

SUPREME COURT OF NORTH CAROLINA

JOSHUA H. STEIN, in his)
official capacity as GOVERNOR)
OF THE STATE OF NORTH)
CAROLINA,)
Plaintiff)

v.)

DESTIN C. HALL, in his official)
capacity as SPEAKER OF THE)
NORTH CAROLINA HOUSE)
OF REPRESENTATIVES; and)
PHILIP E. BERGER, in his)
official capacity as PRESIDENT)
PRO TEMPORE OF THE)
NORTH CAROLINA SENATE,)
Defendants,)

and)

DAVE BOLIEK, in his official)
capacity as NORTH CAROLINA)
STATE AUDITOR,)
Defendant-Intervenor.)

From the Court of Appeals
P25-298

From Wake County
23CV029308-910

**DEFENDANT-INTERVENOR'S RESPONSE TO PLAINTIFF-
PETITIONER'S MOTION FOR TEMPORARY STAY**

Defendant-Intervenor Dave Boliek, State Auditor for the State of North Carolina (the "Auditor"), hereby responds to Plaintiff-Petitioner Governor Joshua H. Stein's Motion for Temporary Stay (the "Motion") of the Court of Appeals' 30 April 2025 Order granting Legislative Leader Defendants' Petition for Writ of Supersedeas (the "Stay Order").

The Auditor requests that the Court deny the Motion. The Auditor agrees with the response to the Motion submitted by the Legislative Leader Defendants, and the Auditor already has begun to fulfill his duties under the existing legislation that the Governor attacks.

The Governor tries to label the Court of Appeals' Stay Order as some egregious departure from established court practices, but this label does not stick. It is an absurd contention. The Stay Order is right in line with what a writ of supersedeas exists to do.

The Stay Order maintains the status quo that has existed since Senate Bill 382 became law in December. *See* N.C. Sess. L. 2024-57. For months, the Auditor has operated in the framework the General Assembly established. In the months since Senate Bill 382 became law and the Auditor took office in January, he has made necessary arrangements to fulfill his new statutory obligations on the timeline set

by the General Assembly. Some of those obligations have now been fulfilled. Disrupting that process during the pending appeals would unsettle established expectations and undermine the orderly execution of the law. The Court of Appeals' Stay Order avoids that outcome.

The Court of Appeals' Stay Order also avoided throwing the executive branch into a state of uncertainty by virtue of the trial court's order creating a fractured structure. The trial court enjoined only part of Senate Bill 382—blocking the provisions shifting appointment power over State and County Board members to the Auditor—while leaving untouched the section transferring the State Board itself to the Auditor's Office. *Compare* Panel Op. at p 16 [Ex. B to Motion] (only enjoining Sections 3A.3.(b), (c), (d), (f), (g), and (h)) *with* N.C. Sess. L. 2024-57, § 3.A.2.(a) (transferring the State Board to the Auditor's Office) [Ex. A to this Response]. If the trial court's order had not been stayed by the Court of Appeals' Stay Order, the State would have operated under a regime the General Assembly never authorized or envisioned.

As the member of the Council of State specifically charged with ensuring government efficiency and transparency, the Auditor has a

strong interest in seeing the Board of Elections function properly and lawfully. The General Assembly has given him that responsibility.

Applying what one federal district court recently explained with the federal legislative process to this case, "the loss of the ability to do what [the General Assembly] specifically directed [an executive officer] to do cannot be remediated with anything other than equitable relief." *Dellinger v. Bessent*, 2025 WL 471022, at *11 (D.D.C. Feb. 12, 2025); accord *Harris v. Bessent*, 2025 WL 521027, at *8 (D.D.C. Feb. 18, 2025). The People of North Carolina have an interest in seeing the Auditor fulfill his statutory obligations so that the mistakes from prior elections can be eliminated. The Court of Appeals' Stay Order preserved the Auditor's ability to fulfill his statutory role.

At bottom, the Court of Appeals rightfully took the most orderly course. The Court of Appeals preserved the status quo under Senate Bill 382 and maintained the existing legal framework—a framework the Auditor had fully prepared to comply with, and one that reflected a complete expression of legislative intent—until a final decision on appeal is reached.

The Governor's arguments to the contrary are unavailing. Surprisingly, the Governor criticizes the Court of Appeals' Stay Order, on the one hand, by contending that there was no irreparable injury to support its issuance because elections are far off. Then, on the other hand, the Governor immediately pivots against that same background to argue that irreparable harm exists to *him*. This is quite a twist, demonstrating the weakness of the Governor's argument. The Governor also contends that there would be "plenty of time for the Auditor's appointments down the road, should the courts ultimately resolve Legislative Defendants' appeal in their favor," but he fails to appreciate that this argument cuts equally against him here too. As the Auditor argued in his response supporting the Legislative Leader Defendants' petition for writ of supersedeas before the Court of Appeals, the Governor suffers no harm from the Court of Appeals' stay.

The Governor's contention that preserving the status quo should snake all the way back to the year 1901 is also nonsensical. The Governor chose to wrap this dispute over portions of Senate Bill 382 into his predecessor's prior litigation, presumably to make this very argument and to try to taint the session law at issue by comparing it to prior

legislation that was set aside. But the status quo that the Court of Appeals preserved in the Stay Order is the specific status quo that has existed since December 2024 when Senate Bill 382 became law as Session Law 2024-57. This dispute did not arise until this Governor filed his Supplemental Complaint in February 2025. The Governor's misplaced arguments reflect, yet again, his efforts to take more and more power for himself, in derogation of, and with disregard for, the choices of the People of North Carolina acting through their elected representatives.

Lastly, the Governor gives off an appearance of concern about the speed in resolving these issues. If so, the Governor's more logical, timely course of action should have been to petition this Court to take the case on the merits, not through an ancillary attack on the mere Stay Order. But he did not. The Auditor recognizes that this Court needs no such petition to certify its review of this case before the Court of Appeals rules. *See* N.C. Gen. Stat. § 7A-31. The Auditor certainly would understand if this Court made that choice to expedite a final resolution of the underlying merits of this dispute, but the Governor's request by Motion to shut down now, in part, the statutory framework of Senate 382 makes little sense. The Stay Order rightfully preserves the status quo until our

appellate courts can evaluate the Governor's arguments. This is exactly what a writ of supersedeas exists to do, and this is why it was issued in this case.

Conclusion

For these reasons, this Court should deny the Governor's Motion.

Respectfully submitted, this the 1st of May, 2025.

WARD AND SMITH, P.A.

/s/ W. Ellis Boyle

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N.C. R. App. P. 33(b) certification: I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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Certificate of Service

I hereby certify that I have this day electronically filed a copy of the foregoing document with the Clerk of the North Carolina Court of Appeals and that I have served the foregoing by e-mailing a copy to counsel's correct and current email addresses as shown below:

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This the 1st of May, 2025.

WARD AND SMITH, P.A.

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EXHIBIT A

Excerpts from Session Law 2024-57 (Senate Bill 382)

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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SESSION LAW 2024-57
SENATE BILL 382**

AN ACT TO MAKE MODIFICATIONS TO AND PROVIDE ADDITIONAL APPROPRIATIONS FOR DISASTER RECOVERY; TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO THE CURRENT OPERATIONS APPROPRIATIONS ACT OF 2023; AND TO MAKE VARIOUS CHANGES TO THE LAW.

The General Assembly of North Carolina enacts:

PART I. DISASTER RELIEF

SUBPART I-A. GENERAL PROVISIONS

SECTION 1A.1. Title. – This Part shall be known as "The Disaster Recovery Act of 2024 – Part III."

SECTION 1A.2. Maximum Amounts; Effectuate Savings. – The appropriations and allocations made in this Part are for maximum amounts necessary to implement this Part. Savings shall be effected where the total amounts appropriated or allocated are not required to implement this Part.

SECTION 1A.3. Scope. – Unless otherwise provided, this Part applies to the North Carolina counties in the affected area, as defined in Section 1A.4 of this Part.

SECTION 1A.4. Definitions. – Unless otherwise provided, the following definitions apply in this Part:

- (1) Affected area. – The counties designated before, on, or after the effective date of this act under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Helene.
- (2) FEMA. – The Federal Emergency Management Agency.
- (3) Helene Fund. – The Hurricane Helene Disaster Recovery Fund established in Section 4.1 of S.L. 2024-51.
- (4) OSBM. – The Office of State Budget and Management.
- (5) Recipient. – A State agency or a non-State entity, as those terms are defined in G.S. 143C-1-1.
- (6) Savings Reserve. – The Savings Reserve established in G.S. 143C-4-2.
- (7) SERDRF. – The State Emergency Response and Disaster Relief Fund established in G.S. 166A-19.42.

SECTION 1A.5. Transfer of Additional Disaster Relief Funds. – Notwithstanding G.S. 143C-4-2, the State Controller shall transfer the sum of two hundred twenty-seven million dollars (\$227,000,000) from the Savings Reserve to the Helene Fund and, except as otherwise provided in this act, the funds shall remain unspent until appropriated by an act of the General Assembly. It is the intent of the General Assembly to review funding and to consider actions needed to address remaining unmet needs.

SUBPART I-B. EDUCATION

SECTION 2J.1. Section 22 of S.L. 2024-45 is repealed.

SUBPART II-K. GENERAL PROVISIONS

STORMWATER AND STREAM REHABILITATION ALLOCATION CHANGE

SECTION 2K.1. The funds allocated by Section 5.6(f)(16)a. of S.L. 2023-134 to the Office of State Budget and Management to provide a directed grant to Pilot View Resource Conservation and Development, Inc., for stormwater and stream rehabilitation shall instead be allocated to the Davie County Economic Development Commission, Inc., as a directed grant for the same purposes.

PART III. VARIOUS LAW CHANGES

SUBPART III-A. ELECTIONS

TRANSFER STATE BOARD OF ELECTIONS TO STATE AUDITOR

SECTION 3A.1. Part I of S.L. 2023-139 is repealed.

SECTION 3A.2.(a) The North Carolina State Board of Elections is transferred administratively to the Department of the State Auditor. This transfer has all of the elements of a Type II transfer, as described in G.S. 143A-6, except that the management functions of the State Board of Elections shall not be performed under the direction and supervision of the State Auditor except as provided in this section. Under this transfer, the State Board of Elections shall exercise all its prescribed statutory powers independently of the State Auditor, except that budgeting functions shall be performed under the direction and supervision of the State Auditor.

SECTION 3A.2.(b) No action or proceeding pending on July 1, 2025, brought by or against the State Board of Elections shall be affected by any provision of this section. Any business or other matter undertaken or commanded by any State program or office or contract transferred by this section pertaining to or connected with the functions, powers, obligations, and duties set forth herein, which is pending on July 1, 2025, may be conducted and completed in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the original program, office, or commissioners or directors thereof.

SECTION 3A.2.(c) The transfer provided for under this section shall not affect any ongoing investigation or audit. Prosecutions for offenses or violations committed before July 1, 2025, are not abated or affected by this section.

SECTION 3A.2.(d) Rules and forms adopted by the State Board of Elections shall remain in effect until amended or repealed.

SECTION 3A.2.(e) G.S. 163-28 is repealed.

SECTION 3A.2.(f) This section becomes effective July 1, 2025.

SECTION 3A.3.(a) Section 2.1, Section 2.2, Section 2.5, Section 4.1, Part V, Section 8.1, Section 8.2, and Section 8.3 of S.L. 2023-139 are repealed.

SECTION 3A.3.(b) G.S. 147-64.6(c) is amended by adding a new subdivision to read:

"(23) The Auditor shall make appointments to the State Board of Elections."

SECTION 3A.3.(c) G.S. 163-19 reads as rewritten:

"§ 163-19. State Board of Elections; appointment; term of office; vacancies; oath of office.

(a) There is established the State Board of Elections, which may be referred to as the "State Board" in this Chapter.

(b) The State Board of Elections shall consist of five registered voters whose terms of office shall begin on ~~May 1, 2019,~~ May 1 of the year following the election of the

President of the United States and shall continue for four years, and until their successors are appointed and qualified. The ~~Governor-State Auditor~~ shall appoint the members of the State Board and likewise shall appoint their successors ~~every four years~~ at the expiration of each four-year term. Not more than three members of the State Board shall be members of the same political party. The ~~Governor-State Auditor~~ shall appoint the members from a list of nominees submitted to the ~~Governor-State Auditor~~ by the State party chair of each of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board. Each State party chair shall submit a list of four nominees who are affiliated with that political party. No person may serve more than two full consecutive four-year terms.

(c) Any vacancy occurring in the State Board shall be filled by the ~~Governor-State Auditor~~, and the person so appointed shall ~~fill~~ serve the remainder of the unexpired term. The ~~Governor-State Auditor~~ shall fill the vacancy from a list of three nominees submitted to the ~~Governor-State Auditor~~ by the State party chair of the political party that nominated the vacating member as provided in subsection (b) of this section. The State party chair shall submit a list of three nominees ~~must be who are~~ affiliated with that political party.

...."

SECTION 3A.3.(d) G.S. 163-20 reads as rewritten:

"§ 163-20. Meetings of Board; quorum; minutes.

(a) Call of meeting. – The State Board ~~of Elections~~ shall meet at the call of the ~~chairman-chair~~ whenever necessary to discharge the duties and functions imposed upon it by this Chapter. The ~~chairman-chair~~ shall call a meeting of the State Board upon the written application or applications of any two members thereof. If there is no ~~chairman, chair,~~ or if the ~~chairman-chair~~ does not call a meeting within three days after receiving a written request or requests from two members, any three members of the State Board shall have power to call a meeting of the State Board, and any duties imposed or powers conferred on the State Board by this Chapter may be performed or exercised at that meeting, although the time for performing or exercising the same prescribed by this Chapter may have expired.

(b) Place of Meeting. – Except as provided in ~~subsection (e), below, subsection (c) of this section,~~ the State Board ~~of Elections~~ shall meet in its offices in the City of Raleigh, or at another place in the City of Raleigh to be designated by the ~~chairman-chair.~~ However, subject to the limitation imposed by ~~subsection (e), below, subsection (c) of this section~~ upon the prior written request of any four members, the State Board ~~of Elections~~ shall meet at any other place in the State designated by the four members.

(c) Meetings to Investigate Alleged Violations of This Chapter. – When called upon to investigate or hear sworn alleged violations of this Chapter, the State Board ~~of Elections~~ shall meet and hear the matter in the county in which the violations are alleged to have occurred.

(d) Quorum. – A majority of the members constitutes a quorum for the transaction of business by the State ~~Board of Elections.~~ Board. If any member of the State Board fails to attend a meeting, and by reason thereof there is no quorum, the members present shall adjourn from day to day for not more than three days, by the end of which time, if there is no quorum, the ~~Governor-State Auditor~~ may summarily remove any member failing to attend and appoint ~~his a~~ successor.

(e) Minutes. – The State Board ~~of Elections~~ shall keep minutes recording all proceedings and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in the office of the State Board in the City of Raleigh."

SECTION 3A.3.(e) G.S. 163-22(c) reads as rewritten:

"(c) The State Board shall advise the county boards of elections as to the proper methods of conducting primaries and elections. The State Board shall require all reports from the county boards of elections and election officers as provided by law, or as are deemed necessary by the State Board, and shall compel observance of the requirements of the

election laws by county boards of elections and other election officers. In performing these duties, the State Board shall have the right to hear and act on complaints arising by petition or otherwise, on the failure or neglect of a county board ~~of elections~~ to comply with any part of the election laws imposing duties upon a county ~~board of elections~~. board. The State Board shall have power to remove from office any member of a county board ~~of elections~~ for incompetency, neglect or failure to perform duties, fraud, or for any other satisfactory cause. Before exercising this power, the State Board shall notify the county board ~~of elections~~ member affected and give that member an opportunity to be heard."

SECTION 3A.3.(f) G.S. 163-30 reads as rewritten:

"§ 163-30. County boards of elections; appointments; terms of office; qualifications; vacancies; oath of office; instructional meetings.

(a) In every county of the State there shall be a county board of elections, ~~to which~~ may be referred to as "county board" in this Chapter. Each county board shall consist of five persons of good moral character who are registered voters in the county in which they are to act. ~~Members of county boards of elections shall be appointed by the State Board of Elections on the last Tuesday in June, and every two years thereafter, and their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. Four members of each county boards of elections board shall be appointed by the State Board on the last Tuesday in June and every two years thereafter, and their terms of office of each odd-numbered year and shall continue for two years from the specified date of appointment and to serve until their successors are appointed and qualified. One member of the each county boards of elections board shall be appointed by the Governor State Auditor to be the chair of the county board on the last Tuesday in June and every two years thereafter, of each odd-numbered year and that member's term of office shall continue for two years from the specified date of appointment and until a successor is appointed and qualified. Of the appointments to each county board of elections by the State Board, two members each shall belong to the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board.~~

(b) No person shall be eligible to serve as a member of a county board ~~of elections~~ who meets any of the following criteria:

- (1) Holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.
- (2) Holds any office in a state, congressional district, county or precinct political party or organization. Provided, however, that the position of delegate to a political party convention shall not be considered an office for the purpose of this subdivision.
- (3) Is a campaign manager or treasurer of any candidate or political party in a primary or election.
- (4) Is a candidate for nomination or election.
- (5) Is the wife, husband, son, son in law, daughter, daughter in law, mother, mother in law, father, father in law, sister, sister in law, brother, brother in law, aunt, uncle, niece, or nephew of any candidate for nomination or election. Upon any member of the county board ~~of elections~~ becoming ineligible, that member's seat shall be declared vacant. This subdivision only applies if the county board ~~of elections~~ is conducting the election for which the relative is a candidate.

(c) The State chair of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board shall have the right to recommend to the State Board three registered voters in each county for appointment to the county board ~~of elections~~ for that county. If such recommendations are received by the State Board 15 or more days before the last Tuesday in

June 2019, and each two years thereafter, of each odd-numbered year, it shall be the duty of the State Board to appoint the county boards from the names thus recommended.

(d) Whenever a vacancy occurs in the membership of a county board ~~of elections~~ for any cause the State chair of the political party of the vacating member shall have the right to recommend two registered voters of the affected county for such office, and it shall be the duty of the State Board to fill the vacancy from the names thus recommended.

(e) At the meeting of the county board ~~of elections~~ required by G.S. 163-31 to be held on Tuesday following the third Monday in July in the year of their appointment the members shall take the following oath of office:

"I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States; and that I will well and truly execute the duties of the office of member of the _____ County Board of Elections to the best of my knowledge and ability, according to law; so help me God."

(f) Each member of the county board ~~of elections~~ shall attend each instructional meeting held pursuant to G.S. 163-46, unless excused for good cause by the chair of the county board, and shall be paid the sum of twenty five dollars (\$25.00) per day for attending each of those meetings."

SECTION 3A.3.(g) Notwithstanding any other provision of law, the current terms of office of the members of the State Board of Elections shall terminate on April 30, 2025, and members shall be appointed to the State Board of Elections in accordance with G.S. 163-19, as amended by this section, for a term to begin May 1, 2025.

SECTION 3A.3.(h) Notwithstanding any other provision of law, the current terms of office of the members of the county boards of elections shall terminate on June 24, 2025, and members of each county board of election shall be appointed in accordance with G.S. 163-30, as amended by this section, for a term beginning on June 25, 2025, and expiring on July 19, 2027.

VARIOUS ELECTION CHANGES

SECTION 3A.4.(a) G.S. 163-82.4(f) reads as rewritten:

"(f) Correcting Registration Forms. – If the voter fails to complete any required item on the voter registration form but provides enough information on the form to enable the county board ~~of elections~~ to identify and contact the voter, the voter shall be notified of the omission and given the opportunity to complete the form at least by ~~5:00 P.M.~~ 12:00 P.M. on the third business day before the county canvass as set in ~~G.S. 163-182.5(b)~~ after the election. If the voter corrects that omission within that time and is determined by the county board ~~of elections~~ to be eligible to vote, the county board shall permit the voter to vote. If the information is not corrected by election day, the voter shall be allowed to vote a provisional official ballot. If the correct information is provided to the county board ~~of elections~~ by at least ~~5:00 P.M.~~ 12:00 P.M. on the third business day before the county canvass, after the election, the county board shall count any portion of the provisional official ballot that the voter is eligible to vote."

SECTION 3A.4.(b) G.S. 163-166.8(d) reads as rewritten:

"(d) Precinct officials shall maintain a log of any individual, other than a minor child under the age of 18 in the care of a voter, who enters the voting place pursuant to this section and is not seeking to vote in that voting place. The Precinct officials shall use the log provided by the State Board, which shall include the printed name and address of the individual entering the voting place, the time the individual entered the voting place, and a space for that individual's signature. This subsection shall not apply to observers and runners appointed pursuant to G.S. 163-45.1 and G.S. 163-45.2."

SECTION 3A.4.(c) G.S. 163-166.12 reads as rewritten:
"§ 163-166.12. Requirements for certain voters who register by mail.

...
(d) **Voting When Identification Numbers Do Not Match.** – Regardless of whether an individual has registered by mail or by another method, if the individual has provided with the registration form a drivers license number or last four digits of a Social Security number but the computer validation of the number as required by G.S. 163-82.12 did not result in a match, and the number has not been otherwise validated by the ~~board of elections, county board,~~ in the first election in which the individual votes that individual shall submit with the ballot the form of identification described in subsection (a) or subsection (b) of this section, depending upon whether the ballot is voted in person or absentee. If that identification is provided no later than 12:00 P.M. on the third business day after the election and the ~~county board of elections~~ does not determine that the individual is otherwise ineligible to vote a ballot, the failure of identification numbers to match shall not prevent that individual from registering to vote and having that individual's vote counted.

(e) **The Right to Vote Provisionally.** – If an individual is required under subsection (a), (b), or (d) of this section to present identification in order to vote, but that individual does not present the required identification, that individual may vote a provisional official ballot. If the voter is at the voting place, the voter may vote provisionally there without unnecessary delay. If the voter is voting by ~~mail-in~~ absentee ballot, the ~~mailed absentee~~ ballot without the required identification shall be treated as a provisional official ballot.

...."

SECTION 3A.4.(d) G.S. 163-166.16(c) reads as rewritten:

"(c) **Provisional Ballot Required Without Photo Identification.** – If the registered voter cannot produce the identification as required in subsection (a) of this section, the registered voter may cast a provisional ballot that is counted only if the registered voter brings an acceptable form of photograph identification listed in subsection (a) of this section to the county board ~~of elections~~ no later than ~~the end of business on the business day prior to the canvass by the county board of elections as provided in G.S. 163-182.5.~~ 12:00 P.M. on the third business day after the election. The State Board shall provide the registered voter casting a provisional ballot due to failure to provide photo identification an information sheet on the deadline to return to the county board ~~of elections~~ to present photo identification, and what forms of photo identification are acceptable, in order for the voter's provisional ballot to be counted."

SECTION 3A.4.(e) G.S. 163-182.2(a)(4) reads as rewritten:

"(4) If the county board ~~of elections~~ finds that an individual voting a provisional official ballot (i) was registered in the county as provided in 163-82.1, (ii) voted in the proper precinct under G.S. 163-55 and G.S. 163-57, and (iii) was otherwise eligible to vote, the provisional official ballots shall be counted by the county board ~~of elections before the canvass.~~ no later than 5:00 P.M. on the third business day after the election. Except as provided in G.S. 163-82.15(e), if the county board finds that an individual voting a provisional official ballot (i) did not vote in the proper precinct under G.S. 163-55 and G.S. 163-57, (ii) is not registered in the county as provided in G.S. 163-82.1, or (iii) is otherwise not eligible to vote, the ballot shall not be counted. If a voter was properly registered to vote in the election by the county board, no mistake of an election official in giving the voter a ballot or in failing to comply with G.S. 163-82.15 or G.S. 163-166.11 shall serve to prevent the counting of the vote on any ballot item the voter was eligible by registration and qualified by residency to vote."

SECTION 3A.4.(f) G.S. 163-230.1 reads as rewritten:

"§ 163-230.1. Simultaneous issuance of absentee ballots with application.

(a) Written Request. – A qualified voter who is eligible to vote by absentee ballot under G.S. 163-226, or that voter's near relative or verifiable legal guardian, shall complete a request form for an absentee application and absentee ballots so that the county board ~~of elections~~ receives that completed request form not later than 5:00 P.M. on the second Tuesday before the election. That completed written request form shall be in compliance with G.S. 163-230.2. The county board ~~of elections~~ shall enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as soon as each item of that information becomes available. Upon receiving the completed request form, the county board ~~of elections~~ shall cause to be mailed to that voter a single package that includes all of the following:

- (1) The official ballots the voter is entitled to vote.
- (2) A container-return envelope for the ballots, printed in accordance with G.S. 163-229.
- (3) An instruction sheet.
- (4) A clear statement of the requirement for a photocopy of identification described in G.S. 163-166.16(a) or an affidavit as described in G.S. 163-166.16(d)(1), (d)(2), or (d)(3) with the returned ballot.

(a1) Mailing of Application and Ballots. – The ballots, envelope, and instructions shall be mailed to the voter by the county board's chair, member, officer, or employee as determined by the county board and entered in the register as provided by this Article.

(a2) Publish Deadline for Written Request and Ballot. – At least once per primary or election, each county board ~~of elections~~ and the State Board shall publish on its website or in any mailing sent to voters the following information:

- (1) The date by which a completed request form as described in subsection (a) of this section must be received by a county ~~board of elections~~ board.
- (2) The means by which the voter's marked absentee ballot must be returned to the county ~~board of elections~~ board.
- (3) The date and time the voter's completed absentee ballot must be received by the county board ~~of elections~~ in order to be counted.

(b) Absence for Sickness or Physical Disability. – Notwithstanding the provisions of subsection (a) of this section, if a voter expects to be unable to go to the voting place to vote in person on election day because of that voter's sickness or other physical disability, that voter or that voter's near relative or verifiable legal guardian may make the request for absentee ballots in person to the county board of elections of the county in which the voter is registered after 5:00 P.M. on the second Tuesday before the election but not later than 5:00 P.M. on the last business day before the election. The county board ~~of elections~~ shall treat that completed request form in the same manner as a request under subsection (a) of this section but may personally deliver the application and ballots to the voter or that voter's near relative or verifiable legal guardian, and shall enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as soon as each item of that information becomes available. The county board ~~of elections~~ shall personally deliver to the requester in a single package:

- (1) The official ballots the voter is entitled to vote.
- (2) A container-return envelope for the ballots, printed in accordance with G.S. 163-229.
- (3) An instruction sheet.
- (4) A clear statement of the requirement for a photocopy of identification described in G.S. 163-166.16(a) or an affidavit as described in G.S. 163-166.16(d)(1), (d)(2), or (d)(3) with the returned application and voted ballots.

(c) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. – When the county board ~~of elections~~ receives a completed request form for applications and absentee ballots from the voter, or the near relative or the verifiable legal guardian of that voter, the county board shall promptly issue and transmit them to the voter in accordance with the following instructions:

- (1) On the top margin of each absentee ballot the applicant is entitled to vote, the chair, a member, officer, or employee of the county board of elections shall write or type the words "Absentee Ballot No. ____ " or an abbreviation approved by the State Board and insert in the blank space the number assigned the applicant's application in the register of absentee requests, applications, and absentee ballots issued. That person shall not write, type, or print any other matter upon the absentee ballots transmitted to the absentee voter. Alternatively, the county board of elections may cause to be barcoded on the absentee ballot the voter's application number, if that barcoding system is approved by the State Board.
- (2) The chair, member, officer, or employee of the county board of elections shall fold and place the absentee ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's name, the absentee voter's application number, and the designation of the precinct in which the voter is registered. If the absentee ballot is barcoded under this section, the envelope may be barcoded rather than having the actual number appear. The person placing the absentee ballots in the envelopes shall leave the container-return envelope holding the absentee ballots unsealed.
- (3) The chair, member, officer, or employee of the county board of elections shall then place the unsealed container-return envelope holding the absentee ballots together with printed instructions for voting and returning the absentee ballots, in an envelope addressed to the voter at the post office address stated in the request, seal the envelope, and mail it at the expense of the county ~~board of elections~~ board. Provided, that in case of a request received after 5:00 P.M. on the second Tuesday before the election under the provisions of subsection (b) of this section, in lieu of transmitting the absentee ballots to the voter in person or by mail, the chair, member, officer, or employee of the county board of elections may deliver the sealed envelope containing the instruction sheet and the container-return envelope holding the absentee ballots to a near relative or verifiable legal guardian of the voter.

The county board ~~of elections~~ may receive completed written request forms for applications at any time prior to the election but shall not mail applications and absentee ballots to the voter or issue applications and absentee ballots in person earlier than 60 days prior to the statewide general election in an even-numbered year, or earlier than 50 days prior to any other election. No election official shall issue applications for absentee ballots except in compliance with this Article.

(d) Voter to Complete. – The application shall be completed and signed by the voter personally, the absentee ballots marked, the absentee ballots sealed in the container-return envelope, and the certificate completed as provided in G.S. 163-231.

(e) Approval of Applications. – At its next official meeting prior to election day after the return of the completed container-return envelope with the voter's absentee ballots, the county board ~~of elections~~ shall determine whether the container-return envelope has been properly executed. If the county board determines that the container-return envelope has been properly executed, it shall approve the application and deposit the container-return

envelope with other container-return envelopes for the envelope to be opened and the absentee ballots counted at the same time as all other container-return envelopes and absentee ballots.

(e1) Curable Deficiencies. – If a container-return envelope contains a curable deficiency, the county board ~~of elections~~ shall promptly notify the voter of the deficiency and the manner in which the voter may cure the deficiency. Curable deficiencies are deficiencies that can be cured with supplemental documentation or attestation provided by the voter, including when any of the following occurs:

- (1) The voter did not sign the voter certification as required by G.S. 163-231(a)(4).
- (2) The voter signed the application in the wrong place on the application.
- (3) The voter failed to include with the container-return envelope a photocopy of identification described in G.S. 163-166.16(a) or an affidavit as described in G.S. 163-166.16(d)(1), (d)(2), or (d)(3), as required by subsection (f1) of this section.

The identification of the two persons witnessing the casting of the absentee ballot in accordance with G.S. 163-231(a) is not a curable deficiency. Any container-return envelope with a curable deficiency that is transmitted to the county board shall be considered timely if cure documentation is received no later than ~~the end of business 12:00 P.M. on the third business day before the canvass conducted by the county board of elections held pursuant to G.S. 163-182.5 after the election.~~ Cure documentation may be transmitted via ~~e-mail~~ email to the county board ~~of elections~~ if the deficiency is one described in subdivision (3) of this subsection. The notification of voters regarding curable deficiencies is an administrative task that may be performed by county board staff and is not required to be performed at an absentee meeting as provided for in subsection (f) of this section. The voter shall be notified of curable deficiencies by mail, and by telephone or email if the telephone number or email address was provided by the voter on the request form for absentee ballots.

(f) Required Meeting of County Board of Elections. – During the period commencing on the fifth Tuesday before an election, in which absentee ballots are authorized, the county board ~~of elections~~ shall hold one or more public meetings each Tuesday at 5:00 P.M. for the purpose of action on applications for absentee ballots. At these meetings, the county board ~~of elections~~ shall pass upon applications for absentee ballots.

If the county board ~~of elections~~ changes the time of holding its meetings or provides for additional meetings in accordance with the terms of this subsection, notice of the change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county at least 30 days prior to the election.

At the time the county board ~~of elections~~ makes its decision on an application for absentee ballots, the county board shall enter in the appropriate column in the register of absentee requests, applications, and ballots issued opposite the name of the applicant a notation of whether the applicant's application was "Approved" or "Disapproved".

The decision of the county board on the validity of an application for absentee ballots shall be final subject only to such review as may be necessary in the event of an election contest. The county board ~~of elections~~ shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chair or any other member of the county board individually.

(f1) Each container-return envelope returned to the county board with application and voted ballots under this section shall be accompanied by a photocopy of identification described in G.S. 163-166.16(a) or an affidavit as described in G.S. 163-166.16(d)(1), (d)(2), or (d)(3).

(g) Rules. – The State Board, by rule or by instruction to the county ~~board~~ boards of elections, shall establish procedures to provide appropriate safeguards in the implementation of this section. The State Board shall adopt rules to provide for the forms of identification

that shall be included with returned application and voted absentee ballots. At a minimum, the rules shall include the following:

- (1) Acceptable photocopies of forms of readable identification, as described in G.S. 163-166.16(a).
- (2) A process for a voter without acceptable photocopies of forms of readable identification under subdivision (1) of this subsection to complete an alternative affidavit in accordance with G.S. 163-166.16(d)(1), (d)(2), or (d)(3) that includes inability to attach a physical copy of the voter's identification with the returned application and voted ballots as a reasonable impediment to compliance with the identification requirement, provided the reasonable impediment includes one of the following:
 - a. The number of the voter's North Carolina drivers license issued under Article 2 of Chapter 20 of the General Statutes, including a learner's permit or a provisional license.
 - b. The number of the voter's special identification card for nonoperators issued under G.S. 20-37.7.
 - c. The last four digits of the voter's social security number.
- (h) Recodified as G.S. 163-226(f) by Session Laws 2019-239, s. 1.2(a), effective January 1, 2020, and applicable to elections conducted on or after that date."

SECTION 3A.4.(g) G.S. 163-234 reads as rewritten:

"§ 163-234. Counting absentee ballots by county ~~board of elections~~.board.

All absentee ballots returned to the county board ~~of elections~~ in the container-return envelopes shall be retained by the county board ~~of elections~~ to be counted by the county board ~~of elections~~ as follows:

- (1) Only those absentee ballots returned to the county board ~~of elections~~ in a properly executed container-return envelope and received pursuant to G.S. 163-231 shall be counted. Absentee ballots not received pursuant to all requirements in G.S. 163-231 shall not be deemed to be valid and shall not be counted. ~~Absentee ballots received prior to election day shall be counted on election day.~~ An absentee ballot returned in an executed container-return envelope containing a deficiency listed in G.S. 163-230.1(e) shall be counted if documentation curing the deficiency is timely received by the county board ~~of elections~~ in accordance with the requirements of G.S. 163-230.1(e).
- (2) The county board ~~of elections~~ shall meet at 5:00 P.M. on election day in the county board office or other public location in the county courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 P.M. on election ~~day, those received on election day, day~~ and those received pursuant to G.S. 163-231(b)(2). Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, so long as the elector does not in any manner interfere with the election officials in the discharge of their duties. The count of these absentee ballots shall be continuous until completed, and the members shall not separate or leave the counting place except for unavoidable necessity.

The county board ~~of elections~~ may begin counting absentee ballots issued under Article 21A of this Chapter between the hours of 9:00 A.M. and 5:00 P.M. and may begin counting all absentee ballots between the hours of 2:00 P.M. and 5:00 P.M. upon the adoption of a resolution at least two weeks prior to the election in which the hour and place of counting absentee ballots shall be stated. ~~The resolution also may provide for an additional meeting following the day of the election and prior to the day of~~

~~canvass to count absentee ballots received on election day as provided in subdivision (11) of this section.~~ A copy of the resolution shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. Notice may additionally be made on a radio or television station or both, but the notice shall be in addition to the newspaper and other required notice. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable necessity, except that if the count has been completed prior to the time the polls close, it shall be suspended until that time pending receipt of any additional ballots. Nothing in this section prohibits a county board ~~of elections~~ from taking preparatory steps for the count earlier than the times specified in this section, as long as the preparatory steps do not reveal to any individual not engaged in the actual count election results before the times specified in this subdivision for the count to begin. By way of illustration and not limitation, a preparatory step for the count would be the entry of tally cards from direct record electronic voting units into a computer for processing. The county board shall not announce the result of the count before 7:30 P.M.

- (3) Notwithstanding subdivision (2) of this section, a county board ~~of elections~~ may, at each meeting at which it approves absentee ballot applications pursuant to G.S. 163-230.1(e) and (f), remove those absentee ballots from their envelopes and have them read by an optical scanning machine, without printing the totals on the scanner. The county board shall complete the counting of these absentee ballots at the times provided in subdivision (2) of this section. The State Board shall provide instructions to county boards ~~of elections~~ for executing this procedure, and the instructions shall be designed to ensure the accuracy of the count, the participation of county board members of both parties, and the secrecy of the results before election day. This subdivision applies only in counties that use optical scan devices to count absentee ballots.
- (4) The counting of absentee ballots shall not commence until a majority and at least one county board member of each political party represented on the county board is present and that fact is publicly declared and entered in the official minutes of the county board.
- (5) The county board ~~of elections~~ may employ such assistants as deemed necessary to count the absentee ballots, but each county board member present shall be responsible for and observe and supervise the opening and tallying of the absentee ballots.
- (6) As each ballot envelope is opened, the county board shall cause to be entered into a pollbook designated "Pollbook of Absentee Voters" the name of the absentee voter, or if the pollbook is computer-generated, the county board shall check off the name. Preserving secrecy, the absentee ballots shall be placed in the appropriate ballot boxes, at least one of which shall be provided for each type of ballot.

After all absentee ballots have been placed in the boxes, the counting process shall begin.

If a challenge transmitted to the county board on canvass day by a chief judge is sustained, the absentee ballots challenged and sustained shall be withdrawn from the appropriate boxes, as provided in G.S. 163-89(e).

As soon as the absentee ballots have been counted and the names of the absentee voters entered in the pollbook as required in this subdivision,

the county board members and assistants employed to count the absentee ballots shall each sign the pollbook immediately beneath the last absentee voter's name entered in the pollbook. The county board ~~of elections~~ is responsible for the safekeeping of the pollbook of absentee voters.

- (7) Upon completion of the counting process the county board members shall cause the results of the tally to be entered on the absentee abstract prescribed by the State Board. The abstract shall be signed by the members of the county board in attendance and the original mailed immediately to the State Board.
- (8) One copy of the absentee abstract shall be retained by the county board ~~of elections~~ and the totals appearing on the absentee abstract shall be added to the final totals of all votes cast in the county for each office as determined on the official canvass.
- (9) In the event a political party does not have a member of the county board ~~of elections~~ present at the meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party chair of the absent member, or a member of the party's county executive committee, is in attendance. The person shall act as an official witness to the counting and shall include his or her printed name and signature on the absentee ballot abstract, along with the name of who designated him or her to attend.
- (10) The county board ~~of elections~~ shall retain all container-return envelopes and absentee ballots, in a safe place, for at least 22 months, and longer if any contest is pending concerning the validity of any ballot.
- (11) ~~The county board of elections shall meet after election day and prior to the date of canvass to determine whether the container-return envelopes for absentee ballots received on election day pursuant to G.S. 163-231(b) have been properly executed. The county board of elections shall comply with the requirements of G.S. 163-230.1 for approval of applications. Any absentee ballots received pursuant to G.S. 163-231(b)(2) shall be counted by the county board of elections on the day of canvass. The county board of elections may also shall meet following after the day of the election and prior to the day of canvass to count absentee ballots received pursuant to G.S. 163-231(b)(2) upon the adoption of a resolution pursuant to subdivision (2) of this section. The county board of elections shall comply with all other requirements of this section and G.S. 163-230.1 for the counting of these absentee ballots.~~
- (12) No later than 5:00 P.M. on the third business day after the election, the county board shall announce the tally of all absentee ballots, except those subject to a challenge or those cast in accordance with Article 21A of this Chapter."

SECTION 3A.4.(h) This section becomes effective January 1, 2025, and applies to elections conducted on or after that date.

SECTION 3A.5.(a) G.S. 163-278.19B reads as rewritten:

"§ 163-278.19B. Political party headquarters building funds.

(a) Notwithstanding the provisions of G.S. 163-278.19, a person prohibited by that section from making a contribution may donate to political ~~parties~~ parties, and affiliated party committees and political parties and affiliated party committees may accept from such a ~~person~~ person, money and other things of value donated to a political party headquarters building fund.

(b) Donations made to the political party headquarters building fund in accordance with this section shall be subject to all the following rules:

- (1) The donations solicited and accepted are designated to the political party headquarters building fund.
- (2) Potential donors to ~~that the political party headquarters building fund~~ are advised that all donations will be exclusively for the political party headquarters building fund.
- (3) The political party or affiliated party committee establishes a separate segregated bank account into which shall be deposited only donations for the political party headquarters building fund from persons prohibited by G.S. 163-278.19 from making contributions.
- (4) The donations deposited in the separate segregated bank account for the political party headquarters building fund ~~will~~ shall be spent only as follows:
 - a. ~~to~~ To purchase a principal headquarters building, to construct a principal headquarters building, to renovate a principal headquarters building, or to pay a mortgage on a principal headquarters building, to repay donors if a principal headquarters building is not purchased, constructed, or renovated, or building.
 - b. ~~to~~ To pay building rent or monthly or bimonthly utility expenses incurred to operate the principal headquarters building. Donations deposited into that account shall be used solely for the purposes set forth in the preceding sentence, and specifically shall not be used for headquarters equipment other than fixtures, personnel compensation, or travel or fundraising expenses or requirements of any kind.
 - c. ~~Notwithstanding the above, To compensate personnel compensation and including in-kind benefits may be paid to for~~ no more than three personnel whose functions are primarily administrative in nature, such as providing accounting, payroll, or campaign finance reporting services, for the party and whose job functions require no more than ten percent (10%) of work time to be spent on political advocacy each calendar year.
 - d. To repay donors if a principal headquarters building is not purchased, constructed, renovated, or rented.
 - e. To fund legal actions as defined in G.S. 163-278.300(4).
 - f. To make a legal expense donation to a legal expense fund under Article 22M of this Chapter.
- (5) The political party executive committee or affiliated party committee shall report donations to and spending by a political party headquarters building fund on every report required to be made by G.S. 163-278.9. If a committee is excused from making general campaign finance reports under G.S. 163-278.10A, that committee shall nonetheless report donations in any amount to and spending in any amount by the political party headquarters building fund at the times required for reports in G.S. 163-278.9.

(c) Donations deposited into a political party headquarters building fund shall be used solely for the purposes set forth in this section. Except as otherwise provided in this section, the political party headquarters building fund shall not be used for headquarters equipment other than fixtures, personnel compensation, travel, fundraising expenses, or other expenses of any kind.

(d) ~~If all the criteria set forth in subdivisions (1) through (5) of this section are complied with, then donations to~~ Donations made to, and spending by, a political party headquarters building fund do fund in accordance with this section shall not constitute

contributions or expenditures as defined in G.S. 163-278.6. ~~If those criteria are complied with, then donations may be made to a political party headquarters building fund."~~

SECTION 3A.5.(b) G.S. 163-278.316 is amended by adding a new subsection to read:

"(f) A legal expense fund may accept a legal expense donation from a political party headquarters building fund."

SECTION 3A.5.(c) This section becomes effective January 1, 2025, and applies to donations made and expenses paid on or after that date.

SUBPART III-B. GENERAL GOVERNMENT

MODIFY CERTAIN PROCEDURES RELATED TO APPOINTMENTS

SECTION 3B.1.(a) G.S. 120-122 reads as rewritten:

"§ 120-122. Vacancies in legislative appointments.

When a vacancy occurs in any office subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives, upon the recommendation of the President Pro Tempore of the Senate, or upon the recommendation of the President of the Senate, and the vacancy occurs either: (i) after election of the General Assembly but before convening of the regular session; (ii) when the General Assembly has adjourned to a date certain, which date is more than 20 days after the date of adjournment; (iii) after sine die adjournment of the regular session; or (iv) when the term of office expires and a successor has not been appointed, then the Governor may appoint a person to serve until the expiration of the term or until the General Assembly fills the vacancy, whichever occurs first. The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. When a person is holding over in office after the expiration of the term, for the purpose of this section that office may be filled as if it were vacant. Before making an ~~appointment, appointment in accordance with this section,~~ the Governor shall consult the officer who recommended the original appointment to the General Assembly (the Speaker of the House of Representatives, the President Pro Tempore of the Senate, or the President of the Senate), and ask for a written recommendation. After receiving the written recommendation, the Governor ~~must shall~~ within ~~30-15~~ days ~~either appoint the person recommended or inform the officer who made the recommendation that he is rejecting the recommendation. recommended.~~ Failure to act within ~~30-15~~ days as required under the provisions of the preceding sentence shall be deemed to be ~~approval of the candidate, and the candidate shall be eligible to enter the office in as full and ample extent as if the Governor had executed the~~ an execution of the appointment. The Governor shall not appoint a person other than the person so recommended. Any position subject to initial appointment by the General Assembly but not filled prior to sine die adjournment of the Session at which the position was created or adjournment to a date certain which date is more than 20 days after the date of adjournment of the session at which the position was created may be filled by the Governor under this section as if it were a vacancy occurring after the General Assembly had made an appointment."

SECTION 3B.1.(b) G.S. 143B-9 reads as rewritten:

"§ 143B-9. Appointment of officers and employees.

(a) Department Head. – The head of each principal State department, except those departments headed by popularly elected officers, shall be appointed by the Governor and serve at the Governor's pleasure. The salary of the head of each of the principal State departments shall be set by the Governor, and the salary of elected officials shall be as provided by law.

(a1) Appointment. – For each head of each principal State department covered by this ~~subsection, section,~~ the Governor shall notify the President of the Senate of the name of each person to be ~~appointed, and appointed.~~ Unless expressly waived by an enactment of the

- (3). By creating any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element."

SECTION 3K.1.(b) If any provision of this section is declared unconstitutional or invalid by the courts, it does not affect the validity of this section as a whole or any part other than the part so declared to be unconstitutional or invalid.

SECTION 3K.1.(c) This section is effective when it becomes law and applies to local government ordinances adopted on or after that date and any local government ordinance enacting down-zoning of property during the 180 days prior to the date this section becomes effective. Ordinances adopted in violation of this section shall be void and unenforceable.

PART IV. MISCELLANEOUS PROVISIONS

SECTION 4.1. Severability. – If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 4.2. Effective Date. – Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of November, 2024.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Timothy Reeder, MD
Presiding Officer of the House of
Representatives

VETO Roy Cooper
Governor

Became law notwithstanding the objections of the Governor at 4:50 p.m. this 11th day of December, 2024.

s/ Mr. James White
House Principal Clerk