

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL 20  
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Short Title: Public Financing Changes.

(Public)

Sponsors:

Referred to:

February 2, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PILOT PROGRAM FOR PUBLIC FINANCING OF TWO MUNICIPAL ELECTION CAMPAIGNS AND TO EXPAND THE VOLUNTARY VOTER-OWNED ELECTIONS PROGRAM BY ADDING THE OFFICE OF STATE TREASURER TO THAT PROGRAM.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** G.S. 160A-499.1, as enacted by Section 2 of S. L. 2007-222, reads as rewritten:

"§ 160A-499.1. **Uniform, nondiscriminatory program of public financing of election campaigns.**

(a) A governing body of a city may appropriate funds for a public campaign financing program as defined in ~~G.S. 163-278.6(17a)~~ subsection (c) of this section for city office in that city's jurisdiction if the city has held at least one public hearing on the program before adopting it and the program is approved by the State Board of Elections. The State Board of Elections shall develop guidelines for the basic components needed in a program to meet the criteria set forth in ~~G.S. 163-278.6(17a)~~ subsection (c) of this section and shall approve a city's program that meets the criteria. The guidelines shall require that participating candidates shall file all disclosure reports with the State Board of Elections and that the State Board of Elections shall certify and authorize the issuance of public funds to eligible candidates participating in the program. Any city exercising authority under this section shall provide full notice to the county board of elections in any county in which it has territory.

(b) The governing body of a city appropriating funds as provided by this section shall prepare a report no later than six months after the second election in which it appropriates funds under this section that analyzes its experience in implementing a public campaign financing program by that date, including percent of candidates participating in a program, sources and amounts of funding, litigation involving a program, administrative issues, and recommendations for changes in this statute. The report shall be presented by that date to the ~~Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the Legislative Services Office, and to the committees in the House of Representatives and Senate to which election-related bills are primarily referred.~~ State Board of Elections.

(c) The term 'public campaign financing program' means a uniform program of a governmental entity that offers support for the campaigns of candidates for elective office within the jurisdiction of that governmental entity under the following conditions:



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- 1           (1) The candidates participating in the program must demonstrate public support  
2           and voluntarily accept strict fund-raising and spending limits in accordance  
3           with a set of requirements drawn by that government.
- 4           (2) The requirements are drawn to further the public purpose of free and fair  
5           elections and do not discriminate for or against any candidate on the basis of  
6           race, creed, position on issues, status of incumbency or nonincumbency, or  
7           party affiliation.
- 8           (3) Any public funds provided to candidates are restricted to use for campaign  
9           purposes according to guidelines drawn by the State Board of Elections.
- 10          (4) Unspent public funds are required to be returned to that governmental entity.
- 11          (5) If the program provides for matching funds for electioneering  
12          communications for certified candidates when funds in opposition to a  
13          certified candidate or in support of an opponent to that candidate exceed a  
14          certain amount, the State Board of Elections shall determine which  
15          candidate, if any, is entitled to receive matching funds as a result of the  
16          communication. The State Board of Elections shall authorize issuance of  
17          matching funds based on the communication only if it ascertains that the  
18          communication is susceptible of no reasonable interpretation other than as an  
19          appeal to vote for or against a specific candidate. In making its  
20          determination, the State Board of Elections shall not consider evidence  
21          external to the communication itself of the intent of the sponsor or the effect  
22          of the communication.

23 Funds paid by a city pursuant to such a program are not subject to the contribution limitations  
24 of G.S. 163-278.13 and the prohibitions on corporate contributions of G.S. 163-278.15 or  
25 G.S. 163-278.19 but shall be reported as if they were contributions in all campaign reports  
26 required by law to be filed by the campaigns receiving the payments.

27         (d) This section applies to the Town of Chapel Hill and any municipality with a total  
28 population of more than 50,000 that is selected by the State Board of Elections for participation  
29 in a pilot program for the public financing of municipal campaigns. The population shall be  
30 determined by the most recent federal decennial census. The State Board of Elections shall  
31 select for the pilot program up to a total of two municipalities whose governing boards have  
32 indicated by vote of the governing board prior to June 30, 2010, an interest in participation and  
33 have submitted proposals that comply with the criteria of subsection (a) of this section. In  
34 selecting those municipalities, the State Board shall seek diversity of population size, regional  
35 location, and demographic composition. The State Board shall limit the number of  
36 municipalities selected according to its own resources to administer the pilot program. The  
37 State Board of Elections shall not select municipalities that use the partisan method of election.

38         (e) The State Board of Elections shall closely monitor the pilot program and report its  
39 findings and recommendations to the Joint Legislative Commission on Governmental  
40 Operations, to the Fiscal Research Division of the Legislative Services Office, to the Joint  
41 Legislative Elections Oversight Committee, and to the committees in the House of  
42 Representatives and Senate to which election-related bills are primarily referred at least  
43 annually on or before the close of the fiscal year.

44         (f) This section expires July 1, 2016."

45         **SECTION 1.(b)** Sections 1, 3, and 4 of S. L. 2007-222 are repealed.

46         **SECTION 2.(a)** Article 22J of Chapter 163 of the General Statutes reads as  
47 rewritten:

48   "Article 22J.

49   "The Voter-Owned Elections Act.

50         **"§ 163-278.95. Purpose and establishment of Voter-Owned Elections Act.**

1 The purpose of this Article is to ensure the vitality and fairness of democratic elections for  
2 electd offices that implement and provide oversight on the regulation or investigation of  
3 individuals, businesses, or government in North Carolina to the end that any eligible citizen of  
4 this State can realistically choose to seek and run for those public office-offices. It is also the  
5 purpose of this Article to protect the constitutional rights of voters and candidates from the  
6 detrimental effects of increasingly large amounts of money being raised and spent in North  
7 Carolina to influence the outcome of elections. It is essential to the public interest that the  
8 potential for corruption or the appearance of corruption within regulatory or investigatory  
9 offices overseen by elected officials is minimized and that the equal and meaningful  
10 participation of all citizens in the democratic process is ensured. Accordingly, this Article  
11 establishes the North Carolina Voter-Owned Elections Fund as an alternative source of  
12 campaign financing for candidates who obtain a sufficient number of qualifying contributions  
13 from registered voters and who voluntarily accept strict fund-raising and spending limits. This  
14 Article is available to candidates for the Council of State offices of Auditor, Superintendent of  
15 Public Instruction, and Commissioner of Insurance in elections to be held in 2008 and  
16 ~~thereafter~~ thereafter; to candidates for the Council of State office of Treasurer in elections to be  
17 held in 2012 and thereafter.

18 **"§ 163-278.96. Definitions.**

19 The following definitions apply in this Article:

- 20 (1) Board. – The State Board of Elections.
- 21 (2) Campaign-related expenditure. – An expenditure that benefits the candidate's  
22 current campaign in accordance with guidelines established by the Board.
- 23 (3) Candidate. – An individual who becomes a candidate as described in  
24 G.S. 163-278.6(4). The term includes a "candidate campaign committee" as  
25 defined in G.S. 163-278.38Z(3).
- 26 (4) Certified candidate. – A candidate for office who chooses to receive  
27 campaign funds from the Fund and who is certified under  
28 G.S. 163-278.98(c). A write-in candidate authorized under G.S. 163-123 is  
29 not eligible to become a certified candidate.
- 30 (5) Contested primary and contested general election. – An election in which  
31 there are more candidates than the number to be elected.
- 32 (6) Contribution. – Defined in G.S. 163-278.6. A distribution from the Fund  
33 pursuant to this Article is not a "contribution" and is not subject to the  
34 limitations of G.S. 163-278.13 or the prohibitions of G.S. 163-278.15 or  
35 G.S. 163-278.19. Instead of being subject to G.S. 163-278.16B, distributions  
36 are subject to the guidelines issued by the Board pursuant to  
37 G.S. 163-278.98(e)(5).
- 38 (6a) Electioneering communication. – As defined in G.S. 163-278.80 and  
39 G.S. 163-278.90, except that it is made during the period beginning 30 days  
40 before absentee ballots become available for a primary and ending on  
41 primary election day and during the period 60 days before absentee ballots  
42 become available for a general election and ending on general election day.
- 43 (7) Expenditure. – Defined in G.S. 163-278.6.
- 44 (8) Fund. – The North Carolina Voter-Owned Elections Fund established in  
45 G.S. 163-278.97.
- 46 (9) Independent expenditure. – Defined in G.S. 163-278.6.
- 47 (10) Maximum qualifying contributions. – If the candidate has ~~an uncontested no~~  
48 primary, an amount equal to 100one hundred dollars (\$100.00) times the  
49 filing fee—minimum number of registered voters required to make a  
50 qualifying contribution under G.S. 163-278.98(b) for the office sought. If the  
51 candidate has a contested primary, 200two hundred dollars (\$200.00) times

1 the ~~filing fee~~ minimum number of registered voters required to make a  
2 qualifying contribution under G.S. 163-278.98(b) for the office sought.

3 (11) Nonparticipating candidate. – A candidate for office who is not seeking to be  
4 certified under G.S. 163-278.98(c).

5 (12) Office. – The Council of State offices of Auditor, Superintendent of Public  
6 Instruction, Treasurer, and Commissioner of Insurance.

7 (13) Participating candidate. – A candidate for office who has filed a declaration  
8 of intent to participate under G.S. 163-278.98(a).

9 (14) Political committee. – Defined in G.S. 163-278.6.

10 (15) Qualifying contribution. – A contribution of not less than ten dollars  
11 (\$10.00) and not more than two hundred dollars (\$200.00) in the form of ~~a~~  
12 ~~check or money order~~ prescribed for noncash monetary contributions in  
13 G.S. 163-278.14(b) to the candidate that meets both of the following  
14 conditions:

15 a. Made by ~~any~~ an individual who is a registered voter in this  
16 State-State at the time of the submittal of the report specified in  
17 G.S. 163-278.98(d).

18 b. Made only during the qualifying period and obtained with the  
19 approval of the candidate or candidate's committee.

20 (16) Qualifying period. – The period beginning September 1 in the year before  
21 the election and ending on the day of the primary.

22 (17) Trigger for matching funds. – The dollar amount at which matching funds  
23 are released under G.S. 163-278.99B for certified candidates. In the case of a  
24 contested primary, the trigger equals the maximum qualifying contributions  
25 for the candidate. In the case of a contested general election, the trigger  
26 equals the base level of funding available under G.S. 163-278.99(b)(4).

27 **"§ 163-278.97. Voter-Owned Elections Fund established; sources of funding.**

28 (a) Establishment of Fund. – The North Carolina Voter-Owned Elections Fund is  
29 established to finance the election campaigns of certified candidates for office and to pay  
30 administrative and enforcement costs of the Board related to this Article. The Fund is a special,  
31 dedicated, nonlapsing, nonreverting fund. Any interest generated by the Fund is credited to the  
32 Fund. The Board shall administer the Fund.

33 (b) Sources of Funding. – Money received from all the following sources must be  
34 deposited in the Fund:

35 (1) Unspent Fund revenues distributed for an election that remain unspent or  
36 uncommitted at the time the recipient is no longer a certified candidate in the  
37 election.

38 (2) Money ordered returned to the Fund in accordance with G.S. 163-278.99D.

39 (3) Money paid to the Fund equal to excess contributions as provided in  
40 G.S. 163-278.98(e)(1).

41 (4) Voluntary donations made directly to the Fund.

42 (5) Appropriations from the General Fund.

43 (c) Evaluation and Determination of Fund Amount. – By January 1, 2011, and every  
44 four years thereafter, the Board, in conjunction with the Advisory Council established under  
45 G.S. 163-278.68(b), shall prepare and provide to the Joint Legislative Commission on  
46 Governmental Operations of the General Assembly a report documenting, evaluating, and  
47 making recommendations relating to the administration, implementation, and enforcement of  
48 this Article. In its report, the Board shall set out the funds received to date and the expected  
49 needs of the Fund during the next election cycle and make recommendations about the  
50 feasibility of expanding its provisions to include other candidates for State office based on the  
51 experience of this Article and the experience of similar programs in North Carolina and other

1 states. The Board shall also evaluate and make recommendations regarding how to address  
2 activities that could undermine the purpose of this Article, including spending that appears to  
3 target candidates but is not reached by regulation.

4 **"§ 163-278.98. Requirements for participation.**

5 (a) Declaration of Intent to Participate. – Any individual choosing to receive campaign  
6 funds from the Fund shall first file with the Board a declaration of intent to participate in the  
7 program established by this Article as a candidate for a stated office. The declaration of intent  
8 shall be filed before or during the qualifying period and before collecting any qualifying  
9 contributions. In the declaration, the candidate shall swear or affirm that only one political  
10 committee, identified with its treasurer, shall handle all contributions, campaign-related  
11 expenditures, and obligations for the participating candidate and that the candidate will comply  
12 with the contribution and expenditure limits set forth in subsection (e) of this section and all  
13 other requirements set forth in this Article or adopted by the Board. Failure to comply is a  
14 violation of this Article.

15 (b) Demonstration of Support of Candidacy. – In order to be certified, participating  
16 candidates must obtain qualifying contributions from at least ~~750-900~~ registered voters in this  
17 ~~State.~~ State, and from an additional 100 registered voters in this State for each one hundred  
18 thousand dollars (\$100,000) that the grant amount for the office under G.S. 163-278.99(b)(4)  
19 exceeds three hundred thousand dollars (\$300,000). Multiple contributions from the same  
20 individual to the same candidate shall not count as more than one qualifying contribution.

21 The qualifying contributions shall be equal to at least ~~25~~ twenty dollars (\$20.00) times the  
22 ~~amount of the filing fee for the office.~~ minimum number of qualifying contributions but shall  
23 not exceed the maximum qualifying contributions defined in G.S. 163-278.96(10). No  
24 ~~payment, gift, or anything of value~~ value, or the opportunity to win anything of value shall be  
25 given in exchange for a qualifying contribution.

26 (c) Certification of Candidates. – Upon receipt of a submittal of the record of qualifying  
27 contributions by a participating candidate, the Board shall determine whether or not the  
28 candidate has:

- 29 (1) Filed a completed declaration of intent to participate in this Article.
- 30 (2) Submitted a report itemizing the appropriate number of qualifying  
31 contributions received from registered voters, which the Board shall verify  
32 through a random sample or other means it adopts. The report shall include  
33 the county of residence of each registered voter listed.
- 34 (3) Filed a notice of candidacy with the State Board of Elections as a candidate  
35 for the office.
- 36 (4) Otherwise met the requirements for participation in this Article.

37 The Board shall certify candidates complying with the requirements of this section as soon  
38 as possible and no later than five business days after receipt of a satisfactory record of  
39 qualifying contributions.

40 (d) Final Report for Qualifying Contributions. – No later than five business days after  
41 the end of the qualifying period, all participating candidates shall submit a report to the Board  
42 of all previously unreported qualifying contributions, in accordance with procedures developed  
43 by the Board. Within seven business days after submittal of the final report, the Board shall  
44 determine, through a random audit or other means it adopts, whether the contributions abide by  
45 the definition of qualifying contributions, whether they must be returned to the donor, and  
46 whether they exceed the maximum amount of qualifying contributions.

47 (e) Restrictions on Contributions and Expenditures for Participating and Certified  
48 Candidates. – The following restrictions shall apply to contributions and expenditures with  
49 respect to participating and certified candidates:

- 50 (1) Beginning August 1 of the year before the election and before filing a  
51 declaration of intent, a candidate shall limit campaign-related expenditures

1 to twenty thousand dollars (\$20,000) and shall not accept more than twenty  
2 thousand dollars (\$20,000) from sources and in amounts permitted by  
3 Article 22A of this Chapter. A candidate who exceeds either of these limits  
4 shall be ineligible to file a declaration of intent or receive funds from the  
5 Fund. However, the acceptance of contributions in excess of that twenty  
6 thousand dollar (\$20,000) limit does not render the candidate ineligible if the  
7 candidate pays to the Board an amount equal to the contributions accepted  
8 by the candidate in excess of that limit. The Board shall deposit all such  
9 payments into the Fund.

10 (2) From the filing of a declaration of intent through the end of the qualifying  
11 period, a candidate may accept only qualifying contributions, contributions  
12 under ten dollars (\$10.00) from North Carolina voters, in-kind party  
13 contributions as permitted in subdivision (4) of this subsection, and personal  
14 and family contributions permitted under subdivision (4a) of this subsection.  
15 The total contributions the candidate may accept during this period shall not  
16 exceed the maximum qualifying contributions for that candidate. Except for  
17 personal and family contributions permitted under subdivision (4a) of this  
18 subsection, multiple contributions from the same contributor to the same  
19 candidate shall not exceed two hundred dollars (\$200.00). In addition to  
20 these contributions, the candidate may only expend during this period the  
21 remaining money raised pursuant to subdivision (1) of this subsection and  
22 possible matching funds received pursuant to G.S. 163-278.99B. If the  
23 candidate has any remaining money that was raised as contributions before  
24 August 1 of the year before the election, the candidate may not expend that  
25 money after filing the declaration of intent, except for purposes permitted  
26 under subdivision (2), (3), (6), (7), or (8) of G.S. 163-278.16B(a).

27 (3) After the qualifying period and through the date of the general election, the  
28 candidate shall cease campaign-related fund-raising activities and shall  
29 expend only the funds the candidate receives from the Fund pursuant to  
30 G.S. 163-278.99(b) plus any funds remaining from the qualifying period and  
31 possible matching funds.

32 (4) In addition to the amounts above, a candidate may accept in-kind  
33 contributions from political party executive committees, up to an aggregate  
34 value of thirty thousand dollars (\$30,000) for the election cycle.

35 (4a) During the qualifying period, the candidate may contribute up to one  
36 thousand dollars (\$1,000) of that candidate's own money to the campaign.  
37 Debt incurred by the candidate for a campaign expenditure shall count  
38 toward that limit. The candidate may accept in contributions one thousand  
39 dollars (\$1,000) from each member of that candidate's family consisting of  
40 spouse, parent, child, brother, and sister. Up to two hundred dollars  
41 (\$200.00) of a contribution from the candidate's family member may be  
42 treated as a qualifying contribution if it meets the requirements of  
43 G.S. 163-278.96(15)a. and b.

44 (5) A candidate and the candidate's committee shall limit the use of all revenues  
45 permitted by this subsection to expenditures for campaign-related purposes  
46 only. The Board shall publish guidelines outlining permissible  
47 campaign-related expenditures.

48 (6) Except as provided in subdivision (1) of this subsection, any contribution  
49 received by a participating or certified candidate that falls outside that  
50 permitted by this subsection shall be returned to the donor as soon as  
51 practicable. Contributions intentionally made, solicited, or accepted in

1 violation of this Article are subject to civil penalties as specified in  
2 G.S. 163-278.99D. The funds involved shall be forfeited to the Civil Penalty  
3 and Forfeiture Fund.

- 4 (7) A candidate shall return to the Fund any amount distributed for an election  
5 that is unspent and uncommitted at the date of the election or at the time the  
6 individual ceases to be a certified candidate, whichever occurs first. For  
7 accounting purposes, all qualifying, personal, and family contributions shall  
8 be considered spent before revenue from the Fund is spent or committed.

9 (f) Revocation. – A candidate may revoke, in writing to the Board, a decision to  
10 participate in the Fund at any time. After a revocation, that candidate may accept and expend  
11 outside the limits of this Article without violating this Article. Within 10 days after revocation,  
12 a candidate shall return to the Board all money received from the Fund.

13 **"§ 163-278.99. Distribution from the Fund.**

14 (a) Timing of Fund Distribution. – The Board shall distribute to a certified candidate  
15 revenue from the Fund in an amount determined under subdivision (b)(4) of this section as  
16 follows:

- 17 (1) One-third of the amount within five business days after the certified  
18 candidate's name is approved to appear on the ballot in a contested general  
19 election, but no earlier than five business days after the primary.  
20 (2) The remainder of the amount on August 1 before the general election.

21 (b) Amount of Fund Distribution. – ~~By August 1, 2011, and no less frequently than~~  
22 ~~every four years thereafter, No later than August 1 of the second year before an election, the~~  
23 Board shall determine the amount of funds, ~~rounded to the nearest one hundred dollars~~  
24 ~~(\$100.00),~~ funds to be distributed to certified candidates as follows:

- 25 (1) ~~Uncontested primaries. No primary.~~ – No funds shall be distributed.  
26 (2) Contested primaries. – No funds shall be distributed except as provided in  
27 G.S. 163-278.99B.  
28 (3) Uncontested general elections. – No funds shall be distributed.  
29 (4) Contested general elections. – The amount of funds to be distributed to a  
30 candidate is the average amount of campaign-related expenditures made in  
31 the general election by all candidates who won the immediately preceding  
32 three general elections for that office, rounded to the nearest one thousand  
33 dollars (\$1,000), but not less than three hundred thousand dollars  
34 (\$300,000). For purposes of this subsection, "campaign-related  
35 expenditures" does not include loan repayments and contributions to a  
36 candidate, political committee, or political party. For purposes of this  
37 subsection, expenditures are made in the general election if they are required  
38 to be reported on the third and fourth quarterly reports.

39 (c) Method of Fund Distribution. – The Board, in consultation with the State Treasurer  
40 and the State Controller, shall develop a rapid, reliable method of conveying funds to certified  
41 candidates. In all cases, the Board shall distribute funds to certified candidates in a manner that  
42 is expeditious, ensures accountability, and safeguards the integrity of the Fund. If the money in  
43 the Fund is insufficient to fully fund all certified candidates, then the available money shall be  
44 distributed proportionally, according to each candidate's eligible funding, and the candidate  
45 may raise additional money in the same manner as a nonparticipating candidate for the same  
46 office up to the unfunded amount of the candidate's eligible funding.

47 **"§ 163-278.99A. Reporting requirements.**

48 (a) Reporting by Noncertified Candidates and Other Entities. – Any nonparticipating  
49 candidate with a certified opponent shall report total contributions received to the Board by  
50 facsimile machine or electronically within 24 hours after the total amount of contributions  
51 received exceeds eighty percent (80%) of the trigger for matching funds as defined in

1 G.S. 163-278.96(17). Any entity making independent expenditures in support of or in  
2 opposition to a certified candidate, or in support of a candidate opposing a certified candidate,  
3 or paying for electioneering communications referring to one of those candidates, shall report  
4 the total funds received, spent, or obligated for those expenditures or payments to the Board by  
5 facsimile machine or electronically within 24 hours after the total amount of expenditures or  
6 obligations made, or funds raised or borrowed, for the purpose of making the independent  
7 expenditures or electioneering communications exceeds five thousand dollars (\$5,000). After  
8 the initial 24-hour filing, the nonparticipating candidate or other reporting entity shall comply  
9 with an expedited reporting schedule. The schedule and forms for reports required by this  
10 subsection shall be supplied by the Board.

11 (b) Reporting by Participating and Certified Candidates. – Notwithstanding other  
12 provisions of law, participating and certified candidates shall report any money received and all  
13 campaign expenditures, obligations, and related activities to the Board according to procedures  
14 developed by the Board. Upon the filing of a final report for any losing primary election,  
15 special election, or general election, each candidate who has revenues from the Fund remaining  
16 unspent shall return those revenues to the Board. In developing these procedures, the Board  
17 shall utilize existing campaign reporting procedures wherever practicable.

18 (c) Timely Access to Reports. – The Board shall ensure prompt public access to the  
19 reports received in accordance with this Article. The Board may utilize electronic means of  
20 reporting and storing information.

21 **"§ 163-278.99B. Matching funds.**

22 (a) When Matching Funds Become Available. – When any report or group of reports  
23 shows that "funds in opposition to a certified candidate or in support of an opponent to that  
24 candidate" as described in this section exceed the trigger for matching funds as defined in  
25 G.S. 163-278.96(17), the Board shall issue immediately to that certified candidate an additional  
26 amount equal to the reported excess within the limits set forth in this section. "Funds in  
27 opposition to a certified candidate or in support of an opponent to that candidate" shall be equal  
28 to the sum of subdivisions (1) and (2) as follows:

29 (1) The greater of the following:

30 a. Campaign expenditures or obligations made, or funds raised or  
31 borrowed, whichever is greater, reported by any one nonparticipating  
32 opponent of a certified candidate. Where a certified candidate has  
33 more than one nonparticipating opponent, the measure shall be taken  
34 from the nonparticipating candidate showing the highest relevant  
35 dollar amount.

36 b. The funds distributed in accordance with G.S. 163-278.99(b) to a  
37 certified opponent of the certified candidate.

38 (2) The aggregate total of all expenditures and payments reported in accordance  
39 with G.S. 163-278.99A(a) of entities making independent expenditures or  
40 electioneering communications in opposition to the certified candidate or in  
41 support of any opponent of that certified candidate.

42 (b) Limit on Matching Funds ~~in Contested Primary. Before Date of Primary.~~ – Total  
43 matching funds to a certified candidate ~~in a contested before the date of the primary~~ shall be  
44 limited to an amount equal to the maximum qualifying contributions for a candidate with a  
45 contested primary. Matching funds are available to a certified candidate with an opponent in  
46 the primary or to a certified candidate who is clearly referred to in expenditures reportable  
47 under G.S. 163-278.99A made in opposition to that candidate.

48 (c) Limit on Matching Funds in Contested General Election. – Total matching funds to  
49 a certified candidate in a contested general election shall be limited to an amount equal to two  
50 times the amount described in G.S. 163-278.99(b)(4).



1 (d) Determinations by Board. – In the case of electioneering communications, the  
2 Board shall determine which candidate, if any, is entitled to receive matching funds as a result  
3 of the communication. The Board shall issue matching funds based on the communication only  
4 if it ascertains that the communication is susceptible of no reasonable interpretation other than  
5 as an appeal to vote for or against a specific candidate. In making its determination, the Board  
6 shall not consider evidence external to the communication itself of the intent of the sponsor or  
7 the effect of the communication. The Board shall notify each candidate it determines is entitled  
8 to receive matching funds based on those communications, the sponsor of those  
9 communications, and any candidate who is an opponent of the candidate it determines is  
10 entitled to the matching funds. The Board shall give the sponsor of the communication and any  
11 opposing candidate an adequate opportunity to rebut the determination of the Board. In  
12 considering the rebuttal, all candidates in the race and the sponsor shall be given adequate and  
13 equal opportunity to be heard. The Board shall adopt procedures for implementing this  
14 subsection, balancing in those procedures adequacy of opportunity to rebut and adequacy and  
15 equality of opportunity to be heard on the rebuttal with the need to expedite the decision on  
16 awarding matching funds. The Board shall distribute the matching funds, if any, at the  
17 conclusion of its process.

18 (e) Proportional Measuring of Multicandidate Communications. – In calculating the  
19 amount of matching funds a certified candidate is eligible to receive under this section, the  
20 Board shall include the proportion of expenditures, obligations, or payments for multicandidate  
21 communications that pertains to the candidate.

22 (f) No Matching Funds for Communications Supporting or Opposing All Candidates. –  
23 No matching funds are available under this section as a result of an expenditure that supports  
24 all candidates for the same office or opposes all candidates for the same office. No matching  
25 funds are available under this section as a result of an electioneering communication that the  
26 Board ascertains is susceptible of no reasonable interpretation other than as an appeal to vote  
27 for all candidates for the same office or to vote against all candidates for the same office.

28 **"§ 163-278.99C. Unaffiliated and new-party candidates.**

29 Unaffiliated candidates certified pursuant to G.S. 163-122 and new-party candidates  
30 certified pursuant to G.S. 163-98 shall be eligible for revenues from the Fund in the same  
31 amounts and at the same time as specified in G.S. 163-278.99. For unaffiliated candidates and  
32 new-party candidates not certified to appear on the ballot by noon on the deadline set in  
33 G.S. 163-106(c) for candidate filing in the election year, the deadline for seeking certification  
34 to receive revenue from the Fund is noon on the first business day of July of the election year.

35 **"§ 163-278.99D. Enforcement by the Board; civil penalty.**

36 (a) Enforcement by the Board. – The Board, with the advice of the Advisory Council  
37 for the Public Campaign Fund established by G.S. 163-278.68, shall administer the provisions  
38 of this Article.

39 (b) Appeals. – The initial decision on an issue concerning qualification, certification, or  
40 distribution of funds under this Article shall be made by the Executive Director of the Board.  
41 The procedure for challenging that decision is as follows:

42 (1) An individual or entity aggrieved by a decision by the Executive Director of  
43 the Board may appeal to the full Board within three business days of the  
44 decision. The appeal shall be in writing and shall set forth the reasons for the  
45 appeal.

46 (2) Within five business days after an appeal is properly made, and after due  
47 notice is given to the parties, the Board shall hold a hearing. The appellant  
48 has the burden of providing clear and convincing evidence to demonstrate  
49 that the decision of the Executive Director was improper. The Board shall  
50 rule on the appeal within three business days after the completion of the  
51 hearing.

1       (c) Board to Adopt Procedures and Issue Opinions. – The Board shall adopt procedures  
2 and issue opinions to ensure effective administration of this Article. Such procedures and  
3 opinions shall include, but not be limited to, procedures for obtaining qualifying contributions,  
4 certification of candidates, addressing circumstances involving special elections, vacancies,  
5 recounts, withdrawals, or replacements, collection of revenues for the Fund, distribution of  
6 Fund revenue to certified candidates, return of unspent Fund disbursements, and compliance  
7 with this Article. The Board shall adopt procedures for the distribution of matching money that  
8 further the purpose and avoid the subversion of G.S. 163-278.99B. For races involving special  
9 elections, recounts, vacancies, withdrawals, or replacement candidates, the Board shall  
10 establish procedures for qualification, certification, disbursement of Fund revenues, and return  
11 of unspent Fund revenues. Where applicable, the Board shall adopt the provisions of  
12 G.S. 163-278.64A. The Board shall fulfill each of these duties in consultation with the  
13 Advisory Council on the Public Campaign Fund.

14       (d) Report to the Public. – The Advisory Council for the Public Campaign Fund shall  
15 issue a report by March 1, 2013, and every two years thereafter that evaluates and makes  
16 recommendations about the implementation of this Article and the feasibility of expanding its  
17 provisions to include other candidates for State office based on the experience of the Fund and  
18 the experience of similar programs in other states. The Advisory Council shall also evaluate  
19 and make recommendations regarding how to address activities that could undermine the  
20 purpose of this Article, including spending that appears to target candidates receiving money  
21 from the Fund but that does not meet the definition of "independent expenditures."

22       (e) Civil Penalty. – In addition to any other penalties that may be applicable, any  
23 individual, political committee, or other entity that violates any provision of this Article is  
24 subject to a civil penalty of up to ten thousand dollars (\$10,000) per violation or three times the  
25 amount of any financial transactions involved in the violation, whichever is greater. In addition  
26 to any fine, for good cause shown, a candidate found in violation of this Article may be  
27 required to return to the Fund all amounts distributed to the candidate from the Fund. If the  
28 Board makes a determination that a violation of this Article has occurred, the Board shall  
29 calculate and assess the amount of the civil penalty and shall notify the entity that is assessed  
30 the civil penalty of the amount that has been assessed. The Board shall then proceed in the  
31 manner prescribed in G.S. 163-278.34. In determining whether or not a candidate is in violation  
32 of this Article, the Board may consider as a mitigating factor any circumstances out of the  
33 candidate's control.

34 **"§ 163-278.99E. Voter education.**

35       (a) Voter Guide. – The Board shall publish a Voter Guide that explains the functions of  
36 ~~office as defined in G.S. 163-278.96(12) and the laws concerning the election~~ all 10 offices of  
37 the Council of State, the purpose and function of the Fund, and the laws concerning voter  
38 registration. The Board shall distribute the Guide to as many voting-age individuals in the State  
39 as practical, through a mailing to all residences or other means it deems effective. The State  
40 Board of Elections shall maintain a list of the addresses from which mailed Voter Guides are  
41 returned as undeliverable. That list shall be available for public inspection. The distribution  
42 shall occur no more than 28 days nor fewer than seven days before the one-stop voting period  
43 provided in G.S. 163-227.2 for the primary and no more than 28 days nor fewer than seven  
44 days before the one-stop voting period provided in G.S. 163-227.2 for the general election.

45       (b) Candidate Information. – The Voter Guide shall include information concerning all  
46 candidates for ~~office as defined in G.S. 163-278.96(12),~~ all 10 of the offices of the Council of  
47 State, as provided by those candidates according to a format provided to the candidates by the  
48 Board. The Board shall request information for the Guide from each candidate according to the  
49 following format:

- 50           (1) Place of residence.
- 51           (2) Education.

- 1 (3) Occupation.  
2 (4) Employer.  
3 (5) Previous elective offices held.  
4 (6) ~~Endorsements, limited to 50 words.~~ Endorsements. – Concerning  
5 endorsements, the Board shall send to the candidates instructions as follows:  
6 "In order to have an endorsement published, you must provide written  
7 confirmation to the Board from the endorsing person or organization that  
8 you received that person's or organization's endorsement."  
9 (7) ~~Candidate statement, limited to 150 words.~~ Statement. – Concerning that  
10 statement, the Board shall send to the candidates instructions as follows:  
11 "Your statement may include information such as your qualifications, your  
12 endorsements, why you would make a good elected official, what  
13 distinguishes you from your opponent(s), and any other information relevant  
14 to your candidacy. The State Board of Elections will reject any portion of  
15 any statement which it determines contains obscene, profane, or defamatory  
16 language. The candidate shall have three days to resubmit the candidate  
17 statement if the Board rejects a portion of the statement."

18 The entire entry for a candidate shall be limited to 250 words.

19 (c) Disclaimer. – The Voter Guide shall contain the following statement: "Statements  
20 by candidates do not express or reflect the opinions of the State Board of Elections."

21 (d) Relationship to the Judicial Voter Guide. – ~~The Board may~~ Whenever possible, the  
22 Board shall publish the Voter Guide in conjunction with the Judicial Voter Guide described in  
23 G.S. 163-278.69."

24 **SECTION 2.(b)** Notwithstanding the provisions of G.S. 163-278.97, for the period  
25 January 1, 2011, through December 31, 2012, two dollars and fifty cents (\$2.50) of each  
26 three-dollar (\$3.00) allocation under G.S. 105-159.2 shall be transferred on a monthly basis to  
27 the North Carolina Voter-Owned Election Fund for distribution under Article 22J of Chapter  
28 163 of the General Statutes in the 2012 election.

29 **SECTION 2.(c)** The State Board of Elections shall make the determination of  
30 available funds required by G.S. 163-278.99(b), as enacted by this section, on October 1, 2010,  
31 or within 30 days of receiving preclearance under Section 5 of the Voting Rights Act of 1965,  
32 whichever date occurs first.

33 **SECTION 3.** This act is effective when it becomes law.