



North Carolina Voters for Clean Elections

Building a North Carolina Democracy Agenda and Package Legislation

Lost in the national debate is an important conversation about state and local governments moves toward democracy initiatives. One of the benefits of our federalist system is that local areas and states can try out new reforms before the rest of the country does. Often North Carolina has been leading the way whether it be campaign finance reform, voting rights reform or movement building. Watching experiments like same-day voter registration, trailblazing disclosure laws, and judicial and local public financing models work, gives other parts of the country data and feedback on what reforms are successful.

The tide is turning. Recent victories in Ohio, Colorado, Michigan and Missouri approving independent redistricting commissions will impact how national congressional and state legislative elections are drawn. Seattle's democracy voucher program victory, Portland's big campaign finance overhaul, Florida's constitutional amendment to give ex-felons who've served their time the right to vote, and Michigan, New Mexico, New Hampshire, Nevada, Maine, Colorado, and Vermont enacting automatic voter registration mean we are a tipping point.

It is a tipping point that the U.S. House Democrats heard loud and clear when they made their first bill in the 116th U.S. Congress, H.R.1, For the People Act, a package of democracy reforms.

The message is clear: No more one-step approaches, the time to go big is now. We the people are relentless in our pursuit of an open and fair democracy and we should work to a produce state-based agenda, as well as file and advocate for landmark state democracy legislation to make North Carolina truly of, by and for the people.

As we address the fires in front of us we must look forward and prepare a vision for success for the next decade. Together, we must build a democracy package, an all-inclusive agenda and be ready to strike when power shifts. Democracy legislation will need to move immediately before power entrenches itself.

A reform package can cover voting rights, public financing of elections, increased disclosure reforms, modernizing and securing the voting process, improving redistricting and representation, lobbying and ethics reform and ensuring fair courts. Combining trailblazing reforms like public financing with popular democracy reform like voting rights will enable North Carolina advocates to move an agenda that might not move forward without the cushion of a package.

This a break from the traditional one-step approach strategy. Over the past decade, North Carolina advocates have built champions who stand ready for a democracy revolution. Initial versions of democracy packages were filed recently but advocates need to significantly

improve on them.

This report takes stock of potential state-level democracy reforms that North Carolina advocates and lawmakers can review to produce a democracy platform and a package of democracy reform legislation. Not all reforms found in this report are advisable, merely provide for discussion purposes.

Each section is made up of various options for a democracy agenda and given a status of recommended, more review needed, and not advisable.

Power is shifting in North Carolina and with shifts come opportunities to move trailblazing democracy reforms to propel North Carolina to progress.

PROTECT VOTING RIGHTS SO EVERY VOTER HAS A VOICE

Democracy requires everyone to have a voice in the decisions affecting their lives. Voters must not be denied their rights because of badly run elections or because some people think it's better if fewer voters can vote. We should ensure equal access to the ballot box giving a greater voice to each citizen and lower barriers to voting.

Voter Registration. Since North Carolina passed a constitutional amendment requiring photo identification to vote one must question why voter registration is even necessary. To move in this direction, some argue to first enact [Online Voter Registration](#). This can be done through legislation or as soon as possible through rule-making by the State Board of Elections. Once accomplished then move to [Automatic Voter Registration](#).

However, both can be done at the same time. Legislators filed a [bill](#) in 2019 to do both online voter registration and automatic voter registration.

Online Voter Registration works by creating an online portal for people to sign up. Automatic Voter Registration works by automatically signing voters up, unless they decline, when they give information to the government, for example, obtaining a driver's license. Currently, North Carolina uses the process of processing paper voter registrations which is costly and can lead to human error. Electronic registration is more accurate, less costly and boasts overall voter registration which may lead to increased voter turnout.

North Carolina has had Same-Day Voter Registration for more than a decade. Moving forward and passing [Election Day Registration](#) makes sense especially considering voter IDs are required to vote.

****Recommended, details need to be worked out***

Establish an Accessible Online Voters' Guide. On the State Board of Elections website post an online voter guide that would provide information about all candidates for statewide and legislative offices. West Virginia legislation on voter guides can be found [here](#).

****Recommended, details need to be worked out***

Expand Early Voting. Increase the minimum number of early voting locations to more than just one per county. Ensure early voting and election day voting sites on public universities.

****More review needed***

Prevent Long Lines at the Polls. Enforce standards to ensure all polling places have sufficient voting machines, poll workers, and other resources to avoid long lines. Proper resource allocation is crucial to achieving the goal.

****More review needed***

Align all odd-year municipal elections dates. When odd-year municipal elections dates are not unified it creates confusion and lower voter turnout. Merge all municipal elections to first Tuesday in November will help increase voter participation.

****More review needed***

Stop Voter Intimidation. Stop deceptive practices and voter intimidation, correct fake information aimed at preventing voting or voter registration and increase penalties for deceptive practices.

****More review needed***

Next-generation. Ensure that every student who graduates from a public high school has been offered the opportunity to register to vote (unless automatic voter registration is enacted), provided a photo-id that lasts for five years and understands how to vote by absentee ballot while away at college or military service.

****More review needed***

Photo IDs. Open more Department of Motor Vehicle offices to ensure that everyone has access to obtaining voter identification. Allow early voting sites to produce voter identification in a separate line.

****More review needed***

Restoration of Voting Rights for All. Ensure that all voting-age citizens have the right to vote despite the conviction of a crime. This leftover Jim Crow era remnant disappointingly affects minorities. Advocates argue that people do not lose their citizenship when they go to jail, so they should not lose their right to vote.

Current North Carolina law says that individuals convicted of a felony are ineligible to vote while in prison, on parole, or on probation. Voting rights are automatically restored upon completion of all supervised release. Ex-offenders must re-register to vote.

A step in the right direction would be restoring voting rights automatically upon release from prison. Nevada recently passed [legislation](#) to immediately allow ex-felons to vote, including those convicted in another state. The bill allows people convicted of a crime, but not imprisoned, to cast a ballot.

A step further would be to restoring voting rights to those with felony convictions while in prison, which only Maine and Vermont allow.

Another angle is to ensure state employee voter coordinators in prisons for eligible voters. Voter coordinators would facilitate voter registration and voting by eligible detainees by informing eligible detainees of upcoming elections, the dissemination of eligibility requirements and voter registration applications, and the transmission of certain applications and ballots between eligible detainees and the local boards of elections. Sample language can be found in this Maryland [bill](#).

By-passing legislation, advocates can work with the N.C. Department of Corrections and the N.C. State Board of Elections to ensure that ex-felons are registered to vote. Or it can be done through legislation, similar to how Illinois passed [legislation](#) providing people re-entering society from prison with a nonpartisan civics education and voting information.

****More review needed***

SECURE ELECTIONS AGAINST FOREIGN INTERFERENCE

As we move into the digital age, we must upgrade and secure voting infrastructure. Inaction from Congress is costly to our democracy thus states must step up.

Update Voting Infrastructure. State leaders must ensure that counties have the resources needed to upgrade voting machines and databases, conduct regular post-election audits, and undertake continuous threat assessments and remediation. Many argue requiring paper ballots is an important first step.

****Recommended but details of the proposal need to be reviewed***

Close Digital Disclosure Loopholes. It is vital that we protect against foreign spending and influence in American elections. This lack of transparency means that voters are left in the dark about who is attempting to influence them, and there is little accountability for bad actors – including foreign nationals, who are legally barred from spending on U.S. elections. This is how trust in the democratic process erodes. To provide sufficient transparency and accountability to safeguard our political system, we must address these challenges and fix these digital loopholes. Moreover, there is no compelling argument for big-money qualified digital ads to be exempt from existing disclosure laws.

By updating campaign finance disclosure laws, we can ensure that voters have the information they need to interpret political messages and make choices in their interests and that reporters and government watchdogs can hold political actors accountable.

In 2019 advocates worked with lawmakers and experts to create [legislation](#) to address the digital loophole. This legislation narrowly defined qualified digital ads as those placed with a fee and would require most campaign entities, supporting or opposing candidates or those engaging in electioneering communication (the mentioning of a candidate 30 days prior to an election) to place disclaimers on their qualified digital ads and file qualified digital communications disclosure report, in most cases.

Also, the most recent version of the bill adds a \$1,000 threshold for disclosure. This ensures that the law is not overly burdensome to low dollar candidates or individuals who wish to have their voice heard but not keenly aware of campaign finance disclosure rules.

****Recommended***

REDUCE THE INFLUENCE OF BIG MONEY IN POLITICS

The ever-growing influence of big money in politics has enabled corporate and wealthy donors to create systemic barriers limiting the voices of ordinary Americans in our political process. Our democracy should work for the interests of everyone, not just big money and special interests. To create a healthy democracy that works for everyone, we need common-sense laws in place to give voters the right to know who is influencing elections and elected leaders.

Increase Frequency of Campaign Finance Reports. Citizens are affected every day by the decisions of their democratically elected representatives and have the right to know when a campaign contribution or the access it buys contributed to the introduction of a bill, the tabling of an amendment or a vote on legislation.

Dark money groups often spend vast sums of money to influence elections but the source of that money is often not disclosed to the voting public in a timely fashion. By requiring them to file campaign finance reports sooner, voters are provided with a clearer idea of who is funding these organizations before heading to the polls. Thus, advocates proposed this [bill](#) in 2015 to increase the frequency of dark money disclosure close to an election.

****Recommended***

Bring Campaign Finance Reporting into the 21st Century. Looking toward the future the State Board of Elections should be directed through legislation to create a better database on their website with electronic disclosures, copies of advertisements from political committees, candidate committees, independent expenditure committees and unregistered outside spending committees making it more accessible for public consumption. The New York Board of Elections has a better website and is a good [model](#) for review. North Carolina

would need to provide additional resources and look at cyber protections for uploaded advertisements.

****More review needed***

Ranked Choice Voting. Instant Voting Runoff or Ranked Choice Voting can reward organizing over big money and discourage campaigns based upon big money and negative attacks. Formerly a North Carolina [law](#) and pilot program, used in judicial vacancy elections and Cary and Hendersonville has now been repealed.

****More review needed***

EXPANDING POLITICAL OPPORTUNITY WITH VOTER-OWNED ELECTIONS

Participation in a democracy, especially voting is the culmination of civic-minded behavior. People who are already engaged in their communities are more likely to cast a ballot. Thus, elections tend to take the pulse on the state of social capital in any given society. Often, social capital, in the form of norms, values, and trust is formed and cultivated in day-to-day activities, like going to church, participating in a town hall meeting, or joining a protest. But when institutions that foster social capital, like the church, political parties, and unions are weak, political participation diminishes.

Thinking big picture, we need to understand that elections aren't isolated events, but rather reflections of larger phenomena that play an important role in connecting people, building social capital, and making politics, making our democracy, into something reflective of people's everyday lives, not a once-every-two-years event.

To do this we need to expand political opportunity to all. A New Framework for Democratic Reform author Mark Schmitt explains that expanding political opportunity means giving any candidate with a broad base of support or who represents a viewpoint with broad support that would not be represented otherwise, should have a chance to be heard, in elections and other contexts, even without support from big-dollar donors. It means every citizen should have a reasonable opportunity to participate meaningfully, not just as a voter but as a donor, a volunteer, an organizer, a candidate or expressing their views. It also means that our democratic systems should be structured in a way that encourages organizing people, not just money, especially around issues affecting ordinary Americans.

Local Voter-Owned Elections. To create more political opportunity, we must create on-ramps for participation in democracy. Enacting legislation for local small-donor matching systems or democracy vouchers programs help offset the political influence of the wealthy by creating a pipeline of new candidates not under the thumb of wealthy special interests.

A simple way to start is by enabling North Carolina localities to pass and operate small-donor public financing elections programs or provide tax credits or rebates for small-donor contributions. Democracy advocates backed this [bill](#), to move local public financing of elections in 2015.

****Recommended***

Judicial Voter-Owned Elections. Another way to create more political opportunity is to reinstate North Carolina's lauded Judicial Public Financing program for statewide judicial elections. It can be solely funded through a fee on lawyers and/or include a volunteer tax check off. The previous version had both a \$50 fee from lawyers and a \$3 voluntary tax-check off. However, if your goal is to move additional voter-owned elections it might be wise to save tax check-off for other programs. The North Carolina advocates backed this [bill](#) in 2015. Note that trigger funds from the original law were struck down by the US Supreme Court. The 2015 revised bill deals with a lack of trigger funds by increasing total amounts to stay competitive in a post *Citizens United* state.

****Recommended***

Executive Branch Voter-Owned Elections. Another option is to enact full executive branch public financing with tax check-off and fee-based mechanisms. The 2007 [law](#) for commissioner of insurance, state superintendent and state auditor is a good model to start with and expand. Note that this law is still on the books but unfunded. Similar to the new Judicial Public Financing program listed above, with a lack of trigger funds one would need to look at increasing total grant amounts to stay competitive in a post *Citizens United* state.

Note that general fund block grants are a political nightmare. Please see the Center for Government Studies paper entitled Public Financing of Elections Where to Get the Money, for creative ideas on how to fund public financing programs.

****More review needed***

Legislative Voter Owned-Elections. Lastly, a study commission for public financing of legislative elections needs to be addressed. As the North Carolina legislature has 170 elected positions every two years, the resources needed for legislative voter-owned elections should be studied to find the best revenue streams. The Maine Clean Elections Act is a good [model](#) for review.

****More review needed*****IMPROVE REDISTRICTING AND REPRESENTATION**

For a democracy to work the way we calculate our representation must be fair.

Redistricting Reform. Redistricting is an important process for fair political representation that takes place every ten years and is currently done by North Carolina legislators. The way district lines are drawn affects how and which politicians represent constituents' interests. Reform can center on objectivity, independence, transparency and/or equality. Much debate has been had about which reform model is best for North Carolina, which are described herein.

Reform comes in different forms. Some states have an *advisory commission* which recommends plans but the legislature has the final say. Some states have a *back-up commission* to step up to draw plans only if the legislature cannot agree on a districting plan in a timely fashion. Other states strive for an *independent commission* wherein legislators sometimes have a role in picking the commissioners but are not able to draw the district lines themselves. Lastly, some states have a *politician commission* where either legislators or other elected officials sit on the commission but the legislature as a whole is not involved.

Early reforms in the late 2000s from advocates and Republicans state legislators were based around the Horton Independent Redistricting Commission [bill](#). That bill called for the adoption of a state constitutional amendment creating an independent citizens commission to draw North Carolina's legislative and congressional districts free from partisan politics, with full transparency and robust public input.

Early 2010s reforms in North Carolina were based around the nonpartisan redistricting commission. [House Bill 824](#) passed the House in 2011.

More recent efforts have produced an array of legislation.

[House Bill 69](#) The Nonpartisan Redistricting Commission, creates an independent commission to draw the maps. It would have eleven members, four each from the two major political parties, plus three who are not members of either party. The maps could not be designed to favor one party over the other or to protect incumbents, and the commission would hold at least twenty-one public hearings around the state. This is similar to House Bill 824 that passed the House in 2011 but died due to inaction in the Senate.

[House Bill 140](#), The Fair Act, has two elements, a constitutional amendment, and a statute. The constitutional amendment would ensure disclosure of the data and methodology used in the redistricting process, prohibit the use of partisan data when the voting maps are created, and respect established county and geographical lines where possible when the voting lines are drawn. The statute portion of the bill assigns authority to draw voting districts to the nonpartisan Legislative Services Office and requires the maps to be approved by both North Carolina House and Senate only after citizen engagement through public hearings.

[House Bill 648](#), The Fair State & Congressional Districts Act was a follow up attempted compromise to House Bill 140 and eliminates the constitutional amendment and final approval remains with the legislature. The bill creates an Independent Redistricting Commission with sixteen members. Eleven are voting members and five non-voting alternates. Eight members chosen by legislative leadership in both houses and the eight members choose the final three members. The Commission hires a special master to draw at least two sets of maps for the legislature and U.S. Congressional districts. The Commission then determines which of the plans drawn by the special master are to be submitted to the legislature. Members of the legislature are not precluded from amending the maps or drafting their own.

[House Bill 673](#), N.C. Citizens Redistricting Commission creates a fifteen-member commission comprised of five Democrats, five Republicans and five from neither of the two largest parties. Eight members are appointed by the leadership of both parties in the NC House and Senate from a pool of voters that have applied and been pre-cleared for eligibility. The final seven are chosen at random. Applicants must meet strict criteria to limit partisan influence. The commission has the final say on maps, and thus no role for the legislature. Also, the commission holds at least twenty hearings and make resources available to the public to permit them to draw their maps, understand the process, and submit comments. If the commission is unable to adopt a plan, it shall hire a Special Master to draw a plan, which shall be adopted by the commission.

[House Bill 827](#), N.C. Citizens Redistricting Commission creates a fifteen-member commission divided among the two largest parties and voters unaffiliated with both major parties. Nine are appointed: two each from the legislative leadership in both parties and one by the Governor. The remaining six will be chosen by the original nine. The State Auditor provides the commission with a list of names of potential special masters who may draw plans should the Commission not be able to agree on maps. The bill requires the commission to hold a minimum of twenty hearings across the state. The commission provides the public with resources so that they may review any plans.

[House Bill 574](#) and [Senate Bill 641](#) are identical democracy package bills. In the redistricting section, they include a constitutional amendment that requires sixty percent support in each house to place it on the ballot. Then, a majority of voters must approve the amendment before it is added to the N.C. Constitution. Once passed, it creates a fifteen-member Citizens Redistricting Commission with five Democrats, five Republicans and five not from either major party. Passage of maps requires at least nine votes with at least three Democrat, three Republican and three not from either major party. Legislative leaders in both chambers select two commissioners each. These eight commissioners select the remaining seven commissioners from the remaining pool (need six votes minimum in this process) Commissioners then select from a list of viable Special Masters submitted by the State Auditor. The Special Master will draw the maps if the Commission is unable to agree. The Commission shall hold twenty public hearings.

****Recommended, details of plan need to be reviewed***

President by Popular Vote State Compact. National Popular Voter Interstate Compact is an agreement among states and the District of Columbia to award all their electoral votes to whichever presidential candidate wins the overall popular vote in the fifty states and the District of Columbia. The compact is designed to ensure that the candidate who receives the most votes nationwide is elected president, and it would come into effect only when it would guarantee that outcome. As of July 2019, it has been adopted by fifteen states and the District of Columbia, which is only 196 electoral votes and 270 electoral votes are needed to give the compact legal force. Refer to this Colorado [bill](#) for possible legislation language.

****More review needed***

SUPPORT GOOD GOVERNMENT REFORMS

In order to build a better democracy, we need to reform the way government works to ensure it works for the people and not special interests.

Revolving Door Prohibitions. The revolving door is a practice in which former public officials cash in on their government service by becoming lobbyists or strategic consultants after they leave government, then selling their inside connections and knowledge to corporate interests. This revolving door muddies whether public officials are representing the public interest or corporate interests.

North Carolina law states that no former legislator may register as a lobbyist for six months after leaving office. This mandatory waiting period must be extended from six months to one or two years. Several bills have been filed over the years for an extension to two years, refer to page 17 of this [bill](#) for possible legislation language.

North Carolina could also look at how to make this provision more broadly applicable, such as for public appointees or employees of the legislative or executive branches.

****Recommended***

Increase Transparency. Various reforms could make it easier for average citizens to keep track of important policy debates. One [bill](#), The Sunshine Act, was filed in 2019 which includes several provisions that would increase transparency in the legislative branch. This legislation would enact, 1) live streaming and searchable archives of the legislative sessions and committee meetings; 2) ensure that agendas for legislative sessions and meeting are made public twenty-four hours ahead of time; 3) mandate that official legislative business be conducted between the hours of 7 am and 9 pm; 4) end the practice of “gut and replace bills” with changes that are not germane to the bill’s original author’s intent; and 5) require that budget provisions carry the name of the legislator who requested the provision. This is a strong start to providing more transparency and accountability in our government, however, similar provisions for the executive and judicial branches should be reviewed as well.

****More review needed***

Citizen Legislature Reform. Technically North Carolina has a part-time legislature but in reality, is a hybrid legislature moving toward full-time. According to the [National Conference of State Legislatures](#), hybrid legislatures spend more than two-thirds of a full-time job as legislators although their income is not enough to support them and legislature pay is not enough to support anyone at \$13,951 a year and \$104 per diem a day. This means our legislature is dominated by wealthy individuals and/or retired individuals. A far cry from a true citizen legislature.

The first step would be to increase legislator pay, maybe even tie it to teacher pay. Further reforms would be needed to address whether or not the legislature is full-time. Besides that, one could look at increasing staff and/or offering district offices to serve the public good.

A study commission would be needed before major changes are made.

****More review needed***

Protect the Right to Protest. Peaceful protest is a hallmark of our democracy that no matter our race, religion, gender, age, socioeconomic status or political affiliation, we have the right to give public voice to our concerns, to oppose our government's action, and support the ideals that are close to our hearts.

For now, this a defensive measure. No action is taken unless anti-protest legislation is filed.

However, field experts are looking at ways through legislation and rule-making to ensure protections for the right to protest.

One recommendation is to look to the [First Amendment Rights and Police Standards Act](#) (FARPSA) enacted in Washington D.C. in 2004. It is designed to stop or limit police activity like kettling that can create confrontations with protesters and chill speech.

Another initiative was the [First Amendment Protection Act](#) introduced in Missouri. It was the initiative of just one legislator and it did not move, so it has not been refined in the way some other efforts have. It was explicitly aimed at the police use of pepper spray against protesters.

Lastly, [Defending Rights and Dissent](#) also has some model ordinances that may be useful.

Field advocates are struggling to find the correct package on protest rights. However, some combination of FARPSA, CCOPs, and amending laws that could be abused (i.e. legislation around riots, disorderly conduct, unlawful assembly, burdensome permitting requirements, etc.) would be a great place to start and address many of the concerns of demonstrators.

Several of these initiatives might be better tailored for the municipal level.

****More review needed***

Become a Ballot Initiative State. It is possible for North Carolina to become a ballot initiative state by repealing the 1916 North Carolina Legislation Restrictions Amendment. Under current North Carolina law, ballot measures can only be placed on the ballot by the General Assembly. Citizens putting questions on the ballot and voting those themselves are direct democracy. This is a challenging task and would require the understanding that being a ballot initiative state can produce good and bad policies.

****More review needed***

Term Limits. Term limits are supported by large majority of Americans yet they are opposed by incumbent politicians and the special interest groups which depend on them. Some argue that term limits would ensure turnover, increase independent judgment, reduce the power of special interests, remove the focus on politics and put it back on policy. Opponents of term limits argue it limits the choice of voters, kicks out effective lawmakers, does little to curtail corruption since it increases the revolving door, thus giving lobbyists more power, as the legislature loses institutional knowledge and expertise.

North Carolina governors are restricted to two consecutive terms in office, after which they must wait one term before being eligible to run again. The North Carolina judiciary has no term limits but judges must resign by their seventy-second birthday. The North Carolina legislature has no term limits but over the years [bills](#) have been proposed to study term limits for legislators and even [bills](#) to limit terms for leadership. In 2011, a [bill](#) was filed to limit legislators to four consecutive terms in the House. Legislative term limits would require a constitutional amendment.

A move in this direction would be an uphill battle with no clear benefit to democracy.

****Not advisable***

PROMOTE FAIR AND IMPARTIAL COURTS

Judicial independence is under threat to an extent that we have not witnessed before. Big money and special interests are taking bolder steps to control and undermine our independent judicial system and politicized the courts. If they succeed, we the people will have lost a crucial defense against attempts to strip our rights, as courts often have the final say on significant decisions affecting us.

Recusal. Strengthen recusal rules for judges by mandating when a judge must step aside from a case when they are the beneficiaries of substantial spending in support of their election.

The legislature or the chief justice through administrative law changes could clarify the rules for recusal in the face of campaign contributions. The Court could add a provision to North Carolina's Code of Judicial Conduct requiring judges to step aside when a lawyer or a party appearing before them contributed a significant amount to the judge's campaign. Contributions under this rule could include direct contributions, independent spending in support of the judge, and contributions to independent groups supporting the judge's campaign.

Generally, it is recommended that any recusal provision like this include objective thresholds clearly stating the dollar amount that will require a judge's disqualification. Model language can be found on page 5 of this [petition](#) from Wisconsin where retired judges asked the Wisconsin Supreme Court to adopt such a provision. If stakeholders are opposed to rigid dollar thresholds, there are more flexible approaches that can be worked on.

Also, the legislature or the Court could establish procedures for fair and independent consideration of recusal motions. Most importantly, the process should include an independent review (someone besides the challenged judge should get to decide whether recusal is necessary).

Texas Rule of Appellate Procedure 16.3 provides a good model: If a party asks a judge to step aside, the challenged judge must either remove themselves from the case or submit the matter to the entire court. The entire court will then decide the recusal motion by a majority of the remaining judges. The challenged justice or judge does not sit with the remainder of the court to consider the recusal motion.

Fifteen states allow for an independent review of motions to recuse supreme court justices, including Texas, Tennessee, Georgia, Louisiana, and Mississippi.

For more details about recusal procedures across the country, the Brennan Center for Justice published a [report](#) on this just a few years ago.

****Recommended***

Halt Judges Accepting Campaign Contributions. Mandate that judges cannot personally accept campaign contributions or help raise money for dark money groups.

The U.S. Supreme Court recently upheld state rules prohibiting judges from personally soliciting campaign contributions, and yet North Carolina remains one of the few states that elect judges and still allow personal solicitation. Thirty states use a version of the ABA's model rule which states that judicial candidates shall not "personally solicit or accept campaign contributions other than through a campaign committee." North Carolina can add a provision to the state's Code of Judicial Conduct like this.

There is a range of approaches that the N.C. Supreme Court could take to stop personal solicitation by judges. The simplest approach would be to just adopt the ABA model provision. But the court could go further and also prohibit judges from soliciting contributions to independent groups supporting their campaign, from coordinating with independent groups that spend to support them, from speaking at the events of groups that spend to support their campaign.

If there is interest in taking the more trailblazing approach, there are a lot of anti-coordination campaign finance laws from across the country that could be used to draft language.

****Recommended***

Require attorneys and parties to disclose campaign contributions: Particularly because the proliferation of dark money and lax disclosure rules make it difficult to know when a

person appearing before a judge has spent money to support them, the Court should require attorneys and parties to disclose this information.

The Court can add a rule to the Rules of Appellate Procedure requiring attorneys and parties to file a disclosure affidavit listing any campaign contributions, independent expenditures, or contributions to independent spenders, made to benefit the judge. These disclosures would resemble the disclosures that corporate entities must make in federal court about corporate relationships that may not be immediately apparent. There is some model language for a disclosure affidavit rule on page 16 of this [report](#).

****Recommended***

Non-partisan judicial elections. Return to all North Carolina judicial elections to nonpartisan elections. Judges do not wear blue robes or red robes, they wear black robes. They are there to uphold the rule of law. Let's stop politicizing judges and keep the third branch independent and nonpartisan. Refer to page 9 of this [bill](#) for possible legislation language.

****Recommended***

Judicial Term Reform. There are various ways to look at reforming judicial terms.

One option is to no longer force judges to resign on their 72nd birthday. This creates more political appointments and gamesmanship that is not conducive to a democracy. Refer to this [bill](#) for possible legislation language.

Another option is adopting a constitutional amendment for one and done lengthy fixed term, anywhere from 10-16 years. Refer to page 11 of this [report](#) for background. There was a [bill](#) filed in Arkansas recently for 14-year terms. However, that bill also created a judicial nominating commission that was not perfectly structured. The Wisconsin Bar task force proposed language amending that state's constitution to provide for 16-year terms. A bill was never introduced, but you can find their proposed language on page 8 of this [report](#).

****More review needed***

Merit Selection of Judges. From time to time some judicial advocates in North Carolina have pushed for the elimination of direct election of judges via different versions of merit selection of judges and even legislative appointment of judges. Legislative appointment of judges is not good public policy because it creates an even more politically charged bench.

Proponents have argued that merit selection of judges ensures that the most qualified are appointed to judgeships and eliminates the conflict of interest of judges raising money for elections.

However, the North Carolina constitution mandates the direct election of judges and would need a three-fifths majority in both the North Carolina House and Senate for a constitutional

amendment to be placed on the ballot, which more than fifty percent of North Carolina voters would need to approve.

Historically speaking, when this question has been put to North Carolina voters for polling it has been seen with more than 70% disapproval. When voters went to the polls in 2018 and presented with the option to allow a form of legislative appointment of judges in vacancy situations, which is a far cry from merit selection, they voted the measure down by 66.85%, only winning seven rural counties.

An Arkansas [bill](#) is helpful to point to as an example of a bold proposal to abandon elections in exchange for a merit system with single-lengthy terms. However, the nominating commission in that bill isn't ideal, commissioners are appointed only by elected officials, all of whom would likely be from the same political party.

For a recent example of legislation that would create a stronger nominating commission refer to this Florida [bill](#).

This is an uphill battle considering N.C. voters oppose giving up their right to vote for judges.

****Not advisable***

For more information please contact
Melissa Price Kromm
North Carolina Voters for Clean Elections
melissa@ncvce.org