

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**HOUSE BILL 238\***

Short Title: Public Confidence in Elections. (Public)

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Sponsors: Representatives Insko, Preston (Primary Sponsors); B. Allen, Coleman, Farmer-Butterfield, Fisher, Glazier, Hackney, Harrison, Jones, Lucas, Luebke, Martin, Parmon, Ross, Underhill, Wainwright, Warren, Weiss, and Womble.

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Referred to: Election Law and Campaign Finance Reform.

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February 16, 2005

A BILL TO BE ENTITLED

1 AN ACT TO RESTORE PUBLIC CONFIDENCE IN THE ELECTION PROCESS BY  
2 REQUIRING THAT ALL VOTING SYSTEMS PERMIT ALL VOTERS TO  
3 VERIFY THEIR VOTES ON PAPER; BY PROVIDING STATUTORY  
4 GUIDANCE AS TO COUNTING; BY PROVIDING CHECKS ON ELECTRONIC  
5 VOTING SYSTEM VENDORS, INCLUDING MULTIPARTY REVIEW OF  
6 SOURCE CODE, BY AUTHORIZING THE STATE BOARD OF ELECTIONS TO  
7 PROMOTE UNIFORMITY IN VOTING SYSTEMS BY STANDARDIZING  
8 PURCHASING OF VOTING SYSTEMS IN NORTH CAROLINA, BY  
9 EMPOWERING THE STATE BOARD OF ELECTIONS TO CONTROL THE  
10 TESTING AND SUPPORT OF VOTING SYSTEMS; BY REQUIRING  
11 POSTELECTION TESTING OF VOTING SYSTEMS, INCLUDING A PAPER  
12 SAMPLE-COUNT; BY EXPANDING THE RIGHT TO A HAND-TO-EYE  
13 RECOUNT OF PAPER BALLOTS; BY APPROPRIATING STATE FUNDS FOR  
14 VOTING SYSTEM ACQUISITION TO PREVENT IMPOSING UNFUNDED  
15 MANDATES UPON COUNTIES; AND BY APPROPRIATING FUNDS TO THE  
16 STATE BOARD OF ELECTIONS TO IMPLEMENT ITS EXPANDED DUTIES  
17 WITH REGARD TO VOTING SYSTEMS.  
18

19 The General Assembly of North Carolina enacts:

20 **SECTION 1.** Effective January 1, 2006, Article 14A of Chapter 163 of the  
21 General Statutes is amended by adding a new section to read:

22 **"§ 163-165.9B. Voting systems: permitted voting systems; paper ballot required;**  
23 **counting.**

24 (a) Permitted Voting Systems. – The State allows three voting systems: (i) paper  
25 ballots; (ii) optical scan; and (iii) direct record electronic (DRE). Paper ballots are  
26 inherent to paper ballots and optical scan voting systems. In order to provide a paper

1 ballot in a DRE, each DRE shall generate a paper ballot which can be verified by the  
2 voter before the vote is cast.

3 (b) Counting on Voting Systems. – In counties that use optical scan or DRE  
4 voting systems, subject to the sample counts under G.S. 163-182.1 and G.S. 163-182.2,  
5 and of a hand-to-eye recount under G.S. 163-182.7 and G.S. 163-182.7A, a board of  
6 elections shall rely in its canvass on the mechanical or electronic count of the vote  
7 rather than the full hand-to-eye recount of the paper ballots. In the event of a  
8 discrepancy between the electronic or mechanical count and a hand-to-eye count, the  
9 hand-to-eye count shall control, except where it is reasonable to conclude that the  
10 hand-to-eye count for whatever reason is not the true count."

11 **SECTION 2.(a)** Part 2 of Article 14A of Chapter 163 of the General Statutes  
12 is amended by adding a new section to read:

13 **"§ 163-165.9A. Voting systems: requirements for voting systems vendors; penalties.**

14 (a) Duties of Vendor. – Every vendor that has a contract to provide a voting  
15 system in North Carolina shall do all of the following:

16 (1) The vendor shall place in escrow with an independent escrow agent  
17 approved by the State Board of Elections a copy of all source code  
18 relevant to the recording or counting of votes and related  
19 documentation, together with updates as they become known or  
20 available. The documentation shall include a system configuration and  
21 a sworn affidavit that the source code includes all relevant program  
22 statements in low-level and high-level languages. As used in this  
23 section, 'source code' does not include variable codes created for  
24 specific elections.

25 (2) The vendor shall notify the State Board of Elections of any change in  
26 source code or any change in the foundation operating system.

27 (3) The vendor shall make accessible for review all source code relevant  
28 to the recording or counting of votes by the State Board of Elections;  
29 the Office of Information Technology Services; the State chairs, or one  
30 designee of each chair, of each political party recognized under  
31 G.S. 163-96; and the purchasing county board of elections.

32 (4) The chief executive officer of the vendor shall sign a sworn affidavit  
33 that the source code in escrow is the same being used in its voting  
34 systems in this State. The chief executive officer shall ensure that the  
35 statement is true on a continuing basis.

36 (5) The vendor shall notify the State Board of Elections and the county  
37 board of elections of any county using its voting system of any defect  
38 in the same system known to have occurred anywhere.

39 (6) The vendor shall maintain an office in North Carolina with staff to  
40 service the contract.

41 (b) Penalties. – Willful and fraudulent violation of any of the duties in subsection  
42 (a) of this section is a Class I felony. Substitution of source code into an operating  
43 voting system without notification as provided by subdivision (a)(2) of this section is a

1 Class I felony. In addition to any other applicable penalties, violations of this section are  
2 subject to a civil penalty of up to {Insert dollar amount} dollars (\$) per violation."

3 **SECTION 2.(b)** This section applies with respect to any county that  
4 upgrades a voting system or acquires a new voting system on or after July 1, 2005.

5 **SECTION 3.(a)** Effective July 1, 2005, and applicable with respect to all  
6 voting systems upgraded or acquired on or after that date, G.S. 163-165.7 reads as  
7 rewritten:

8 **"§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

9 (a) Certification of Voting Systems. – The State Board of Elections shall have  
10 authority to approve types, makes, and models of voting systems for use in elections and  
11 referenda held in this State. Only voting systems that have been approved certified by  
12 the State Board of Elections shall be used to conduct elections under this Chapter, and  
13 the approved certified voting systems shall be valid in any election or referendum held  
14 in any county or municipality. The State Board may, upon request of a local board of  
15 elections, authorize the use of a voting system not approved for general use. The use of  
16 paper ballots counted by hand is a certified voting system. The State Board shall certify  
17 additional voting systems through the use of a request for proposal process. In  
18 consultation with the Office of Information Technology Services, the State Board of  
19 Elections shall develop the requests for proposal subject to the provisions of this  
20 Chapter and other applicable State laws. The request for proposal shall require at least  
21 all of the following:

- 22 (1) That the vendor must post a bond or letter of credit to cover damages  
23 resulting from defects in the voting. Damages include the cost of a new  
24 election.
- 25 (2) That the voting system comply with all federal requirements for voting  
26 systems.
- 27 (3) That the voting system have the capacity to include in precinct returns  
28 the votes cast by voters outside of the voter's precinct.
- 29 (4) For all voting systems utilizing electronic means, accessibility to  
30 review all source code relevant to the recording or counting of votes  
31 by the State Board of Elections; the Office of Information Technology  
32 Services; the State chairs, or one designee of each chair, of each  
33 political party recognized under G.S. 163-96; and the purchasing  
34 county board of elections.
- 35 (5) That the vendor state a statewide uniform price for each unit of the  
36 equipment.

37 The State Board shall have as its goal in its request for proposals and its negotiations  
38 with vendors the eventual establishment of a uniformity of features within type  
39 throughout the State such that each optical scan voting system shall have substantially  
40 identical features to all other optical scan voting systems, and each direct record  
41 electronic voting system shall have substantially identical features to all other direct  
42 record electronic systems. A uniformity of features within type does not necessarily  
43 mean there will be only one vendor per type.

1       (b) Decertification of Voting Systems. – The State Board may also, upon notice  
2 and hearing, disapprove types, makes, and models of voting systems. Upon  
3 disapproving a type, make, or model of voting system, the State Board shall determine  
4 the process by which the disapproved system is discontinued in any county. ~~If a county~~  
5 ~~makes a showing that discontinuance would impose a financial hardship upon it, the~~  
6 ~~county shall be given up to four years from the time of State Board disapproval to~~  
7 ~~replace the system.~~ A county may appeal a decision by the State Board concerning  
8 discontinuance of a voting system ~~to the superior court in that county or to the Superior~~  
9 ~~Court of Wake County.~~ The county has 30 days from the time of the State Board's  
10 decision on discontinuance to make that appeal.

11       (c) Monitoring Duties of the State Board. – The State Board of Elections shall  
12 review, or designate an independent expert to review, all source code escrowed by  
13 vendors pursuant to G.S. 163-165.9A, and shall publish or otherwise make available its  
14 findings in accordance with Chapter 132 of the General Statutes. The State Board shall  
15 facilitate the review of the escrowed source code by the other entities provided for in  
16 G.S. 163-165.9A(a)(3). All source code made available for review pursuant to the  
17 provisions of this Chapter shall be deemed a trade secret of the vendor, and any person  
18 responsible for the misuse or unauthorized release of the source code shall be subject to  
19 the provisions of G.S. 14-75.1 and Article 24 of Chapter 66 of the General Statutes. The  
20 State Board shall monitor vendor compliance with all contractual agreements and with  
21 all provisions of G.S. 163-165.9A.

22       (d) Rules. – Subject to the provisions of this Chapter, the State Board of  
23 Elections shall prescribe rules for the adoption, handling, operation, and honest use of  
24 certified voting systems, including, but not limited to, the following:

- 25           (1) Procedures for county boards of elections to utilize when  
26 recommending the purchase of a Types, makes, and models of  
27 certified voting systems approved system for use in this State that  
28 county.  
29           (2) Form of official ballot labels to be used on voting systems.  
30           (3) Operation and manner of voting on voting systems. The rules shall  
31 comply with G.S. 163-165.9B.  
32           (4) Instruction of precinct officials in the use of voting systems.  
33           (5) Instruction of voters in the use of voting systems.  
34           (6) Assistance to voters using voting systems.  
35           (7) Duties of custodians of voting systems.  
36           (8) Examination and testing of voting systems before and after use in an  
37 election.

38       Any rules adopted under this section shall be in conjunction with procedures and  
39 standards adopted under G.S. 163-182.1, are exempt from Chapter 150B of the General  
40 Statutes, and are subject to the same procedures for notice and publication set forth in  
41 G.S. 163-182.1.

42       (e) Training and Support of Voting Systems. – The State Board of Elections,  
43 with the assistance of other State agencies, shall provide training and support of the

1 certified voting systems, so that no county board of elections must rely on a vendor for  
2 primary support."

3 **SECTION 3.(b)** Section 11 of S.L. 2003-226, which would have made  
4 amendment to G.S. 163-165.7 effective January 1, 2006, is repealed.

5 **SECTION 3.(c)** In order to carry forward the first of two amendments that  
6 would have been made by Section 11 of S.L. 2003-226 to the old version of  
7 G.S. 163-165.7, effective January 1, 2006, G.S. 163-165.7 as rewritten by subsection (a)  
8 of this section is amended by adding the following new subsection:

9 "(a1) Federal Assistance. – The State Board may use guidelines, information,  
10 testing reports, certification, decertification, recertification, and any relevant data  
11 produced by the Election Assistance Commission, its Standards Board, its Board of  
12 Advisors, or the Technical Guidelines Development Committee as established in Title II  
13 of the Help America Vote Act of 2002 with regard to any action or investigation the  
14 State Board may take concerning a voting system. The State Board may use, for the  
15 purposes of voting system certification, laboratories accredited by the Election  
16 Assistance Commission under the provisions of section 231(2) of the Help America  
17 Vote Act of 2002."

18 **SECTION 3.(d)** In order to carry forward the second of two amendments  
19 that would have been made by Section 11 of S.L. 2003-226 to the old version of  
20 G.S. 163-165.7, effective January 1, 2006, G.S. 163-165.7(d) as rewritten by subsection  
21 (a) of this section is amended by adding the following new subdivision:

22 "(9) Compliance with section 301 of the Help America Vote Act of 2002."

23 **SECTION 3.(e)** G.S. 163-132.5G reads as rewritten:

24 "**§ 163-132.5G. Voting data maintained by precinct.**

25 To the extent that it can do so without compromising the secrecy of an individual's  
26 ballot, each county board of elections shall maintain voting data by precinct so that  
27 precinct returns for each item on the ballot shall include the votes cast by residents of  
28 the precinct who voted by absentee ballot, both mail and one-stop. The county board  
29 shall not be required to report absentee voting data by precinct until 60 days after the  
30 election. The State Board of Elections shall adopt rules for the enforcement of this  
31 section with the goal that all voting data shall be reported by precinct by the ~~2006~~ 2008  
32 election. Those rules shall provide for exemptions where the expense of compliance  
33 would place a financial hardship on a ~~county~~ county and shall provide an exemption if  
34 the current voting system cannot be programmed to provide such information, but any  
35 new voting system acquired after July 1, 2005, must have the ability to provide such  
36 information. Those rules shall provide for compliance by 2004 for counties the State  
37 Board determines are capable of complying by that year."

38 **SECTION 4.** Effective July 1, 2005, G.S. 163-165.8 reads as rewritten:

39 "**§ 163-165.8. Voting systems: powers and duties of board of county**  
40 **commissioners.**

41 The board of county commissioners, with the approval of the county board of  
42 elections, may adopt and purchase or lease for reimbursement by the State only a voting  
43 system of a type, make, and model ~~approved~~ certified by the State Board of Elections  
44 for use in some or all voting places in the county at some or all elections.

1 The board of county commissioners may decline to adopt and purchase or lease any  
2 voting system recommended by the county board of elections but may not adopt and  
3 purchase or lease any voting system that has not been approved by the county board of  
4 elections. Article 8 of Chapter 143 of the General Statutes does not apply to county  
5 boards of commissioners purchasing voting systems certified by the State Board of  
6 Elections."

7 **SECTION 5.** Effective July 1, 2005, G.S. 163-165.9 reads as rewritten:

8 "**§ 163-165.9. Voting systems: powers and duties of county board of elections.**

9 Before approving the adoption and purchase or lease of any voting system by the  
10 board of county commissioners, the county board of elections shall do all of the  
11 following:

- 12 (1) ~~Obtain a current financial statement from the proposed vendor or~~  
13 ~~lessor of the voting system and send copies of the statement to the~~  
14 ~~county attorney and the chief county financial officer.~~Recommend to  
15 the board of county commissioners which type of voting system  
16 should be acquired by the county.
- 17 (2) Witness a demonstration, in that county or at a site designated by the  
18 State Board of Elections, of the type of voting system to be  
19 recommended by the proposed vendor or lessor and also witness a  
20 demonstration of at least one other type of voting system ~~approved~~  
21 certified by the State Board of Elections.
- 22 (3) Test, during an election, the proposed voting system in at least one  
23 precinct in the county where the voting system would be used if  
24 adopted."

25 **SECTION 6.(a)** G.S. 163-182.1(b) reads as rewritten:

26 "(b) Procedures and Standards. – The State Board of Elections shall adopt uniform  
27 and nondiscriminatory procedures and standards for voting systems. The standards shall  
28 define what constitutes a vote and what will be counted as a vote for each category of  
29 voting system used in the State. The State Board shall adopt those procedures and  
30 standards at a meeting occurring not earlier than 15 days after the State Board gives  
31 notice of the meeting. The procedures and standards adopted shall apply to all elections  
32 occurring in the State and shall be subject to amendment or repeal by the State Board  
33 acting at any meeting where notice that the action has been proposed has been given at  
34 least 15 days before the meeting. These procedures and standards shall not be  
35 considered to be rules subject to Article 2A of Chapter 150B of the General Statutes.  
36 However, the State Board shall publish in the North Carolina Register the procedures  
37 and standards and any changes to them after adoption, with that publication noted as  
38 information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those  
39 procedures and standards shall be made available to the public upon request or  
40 otherwise by the State Board. For optical scan and direct record electronic voting  
41 systems, and for any other voting systems in which ballots are counted other than on  
42 paper by hand and eye, those procedures and standards shall do both of the following:

- 43 (1) Provide for a sample hand-to-eye count of the paper official ballots of  
44 a sampling of statewide ballot items in every county, always including

1           the presidential ballot item. The sample chosen by the State Board  
2           shall be of full precincts, full counts of absentee ballots, and full  
3           counts of one-stop early voting sites. The size of the sample of each  
4           category shall be chosen to produce a statistically significant result and  
5           shall be chosen after consultation with a statistician. The actual units  
6           shall be chosen at random. In the event of a discrepancy between the  
7           electronic or mechanical count and a hand-to-eye count, the  
8           hand-to-eye count shall control, except where it is reasonable to  
9           conclude that the hand-to-eye count for whatever reason is not the true  
10           count. If the discrepancy between the hand-to-eye count and the  
11           mechanical or electronic count is significant, a complete hand-to-eye  
12           count shall be conducted.

13           (2) ~~provide~~ Provide that if the voter selects votes for more than the  
14           number of candidates to be elected or proposals to be approved in a  
15           ballot item, the voting system shall do all the following:

16           (1)a. Notify the voter that the voter has selected more than the correct  
17           number of candidates or proposals in the ballot item.

18           (2)b. Notify the voter before the vote is accepted and counted of the  
19           effect of casting overvotes in the ballot item.

20           (3)c. Provide the voter with the opportunity to correct the official  
21           ballot before it is accepted and counted."

22           **SECTION 6.(b)** G.S. 163-182.2 reads as rewritten:

23           "**§ 163-182.2. Initial counting of official ballots.**

24           (a) The initial counting of official ballots shall be conducted according to the  
25           following principles:

26           (1) Vote counting at the precinct shall occur immediately after the polls  
27           close and shall be continuous until completed.

28           (2) Vote counting at the precinct shall be conducted with the participation  
29           of precinct officials of all political parties then present. Vote counting  
30           at the county board of elections shall be conducted in the presence or  
31           under the supervision of board members of all political parties then  
32           present.

33           (3) Any member of the public wishing to witness the vote count at any  
34           level shall be allowed to do so. No witness shall interfere with the  
35           orderly counting of the official ballots. Witnesses shall not participate  
36           in the official counting of official ballots.

37           (4) Provisional official ballots shall be counted by the county board of  
38           elections before the canvass. If the county board finds that an  
39           individual voting a provisional official ballot is not eligible to vote in  
40           one or more ballot items on the official ballot, the board shall not  
41           count the official ballot in those ballot items, but shall count the  
42           official ballot in any ballot items for which the individual is eligible to  
43           vote.

1 (5) Precinct officials shall provide a preliminary report of the vote  
2 counting to the county board of elections as quickly as possible. The  
3 preliminary report shall be unofficial and has no binding effect upon  
4 the official county canvass to follow.

5 (b) The State Board of Elections shall promulgate rules for the initial counting of  
6 official ballots. All election officials shall be governed by those rules. In promulgating  
7 those rules, the State Board shall adhere to the following guidelines:

8 (1) For each voting system used, the rules shall specify the role of precinct  
9 officials and of the county board of elections in the initial counting of  
10 official ballots.

11 (1a) For optical scan and direct record electronic voting systems, and for  
12 any other voting systems in which ballots are counted other than on  
13 paper by hand and eye, those rules shall provide for a sample  
14 hand-to-eye count of the paper official ballots of a sampling of  
15 statewide ballot items in every county, always including the  
16 presidential ballot item. The sample chosen by the State Board shall be  
17 of full precincts, full counts of absentee ballots, and full counts of  
18 one-stop early voting sites. The size of the sample of each category  
19 shall be chosen to produce a statistically significant result and shall be  
20 chosen after consultation with a statistician. The actual units shall be  
21 chosen at random. In the event of a discrepancy between the electronic  
22 or mechanical count and a hand-to-eye count, the hand-to-eye count  
23 shall control, except where it is reasonable to conclude that the  
24 hand-to-eye count for whatever reason is not the true count. If the  
25 discrepancy between the hand-to-eye count and the mechanical or  
26 electronic count is significant, a complete hand-to-eye count shall be  
27 conducted.

28 (2) The rules shall provide for accurate unofficial reporting of the results  
29 from the precinct to the county board of elections with reasonable  
30 speed on the night of the election.

31 (3) The rules shall provide for the prompt and secure transmission of  
32 official ballots from the voting place to the county board of elections.

33 The State Board shall direct the county boards of elections in the application of the  
34 principles and rules in individual circumstances."

35 **SECTION 6.(c)** G.S. 163-182.5 reads as rewritten:

36 "**§ 163-182.5. Canvassing votes.**

37 (a) The Canvass. – As used in this Article, the term "canvass" means the entire  
38 process of determining that the votes have been counted and tabulated correctly,  
39 culminating in the authentication of the official election results. The board of elections  
40 conducting a canvass has authority to send for papers and persons and to examine them  
41 and pass upon the legality of disputed ballots.

42 (b) Canvassing by County Board of Elections. – The county board of elections  
43 shall meet at 11:00 A.M. on the seventh day after every election to complete the canvass  
44 of votes cast and to authenticate the count in every ballot item in the county by



1 determining that the votes have been counted and tabulated correctly. If, despite due  
2 diligence by election officials, the initial counting of all the votes has not been  
3 completed by that time, the county board may hold the canvass meeting a reasonable  
4 time thereafter. The canvass meeting shall be at the county board of elections office,  
5 unless the county board, by unanimous vote of all its members, designates another site  
6 within the county. The county board shall examine the returns from precincts, from  
7 absentee official ballots, from the sample hand-to-eye paper ballot counts, and from  
8 provisional official ballots and shall conduct the canvass.

9 (c) Canvassing by State Board of Elections. – After each general election, the  
10 State Board of Elections shall meet at 11:00 A.M. on the Tuesday three weeks after  
11 election day to complete the canvass of votes cast in all ballot items within the  
12 jurisdiction of the State Board of Elections and to authenticate the count in every ballot  
13 item in the county by determining that the votes have been counted and tabulated  
14 correctly. After each primary, the State Board shall fix the date of its canvass meeting.  
15 If, by the time of its scheduled canvass meeting, the State Board has not received the  
16 county canvasses, the State Board may adjourn for not more than 10 days to secure the  
17 missing abstracts. In obtaining them, the State Board is authorized to secure the  
18 originals or copies from the appropriate clerks of superior court or county boards of  
19 elections, at the expense of the counties."

20 **SECTION 6.(d)** This section becomes effective January 1, 2006.

21 **SECTION 7.(a)** G.S. 163-182.7 reads as rewritten:

22 **"§ 163-182.7. Ordering recounts.**

23 (a) Discretionary Recounts. – The county board of elections or the State Board of  
24 Elections may order a recount when necessary to complete the canvass in an election.  
25 The county board may not order a recount where the State Board of Elections has  
26 already denied a recount to the petitioner.

27 (b) Mandatory Recounts for Ballot Items Within the Jurisdiction of the County  
28 Board of Elections. – In a ballot item within the jurisdiction of the county board of  
29 elections, a candidate shall have the right to demand a recount of the votes if the  
30 difference between the votes for that candidate and the votes for a prevailing candidate  
31 is not more than one percent (1%) of the total votes cast in the ballot item, or in the case  
32 of a multiseat ballot item not more than one percent (1%) of the votes cast for those two  
33 candidates. The demand for a recount must be made in writing and must be received by  
34 the county board of elections by 5:00 P.M. on the first day after the canvass. The  
35 recount shall be conducted under the supervision of the county board of elections.

36 (c) Mandatory Recounts for Ballot Items Within the Jurisdiction of the State  
37 Board of Elections. – In a ballot item within the jurisdiction of the State Board of  
38 Elections, a candidate shall have the right to demand a recount of the votes if the  
39 difference between the votes for that candidate and the votes for a prevailing candidate  
40 are not more than the following:

- 41 (1) For a nonstatewide ballot item, one percent (1%) of the total votes cast  
42 in the ballot item, or in the case of a multiseat ballot item, one percent  
43 (1%) of the votes cast for those two candidates.

- 1           (2) For a statewide ballot item, one-half of one percent (0.5%) of the votes  
2           cast in the ballot item, ~~or in the case of a multiseat ballot item, one-half~~  
3           ~~of one percent (0.5%) of the votes cast for those two candidates, or~~  
4           10,000 votes, whichever is less.

5           The demand for a recount must be in writing and must be received by the State Board of  
6           Elections by noon on the second Thursday after the election. If on that Thursday the  
7           available returns show a candidate not entitled to a mandatory recount, but the  
8           Executive Director determines subsequently that the margin is within the threshold set  
9           out in this subsection, the Executive Director shall notify the eligible candidate  
10          immediately and that candidate shall be entitled to a recount if that candidate so  
11          demands within 48 hours of notice. The recount shall be conducted under the  
12          supervision of the State Board of Elections.

13          (d) Rules for Conducting Recounts. – The State Board of Elections shall  
14          promulgate rules for conducting recounts. Those rules shall be subject to the following  
15          guidelines:

16               (1) The rules shall specify, with respect to each type of voting system,  
17               when and to what extent the recount shall consist of machine recounts and hand-to-eye  
18               recounts. Hand-to-eye recounts shall also be ordered as provided by G.S. 163-182.7A.

19               (2) The rules shall provide guidance in interpretation of the voter's choice.

20               (3) The rules shall specify how the goals of multipartisan participation,  
21               opportunity for public observation, and good order shall be balanced."

22          **SECTION 7.(b)** Article 15A of Chapter 163 of the General Statutes is  
23          amended by adding a new section to read:

24          "**§ 163-182.7A. Additional provisions for hand-to-eye recounts.**

25               (a) The rules promulgated by the State Board of Elections for recounts shall  
26               provide that if the initial recount is not hand-to-eye, and if the recount does not reverse  
27               the results, the candidate who had originally been entitled to a recount may, within 24  
28               hours of the completion of the first recount, demand a second recount on a hand-to-eye  
29               basis in a sample of precincts. If the initial recount was not hand-to-eye and it reversed  
30               the results, the candidate who had initially been the winner shall have the same right to  
31               ask for a hand-to-eye recount in a sample of precincts.

32               That sample shall be all the ballots in three percent (3%) of the precincts casting  
33               ballots in each county in the jurisdiction of the office, rounded up to the next whole  
34               number of precincts. For the purpose of that calculation, each one-stop (early) voting  
35               site and the mail-in absentee ballots shall be considered to be a precinct. The precincts  
36               to be recounted by a hand-to-eye count shall be chosen at random within each county. If  
37               the results of the hand-to-eye recount differ from the previous results within those  
38               precincts to the extent that extrapolating the amount of the change to the entire  
39               jurisdiction (based on the proportion of ballots recounted to the total votes cast for that  
40               office) would result in the reversing of the results, then the State Board of Elections  
41               shall order a hand-to-eye recount of the entire jurisdiction in which the election is held.  
42               There shall be no cost to the candidate for that recount in the entire jurisdiction.

43               (b) Recounts under this section shall be governed by rules adopted under  
44               G.S. 163-182.7(d).

1 (c) No complete hand-to-eye recount shall be conducted under this section if one  
2 has already been done under another provision of law."

3 **SECTION 7.(c)** This section becomes effective January 1, 2006.

4 **SECTION 8.** To meet the goals of uniformity and equity, and to avoid  
5 placing unfunded mandates upon the counties, there is appropriated from the General  
6 Fund to the State Board of Elections the sum of for the 2005-2006 fiscal year  
7 and the sum of for the 2006-2007 fiscal year (minus Help America Vote Act funds  
8 available for the same purpose) for the purpose of reimbursing counties for the lesser of  
9 the following expenses:

10 (1) Upgrading an existing direct record electronic system used in that  
11 county to comply with this act (if it is possible to upgrade).

12 (2) Acquiring a direct record electronic system (DRE) that complies with  
13 this act.

14 (3) Acquiring an optical-scan system that complies with this act.

15 **SECTION 9.** There is appropriated from the General Fund to the State  
16 Board of Elections the sum of for the 2005-2006 fiscal year and the sum of  
17 for the 2006-2007 fiscal year for the purpose of meeting its expanded duties under  
18 this act with regard to voting systems.

19 **SECTION 9.1.** There will be appropriated from the General Fund to the  
20 State Board of Elections an appropriate sum in the 2005-2006 fiscal year and the  
21 2006-2007 fiscal year for the purpose of reimbursing counties for costs incurred for  
22 conducting postelection verification or any other hand-eye counting or recounting of  
23 votes.

24 **SECTION 10.** The State Board of Elections shall recommend a model code  
25 of ethics for members and employees of county boards of elections and of the State  
26 Board of Elections. The code shall address the appropriate relations between those  
27 members and staff and vendors who do business or seek to do business with boards of  
28 elections in North Carolina. It shall address how to avoid both the reality and the  
29 appearance of conflicts of interest and impropriety. The State Board shall report its  
30 recommended code to the Joint Select Committee on Electronic Voting Systems no later  
31 than 60 days after this act becomes law.

32 **SECTION 11.** Sections 8 and 9 of this act become effective July 1, 2005.  
33 Except as otherwise provided herein, the remainder of this act is effective when it  
34 becomes law.