codification purposes.

**§ 163A-1364:** Reserved for future codification purposes.

Subpart 2. Other Military and Overseas Voters Absentee Provisions.

**§ 163A-1365. Certified list of approved military-overseas ballot applications; record of ballots received; disposition of list; list constitutes registration.**

(a) Preparation of List. – The chair of the county board of elections shall prepare, or cause to be prepared, a list in quadruplicate of all military-overseas ballots returned to the county board

of elections under this Part to be counted which have been approved by the county board of elections. At the end of the list the chair shall execute the following certificate under oath:

"State of North Carolina

County of \_\_\_\_\_

I, \_\_\_\_\_, Chair of the \_\_\_\_\_ County Board of Elections, do hereby certify that the foregoing is a list of all executed military-overseas ballots to be voted in the election to be conducted on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, which have been approved by the County Board of Elections. I further certify that I have issued ballots to no other persons than those listed herein and further that I have not delivered military-overseas ballots to persons other than those listed herein; that this list constitutes the only precinct registration of covered voters whose names have not heretofore been entered on the regular registration of the appropriate precinct.

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Chair of County Board of Elections)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Signature of Officer administering oath)

\_\_\_\_\_  
(Title of officer)"

(b) Distribution of List. – No earlier than 3:00 P.M. on the day before the election and no later than 10:00 A.M. on election day, the chair shall cause one copy of the list of executed military-overseas ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately deposited as first-class mail to the State Board. The chair shall retain one copy in the board office for public inspection and shall cause two copies of the appropriate precinct list to be delivered to the chief judge of each precinct in the county. The chief judge shall post one copy in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made as provided in G.S. 163A-916.

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

(c) List Constitutes Registration. – The "List of Applicants for Military-Overseas Ballots to Whom Ballots Have Been Issued" prescribed by this section, when delivered to the chief judges of the various precincts, shall constitute the only precinct registration of the covered voters listed thereon whose names are not already entered in the registration records of the appropriate precinct. Chief judges shall not add the names of persons listed on the covered voters list to the regular registration books of their precincts.

(d) Counting Ballots, Hearing Challenges. – The county board of elections shall count military-overseas ballots as provided for civilian absentee ballots in G.S. 163A-1315, and shall

hear challenges as provided in G.S. 163A-916. (1941, c. 346, ss. 7-10, 12, 13; 1943, c. 503, ss. 4, 5; 1963, c. 457, s. 15; 1967, c. 775, s. 1; 1973, c. 536, s. 2; 1977, c. 265, s. 17; 1979, c. 797, s. 3; 1981, c. 155, s. 2; c. 308, s. 3; 1983, c. 331, s. 4; 1993 (Reg. Sess., 1994), c. 762, ss. 56, 57; 1999-456, s. 59; 2011-182, s. 2; 2017-6, s. 3.)

**§ 163A-1366. Part inapplicable to persons after change of status; reregistration not required.**

An individual who no longer qualifies as a covered voter under the provisions of this Part shall not be entitled subsequently to vote by military-overseas ballot under this Part, but if the covered voter was registered under the provisions of this Part that voter's registration shall remain valid for the remainder of the calendar year that voter registered, and that voter shall be entitled to vote in any primary or election for the remainder of the calendar year without having to reregister. If requested by election officials, the voter shall present proof of military status at the time of registration. This section does not entitle a person to vote in North Carolina if that person has become disqualified because of change of permanent residence to another State or because of conviction of a felony. (1943, c. 503, s. 12; 1967, c. 775, s. 1; 1999-424, s. 7(k); 2001-466, s. 4(e); 2011-182, s. 2; 2017-6, s. 3.)

**§ 163A-1367. Registration and voting on primary or election day.**

Notwithstanding any other provisions of this Subchapter, an individual shall be permitted to register in person at any time the office of the board of elections or the voting place is open, including the day of a primary or election if that individual was absent on the day the registration records close for an election, but returns to that individual's county of residence in North Carolina thereafter, and if the absence is due to uniformed service as defined by G.S. 163A-1336.

If an individual so absent on the day registration closes shall appear in person at the voting place on election day and is otherwise eligible to vote, that individual shall be entitled to register and vote at the voting place that day, regardless of whether the person's uniformed service status has changed since the close of registration. (1977, c. 93; 1999-424, s. 7(l); 2001-353, s. 3; 2009-281, s. 1; 2011-182, s. 2; 2017-6, s. 3.)

**§ 163A-1368. Absentee voting at office of board of elections.**

Notwithstanding any other provisions of this Subchapter, any covered voter under this Part shall be permitted to vote an absentee ballot pursuant to G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304 if the covered voter has not already voted an absentee ballot which has been returned to the board of elections, and if the covered voter will not be in the county on the day of the primary or election.

In the event an absentee application or ballot has already been mailed to the covered voter applying to vote pursuant to G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304, the board of elections shall void the application and ballot unless the voted absentee ballot has been received by the board of elections. The covered voter shall be eligible to vote pursuant to G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304 no later than 5:00 P.M. on the day next preceding the primary, second primary or election. (1977, c. 93; 1979, c. 797, s. 4; 2011-182, s. 2; 2017-6, s. 3.)

**§ 163A-1369. Regulations of State Board.**

(a) The State Board shall adopt rules and regulations to carry out the intent and purpose of G.S. 163A-1367 and G.S. 163A-1368 and to ensure that a proper list of persons voting under said

sections shall be maintained by the boards of elections, and to ensure proper registration records, and such rules and regulations shall not be subject to the provisions of Article 2A of Chapter 150B of the General Statutes.

(b) The State Board shall be the single office responsible for providing information concerning voter registration and absentee voting procedures to be used by covered voters as to all elections and procedures relating to the use of federal write-in absentee ballots. Unless otherwise required by law, the State Board shall be responsible for maintaining contact and cooperation with the Federal Voting Assistance Program, the United States Department of Defense, and other federal entities that deal with military and overseas voting. The State Board shall, as needed, make recommendations concerning military and overseas citizen voting to the General Assembly, the Governor, and other State officials. (1977, c. 93; 1987, c. 827, s. 1; 2003-226, s. 18; 2011-182, s. 2; 2012-194, s. 37; 2017-6, s. 3.)

**§ 163A-1370. Emergency powers.**

If an international, national, or local emergency or other situation arises that makes substantial compliance with this Part or the Uniformed and Overseas Citizens Absentee Voting Act impossible or unreasonable, the State Board may prescribe, by emergency rule, such special procedures or requirements as may be necessary to facilitate absentee voting by those absent uniformed services voters or overseas voters directly affected who are eligible to vote in this State. The rule shall become effective when filed with the Codifier of Rules. (2009-537, s. 9; 2011-182, s. 2; 2017-6, s. 3.)

**§ 163A-1371:** Reserved for future codification purposes.

**§ 163A-1372:** Reserved for future codification purposes.

**§ 163A-1373:** Reserved for future codification purposes.

**§ 163A-1374:** Reserved for future codification purposes.

**§ 163A-1375:** Reserved for future codification purposes.

**§ 163A-1376:** Reserved for future codification purposes.

**§ 163A-1377:** Reserved for future codification purposes.

**§ 163A-1378:** Reserved for future codification purposes.

**§ 163A-1379:** Reserved for future codification purposes.

**§ 163A-1380:** Reserved for future codification purposes.

**§ 163A-1381:** Reserved for future codification purposes.

**§ 163A-1382:** Reserved for future codification purposes.

§ 163A-1383: Reserved for future codification purposes.

§ 163A-1384: Reserved for future codification purposes.

## Article 22.

### Regulation of Election Campaigns – Corrupt Practices and Other Offenses Against the Elective Franchise

#### § 163A-1385. Intimidation of voters by officers made misdemeanor.

It shall be unlawful for any person holding any office, position, or employment in the State government, or under and with any department, institution, bureau, board, commission, or other State agency, or under and with any county, city, town, district, or other political subdivision, directly or indirectly, to discharge, threaten to discharge, or cause to be discharged, or otherwise intimidate or oppress any other person in such employment on account of any vote such voter or any member of his family may cast, or consider or intend to cast, or not to cast, or which he may have failed to cast, or to seek or undertake to control any vote which any subordinate of such person may cast, or consider or intend to cast, or not to cast, by threat, intimidation, or declaration that the position, salary, or any part of the salary of such subordinate depends in any manner whatsoever, directly or indirectly, upon the way in which subordinate or any member of his family casts, or considers or intends to cast, or not to cast his vote, at any primary or election. A violation of this section is a Class 2 misdemeanor. (1933, c. 165, s. 25; 1967, c. 775, s. 1; 1987, c. 565, s. 11; 1993, c. 539, s. 1109; 1994, Ex. Sess., c. 24, s. 14(c); 2017-6, s. 3.)

#### § 163A-1386. Penalties for violation of this Subchapter.

Whenever in this Subchapter it is provided that a crime is a misdemeanor, the punishment shall be for a Class 2 misdemeanor. (1987, c. 565, s. 1; 1993, c. 539, s. 1110; 1994, Ex. Sess., c. 24, s. 14(c); 2017-6, s. 3.)

#### § 163A-1387. Offenses of voters; interference with voters; penalty.

(a) Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful:

- (1) For a voter, except as otherwise provided in this Subchapter, to allow his ballot to be seen by any person.
- (2) For a voter to take or remove, or attempt to take or remove, any ballot from the voting enclosure.
- (3) For any person to interfere with, or attempt to interfere with, any voter when inside the voting enclosure.
- (4) For any person to interfere with, or attempt to interfere with, any voter when marking his ballots.
- (5) For any voter to remain longer than the specified time allowed by this Subchapter in a voting booth, after being notified that his time has expired.
- (6) For any person to endeavor to induce any voter, while within the voting enclosure, before depositing his ballots, to show how he marks or has marked his ballots.

(7) For any person to aid, or attempt to aid, any voter by means of any mechanical device, or any other means whatever, while within the voting enclosure, in marking his ballots.

(b) Election officers shall cause any person committing any of the offenses set forth in subsection (a) of this section to be arrested and shall cause charges to be preferred against the person so offending in a court of competent jurisdiction. (1929, c. 164, s. 29; 1967, c. 775, s. 1; 1987, c. 565, s. 12; 1993, c. 539, s. 1111; 1994, Ex. Sess., c. 24, s. 14(c); 2017-6, s. 3.)

**§ 163A-1388. Certain acts declared misdemeanors.**

(a) Class 2 Misdemeanors. – Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this subsection to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful to do any of the following:

- (1) For any person to fail, as an officer or as a judge or chief judge of a primary or election, or as a member of any board of elections, to prepare the books, ballots, and return blanks which it is the person's duty under the law to prepare, or to distribute the same as required by law, or to perform any other duty imposed upon that person within the time and in the manner required by law.
- (2) For any member, director, or employee of a board of elections to alter a voter registration application or other voter registration record without either the written authorization of the applicant or voter or the written authorization of the State Board.
- (3) For any person to continue or attempt to act as a judge or chief judge of a primary or election, or as a member of any board of elections, after having been legally removed from such position and after having been given notice of such removal.
- (4) For any person to break up or by force or violence to stay or interfere with the holding of any primary or election, to interfere with the possession of any ballot box, election book, ballot, or return sheet by those entitled to possession of the same under the law, or to interfere in any manner with the performance of any duty imposed by law upon any election officer or member of any board of elections.
- (5) For any person to be guilty of any boisterous conduct so as to disturb any member of any election board or any chief judge or judge of election in the performance of that person's duties as imposed by law.
- (6) For any person to bet or wager any money or other thing of value on any election.
- (7) For any person, directly or indirectly, to discharge or threaten to discharge from employment, or otherwise intimidate or oppose any legally qualified voter on account of any vote such voter may cast or consider or intend to cast, or not to cast, or which that voter may have failed to cast.
- (8) For any person to publish in a newspaper or pamphlet or otherwise, any charge derogatory to any candidate or calculated to affect the candidate's chances of nomination or election, unless such publication be signed by the party giving publicity to and being responsible for such charge.
- (9) For any person to publish or cause to be circulated derogatory reports with reference to any candidate in any primary or election, knowing such report to

be false or in reckless disregard of its truth or falsity, when such report is calculated or intended to affect the chances of such candidate for nomination or election.

- (10) For any person to give or promise, in return for political support or influence, any political appointment or support for political office.
- (11) For any chair of a county board of elections or other returning officer to fail or neglect, willfully or of malice, to perform any duty, act, matter or thing required or directed in the time, manner and form in which said duty, matter or thing is required to be performed in relation to any primary, general or special election and the returns thereof.
- (12) For any clerk of the superior court to refuse to make and give to any person applying in writing for the same a duly certified copy of the returns of any primary or election or of a tabulated statement to a primary or election, the returns of which are by law deposited in his office, upon the tender of the fees therefor.
- (13) For any person willfully and knowingly to impose upon any blind or illiterate voter a ballot in any primary or election contrary to the wish or desire of such voter, by falsely representing to such voter that the ballot proposed to the voter is such as the voter desires.
- (14) Except as authorized by G.S. 163A-878, for any person to provide false information, or sign the name of any other person, to a written report under G.S. 163A-878.
- (15) For any person to be compensated based on the number of forms submitted for assisting persons in registering to vote.
- (16) For any person who is not an elections official or who is not otherwise authorized by law to retain a registrant's signature, full or partial Social Security number, date of birth, or the identity of the public agency at which the registrant registered under G.S. 163A-884, any electronic mail address submitted under Part 2 of Article 17 of this Chapter, or drivers license number from any form described in G.S. 163-862 after submission of the form to the county board of elections or elections official.

(b) Class 1 Misdemeanor. – Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this subsection to be unlawful shall be guilty of a Class 1 misdemeanor. It shall be unlawful for any person who has access to an official voted ballot or record to knowingly disclose in violation of G.S. 163A-1105(e) how an individual has voted that ballot. (1931, c. 348, s. 9; 1951, c. 983, s. 1; 1967, c. 775, s. 1; 1979, c. 135, s. 3; 1987, c. 565, s. 13; c. 583, s. 9; 1993, c. 539, s. 1112; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 762, s. 58(a)-(c); 1999-424, s. 7(h); 1999-426, s. 2(a); 1999-455, s. 21; 2007-391, ss. 9(b), 16(b); 2013-381, s. 14.1; 2017-6, s. 3; 2018-13, s. 3.9(a).)

#### **§ 163A-1389. Certain acts declared felonies.**

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

- (1) For any person fraudulently to cause that person's name to be placed upon the registration books of more than one election precinct or fraudulently to cause

- or procure that person's name or that of any other person to be placed upon the registration books in any precinct when registration in that precinct does not qualify the person to vote legally therein, or to impersonate falsely another registered voter for the purpose of voting in the stead of the other voter.
- (2) For any person to give or promise or request or accept at any time, before or after any such primary or election, any money, property or other thing of value whatsoever in return for the vote of any elector.
  - (3) For any person who is an election officer, a member of an election board or other officer charged with any duty with respect to any primary or election, knowingly to make any false or fraudulent entry on any election book or any false or fraudulent returns, or knowingly to make or cause to be made any false statement on any ballot, or to do any fraudulent act or knowingly and fraudulently omit to do any act or make any report legally required of that person.
  - (4) For any person knowingly to swear falsely with respect to any matter pertaining to any primary or election.
  - (5) For any person convicted of a crime which excludes the person from the right of suffrage, to vote at any primary or election without having been restored to the right of citizenship in due course and by the method provided by law.
  - (6) For any person to take corruptly the oath prescribed for voters.
  - (7) For any person with intent to commit a fraud to register or vote at more than one precinct or more than one time, or to induce another to do so, in the same primary or election, or to vote illegally at any primary or election.
  - (8) For any chief judge or any clerk or copyist to make any entry or copy with intent to commit a fraud.
  - (9) For any election official or other officer or person to make, certify, deliver or transmit any false returns of any primary or election, or to make any erasure, alteration, or conceal or destroy any election ballot, book, record, return or process with intent to commit a fraud.
  - (10) For any person to assault any chief judge, judge of election or other election officer while in the discharge of duties in the registration of voters or in conducting any primary or election.
  - (11) For any person, by threats, menaces or in any other manner, to intimidate or attempt to intimidate any chief judge, judge of election or other election officer in the discharge of duties in the registration of voters or in conducting any primary or election.
  - (12) For any chief judge, judge of election, member of a board of elections, assistant, marker, or other election official, directly or indirectly, to seek, receive or accept money or the promise of money, the promise of office, or other reward or compensation from a candidate in any primary or election or from any source other than such compensation as may be provided by law for that person's services.
  - (13) For any person falsely to make or present any certificate or other paper to qualify any person fraudulently as a voter, or to attempt thereby to secure to any person the privilege of voting, including declarations made under this Subchapter, G.S. 20-37.7(d)(5), 20-37.7(d)(6), 130A-93.1(c), and 161-10(a)(8).



- (14) For any officer to register voters and any other individual to knowingly and willfully receive, complete, or sign an application to register from any voter contrary to the provisions of G.S. 163A-863.
- (15) Reserved for future codification purposes.
- (16) For any person falsely to make the certificate provided by G.S. 163A-1307(b)(2).
- (17) For any person, directly or indirectly, to misrepresent the law to the public through mass mailing or any other means of communication where the intent and the effect is to intimidate or discourage potential voters from exercising their lawful right to vote.
- (18) For any person, knowing that a person is not a citizen of the United States, to instruct or coerce that person to register to vote or to vote. (1901, c. 89, s. 13; Rev., s. 3401; 1913, c. 164, s. 2; C.S., s. 4186; 1931, c. 348, s. 10; 1943, c. 543; 1965, c. 899; 1967, c. 775, s. 1; 1979, c. 539, s. 4; 1979, 2nd Sess., c. 1316, ss. 27, 28; 1981, cc. 63, 179; 1985, c. 562, s. 5; 1987, c. 565, s. 14; c. 583, s. 7; 1989, c. 770, s. 38; 1991, c. 727, s. 1; 1993, c. 553, s. 68; 1993 (Reg. Sess., 1994), c. 762, s. 58(d)-(g); 1999-424, s. 7(i); 2007-391, s. 17(a); 2013-381, s. 3.4; 2014-111, s. 15(c); 2015-264, s. 26; 2017-6, s. 3.)

**§ 163A-1390. Convicted officials; removal from office.**

Any public official who shall be convicted of violating any provision of Part 3 of Article 20 or Article 22 of this Chapter, in addition to the punishment provided by law, shall be removed from office by the judge presiding, and, if the conviction is for a felony, shall be disqualified from voting until his citizenship is restored as provided by law. (1949, c. 504; 1967, c. 775, s. 1; 1985, c. 563, s. 11.3; 2002-159, s. 21(c); 2017-6, s. 3.)

**§ 163A-1391. Compelling self-incriminating testimony; person so testifying excused from prosecution.**

No person shall be excused from attending or testifying or producing any books, papers or other documents before any court or magistrate upon any investigation, proceeding or trial for the violation of any of the provisions of this Article, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him, but such person may be subpoenaed and required to testify by and for the State relative to any offense arising under the provisions of this Article; but such person shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding, but such person so compelled to testify with respect to any acts of his own shall be immune from prosecution on account thereof, and shall be pardoned for any violation of law about which such person shall be so required to testify. (1931, c. 348, s. 11; 1967, c. 775, s. 1; 2017-6, s. 3.)

**§ 163A-1392. Duty of investigating and prosecuting violations of this Article.**

It shall be the duty of the State Board and the district attorneys to investigate any violations of this Article, and the State Board and district attorneys are authorized and empowered to subpoena and compel the attendance of any person before them for the purpose of making such investigation.

The State Board and the district attorneys are authorized to call upon the Director of the State Bureau of Investigation to furnish assistance by the State Bureau of Investigation in making the investigations of such violations. The State Board shall furnish the district attorney a copy of its investigation. The district attorney shall initiate prosecution and prosecute any violations of this Article. The provisions of G.S. 163A-1367 shall be applicable to violations of this Article. (1931, c. 348, s. 12; 1967, c. 775, s. 1; 1975, c. 565, s. 7; 2014-100, s. 17.1(p); 2017-6, s. 3.)

§ 163A-1393: Reserved for future codification purposes.

§ 163A-1394: Reserved for future codification purposes.

§ 163A-1395: Reserved for future codification purposes.

§ 163A-1396: Reserved for future codification purposes.

§ 163A-1397: Reserved for future codification purposes.

§ 163A-1398: Reserved for future codification purposes.

§ 163A-1399: Reserved for future codification purposes.

§ 163A-1400: Reserved for future codification purposes.

§ 163A-1401: Reserved for future codification purposes.

§ 163A-1402: Reserved for future codification purposes.

§ 163A-1403: Reserved for future codification purposes.

§ 163A-1404: Reserved for future codification purposes.

§ 163A-1405: Reserved for future codification purposes.

§ 163A-1406: Reserved for future codification purposes.

§ 163A-1407: Reserved for future codification purposes.

§ 163A-1408: Reserved for future codification purposes.

§ 163A-1409: Reserved for future codification purposes.

## Article 23.

### Regulating Contributions and Expenditures in Political Campaigns.

#### Part 1. In General.

**§ 163A-1410. Scope of Article; severability.**

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

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

This section applies to Articles and [Article] 26 of the General Statutes to the same extent that it applies to this Article. (1999-31, s. 6(a); 2000-140, s. 82; 2005-430, s. 7; 2007-349, s. 5; 2009-534, s. 6; 2013-360, s. 21.1(d); 2013-381, ss. 38.1(g), 48.2; 2017-6, s. 3.)

**§ 163A-1411. Definitions.**

When used in this Article:

- (1) The term "affiliated party committee" means a General Assembly affiliated party committee as established by G.S. 163A-1416 or Council of State affiliated party committee as established by G.S. 163A-1417.
- (3) The term "board" means the State Board with respect to all candidates for State, legislative, and judicial offices and the county board of elections with respect to all candidates for county and municipal offices. The term means the State Board with respect to all statewide referenda and the county board of elections conducting all local referenda.
- (5) The term "broadcasting station" means any commercial radio or television station or community antenna radio or television station. Special definitions of "radio" and "television" that apply only in Part 2 of this Article are set forth in G.S. 163A-1475.
- (7) The term "business entity" means any partnership, joint venture, joint-stock company, company, firm, or any commercial or industrial establishment or enterprise.
- (9) The term "candidate" means any individual who, with respect to a public office listed in G.S. 163A-1411(80), has taken positive action for the purpose of bringing about that individual's nomination, retention, or election to public office. Examples of positive action include any of the following:
  - a. Filing a notice of candidacy, filing a notice to be retained, or a petition requesting to be a candidate.
  - b. Being certified as a nominee of a political party for a vacancy.
  - c. Otherwise qualifying as a candidate in a manner authorized by law.
  - d. Making a public announcement of a definite intent to run for public office in a particular election.
  - e. Receiving funds or making payments or giving the consent for anyone else to receive funds or transfer anything of value for the purpose of bringing about that individual's nomination or election to office. Transferring anything of value includes incurring an obligation to transfer anything of value.

Status as a candidate for the purpose of this Article continues if the individual is receiving contributions to repay loans or cover a deficit or is making expenditures to satisfy obligations from an election already held. Special definitions of "candidate" and "candidate campaign committee" that apply only in Part 2 of this Article are set forth in G.S. 163A-1475.

- (11) The term "communications media" or "media" means broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, newspaper inserts, and any person or individual whose business is polling public opinion, analyzing or predicting voter behavior or voter preferences. Special definitions of "print media," "radio," and "television" that apply only in Part 2 of this Article are set forth in G.S. 163A-1475.
- (13) The terms "contribute" or "contribution" mean any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, made to, or in coordination with, a candidate to support or oppose the nomination or election of one or more clearly identified candidates, to a political committee, to a political party, to an affiliated party committee, or to a referendum committee, whether or not made in an election year, and any contract, agreement, or other obligation to make a contribution. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a contribution from that person or entity. These terms include, without limitation, such contributions as labor or personal services, postage, publication of campaign literature or materials, in-kind transfers, loans or use of any supplies, office machinery, vehicles, aircraft, office space, or similar or related services, goods, or personal or real property. These terms also include, without limitation, the proceeds of sale of services, campaign literature and materials, wearing apparel, tickets or admission prices to campaign events such as rallies or dinners, and the proceeds of sale of any campaign-related services or goods. Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, political committee, or referendum committee. The term "contribution" does not include an "independent expenditure." If:
- a. Any individual, person, committee, association, or any other organization or group of individuals, including but not limited to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) makes, or contracts to make, any disbursement for any electioneering communication, as defined in this section; and
  - b. That disbursement is coordinated with a candidate, an authorized political committee of that candidate, a State or local political party or committee of that party, an affiliated party committee, or an agent or official of any such candidate, party, or committee
- that disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party.
- (14) – (19) [Reserved.]

- (20) The term "coordinated expenditure" means an expenditure that is made in concert or cooperation with, or at the request or suggestion of, a candidate, a candidate campaign committee as defined in G.S. 163A-1475(3), the agent of the candidate, or the agent of the candidate campaign committee. An expenditure for the distribution of information relating to a candidate's campaign, positions, or policies, that is obtained through publicly available resources, including a candidate campaign committee, is not a coordinated expenditure if it is not made in concert or cooperation with, or at the request or suggestion of, a candidate, the candidate campaign committee, the agent of the candidate, or the agent of the candidate campaign committee.
- (22) The term "coordination" means in concert or cooperation with, or at the request or suggestion of.
- (24) The term "corporation" means any corporation established under either domestic or foreign charter, and includes a corporate subsidiary and any business entity in which a corporation participates or is a stockholder, a partner or a joint venturer. The term applies regardless of whether the corporation does business in the State of North Carolina.
- (26) The term "costs of collection" means monies spent by the State Board in the collection of the penalties levied under this Article to the extent the costs do not constitute more than fifty percent (50%) of the civil penalty. The costs are presumed to be ten percent (10%) of the civil penalty unless otherwise determined by the State Board based on the records of expenses incurred by the State Board for its collection procedures.
- (28) The term "day" means calendar day.
- (30) The term "election" means any general or special election, a first or second primary, a run-off election, or an election to fill a vacancy. The term "election" shall not include any local or statewide referendum.
- (32) The term "election cycle" means the period of time from January 1 after an election for an office through December 31 after the election for the next term of the same office. Where the term is applied in the context of several offices with different terms, "election cycle" means the period from January 1 of an odd-numbered year through December 31 of the next even-numbered year.
- (33) – (40) [Reserved.]
- (41) The term "electioneering communication" means any broadcast, cable, or satellite communication, or mass mailing, or telephone bank that has all the following characteristics:
- a. Refers to a clearly identified candidate for elected office.
  - b. In the case of the general election in November of the even-numbered year is aired or transmitted after September 7 of that year, and in the case of any other election is aired or transmitted within 60 days of the time set for absentee voting to begin pursuant to G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304 in an election for that office.
  - c. May be received by either:
    1. 50,000 or more individuals in the State in an election for statewide office or 7,500 or more individuals in any other

election if in the form of broadcast, cable, or satellite communication.

2. 20,000 or more households, cumulative per election, in a statewide election or 2,500 households, cumulative per election, in any other election if in the form of mass mailing or telephone bank.

(43) The term "electioneering communication" does not include any of the following:

- a. A communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by any political party, affiliated party committee, political committee, or candidate.
- b. A communication that constitutes an expenditure or independent expenditure under this Article.
- c. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
- d. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly concerning that piece of legislation or a solicitation of others as defined in G.S. 163A-250(a)(36) properly reported under Article 8 of this Chapter.
- e. A communication that meets all of the following criteria:
  1. Does not mention any election, candidacy, political party, opposing candidate, or voting by the general public.
  2. Does not take a position on the candidate's character or qualifications and fitness for office.
  3. Proposes a commercial transaction.
- f. A public opinion poll conducted by a news medium, as defined in G.S. 8-53.11(a)(3), conducted by an organization whose primary purpose is to conduct or publish public opinion polls, or contracted for by a person to be conducted by an organization whose primary purpose is to conduct or publish public opinion polls. This sub-subdivision shall not apply to a push poll. For the purpose of this sub-subdivision, "push poll" shall mean the political campaign technique in which an individual or organization attempts to influence or alter the view of respondents under the guise of conducting a public opinion poll.
- g. A communication made by a news medium, as defined in G.S. 8-53.11(a)(3), if the communication is in print.

(45) – (48) [Reserved.]

(49) The term "enforcement costs" means salaries, overhead, and other monies spent by the State Board in the enforcement of the penalties provisions of this Article, including the costs of investigators, attorneys, travel costs for State Board

employees and its attorneys, to the extent the costs do not constitute more than fifty percent (50%) of the sum levied for the enforcement costs and civil late penalty.

- (51) The terms "expend" or "expenditure" mean any purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, whether or not made in an election year, and any contract, agreement, or other obligation to make an expenditure, to support or oppose the nomination, election, or passage of one or more clearly identified candidates, or ballot measure. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a contribution from that person or entity. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. The term "expenditure" also includes any payment or other transfer made by a candidate, political committee, or referendum committee.
- (53) The term "independently expend" or "independent expenditure" means an expenditure to support or oppose the nomination or election of one or more clearly identified candidates that is not a coordinated expenditure. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. A contribution is not an independent expenditure. As applied to referenda, the term "independent expenditure" applies if consultation or coordination does not take place with a referendum committee that supports a ballot measure the expenditure supports, or a referendum committee that opposes the ballot measure the expenditure opposes.
- (55) The term "individual" means a single individual or more than one individual.
- (57) The term "insurance company" means any person whose business is making or underwriting contracts of insurance, and includes mutual insurance companies, stock insurance companies, and fraternal beneficiary associations.
- (59) The term "labor union" means any union, organization, combination or association of employees or workmen formed for the purposes of securing by united action favorable wages, improved labor conditions, better hours of labor or work-related benefits, or for handling, processing or righting grievances by employees against their employers, or for representing employees collectively or individually in dealings with their employers. The term includes any unions to which Article 10, Chapter 95 applies.
- (60) – (69) [Reserved.]
- (70) The term "mass mailing" means any mailing by United States mail or facsimile to 20,000 or more households, cumulative per election, in a statewide election or 2,500 households, cumulative per election, in any other election.
- (72) The term "person" means any business entity, corporation, insurance company, labor union, or professional association.
- (74) The term "political committee" means a combination of two or more individuals, such as any person, committee, association, organization, or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:

- a. Is controlled by a candidate;
- b. Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party;
- c. Is created by a corporation, business entity, insurance company, labor union, or professional association pursuant to G.S. 163A-1436(d); or
- d. Has the major purpose to support or oppose the nomination or election of one or more clearly identified candidates; [or]
- e. Is an affiliated party committee.

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

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

The term "political committee" includes the campaign of a candidate who serves as his or her own treasurer.

Special definitions of "political action committee" and "candidate campaign committee" that apply only in Part 2 of this Article are set forth in G.S. 163A-1475.

- (76) The term "political party" means any political party organized or operating in this State, whether or not that party is recognized under the provisions of G.S. 163A-950. A special definition of "political party organization" that applies only in Part 2 of this Article is set forth in G.S. 163A-1475. An affiliated party committee is deemed a political party for this Article as set forth in G.S. 163A-1416 and G.S. 163A-1417.
- (78) The term "professional association" means any trade association, group, organization, association, or collection of persons or individuals formed for the purposes of advancing, representing, improving, furthering or preserving the interests of persons or individuals having a common vocation, profession, calling, occupation, employment, or training.
- (80) The term "public office" means any office filled by election by the people on a statewide, county, municipal or district basis, and this Article shall be applicable to such elective offices whether the election therefor is partisan or nonpartisan.
- (82) The term "referendum" means any question, issue, or act referred to a vote of the people of the entire State by the General Assembly, a unit of local government, or by the people under any applicable local act and includes constitutional amendments and State bond issues. The term "referendum" includes any type of municipal, county, or special district referendum and any initiative or referendum authorized by a municipal charter or local act. A recall election shall not be considered a referendum within the meaning of this Article.
- (84) The term "referendum committee" means a combination of two or more individuals such as a committee, association, organization, or other entity or a



combination of two or more business entities, corporations, insurance companies, labor unions, or professional associations such as a committee, association, organization, or other entity the primary purpose of which is to support or oppose the passage of any referendum on the ballot. If the entity qualifies as a "referendum committee" under this subdivision, it continues to be a referendum committee if it receives contributions or makes expenditures or maintains assets or liabilities. A referendum committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report.

(85) – (92) [Reserved.]

(93) The term "telephone bank" means telephone calls that are targeted to the relevant electorate, except when those telephone calls are made by volunteer workers, whether or not the design of the telephone bank system, development of calling instructions, or training of volunteers was done by paid professionals.

(95) The term "treasurer" means an individual appointed by a candidate, political committee, or referendum committee as provided in G.S. 163A-1412 or G.S. 163A-1496. (1973, c. 1272, s. 1; 1975, c. 798, ss. 5, 6; 1979, c. 500, s. 1; c. 1073, ss. 1-3, 19, 20; 1981, c. 837, s. 1; 1983, c. 331, s. 6; 1985, c. 352, ss. 1-3; 1997-515, ss. 4(a)-(c), 7(b)-(d); 1999-31, ss. 1(a), (b), 2(a)-(c), 3, 4(a); 1999-424, s. 6(a), (b); 2002-159, s. 55(n); 2003-278, s. 5; 2004-125, s. 3; 2004-127, s. 15; 2004-203, s. 12(b); 2005-430, s. 10; 2006-264, s. 23; 2007-391, s. 3; 2008-150, s. 6(a); 2008-187, s. 33(a); 2009-534, ss. 1, 3(a), (b); 2010-170, s. 1; 2011-31, s. 20; 2013-381, s. 50.1; 2015-66, s. 8(a); 2015-258, ss. 3(b), (b1); 2015-264, ss. 81(c), (d); 2017-6, s. 3.)

#### **§ 163A-1412. Appointment of political treasurers.**

(a) Each candidate who has received funds or made payments or given consent for anyone else to receive funds or transfer anything of value for the purpose of bringing about that individual's nomination or election for office, political committee, and referendum committee shall appoint a treasurer and, under verification, report the name and address of the treasurer to the Board. Only an individual who resides in North Carolina shall be appointed as a treasurer. A candidate may appoint himself or herself or any other individual, including any relative except his or her spouse, as the candidate's treasurer, and, upon failure to file [a] report designating a treasurer, the candidate shall be concluded to have appointed himself or herself as treasurer and shall be required to personally fulfill the duties and responsibilities imposed upon the appointed treasurer and subject to the penalties and sanctions hereinafter provided.

(b) Each appointed treasurer shall file with the Board at the time required by G.S. 163A-1418(a)(1) a statement of organization that includes:

(1) The Name, Address and Purpose of the Candidate, Political Committee, or Referendum Committee. – When the political committee or referendum committee is created pursuant to G.S. 163A-1436(d), the name shall be or include the name of the corporation, insurance company, business entity, labor union or professional association whose officials, employees, or members established the committee. When the political committee or referendum committee is not created pursuant to G.S. 163A-1436(d), the name shall be or include the economic interest, if identifiable, principally represented by the

committee's organizers or intended to be advanced by use of the committee's receipts;

- (2) The names, addresses, and relationships of affiliated or connected candidates, political committees, referendum committees, political parties, affiliated party committees, or similar organizations;
- (3) The territorial area, scope, or jurisdiction of the candidate, political committee, or referendum committee;
- (4) The name, address, and position with the candidate or political committee of the custodian of books and accounts;
- (5) The name and party affiliation of the candidate(s) whom the committee is supporting or opposing, and the office(s) involved;
- (6) The name of the referendum(s) which the referendum committee is supporting or opposing, and whether the committee is supporting or opposing the referendum;
- (7) The name of the political committee, political party or affiliated party committee being supported or opposed if the committee is supporting the ticket of a particular candidate or political party;
- (8) A listing of all banks, safety deposit boxes, or other depositories used, including the names and numbers of all accounts maintained and the numbers of all such safety deposit boxes used, provided that the Board shall keep any account number included in any report filed after March 1, 2003, and required by this Article confidential except as necessary to conduct an audit or investigation, except as required by a court of competent jurisdiction, or unless confidentiality is waived by the treasurer. Disclosure of an account number in violation of this subdivision shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of account numbers in violation of this subdivision as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable;
- (9) The name or names and address or addresses of any assistant treasurers appointed by the treasurer. Such assistant treasurers shall be authorized to act in the name of the candidate, political committee, or referendum committee and shall be fully responsible for any act or acts committed by the assistant treasurer. The treasurer shall be fully liable for any violation of this Article committed by any assistant treasurer; and
- (10) Any other information which might be requested by the Board that deals with the campaign organization of the candidate or referendum committee.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Board within a 10-day period following the change.

(d) A candidate, political committee or referendum committee may remove his or its treasurer. In case of the death, resignation or removal of his or its treasurer before compliance with all obligations of a treasurer under this Article, such candidate, political committee or referendum committee shall appoint a successor within 10 days of the vacancy of such office, and certify the name and address of the successor in the manner provided in the case of an original appointment.

(e) Every treasurer of a referendum committee shall receive, prior to every election in which the referendum committee is involved, training from the State Board as to the duties of the

office, including the requirements of G.S. 163A-1425(i), provided that the treasurer may designate an employee or volunteer of the committee to receive the training.

(f) Every treasurer of a political committee shall participate in training as to the duties of the office within three months of appointment and at least once every four years thereafter. The State Board shall provide the training as to the duties of the office in person, through regional seminars, and through interactive electronic means. The treasurer may designate an assistant treasurer to participate in the training, if one is named under subdivision (b)(9) of this section. The treasurer may choose to participate in training prior to each election in which the political committee is involved. All such training shall be free of charge to the treasurer and assistant treasurer. (1973, c. 1272, s. 1; 1979, c. 500, s. 2; c. 1073, ss. 4, 5, 16, 18, 20; 1987, c. 113, s. 1; 1995, c. 315, s. 1; 2002-159, s. 57.1(a); 2004-203, s. 59(a); 2005-430, s. 10.1; 2006-195, s. 7; 2009-534, s. 4; 2015-258, s. 3(c); 2017-6, s. 3; 2018-13, s. 3.10.)

#### **§ 163A-1413. Gifts from federal political committees.**

It shall be permissible for a federal political committee, as defined by the Federal Election Campaign Act and regulations adopted pursuant thereto, to make contributions to a North Carolina candidate or political committee registered under this Article with the State Board or a county board of elections, provided that the contributing committee does all the following:

- (1) Is registered with the State Board consistent with the provisions of this Article.
- (2) Complies with reporting requirements specified by the State Board. Those requirements shall not be more stringent than those required of North Carolina political committees registered under this Article, unless the federal political committee makes any contribution to a North Carolina candidate or political committee in any election in excess of four thousand dollars (\$4,000) for that election. "Election" shall be as defined in G.S. 163A-1425(e).
- (3) Makes its contributions within the limits specified in this Article.
- (4) Appoints an assistant or deputy treasurer who is a resident of North Carolina and stipulates to the State Board that the designated in-State resident assistant or deputy treasurer shall be authorized to produce whatever records reflecting political activity in North Carolina the State Board deems necessary. (1995 (Reg. Sess., 1996), c. 593, s. 1; 2003-274, s. 1; 2017-6, s. 3.)

#### **§ 163A-1414. Detailed accounts to be kept by political treasurers.**

(a) The treasurer of each candidate, political committee, and referendum committee shall keep detailed accounts, current within not more than seven days after the date of receiving a contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate, political committee, or referendum committee. The accounts shall include the information required by the State Board on its forms.

(b) Accounts kept by the treasurer of a candidate, political committee, or referendum committee or the accounts of a treasurer or political committee at any bank or other depository listed under G.S. 163A-1412(b)(8), may be inspected, before or after the election to which the accounts refer, by a member, designee, agent, attorney or employee of the Board who is making an investigation pursuant to G.S. 163A-1440.

(c) All expenditures for media expenses shall be made by a verifiable form of payment. The State Board shall prescribe methods to ensure an audit trail for every expenditure so that the identity of each payee can be determined. All media expenditures in any amount shall be accounted

for and reported individually and separately with specific descriptions to provide a reasonable understanding of the expenditure.

(d) All expenditures for nonmedia expenses (except postage) of more than fifty dollars (\$50.00) shall be made by a verifiable form of payment. The State Board shall prescribe methods to ensure an audit trail for every expenditure so that the identity of each payee can be determined. All expenditures for nonmedia expenses of fifty dollars (\$50.00) or less may be made by check or by cash payment. All nonmedia expenditures of more than fifty dollars (\$50.00) shall be accounted for and reported individually and separately with a specific description to provide a reasonable understanding of the expenditure, but expenditures of fifty dollars (\$50.00) or less may be accounted for and reported in an aggregated amount, but in that case the treasurer shall account for and report that the treasurer made expenditures of fifty dollars (\$50.00) or less each, the amounts, dates, and the purposes for which made. In the case of a nonmedia expenditure required to be accounted for individually and separately with a specific description to provide a reasonable understanding of the expenditure by this subsection, if the expenditure was to an individual, the report shall list the name and address of the individual.

(e) All proceeds from loans shall be recorded separately with a detailed analysis reflecting the amount of the loan, the source, the period, the rate of interest, and the security pledged, if any, and all makers and endorsers.

(f) The treasurer shall maintain all moneys of the political committee in a bank account or bank accounts used exclusively by the political committee and shall not commingle those funds with any other moneys. (1973, c. 1272, s. 1; 1977, c. 635, s. 1; 1979, c. 1073, ss. 16, 20; 1981, c. 814, s. 1; 1985, c. 353, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 744, s. 1; 1999-424, s. 7(m); 2004-125, s. 5(a); 2005-430, ss. 2, 3; 2006-161, ss. 2, 3; 2006-195, s. 4; 2008-150, s. 10(a); 2017-6, s. 3.)

#### **§ 163A-1415. Campaign sales by political party executive committees.**

(a) Exempt Purchase Price Not Treated as "Contribution." – Notwithstanding the provisions of G.S. 163A-1411(13), the purchase price of goods or services sold by a political party executive committee or affiliated party committee as provided in subsection (b) of this section shall not be treated as a "contribution" for purposes of account-keeping under G.S. 163A-1414, for purposes of the reporting of contributions under G.S. 163A-1422, or for the purpose of the limit on contributions under G.S. 163A-1425. The treasurer is not required to obtain, maintain, or report the name or other identifying information of the purchaser of the goods or services, as long as the requirements of subsection (b) of this section are satisfied. However, the proceeds from the sales of those goods and services shall be treated as contributions for other purposes, and expenditures of those proceeds shall be reported as expenditures under this Article.

(b) Exempt Purchase Price. – A purchase price for goods or services sold by a political party executive committee or affiliated party committee qualifies for the exemption provided in subsection (a) of this section as long as the sale of the goods or services adheres to a plan that the treasurer has submitted to and that has been approved in writing by the Executive Director of the State Board. The Executive Director shall approve the treasurer's plan upon and only upon finding that all the following requirements are satisfied:

- (1) That the price to be charged for the goods or services is reasonably close to the market price for the goods or services.
- (2) That the total amount to be raised from sales under all plans by the committee does not exceed ten thousand dollars (\$10,000) per election cycle.

- (3) That no purchaser makes total purchases under the plan that exceed fifty dollars (\$50.00).
- (4) That the treasurer include in the report under G.S. 163A-1422, covering the relevant time period, all of the following:
  - a. A description of the plan.
  - b. The amount raised from sales under the plan.
  - c. The number of purchases made.
- (5) That the treasurer shall include in the appropriate report under G.S. 163A-1422 any in-kind contribution made to the political party in providing the goods or services sold under the plan and that no in-kind contribution accepted as part of the plan violates any provision of this Article.

The Executive Director may require a format for submission of a plan, but that format shall not place undue paperwork burdens upon the treasurer. As used in this subdivision, the term "election cycle" has the same meaning as in G.S. 163A-1411(32). (2008-150, s. 8(a); 2015-258, s. 3(d); 2017-6, s. 3.)

**§ 163A-1416. Affiliated party committees.**

(a) Each political party caucus of the North Carolina House of Representatives and the North Carolina Senate may establish one separate affiliated party committee to support the election of candidates who would be eligible to be members of that caucus. No other affiliated party committees shall be authorized pursuant to this section. The affiliated party committee is deemed a political party for purposes of this Article.

(b) An affiliated party committee shall be established only by majority vote of the total membership of the political party caucus. Attached to the organizational report filed in accordance with G.S. 163A-717, the affiliated party committee shall provide a report to the State Board certifying that the political party caucus has organized and taken the appropriate vote to establish an affiliated party committee. The report described in this subsection shall be a public record within the meaning of Chapter 132 of the General Statutes.

(c) Each affiliated party committee shall:

- (1) Adopt bylaws which shall be in compliance with the provisions of this Article. At a minimum, the bylaws shall include designation of a treasurer.
- (2) Conduct campaigns for candidates who would be eligible to be members of that political party caucus of the North Carolina House of Representatives or North Carolina Senate if elected or reelected or manage daily operations of the affiliated party committee.
- (3) Establish a bank account.
- (4) Accept contributions and expend funds.

(d) Notwithstanding any other provision of law to the contrary, an affiliated party committee shall be entitled to use the name, abbreviation, and symbol of its respective political party.

(e) For purposes of this section, "political party" has the same meaning as defined in G.S. 163A-950. (2015-258, s. 3(a); 2015-264, s. 81(a); 2017-6, s. 3.)

**§ 163A-1417. Council of State affiliated party committees.**

(a) Members of the Council of State affiliated with the same political party may establish one separate Council of State affiliated party committee to support the election of candidates who

would be eligible to be nominees of that political party for Council of State offices. No other Council of State affiliated party committees shall be authorized pursuant to this section. The Council of State affiliated party committee is deemed a political party for purposes of this Article.

(b) Each Council of State affiliated party committee shall:

- (1) Adopt bylaws which shall be in compliance with the provisions of this Article. At a minimum, the bylaws shall include designation of a treasurer.
- (2) Conduct campaigns for candidates for Council of State who are members of the leader's political party or manage daily operations of the Council of State affiliated party committee.
- (3) Establish a bank account.
- (4) Accept contributions and expend funds.

(c) Notwithstanding any other provision of law to the contrary, a Council of State affiliated party committee shall be entitled to use the name, abbreviation, and symbol of the political party of its leader.

(d) A previously established Council of State affiliated party committee may continue to be maintained in the event that no individual affiliated with that political party is elected to serve on the Council of State in the general election. The Council of State affiliated party committee shall be maintained by the most recently elected members of the Council of State from that political party. Notwithstanding the definition of "leader" in subsection (e) of this section, those members shall designate an individual from that group to serve as leader. When an individual or individuals affiliated with that political party is next elected to the Council of State, that individual or individuals shall assume control of the Council of State affiliated party committee for that political party.

(e) For purposes of this section, the following definitions shall apply:

- (1) Leader. – The highest-ranking individual affiliated with the political party of the Council of State affiliated party committee. For the purposes of this subdivision, the highest-ranking office serving on the Council of State shall be in the following order: Governor, Lieutenant Governor, and the offices as set out in Article III, Section 7 of the North Carolina Constitution, as follows: Secretary of State, State Auditor, State Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance.
- (2) Political party. – As defined in G.S. 163A-950. (2015-258, s. 3(a1); 2015-264, s. 81(b); 2017-6, s. 3.)

#### **§ 163A-1418. Statements filed with Board.**

(a) Except as provided in G.S. 163A-1421, the treasurer of each candidate and of each political committee shall file with the Board under certification of the treasurer as true and correct to the best of the knowledge of that officer the following reports:

- (1) Organizational Report. – The appointment of the treasurer as required by G.S. 163A-1412(a), the statement of organization required by G.S. 163A-1412(b), and a report of all contributions and expenditures not previously reported shall be filed with the Board no later than the tenth day following the day the candidate files notice of candidacy or the tenth day following the organization of the political committee, whichever occurs first. Any candidate whose campaign is being conducted by a political committee

which is handling all contributions and expenditures for his campaign shall file a statement with the Board stating such fact at the time required herein for the organizational report. Thereafter, the candidate's political committee shall be responsible for filing all reports required by law.

- (2) 48-Hour Report. – A political committee, political party or affiliated party committee that receives a contribution or transfer of funds shall disclose within 48 hours of receipt a contribution or transfer of one thousand dollars (\$1,000) or more received before an election but after the period covered by the last report due before that election. The disclosure shall be by report to the State Board identifying the source and amount of the funds. The State Board shall specify the form and manner of making the report, including the reporting of in-kind contributions.
- (3) Quarterly Reports. – During even-numbered years during which there is an election for that candidate or in which the campaign committee is supporting or opposing a candidate, the treasurer shall file a report by mailing or otherwise delivering it to the Board no later than seven working days after the end of each calendar quarter covering the prior calendar quarter, except that:
  - a. The report for the first quarter shall also cover the period in April through the seventeenth day before the primary, the first quarter report shall be due seven days after that date, and the second quarter report shall not include that period if a first quarter report was required to be filed; and
  - b. The report for the third quarter shall also cover the period in October through the seventeenth day before the election, the third quarter report shall be due seven days after that date, and the fourth quarter report shall not include that period if a third quarter report was required to be filed.
- (4) Semiannual Reports. – If contributions are received or expenditures made for which no reports are otherwise required by this Article, any and all such contributions and expenditures shall be reported by the last Friday in July, covering the period through the last day of June, and shall be reported by the last Friday in January, covering the period through the last day of December.

(b) Except as otherwise provided in this Article, each report shall be current within seven days prior to the date the report is due and shall list all contributions received and expenditures made which have not been previously reported.

(c) Candidates and committees for municipal offices are not subject to subsections (a) and (b) of this section, unless they make contributions or expenditures concerning elections covered by this Part. Reports for those candidates and committees are covered by Part 3 of this Article.

(d) Notwithstanding subsections (a) through (b) of this section, any political party (including a State, district, county, or precinct committee thereof) which is required to file reports under those subsections and under the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 434), shall instead of filing the reports required by those subsections, file with the State Board:

- (1) The organizational report required by subsection (a)(1) of this section, and
- (2) A copy of each report required to be filed under 2 U.S.C. 434, such copy to be filed on the same day as the federal report is required to be filed.

(e) Any report filed under subsection (d) of this section may include matter required by the federal law but not required by this Article.

(f) Any report filed under subsection (d) of this section must contain all the information required by G.S. 163A-1422, notwithstanding that the federal law may set a higher reporting threshold.

(g) Any report filed under subsection (d) of this section may reflect the cumulative totals required by G.S. 163A-1422 in an attachment, if the federal law does not permit such information in the body of the report.

(h) Any report or attachment filed under subsection (d) of this section must be certified.

(i) Treasurers for each of the following entities shall electronically file each report required by this section that shows a cumulative total for the election cycle in excess of the stated amount in contributions, in expenditures, or in loans, according to rules adopted by the State Board:

- (1) A candidate for statewide office, if more than five thousand dollars (\$5,000).
- (2) A State, district, county, or precinct executive committee of a political party, or an affiliated party committee, if the committee makes contributions or independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office.
- (3) A political committee that makes contributions in excess of five thousand dollars (\$5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office.
- (4) All other political committees, if more than ten thousand dollars (\$10,000).

The State Board shall provide the software necessary to file an electronic report to a treasurer required to file an electronic report at no cost to the treasurer.

(j) All reports under this section must be filed by a treasurer or assistant treasurer who has completed all training as to the duties of the office required by G.S. 163A-1412(f). (1973, c. 1272, s. 1; 1975, c. 565, s. 1; 1979, c. 500, ss. 3, 16; c. 730; 1981, c. 837, s. 2; 1985, c. 164, ss. 1, 6-6.2; 1987 (Reg. Sess., 1988), c. 1028, s. 6; 1991 (Reg. Sess., 1992), c. 1032, s. 10A; 1997-515, ss. 1(a), 4(d1), 5(a), 12(a); 1999-31, s. 7(a), (b); 2001-235, s. 2; 2001-419, s. 7; 2001-487, s. 97(b); 2002-159, s. 21(d); 2006-195, ss. 5.1, 8; 2008-150, ss. 9(c), (d), 11(a); 2014-111, s. 18.5(a); 2015-258, s. 3(e); 2017-6, s. 3.)

#### **§ 163A-1419. Statements filed by referendum committees.**

(a) The treasurer of each referendum committee shall file under verification with the Board the following reports:

- (1) Organizational Report. – The appointment of the treasurer as required by G.S. 163A-1412(a), the statement of organization required by G.S. 163A-1412(b), and a report of all contributions and expenditures shall be filed with the Board no later than the tenth day following the organization of the referendum committee.
- (2) Pre-Referendum Report. – The treasurer shall file a report with the Board no later than the tenth day preceding the referendum.
- (3) 48-Hour Report. – A referendum committee that receives a contribution or transfer of funds shall disclose within 48 hours of receipt a contribution or transfer of one thousand dollars (\$1,000) or more received before a referendum but after the period covered by the last report due before that referendum. The



disclosure shall be by report to the State Board identifying the source and amount of such funds. The State Board shall specify the form and manner of making the report, including the reporting of in-kind contributions.

- (4) Final Report. – The treasurer shall file a final report no later than the tenth day after the referendum. If the final report fails to disclose a final accounting of all contributions and expenditures, a supplemental final report shall be filed no later than January 7, after the referendum, and shall be current through December 31 after the referendum.
- (5) Annual Reports. – If contributions are received or expenditures made during a calendar year for which no reports are otherwise required by this Article, any and all such contributions and expenditures shall be reported by January 7 of the following year.

(b) Except as otherwise provided in this Article, each report shall be current within seven days prior to the date the report is due and shall list all contributions received and expenditures made which have not been previously reported. (1979, c. 1073, s. 6; 1997-515, s. 12(b); 2002-159, s. 21(e); 2008-150, s. 11(b); 2017-6, s. 3.)

#### **§ 163A-1420. Procedure for inactive candidate or committee.**

If no contribution is received or expenditure made by or on behalf of a candidate, political committee, or referendum committee during a period described in G.S. 163A-1418, the treasurer shall file with the Board, at the time required by G.S. 163A-1418, a statement to that effect and it shall not be required that any inactive candidate or committee so filing a report of inactivity file any additional reports required by G.S. 163A-1418 so long as the candidate or committee remains inactive. (1973, c. 1272, s. 1; 1979, c. 1073, s. 20; 2017-6, s. 3.)

#### **§ 163A-1421. Threshold of \$1,000 for financial reports for certain candidates.**

(a) Notwithstanding any other provision of this Subchapter, a candidate for a county office, municipal office, local school board office, soil and water conservation district board of supervisors, or sanitary district board shall be exempted from the reports of contributions, loans, and expenditures required in G.S. 163A-1418(a), 163A-1497, 163A-1498, 163A-1499, and 163A-1500 if to further the candidate's campaign that candidate:

- (1) Does not receive more than one thousand dollars (\$1,000) in contributions, and
- (2) Does not receive more than one thousand dollars (\$1,000) in loans, and
- (3) Does not spend more than one thousand dollars (\$1,000).

To qualify for the exemption from those reports, the candidate's treasurer shall file a certification that the candidate does not intend to receive in contributions or loans or expend more than one thousand dollars (\$1,000) to further the candidate's campaign. The certification shall be filed with the Board at the same time the candidate files the candidate's Organizational Report as required in G.S. 163A-1412, G.S. 163A-1418, and G.S. 163A-1496. If the candidate's campaign is being conducted by a political committee which is handling all contributions, loans, and expenditures for the candidate's campaign, the treasurer of the political committee shall file a certification of intent to stay within the threshold amount. If the intent to stay within the threshold changes, or if the one-thousand-dollar (\$1,000) threshold is exceeded, the treasurer shall immediately notify the Board and shall be responsible for filing all reports required in G.S. 163A-1418 and 163A-1497, 163A-1498, 163A-1499, and 163A-1500; provided that any contribution, loan, or expenditure

which would have been required to be reported on an earlier report but for this section shall be included on the next report required after the intent changes or the threshold is exceeded.

(b) The exemption from reporting in subsection (a) of this section applies to political party committees and affiliated party committees under the same terms as for candidates, except that the term "to further the candidate's campaign" does not relate to a political party committee's or an affiliated party committee's exemption, and all contributions, expenditures, and loans during an election shall be counted against the threshold amount for a political party committee or an affiliated committee. (1987 (Reg. Sess., 1988), c. 1028, s. 2; c. 1081, s. 3; 1989, c. 449; c. 770, s. 53; 1997-515, s. 4(e); 2001-235, s. 3; 2009-534, s. 5; 2015-258, s. 3(f); 2017-6, s. 3.)

**§ 163A-1422. Contents of treasurer's statement of receipts and expenditures.**

(a) Statements filed pursuant to provisions of this Article shall set forth the following:

(1) Contributions. – Except as provided in subsection (b) of this section, a list of all contributions received by or on behalf of a candidate, political committee, or referendum committee. The statement shall list the name and complete mailing address of each contributor, the amount contributed, the principal occupation of the contributor, and the date such contribution was received. The total sum of all contributions to date shall be plainly exhibited. Forms for required reports shall be prescribed by the Board. As used in this section, "principal occupation of the contributor" means the contributor's:

a. Job title or profession; and

b. Employer's name or employer's specific field of business activity.

The State Board shall prepare a schedule of specific fields of business activity, adapting or modifying as it deems suitable the business activity classifications of the Internal Revenue Code or other relevant classification schedules. In reporting a contributor's specific field of business activity, the treasurer shall use the classification schedule prepared by the State Board.

(2) Expenditures. – A list of all expenditures required under G.S. 163A-1414 made by or on behalf of a candidate, political committee, or referendum committee. The statement shall list the name and complete mailing address of each payee, the amount paid, the purpose, and the date such payment was made. The total sum of all expenditures to date shall be plainly exhibited. Forms for required reports shall be prescribed by the Board. In accounting for all expenditures in accordance with G.S. 163A-1414(c) and G.S. 163A-1414(d), the payee shall be the individual or person to whom the candidate, political committee, or referendum committee is obligated to make the expenditure. If the expenditure is to a financial institution for revolving credit or a reimbursement for a payment to a financial institution for revolving credit, the statement shall also include a specific itemization of the goods and services purchased with the revolving credit. If the obligation is for more than one good or service, the statement shall include a specific itemization of the obligation so as to provide a reasonable understanding of the obligation.

(3) Loans. – Every candidate and treasurer shall attach to the campaign transmittal submitted with each report an addendum listing all proceeds derived from loans for funds used or to be used in this campaign. The addendum shall be in the form as prescribed by the State Board and shall list the amount of the loan, the

source, the period, the rate of interest, and the security pledged, if any, and all makers and endorsers.

(b) **Threshold for Reporting Identity of Contributor.** – A treasurer shall not be required to report the name, address, or principal occupation of any individual who contributes fifty dollars (\$50.00) or less to the treasurer's committee during an election as defined in G.S. 163A-1425. The State Board shall provide on its reporting forms for the reporting of contributions below that threshold. On those reporting forms, the State Board may require date and amount of contributions below the threshold, but may treat differently for reporting purposes contributions below the threshold that are made in different modes and in different settings.

(c) Statements shall reflect anything of value paid for or contributed by any person or individual, both as a contribution and expenditure. A political party executive committee or affiliated party committee that makes an expenditure that benefits a candidate or group of candidates shall report the expenditure, including the date, amount, and purpose of the expenditure and the name of and office sought by the candidate or candidates on whose behalf the expenditure was made. A candidate who benefits from the expenditure shall report the expenditure or the proportionate share of the expenditure from which the candidate benefitted as an in-kind contribution if the candidate or the candidate's committee has coordinated with the political party executive committee or affiliated party committee concerning the expenditure.

(d) **Best Efforts.** – When a treasurer shows that best efforts have been used to obtain, maintain, and submit the information required by this Article for the candidate or political committee, any report of that candidate or committee shall be considered in compliance with this Article and shall not be the basis for criminal prosecution or the imposition of civil penalties, other than forfeiture of a contribution improperly accepted under this Article. The State Board shall promulgate rules that specify what are "best efforts" for purposes of this Article, adapting as it deems suitable the provisions of 11 C.F.R. § 104.7. The rules shall include a provision that if the treasurer, after complying with this Article and the rules, does not know the occupation of the contributor, it shall suffice for the treasurer to report "unable to obtain". (1973, c. 1272, s. 1; 1977, c. 635, s. 2; 1979, c. 1073, s. 20; 1997-515, ss. 2(a), (b), 3(a); 2006-161, s. 4; 2006-195, s. 5; 2007-391, s. 35(a); 2008-187, s. 33(a); 2015-258, s. 3(g); 2017-6, s. 3.)

### **§ 163A-1423. Special reporting of contributions and independent expenditures.**

(a) Subject to G.S. 163A-1476 and G.S. 163A-1428, individuals and other entities not otherwise prohibited from doing so may make independent expenditures. In the event an individual, person, or other entity making independent expenditures but not otherwise required to report them makes independent expenditures in excess of one hundred dollars (\$100.00), that individual, person, or entity shall file a statement of such independent expenditure with the appropriate board of elections in the manner prescribed by the State Board.

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

(c) In assuring compliance with subsections (a) and (b) of this section, the State Board shall require the identification of each person or entity making a donation of more than one hundred dollars (\$100.00) to the entity filing the report if the donation was made to further the reported independent expenditure or contribution. If the donor is an individual, the statement shall also

contain the principal occupation of the donor. The "principal occupation of the donor" shall mean the same as the "principal occupation of the contributor" in G.S. 163A-1422.

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

(e) The State Board shall require subsequent reporting of independent expenditures according to the same schedule required of political committees under G.S. 163A-1418(a). An individual or person that makes an independent expenditure shall disclose by report to the State Board within 48 hours of incurring an expense of five thousand dollars (\$5,000) or more or receiving a donation of one thousand dollars (\$1,000) or more for making an independent expenditure before an election but after the period covered by the last report due before that election.

(f) For the purposes of subsection (c) of this section, a donation to the person or entity making the independent expenditure is deemed to have been donated to further the independent expenditure if any of subdivisions (1) through (4) of this subsection apply. For purposes of this subsection, the "filer" is the person or entity making the independent expenditure and responsible for filing the report, or an agent of that person or entity. For purposes of this subsection, the "donor" is the person or entity donating to the filer the funds or other thing of value, or an agent of that person or entity.

- (1) The donor designates, requests, or suggests that the donation be used for an independent expenditure or for multiple independent expenditures, and the filer agrees to use the donation for an independent expenditure.
- (2) The filer expressly solicited the donor for a donation for making or paying for an independent expenditure.
- (3) The donor and the filer engaged in substantial written or oral discussion regarding the donor's making, donating, or paying for an independent expenditure.
- (4) The donor or the filer knew or had reason to know of the filer's intent to make independent expenditures with the donation.

A donation shall not be deemed to be made to further an independent expenditure if the donation was a commercial transaction occurring in the ordinary course of business between the donor and the filer unless there is affirmative evidence that the amounts were donated to further an independent expenditure. In determining the amount of a donation that was made to further any particular independent expenditure, there shall be excluded any amount that was designated by the donor with respect to a different election than the election that is the subject of the independent expenditure covered by the report.

Subdivisions (1) through (4) of this subsection shall also apply to reports made under subsection (c) of this section concerning contributions. However, nothing in this section shall be interpreted to limit the effect of the prohibition on making contributions in the name of another in G.S. 163A-1428.

(g) All reports required by this section shall be filed according to rules adopted by the State Board. If the expense incurred is greater than five thousand dollars (\$5,000), the report shall be filed electronically. The State Board shall provide the software necessary to file the electronic report to any individual or person required to file an electronic report at no cost to that individual or person. (1973, c. 1272, s. 1; 1979, c. 107, s. 15; c. 1073, s. 20; 1999-31, s. 2(d); 2004-127, s. 16; 2010-170, s. 2; 2017-6, s. 3.)

**§ 163A-1424. Special reporting of electioneering communications.**

(a) Every individual or person that incurs an expense for the direct costs of producing or airing electioneering communications aggregating in excess of five thousand dollars (\$5,000) shall file the following reports with the appropriate board of elections in the manner prescribed by the State Board:

- (1) The identification of the individual or person incurring the expense, of any individual or person sharing or exercising direction or control over the activities of that individual or person, and of the custodian of the books and accounts of the individual or person incurring the expense.
- (2) The principal place of business of the person incurring the expense, if not an individual.
- (3) The amount of each expense incurred during the period covered by the statement and the identification of the individual or person to whom the expense was incurred.
- (4) The elections to which the electioneering communications pertain, if any, and the names, if known, of the candidates identified or to be identified.
- (5) The names and addresses of all entities that donated, to further an electioneering communication or electioneering communications, funds or anything of value whatsoever in an aggregate amount of more than one thousand dollars (\$1,000) during the reporting period. If the donor is an individual, the statement shall also contain the principal occupation of the donor. The "principal occupation of the donor" shall mean the same as the "principal occupation of the contributor" in G.S. 163A-1422.

(b) The initial report shall be filed with the State Board no later than the 10th day following the day the individual or person incurs an expense for the direct costs of producing or airing an electioneering communication. The State Board shall require subsequent reporting according to the same schedule required of political committees under G.S. 163A-1418(a). An individual or person that produces or airs an electioneering communication shall disclose by report to the State Board within 48 hours of incurring an expense of five thousand dollars (\$5,000) or more or receiving a donation of one thousand dollars (\$1,000) or more for making an electioneering communication before an election but after the period covered by the last report due before that election.

(c) For the purposes of subdivision (a)(5) of this section, a donation to the person or entity making the electioneering communication is deemed to have been donated to further the electioneering communication if any of subdivisions (1) through (4) of this subsection apply. For purposes of this subsection, the "filer" is the person or entity making the electioneering communication and responsible for filing the report, or an agent of that person or entity. For purposes of this subsection, the "donor" is the person or entity donating to the filer the funds or other thing of value, or an agent of that person or entity.

- (1) The donor designates, requests, or suggests that the donation be used for an electioneering communication or electioneering communications, and the filer agrees to use the donation for that purpose.
- (2) The filer expressly solicited the donor for a donation for making or paying for an electioneering communication.

- (3) The donor and the filer engaged in substantial written or oral discussion regarding the donor's making, donating, or paying for an electioneering communication.
- (4) The donor or the filer knew or had reason to know of the filer's intent to make electioneering communication with the donation.

A donation shall not be deemed to be made to further an electioneering communication if the donation was a commercial transaction occurring in the ordinary course of business between the donor and the filer unless there is affirmative evidence that the amounts were donated to further an electioneering communication. In determining the amount of a donation that was made to further any particular electioneering communication, there shall be excluded any amount that was designated by the donor with respect to a different election than the election that is the subject of the electioneering communication covered by the report.

(d) All reports required by this section shall be filed according to rules adopted by the State Board. If the expense incurred is greater than five thousand dollars (\$5,000), the report shall be filed electronically. The State Board shall provide the software necessary to file the electronic report to any individual or person required to file an electronic report at no cost to that individual or person. (2010-170, s. 3; 2017-6, s. 3.)

#### **§ 163A-1425. Limitation on contributions.**

(a) No individual, political committee, or other entity shall contribute to any candidate or other political committee any money or make any other contribution in any election in excess of five thousand two hundred dollars (\$5,200) for that election.

(b) Effective for each odd-numbered calendar year beginning in 2015, the dollar amount of the contribution limitation established by subsections (a), (c), and (d) of this subsection shall be increased as provided in this subsection. On July 1 of each even-numbered year, the State Board shall calculate from data from the Bureau of Labor Statistics of the United States Department of Labor Register the percent difference between the price index for the July 1 of the previous even-numbered year. That percentage increase shall be multiplied by the previous dollar amount contribution limit, that number added to the previous dollar amount contribution limit, and the total shall become effective with respect to contributions made or accepted on or after January 1 of the next odd-numbered year. If the amount after adjustment is not a multiple of one hundred dollars (\$100.00), the total shall be rounded to the nearest multiple of one hundred dollars (\$100.00). As used in this subsection the term "price index" means the average over a calendar year of the Consumer Price Index (all items – United States city average) published monthly by the Bureau of Labor Statistics. The revised amount of the dollar limit of contributions shall remain in effect for two calendar years until the next adjustment is made. The State Board shall publish the revised amount in the North Carolina Register and shall notify the Revisor of Statutes who shall adjust the dollar amounts in subsections (a), (c), and (d) of this section.

(c) No candidate or political committee shall accept or solicit any contribution from any individual, other political committee, or other entity of any money or any other contribution in any election in excess of five thousand two hundred dollars (\$5,200) for that election.

(d) Notwithstanding the provisions of subsections (a) and (c) of this section, it shall be lawful for a candidate or a candidate's spouse to make a contribution to the candidate or to the candidate's treasurer of any amount of money or to make any other contribution in any election in excess of five thousand two hundred dollars (\$5,200) for that election.

(e) For the purposes of this section, the term "an election" means the period of time from January 1 of an odd-numbered year through the day of the primary, the day after the primary through the day of the second primary, or the day after the primary through December 31 of the next even-numbered year, without regard to whether the candidate is opposed or unopposed in the election, except that where a candidate is not on the ballot in a second primary, that second primary is not "an election" with respect to that candidate.

(f) Notwithstanding subsections (a) and (c) of this section, a candidate or political committee may accept a contribution knowing that the contribution is to be reimbursed to the entity making the contribution and knowing the candidate or political committee has funds sufficient to reimburse the entity making the contribution if all of the following conditions are met:

- (1) The entity submits sufficient information of the contribution to the candidate or political committee for reimbursement within 45 days of the contribution.
- (2) The candidate or political committee makes a reimbursement to the entity making the contribution within seven days of submission of sufficient information.
- (3) The candidate or political committee indicates on its report under G.S. 163A-1422 that the good, service, or other item resulting in the reimbursement is an expenditure of the candidate or political committee, and notes if the contribution was by credit card.
- (4) The contribution does not exceed one thousand dollars (\$1,000.00).

(g) Any contribution, or portion thereof, made under subsection (f) of this section that is not submitted for reimbursement in accordance with subsection (f) of this section shall be treated as a contribution for purposes of this section. Any contribution, or portion thereof, made under subsection (f) of this section that is not reimbursed in accordance with subsection (f) of this section shall be treated as a contribution for purposes of this section.

(h) This section shall not apply to any national, State, district or county executive committee of any political party or an affiliated party committee. For the purposes of this section only, the term "political party" means only those political parties officially recognized under G.S. 163A-950.

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

(j) The contribution limits of subsections (a) and (c) of this section do not apply to contributions made to an independent expenditure political committee. For purposes of this section, an "independent expenditure political committee" is a political committee whose treasurer makes and abides by a certification to the State Board that the political committee does not and will not make contributions, directly or indirectly, to candidates or to political committees that make contributions to candidates. The State Board shall provide forms for implementation of this subsection. This subsection shall not apply to a candidate or a political committee controlled by a candidate. The exception of this subsection is in addition to any other exception provided by law. (1973, c. 1272, s. 1; 1979, c. 1073, ss. 8, 20; 1981, c. 225; 1987, c. 565, s. 15; 1993, c. 539, s. 1113; 1994, Ex. Sess., c. 24, s. 14(c); 1997-515, s. 8(a); 1999-31, s. 5(c); 2002-158, s. 2; 2006-192, ss. 15, 16, 17; 2007-391, s. 36; 2007-484, s. 43.8(c); 2007-510, s. 1(c); 2007-540, ss. 2, 3; 2008-150, ss. 6(c), 7(a); 2008-187, s. 33(a); 2013-360, s. 21.1(e), (f); 2013-381, ss. 38.1(h), (i), (j), 42.1, 42.2, 42.3, 53.1(a); 2015-258, s. 3(h); 2015-264, s. 27; 2017-6, s. 3.)

**§ 163A-1426. Limitation on fund-raising during legislative session.**

(a) Definitions. – For purposes of this section:

- (1) "Limited contributor" means a lobbyist registered under Article 8 of this Chapter, that lobbyist's agent, that lobbyist's principal as defined in G.S. 163A-250(21) or a political committee that employs or contracts with or whose parent entity employs or contracts with a lobbyist registered under Article 8 of this Chapter.
- (2) "Limited contributee" means a member of or candidate for the Council of State, a member of or candidate for the General Assembly, an affiliated party committee, or a Council of State affiliated party committee.
- (3) The General Assembly is in "regular session" from the date set by law or resolution that the General Assembly convenes until the General Assembly either adjourns sine die or recesses or adjourns for more than 10 days.
- (4) A contribution is "made" during regular session if the check or other instrument is dated during the session, or if the check or other instrument is delivered to the limited contributee during session, or if the limited contributor pledges during the session to deliver the check or other instrument at a later time.
- (5) A contribution is "accepted" during regular session if the check or other instrument is dated during the session, or if the limited contributee receives the check or other instrument during session and does not return it within 10 days, or agrees during session to receive the check or other instrument at a later time.

(b) Prohibited Solicitations. – While the General Assembly is in regular session, no limited contributee or the real or purported agent of a limited contributee shall:

- (1) Solicit a contribution from a limited contributor to be made to that limited contributee or to be made to any other candidate, officeholder, or political committee; or
- (2) Solicit a third party, requesting or directing that the third party directly or indirectly solicit a contribution from a limited contributor or relay to the limited contributor the limited contributee's solicitation of a contribution.

It shall not be deemed a violation of this section for a limited contributee to serve on a board or committee of an organization that makes a solicitation of a limited contributor as long as that limited contributee does not directly participate in the solicitation and that limited contributee does not directly benefit from the solicitation.

(c) Prohibited Contributions. – While the General Assembly is in regular session:

- (1) No limited contributor shall make or offer to make a contribution to a limited contributee.
- (2) No limited contributor shall make a contribution to any candidate, officeholder, or political committee, directing or requesting that the contribution be made in turn to a limited contributee.
- (3) No limited contributor shall transfer any amount of money or anything of value to any entity, directing or requesting that the entity use what was transferred to contribute to a limited contributee.
- (4) No limited contributee or the real or purported agent of a limited contributee prohibited from solicitation by subsection (b) of this section shall accept a contribution from a limited contributor.



- (5) No limited contributor shall solicit a contribution from any individual or political committee on behalf of a limited contributee. This subdivision does not apply to a limited contributor soliciting a contribution on behalf of a political party executive committee or an affiliated party committee if the solicitation is solely for a separate segregated fund kept by the political party or affiliated party committee limited to use for activities that are not candidate-specific, including generic voter registration and get-out-the-vote efforts, pollings, mailings, and other general activities and advertising that do not refer to a specific individual candidate.

(d) Exception. – The provisions of this section do not apply with regard to a limited contributee during the three weeks prior to the day of a second primary if that limited contributee is a candidate who will be on the ballot in that second primary.

(e) Prosecution. – A violation of this section is a Class 2 misdemeanor. (1997-515, s. 9(b); 1999-31, s. 5(d); 1999-453, s. 6(a); 2000-136, s. 1; 2006-201, s. 21; 2015-258, ss. 3(i), (s); 2015-264, s. 81(e); 2017-6, s. 3.)

#### **§ 163A-1427. Campaign contributions prohibition.**

(a) No lobbyist may make a contribution as defined in G.S. 163A-1411 to a candidate or candidate campaign committee as defined in G.S. 163A-1475 when that candidate meets any of the following criteria:

- (1) Is a legislator as defined in G.S. 163A-250.
- (2) Is a public servant as defined in G.S. 163A-152(70)a. and G.S. 163A-254.

(b) No lobbyist may do any of the following with respect to a candidate or candidate campaign committee described in subdivisions (a)(1) and (a)(2) of this section:

- (1) Collect a contribution or multiple contributions from one or more contributors intended for that candidate or candidate campaign committee.
- (2) Take possession of a contribution or multiple contributions intended for that candidate or candidate campaign committee.
- (3) Transfer or deliver a collected contribution or multiple contributions to the intended candidate or candidate campaign committee.

(c) This section shall not apply to a lobbyist, who has filed a notice of candidacy for office under G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976, 163A-977, and 163A-978, or Part 2 of Article 19 of this Chapter or has been nominated under G.S. 163A-987 or G.S. 163A-953, making a contribution to that lobbyist's candidate campaign committee.

(d) For purposes of this section, the term "lobbyist" shall mean an individual registered as a lobbyist under Article 8 of this Chapter. (2006-201, s. 18; 2007-347, ss. 5(a), (b); 2008-213, s. 86; 2013-381, s. 47.1(a); 2017-6, s. 3.)

#### **§ 163A-1428. No contributions in names of others; no anonymous contributions; contributions in excess of fifty dollars; no contribution without specific designation of contributor.**

(a) No individual, political committee, or other entity shall make any contribution anonymously or in the name of another. No candidate, political committee, referendum committee, political party, affiliated party committee, or treasurer shall knowingly accept any contribution made by any individual or person in the name of another individual or person or made anonymously. If a candidate, political committee, referendum committee, political party, affiliated

party committee, or treasurer receives anonymous contributions or contributions determined to have been made in the name of another, he shall pay the money over to the Board, by check, and all such moneys received by the Board shall be deposited in the Civil Penalty and Forfeiture Fund of the State of North Carolina. This subsection shall not apply to any contribution by an individual with the lawful authority to act on behalf of another individual, whether through power of attorney, trustee, or other lawful authority.

(b) No entity shall make, and no candidate, committee or treasurer shall accept, any monetary contribution in excess of fifty dollars (\$50.00) unless such contribution is in the form of a check, draft, money order, credit card charge, debit, or other noncash method that can be subject to written verification. No contribution in the form of check, draft, money order, credit card charge, debits, or other noncash method may be made or accepted unless it contains a specific designation of the intended contributee chosen by the contributor. The State Board may prescribe guidelines as to the reporting and verification of any method of contribution payment allowed under this Article. For contributions by money order, the State Board shall prescribe methods to ensure an audit trail for every contribution so that the identity of the contributor can be determined. For a contribution made by credit card, the credit card account number of a contributor is not a public record.

(c) No political committee or referendum committee shall make any contribution unless in doing so it reports to the recipient the contributor's name as required in G.S. 163A-1412(b)(1). (1973, c. 1272, s. 1; 1979, c. 1073, s. 19; 1987, c. 113, s. 2; 1999-453, s. 4(a); 2001-319, s. 10(a); 2002-159, s. 55(k); 2004-125, s. 5(b); 2005-430, s. 1; 2006-195, ss. 1, 5.2; 2007-484, s. 23; 2010-169, s. 6(b); 2015-258, s. 3(j); 2017-6, s. 3.)

**§ 163A-1429. Evidence that communications are "to support or oppose the nomination or election of one or more clearly identified candidates."**

(a) The following shall be means of proving that an individual or other entity acted "to support or oppose the nomination or election of one or more clearly identified candidates": presenting evidence of financial sponsorship of communications to the general public that use phrases such as "vote for", "reelect", "support", "cast your ballot for", "(name of candidate) for (name of office)", "(name of candidate) in (year)", "vote against", "defeat", "reject", "vote pro-(policy position)" or "vote anti-(policy position)" accompanied by a list of candidates clearly labeled "pro-(policy position)" or "anti-(policy position)", or communications of campaign words or slogans, such as posters, bumper stickers, advertisements, etc., which say "(name of candidate)'s the One", "(name of candidate) '98", "(name of candidate)!", or the names of two candidates joined by a hyphen or slash.

(b) Notwithstanding the provisions of subsection (a) of this section, a communication shall not be subject to regulation as a contribution or expenditure under this Article if it:

- (1) Appears in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, or magazine, unless those facilities are owned or controlled by any political party, affiliated party committee, or political committee;
- (2) Is distributed by a corporation solely to its stockholders and employees; or
- (3) Is distributed by any organization, association, or labor union solely to its members or to subscribers or recipients of its regular publications, or is made available to individuals in response to their request, including through the Internet. (1999-453, s. 3(a); 2008-150, s. 6(b); 2015-258, s. 3(k); 2017-6, s. 3.)

**§ 163A-1430. No acceptance of contributions made by corporations, foreign and domestic, or other prohibited sources.**

(a) No candidate, political committee, political party, affiliated party committee, or treasurer shall accept any contribution made by any corporation, foreign or domestic, regardless of whether such corporation does business in the State of North Carolina, or made by any business entity, labor union, professional association, or insurance company. This section does not apply with regard to entities permitted to make contributions by G.S. 163A-1436(h).

(b) A candidate or political committee may accept a contribution knowing that the contribution is the proceeds of a loan made in the ordinary course of business by a financial institution if all of the following conditions are met:

- (1) The full amount of the loan is secured by collateral placed, or by guaranties given, by one or more individuals or entities who are not prohibited by this Article from making contributions to the candidate or political committee. The value of the collateral posted by each individual or entity, or the amount of each guaranty, may not exceed the contribution limitations applicable under this Article to each individual or entity. The value of collateral posted may exceed the contribution limitations applicable under this Article in cases where the amount of the loan secured by that collateral does not exceed the contribution limitations applicable to the individual or entity.
- (2) During the time that any loan remains outstanding and unpaid, then the value of any collateral posted, or the amount of each guaranty, for that loan shall be considered to be a contribution by the individual or entity securing the loan. If the loan, or any portion of the loan, is repaid to the financial institution by the candidate or political committee to whom the loan was made during the contribution limitation period for the same "election" as defined in G.S. 163A-1425(e) in which the loan was made, the individual or entity securing the loan shall be eligible to further contribute to that candidate or political committee up to the amount of the repayment. If multiple individuals or entities secured the loan that is repaid to the financial institution by the candidate or political committee, then the amount repaid shall be prorated amongst the multiple individuals or entities.
- (3) If the loan is to the candidate or political committee, only the candidate, the candidate's spouse, or the political committee to whom the loan was made may repay the loan.

The State Board shall develop forms for reporting the proceeds of loans in a full and accurate manner. (1973, c. 1272, s. 1; 1999-31, s. 5(e); 2006-195, s. 6; 2006-262, s. 4.1(c); 2015-258, s. 3(l); 2017-6, s. 3.)

**§ 163A-1431. Regulations regarding timing of contributions and expenditures.**

Except as provided in G.S. 163A-1411(74) and G.S. 163A-1423, no contribution may be received or expenditure made by or on behalf of a candidate, political committee, or referendum committee:

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

- (2) Unless the contribution is received or the expenditure made by or through the treasurer of the candidate, political committee, or referendum committee. (1973, c. 1272, s. 1; 1975, c. 565, s. 2; 1979, c. 500, s. 4; c. 1073, ss. 19, 20; 1987, c. 652; 1997-515, s. 13.1(a); 1999-31, ss. 1(d), 4(b); 1999-453, s. 2(b); 2017-6, s. 3.)

**§ 163A-1432. Restriction on use of State funds by declared candidate for Council of State for advertising or public service announcements using their names, pictures, or voices.**

After December 31 prior to a general election in which a Council of State office will be on the ballot, no declared candidate for that Council of State office shall use or permit the use of State funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains that declared candidate's name, picture, or voice, except in case of State or national emergency and only if the announcement is reasonably necessary to that candidate's official function. For purposes of this section, "declared candidate" means someone who has publicly announced an intention to run. (1997-515, s. 13(a); 2017-6, s. 3.)

**§ 163A-1433. Use of contributions for certain purposes.**

(a) A candidate or candidate campaign committee may use contributions only for the following purposes:

- (1) Expenditures resulting from the campaign for public office by the candidate or candidate's campaign committee.
- (2) Expenditures resulting from holding public office.
- (3) Donations to an organization described in section 170(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 170(c)), provided that the candidate or the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization.
- (4) Contributions to a national, State, or district or county committee of a political party or a caucus of the political party or an affiliated party committee.
- (5) Contributions to another candidate or candidate's campaign committee.
- (6) To return all or a portion of a contribution to the contributor.
- (7) Payment of any penalties against the candidate or candidate's campaign committee for violation of this Article imposed by a board of elections or a court of competent jurisdiction.
- (8) Payment to the Escheat Fund established by Chapter 116B of the General Statutes.
- (9) Legal expense donation not in excess of four thousand dollars (\$4,000) per calendar year to a legal expense fund established pursuant to Article 26 of this Chapter.

(b) As used in this section, the term "candidate campaign committee" means the same as in G.S. 163A-1475(3).

(c) Contributions made to a candidate or candidate campaign committee do not become a part of the personal estate of the individual candidate. The candidate may file with the board a written designation of those funds that directs to which of the permitted uses in subsection (a) of this section those funds shall be paid in the event of the death or incapacity of the candidate. If the candidate fails to file the written designation before death, the personal representative of the estate

may file the written designation within 90 days of the date of death, and may only direct those funds to donations under subdivision (a)(3) of this section. After the payment of permitted outstanding debts of the account, the candidate's filed written designation shall control. If the candidate files no such written designation, the funds after payment of permitted outstanding debts shall be distributed in accordance with subdivision (a)(8) of this section. (2006-161, s. 1; 2007-391, s. 30; 2008-187, s. 33(a); 2008-213, s. 87; 2009-534, s. 2(h); 2010-100, s. 1; 2015-258, s. 3(m); 2017-6, s. 3.)

**§ 163A-1434. Statements of media outlets regarding political advertising.**

(a) Each media outlet shall require written authority for each expenditure from each candidate, treasurer or individual making or authorizing an expenditure. A candidate may authorize advertisement paid for by a treasurer appointed by the candidate. All written authorizations of expenditures signed by a candidate, treasurer or individual shall be deemed public records and copies of those written authorizations shall be available for inspection during normal business hours at the office(s) of the media outlet making the publication or broadcast nearest to the place(s) of publication or broadcast.

(b) Each media outlet shall require written authority for each independent expenditure or electioneering communication from each individual, person, or entity making or authorizing an independent expenditure or electioneering communication. All written authorizations of independent expenditures or electioneering communications shall be deemed public records, and copies of those written authorizations shall be available for inspection during normal business hours at the office(s) of the media outlet making the publication or broadcast nearest to the place(s) of publication or broadcast. The written authorization shall include all of the following:

- (1) The name and address of the individual, person, or entity making the independent expenditure or electioneering communication.
- (2) The information required by G.S. 163A-1476(a), provided however that the provisions of G.S. 163A-1476(a)(7) and (a)(8) shall not apply to radio or television advertising. (1973, c. 1272, s. 1; 1975, c. 565, s. 3; 1979, c. 500, ss. 5, 6; c. 1073, s. 9; 1985, c. 183, ss. 1, 2; 2010-170, s. 4; 2017-6, s. 3.)

**§ 163A-1435. Normal commercial charges for political advertising.**

(a) No media and no supplier of materials or services shall charge or require a candidate, treasurer, political party, affiliated party committee, or individual to pay a charge for advertising, materials, space, or services purchased for or in support of or in opposition to any candidate, political committee, or political party that is higher than the normal charge it requires other customers to pay for comparable advertising, materials, space, or services purchased for other purposes.

(b) A newspaper, magazine, or other advertising medium shall not charge any candidate, treasurer, political committee, political party, or individual for any advertising for or in support of or in opposition to any candidate, political committee or political party at a rate higher than the comparable rate charged to other persons for advertising of comparable frequency and volume; and every candidate, treasurer, political party or individual, with respect to political advertising, shall be entitled to the same discounts afforded by the advertising medium to other advertisers under comparable conditions and circumstances. (1973, c. 1272, s. 1; 1977, c. 856; 2015-258, s. 3(n); 2017-6, s. 3.)

**§ 163A-1436. Violations by corporations, business entities, labor unions, professional associations and insurance companies.**

(a) Except as provided in subsections (c), (d), (f), (g), (h), and (i) of this section it shall be unlawful for any corporation, business entity, labor union, professional association or insurance company directly or indirectly do any of the following:

- (1) To make any contribution to a candidate or political committee.
- (2) To pay or use or offer, consent or agree to pay or use any of its money or property for any contribution to a candidate or political committee.
- (3) To compensate, reimburse, or indemnify any person or individual for money or property so used or for any contribution or expenditure so made.

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

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

(c) Proceeds of loans made in the ordinary course of business by financial institutions may be used for contributions made in compliance with this Subchapter. Financial institutions may also grant revolving credit to political committees and referendum committees in the ordinary course of business.

(d) It shall, however, be lawful for any corporation, business entity, labor union, professional association or insurance company to communicate with its employees, stockholders or members and their families on any subject; to conduct nonpartisan registration and get-out-the-vote campaigns aimed at their employees, stockholders, or members and their families; or for officials and employees of any corporation, insurance company or business entity or the officials and members of any labor union or professional association to establish, administer, contribute to, and to receive and solicit contributions to a separate segregated fund to be utilized for political purposes, and those individuals shall be deemed to become and be a political committee as that term is defined in G.S. 163A-1411(74) or a referendum committee as defined in G.S. 163A-1411(84); provided, however, that it shall be unlawful for any such fund to make a contribution or expenditure by utilizing contributions secured by physical force, job discrimination, financial reprisals or the threat of force, job discrimination or financial reprisals, or by dues, fees, or other moneys required as a condition of membership or employment or as a requirement with respect to any terms or conditions of employment, including, without limitation, hiring, firing, transferring, promoting, demoting, or granting seniority or employment-related benefits of any kind, or by moneys obtained in any commercial transaction whatsoever.

(e) A violation of this section is a Class 2 misdemeanor. In addition, the acceptance of any contribution, reimbursement, or indemnification under subsection (a) shall be a Class 2 misdemeanor.

(f) Whenever a candidate or treasurer is an officer, director, stockholder, attorney, agent, or employee of any corporation, business entity, labor union, professional association or insurance company, and by virtue of his position therewith uses office space and communication facilities of the corporation, business entity, labor union, professional association or insurance company in the normal and usual scope of his employment, the fact that the candidate or treasurer receives telephone calls, mail, or visits in such office which relates to activities prohibited by this Article shall not be considered a violation under this section.

(g) Notwithstanding the prohibitions specified in this Article and Article 22 of this Subchapter, a political committee organized under provisions of this Article shall be entitled to receive and the corporation, business entity, labor union, professional association, or insurance company designated on the committee's organizational report as the parent entity of the employees or members who organized the committee is authorized to give reasonable administrative support that shall include record keeping, computer services, billings, mailings to members of the committee, membership development, fund-raising activities, office supplies, office space, and such other support as is reasonably necessary for the administration of the committee.

The approximate cost of any reasonable administrative support shall be submitted to the committee, in writing, and the committee shall include that cost on the report required by G.S. 163A-1418(a)(4). Also included in the report shall be the approximate allocable portion of the compensation of any officer or employee of the corporation, business entity, labor union, professional association, or insurance company who has devoted more than thirty-five percent (35%) of his time during normal business hours of the corporation, business entity, labor union, professional association, or insurance company during the period covered by the required report. The approximate cost submitted by the parent corporation, business entity, labor union, professional association, or insurance company shall be entered on the committee's report as the final entry on its list of "contributions" and a copy of the written approximate cost received by it shall be attached.

The reasonable administrative support given by a corporation, business entity, labor union, professional association, or insurance company shall be designated on the books of the corporation, business entity, labor union, professional association, or insurance company as such and may not be treated by it as a business deduction for State income tax purposes.

(h) This section does not prohibit a contribution by an [a] person or entity that:

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

(i) If a political committee has as its only purpose accepting contributions and making expenditures to influence elections, and that political committee incorporates as a nonprofit

corporation to shield its participants from liability created outside this Subchapter, that political committee is not considered to be a corporation for purposes of this section. Incorporation of a political committee does not relieve any individual, person, or other entity of any liability, duty, or obligation created pursuant to any provision of this Subchapter. To obtain the benefits of this subsection, an incorporating political committee must state exactly the following language as the only purpose for which the corporation can be organized: "to accept contributions and make expenditures to influence elections as a political committee pursuant to G.S. 163A-1411(74) only." No political committee shall do business as a political committee after incorporation unless it has been certified by the State Board as being in compliance with this subsection. (1973, c. 1272, s. 1; 1975, c. 565, s. 6; 1979, c. 517, ss. 1, 2; 1985, c. 354; 1987, c. 113, s. 3; c. 565, s. 16; 1993, c. 539, ss. 1115, 1116; c. 553, s. 69; 1994, Ex. Sess., c. 24, s. 14(c); 1999-31, ss. 4(d), 5(a), 6(b); 2001-487, s. 97(a); 2002-159, s. 57.3(a), (b); 2006-195, s. 3; 2006-262, ss. 4.1(a), (b), 4.3; 2010-170, s. 5; 2015-258, s. 3(o); 2017-6, s. 3.)

**§ 163A-1437. Contributions allowed.**

Notwithstanding any other provision of this Subchapter, it is lawful for any person as defined in G.S. 163A-1411(72) to contribute to a referendum committee. (1979, c. 1073, s. 7; 2017-6, s. 3.)

**§ 163A-1438. Political party headquarters building funds.**

Notwithstanding the provisions of G.S. 163A-1436, a person prohibited by that section from making a contribution may donate to political parties and affiliated party committees and political parties and affiliated party committees may accept from such a person money and other things of value donated to a political party headquarters building fund. Donations to the political party headquarters building fund shall be subject to all the following rules:

- (1) The donations solicited and accepted are designated to the political party headquarters building fund.
- (2) Potential donors to that fund are advised that all donations will be exclusively for the political party headquarters building fund.
- (3) The political party or affiliated party committee establishes a separate segregated bank account into which shall be deposited only donations for the political party headquarters building fund from persons prohibited by G.S. 163A-1436 from making contributions.
- (4) The donations deposited in the separate segregated bank account for the political party headquarters building fund will be spent only to purchase a principal headquarters building, to construct a principal headquarters building, to renovate a principal headquarters building, to pay a mortgage on a principal headquarters building, to repay donors if a principal headquarters building is not purchased, constructed, or renovated, or to pay building rent or monthly or bimonthly utility expenses incurred to operate the principal headquarters building. Donations deposited into that account shall be used solely for the purposes set forth in the preceding sentence, and specifically shall not be used for headquarters equipment other than fixtures, personnel compensation, or travel or fundraising expenses or requirements of any kind. Notwithstanding the above, personnel compensation and in-kind benefits may be paid to no more than three personnel whose functions are primarily administrative in nature,



such as providing accounting, payroll, or campaign finance reporting services, for the party and whose job functions require no more than ten percent (10%) of work time to be spent on political advocacy each calendar year.

- (5) The political party executive committee or affiliated party committee shall report donations to and spending by a political party headquarters building fund on every report required to be made by G.S. 163A-1418. If a committee is excused from making general campaign finance reports under G.S. 163A-1421, that committee shall nonetheless report donations in any amount to and spending in any amount by the political party headquarters building fund at the times required for reports in G.S. 163A-1418.

If all the criteria set forth in subdivisions (1) through (5) of this section are complied with, then donations to and spending by a political party headquarters building fund do not constitute contributions or expenditures as defined in G.S. 163A-1411. If those criteria are complied with, then donations may be made to a political party headquarters building fund. (1999-426, s. 9(a); 2013-381, s. 43.1; 2015-258, s. 3(p); 2017-6, s. 3.)

#### **§ 163A-1439. Promulgation of policy and administration through State Board.**

The State Board shall have responsibility, adequate staff, equipment and facilities, for promulgating all regulations necessary for the enforcement and administration of this Article and to prevent the circumvention of the provisions of this Article. The State Board shall empower the Executive Director with the responsibility for the administrative operations required to administer this Article and may delegate or assign to him such other duties from time to time by regulations or orders of the State Board. (1973, c. 1272, s. 1; 1975, c. 798, s. 7; 1999-453, s. 5(c); 2001-319, s. 11; 2017-6, s. 3.)

#### **§ 163A-1440. Duties of State Board.**

It shall be the duty and power of the State Board:

- (1) To prescribe forms of statements and other information required to be filed by this Article, to furnish such forms to the county boards of elections and individuals, media or others required to file such statements and information, and to prepare, publish and distribute or cause to be distributed to all candidates at the time they file notices of candidacy a manual setting forth the provisions of this Article and a prescribed uniform system for accounts required to file statements by this Article.
- (2) To accept and file any information voluntarily supplied that exceeds the requirements of this Article.
- (3) To develop a filing, coding, and cross-indexing system consonant with the purposes of this Article.
- (4) To make statements and other information filed with it available to the public at a charge not to exceed actual cost of copying.
- (5) To preserve reports and statements filed under this Article. Such reports and statements, after a period of two years following the election year, may be transferred to the Department of Natural and Cultural Resources, Office of Archives and History, and shall be preserved for a period of 10 years.
- (6) To prepare and publish such reports as it may deem appropriate.

- (7) To make investigations to the extent the State Board deems necessary with respect to statements filed under the provisions of this Article and with respect to alleged failures to file any statement required under the provisions of this Article or Article 26 of [of this Chapter] the General Statutes and, upon complaint under oath by any registered voter, with respect to alleged violations of any part of this Article or Article 26 [this Chapter of] of the General Statutes. The State Board shall conclude all investigations no later than one year from the date of the start of the investigation, unless the State Board has reported an apparent violation to the proper district attorney and additional investigation of the apparent violation is deemed necessary by the State Board.
- (8) After investigation, to report apparent violations by candidates, political committees, referendum committees, legal expense funds, individuals or persons to the proper district attorney as provided in G.S. 163A-1445.
- (9) To prescribe and furnish forms of statements and other material to the county boards of elections for distribution to candidates and committees required to be filed with the county boards.
- (10) To instruct the chairman and director of elections of each county board as to their respective duties and responsibilities relative to the administration of this Article.
- (11) To require appropriate certification of delinquent or late filings from the county boards of elections and to execute the same responsibilities relative to such reports as provided in G.S. 163A-1445.
- (12) To assist county boards of elections in resolving questions arising from the administration of this Article.
- (13) To require county boards of elections to hold such hearings, make such investigations, and make reports to the State Board as the State Board deems necessary in the administration of this Article.
- (14) To calculate, assess, and collect civil penalties pursuant to this Article.
- (15) To establish a process for determination as to whether communication is an expenditure, independent expenditure, or electioneering communication prior to the airing or distribution of that communication when so requested by an individual or person producing a communication. The responsibility for the determination may be delegated to the Executive Director. If the responsibility is delegated to the Executive Director, the process established by the State Board shall require a written determination by the Executive Director to include stated findings and an opportunity for immediate appeal to the State Board of the determination by the Executive Director. (1973, c. 1272, s. 1; 1975, c. 798, s. 8; 1977, c. 626, s. 1; 1979, c. 500, ss. 9, 12, 13; c. 1073, s. 18; 1995, c. 243, s. 1; 1997-515, s. 7(e); 2002-159, s. 35(n); 2007-349, ss. 2, 3; 2010-170, s. 6; 2015-241, s. 14.30(s); 2016-125, 4th Ex. Sess., s. 5(k); 2017-6, ss. 2, 3, 7(k).)

**§ 163A-1441. Duties of Executive Director of State Board.**

The Executive Director of the State Board shall inspect or cause to be inspected each statement filed with the State Board under this Article within 30 days after the date it is filed. The Executive Director shall advise, or cause to be advised, no more than 30 days and at least five days before each report is due, each candidate or treasurer whose organizational report has been filed, of the

specific date each report is due. He shall immediately notify any individual, candidate, treasurer, political committee, referendum committee, media, or other entity that may be required to file a statement under this Article if:

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

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

The Executive Director of the State Board shall issue written opinions to candidates, the communications media, political committees, referendum committees, or other entities upon request, regarding filing procedures and compliance with this Article. Any such opinion so issued shall specifically refer to this paragraph. If the candidate, communications media, political committees, referendum committees, or other entities rely on and comply with the opinion of the Executive Director of the State Board, then prosecution or civil action on account of the procedure followed pursuant thereto and prosecution for failure to comply with the statute inconsistent with the written ruling of the Executive Director of the State Board issued to the candidate or committee involved shall be barred. Nothing in this paragraph shall be construed to prohibit or delay the regular and timely filing of reports. The Executive Director shall file all opinions issued pursuant to this section with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code.

This section applies to Articles and [Article] 26 of [this Chapter of] the General Statutes to the same extent that it applies to this Article. (1973, c. 1272, s. 1; 1975, c. 334; c. 565, s. 4; 1979, c. 500, s. 7; c. 1073, ss. 12, 13, 17; 1985, c. 759, s. 6.1; 1999-424, s. 6(c); 1999-453, s. 5(b); 1999-456, s. 63; 2001-319, s. 11; 2005-430, s. 8; 2007-349, s. 6; 2013, s. 21.1; 2013-381, ss. 43.1, 47.1, 48.3; 2017-6, s. 3.)

#### **§ 163A-1442. Statements examined within four months.**

Within four months after the date of each election or referendum, the Executive Director shall examine or cause to be examined each statement filed with the Board under this Article, and, referring to the election or referendum, determine whether the statement conforms to law and to the truth. (1973, c. 1272, s. 1; 1979, c. 500, s. 8; c. 1073, s. 14; 1985, c. 183, s. 3; 2001-319, s. 11; 2017-6, s. 3.)

#### **§ 163A-1443. Issuance of declaration of nomination or certificate of election.**

No declaration of nomination and no certificate of election shall be granted to any candidate until the candidate or his treasurer has filed the statements referring to the election he is required to file under this Article. Within 24 hours after reaching a decision that a declaration of nomination or certificate of election should not be granted, the Board shall give written notice of that decision, by telegraph or certified mail, to the candidate and the candidate's treasurer. Failure to grant certification shall not affect a successful candidate's title to an office to which he has been otherwise duly elected. (1973, c. 1272, s. 1; 2017-6, s. 3.)

**§ 163A-1444. Appeals from State Board; early docketing.**

Any candidate for nomination or election who is denied a declaration of nomination or certificate of election, pursuant to G.S. 163A-1443, may, within five days after the action of the Board under that section, appeal to the Superior Court of Wake County for a final determination of any questions of law or fact which may be involved in the Board's action. The cause shall be entitled "In the Matter of the Candidacy of \_\_\_\_\_" It shall be placed on the civil docket of that court and shall have precedence over all other civil actions. In the event of an appeal, the chairman of the Board shall certify the record to the clerk of that court within five days after the appeal is noted.

The record on appeal shall consist of all reports filed by the candidate or his treasurer with the Board pursuant to this Article, and a memorandum of the Board setting forth with particularity the reasons for its action in denying the candidate a declaration of nomination or certificate of election. Written notice of the appeal shall be given to the Board by the candidate or his attorney, and may be effected by mail or personal delivery. On appeal, the cause shall be heard de novo. (1973, c. 1272, s. 1; 2017-6, s. 3.)

**§ 163A-1445. Criminal penalties; duty to report and prosecute.**

(a) Any individual, candidate, political committee, referendum committee, treasurer, person or media who intentionally violates the applicable provisions of G.S. 163-278.20, 163A-1412, 163A-1414, 163A-1418, 163A-1420, 163A-1422, 163A-1423, 163A-1425, 163A-1426, 163A-1428, 163A-1431, 163A-1433, 163A-1434, 163A-1435, 163A-1436, 163A-1476, 163A-1496, 163A-1497, 163A-1498, 163A-1499, 163A-1500, or 163A-1505 is guilty of a Class 2 misdemeanor. The statute of limitations as stated in G.S. 15-1 shall run from the day the last report is due to be filed with the appropriate board of elections for the election cycle for which the violation occurred.

(b) A violation of G.S. 163A-1449 by making a certification knowing the information to be untrue is a Class I felony.

(c) A person or individual who intentionally violates G.S. 163A-1428(a) or G.S. 163A-1436(a) and the unlawful contributions total more than ten thousand dollars (\$10,000) per election is guilty of a Class I felony.

(d) Whenever the Board has knowledge of or has reason to believe there has been a violation of any section of this Article, it shall report that fact, together with accompanying details, to the following prosecuting authorities:

- (1) In the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the district attorney of the prosecutorial district in which the candidate for nomination or election resides;
- (2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior court: report to the district attorney of the prosecutorial district in which Wake County is located;

- (3) In the case of an individual other than a candidate, including, without limitation, violations by members of political committees, referendum committees or treasurers: report to the district attorney of the prosecutorial district in which the individual resides; and
- (4) In the case of a person or any group of individuals: report to the district attorney or district attorneys of the prosecutorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside.
- (e) Upon receipt of such a report from the Board, the appropriate district attorney shall prosecute the individual or persons alleged to have violated a section or sections of this Article.
- (f) As a condition of probation, a sentencing judge may order that the costs incurred by the State Board in investigating and aiding the prosecution of a case be paid to the State Board by the defendant on such terms and conditions as set by the judge. (1973, c. 1272, s. 1; 1979, c. 500, s. 10; c. 1073, ss. 15, 19; 1981, c. 837, s. 4; 1987, c. 565, s. 17; 1993, c. 539, s. 1118; 1994, Ex. Sess., c. 24, s. 14(c); 1999-453, s. 2(c); 2001-419, s. 2; 2006-161, s. 5; 2007-391, s. 1(b); 2008-150, s. 9(b); 2008-187, s. 29; 2010-169, s. 6(a); 2017-6, s. 3.)

**§ 163A-1446. Issuance of injunctions; special prosecutors named.**

(a) The superior courts of this State shall have jurisdiction to issue injunctions or grant any other equitable relief appropriate to enforce the provisions of this Article upon application by any registered voter of the State.

(b) If the Board makes a report to a district attorney under G.S. 163A-1445 and no prosecution is initiated within 45 days after the report is made, any registered voter of the prosecutorial district to whose district attorney a report has been made, or any board of elections in that district, may, by verified affidavit, petition the superior court for that district for the appointment of a special prosecutor to prosecute the individuals or persons who have or who are believed to have violated any section of this Article. Upon receipt of a petition for the appointment of a special prosecutor, the superior court shall issue an order to show cause, directed at the individuals or persons alleged in the petition to be in violation of this Article, why a special prosecutor should not be appointed. If there is no answer to the order, the court shall appoint a special prosecutor. If there is an answer, the court shall hold a hearing on the order, at which both the petitioning and answering parties may be heard, to determine whether a prima facie case of a violation and failure to prosecute exists. If there is such a prima facie case, the court shall so find and shall thereupon appoint a special prosecutor to prosecute the alleged violators. The special prosecutor shall take the oath required of assistant district attorneys by G.S. 7A-63, shall serve as an assistant district attorney pro tem of the appropriate district, and shall prosecute the alleged violators. (1973, c. 1272, s. 1; 1979, c. 500, s. 11; 2017-6, s. 3.)

**§ 163A-1447. Compelling self-incriminating testimony; individual so testifying excused from prosecution.**

No individual shall be excused from attending or testifying or producing any books, papers, or other documents before any court upon any proceeding or trial of another for the violation of any of the provisions of this Article, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, but such individual may be subpoenaed and required to testify by and for the State relative to any offense arising under the provisions of this Article; but such individual shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may be

compelled to testify or produce evidence, documentary or otherwise, and no compelled testimony so given or produced shall be used against him upon any criminal proceeding, but such individual so compelled to testify with respect to any acts of his own shall be immune from prosecution on account thereof. (1973, c. 1272, s. 1; 2017-6, s. 3.)

**§ 163A-1448. Candidates for federal offices to file information reports.**

Candidates for nomination in a party primary or for election in a general or special election to the offices of United States Senator, member of the United States House of Representatives, President or Vice-President of the United States shall file with the Board all reports they or political committee treasurers or other agents acting for them are required to file under the Federal Election Campaign Act of 1971, P.L. 92-225, as amended (T. 2, U.S.C. section 439). Those reports shall be filed with the Board at the times required by that act. The Board shall, with respect to those reports, have the following duties only:

- (1) To receive and maintain in an orderly manner all reports and statements required to be filed with it;
- (2) To preserve reports and statements filed under the Federal Election Campaign Act. Such reports and statements, after a period of two years following the election year, may be transferred to the Department of Natural and Cultural Resources, Division of Archives and History, and shall be preserved for a period of 10 years or for such period as may be required by federal law;
- (3) To make the reports and statements filed with it available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which they were received, and to permit copying of any such report or statement by hand or by duplicating machine, requested by any individual, at the expense of such individual; and
- (4) To compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

Any duty of a candidate to file and the State Board to receive and make available under this section may be met by an agreement between the State Board and the Federal Election Commission, the effect of which is for the Federal Election Commission to provide promptly to the State Board the information required by this section. (1973, c. 1272, s. 1; 1979, c. 500, s. 14; 2002-159, s. 55(l); 2015-241, s. 14.30(s); 2017-6, s. 3.)

**§ 163A-1449. Statements under oath.**

Any statement required to be filed under this Article shall be signed and certified as true and correct by the individual, media, candidate, treasurer or others required to file it, and shall be certified as true and correct to the best of the knowledge of the individual, media, candidate, treasurer or others filing the statement; provided further that the candidate shall certify as true and correct to the best of his knowledge the organizational report and appointment of treasurer filed for the candidate or the candidate's principal campaign committee. A certification under this Article shall be treated as under oath, and any person making a certification under this Article knowing the information to be untrue is guilty of a Class I felony. (1973, c. 1272, s. 1; 1999-426, s. 10(a); 2001-235, s. 1; 2007-391, s. 1(a); 2017-6, s. 3.)

**§ 163A-1450. Applicability of Article 22.**

G.S. 163A-1385 through 163A-1392 shall be applicable to the offices covered by this Article and G.S. 163A-1385 through 163A-1392 shall be applicable to all elective offices not covered by this Article. (1973, c. 1272, s. 3; 1975, c. 50; c. 565, s. 10; 2002-159, s. 21(f); 2017-6, s. 3.)

**§ 163A-1451. Civil penalties.**

(a) Civil Penalties for Late Filing. – Except as provided in G.S. 163A-1418 and G.S. 163A-1419, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board election enforcement costs and a civil late penalty as follows:

- (1) Two hundred fifty dollars (\$250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars (\$10,000); and
- (2) Fifty dollars (\$50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars (\$500.00).

If the form is filed by mail, no civil late penalty shall be assessed for any day after the date of postmark. No civil late penalty shall be assessed for any day when the Board office at which the report is due is closed. The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, by mail, of the penalties under this section. The State Board may waive a late penalty if it determines there is good cause for the waiver.

If the Board determines by clear and convincing evidence that the late filing constitutes a willful attempt to conceal contributions or expenditures, the Board may assess a civil penalty in an amount to be determined by that Board, plus the costs of investigation, assessment, and collection. The civil penalty shall not exceed three times the amount of the contributions and expenditures willfully attempted to be concealed.

(b) Civil Penalties for Illegal Contributions and Expenditures. – If an individual, person, political committee, referendum committee, candidate, or other entity intentionally makes or accepts a contribution or makes an unlawful expenditure in violation of this Article, then that entity shall pay to the State Board, in an amount to be determined by that Board, a civil penalty and the costs of investigation, assessment, and collection. The civil penalty shall not exceed three times the amount of the unlawful contribution or expenditure involved in the violation. The State Board may, in addition to the civil penalty, order that the amount unlawfully received be paid to the State Board by check, and any money so received by the State Board shall be deposited in the Civil Penalty and Forfeiture Fund of North Carolina.

(c) Civil Remedies Other Than Penalties. – The State Board, in lieu of or in addition to imposing a civil penalty under subsection (a) or (b) of this section, may take one or more of the following actions with respect to a violation for which a civil penalty could be imposed:

- (1) Issue an order requiring the violator to cease and desist from the violation found.
- (2) Issue an order to cease receiving contributions and making expenditures until a delinquent report has been filed and any civil penalty satisfied.

- (3) Issue an order requiring the violator to take any remedial action deemed appropriate by the Board.
- (4) Issue an order requiring the violator to file any report, statement, or other information as required by this Article or the rules adopted by the Board.
- (5) Publicly reprimand the violator for the violation.

(d) Facts in Mitigation. – An individual or other entity notified that a penalty has been assessed against it may submit an affidavit to the State Board stating the facts in mitigation. The State Board may waive a civil penalty in whole or in part if it determines there is good cause for the waiver.

(e) Calculation and Assessment. – The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) or (b) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. The State Board of Elections shall pay the clear proceeds of civil penalties collected under this section to the Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2. The State Board of Elections shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the Civil Penalty and Forfeiture Fund. Monies set aside for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board.

(f) Notifying and Consulting With District Attorney. – Before assessing a civil penalty under subsection (b) of this section or imposing a civil remedy under subsection (c) of this section, the State Board shall notify and consult with the district attorney who would be responsible under G.S. 163A-1445 for bringing a criminal prosecution concerning the violation. (1973, c. 1272, s. 1; 1975, c. 565, s. 5; 1979, c. 1073, s. 19; 1997-515, s. 7(a); 2001-353, s. 10; 2001-419, s. 1; 2007-391, ss. 2(a), 37; 2008-187, s. 33(a); 2017-6, s. 3.)

### **§ 163A-1452. Presumptions.**

In any proceeding brought pursuant to this Article in which a presumption arises from the proof of certain facts, the defendant may offer some evidence to rebut the presumption, but the State bears the ultimate burden of proving the essential elements of its case. (1999-31, s. 1(c); 1999-453, s. 3.1(a); 2017-6, s. 3.)

### **§ 163A-1453. Preservation of records.**

All reports, records and accounts required by this Article to be made, kept, filed, or maintained by any individual, media, candidate or treasurer shall be preserved and retained by the individual, media, candidate or treasurer for at least two years counting from the date of the election to which such reports, records and accounts refer. (1973, c. 1272, s. 1; 2017-6, s. 3.)



**§ 163A-1454. County boards of elections to preserve reports.**

The county boards of elections shall preserve all reports and statements filed with them pursuant to this Article for such period of time as directed by the State Board. (1979, c. 500, s. 15; 2017-6, s. 3.)

**§ 163A-1455. Effect of failure to comply.**

The failure to comply with the provisions of this Article shall not invalidate the results of any referendum. (1979, c. 1073, s. 11; 2017-6, s. 3.)

**§ 163A-1456:** Reserved for future codification purposes.

**§ 163A-1457:** Reserved for future codification purposes.

**§ 163A-1458:** Reserved for future codification purposes.

**§ 163A-1459:** Reserved for future codification purposes.

**§ 163A-1460:** Reserved for future codification purposes.

**§ 163A-1461:** Reserved for future codification purposes.

**§ 163A-1462:** Reserved for future codification purposes.

**§ 163A-1463:** Reserved for future codification purposes.

**§ 163A-1464:** Reserved for future codification purposes.

**§ 163A-1465:** Reserved for future codification purposes.

**§ 163A-1466:** Reserved for future codification purposes.

**§ 163A-1467:** Reserved for future codification purposes.

**§ 163A-1468:** Reserved for future codification purposes.

**§ 163A-1469:** Reserved for future codification purposes.

**§ 163A-1470:** Reserved for future codification purposes.

**§ 163A-1471:** Reserved for future codification purposes.

**§ 163A-1472:** Reserved for future codification purposes.

**§ 163A-1473:** Reserved for future codification purposes.

**§ 163A-1474:** Reserved for future codification purposes.

Part 2. Disclosure Requirements for Media Advertisements.

**§ 163A-1475. Definitions.**

As used in this Part:

- (1) "Advertisement" means any message appearing in the print media, on television, or on radio that constitutes a contribution or expenditure under this Article.
- (2) "Candidate" means any individual who, with respect to a public office listed in G.S. 163A-1411(80), has filed a notice of candidacy, notice of retention, or a petition requesting to be a candidate, or has been certified as a nominee of a political party for a vacancy, or has otherwise qualified as a candidate in a manner authorized by law, or has filed a statement of organization under G.S. 163A-1412 and is required to file periodic financial disclosure statements under G.S. 163A-1418.
- (3) "Candidate campaign committee" means any political committee organized by or under the direction of a candidate, except for an affiliated party committee as defined in G.S. 163A-1411(1).
- (4) "Full-screen" means the only picture appearing on the television screen during the oral disclosure statement contains the disclosing person, that the picture occupies all visible space on the television screen, and that the image of the disclosing person occupies at least fifty percent (50%) of the vertical height of the television screen.
- (5) "Political action committee" has the same meaning as "political committee" in G.S. 163A-1411(74), except that "political action committee" does not include any political party, political party organization, or affiliated party committee.
- (6) "Political party organization" means any political party executive committee or any political committee that operates under the direction of a political party executive committee or political party chair, or any affiliated party committee.
- (7) "Print media" means billboards, cards, newspapers, newspaper inserts, magazines, mass mailings, pamphlets, fliers, periodicals, and outdoor advertising facilities.
- (8) "Radio" means any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and 317.
- (9) "Scan line" means a standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.
- (10) "Sponsor" means a candidate, candidate committee, political party organization, political action committee, referendum committee, individual, or other entity that purchases an advertisement.
- (11) "Television" means any television broadcast station, cable television system, wireless-cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 U.S.C. §§ 315 and 317.
- (12) "Unobscured" means the only printed material that may appear on the television screen is a visual disclosure statement required by law, and nothing is blocking the view of the disclosing person's face. (1999-453, s. 2(a); 2004-203, s. 12(a);

2010-170, s. 7; 2015-66, s. 8(b); 2015-258, s. 3(q); 2015-264, s. 81(f); 2017-6, s. 3.)

**§ 163A-1476. Basic disclosure requirements for all political advertisements.**

(a) **Basic Requirements.** – It shall be unlawful for any sponsor to sponsor an advertisement in the print media or on radio or television that constitutes an expenditure, independent expenditure, electioneering communication, or contribution required to be disclosed under this Article unless all the following conditions are met:

- (1) It bears the legend or includes the statement: "Paid for by \_\_\_\_ [Name of candidate, candidate campaign committee, political party organization, political action committee, referendum committee, individual, or other sponsor]." In television advertisements, this disclosure shall be made by visual legend.
- (2) The name used in the labeling required in subdivision (1) of this subsection is the name that appears on the statement of organization as required in G.S. 163A-1412(b)(1) or G.S. 163A-1424(a).
- (3) In a print media advertisement supporting or opposing the nomination or election of one or more clearly identified candidates, the sponsor states whether it is authorized by a candidate. The visual legend in the advertisement shall state either "Authorized by [name of candidate], candidate for [name of office]" or "Not authorized by a candidate." This subdivision does not apply if the sponsor of the advertisement is the candidate the advertisement supports or that candidate's campaign committee.
- (4) In a print media advertisement that identifies a candidate the sponsor is opposing, the sponsor discloses in the advertisement the name of the candidate who is intended to benefit from the advertisement. This subdivision applies only when the sponsor coordinates or consults about the advertisement or the expenditure for it with the candidate who is intended to benefit.

If an advertisement described in this section is jointly sponsored, the disclosure statement shall name all the sponsors.

(b) **Size Requirements.** – In a print media advertisement covered by subsection (a) of this section, the height of all disclosure statements required by that subsection shall constitute at least five percent (5%) of the height of the printed space of the advertisement, provided that the type shall in no event be less than 12 points in size. In an advertisement in a newspaper or a newspaper insert, the total height of the disclosure statement need not constitute five percent of the printed space of the advertisement if the type of the disclosure statement is at least 28 points in size. If a single advertisement consists of multiple pages, folds, or faces, the disclosure requirement of this section applies only to one page, fold, or face. In a television advertisement covered by subsection (a) of this section, the visual disclosure legend shall constitute four percent (4%) of vertical picture height in size, and where the television advertisement that appears is paid for by a candidate or candidate campaign committee, the visual disclosure legend shall appear simultaneously with an easily identifiable photograph of the candidate for at least two seconds. In a radio advertisement covered by subsection (a) of this section, the disclosure statement shall last at least two seconds, provided the statement is spoken so that its contents may be easily understood.

(c) **Misrepresentation of Authorization.** – Notwithstanding G.S. 163A-1445(a), any candidate, candidate campaign committee, political party organization, political action committee, referendum committee, individual, or other sponsor making an advertisement in the print media or

on radio or television bearing any legend required by subsection (a) of this section that misrepresents the sponsorship or authorization of the advertisement is guilty of a Class 1 misdemeanor. (1999-453, s. 2(a); 2001-317, s. 1; 2001-353, s. 5; 2010-170, s. 8; 2013-381, ss. 44.2, 56.1; 2017-6, s. 3.)

**§ 163A-1477. Scope of disclosure requirements.**

The disclosure requirements of this Part apply to any sponsor of an advertisement in the print media or on radio or television the cost or value of which constitutes an expenditure or contribution required to be disclosed under this Article, except that the disclosure requirements of this Part:

- (1) Do not apply to an individual who makes uncoordinated independent expenditures aggregating less than one thousand dollars (\$1,000) in a political campaign; and
- (2) Do not apply to an individual who incurs expenses with respect to a referendum.

The disclosure requirements of this Part do not apply to any advertisement the expenditure for which is required to be disclosed by G.S. 163-278.12A alone and by no other law. (1999-453, s. 2(a); 2017-6, s. 3.)

**§ 163A-1478:** Reserved for future codification purposes.

**§ 163A-1479:** Reserved for future codification purposes.

**§ 163A-1480:** Reserved for future codification purposes.

**§ 163A-1481:** Reserved for future codification purposes.

**§ 163A-1482:** Reserved for future codification purposes.

**§ 163A-1483:** Reserved for future codification purposes.

**§ 163A-1484:** Reserved for future codification purposes.

**§ 163A-1485:** Reserved for future codification purposes.

**§ 163A-1486:** Reserved for future codification purposes.

**§ 163A-1487:** Reserved for future codification purposes.

**§ 163A-1488:** Reserved for future codification purposes.

**§ 163A-1489:** Reserved for future codification purposes.

**§ 163A-1490:** Reserved for future codification purposes.

**§ 163A-1491:** Reserved for future codification purposes.

**§ 163A-1492:** Reserved for future codification purposes.

§ 163A-1493: Reserved for future codification purposes.

§ 163A-1494: Reserved for future codification purposes.

### Part 3. Municipal Campaign Reporting.

#### § 163A-1495. Definitions.

When used in this Part, words and phrases have the same meaning as in G.S. 163A-1411, except that:

- (1) The term "board" means the county board of elections; [and]
- (2) The term "city" means any incorporated city, town, or village. (1981, c. 837, s. 3; 1997-515, s. 4(d); 2017-6, s. 3.)

#### § 163A-1496. Organizational report.

(a) Each candidate and political committee in a city election shall appoint a treasurer and, under verification, report the name and address of the treasurer to the board. A candidate may appoint himself or any other individual, including any relative except his spouse, as his treasurer. If the candidate fails to designate a treasurer, the candidate shall be deemed to have appointed himself as treasurer. A candidate or political committee may remove his or its treasurer.

(b) The organizational report shall state the bank account and number of such campaign fund. Each report required by this Part shall reflect all contributions, expenditures and loans made in behalf of a candidate. The organizational report shall be filed with the county board of elections within 10 days after the candidate files a notice of candidacy with the county board of elections, or within 10 days following the organization of the political committee, whichever occurs first. (1981, c. 837, s. 3; 2017-6, s. 3.)

#### § 163A-1497. Campaign report; partisan election.

In any city election conducted on a partisan basis in accordance with G.S. 163A-1585(a)(2) and G.S. 163A-1615, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary.
- (2) Pre-primary Report. – The treasurer shall file a report with the board no later than the tenth day preceding each primary election.
- (3) Pre-election Report. – The treasurer shall file a report 10 days before the election, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary.
- (4) Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year. (1981, c. 837, s. 3; 1985, c. 164, s. 2; 1987 (Reg. Sess., 1988), c. 1028, s. 7; 2001-419, s. 3; 2017-6, s. 3.)

#### § 163A-1498. Campaign report; nonpartisan election and runoff.

If any city election conducted under the nonpartisan election and runoff basis in accordance with G.S. 163A-1585(a)(4) and [G.S.] 163A-1617, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.
- (2) Pre-election Report. – The treasurer shall file a report with the board 10 days before the election.
- (3) Pre-runoff Report. – The treasurer shall file a report with the board 10 days before the runoff if the candidate is in a runoff.
- (4) Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year. (1981, c. 837, s. 3; 1985, c. 164, s. 3; 1987 (Reg. Sess., 1988), c. 1028, s. 8; 2001-419, s. 4; 2017-6, s. 3.)

**§ 163A-1499. Campaign report; nonpartisan primary and elections.**

In any city election conducted under the nonpartisan primary method in accordance with G.S. 163A-1585(a)(3) and [G.S.] 163A-1618, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary if the candidate is in a primary or the same length of time before the election if the candidate is not in a primary.
- (2) Pre-primary and Pre-election Reports. – The treasurer shall file a report 10 days before the primary if the candidate is in a primary and 10 days before the election.
- (3) Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year. (1981, c. 837, s. 3; 1985, c. 164, s. 4; 1987 (Reg. Sess., 1988), c. 1028, s. 9; 2001-419, s. 5; 2017-6, s. 3.)

**§ 163A-1500. Campaign report; nonpartisan plurality.**

In any city election conducted under the nonpartisan plurality method under G.S. 163A-1585(a)(1) and [G.S.] 163A-1616, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.
- (2) Pre-election Report. – The treasurer shall file a report 10 days before the election.
- (3) Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be

reported on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year. (1981, c. 837, s. 3; 1985, c. 164, s. 5; 1987 (Reg. Sess., 1988), c. 1028, s. 10; 2001-419, s. 6; 2017-6, s. 3.)

**§ 163A-1501. Form of report.**

Forms of reports under this Part shall be prescribed by the board. (1981, c. 837, s. 3; 2017-6, s. 3.)

**§ 163A-1502. Content.**

Except as otherwise provided in this Part, each report shall be current within seven days prior to the date the report is due and shall list all contributions received and expenditures made which have not been previously reported. (1981, c. 837, s. 3; 2017-6, s. 3.)

**§ 163A-1503. Notice of reports due.**

The director of the board shall advise, or cause to be advised, no less than five days nor more than 15 days before each report is due each candidate or treasurer whose organizational report has been filed under G.S. 163A-1496 of the specific date each report is due. The director shall immediately notify any individual, candidate, treasurer, or political committee, to file a statement under this Part if:

- (1) It appears that the individual, candidate, treasurer, or political committee has failed to file a statement as required by law or that a statement filed does not conform to this Part; or
- (2) A written complaint is filed under oath with the State Board by any registered voter of this State alleging that a statement filed with the board does not conform to this Part or to the truth or that an individual, candidate, treasurer, or political committee has failed to file a statement required by this Part. (1981, c. 837, s. 3; 1995, c. 243, s. 1; 2014-111, s. 9; 2017-6, s. 3.)

**§ 163A-1504. Part 1 to apply.**

(a) Except as provided in this Part or in G.S. 163A-1418(c), the provisions of Part 1 shall apply to municipal elections covered by this Part.

(b) G.S. 163A-1412, 163A-1418(a) and (b), 163A-1440(1) and (9), the first paragraph of 163A-1441, 163A-1442, 163A-1443, and 163A-1444 shall not apply to this Part. (1981, c. 837, s. 3; 2017-6, s. 3.)

**§ 163A-1505. Other committees report by municipal schedule.**

A candidate or political committee that appoints a treasurer under G.S. 163A-1412 shall make reports according to the schedule under this Part if it makes contributions or expenditures concerning municipal elections. (2008-150, s. 9(a); 2017-6, s. 3.)

**§ 163A-1506:** Reserved for future codification purposes.

**§ 163A-1507:** Reserved for future codification purposes.

**§ 163A-1508:** Reserved for future codification purposes.

§ 163A-1509: Reserved for future codification purposes.

§ 163A-1510: Reserved for future codification purposes.

§ 163A-1511: Reserved for future codification purposes.

§ 163A-1512: Reserved for future codification purposes.

§ 163A-1513: Reserved for future codification purposes.

§ 163A-1514: Reserved for future codification purposes.

§ 163A-1515: Reserved for future codification purposes.

§ 163A-1516: Reserved for future codification purposes.

§ 163A-1517: Reserved for future codification purposes.

§ 163A-1518: Reserved for future codification purposes.

§ 163A-1519: Reserved for future codification purposes.

#### Article 24.

##### The North Carolina Public Campaign Fund.

**§ 163A-1520. (See Editor's note for contingent repeal) Voter education.**

(a) Judicial Voter Guide. – The State Board shall publish a Judicial Voter Guide that explains the functions of the appellate courts and the laws concerning the election of appellate judges, the purpose and function of the Public Campaign Fund, and the laws concerning voter registration. The State Board shall distribute the Guide to as many voting-age individuals in the State as practical, through a mailing to all residences or other means it deems effective. The distribution shall occur no more than 28 days nor fewer than seven days before the one-stop voting period provided in G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304 for the primary and no more than 28 days nor fewer than seven days before the one-stop voting period provided in G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304 for the general election.

(b) Candidate Information. – The Judicial Voter Guide shall include information concerning all candidates for the Supreme Court and the Court of Appeals, as provided by those candidates according to a format provided to the candidates by the Board. The State Board shall request information for the Guide from each candidate according to the following format:

- (1) Place of residence.
- (2) Education.
- (3) Occupation.
- (4) Employer.
- (5) Date admitted to the bar.



- (6) Legal/judicial experience.
- (7) Candidate statement. Concerning that statement, the Board shall send to the candidates instructions as follows: "Your statement may include information such as your qualifications, your endorsements, your ratings, why you are seeking judicial office, why you would make a good judge, what distinguishes you from your opponent(s), your acceptance of spending and fund-raising limits to qualify to receive funds from the Public Campaign Fund, and any other information relevant to your candidacy. The State Board of Elections will reject any portion of any statement which it determines contains obscene, profane, or defamatory language. The candidate shall have three days to resubmit the candidate statement if the Board rejects a portion of the statement.

The entire entry for a candidate shall be limited to 250 words.

(c) Disclaimer. – The Judicial Voter Guide shall contain the following statement: "Statements by candidates do not express or reflect the opinions of the Bipartisan State Board of Elections and Ethics Enforcement." (2002-158, s. 1; 2005-276, s. 23A.1(d); 2005-430, s. 6; 2006-192, s. 14; 2007-391, s. 4(a); 2008-187, s. 33(a); 2009-543, s. 6; 2017-6, s. 3.)

§ 163A-1521: Reserved for future codification purposes.

§ 163A-1522: Reserved for future codification purposes.

§ 163A-1523: Reserved for future codification purposes.

§ 163A-1524: Reserved for future codification purposes.

§ 163A-1525: Reserved for future codification purposes.

§ 163A-1526: Reserved for future codification purposes.

§ 163A-1527: Reserved for future codification purposes.

§ 163A-1528: Reserved for future codification purposes.

§ 163A-1529: Reserved for future codification purposes.

§ 163A-1530: Reserved for future codification purposes.

§ 163A-1531: Reserved for future codification purposes.

§ 163A-1532: Reserved for future codification purposes.

§ 163A-1533: Reserved for future codification purposes.

§ 163A-1534: Reserved for future codification purposes.

Article 25.

The Voter-Owned Elections Act.

**§ 163A-1535. Voter education.**

(See **Editor's note for contingent repeal**) Relationship to the Judicial Voter Guide. – The State Board may publish the Voter Guide in conjunction with the Judicial Voter Guide described in G.S. 163A-1520. (2007-391, s. 4(b); 2007-484, s. 43.8(c); 2007-540, s. 1; 2008-187, s. 33(a); 2013-360, s. 21.1(i); 2013-381, s. 38.1(l); 2014-111, s. 8; 2017-6, s. 3.)

**§ 163A-1536:** Reserved for future codification purposes.

**§ 163A-1537:** Reserved for future codification purposes.

**§ 163A-1538:** Reserved for future codification purposes.

**§ 163A-1539:** Reserved for future codification purposes.

Article 26.

Legal Expense Funds.

**§ 163A-1550. Definitions.**

As used in this Article, the following terms mean:

- (1) Reserved
- (2) Elected officer. – Any individual serving in or seeking a public office. An individual is seeking a public office when that individual has filed any notice, petition, or other document required by law or local act as a condition of election to public office. An individual continues to be an elected officer for purposes of this Article as long as a legal action commenced while the individual was an elected officer continues. If a legal action is commenced after an individual ceases to serve in or seek public office but the legal action concerns subject matter in the individual's official capacity as an elected officer, for purposes of this Article, that individual is an elected officer as long as that legal action continues.
- (3) Expenditure. – An expenditure means any purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge, subscription of money, anything of value whatsoever, and any contract, agreement, promise, or other obligation to make an expenditure, by a legal defense fund for a permitted use as provided in G.S. 163A-1570. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a legal expense donation.
- (4) Legal action. – A formal dispute in a judicial, legislative, or administrative forum, including but not limited to, a civil or criminal action filed in a court, a complaint or protest filed with a board of elections, an election contest filed under Article 3 of Chapter 120 of the General Statutes or G.S. 163A-1182, or a complaint filed with the State Board or Legislative Ethics Committee. The term "legal action" also includes investigations made or conducted before the

- commencement of any formal proceedings. The term "legal action" does not include the election itself or the campaign for election.
- (5) Legal expense donation. – A legal expense donation means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, subscription of money, or anything of value whatsoever, and any contract, agreement, or other obligation to make a contribution to a legal expense fund for a permitted use as provided in G.S. 163A-1570. The term "legal expense donation" does not include either of the following:
    - a. The provision of legal services to an elected officer by the State or any of its political subdivisions when those services are authorized or required by law, or
    - b. The provision of free or pro bono legal advice or legal services, provided that any costs incurred or expenses advanced for which clients are liable under other provisions of law shall be deemed legal expense donations.
  - (6) Legal expense fund. – Any collection of money for the purpose of funding a legal action, or a potential legal action, taken by or against an elected officer in that elected officer's official capacity.
  - (7) Official capacity. – Related to or resulting from the campaign for public office or related to or resulting from holding public office. "Official capacity" is not limited to "scope and course of employment" as used in G.S. 143-300.3.
  - (8) Public office. – As defined in G.S. 163A-1411.
  - (9) Treasurer. – An individual appointed by an elected officer or other individual or group of individuals collecting money for a legal expense fund. (2007-349, s. 1; 2009-534, s. 2(a); 2017-6, s. 3.)

**§ 163A-1551. Creation of legal expense funds.**

- (a) An elected officer, or another individual or group of individuals on the elected officer's behalf, shall create a legal expense fund if given a legal expense donation, other than from that elected officer's self, spouse, parents, brothers, or sisters, for any of the following purposes:
  - (1) To fund an existing legal action taken by or against the elected officer in that elected officer's official capacity.
  - (2) To fund a potential legal action taken by or against an elected officer in that elected officer's official capacity.
- (b) This section shall not apply to any payment to the State or any of its political subdivisions.
- (c) The legal expense fund shall comply with all provisions of this Article.
- (d) If an elected officer funds legal actions entirely from that elected officer's own legal expense donations or those of the elected officer's spouse, parents, brothers, or sisters, that elected officer is not required to create a legal expense fund. If a legal expense fund accepts legal expense donations as described in subsection (a) of this section, that legal expense fund shall report the elected officer's own legal expense donations and those of those family members along with the other legal expense donations in accordance with G.S. 163A-1560.
- (e) No more than one legal expense fund shall be created by or for an elected officer for the same legal action. Legal actions arising out of the same set of transactions and occurrences are deemed the same legal action for purposes of this subsection. A legal expense fund created for one

legal action or potential legal action may be kept open by or on behalf of the elected officer for subsequent legal actions or potential legal actions.

(f) Contractual arrangements, including liability insurance, or commercial relationships or arrangements made in the normal course of business if not made for the purpose of lobbying, are not "legal expense donations" for purposes of this Article. Use of such contractual arrangements to fund legal actions does not by itself require the elected officer to create a legal expense fund. If a legal expense fund has been created pursuant to subsection (a) of this section, such contractual arrangements shall be reported as expenditures.

(g) A violation of this Article shall be punishable as a Class 1 misdemeanor. (2007-349, s. 1; 2009-534, s. 2(b); 2017-6, s. 3.)

**§ 163A-1552:** Reserved for future codification purposes.

**§ 163A-1553:** Reserved for future codification purposes.

**§ 163A-1554:** Reserved for future codification purposes.

**§ 163A-1555:** Reserved for future codification purposes.

**§ 163A-1556. Treasurer.**

(a) Each legal expense fund shall appoint a treasurer and, under verification, report the name and address of the treasurer to the State Board.

(b) A legal expense fund may remove its treasurer. In case of the death, resignation, or removal of its treasurer, the legal expense fund shall appoint a successor within 10 calendar days of the vacancy and certify the name and address of the successor in the same manner provided in the case of an original appointment.

(c) Every treasurer of a legal expense fund shall receive training from the State Board as to the duties of the office within three months of appointment and at least once every four years thereafter. (2007-349, s. 1; 2017-6, s. 3.)

**§ 163A-1557. Detailed accounts to be kept by treasurer.**

(a) The treasurer of each legal expense fund shall keep detailed accounts, current within seven calendar days after the date of receiving a legal expense donation or making an expenditure, of all legal expense donations received and all expenditures made by or on behalf of the legal expense fund.

(b) Accounts kept by the treasurer of a legal expense fund or the accounts of a treasurer or legal expense fund at any bank or other depository may be inspected by a member, designee, agent, attorney, or employee of the State Board who is making an investigation pursuant to G.S. 163A-1440.

(c) For purposes of this section, "detailed accounts" shall mean at least all information required to be included in the quarterly report required under this Article.

(d) When a treasurer shows that best efforts have been used to obtain, maintain, and submit the information required by this Article, any report of the legal expense shall be considered in compliance with this Article and shall not be the basis for criminal prosecution or the imposition of civil penalties. The State Board shall adopt rules to implement this subsection. (2007-349, s. 1; 2009-534, s. 2(c); 2017-6, s. 3.)

**§ 163A-1558. Reports filed with State Board.**

(a) The treasurer of each legal expense fund shall file with the State Board the following reports:

- (1) Organizational report. – The report required under G.S. 163A-1559.
- (2) Quarterly report. – The report required under G.S. 163A-1560.

(b) Any report or attachment required by this Article must be filed under certification of the treasurer as true and correct to the best of the knowledge of that officer.

(c) The organizational report shall be filed within 10 calendar days of the creation of the legal expense fund. All quarterly reports shall be filed with the State Board no later than 10 business days after the end of each calendar quarter.

(d) Treasurers shall electronically file each report required by this section that shows a cumulative total for the quarter in excess of five thousand dollars (\$5,000) in legal expense donations or expenditures, according to rules adopted by the State Board. The State Board shall provide the software necessary to the treasurer to file the required electronic report at no cost to the legal expense fund.

(e) Any statement required to be filed under this Article shall be signed and certified as true and correct by the treasurer and shall be certified as true and correct to the best of the treasurer's knowledge. The elected officer creating the legal expense fund, or the other individual or group of individuals creating the legal expense fund on the elected officer's behalf, shall certify as true and correct to the best of their knowledge the organizational report and appointment of the treasurer. A certification under this Article shall be treated as under oath, and any individual making a certification under this Article knowing the information to be untrue is guilty of a Class I felony. (2007-349, s. 1; 2009-534, s. 2(d); 2017-6, s. 3.)

**§ 163A-1559. Organizational report.**

(a) Each appointed treasurer shall file with the State Board a statement of organization that includes all of the following:

- (1) The name, address, and purpose of the legal expense fund.
- (2) The names, addresses, and relationships of affiliated or connected elected officers, candidates, political committees, referendum committees, political parties, or similar organizations.
- (3) The name, address, and position with the legal expense fund of the custodian of books and accounts.
- (4) A listing of all banks, safety deposit boxes, or other depositories used, including the names and numbers of all accounts maintained and the numbers of all such safety deposit boxes used. The State Board shall keep any account number required by this Article confidential except as necessary to conduct an audit or investigation, except as required by a court of competent jurisdiction, or except as confidentiality is waived by the treasurer. Disclosure of an account number in violation of this subdivision shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of account numbers in violation of this subdivision as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable.
- (5) The name or names and address or addresses of any assistant treasurers appointed by the treasurer. Such assistant treasurers shall be authorized to act

in the name of the treasurer, who shall be fully responsible for any act or acts committed by an assistant treasurer, and the treasurer shall be fully liable for any violation of this Article committed by any assistant treasurer.

- (6) Any other information which might be requested by the State Board that deals with the legal expense fund organization.

(b) Any change in information previously submitted in a statement of organization shall be reported to the State Board within 10 calendar days following the change. (2007-349, s. 1; 2017-6, s. 3.)

**§ 163A-1560. Quarterly report.**

The treasurer of each legal expense fund shall be required to file a quarterly report with the State Board containing all of the following:

- (1) Legal expense donations. – The name and complete mailing address of each donor, the amount of the legal expense donation, the principal occupation of the donor, and the date the legal expense donation was received. The total sum of all legal expense donations to date shall also be plainly exhibited. The treasurer is not required to report the name of any donor making a total legal expense donation of fifty dollars (\$50.00) or less in a calendar quarter, but shall instead report the fact that the treasurer has received a total legal expense donation of fifty dollars (\$50.00) or less, the amount of the legal expense donation, and the date of receipt.
- (2) Expenditures. – A list of all expenditures made by or on behalf of the legal expense fund. The report shall list the name and complete mailing address of each payee, the amount paid, the purpose, and the date such payment was made. The total sum of all expenditures to date shall also be plainly exhibited. The payee shall be the entity to whom the legal expense fund is obligated to make the expenditure. If the expenditure is to a financial institution for revolving credit or a reimbursement for a payment to a financial institution for revolving credit, the statement shall also include a specific itemization of the goods and services purchased with the revolving credit. If the obligation is for more than one good or service, the statement shall include a specific itemization of the obligation so as to provide a reasonable understanding of the obligation.
- (3) Loans. – All proceeds from loans shall be recorded separately with a detailed analysis reflecting the amount of the loan, the source, the period, the rate of interest, and the security pledged, if any, and all makers and endorsers. (2007-349, s. 1; 2009-534, s. 2(e); 2017-6, s. 3.)

**§ 163A-1561:** Reserved for future codification purposes.

**§ 163A-1562:** Reserved for future codification purposes.

**§ 163A-1563:** Reserved for future codification purposes.

**§ 163A-1564:** Reserved for future codification purposes.

**§ 163A-1565:** Reserved for future codification purposes.

**§ 163A-1566. Limitations on legal expense donations.**

(a) No entity shall make, and no treasurer shall accept, any monetary legal expense donation in excess of fifty dollars (\$50.00) unless such legal expense donation is in the form of a check, draft, money order, credit card charge, debit, or other noncash method that can be subject to written verification. No legal expense donation in the form of check, draft, money order, credit card charge, debit, or other noncash method may be made or accepted unless it contains a specific designation of the intended donee chosen by the donor.

(b) The State Board may adopt rules as to the reporting and verification of any method of legal expense donation payment allowed under this Article. For legal expense donations by money order, the State Board shall adopt rules to ensure an audit trail for every legal expense donation so that the identity of the donor can be determined.

(c) For any legal expense donation made by credit card, the credit card account number of a donor is not a public record.

(d) No legal expense fund shall accept legal expense donations from a corporation, labor union, insurance company, professional association, or business entity in excess of four thousand dollars (\$4,000) per calendar year. No legal expense fund shall accept legal expense donations from a corporation which when totaled with legal expense donations to the same legal expense fund for the same calendar year from any affiliated corporation exceed the per calendar year legal expense donation limits for that legal expense fund. No legal expense fund shall accept legal expense donations from a labor union which when totaled with legal expense donations to the same legal expense fund for the same calendar year from any affiliated labor union exceed the per calendar year legal expense donation limits for that legal expense fund. No legal expense fund shall accept legal expense donations from an insurance company which when totaled with legal expense donations to the same legal expense fund for the same calendar year from any affiliated insurance company exceed the per calendar year legal expense donation limits for that legal expense fund. No legal expense fund shall accept legal expense donations from a professional association which when totaled with legal expense donations to the same legal expense fund for the same calendar year from any affiliated professional association exceed the per calendar year legal expense donation limits for that legal expense fund. No legal expense fund shall accept legal expense donations from a business entity which when totaled with legal expense donations to the same legal expense fund for the same calendar year from any affiliated business entity exceed the per calendar year legal expense donation limits for that legal expense fund. The definitions of corporation, labor union, insurance company, professional association, and business entity are the same as those in G.S. 163A-1411. This subsection does not apply to political committees created pursuant to G.S. 163A-1436(d), except that no legal expense fund shall accept a legal expense donation which would be a violation of G.S. 163A-1426 if accepted by a candidate or political committee. This subsection does not apply to corporations permitted to make contributions in G.S. 163A-1436(h).

(e) No entity shall make a legal expense donation to a legal expense fund that the legal expense fund could not accept under subsection (d) of this section. (2007-349, s. 1; 2009-534, s. 2(f); 2017-6, s. 3.)

**§ 163A-1567:** Reserved for future codification purposes.

**§ 163A-1568:** Reserved for future codification purposes.

§ 163A-1569: Reserved for future codification purposes.

**§ 163A-1570. Permitted uses of legal expense funds.**

(a) A legal expense fund may be used for reasonable expenses actually incurred by the elected officer in relation to a legal action or potential legal action brought by or against the elected officer in that elected officer's official capacity. The elected officer's campaign itself shall not be funded from a legal expense fund.

(b) Upon closing a legal expense account, the treasurer shall distribute the remaining monies in the legal expense fund to any of the following:

- (1) The Indigent Persons' Attorney Fee Fund under Article 36 of Chapter 7A of the General Statutes.
- (2) The North Carolina State Bar for the provision of civil legal services for indigents.
- (3) Payments to an organization described in section 170(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 170(c)), provided that the candidate or the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization.
- (4) To return all or a portion of a legal expense donation to the donor.
- (5) Payment to the Escheat Fund established by Chapter 116B of the General Statutes. (2007-349, s. 1; 2009-534, s. 2(g); 2017-6, s. 3.)

§ 163A-1571: Reserved for future codification purposes.

§ 163A-1572: Reserved for future codification purposes.

§ 163A-1573: Reserved for future codification purposes.

§ 163A-1574: Reserved for future codification purposes.

§ 163A-1575: Reserved for future codification purposes.

§ 163A-1576: Reserved for future codification purposes.

§ 163A-1577: Reserved for future codification purposes.

§ 163A-1578: Reserved for future codification purposes.

§ 163A-1579: Reserved for future codification purposes.

§ 163A-1580: Reserved for future codification purposes.

§ 163A-1581: Reserved for future codification purposes.

§ 163A-1582: Reserved for future codification purposes.



§ 163A-1583: Reserved for future codification purposes.

§ 163A-1584: Reserved for future codification purposes.

## Article 27.

### Municipal Elections.

#### Part 1. Municipal Election Procedure.

#### § 163A-1585. Time of municipal primaries and elections.

(a) Primaries and elections for offices filled by election of the people in cities, towns, incorporated villages, and special districts shall be held in 1973 and every two or four years thereafter as provided by municipal charter on the following days:

- (1) If the election is nonpartisan and decided by simple plurality, the election shall be held on Tuesday after the first Monday in November.
- (2) If the election is partisan, the election shall be held on Tuesday after the first Monday in November, the first primary shall be held on the second Tuesday after Labor Day, and the second primary, if required, shall be held on the fourth Tuesday before the election.
- (3) If the election is nonpartisan and the nonpartisan primary method of election is used, the election shall be held on Tuesday after the first Monday in November and the nonpartisan primary shall be held on the fourth Tuesday before the election.
- (4) If the election is nonpartisan and the election and runoff election method of election is used, the election shall be held on the fourth Tuesday before the Tuesday after the first Monday in November, and the runoff election, if required, shall be held on Tuesday after the first Monday in November.

(b) Officers of sanitary districts elected in 1970 shall hold office until the first Monday in December, 1973, notwithstanding G.S. 130-126. Beginning in 1973, sanitary district elections shall be held at the times provided in this section or in G.S. 130A-50(b1). (1971, c. 835, s. 1; 1973, c. 1115; 1987, c. 22, s. 2; 2006-192, s. 3; 2011-141, s. 1(a); 2017-6, s. 3.)

#### § 163A-1586. Residency defined for voting in municipal elections.

The rules for determining residency within a municipality shall be the same as prescribed in G.S. 163A-842 for determining county residency. No person shall be entitled to reside in more than one city or town at the same time. (1971, c. 835, s. 1; 2017-6, s. 3.)

#### § 163A-1587. Right to participate or vote in party primary.

No person shall be entitled to vote or otherwise participate in the primary election of any political party unless that person complies with all of the following:

- (1) Is a registered voter.
- (2) Has declared and has had recorded on the registration book or record the fact that the voter affiliates with the political party in whose primary the voter proposes to vote or participate.
- (3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163A-989 may also vote in the primary if the voter is otherwise eligible to vote in that primary except for subdivisions (2) and (3) of the previous paragraph.

Any person who will become qualified by age to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary election, shall be entitled to register while the registration books are open during the regular registration period prior to the primary and then to vote in the primary after being registered, provided however, under full-time and permanent registration, such an individual may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163A-865(d) prior to the primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections. (1971, c. 835, s. 1; 1983, c. 331, s. 5; 1987, c. 408, s. 5; c. 457, s. 2; 1991 (Reg. Sess., 1992), c. 1032, s. 8; 1993 (Reg. Sess., 1994), c. 762, s. 62; 2008-150, s. 5(c); 2009-541, s. 24; 2013-381, s. 16.6; 2017-6, s. 3.)

**§ 163A-1588. Voting in nonpartisan primary.**

Any person who will become qualified by age to register and vote in the general election for which a nonpartisan primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such a person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163A-865(d) prior to the primary. (2009-541, s. 25; 2013-381, s. 16.7; 2017-6, s. 3.)

**§ 163A-1589. Mandatory administration by county boards of elections.**

The registration of voters and the conduct of all elections in municipalities and special districts shall be under the authority of the county board of elections. Any contested election or allegations of irregularities shall be made to the county board of elections and appeals from such rulings may be made to the State Board under existing statutory provisions and rules or regulations adopted by the State Board.

Each municipality and special district shall reimburse the county board of elections for the actual cost involved in the administration required under this section. (1971, c. 835, s. 1; 1973, c. 793, s. 84; 2011-31, s. 4; 2017-6, s. 3.)

**§ 163A-1590. Special district elections conducted by county.**

All elections held in and for a sanitary district, fire district or other special district, including school administrative units, shall be conducted by the county board of elections notwithstanding the fact that the taxes of the special district may be levied by a city. (1971, c. 835, s. 1; 2017-6, s. 3.)

**§ 163A-1591. Conduct of municipal and special district elections; application of this Subchapter.**

To the extent that the laws, rules and procedures applicable to the conduct of primary, general and special elections by county boards of elections under Parts 1, 2, and 4 of Article 16, Parts 1, 2, and 3 of Article 17, Parts 1 and 2 of Article 18, Parts 1 and 8 of Article 20, and Article 22 of this Chapter are not inconsistent with provisions of this Part, those laws, rules and procedures shall

apply to municipal and special district elections and their conduct by the board of elections conducting those elections. The State Board shall have the same authority over all such elections as it has over county and State elections under those Parts and Articles. (1971, c. 835, s. 1; 1973, c. 793, s. 85; 1993 (Reg. Sess., 1994), c. 762, s. 64; 2011-31, s. 6; 2017-6, s. 3.)

**§ 163A-1592. Special elections; procedure for calling.**

(a) Any county, municipality, or any special district shall have authority to call special elections as permitted by law. Prior to calling a special election, the governing body of the county, municipality, or special district shall adopt a resolution specifying the details of the election, and forthwith deliver the resolution to the local board of elections. The resolution shall call on the local board of elections to conduct the election described in the resolution and shall state the date on which the special election is to be conducted. In setting the date, counties, municipalities, and special districts are encouraged to set a date that will result in the highest possible voter turnout. However, the special election may be held only as follows:

- (1) At the same time as any other State or county general election.
- (2) At the same time as the primary election in any even-numbered year.
- (3) At the same time as any other election requiring all the precincts in the county to be open.
- (4) At the same time as a municipal general election, if the special election is within the jurisdiction of the municipality only.

(b) Legal notice of the special election shall be published no less than 45 days prior to the special election. The local board of elections shall be responsible for publishing the legal notice. The notice shall state the date and time of the special election, the issue to be submitted to the voters, and the precincts in which the election will be held. This subsection shall not apply to bond elections.

(c) The last sentence of subsection (a) of this section shall not apply to any special election related to the public health or safety, including a vacancy in the office of sheriff or a bond referendum for financing of health and sanitation systems, if the governing body adopts a resolution stating the need for the special election at a time different from any other State, county, or municipal general election or the primary in any even-numbered year.

(d) The last sentence of subsection (a) of this section shall not apply to municipal incorporation or recall elections pursuant to local act of the General Assembly.

(e) The last sentence of subsection (a) of this section shall not apply to municipal elections to fill vacancies in office pursuant to local act of the General Assembly where more than six months remain in the term of office, and if less than six months remain in the office, the governing board may fill the vacancy for the remainder of the unexpired term notwithstanding any provision of a local act of the General Assembly.

(f) This section shall not impact the authority of the courts or the State Board to order a new election at a time set by the courts or State Board under this Subchapter. (1971, c. 835, s. 1; 1973, c. 793, s. 86; 1993 (Reg. Sess., 1994), c. 762, s. 65; 2011-31, s. 7; 2013-381, s. 10.1; 2014-111, s. 17.5(a); 2017-6, s. 3.)

**§ 163A-1593. Registration for city elections; county and municipal boards of elections.**

The registration record of the county board of elections shall be the official registration record for voters to vote in all elections, city, district, county, State or national. (1971, c. 835, s. 1; 1973,

c. 793, s. 87; 1981, c. 33, s. 5; 1991 (Reg. Sess., 1992), c. 1032, s. 7; 1993 (Reg. Sess., 1994), c. 762, s. 66; 2011-31, s. 8; 2017-6, s. 3.)

**§ 163A-1594. Activating voters for newly annexed or incorporated areas.**

(a) Whenever any new city or special district is incorporated or whenever an existing city or district annexes any territory, the city or special district shall cause a map of the corporate or district limits to be prepared from the boundary descriptions in the act, charter or other document creating the city or district or authorizing or implementing the annexation. The map shall be delivered to the county board of elections conducting the elections for the city or special district. The board of elections shall then activate for city or district elections each voter eligible to vote in the city or district who is registered to vote in the county to the extent that residence addresses shown on the county registration certificates can be identified as within the limits of the city or special district. Each voter whose registration is thus activated for city or special district elections shall be so notified by mail. The cost of preparing the map of the newly incorporated city or special district or of the newly annexed area, and of activating voters eligible to vote therein, shall be paid by the city or special district. In lieu of the procedures set forth in this section, the county board of elections may use either of the methods of registration of voters set out in G.S. 163A-1596 when activating voters pursuant to the incorporation of a new city or election of city officials or both under authority of an act of the General Assembly or when activating voters after an annexation of new territory by a city or special district under Chapter 160A, Article 4A, or other general or local law.

(b) Each voter whose registration is changed by the county or municipal board of elections in any manner pursuant to any annexation or expunction under this subsection shall be so notified by mail.

(c) The State Board shall have authority to adopt regulations for the more detailed administration of this section. (1971, c. 835, s. 1; 1973, c. 793, s. 88; 1977, c. 752, s. 1; 2011-31, s. 9; 2017-6, s. 3.)

**§ 163A-1595. Activating voters when charter revised.**

Whenever a city has not held the most recent two elections required by its charter or this Subchapter, and the General Assembly amends the charter of that city and provides that the county board of elections shall conduct the elections of that city, voters shall be activated for the elections of that city in accordance with G.S. 163A-1594 or G.S. 163A-1596. In such a case, the county shall prepare the map required by G.S. 163A-1594(a). (1985, c. 350; 2017-6, s. 3.)

**§ 163A-1596. Registration in area proposed for incorporation or annexed.**

(a) Whenever the General Assembly incorporates a new city and provides in the act of incorporation for a referendum on the question of incorporation or for a special election for town officials or for both, or whenever an existing city or special district annexes new territory under the provisions of Chapter 160A, Article 4A, or other general or local law, the board of elections of the county in which the proposed city is located or in which the newly annexed territory is located shall determine those individuals eligible to vote in the referendum or special election or in the city or special district elections. In determining the eligible voters the board may, in its discretion, use either of the following methods:

METHOD A. – The board of elections shall prepare a list of those registered voters residing within the proposed city or newly annexed territory. The board shall make this list available for

public inspection in its office for a two-week period ending on the twenty-fifth day before the day of the referendum or special election, or the next scheduled city or special district election. During this period, any voter resident within the proposed city or newly annexed territory and not included on the list may cause his name to be added to the list. At least one week and no more than two weeks before the day the period of public inspection is to begin, the board shall cause notice of the list's availability to be posted in at least two prominent places within the proposed city or newly annexed territory and may cause the notice to be published in a newspaper of general circulation within the county. The notice shall state that the list has been prepared, that only those persons listed may vote in the referendum or special election, that the list will be available for public inspection in the board's office, that any qualified voter not included on the list may cause his name to be added to the list during the two-week period of public inspection, and that persons in newly annexed territory should present themselves so their registration records may be activated for voting in city or special district elections in the newly annexed territory. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice.

METHOD B. – The board of elections shall conduct a special registration of eligible persons desiring to vote in the referendum or special election or in the newly annexed territory. The registration records shall be open for a two-week period (except Sundays) ending on the twenty-fifth day before the day of the referendum or special election or the next scheduled city or special district election. On the two Saturdays during that two- week period, the records shall be located at the voting place for the referendum or special election or the next scheduled city or special district election; on the other days it may, in the discretion of the board, be kept at the voting place, at the office of the board, or at the place of business of a person designated by the board to conduct the special registration. At least one week and no more than two weeks before the day the period of special registration is to begin, the board shall cause notice of the registration to be posted in at least two prominent places within the proposed city or newly annexed territory and may cause the notice to be published in a newspaper of general circulation within the county. The notice shall state the purpose and times of the special registration, the location of the registration records, that only those persons registered in the special registration may vote in the referendum or special election, and that persons in newly annexed territory should present themselves so their registration records may be activated for voting in city or special district elections in the newly annexed territory. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice.

(b) Only those persons registered pursuant to this section may vote in the referendum or special election, provided, however, that in cases where voters are activated under either Method A or B to vote in a city or special district that annexes territory, the city or special district shall permit them to vote in the city or special district's election and shall, as well, permit other voters to vote in such elections who did not register under the provisions of this section if they are otherwise registered, qualified and eligible to vote in the same. (1973, c. 551; 1977, c. 752, s. 2; 1981, c. 33, s. 6; 1989, c. 93, s. 9; 1991 (Reg. Sess., 1992), c. 1032, s. 9; 1993 (Reg. Sess., 1994), c. 762, s. 67; 2017-6, s. 3.)

**§ 163A-1597. Payment of cost of elections on question of formation of a new municipality or special district.**

Whenever a referendum or election is held on the question of incorporation of a new municipality or the formation of a special district, the cost of the election shall be paid by the new

municipality or special district in the event the voters approve of incorporation or creation and the new municipality or special district is established. If the voters disapprove and the new municipality or special district is not established, the cost of the election shall be paid by the county. The cost of the election shall be advanced by the county, which shall be reimbursed within 18 months of the date of election, by the municipality or special district if it is established. (1981, c. 786, s. 1; 2017-6, s. 3.)

**§ 163A-1598. Right to challenge; challenge procedure.**

(a) The rules governing challenges in municipal elections shall be the same as are now applicable to challenges made in a county election, provided however, any voter who challenges another voter's right to vote in any municipal or special district election must reside in such municipality or special district.

(b) Whenever a challenge is made pursuant to this section, the appropriate board of elections shall process such challenge in accordance with the provisions of Part 3 of Article 17 of this Chapter as such Part is applicable. (1971, c. 835, s. 1; 1973, c. 793, s. 89; 2011-31, s. 10; 2017-6, s. 3.)

**§ 163A-1599. Alternative methods of determining the results of municipal elections.**

(a) Each city, town, village, and special district in this State shall operate under one of the following alternative methods of nominating candidates for and determining the results of its elections:

- (1) The partisan primary and election method set out in G.S. 163A-1615.
- (2) The nonpartisan primary and election method set out in G.S. 163A-1618.
- (3) The nonpartisan plurality method set out in G.S. 163A-1616.
- (4) The nonpartisan election and runoff election method set out in G.S. 163A-1617.

(b) Each city whose charter provides for partisan municipal elections as of January 1, 1972, shall operate under the partisan primary and election method until such time as its charter is amended to provide for nonpartisan elections. Each city, town, village, and special district whose elections are by charter or general law nonpartisan may select the nonpartisan primary and election method, the nonpartisan plurality method, or the nonpartisan election and runoff election method by resolution of the municipal governing board adopted and filed with the State Board not later than 5:00 P.M. Monday, January 31, 1972, except that a city whose charter provides for a nonpartisan primary as of January 1, 1972, may not select the plurality method unless its charter is so amended. If the municipal governing board does not exercise its option to select another choice before that time, the municipality shall operate under the method specified in the following table:

Cities, towns and villages of less than 5,000	Plurality
Cities, towns and villages of 5,000 or more	Election and Runoff Election
Special districts	Plurality

After January 31, 1972, each city, town and village may change its method of election from one to another of the methods set out in subsection (a) by act of the General Assembly or in the manner provided by law for amendment of its charter. (1971, c. 835, s. 1; 2017-6, s. 3.)

**§ 163A-1600:** Reserved for future codification purposes.

§ 163A-1601: Reserved for future codification purposes.

§ 163A-1602: Reserved for future codification purposes.

§ 163A-1603: Reserved for future codification purposes.

§ 163A-1604: Reserved for future codification purposes.

§ 163A-1605: Reserved for future codification purposes.

§ 163A-1606: Reserved for future codification purposes.

§ 163A-1607: Reserved for future codification purposes.

§ 163A-1608: Reserved for future codification purposes.

§ 163A-1609: Reserved for future codification purposes.

§ 163A-1610: Reserved for future codification purposes.

§ 163A-1611: Reserved for future codification purposes.

§ 163A-1612: Reserved for future codification purposes.

§ 163A-1613: Reserved for future codification purposes.

§ 163A-1614: Reserved for future codification purposes.

## Part 2. Conduct of Municipal Elections.

### § 163A-1615. **Partisan primaries and elections.**

The nomination of candidates for office in cities, towns, villages, and special districts whose elections are conducted on a partisan basis shall be governed by the provisions of this Subchapter applicable to the nomination of county officers, and the terms "county board of elections," "chairman of the county board of elections," "county officers," and similar terms shall be construed with respect to municipal elections to mean the appropriate municipal officers and candidates, except that:

- (1) The dates of primary and election shall be as provided in G.S. 163A-1585.
- (2) A candidate seeking party nomination for municipal or district office shall file notice of candidacy with the board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00 noon on the third Friday in July preceding the election, except:
  - a. In the year following a federal decennial census, a candidate seeking party nomination for municipal or district office in any city which elects members of its governing board on a district basis, or requires that candidates reside in a district in order to run, shall file his notice of

candidacy with the board of elections no earlier than 12:00 noon on the fourth Monday in July and no later than 12:00 noon on the second Friday in August preceding the election; and

- b. In the second year following a federal decennial census, if the election is held then under G.S. 160A-23.1, a candidate seeking party nomination for municipal or district office shall file his notice of candidacy with the board of elections at the same time as notices of candidacy for county officers are required to be filed under G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976, 163A-977, and 163A-978.

No person may file a notice of candidacy for more than one municipal office at the same election. If a person has filed a notice of candidacy for one office with the county board of elections under this section, then a notice of candidacy may not later be filed for any other municipal office for that election unless the notice of candidacy for the first office is withdrawn first.

- (3) The filing fee for municipal and district primaries shall be fixed by the governing board not later than the day before candidates are permitted to begin filing notices of candidacy. There shall be a minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to set the filing fee at not less than five dollars (\$5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.
- (4) The municipal ballot may not be combined with any other ballot.
- (5) The canvass of the primary and second primary shall be held on the seventh day following the primary or second primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5.
- (6) Candidates having the right to demand a second primary shall do so not later than 12:00 noon on the Thursday following the canvass of the first primary. (1971, c. 835, s. 1; 1973, c. 870, s. 1; 1975, c. 370, s. 2; 1983, c. 330, s. 2; 1985, c. 599, ss. 2, 3; 1989 (Reg. Sess., 1990), c. 1012, s. 3; 1995 (Reg. Sess., 1996), c. 553, s. 2; 1999-227, s. 5; 2003-278, s. 10(e), (f); 2006-192, s. 4; 2009-414, s. 2; 2017-6, s. 3.)

#### **§ 163A-1616. Determination of election results in cities using the plurality method.**

In conducting nonpartisan elections and using the plurality method, elections shall be determined in accordance with the following rules:

- (1) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared elected.
- (2) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.



- (3) If two or more candidates receiving the highest number of votes each receive the same number of votes, the board of elections shall determine the winner by lot. (1971, c. 835, s. 1; 2017-6, s. 3.)

**§ 163A-1617. Determination of election results in cities using the election and runoff election method.**

(a) Except as otherwise provided in this section, nonpartisan municipal elections in cities using the election and runoff election method shall be determined by a majority of the votes cast. A majority within the meaning of this section shall be determined as follows:

- (1) When more than one person is seeking election to a single office, the majority shall be ascertained by dividing the total vote cast for all candidates by two. Any excess of the sum so ascertained shall be a majority, and the candidate who obtains a majority shall be declared elected.
- (2) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, the majority shall be ascertained by dividing the total vote cast for all candidates by the number of offices to be filled, and by dividing the result by two. Any excess of the sum so ascertained shall be a majority, and the candidates who obtain a majority shall be declared elected. If more candidates obtain a majority than there are offices to be filled, those having the highest vote (equal to the number of offices to be filled) shall be declared elected.

(b) If no candidate for a single office receives a majority of the votes cast, or if an insufficient number of candidates receives a majority of the votes cast for a group of offices, a runoff election shall be held as herein provided:

- (1) If no candidate for a single office receives a majority of the votes cast, the candidate receiving the highest number of votes shall be declared elected unless the candidate receiving the second highest number of votes requests a runoff election in accordance with subsection (c) of this section. In the runoff election only the names of the two candidates who received the highest and next highest number of votes shall be printed on the ballot. No space for write-in votes shall be included on the ballot for the runoff election.
- (2) If candidates for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a majority of the votes, those candidates equal in number to the positions remaining to be filled and having the highest number of votes shall be declared elected unless some one or all of the candidates equal in number to the positions remaining to be filled and having the second highest number of votes shall request a runoff election in accordance with subsection (c) of this section. In the runoff election to elect candidates for the positions in the group remaining to be filled, the names of all those candidates receiving the highest number of votes and demanding a runoff election shall be printed on the ballot. No space for write-in votes shall be included on the ballot for the runoff election.

(c) The canvass of the first election shall be held on the seventh day after the election. A candidate entitled to a runoff election may do so by filing a written request for a runoff election with the board of elections no later than 12:00 noon on the Thursday after the result of the first election has been officially declared. In accepting the filing of complaints concerning the conduct

of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5.

(d) Tie votes; how determined:

- (1) If there is a tie for the highest number of votes in a first election, the board of elections shall conduct a recount and declare the results. If the recount shows a tie vote, a runoff election between the two shall be held unless one of the candidates, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections. Should that be done, the remaining candidate shall be declared elected.
- (2) If one candidate receives the highest number of votes cast in a first election, but short of a majority, and there is a tie between two or more of the other candidates receiving the second highest number of votes, the board of elections shall declare the candidate having the highest number of votes to be elected, unless all but one of the tied candidates give written notice of withdrawal to the board of elections within three days after the result of the first election has been officially declared. If all but one of the tied candidates withdraw within the prescribed three-day period, and the remaining candidate demands a runoff election in accordance with subsection (c) of this section, a runoff election shall be held between the candidate who received the highest vote and the remaining candidate who received the second highest vote.

(e) Runoff elections shall be held on the date fixed in G.S. 163A-1585(a)(4). Persons whose registrations become valid between the date of the first election and the runoff election shall be entitled to vote in the runoff election, but in all other respects the runoff election shall be held under the laws, rules, and regulations provided for the first election.

(f) A second runoff election shall not be held. The candidates receiving the highest number of votes in a runoff election shall be elected. If in a runoff election there is a tie for the highest number of votes between two candidates, the board of elections shall determine the winner by lot. (1971, c. 835, s. 1; 1973, c. 793, s. 90; 1995 (Reg. Sess., 1996), c. 553, s. 3; 2003-278, s. 10(g); 2010-170, s. 15.5(a); 2017-6, s. 3.)

### **§ 163A-1618. Determination of election results in cities using nonpartisan primaries.**

(a) In cities whose elections are nonpartisan and who use the nonpartisan primary and election method, there shall be a primary to narrow the field of candidates to two candidates for each position to be filled if, when the filing period closes, there are more than two candidates for a single office or the number of candidates for a group of offices exceeds twice the number of positions to be filled. If only one or two candidates file for a single office, no primary shall be held for that office and the candidates shall be declared nominated. If the number of candidates for a group of offices does not exceed twice the number of positions to be filled, no primary shall be held for those offices and the candidates shall be declared nominated.

(b) In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. In both the primary and election, a voter should not mark more names for any office than there are positions to be filled by election. If two or more candidates receiving the highest number of votes each received the same number of votes, the board of elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the seventh day

following the primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5.

(c) In the election, the names of those candidates declared nominated without a primary and those candidates nominated in the primary shall be placed on the ballot. The candidate for a single office receiving the highest number of votes shall be elected. Those candidates for a group of offices receiving the highest number of votes, equal in number to the number of positions to be filled, shall be elected. If two candidates receiving the highest number of votes each received the same number of votes, the board of elections shall determine the winner by lot. (1971, c. 835, s. 1; 1991, c. 341, s. 1; 1995 (Reg. Sess., 1996), c. 553, s. 4; 2001-460, s. 6; 2003-278, s. 10(h); 2017-6, s. 3.)

### **§ 163A-1619. Death of candidates or elected officers.**

(a) This section shall apply only to municipal and special district elections.

(b) If a candidate for political party nomination for office dies, becomes disqualified, or withdraws before the primary but after the ballots have been printed, the provisions of G.S. 163A-985 shall govern.

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

If a nominee for political party nomination dies, becomes disqualified, or withdraws after the primary and before election day, the provisions of G.S. 163A-987 shall govern.

If a candidate in a nonpartisan election dies, becomes disqualified, or withdraws before election day and after the ballots have been printed, the board of elections shall determine whether there is enough time to reprint the ballots. If there is not enough time to reprint the ballots, and should the deceased or disqualified candidate receive enough votes to be elected, the board of elections shall declare the office vacant, and it shall be filled as provided by law.

(c) If a person elected to any city office dies, becomes disqualified, or resigns on or after election day and before he has qualified by taking the oath of office, the office shall be deemed vacant, and shall be filled as provided by law.

(d) A vacancy that occurs in a municipal or special district elective office shall be filled by the governing body as provided in G.S. 160A-63. In the case of a special district, the words "city council" as used in G.S. 160A-63, shall mean the governing body of the special district. (1971, c. 835, s. 1; 1985, c. 619; 2017-6, s. 3.)

### **§ 163A-1620. Notice of candidacy and filing fee in nonpartisan municipal elections.**

(a) Each person offering himself as a candidate for election to any municipal office in municipalities whose elections are nonpartisan shall do so by filing a notice of candidacy with the board of elections in the following form, inserting the words in parentheses when appropriate:

"Date \_\_\_\_\_;

I hereby file notice that I am a candidate for election to the office of \_\_\_\_\_ (at large) (for the \_\_\_\_\_ Ward) in the regular municipal election to be held in \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_

(municipality)

Signed \_\_\_\_\_

(Name of Candidate)

Witness: \_\_\_\_\_

For the Board of Elections"

The notice of candidacy shall be either signed in the presence of the chairman or secretary of the board of elections or the director of elections of that county, or signed and acknowledged before an officer authorized to take acknowledgments who shall certify the notice under seal. An acknowledged and certified notice may be mailed to the board of elections. The candidate shall sign the notice of candidacy with his legal name and, in his discretion, any nickname by which he is commonly known, in the form that he wishes it to appear upon the ballot but substantially as follows: "Richard D. (Dick) Roc." A candidate may also, in lieu of his legal first name and legal middle initial or middle name (if any) sign his nickname, provided that he appends to the notice of candidacy an affidavit that he has been commonly known by that nickname for at least five years prior to the date of making the affidavit, and notwithstanding the previous sentence, if the candidate has used his nickname in lieu of first and middle names as permitted by this sentence, unless another candidate for the same office who files a notice of candidacy has the same last name, the nickname shall be printed on the ballot immediately before the candidate's surname but shall not be enclosed by parentheses. If another candidate for the same office who filed a notice of candidacy has the same last name, then the candidate's name shall be printed on the ballot in accordance with the next sentence of this subsection. The candidate shall also include with the affidavit the way his name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

(b) Only persons who are registered to vote in the municipality shall be permitted to file notice of candidacy for election to municipal office. The board of elections shall inspect the voter registration lists immediately upon receipt of the notice of candidacy and shall cancel the notice of candidacy of any candidate who is not eligible to vote in the election. The board shall give notice of cancellation to any candidate whose notice of candidacy has been cancelled under this subsection by mail or by having the notice served on him by the county sheriff.

(c) Candidates seeking municipal office shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00 noon on the third Friday in July preceding the election, except:

- (1) In the year following a federal decennial census, candidates seeking municipal office in any city which elects members of its governing board on a district basis, or requires that candidates reside in a district in order to run, shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the fourth Monday in July and no later than 12:00 noon on the second Friday in August preceding the election; and
- (2) In the second year following a federal decennial census, if the election is held then under G.S. 160A-23.1, candidates seeking municipal office shall file their notices of candidacy with the board of elections at the same time as notices of

candidacy for county officers are required to be filed under G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976, 163A-977, and 163A-978.

Notices of candidacy which are mailed must be received by the board of elections before the filing deadline regardless of the time they were deposited in the mails.

(d) Any person may withdraw his notice of candidacy at any time prior to the close of business on the third business day prior to the filing deadline prescribed in subsection (c), and shall be entitled to a refund of his filing fee if he does so.

(e) The filing fee for the primary or election shall be fixed by the governing board not later than the day before candidates are permitted to begin filing notices of candidacy. There shall be a minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to set the filing fee at not less than five dollars (\$5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.

(f) No person may file a notice of candidacy for more than one municipal office at the same election. If a person has filed a notice of candidacy for one office with the board of elections under this section, then a notice of candidacy may not later be filed for any other municipal office for the election unless the notice of candidacy for the first office is withdrawn first. (1971, c. 835, s. 1; 1973, c. 870, s. 2; 1975, c. 370, s. 2; 1977, c. 265, s. 18; 1981, c. 32, s. 3; 1983, c. 330, s. 3; c. 644, ss. 1, 2; 1985, c. 472, s. 5; c. 558, s. 3; c. 599, s. 1; 1989 (Reg. Sess., 1990), c. 1012, s. 4; 1995, c. 243, s. 1; 1999-227, s. 6; 1999-456, s. 59; 2006-192, s. 5; 2009-414, s. 3; 2013-381, s. 21.2; 2017-6, s. 3.)

#### **§ 163A-1621. Sole candidates to be voted upon in nonpartisan municipal elections.**

Each candidate for municipal office in nonpartisan municipal elections shall be voted upon, even though only one candidate has filed or has been nominated for a given office, in order that the voters may have the opportunity to cast write-in votes under the general election laws. (1971, c. 835, s. 1; 2017-6, s. 3.)

#### **§ 163A-1622. Failure of candidates to file; death of a candidate before election.**

(a) If in a nonpartisan municipal election, when the filing period expires, candidates have not filed for all offices to be filled, the board of elections may extend the filing period for five days.

(b) If at the time the filing period closes only two persons have filed notice of candidacy for election to a single office or only as many persons have filed notices of candidacy for group offices as there are offices to be filled, and thereafter one of the candidates dies before the election and before the ballots are printed, the board of elections shall, upon notification of the death, immediately reopen the filing period for an additional five days during which time additional candidates shall be permitted to file for election. If the ballots have been printed at the time the board of elections receives notice of the candidate's death, the board shall determine whether there will be sufficient time to reprint them before the election if the filing period is reopened for three days. If the board determines that there will be sufficient time to reprint the ballots, it shall reopen the filing period for three days to allow other candidates to file for election.

(c) If the ballots have been printed at the time the board of elections receives notice of a candidate's death, and if the board determines that there is not enough time to reprint the ballots before the election if the filing period is reopened for three days, then, regardless of the number of

candidates remaining for the office, the ballots shall not be reprinted and the name of the deceased candidate shall remain on the ballots. If a deceased candidate should poll the highest number of votes in the election, even though short of a majority the board of elections shall declare the office vacant and it shall be filled in the manner provided by law. If no candidate in an election receives a majority of the votes cast and the second highest vote is cast for a deceased candidate, no runoff election shall be held, but the board of elections shall declare the candidate receiving the highest vote to be elected. (1971, c. 835, s. 1; 2017-6, s. 3.)

**§ 163A-1623. Municipal and special district elections; application of this Subchapter 163.**

To the extent that the laws, rules and procedures applicable to the conduct of primary, general or special elections by county boards of elections under Parts 1, 2, and 4 of Article 16, Parts 1, and 2 and 3 of Article 17, Articles 18 and 19, Parts 1 and 8 of Article 20 and Article 22 of this Chapter are not inconsistent with the provisions of this Part, those laws, rules and procedures shall apply to municipal and special district elections and their conduct by the board of elections conducting those elections. The State Board shall have the same authority over all such elections as it has over county and State elections under those Parts and Articles. (1971, c. 835, s. 1; 1973, c. 793, s. 91; 1993 (Reg. Sess., 1994), c. 762, s. 68; 2006-155, s. 5; 2017-6, s. 3.)

**§ 163A-1624. Nomination by petition.**

In cities conducting partisan elections, any qualified voter who seeks to have his name printed on the regular municipal election ballot as an unaffiliated candidate may do so in the manner provided in G.S. 163A-1005, except that the petitions and affidavits shall be filed not later than 12:00 noon on the Friday preceding the seventh Saturday before the election, and the petitions shall be signed by a number of qualified voters of the municipality equal to at least one and a half percent (1.5%) of the whole number of voters qualified to vote in the municipal election according to the voter registration records of the State Board as of January 1 of the year in which the general municipal election is held. A person whose name appeared on the ballot in a primary election is not eligible to have his name placed on the regular municipal election ballot as an unaffiliated candidate for the same office in that year. The Board of Elections shall examine and verify the signatures on the petition, and shall certify only the names of signers who are found to be qualified registered voters in the municipality. Provided that in the case where a qualified voter seeks to have his name printed on the regular municipal election ballot as an unaffiliated candidate for election from an election district within the municipality, the petition shall be signed by one and a half percent (1.5%) of the voters qualified to vote for that office. (1971, c. 835, s. 1; 1979, c. 23, ss. 2, 4, 5; c. 534, ss. 3, 4; 1989, c. 402; 1991, c. 297, s. 2; 2004-127, s. 8(b); 2006-264, s. 21; 2017-6, s. 3; 2017-214, s. 2(b).)

**§ 163A-1625. Structure at voting place; marking off limits of voting place.**

Precincts in which municipal primaries and elections are conducted shall conform, in all regards, to the requirements stipulated in G.S. 163A-1046 and all other provisions contained in this Subchapter relating to county and State elections. (1971, c. 835, s. 1; 2017-6, s. 3.)

**§ 163A-1626. Municipal primaries and elections.**

The phrases "county board of elections," and "chairman of the board of elections" as used in this Part, with respect to all municipal primaries and elections, shall mean the county board of elections and its chairman in all municipalities. The words "general election," as used in this Part,

shall include regular municipal elections, runoff elections, and nonpartisan primaries, except where specific provision is made for municipal elections and nonpartisan primaries. (1971, c. 835, s. 1; 2011-31, s. 21; 2017-6, s. 3.)

**§ 163A-1627. Ballots; municipal primaries and elections.**

(a) The ballots printed for use in general and special elections under the provisions of this Part shall contain:

- (1) The names of all candidates who have been put in nomination in accordance with the provisions of this Subchapter by any political party recognized in this State, or, in nonpartisan municipal elections, the names of all candidates who have filed notices of candidacy or who have been nominated in a nonpartisan primary.
- (2) The names of all persons who have qualified as unaffiliated candidates under the provisions of G.S. 163A-1624.
- (3) All questions, issues and propositions to be voted on by the people.

(b) The form of municipal ballots to be used in partisan municipal elections shall be the same as the form prescribed in this Subchapter for the county ballot.

(c) The names of candidates for nomination or election in municipal primaries or elections shall be placed on the ballot in strict alphabetical order, unless the municipal governing body has adopted a resolution no later than 60 days prior to a primary or election requesting that candidates' names be rotated on ballots. In the event such a resolution has been adopted, then the board of elections responsible for printing the ballots shall have them printed so that the name of each candidate shall, as far as practicable, occupy alternate positions on the ballot; to that end the name of each candidate shall occupy with reference to the name of every other candidate for the same office, first position, second position and every other position, if any, upon an equal number of ballots, and the ballots shall be distributed among the precinct voting places impartially and without discrimination.

(d) The provisions of Parts 3 and 4 of Article 20 of this Chapter shall apply to ballots used in municipal primaries and elections in the same manner as it is applied to county ballots.

(e) The rules contained in G.S. 163A-1166 and G.S. 163A-1169 for counting primary ballots shall be followed in counting ballots in municipal primaries and nonpartisan primaries.

(f) The requirements contained in G.S. 163A-1169(b) shall apply to all municipal elections.

(g) The county board of elections shall, in addition to the requirements contained in G.S. 163A-1172 canvass the results in a nonpartisan municipal primary, election or runoff election, and in a special district election, the number of legal votes cast in each precinct for each candidate, the name of each person voted for, and the total number of votes cast in the municipality or special district for each person for each different office. (1971, c. 835, s. 1; 1979, c. 534, s. 4; c. 806; 2001-398, ss. 10 – 12; 2001-460, ss. 7, 8; 2004-127, s. 5; 2011-31, s. 22; 2017-6, s. 3.)

**§ 163A-1628. Disposition of duplicate abstracts in municipal elections.**

Within nine days after a primary or election is held in any municipality, the chairman of the county board of elections shall mail to the chairman of the State Board, the duplicate abstract prepared in accordance with G.S. 163A-1173. One copy shall be retained by the county board of elections as a permanent record and one copy shall be filed with the city clerk. (1971, c. 835, s. 1; 2001-398, s. 13; 2003-278, s. 10(i); 2011-31, s. 23; 2017-6, s. 3.)

**§ 163A-1629. Chairman of election board to furnish certificate of elections.**

Not earlier than five days nor later than 10 days after the results of any municipal election have been officially determined and published in accordance with G.S. 163A-1172, the chairman of the county board of elections shall issue certificates of election, under the hand and seal of the chairman, to all municipal and special district officers. In issuing such certificates of election the chairman shall be restricted by the provisions of G.S. 163A-1183. (1971, c. 835, s. 1; 2001-398, s. 14; 2011-31, s. 24; 2017-6, s. 3.)

**§ 163A-1630. Absentee voting.**

(a) In any municipal election, including a primary or general election or referendum, absentee voting may, upon resolution of the municipal governing body, be permitted. Such resolution must be adopted no later than 60 days prior to an election in order to be effective for that election. Any such resolution shall remain effective for all future elections unless repealed no later than 60 days before an election. A copy of all resolutions adopted under this section shall be filed with the State Board and the county board of elections conducting the election within 10 days of passage in order to be effective. In addition, absentee voting shall be allowed in any referendum on incorporation of a municipality.

(b) The provisions of Part 1 of Article 21 of this Chapter shall apply to absentee voting in municipal elections, special district elections, and other elections for an area less than an entire county other than elections for the General Assembly, except that the earliest date by which absentee ballots shall be required to be available for absentee voting in such elections shall be 30 days prior to the primary or election or as quickly following the filing deadline specified in G.S. 163A-1615(2) or G.S. 163A-1620(c) as the county board of elections is able to secure the official ballots. In elections on incorporation of a municipality not held at the same time as another election in the same area, the county board of elections shall adopt a special schedule of meetings of the county board of elections to approve absentee ballot applications so as to reduce the cost of the process, and to further implement the last paragraph of G.S. 163-230(2)a. If no application has been received since the last meeting, no meeting shall be held of the county board of elections under such schedule unless the meeting is scheduled for another purpose. If another election is being held in the same area on the same day, or elsewhere in the county, the cost of per diem for meetings of the county board of elections to approve absentee ballots shall not be considered a cost of the election to be billed to the municipality being created. (1971, c. 835, s. 1; 1975, c. 370, s. 1; c. 836; 1977, c. 475, s. 1; 1983, c. 324, s. 6; 1991 (Reg. Sess., 1992), c. 933, s. 1; 2014-111, s. 10; 2017-6, s. 3.)

**§ 163A-1631. State Board to have jurisdiction over municipal elections, and to advise; emergency and ongoing administration by county board.**

Authority and Duty of State Board. – The State Board shall have the same authority over municipal elections as it has over county and State elections. The State Board shall advise and assist cities, towns, incorporated villages and special districts, their members and legal officers on the conduct and administration of their elections and registration procedure.

The county boards of elections shall be governed by the same rules for settling controversies with respect to counting ballots or certification of the returns of the vote in any municipal or special district election as are in effect for settling such controversies in county and State elections. (1971,



c. 835, s. 1; 1973, c. 793, s. 92; 1999-426, s. 6(a); 2001-319, s. 11; 2001-374, s. 3; 2011-31, s. 25; 2012-194, s. 22(b); 2017-6, s. 3.)

**§ 163A-1632. Validation of elections.**

All elections, and the results thereof, previously held in and for any municipality, special district, or school administrative unit pursuant to this Article, are hereby validated. (1973, c. 492, s. 1; 2017-6, s. 3.)

**§ 163A-1633. Assumption of office by mayors and councilmen.**

Newly elected mayors and councilmen (members of the governing body) shall take office as prescribed by G.S. 160A-68. (1973, c. 866; 2017-6, s. 3.)