



STATE BOARD OF ELECTIONS

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Addressed to Committees of the North Carolina General Assembly
House Elections Committee
Appropriations Subcommittee on General Government

March 11, 2013

Dear Committee Members,

The office of the State Board of Elections (SBE) thanks you for the invitation to appear before the House Elections Committee on March 6, and before the Appropriations subcommittee on March 7, 2013. Both Committees have requested some additional information or follow-up beyond our in-person presentation. The following information is provided to address those areas.

1. Number of taxpayers who participate in the check-off for the \$3 donation to public funding of elections.

See the attached data provided by the SBE Campaign Finance Division ([Attachment A](#)).

2. What percentage of the 6 million registered voters are inactive?

As of March 2013, 8.5% of North Carolina's registered voters 6,426,732 are in *inactive* status. For more information on *inactive* voters please see [Attachment B](#).

3. Greatest opportunities for voting inaccuracies in the state:

- ***Voters who move and fail to update their voter registration***, including voters who move within North Carolina and voters who move between states. Although North Carolina has a comprehensive list maintenance program, there are voters who move and are no longer qualified to vote in a county, but the county does not receive notification of their move. Although they are no longer qualified, these voters may present in their old precinct or county to vote, or may even request an absentee ballot from their previous county or jurisdiction. Their previous county will have no way of knowing that these voters no longer reside in their county. For more information, please refer to [Attachments B and C](#).

- **Active felons voting:** Although North Carolina law does not allow felons to vote, clarity about when a person is “adjudged guilty” of a felony is needed. SBE recommends action to ensure that persons convicted of felonies are made aware of their loss of voting rights ([Attachment D](#)).
- **Non-citizens voting:** On a limited basis, non-citizens do register to vote and vote. Current procedures to prevent non-citizens registering and voting is included in [Attachment B](#).
- **Double voting:** There are safeguards in place to prevent double-voting within the state (e.g., duplicate checks, marking polling lists with those who have already voted absentee), however double voting does occur on occasion. Generally, most cast of double voting is due to dementia or voter confusion; however, there have been reported cases of voters attempting to “test” the system and by those who purposely committed voter fraud. Since there is no national database of registered voters, it is more difficult to catch voters who vote both in North Carolina and another state. It would be helpful if North Carolina could participate in consortium that would allow us to share voter registration information, including confidential information (e.g., date of birth or last four digits of social security number) with other states.
- **Voting status of persons adjudicated mentally incompetent.** Please see [Attachment E](#).
- **Mail-in absentee voting:** Unique security concerns arise when ballots are cast outside of voting places or the supervision of election officials. In the past, a particular area of concern has been campaigners or advocacy proponents visiting assisted living facilities and prompting residents to request absentee ballots and/or “assisting” the residents in completing absentee ballots. The situation raises concerns because it may be unclear whether the residents are absentee voting by their own free will, and the competency of the resident may be at issue as well. Concerns have been addressed by a current state requirement that assistance to these persons be provided only by either a family or a multipartisan voter assistance team. However, a similar area of concern is campaigners or advocates visiting individual homes of senior citizens and applying pressure on the homeowner to request and cast an absentee ballot.

For more information and statistics regarding instances of possible voter fraud in North Carolina that have been referred to local, state or federal prosecutors, please see [Attachment F](#).

4. **Copy of the legislation proposed by SBOE in the past regarding felons.**

Please see [Attachment D](#).

5. **Savings for limiting early voting and absentee ballots.** Please see [Attachment G](#).

6. **Future real-time interface capability between State Board of Elections software and DMV.**

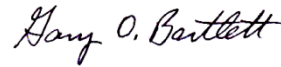
Currently, our Statewide Election Information Management System (SEIMS) has the ability to access DMV data to verify a person’s name, address and birth if the registered voter provides a Driver’s License number. SBE and DMV will cooperatively work on a future enhancement that will allow SBE

to receive information on voter registration applicant's legal status at the time of their ID validation, if the applicant provides a driver license number on their voter registration form. This change cannot be implemented until after the DMV's "next generation" is in production. SBE does not anticipate that there will be any additional costs to the State Board of Elections on this enhancement because the voter registration database system is developed and managed with current staff. The upgrade will take 2-3 months to implement. DMV is aware of the request of the change to their system but we do not have information on their expected costs or timeline at this time. Since the real-time interface is a future enhancement, in the interim, SBE and DMV plan to cross-check the state's database of registered voters against DMV's database monthly.

Along with the above materials, we have included a summary of the state's voting equipment [\(Attachment H\)](#).

The office of the State Board of Elections stands ready to provide any further information required.

Respectfully yours,

A handwritten signature in black ink that reads "Gary O. Bartlett". The signature is written in a cursive, flowing style.

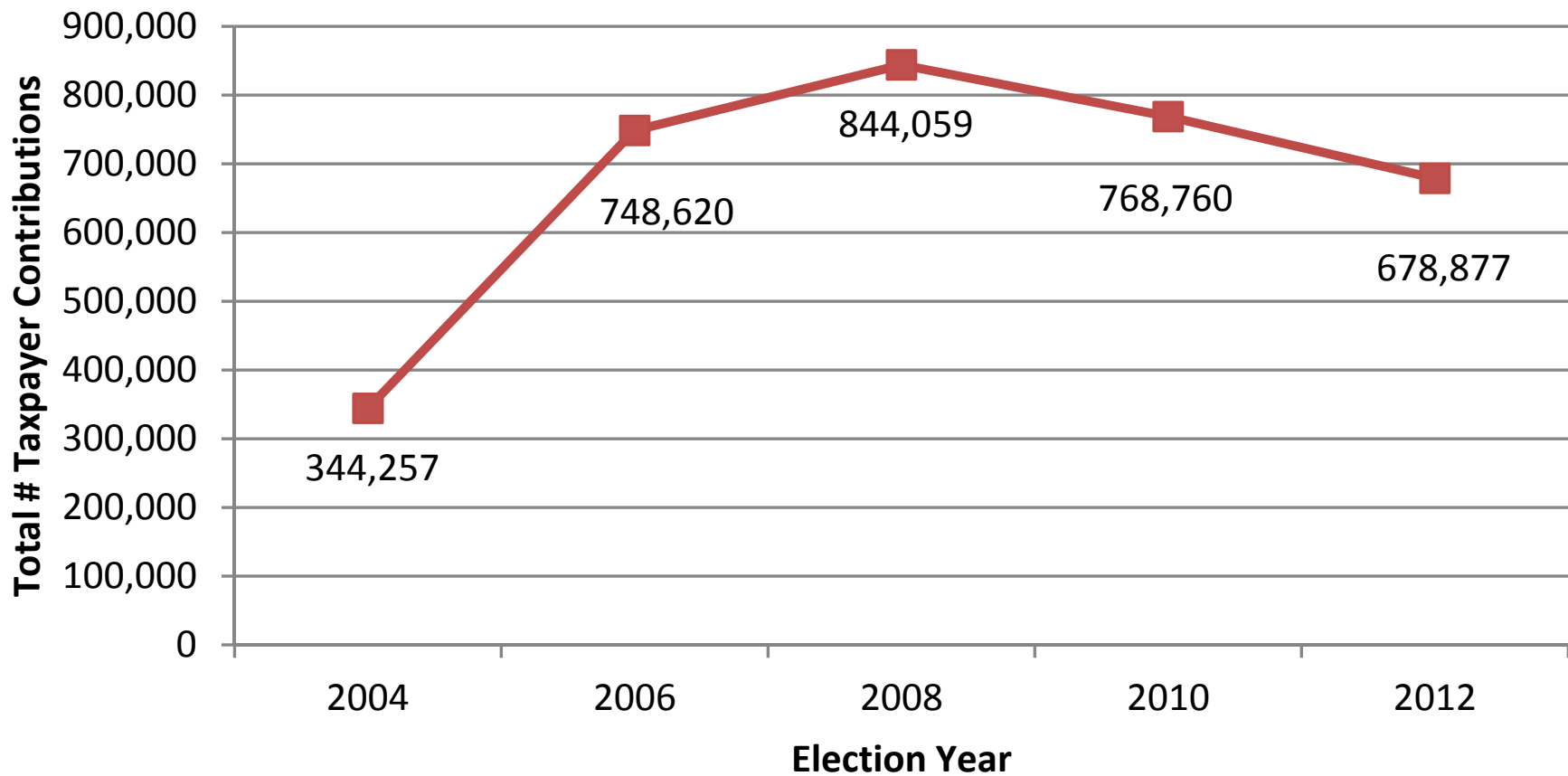
Gary O. Bartlett
Executive Director

Public Funding of Elections Statistics

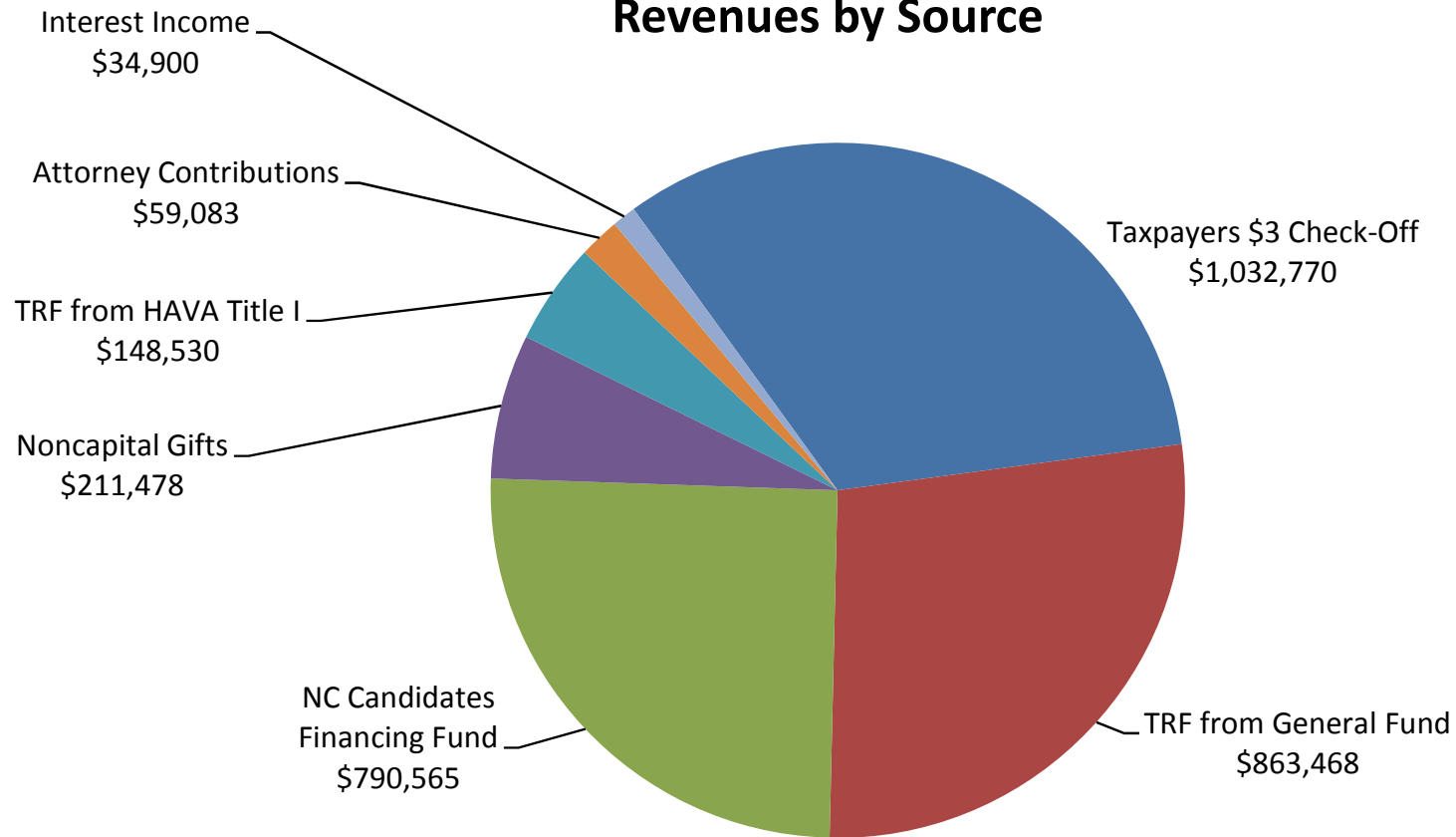
The following pages present statistics regarding the public funding of elections through checkbox options on state income tax forms and attorney license forms. The graphical data is presented by the Campaign Finance Division of the North Carolina State Board of Elections.

NC Public Candidate Financing Fund

Total # Taxpayers

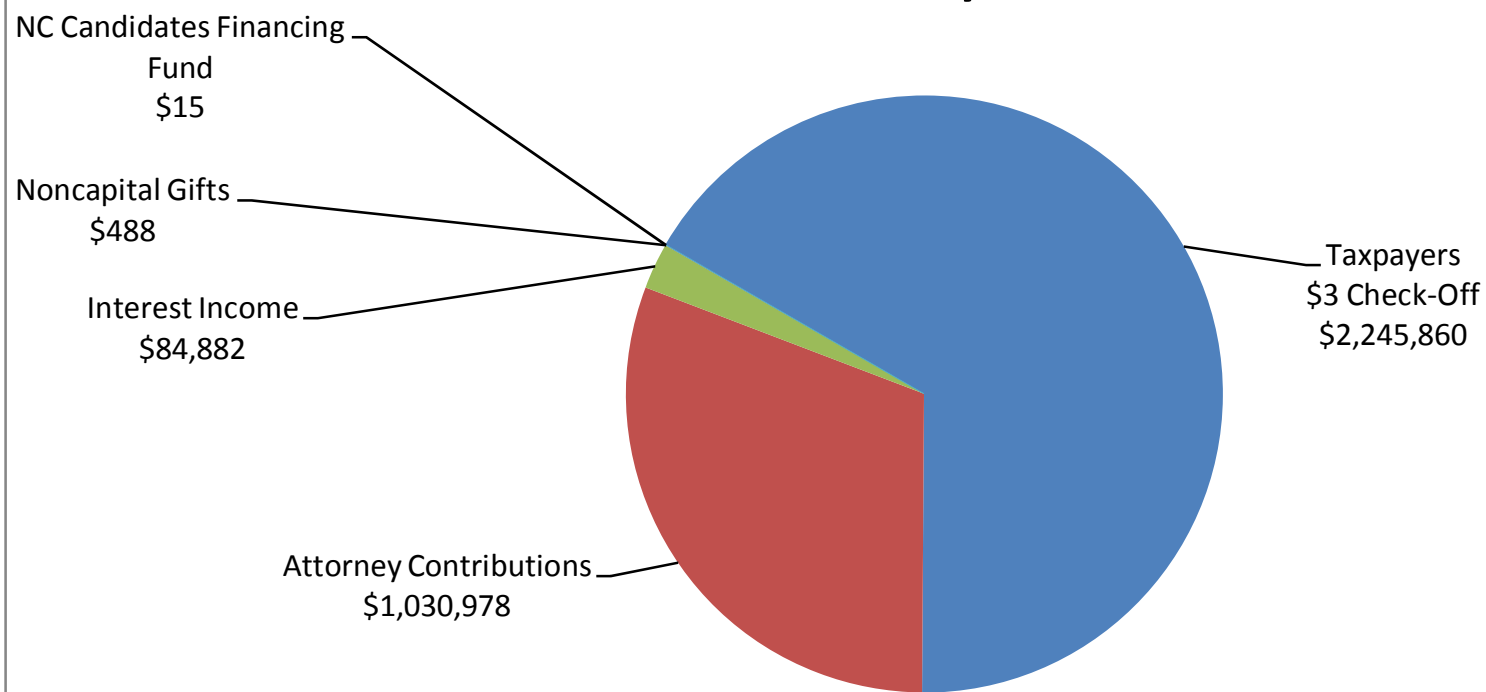


2004 Election NC Public Candidate Financing Fund Revenues by Source



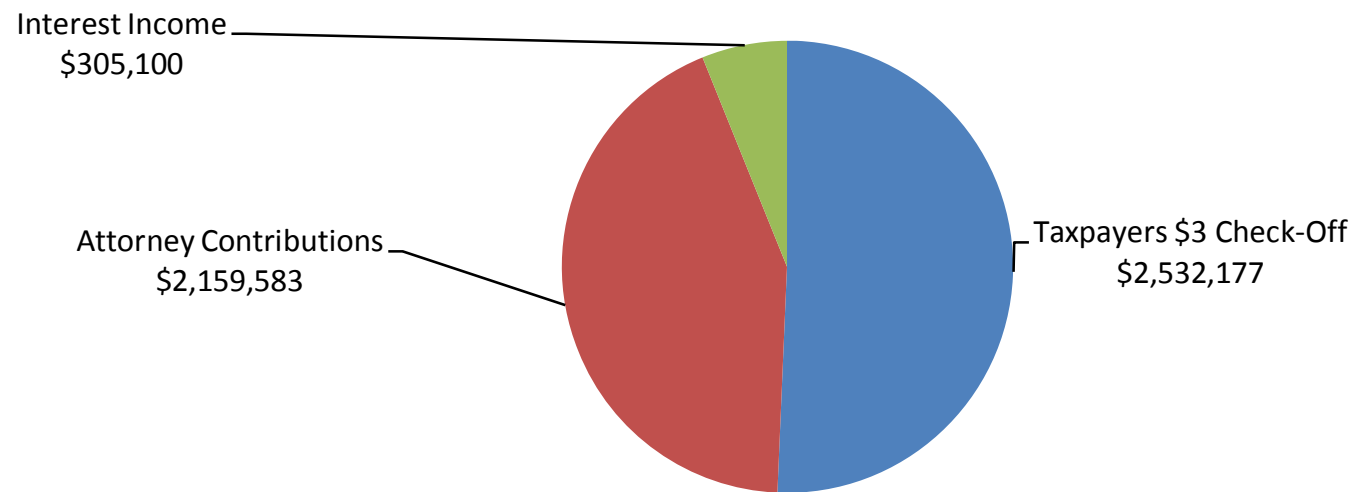
Total # of Taxpayers: 344,257

2006 Election NC Public Candidate Financing Fund Revenues by Source



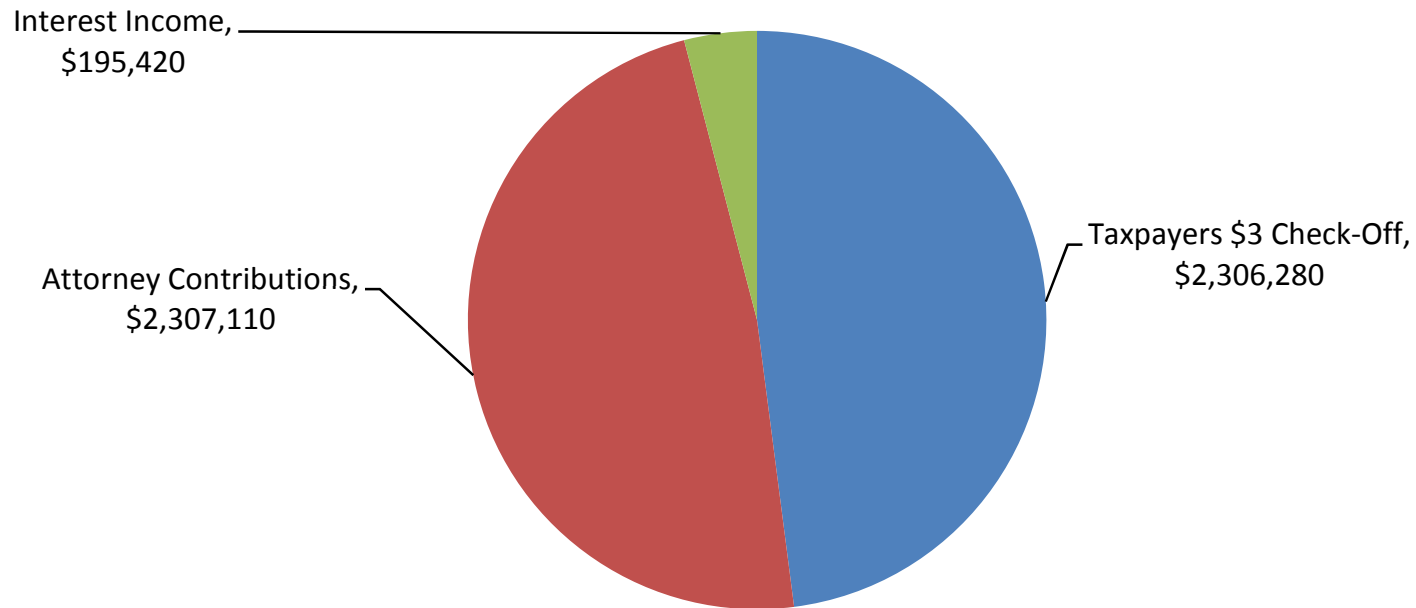
Total # of Taxpayers: 748,620

2008 Election NC Public Candidate Financing Fund Revenues by Source



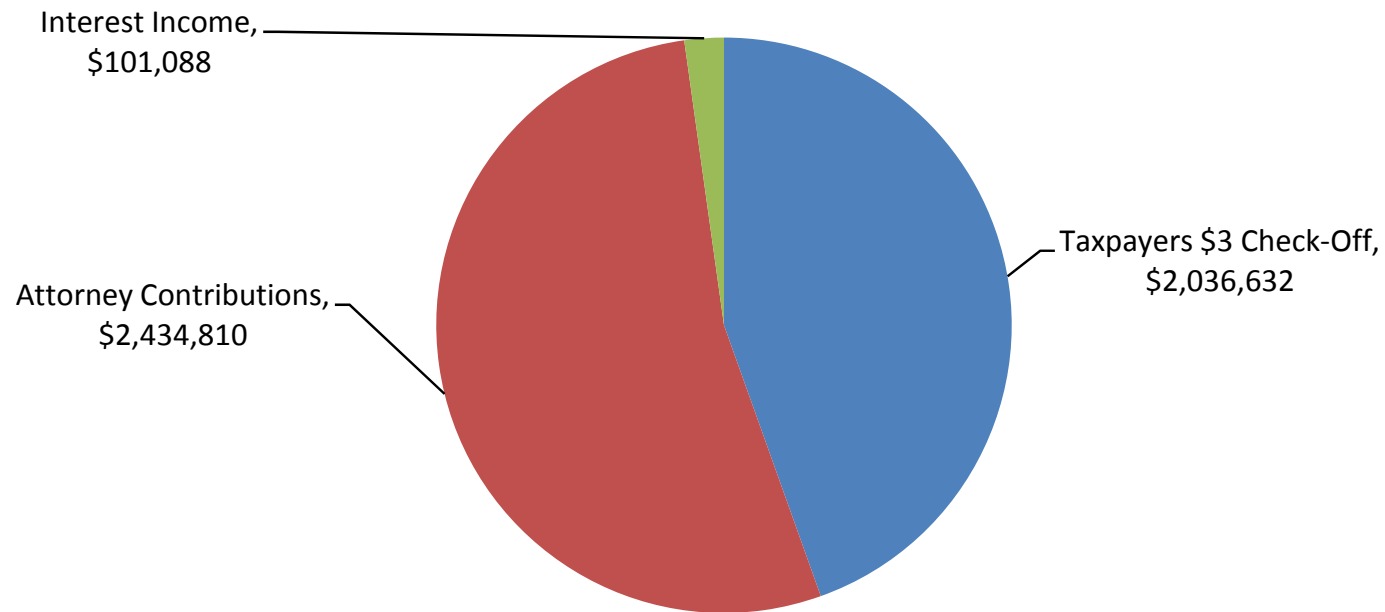
Total # of Taxpayers: 844,059

2010 Election NC Public Candidate Financing Fund Revenues by Source



Total # of Taxpayers: 768,760

2012 Election NC Public Candidate Financing Fund Revenues by Source



Total # of Taxpayers: 678,877

Maintaining the Voter Registration Database in North Carolina

List Maintenance Policy

The State Board of Elections believes that the strongest safeguard to ensure the integrity of North Carolina's elections process is a sound system that ensures that only eligible and qualified voters are on the state's voter rolls. The State Board of Elections, in conjunction with the 100 county boards of elections, has a continuous and systemic voter removal program to maintain county voter registration lists. We are committed to keeping our voter rolls clean and accurate. This *list maintenance* program is strengthened by successful working relationships with the North Carolina Department of Motor Vehicles (NCDMV), the North Carolina Department of Corrections, and the Department of Health and Human Services.

List Maintenance Reports

The chart below shows the number of voter registrations that were removed due to the list maintenance efforts by county boards of elections in recent years.

Table 1: Removals during Two-Year Election Periods

	Felony Conviction	Deceased	Duplicate	Moved Out of Jurisdiction	Biennial No-Contact Mailings	Other ¹
2007-2008	17,732	86,207	22,190	343,157	163,496	13,192
2009-2010	20,857	97,026	25,683	206,168	240,062	2,850
2011-2012	19,424	131,505	26,980	351,461	141,324	9,756

Most removals are due to a voter moving out of a county. As long as the statewide voter registration database can determine an exact match, voters are automatically removed from a county when they register to vote in another county. In addition, county boards will also remove voters from the voter rolls when they receive notices of cancellation from other counties and other states. The biennial list maintenance process also accounts for a significant percentage of voter registration removals. As indicated above, voters are also removed due to death, felony conviction, confirmation of a duplicate registration and for other administrative reasons.

What follows is a detailed summary of North Carolina's comprehensive voter registration list maintenance procedures:

Daily Tasks – Processing Applications and Cancellation Notices

Each business day county boards of elections receive communications from new applicants for voter registration, requests to update or change voter information from existing voters, notices of cancellation from other county or state boards of elections, or documents from voters or government agencies that

¹ Other would include voter challenges, requests from the voter, expiration of temporary registrations of UOCAVA voters, or other administration reasons.

affect the county's voter registration rolls. County boards of elections scan these documents into the statewide voter registration database system and make changes to their voter rolls based on these communications. With this process, voters may be added, removed or voter records in the database may be updated. Once voter information within a county is updated, these changes impact the entire state database of registered voters.

Removals due to Felony Conviction:

The State Board of Elections receives a list of convicted felons once a month from the N.C. Department of Corrections. The list is then processed by the State Board of Elections and made available to the county boards of elections electronically. The list is a potential match list of Department of Corrections felon records against the statewide voter list that the counties must research and verify. In addition, at the end of each quarter, federal felony conviction information is sent to the counties as it is received by this agency from the U.S. Attorneys in the three United States District Courts in this state and occasionally from other U.S. District Courts. Accordingly, counties will then research their voter lists and remove any voter who has been convicted of a federal felony offense. Whether researching state or federal felony convictions, county boards must ensure that they only remove voters for whom they can make an exact match based on name, date of birth or identification information.

Removals due to Death:

The State Board of Elections receives a list of people who have died in the state each month from the North Carolina Department of Health and Human Services (DHHS). The list is then processed by the State Board of Elections and made available to the county board of elections electronically. In providing the list to counties, this agency divides the list by exact and potential matches of voter registration data. County boards have been instructed to exercise due diligence and research both lists to ensure all ineligible voters are removed and no eligible voter is inadvertently disenfranchised. Also, county boards of elections remove deceased voters upon receiving written confirmation of the voter's death from a near relative of the voter. When researching the county's voter list, the county board may not remove a voter unless there is an exact match on the voter's name, date of birth and/or identification information in the database with the deceased records received from DHHS or a near relative.

Duplicate Registrations:

When counties process a voter registration application, the applicant's information is checked first with the voter registration list within the county and then within the state. If the statewide voter registration system determines the applicant is registered in another county, then that voter is removed from the previous county of registration when the person is registered in the new county. In addition, the State Board of Elections runs a monthly report comparing the county voter records with the statewide voter records in an attempt to identify potential duplicate matches. This report is generated and made available to the counties electronically. County boards of elections must research these reports and work with other boards of elections to make a determination of whether an individual is registered in another county, and if so, in which county the voter needs to be removed and in which county the person is qualified to vote.

In addition, within each county's database system, the county is able to merge voters in their database if they find instances of duplicate registration.

Removals based on Lack of Contact with Voters (No-contact Mailings):

Every odd numbered year, county boards send a non-forwardable *no-contact mailing* to those voters from whom the county has not had any contact for two federal election periods. Contact is not just based on whether the voter has voted, but may also be based on whether the voter has shown any activity where they may have confirmed their address in the county (e.g., signing a petition, running for office, serving as a poll worker, or submitting a voter registration form). A successful (the mailing is not returned as undeliverable) *no-contact mailing* also qualifies as a confirmed voter contact. In essence, a *no-contact mailing* is simply the mailing of a verification card—the voter card—to the voter. If a voter card is mailed to a voter and the card is not returned as undeliverable, then the voter's address is verified pursuant to G.S. § 163-82.7 and the voter is deemed an *active* and verified voter.

North Carolina's *no-contact mailing* procedures follow the mandates of the National Voter Registration Act (NVRA) of 1993. The NVRA prevents a state from removing voters from the voting rolls unless the registrant confirms in writing a move outside of the jurisdiction or the registrant has not responded to notice sent on "a postage prepaid and pre-addressed return card, sent by forwardable mail" *and* the registrant has not voted, appeared to vote, or updated his or her address for a period spanning two general elections. Based on the requirements of the NVRA, if the *no-contact mailing* described above *is* returned undeliverable, then the county will send the forwardable confirmation notice to the voter. If the voter does not return this notice with a confirmation of his or her address, or this subsequent mailing is also returned undeliverable, then the voter is made *inactive* in the voter registration list. In accordance with the NVRA, inactive voters are still registered voters and have voting rights. They are inactive only because the county board is currently unable to verify their address. At the time that an inactive voter presents to vote, he or she will need to confirm his or her address in the county. The registrant's vote will count as long as the voter affirms that he or she has maintained continuous residence in the county. After two additional federal election cycles, if the county still has had no contact from an inactive voter, then the voter will be *removed* from the county's voter registration list. This removal process replaced any previous policy of *purging* voters from the voter lists merely based on a voter's failure to vote. Even upon removal, the NVRA requires that any voter removed due to these list maintenance procedures may vote if they affirm that they have not moved out of the county's jurisdiction.

The chart below shows a voter registration snapshot of the statewide number of *inactive* voters as a percentage of total voter registration.

Table 2: Inactive Voters as a Percentage of Total Voter Registration

Date	Inactive	Total VR	Inactive %
2006/10	533,134	5,566,249	9.58%
2008/11	417,277	6,264,733	6.66%
2010/11	450,690	6,200,723	7.27%
2012/11	668,776	6,649,208	10.06%
2013/03	546,353	6,426,732	8.50%

Over time, these *inactive* voters may eventually update their address in the county, or their registration may be cancelled due to death or notification that they have moved out of the county, or in due course, these voters may be removed from the voter list if they remain *inactive* through two general election periods. The charts below show the total number of voters who were *inactive* as of October 2006, November 2008 and November 2010 and their subsequent voter registration status at various times in 2008, 2010, 2012 and 2013:

Table 3: 2006 Inactive Voters

VR Date	Inactive	2008/11	2010/11	2012/11
2006/10	533,134	I - 282,380	I - 32,158	I - 7,807
		R - 196,358	R - 441,840	R - 472,280
		A - 54,337	A - 59,085	A - 53,031

Table 4: 2008 Inactive Voters

VR Date	Inactive	2010/11	2012/11
2008/11	417,277	I - 140,544	I - 6,102
		R - 255,019	R - 389,680
		A - 21,641	A - 21,493

Table 5: 2010 Inactive Voters

VR Date	Inactive	2012/11	2013/03
2010/11	450,690	I - 251,435	I - 7,540
		R - 160,736	R - 398,710
		A - 38,475	A - 44,437

As years pass, the total number of these voters that are subsequently removed increases, the number remaining *inactive* voters decreases, and history shows that as many as 11% of these voters may become *active* voters again once they confirm their correct address.

Despite these list maintenance procedures, there are *active* voters on the voter rolls from whom the county boards of elections have had no contact for five or more years, other than a successful *no-contact mailing* that is sent to the voter's last known address every two years following a general election. Conceivably, these voters may still be present in the county, but have had no recent desire to vote, or may be so incapacitated, that they cannot vote; however, it is also possible that they may have moved out of the county or may have died and the county has not received notification of their move or death. Again, if the non-forwardable no-contact mailing is not returned as undeliverable, then this *contact* ensures a continued *active* status for the voter on the county's voter registration list. Anecdotally, these list maintenance procedures can be complicated by the postal service not returning the undeliverable mail or by the voters' relatives or the current residents at these voters' last known address not placing the no-contact mailing back into the mail-stream for return to the county board of elections showing the voter no longer resides at the address.

National Change of Address Mailings:

In 2009, the State Board of Elections implemented an additional voter removal program using the National Change of Address (NCOA) data from the U.S. Postal Service, consistent with its permissible use under Section 8 of the NVRA. With this new program, county boards mail special confirmation mailings to voters who have filed a change of address with the U.S.P.S. The county board will remove the voter registration record of any voter who confirms in writing that he has moved out of the county. These mailings will also permit voters to update their name or address within a county and they allow near relatives to report the death of a voter.

Periodic DMV Audits:

Pursuant to G.S. § 163-82.19(b), the "Department of Transportation ['DMV'] jointly with the State Board of Elections ['SBOE'] shall develop and operate a computerized interface to match information in the database of the statewide voter registration system with the drivers license information in the Division of Motor Vehicles to the extent required to enable the [SBOE] and the [DOT] to verify the accuracy of the information provided on applications for voter registration." At least once a year, the State Board of Elections will compare the entire statewide voter registration database with driver license information in the DMV records. These comparisons permit the State Board to verify voters' dates of birth, driver license numbers, name spellings, etc. The State Board will either correct inaccurate data in the voter registration database or will share any discrepancies with the county boards with instructions to research voters' records and make any necessary corrections accordingly. Accurate data is needed to ensure the success of the aforementioned list maintenance procedures. In many cases, unless a county board can

make an exact match on a voter's name, date of birth or identification information, then a proper removal from the voter list cannot be made.

In addition to data accuracy, the State Board of Elections also uses these audits with the DMV to determine if any voter is flagged as being a *legal presence* customer in the DMV database. Legal presence customers are individuals who are not United States citizens, but are legally present in North Carolina. These individuals have provided the DMV with documentation of their immigration status and are legally allowed to have a North Carolina driver license or state-issued identification card. Since they are not United States citizens, however, they are not qualified to vote. In the past, any voters found to be *legal presence* customers in the State Board of Elections' audit were sent a notice asking for confirmation of their citizenship status. Voters who failed to respond to the inquiry were removed from the voter lists. As of the date of this report, the State Board of Elections is working with the DMV to develop an automated process where indication of a registrant's legal presence status can be made known at the time a person's driver license number is validated with the DMV in accordance with G.S. § 163-82.12(6). In addition, the State Board of Elections has submitted an application with the United States Citizenship and Immigration Services (USCIS) to use the Systematic Alien Verification for Entitlements (SAVE) Program to further verify the alien status of any DMV customer that does have a legal presence driver license. As of the date of this report, this agency is awaiting the decision of USCIS of our application to use SAVE.

Residence, Voter Changes of Address & “Unreported Moves”

This summary covers three main topics: (1) Voter moves within the state, (2) voter moves between states, and (3) residence for the voting purposes of college students.

Moves within the state

Definition of an “unreported move”

According to the North Carolina General Statutes, an “unreported move” occurs in the following situation:

- First, a previously-registered voter moves from his or her residence to another address *within the same county*, more than 30 days before Election Day.
- Next, the voter fails to update his or her voter registration information with the local County Board of Elections office.
- Then, the voter appears to vote on Election Day, either at the correct (new) polling place according to his or her current address, or at an incorrect polling place elsewhere in the county.

In such a situation, if the voter has moved within the county where he or she was registered, the voter shall be allowed to vote, see NCGS § 163-82.15(d), (e).

What is not an “unreported move”

If a voter has moved to a different county more than 30 days before Election Day and has not registered in the new county of residence, the voter does not qualify to vote because the voter is not a registered voter in the county where he or she currently resides (the voter is free to complete a provisional ballot application).

If a voter appears to vote during One-Stop voting, the same type of issue does not arise, because the One-Stop voting is countywide, not by precinct (whereby voters should appear at their designated polling places). A voter who has moved within that county but who wishes to vote at a One-Stop site can update his or her residential address information before voting at the One-Stop site. Even if the voter has moved to a new county, the voter can take advantage of same-day registration at a One-Stop voting site to register and vote in the new county of residence, provided that the voter has brought proof of current address allowable under current law such as a government-issue ID, bank statement, utility bill, etc.

Process to allow unreported move voter to vote

A difficulty with unreported moves arises because the voter may be appearing at a different polling place than the one that voter would be assigned to according to his or her new residential address. For this reason, North Carolina County Boards of Elections use varying processes to follow the law that are the best fit for their county’s situation, taking into the number of precincts in a county, geography, number of voters, etc. This can entail either (1) completing a “precinct transfer” to transfer the voter’s information

from the voter’s old polling place to the new polling place, or (2) asking the voter to complete a provisional ballot application, whereby the voter’s address of registration would be updated after reviewing the application.

Because processes vary between counties, and because the statutory definition of “unreported moves” does not include other types of voters who have moved (such as voters who appear at One-Stop voting sites or who have moved out-of-county but appear to vote on Election Day), there are difficulties in quantifying the extent of voters who move between elections but did not update their registration information ahead of time.

Moves between states

Regarding moves between the State of North Carolina and other states, the office of the State Board of Elections recommends that it be authorized to participate in a consortium with other states to be able to compare voter registration lists between states. This will allow participating states to be able to remove voters who have moved out of their state.

Residence and college students

Below, the office of the State Board of Elections summarizes the statute and case law that pertains to a college student’s right to register and vote in the county where the student is attending classes during most if not all of the year.

In general, for elections purposes, a person’s “residence” is not defined by where the person owns property, pays taxes, etc., but where the person considers home — where the person lays his or her head at night. Residence is “[t]hat place shall be considered the residence of a person in which that person's habitation is fixed, and to which, whenever that person is absent, that person has the intention of returning.” NCGS § 163-57(1).

NCGS § 163-57(11) allows students who are qualified by age, citizenship and residence to register to vote in the county where they are attending school.

(11) So long as a student intends to make the student’s home in the community where the student is physically present for the purpose of attending school while the student is attending school and has no intent to return to the student's former home after graduation, the student may claim the college community as the student's domicile. The student need not also intend to stay in the college community beyond graduation in order to establish domicile there. This subdivision is intended to codify the case law.

Note that the statute itself states it was amended to read that way as a result of case law. This subdivision was added to GS 163-57 by Session Law 1991, c.727, s.5.1 effective January 1, 1992.

The case law referred to by the statute are the rulings of the North Carolina Supreme Court in two cases, Hall v. Wake County Bd. Of Elections, 280 NC 600, 187 SE2d 52 (1972) and Lloyd v. Babb, 296 NC 416, 251 SE2d 843 (1979) each dealing with student voting.

Both these cases hold that there is a rebuttable presumption that a student who has left his or her parents' home for college is not a resident of the college community. But that presumption can be rebutted by the following facts 1) the student has abandoned his prior home and he is residing at the place he attends school; and 2) has a present intention to make that place his home, and 3) intends to presently remain in the college town at least as long as he is a student there and until he acquires a new domicile. Lloyd v. Babb, 296 NC 416, 251 SE2d 843 (1979).

The question of student voter's domicile is a question of fact, which depends upon the circumstances of each individual's case. That is, each applicant's eligibility to register to vote at a location should be determined individually. For election purposes, a student can be considered a resident at the location of the college living space if the student does not intend to return to his or her former home and regards the college address as his or her “home.” The Babb case also held that it would be a denial of equal protection to make certain inquiries of students that sought to register to vote as to their residency which were not made of other would be registrants.

There is no legal distinction that can be made under the North Carolina statute or case law that would preclude the same test of student voter registration to be applied to students coming to North Carolina colleges from out of state as opposed to in state.

Persons who feel that a student voter is not properly registered to vote based upon his claimed residency in a college community are free to file a challenge to the student voter under the provisions of Article 8 of the General Statutes. This has been done successfully on many occasions.

The Loss of Voting Rights While a Person is an Active Felon

Both the North Carolina Constitution and the North Carolina General Statutes prohibit felons who have lost their citizenship from being registered and allowed to vote. Article VI, Section 2(3) of the Constitution uses the term “adjudged guilty” as the basis for the disqualification of a felon, as does NCGS §163-55.

The term “adjudged guilty of a felony” raises questions as to whether a person found guilty and having judgment entered against them has been adjudged guilty of a felony if he timely appeals the conviction. Does the conclusion of all appeals make the defendant adjudged guilty of a felony? Or is the citizen adjudged guilty of a felony pending appeal? The statute could be amended to reflect the legislative intent as to when the person is adjudged guilty of a felony

As required by NCGS §163-82.14(c), the office of the State Board of Elections (SBE) currently uses Department of Corrections (DOC) records of persons ordered into felony DOC custody or supervision to determine which citizens are not eligible to register. The DOC felony data also lists persons who have received Prayer for Judgment or deferred prosecution in a felony proceeding. Neither this agency nor the DOC considers a Prayer for Judgment or deferred prosecution as an adjudication of guilt since judgment is not rendered in either. Upon proof of Prayer for Judgment or deferred prosecution to the county board of elections, the affected voter is not removed from the voter registration rolls.

Regarding federal convictions, 42 USC § 1973gg-6(g) requires U.S. Attorneys to provide the SBE office with sufficient information to remove voters who have been convicted in Federal Courts. We currently obtain this information from the US Attorneys electronically. This supplements the DOC felony data and allows the removal of federal felons.

The largest number of criminal election law violations we receive and investigate deal with active felons registering and voting. It appears that many of these persons do not understand that upon a felony conviction they lose their voting rights. They are informed that they lose citizenship rights, but they may not comprehend that it affects their right to vote. When a judge sentences a felon, he goes through the judgment and informs the defendant of his rights and what will occur to him as a result of the conviction. The defendant then expresses his or her understanding of the implications of the felony conviction and executes a document to that effect. Including a specific reference to losing one’s current and future voter registration in the sentencing procedure and written sentencing document could make it more clear to the new felon. It would refute such persons claiming “I didn’t know it was unlawful,” especially if they signed a document acknowledging the understanding.

An effort to educate active felons about their loss of voting rights at the time of conviction makes good sense, especially when the DOC is mandated by NSGS §163-82.20A to provide discharged felons with information on how to regain their right to vote.

Restoration of citizenship and the accompanying right to vote has been automatic since 1973 upon felony discharge by the DOC under the provisions of Chapter 13 of the General Statutes.

Voting Rights of Patients Living in Assisted-Care Facilities

NCGS §163-226.3 specifically makes it a felony for persons other than near relative, legal guardian, or a bipartisan team to assist a voter in a state or private assisted-care facility in voting an absentee ballot.

Outside of the parameters of NCGS § 163-226.3, there are four areas of concern regarding the voting rights of persons living in assisted-care facilities or adjudicated mentally incompetent:

1. NCGS § 122C-58 allows an order of incompetency to exclude the right of the incompetent to register and vote. The statute that preceded the current statute, GS §122.45.2(c), also pertained to the voting rights of the incompetent. The older statute was reviewed in a formal Attorney General Opinion and found to contain some constitutional concerns.
2. The North Carolina Constitution has no restriction on the rights of incompetents, mentally disabled, or mentally impaired to register and vote. North Carolina is one of a handful of states that does not constitutionally restrict the incompetent from voting.
3. 42 USC § 1973gg-5 and GS §163-82.20 mandate that voter registration be offered to clients in state mental facilities. Following that mandate, the State Board of Elections (SBE) has encouraged the North Carolina Department of Health and Human Services (DHHS) to offer voter registration to clients in their facilities. The registering of such voters has generated increased interest in these persons voting. Based upon communications with advocacy groups representing disabled persons, DHHS has taken a position on patient voting that respects the limitations set out in GS § 122C-58, but otherwise allows patients to vote. DHHS has allowed the transport of patients to vote in person (during One-Stop voting or on Election Day) and notified the families of those patients via mail about the patient's voting activity. This situation has generated several phone calls to the SBE office from family members who hold the opinion that their family member was exploited because the patient has no capacity to vote (in the opinion of the family member). The State Attorney General's office has been made aware of this issue.
4. GS §163-166.8 allows all voters the right to assistance under certain conditions. Advocacy groups have taken the position that this general right of assistance overrides the specific felony prohibition of assistance to those in assisted-care facilities set out in GS §163-226.3(4).

Neither this agency, nor its staff has taken any position on the merits of the issue nor will we unless directed otherwise.

Supplemental attachments to this document are available.

Documented Cases of Voter Fraud in North Carolina

Voter fraud may take various forms: double voting; impersonation; voting when ineligible (non- U.S. citizen or currently serving an active felony sentence) voter registration issues or matters related to absentee voting. The State Board of Elections, to the greatest extent permitted by resources, investigates all allegations of voter fraud. Most allegations prove to be unfounded, lack criminal intent, or cannot be substantiated; however, in those cases where there is reasonable suspicion of voter fraud, the matter is turned over to the appropriate district attorney's office.

We have made a careful review of our files and the table below shows the number of voter fraud matters by type, that after investigation, our office believed merited a referral to the district attorney's office.

Voter Fraud Type	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Voting - Double			6		3		2		4	26 ¹	14	6	30
Voting - Felons			12		37	7	2	1	6	229 ²			83
Non-citizen voter registration/voting	1	2		13	1	1	5		23		7 ³	3	2
Voting - Absentee Fraud				28						5	7	3	4
Voting - Vote Buying/Selling				5				16					1
Voting - Impersonation					1								1
Voting - Illegal voter assistance					1								
Misrepresentation of election law					1								
Voter Registration - Fraudulent forms					3		4	1	16			4	
Voter Registration - Residency							2			1			
Voter Registration - Failure to deliver					1								

¹ The majority of these incidents occurred in the 2008 General Election.

² The majority of the referrals in 2009 concluded investigations from the 2008 General Election.

³ As of March 11, 2013, these matters are still pending investigation.

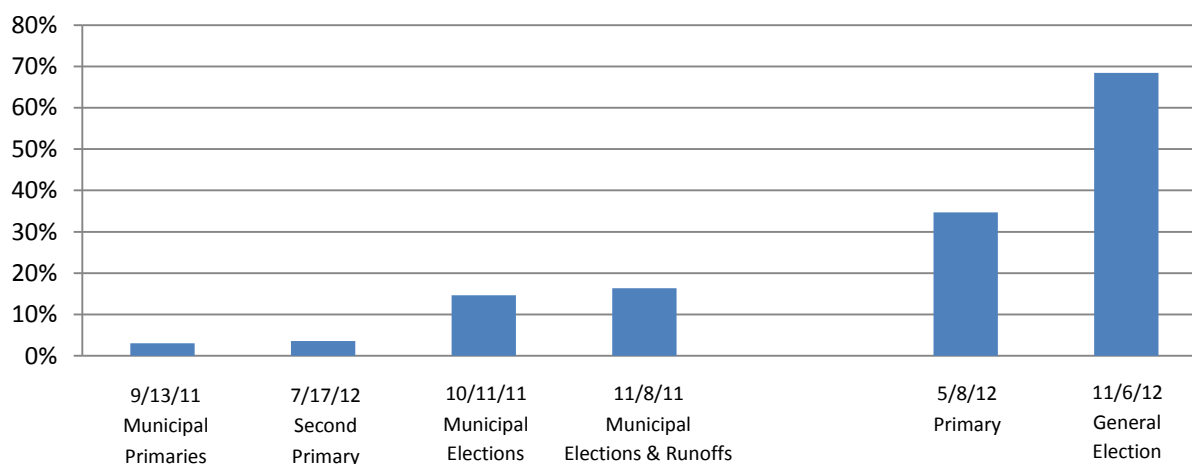
Effects of Reducing One-Stop Voting in North Carolina

In response to a request from Representatives of the General Assembly, the office of the State Board of Elections will attempt to summarize the likely affects in the limitation of One-Stop Absentee voting, also known as “early voting.” In summary, it is possible that a reduction in the minimum number of required days of One-Stop voting *in lower turnout elections, second primaries, etc.* could result in budgetary savings for County Board of Election offices. However, any reduction or limitation in the current statutory framework of One-Stop voting for high-turnout elections will have two direct consequences:

- North Carolina voters’ needs will not be accommodated.
- With fewer opportunities to cast ballots before Election Day, traffic will be increased on Election Day, increasing demands for personnel, voting equipment and other supplies, and resulting in likely increases to the cost of elections.

The following table demonstrates the wide variation of voter turnout between types of elections:

Voter Turnout as a Percentage of Total Registered Voters, by Recent Election



One-Stop voting in lower-turnout elections

During low-turnout elections, most County Board of Elections run One-Stop voting through the CBE office (if the CBE office is not ideal given the type of election, amount of voter traffic, etc, then the county may operate an alternative One-Stop voting site “in lieu of” the CBE office upon approval by the SBE office). Each day of One-Stop voting typically requires the CBE office to manage additional staff to process One-Stop voters, in addition to the usual business being conducted in the CBE office.

One-Stop voting in higher-turnout elections

VOTER PARTICIPATION

A reduction in One-Stop voting in higher-turnout elections would limit voters' participation choices.

In-person voting is extremely popular in North Carolina. One reason for the popularity is that One-Stop voting allows voters flexibility in planning their in-person trip to a voting site. Reducing the One-Stop voting period would restrict that flexibility and almost surely cause some voters to be unable to vote in person.

The chart below shows the exponential growth in One-Stop voting in Presidential Election years since 2000, and how the growth in One-Stop voting has alleviated the pressure of voter traffic on Election Day (and the demands that Election Day voting entails, including staffing of pollworkers, voting equipment, etc.):

N.C. BALLOTS CAST BY TYPE				
	2000	2004	2008	2012
Mail absentee	76,213 2.4%	122,984 3.4%	227,799 5.2%	218,336 4.8%
One-stop Absentee	393,152 12.4%	984,298 27.5%	2,411,116 55.4%	2,556,228 56.3%
In-person	2,674,566 84.5%	2,407,804 67.3%	1,714,824 39.4%	1,767,924 38.9%
Total turnout	3,164,705	3,578,333	4,353,739	4,542,488

A reduction would cause the in-person voting experience to take more of the voter's time. In the past, voters have faced long lines at polling places on Election Day. That experience is largely historical, thanks in part to the continued efforts of state and county elections officials to streamline the voting process, but also thanks to the One-Stop voting opportunity. With the chance to vote now including a 17 day span for One-Stop voting and Election Day, voters naturally have spread themselves out, increasing their convenience by shortening their waits. Reducing the One-Stop voting period would result in increased waits, both at One-Stop voting sites and at Election Day polling places.

INCREASED ELECTION COSTS

Reducing the One-Stop voting period likely would increase the cost of elections. On the surface, reducing early voting might seem to be a cost reduction, since CBE offices would be able to operate voting sites for fewer days. However, that perceived savings would be more than offset by other cost increases. The

logistics required to maintain an appropriate level of service for North Carolina's voters have associated costs.

First, the popularity of One-Stop voting (and corresponding reduction in the proportion of voters voting on Election Day) has allowed counties to combine precincts in certain locations. Reducing the One-Stop opportunity would affect this trend. Polling locations would have to be examined to ensure that the facilities are large enough to handle the increased capacity. CBE offices might have to purchase additional voting equipment for existing precincts (at considerable expense) and some counties may have to open new polling places, equip them (also at considerable expense,) and send the statutorily-required first class mail notice alerting voters of the precinct change. Counties surely will have to employ additional Election Day pollworkers to handle the increased election-day turnout.

Second, with reduced One-Stop voting, an increased number of voters may turn to by-mail absentee voting. Having changed their operations to accommodate the popularity of One-Stop voting, CBE offices will experience the expense of transitioning to an increased level of by-mail absentee voting. Mail-in absentee voting will already be facing new challenges this year with the loss of Saturday mail service.

Third, the state and the counties will face the expenses associated with a voter education campaign. This would ensure voters are aware of the reduction in service time and that confusion is minimized.

Fourth, One-Stop voting, as currently conducted, gives counties cost-saving flexibility. CBEs have the ability to set the number of additional One-Stop voting sites based on projected turnout for different types of elections. The required One-Stop voting period currently extends from the third Thursday to the last Saturday prior to the election. The statute allows an extension of hours during that period, or the opening of additional One-Stop voting sites. In contrast, increasing the number of permanent polling places to handle the number of North Carolina voters is generally a permanent cost — and one that requires mailed notice to the voters if changed — that is not flexible based on need.

The popularity of One-Stop voting

The popularity of One-Stop voting among voters clearly is evidenced by the proportion of voters choosing to vote early. Counties have responded to that voter preference by extending One-Stop voting as permitted by current law. During the 2012 Presidential election, 86 of North Carolina's 100 counties utilized this option to customize One-Stop voting for the needs of their county. In most North Carolina counties, the option to extend One-Stop voting to additional sites and hours is essential to meet the current demands of the state's voting population.

Summary of Voting Equipment

This summary was prepared as a response to the inquiry of members of the House Elections Committee for a review of voting equipment issues in North Carolina. There are two different types of certified voting equipment that are utilized in North Carolina, Optical Scan and Direct Record Electronic (DRE). Over 11,500 units of voting equipment are utilized in North Carolina's 3,121 polling places and 365 One-Stop voting sites without any widespread problems. However, on occasion, as with any type of equipment, isolated issues can occur. On the rare occurrence when problems do arise with voting equipment, these issues can often be attributed to voter or election official error; however if there is an issue with the voting equipment, the machine is either repaired or taken out of service. Generally, most issues are preventable.

1. **DRE Voting Equipment (ES&S iVotronic):** DRE, or touch screen equipment, has been used in North Carolina since the late 1980s. Since its certification in 2005, the iVotronic, manufactured by vendor Elections Software & Systems (ES&S,) is the DRE currently used in North Carolina elections. Votes are recorded by means of a ballot display via a mechanical or electro-optical component activated by a voter on a touch screen. The machine processes the voting data by means of a computer program and then records voting data in its memory components. During the act of voting, actions are recorded on a paper roll that is visible to voter and also provides the elections office with a paper record of all votes. At the close of the polls on election night, it produces a tabulation of the voting data stored in a removable memory component. In total, a DRE has four data storage components:
 - **Real-Time Audit Log (RTAL)** – this is the Voter-Verifiable Paper Audit Trail (VVPAT) for the iVotronic. In addition to logging other administrative activities, this records each ballot selection or deselection made by the voter, immediately after each such selection/deselection is made. In other words, when the voter touches a candidate selection area of the screen, the contest name and the candidate's name are immediately printed on the RTAL for the voter to see.
 - **Internal solid state memory** – inside each iVotronic there are three CompactFlash memory cards which function much like hard drives. When a ballot is cast the entire ballot record is stored on each of these.
 - **Master PEB** – the device which loads the election definitions specific to a polling place onto each iVotronic unit therein and opens the polls. At the close of polls, this same device collects and consolidates the summary results for each contest from each iVotronic for the purpose of importing election results into the central tabulation PC.
 - **External solid state memory** – at the close of polls, the complete set of ballot records contained on the three internal CompactFlash cards is verified and copied to another CompactFlash card which can be removed from the iVotronic for the purpose of importing election results into the central tabulation PC.
2. **Optical Scan Voting Equipment (ES&S M100):** An optical scan voting system is an electronic voting system that uses an optical scanner, or tabulator, to read marked paper ballots and tally the results.

With this type of voting equipment a voter marks a paper ballot with a pen (blackens or shades an oval) and the ballot is then inserted into an optical scanner that reads the shadings in the ovals. The M100 machine manufactured by ES&S is the certified optical scan voting system that is currently utilized in North Carolina's polling locations.

76 counties in North Carolina primarily use the M100 equipment on Election Day and 24 counties primarily use the iVotronic voting equipment on Election Day. During One-Stop voting, 31 counties primarily use the iVotronic voting equipment.

	M100 counties	iVotronic counties
No. of counties using on Election Day	76	24
No. of counties using during One-Stop voting	69	31
Total number of registered voters ¹	4,576,507	1,849,411
2012 General Election participation (Election Day voting equipment) ²	3,233,923	1,305,806
2012 General Election participation (One-Stop voting equipment) ³	2,595,602	1,944,127
2012 One-Stop participation ⁴	1,440,579	1,116,677

During the 2012 General Election, more than 56% of the voters who participated in the election (based on total voter history), voted during the One-Stop voting period. It is likely that 44% of these One-Stop voters may have used the iVotronic voting equipment to cast their One-Stop absentee ballot.

Both the M100 and iVotronic equipment have been certified for use by the federal Election Assistance Commission (EAC) and by a certification committee organized by the State Board of Elections in 2005. In addition to these certification standards, both types of voting equipment require ongoing routine maintenance and calibration to ensure the accuracy of election results. Although rare, issues with both types of equipment can occur; however, these inherent issues can be mitigated with proper adherence to best practices and standards.

Direct Record Electronic Voting Equipment

Issues with DRE equipment involve the machine not appearing to mark the voter's intended choice in any contest. These issues are due to either voter error or machine calibration issues.

Voter Intent

With DRE voting equipment, for each ballot contest, voters are required to indicate their choice by touching a screen to select their choice in the contest. The expectation is for the voter to use their index finger or a stylus

¹ As of March 9, 2013.

² Reflects 2012 total participation in the counties that mainly use the voting equipment type noted on election day.

³ Reflects 2012 total participation in the counties that mainly use the voting equipment noted type during one-stop.

⁴ Reflects the total number of one-stop voters in the counties that mainly use the voting equipment type noted during one-stop.

(a clean pencil eraser can be used as such) to touch a specific area or point on the screen to "mark" or select their choice. If the voter uses multiple fingers or a larger area of their hand, such as their knuckles or palm, the voter may make initial contact with the touch screen in a different location than intended and therefore the machine may not be able to accurately record the voter's intended choice. Voters have even been observed to lean their full hands on the display screen. Similarly, a voter with long fingernails may touch the screen with the nail tip prior to the fingertip, with the result being the machine registering the initial touch point rather than the voter's intended target. Finally, there is the issue of parallax, where the ballot image the voter sees may not precisely coincide with the touch screen's target zones if the voter's eyes are not perpendicular to the screen. This can happen if a voter is either very tall or very short. Although this effect is minimal, it can result in a voter touching a candidate selection area immediately above or below that for the intended candidate if the touch occurs at the apparent edge of the selection area rather than at the center.

Calibration

Touch screens need to be calibrated to exactly identify where the touch on the screen is located so it can be transmitted back to the computer or device. Think of a GPS system, which uses triangulation. There are satellites in orbit and a GPS system uses at least 3 satellites to identify location. The more satellites used, the more accurately the system can pinpoint location. The same can be said for a touch screen. In reviewing the iVotronic's touch screen calibration, twenty calibration points are used to give an accurate touch point from a user. Improperly calibrated machines do not default in a manner that causes votes to be recorded as votes for other candidates or parties. The software will highlight only those candidates' names the voter touched. If a machine has lost its calibration or if a voter inadvertently touches the wrong part of the screen, then the ballot may not reflect the voter's intent.

Optical Scan Voting Equipment

Issues with optical scan voting equipment can occur due to moisture, dust, or not adhering to the manufacturer's specifications, such as using the incorrect grade of paper, ink or an improperly cut paper ballot which may prevent the scanner's sensors from properly reading the target area of the ballot. If the specifications are not followed, the manufacturer will not stand behind its product. Excessive moisture can cause paper ballots to swell, affecting their thickness, length, or width. Ballots which are too thick or too thin will be rejected by the tabulator as will ballots on which oval positions do not conform to the vendor's specifications, as part of the tabulator's defense against counterfeit ballots. This is not a common problem for most North Carolina counties, although it is of particular concern to the coastal counties. To protect against such moisture related problems, certified ballot printers shrink-wrap ballots before shipping them to their customers. Dust buildup on the tabulator scan bars can cause the equipment not to properly read the scanned ballot. This problem is addressed by regular cleaning of the equipment as part of the annual preventive maintenance, plus additional cleaning during the required Logic and Accuracy testing prior to each election. The use of low-grade paper for the ballots can cause the machines to become jammed, which may tear or rip ballots. All North Carolina counties purchase printed ballots from printers who use only the particular paper stock recommended by the equipment vendor.

Although unrelated to the actual workings of this type of voting equipment, the most common problems with calculating votes on the M100 are voters improperly marking the paper ballot. Instead of shading in the oval, voters sometimes draw checkmarks or crosses to indicate their choices, or they may circle their choice or attempt to handwrite their choices when write-in votes are not allowed. An optical scan tabulator may read such marks inside the ballot ovals as if the ovals are completely shaded, but only if the marks are sufficiently dark; one voter's check mark might be read properly, while another voter's might not. Any marks the voter makes outside the target area will not be read by the optical scanner.

2012 General Election Issues

During the 2012 General Election's one-stop absentee voting period, there were a handful of reported voting equipment incidents in 24 counties that use DRE machines. The most reported incidents occurred in Guilford County where there were 24 alleged incidents. Not all of these reports were from persons that claimed to have experienced equipment miscalibration issues. Some of these reports were concerns based upon media reports and hearsay. These 24 reports were out of more than 165,000 votes cast during early voting in Guilford County. On 2012 General Election Day itself, there were two reports of alleged calibration issues out of 84,000 voters voting that day in Guilford County. In addition, the Guilford County Board of Elections reported to this agency that it had only two instances of calibration problems reported to the office by the Republican Party which has had observers in many early voting locations throughout the One-Stop period. A few of these incidents occurred at the beginning of the early voting period where DRE were used. In all cases, the DRE review screen gives voters notice of their selections and allows corrections, as explained below.

Safeguards and Protections

At the voting place, voters are instructed to carefully review their ballots. There are instructions on the ballot and voter alerts signs are posted inside the voting place, including the voting booth. In some elections when there are unique voting situations, voters may be handed individual alerts (e.g., straight-party voting or instant runoff voting). Every iVotronic voter is prompted on the screen before casting the ballot to review every vote on the ballot and to correct or change it if necessary. Election officials are routinely trained to offer to assist voters in understanding the machines, including the function that allows to review and correct their ballots as necessary. The DRE machines are examined every day prior to use and recalibrated as needed.

Sample Audit Counts

An assurance of accurate operations of voting systems in North Carolina is post-election sample audit counts. Following each election, county boards of elections are required by state law to conduct a sample hand-to-eye count of randomly selected precincts. The pool of ballots that may be randomly selected also includes One-Stop sites and mail-in absentee ballots. Where possible, the presidential ballot item is used as the sample contest. If the office of President is not on the ballot, a statewide item is used. Counties are required to use random selection method if the election does not have a statewide item available.

In order to determine the random precincts to be used in the sample hand-to-eye count, pursuant to state law, the State Board of Elections has contracted with a qualified statistician to generate a random list. Criteria for

selecting precincts are as follows: must be full precincts, full counts of mailed absentee ballots, and full counts of one stop early voting sites. The size of the sample of each category shall be chosen to produce a statistically significant result. In the event of a material discrepancy between the electronic count and a hand to eye count, the hand to eye count shall control, except where paper ballots or records have been lost or destroyed or where there is another reasonable basis to conclude that the hand to eye count is not the true count. If the discrepancy between the hand to eye count and the electronic count impacts the margin of a contest, a complete hand to eye count shall be conducted.

The DRE sample audit hand count is conducted by counting the selected office for audit from the paper trail produced by all DREs as required by state law. This paper trail is a printed paper roll located on the side of the DRE and visible to the voter that shows the voter their cast DRE vote. This is in addition to the review screen presented to each DRE voter prior to the actual casting of the vote. The sample audit hand count for optical scan machines are a physical recount of the ballots themselves.

This post election sampling provides a check of the accuracy of ballot counts from Election Day and the accuracy of the voting equipment used to record and report votes. Enclosed as part of this summary, as Exhibit 4, is a printout of a PowerPoint explaining in detail the sample audit counts and the actual sample audit counts conducted by the counties in both the 2012 Primary and General Election. In addition we retain the qualified statistician to analyze the data and tender an opinion as to the accuracy of the results.

Other Safeguards and Protections

In addition, there are other safeguards that protect the security of machines and their accuracy:

1. **Centralized tracking of problems/issues before, during and after the election** – At any time during the election cycle, county staff have a central telephone number the SBE office to report any problems or issues with equipment. These reports are centrally recorded and monitored through resolution. Issues are reviewed to determine if they are isolated to the county or if it is necessary to issue an alert to all counties.
2. **Stand-alone equipment and tabulation system** – Within the county itself, all voting equipment units and related peripherals are required to be isolated from the Internet. If a county has multiple computers for vote tabulation use, they may elect to network those computers together, but at no time can the computers or the resulting network be connected to the Internet or any outside network with Internet access. Counties do publish election data to the SBE via the web; however, the transfer of that data to the Internet is performed by saving election results to a transferable media device such as a USB flash drive, or CD. The data is transferred via that media to computers networked to the state server system. Access to the state server and software is restricted by username and password -- only county staff with appropriate permissions are allowed access. At no time is county voting equipment directly linked to the state or any other server system.

3. **Yearly maintenance** – Vendors of certified equipment are required as part of the maintenance agreement with the individual counties to perform preventive maintenance on an annual basis. This process requires that all equipment be tested for expected operation by certified technicians and repairs made where required. Any approved firmware upgrades are also completed at this time. ES&S personnel use a 21-point iVotronic checklist which, in addition to other items, requires the verification of touch screen calibration and backup battery voltage. The 14-point M100 checklist also requires a battery check and verification of machine calibration of the scan bars which read the ballots. In addition to the items on this checklist, each optical scanner's scan bars, rollers, and feed path are cleaned at this time. Maintenance reports for each voting system unit are sent to the SBE for tracking and copies given to the county for their records. Prior to 2006, counties were not required to contract with vendors for yearly maintenance nor were they required to report any regular maintenance procedures. Under the current plan, detailed proof of yearly maintenance is required.
4. **Storage & security** – County Boards of Elections are required to adhere to the following guidelines:
 - Voting equipment should be securely stored at all times. Only when equipment is being used in its official capacity should it be out of secure storage. Official capacity is defined as testing, public demonstrations, One-Stop voting, and Election Day voting. Secured storage is defined as out of public access and requiring a key, or combination, or both, to access the equipment.
 - County board staff may also access equipment for regular maintenance and pre-election set-up procedures. An access roster must be maintained at all times to record all instances where voting equipment is accessed and by whom, even in one-person offices. Access to equipment by non-election personnel is not permitted unless accompanied by CBE board members, the CBE director, or other CBE staff.
 - All voting equipment must be stored in environmental conditions as recommended by the manufacturer.
 - All voting equipment must be delivered directly to the voting place by the county board and any persons designated for such purpose. Counties should refrain from requiring voting site officials to pick up equipment unless extraordinary circumstances necessitate it. At any time voting equipment is out of secured storage, a chain of custody shall be established and maintained. Documentation of chain of custody shall be kept for the same period of time as all official election materials pursuant to the North Carolina Records and Retention schedule.
 - Regular maintenance must be performed according to manufacturer's guidelines. Documentation of maintenance shall be maintained on file in the county board of elections office
 - County boards must develop a written security and maintenance plan, which is then to be sent to the SBE office for approval. All approved security and maintenance plans are kept on file in the CBE office.

5. **Automated backups for results** – Media used in voting equipment units is read into a dedicated computer using the Unity software. Each county board of elections has installed an automatic backup feature that saves any recorded ballot counts each night at a predetermined time.
6. **Multiple memories** – By design, DRE voting units use a multiple memory system in order to protect cast ballots in case of power failure or unauthorized shut down during voting hours. The multiple memory system has two distinct benefits. Each time a ballot is opened for voting in a unit, the multiple memories are compared to each other. The unit will function as expected if each memory is identical to the other. If at any point in time the memories do not match, the unit will shut down to protect already cast ballots. A second benefit, or safeguard, allows for data to be retrieved using alternate means should it be impossible to use standard procedures. For example, under normal conditions, cast ballots are collected from each machine onto a Master Personal Electronic Ballots (PEB) media device after the close of polls. That Master PEB is then transported to the county board office for tabulating county results. In the event that the Master PEB becomes damaged or unreadable, the unit's flash card or voter-verified paper trail can be accessed to retrieve results.
7. **Logic and Accuracy testing (L&A testing)** – Each voting system must be tested before an election following State outlined L&A procedures. Testing is performed by the CBE or authorized representative to ensure that the system is operating properly and has been programmed to count votes accurately. A complete record of testing and associated materials is kept as required by the North Carolina Records and Retention schedule. The testing process is open to the public. Any interested person may observe the testing of the voting system but shall not interfere or impede the process. North Carolina has also expanded its L&A testing guidelines to include provisions for a mock election. At the end of the testing period, results generated during L&A testing are read into the dedicated computer tabulation system. From there, results are collected using the same procedures used on election night and transferred to the state server. Following the successful transfer of data in the mock election, counties are required to clear all voting equipment units and related media in preparation for delivery to voting places using established security procedures.