

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-541
HOUSE BILL 908**

AN ACT TO MAKE VARIOUS CHANGES TO THE ELECTION LAWS RELATED TO VOTING EQUIPMENT, PREPARATION OF BALLOTS, AND TO THE DUTIES OF THE COUNTY BOARDS OF ELECTIONS AND THE STATE BOARD OF ELECTIONS; TO PROVIDE FOR PREREGISTRATION OF QUALIFIED INDIVIDUALS WHO ARE SIXTEEN OR SEVENTEEN YEARS OF AGE AND TO EXPAND INSTRUCTION ON THE IMPORTANCE OF VOTING IN THE HIGH SCHOOL SOCIAL STUDIES CURRICULUM AND TO ENCOURAGE LOCAL BOARDS OF EDUCATION TO PROMOTE REGISTRATION AND PREREGISTRATION OF STUDENTS; TO PERMIT THE RETENTION OF VOTER REGISTRATION RECORDS IN ANY FORMAT APPROVED BY THE DEPARTMENT OF CULTURAL RESOURCES; TO DESIGNATE THE VOTING TABULATION DISTRICTS OF NORTH CAROLINA; TO CLARIFY THE AUTHORITY TO DEMAND THE USE OF PUBLIC BUILDINGS AS ONE-STOP SITES; TO PROVIDE FOR EQUAL TREATMENT OF POLITICAL AND COMMERCIAL EXPRESSION AROUND A VOTING PLACE; TO CLARIFY THAT SEVENTEEN-YEAR-OLDS MAY REGISTER AT EARLY VOTING SITES UNDER THE SAME CONDITIONS THEY MAY REGISTER ELSEWHERE AND TO MAKE RELATED TECHNICAL CHANGES; TO PROHIBIT THE AWARDED OF ATTORNEYS' FEES AGAINST THE STATE BOARD OF ELECTIONS IN ELECTION PROTEST CASES; TO REQUIRE A PUBLIC HEARING BEFORE A LOCAL GOVERNMENT ADOPTS INSTANT RUNOFF VOTING AND TO ALLOW THE USE OF THE TERM RANKED CHOICE VOTING; AND TO AUTHORIZE A STUDY OF THE PROCESS OF FILLING VACANCIES IN LOCAL ELECTED OFFICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-22 reads as rewritten:

"§ 163-22. Powers and duties of State Board of Elections.

...

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

(q) The State Board of Elections 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."

SECTION 2. G.S. 163-33(1) and (12) read as rewritten:

"§ 163-33. 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 Chapter, 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—law,~~ with directives promulgated under the provisions of G.S. 163-132.4, or the rules with the rules, orders, and directives established by the State Board of Elections, as it may deem necessary for the guidance of election officers and voters.

...

(12) To perform such other duties as may be prescribed by this ~~Chapter—~~ Chapter, by directives promulgated pursuant to G.S. 163-132.4, or by the rules—rules, orders, and directives of the State Board of Elections.

...."

SECTION 3. G.S. 163-35(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. The specified duties and responsibilities shall include adherence to the duties delegated to the county board of elections pursuant to G.S. 163-33. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Director of the State Board of Elections the termination of the employment of the county board's director of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive 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 of Elections shall be final unless the decision is, within 20 days from the official date on which it was made, deferred by the State Board of Elections. 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 subsection, 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. 163-23. 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 of Elections or its designated member(s).

Upon majority vote on the recommendation of the Executive Director, the State Board of Elections may initiate proceedings for the termination of a county director of elections for just cause. If the State Board votes to initiate proceedings for termination, the State Board shall state the reasons for the termination in writing and send a copy by certified mail, return receipt requested, to the county director of elections. The director has 15 days to reply in writing to the notice. The State Board of Elections 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 subsection, 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. 163-23.

A county director of elections may be suspended, with pay, without warning for causes relating to personal conduct detrimental to service to the county or to the State Board of Elections, pending the giving of written reasons, in order to avoid the undue disruption of work or to protect the safety of persons or property or for other serious reasons. Any suspension may be initiated by the Executive Director but may not be for more than five days. Upon placing a county director of elections on suspension, the Executive Director shall, as soon as possible, reduce to writing the reasons for the suspension and forward copies to the county director of elections, the members of the county board of elections, the chair of the county board of commissioners, and the State Board of Elections. If no action for termination has been taken within five days, the county director of elections shall be fully reinstated.

Termination of any county director of elections shall comply with this subsection."

SECTION 4.(a) G.S. 163-35(d) reads as rewritten:

"(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. 163-33. Within the limitations imposed upon ~~him~~ 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."

SECTION 4.(b) This section is effective when it becomes law, and every county board of elections shall amend or adopt the resolution of duties and responsibilities required by this act on or before January 1, 2010.

SECTION 5. G.S. 163-55(a) reads as rewritten:

"(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, ward, or other election district in which the person offers to vote for 30 days next preceding an election, shall, if otherwise qualified as prescribed in this Chapter, be qualified to vote in any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which he has removed until 30 days after the person's removal.

Except as otherwise provided in ~~G.S. 163-59~~, this Chapter, 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."

SECTION 6. G.S. 163-59 reads as rewritten:

"§ 163-59. 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 ~~he~~that person complies with all of the following:

- (1) Is a registered ~~voter, and~~voter.
- (2) Has declared and has had recorded on the registration book or record the fact that ~~he~~the voter affiliates with the political party in whose primary ~~he~~the voter proposes to vote or ~~participate, and~~participate.
- (3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163-119 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 ~~or regular municipal 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 ~~or regular municipal~~ election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary. In addition, persons who will become qualified by age to register and vote in the general election ~~or regular municipal 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. Such a person also may register and vote in the primary and general election pursuant to G.S. 163-82.6A(f)."

SECTION 7.(a) G.S. 163-82.1 is amended by adding a new subsection to read:

"(d) Preregistration. – A person who is at least 16 years of age but will not be 18 years of age by the date of the next election and who is otherwise qualified to register may preregister to vote and shall be automatically registered upon reaching the age of eligibility following verification of the person's qualifications and address in accordance with G.S. 163-82.7."

SECTION 7.(b) This section becomes effective January 1, 2010.

SECTION 8.(a) G.S. 163-82.3(a) reads as rewritten:

"(a) Form Developed by State Board of Elections. – The State Board of Elections 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;~~vote.
- (2) Change party affiliation or unaffiliated ~~status;~~status.
- (3) Report a change of address within a ~~county;~~county.
- (4) Report a change of name.
- (5) Preregister to vote.

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. 163-82.3."

SECTION 8.(b) This section becomes effective January 1, 2010.

SECTION 9.(a) G.S. 163-82.4(d) reads as rewritten:

"(d) 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 question following questions 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. "Are you at least 16 years of age and understand that you must be 18 years of age on or before election day to vote?" and boxes for the applicant to check to indicate whether the applicant is at least 16 years of age and understands that the applicant must be at least 18 years of age or older by election day to vote.
 - c. "If you checked 'no' in response to both of these questions, do not submit this form."
- (3) ~~The statement "If you checked 'no' in response to either of these questions, do not complete this form."~~

SECTION 9.(b) This section becomes effective January 1, 2010.

SECTION 10.(a) G.S. 163-82.6 is amended by adding a new subsection to read:

"(f) The county board of elections shall forward by electronic means any application submitted for the purpose of preregistration to the State Board of Elections. No later than 60 days prior to the first election in which the applicant will be legally entitled to vote, the State Board of Elections shall notify the appropriate county board of elections to verify the qualifications and address of the applicant in accordance with G.S. 163-82.7."

SECTION 10.(b) This section becomes effective January 1, 2010.

SECTION 11. G.S. 163-82.6A is amended by adding the following new subsection to read:

"(f) Voting in Primary. – Any person who will become qualified by age to register and vote in the general election for which a partisan or nonpartisan primary is held, even though not so qualified by the date of the primary, may register for the primary and general election prior to the primary and then vote in the primary and general election after being registered in accordance with the provisions of this section."

SECTION 12. G.S. 163-82.10(a) reads as rewritten:

"§ 163-82.10. 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 of Elections 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 Cultural Resources pursuant to standards and conditions established by the Department and mutually agreed to by the Department and the State Board of Elections. A completed and signed registration application form, if available, described in G.S. 163-82.3, 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. 163-82.20, and drivers license numbers that may be generated in the voter registration process, by either the State Board of Elections 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. ~~The county board of elections shall maintain custody of any paper hard copy registration records of voters in the county and shall keep them in a place where they are secure.~~"

SECTION 13.(a) G.S. 163-82.19(a) reads as rewritten:

"(a) Voter Registration at Drivers License Offices. – The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to ~~vote~~ vote, or to update ~~his~~ 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~~ another, or to preregister to vote. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate board of elections. Applications for preregistration to vote shall be forwarded to the State Board of Elections."

SECTION 13.(b) This section becomes effective January 1, 2010.

SECTION 14.(a) G.S. 163-82.20 reads as rewritten:

"§ 163-82.20. **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 of Elections; 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 or preregister 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. 163-82.3(a) or (b); or
 - b. The voter registration agency's own form, if it is substantially equivalent to the form described in G.S. 163-82.3(a) or (b) and has been approved by the State Board of Elections, 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~~register or preregister.
- (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 or preregister 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. 163-82.4(c) 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 or preregistering 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 preregister or not to register or preregister has any bearing on the availability of services or benefits.

(f) Confidentiality of Declination to Register. – No information relating to a declination to register or preregister 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 or preregistration 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 of Elections.

(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 or preregister to vote under this section if that person is ineligible ~~to vote~~ on account of age, citizenship, lack of residence for the period of time provided by law, or because of conviction of a felony."

SECTION 14.(b) This section becomes effective January 1, 2010.

SECTION 15.(a) G.S. 163-82.23 reads as rewritten:

"§ 163-82.23. Voter registration at public high schools.

Every public high school shall make available to its students and others who are eligible to register and preregister to vote the application forms described in G.S. 163-82.3, 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."

SECTION 15.(b) This section becomes effective January 1, 2010.

SECTION 16.(a) G.S. 163-82.25 reads as rewritten:

"§ 163-82.25. Mandated voter registration drive.

The Governor shall proclaim as Citizens Awareness Month the month designated by the State Board of Elections ~~during every even numbered year annually.~~ During that month, the State Board of Elections shall initiate a statewide voter registration drive and shall adopt rules under which county boards of elections shall conduct the drives. Each county board of elections shall participate in the statewide voter registration drives ~~in accordance with the rules adopted by the State Board.~~ and conduct voter registration and preregistration drives at public high schools in accordance with local board of education policies, school system administrative procedures, and guidelines of the State Board of Elections."

SECTION 16.(b) This section becomes effective January 1, 2010.

SECTION 16.1(a) G.S. 163-85(c) reads as rewritten:

"(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. 163-55(2), or
- (6), (7) Repealed by Session Laws 1985, c. 563, ss. 11.1, 11.2.
- (7a) That a person is dead,
- (8) That a person is not a citizen of the United States, or

- (9) With respect to municipal registration only, that a person is not a resident of the municipality in which the person is registered.
- (10) That the person presenting himself to vote is not who he represents himself to be."

SECTION 16.1.(b) G.S. 163-87 reads as rewritten:

"§ 163-87. 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 precinct may exercise the right of challenge, and when he does so may enter the voting enclosure to make the challenge, but he shall retire therefrom as soon as the challenge is heard.

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

- (1) One or more of the reasons listed in G.S. 163-85(c).
- (2) That the person has already voted in that primary or election.
- (3) ~~That the person presenting himself to vote is not who he represents himself to be.~~
- (4) If the challenge is made with respect to voting in a partisan primary, that the person is a registered voter of another political party.

The chief judge, judge, or assistant appointed under G.S. 163-41 or 163-42 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. 163-85(c)(3), the voter may still transfer his registration under G.S. 163-82.15(e) if eligible under that section, and the registration shall not be cancelled under G.S. 163-90.2(a) if the transfer is made. A person who has transferred his registration under G.S. 163-82.15(e) may be challenged at the precinct to which the registration is being transferred."

SECTION 17. G.S. 163-132.1B reads as rewritten:

"§ 163-132.1B. Participation in 2010 Census Redistricting Data Program of the United States Bureau of the Census.

(a) Purpose. – The State of North Carolina shall participate in the 2010 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 2010 Census data by voting precinct and be able to revise districts at all levels without splitting precincts and in compliance with the United States and North Carolina Constitutions and the Voting Rights Act of 1965, as amended.

(a1) Reporting of Voting Tabulation Districts. – The Executive Director of the State Board of Elections shall report to the Bureau of the Census as this State's voting tabulation districts the voting precincts as of January 1, 2008. In reporting the precincts, the Executive Director may make to the precincts the minimum of adjustments necessary to assure accurate election administration and the consistent reporting of election results from the precincts as they existed on January 1, 2008. Before making that report, the Executive Director shall consult with the Legislative Services Office concerning the accuracy of the voting precincts to be reported. The Legislative Services Office shall submit to the Executive Director its opinion as to whether the description of the precincts to be reported to the Bureau of the Census is accurate. 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 2010 Census Redistricting Data Program. The Executive Director, with the assistance of the county boards of elections, shall participate in the Census Bureau's verification program and notify the Census Bureau of any errors in the entry of the voting tabulation districts in time for the Census Bureau to correct those errors.

(a2) Reporting From Unchanged Voting Tabulation Districts. – After January 1, 2008, every county board of elections shall report all election returns by voting tabulation districts as required by G.S. 163-132.5G. For purposes of this section and G.S. 163-132.5G, "voting

tabulation districts" shall be the precincts as of January 1, ~~2008-2008~~, as modified by the Executive Director of the State Board of Elections in reports to the Census Bureau in accordance with subsection (a1) of this section. No county board of elections may alter the voting tabulation ~~districts reported to the Census Bureau by the Executive Director of the State Board of Elections.~~ districts. The county board of elections may change the boundaries of the county's precincts so that those precincts differ from the county's voting tabulation districts, but only to the extent permitted by G.S. 163-132.3.

(b) Additional Rules. – In addition to directives promulgated by the Executive Director of the State Board of Elections under G.S. 163-132.4, the Legislative Services Commission may promulgate rules to implement this section."

SECTION 18.(a) G.S. 163-165.3(a) reads as rewritten:

"(a) State Board Responsibilities. – The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

- (1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification and times for the State Board to complete the certification.
- (2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.
- (3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.
- (4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.
- (5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.
- (6) The State Board is not required to certify or review every official ballot style in the county but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

The State Board shall be responsible for oversight of all ballot coding-coding, and ~~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 supervise trained election staff to produce the data necessary for equipment programming.~~ be certified by the State Board to produce the data."

SECTION 18.(b) This section becomes effective July 1, 2010.

SECTION 19. G.S. 163-165.7(e) reads as rewritten:

"(e) The State Board of Elections 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."

SECTION 20. G.S. 163-165.9(b) reads as rewritten:

"(b) After the acquisition of any voting system, the county board of elections shall comply with any requirements of the State Board of Elections 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 of Elections.
- (2) The county board of elections shall annually maintain software license and maintenance agreements necessary to maintain the warranty of its voting system. The State Board of Elections shall not provide routine maintenance to any county board of elections that does not maintain the warranty of its voting system. If the State Board of Elections 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.
- (3) The county board of elections shall not replace any voting system, or any portion thereof, without approval of the State Board of Elections.
- (4) The county board of elections may have its voting system repaired pursuant to its maintenance agreement but shall notify the State Board of Elections at the time of every repair, according to guidelines that shall be provided by the State Board of Elections."

SECTION 21. G.S. 163-166.1 reads as rewritten:

"§ 163-166.1. Duties of county board of elections.

The county board of elections shall:

- (1) Provide for the timely delivery to each voting place of the supplies, records, and equipment necessary for the conduct of the election.
- (2) Ensure that adequate procedures are in place at each voting place for a safe, secure, fair, and honest election.
- (3) Respond to precinct officials' questions and problems where necessary.
- (4) Provide adequate technical support for the voting system, which shall be done in conjunction with the State Board of Elections."

SECTION 22.(a) G.S. 163-166.4 reads as rewritten:

"§ 163-166.4. Limitation on activity in the voting place and in a buffer zone around it.

(a) ~~Buffer Zone and Adjacent Area for Election-Related Activity-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.

(a1) Area for Election-Related Activity. – Except as provided in subsection ~~(b)~~,(b) 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.

(b) Special Agreements About Election-Related Activity. – The Executive Director of the State Board of Elections 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 ~~(a)~~(a1) 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.

(c) 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.

(d) 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. 163-227.2, G.S. 163-227.2.~~

- (1) Subsection (b) of this section shall not apply.
- (2) ~~except that the~~ The notice in subsection (c) of this section shall be provided no later than 10 days before the opening of one-stop voting at the site."

SECTION 22.(b) This section becomes effective January 1, 2010, and applies to primaries and elections held on and after that date.

SECTION 23. G.S. 163-227.2(g) reads as rewritten:

"(g) Notwithstanding any other provision of this section, a county board of elections by unanimous vote of all its members may provide for one or more sites in that county for absentee ballots to be applied for and cast under this section. Every individual staffing any of those sites shall be a member or full-time employee of the county board of elections or an employee of the county board of elections whom the board has given training equivalent to that given a full-time employee. Those sites must be approved by the State Board of Elections as part of a Plan for Implementation approved by both the county board of elections and by the State Board of Elections which shall also provide adequate security of the ballots and provisions to avoid allowing persons to vote who have already voted. The Plan for Implementation shall include a provision for the presence of political party observers at each one-stop site equivalent to the provisions in G.S. 163-45 for party observers at voting places on election day. A county board of elections may propose in its Plan not to offer one-stop voting at the county board of elections office; the State Board may approve that proposal in a Plan only if the Plan includes at least one site reasonably proximate to the county board of elections office and the State Board finds that the sites in the Plan as a whole provide adequate coverage of the county's electorate. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board of Elections to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board of Elections may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county.

(g1) The State Board of Elections 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. 163-129 to demand and use as an election-day voting place, unless the State Board of Elections 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 this section, 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 this section. 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 this section. 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 of Elections."

SECTION 24. G.S. 163-283 reads as rewritten:

"§ 163-283. 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 ~~he~~that person complies with all of the following:

- (1) Is a registered ~~voter, and~~voter.
- (2) Has declared and has had recorded on the registration book or record the fact that ~~he~~the voter affiliates with the political party in whose primary ~~he~~the voter proposes to vote or ~~participate, and~~participate.
- (3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163-119 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. 163-82.6(c) 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. Such a person also may register and vote in the primary and general election pursuant to G.S. 163-82.6A(f)."

SECTION 25. Article 23 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-283.1. 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. 163-82.6(c) prior to the primary. Such a person also may register and vote in the primary and general election pursuant to G.S. 163-82.6A(f)."

SECTION 26. G.S. 163-330 reads as rewritten:

"§ 163-330. Voting in primary.

Any person who will become qualified by age ~~or residence~~ to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary. Such a person also may register and vote in the primary and general election pursuant to G.S. 163-82.6A(f)."

SECTION 27. G.S. 163-182.14 is amended by adding a new subsection to read:

"(d) Attorney's fees shall not be awarded against the State Board of Elections in any election protest brought under this Article.

SECTION 28.(a) G.S. 115C-81(g1)(1)b. reads as rewritten:

"b. Instruction on the importance of voting and otherwise participating in the democratic ~~process;~~process, including instruction on voter registration and preregistration."

SECTION 28.(b) This section becomes effective January 1, 2010.

SECTION 29.(a) G.S. 115C-47 is amended by adding a new subdivision to read:

"(58) To Encourage Student Voter Registration and Preregistration. – Local boards of education are encouraged to adopt policies to promote student voter registration and preregistration. These policies may include collaboration with county boards of elections to conduct voter registration and preregistration in high schools. Completion and submission of voter registration or preregistration forms shall not be a course requirement or graded assignment for students."

SECTION 29.(b) This section becomes effective January 1, 2010, and applies beginning with the 2010-2011 school year.

SECTION 30.(a) Section 3(a) of S.L. 2008-150 reads as rewritten:

"SECTION 3.(a) The State Board of Elections is authorized to select elections for offices of local government in which to use instant runoff voting in up to 10 local jurisdictions in each of the following years: 2009, 2010, and 2011. The selection of jurisdictions and administration of instant runoff voting shall follow the provisions of Section 1(a) of Session Law 2006-192, except that the local governing board that is the subject of the election must approve participation in the pilot and must hold at least one public hearing on the pilot before approving it, with notice of the hearing published at least 10 days before the hearing. The local governing board also must agree to cooperate with the county board of elections and the Board in the development and implementation of a plan to educate candidates and voters about how to use the runoff voting method. In a multiseat contest, the Board shall modify the method used for instant runoff voting in single-seat contests to apply its essential principles suitably to that election. In the case of a board of education election where the "local governing board" must be asked to authorize instant runoff voting because nonpartisan plurality elections are normally used, the "local governing board" is the board of education itself. If instant runoff voting is used in place of the nonpartisan election and runoff method as described in G.S. 163-293, the county board of elections, with the approval of the local governing board, may hold the election on the first Tuesday after the first Monday in November. The State Board of Elections, in consultation with the School of Government at the University of North Carolina, shall by January 1, 2009, develop for the pilot program authorized in this section goals, standards consistent with general election law, and criteria for implementation and evaluation. The pilot program shall be conducted according to those goals, standards, and criteria. The term "ranked choice voting" shall have the same meaning as, and may be used as a substitute for, the term "instant runoff voting" in describing the pilot."

SECTION 30.(b) This section is effective when it becomes law. The requirement for holding a public hearing applies only to primaries and elections held on and after January 1, 2010, but a local governing board may give notice of and conduct a public hearing to satisfy the requirement before January 1, 2010.

SECTION 31. The Joint Legislative Elections Oversight Committee shall study the following issues raised by the listed bills introduced in the 2009 Regular Session of the 2009 General Assembly and make recommendations regarding the standardization of that process to the 2010 Regular Session of the 2009 General Assembly on or before its convening:

- (1) Senate Bill 417, National Popular Vote Interstate Compact.
- (2) Senate Bill 596, Filling Vacancies in Local Offices.
- (3) Senate Bill 878, Judicial Appointment/Voter Retention.

SECTION 32. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of August, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 10:15 a.m. this 28th day of August, 2009