

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
23CV029308-910

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.

**MEMORANDUM IN SUPPORT OF  
PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT**

**INTRODUCTION**

Weeks after the 2024 elections were completed in November, the General Assembly enacted Senate Bill 382 (Session Law 2024-57) over the Governor's veto. Among its many provisions, Senate Bill 382 contained the General Assembly's sixth attempt in nine years to divest the Governor of authority to supervise the administration of North Carolina election law. For the first time in the State's history, and in an approach unique among all fifty States, the General Assembly assigned complete authority to appoint, supervise, and remove members of the State Board of Elections and the chairs of all 100 county boards of election to the State Auditor, an official whose authority is dependent on the General Assembly and who has no constitutionally assigned duty to faithfully execute the laws.

This Court—in this very case—already held unconstitutional the General Assembly’s effort to strip the previous Governor of authority over the administration of election laws by assigning to itself the power to appoint, supervise, and remove members of the State Board and county boards. The same result is required here. Our Supreme Court has repeatedly held that the separation of powers is violated “when the actions of one branch prevent another branch from performing its constitutional duties.” *State ex rel. McCrory v. Berger*, 368 N.C. 633, 645 (2016). Senate Bill 382 fails that test. If the General Assembly is allowed to transfer authority over the execution of election laws to the State Auditor, the General Assembly can prevent the Governor from exercising the supreme executive powers vested in him by the North Carolina Constitution and fulfilling his constitutional duty to “take care that the laws be faithfully executed.” N.C. CONST. art. III, §§ 1, 5(4). That outcome cannot be squared with the separation of powers.

Senate Bill 382’s constitutional defects, moreover, extend beyond the fact that the legislation would frustrate the take care authority of our State’s chief executive. Fundamentally, the General Assembly here claims a power to—on its whim—transfer any executive duty or power from the Governor to any other executive official that it favors more. The Constitution, however, does not allow the legislature to exert that “degree of control . . . over the execution of the laws.” *McCrory*, 368 N.C. at 645.

If the General Assembly has free rein to reassign enforcement of a particular set of laws to its preferred executive-branch official at any time, the legislature can, in effect, control how the law is enforced. That is paradigmatic executive-branch



power. This time, it is the administration of election laws assigned to the Auditor, but next time it could be election laws to the Treasurer, agricultural laws to the State Superintendent of Public Instruction, or transportation laws to the Commissioner of Labor. The separation of powers mandated by our Constitution forbids such legislative interference.

The General Assembly's flexibility to assign duties to the Council of State is not absolute. The General Assembly cannot ignore the powers and duties expressly vested in the Governor alone. Nor can it disregard entirely the State Auditor's historical role and responsibilities or the settled expectations of the voters who elected the State Auditor based on his qualifications to execute certain functions. For these reasons, the General Assembly can assign the State Auditor duties and powers to conduct independent reviews of state agencies, including the State Board and county boards of elections. But it cannot grant the State Auditor final executive authority over implementation of the election laws.

The people of North Carolina through our Constitution have assigned the supreme executive power and duty of faithful execution to the Governor alone, and that is an assignment that the General Assembly cannot alter. Because Senate Bill 382 contravenes the plain text of the Constitution, constitutional history and context, and binding Supreme Court precedent by assigning to the State Auditor the sole power to supervise the administration of our state's election laws, it violates the separation of powers and must be enjoined.

## **PROCEDURAL HISTORY**

On October 17, 2023, the Governor filed his Verified Complaint in this action and moved for a preliminary injunction. By order entered November 8, 2023, and on Plaintiff's motion, Wake County Superior Court Judge Vince M. Rozier, Jr. transferred this matter to a three-judge panel, which Chief Justice Newby duly appointed.

The Governor moved for a preliminary injunction, which a three-judge panel granted. On November 17, 2023, the State answered the Complaint. Legislative Defendants answered on January 17, 2024.

The Governor then moved for summary judgment, while Legislative Defendants moved to dismiss and for judgment on the pleadings. The panel ruled in favor of the Governor, permanently enjoining the changes to the State Board from taking effect and denying Legislative Defendants' motions.

Shortly thereafter, Legislative Defendants appealed. Following passage of Senate Bill 382, however, Legislative Defendants moved to dismiss their appeal. The Court of Appeals granted the motion on December 23, 2024.

That same day, the Governor moved for leave to file a supplemental complaint. After a hearing on a joint motion by all parties, Wake County Superior Court Judge Paul Ridgeway entered an order that vacated the prior summary judgment and preliminary injunction orders, permitted the supplemental complaint, set a summary judgment schedule, and confirmed that the claims in the supplemental complaint should be heard by a three-judge panel.

## **STATEMENT OF UNDISPUTED FACTS**

### **A. In recent years, the General Assembly has repeatedly sought to strip the Governor's authority over the State Board of Elections.**

From 1901 until the enactment of Senate Bill 382 in December 2024, the State Board of Elections has consisted of five members, *appointed by the Governor*, no more than three of whom can be members of the same political party. See N.C. Gen. Stat. § 163-19(b) (2024); 1901 Session Law Ch. 89 at p.244 § 5.

The passage of Senate Bill 382 marks the sixth time in the last decade that the General Assembly has sought to change this structure to take from the Governor effective control over the execution of election laws by the State Board of Elections. Each of the five prior attempts has been rejected by either the courts—including the North Carolina Supreme Court and this Court earlier in this case—or by the people.

***First attempt.*** In December 2016, the General Assembly enacted legislation that sought to abolish the existing State Board of Elections and create a new Bipartisan State Board of Elections and Ethics Enforcement. *Cooper I*, 370 N.C. at 395; see also Session Laws 2016-125, 2016-126. The new board would have consisted of four members appointed by the Governor and four members appointed by the General Assembly. Session Law 2016-125 § 2.(c). That legislation was struck down by a three-judge panel of the Wake County Superior Court. *Cooper I*, 370 N.C. at 395.

***Second attempt.*** The General Assembly then enacted Session Law 2017-6, which, among other unconstitutional provisions, would have required the Governor to appoint eight members of a new version of the elections board, selecting four members each from two lists supplied by the chairs of the Republican and Democratic

parties. *Cooper I*, 370 N.C. at 396. The legislation was struck down by the North Carolina Supreme Court. *Cooper I*, 370 N.C. at 414-15.

***Third attempt.*** After *Cooper I*, the General Assembly enacted legislation in 2018 that sought to establish a nine-member State Board with all members appointed by the Governor: four from a list of six nominees supplied by the state Democratic party chair; four from a list of six nominees supplied by the state Republican party chair; and one from a list of two nominees (not registered as a Democrat or Republican) made by the other eight members. See Session Law 2018-2, Part VII; Session Law 2017-6. The 2018 legislation would also have created evenly split county boards of election appointed by the State Board, with two members from each major party, and mandated that the chair of each county board be a Republican in every year that Presidential, gubernatorial, and Council of State elections are held. A three-judge trial court panel rejected this third effort. See Order ¶ 79, *Cooper v. Berger*, 18 CVS 3348 (N.C. Super. Ct. Wake County, Oct. 16, 2018).

***Fourth Attempt.*** In the summer of 2018, the General Assembly proposed a constitutional amendment to create a new State Board of Ethics and Elections Enforcement, which echoed the board structure declared unconstitutional in *Cooper I*—i.e., an eight-member board, with the Governor appointing four members recommended by the Democratic and Republican Senate leaders and four members recommended by the Democratic and Republican House leaders. Session Law 2018-133. The voters rejected that amendment resoundingly by a vote of 2,199,787 against (62%) and 1,371,446 for (38%). See North Carolina State Board of Elections,

11/06/2018 Official General Election Results – Statewide, available at: [https://er.ncsbe.gov/?election\\_dt=11/06/2018&county\\_id=0&office=REF&contest=1422](https://er.ncsbe.gov/?election_dt=11/06/2018&county_id=0&office=REF&contest=1422).<sup>1</sup>

***Fifth attempt.*** In October 2023, the General Assembly overrode the Governor’s veto to enact Senate Bill 749 (Session Law 2023-139). That legislation gave rise to the original complaint in this action. In short, Senate Bill 749 would have replaced the five-member State Board of Elections appointed by the Governor with an eight-member State Board appointed entirely by the legislature. Session Law 2023-139 § 2.1. In addition, it would have created county boards with four members that would also have been appointed entirely by the legislature. *Id.* §§ 2.3, 4.1. Legislative leaders would also have retained authority to designate the chair of the State Board, as well as its executive director, in certain circumstances. *Id.* §§ 2.1, 2.5.

This Court granted summary judgment to the Governor, concluding that the General Assembly’s “actions [were] the most stark and blatant removal of appointment power from the Governor since *McCrory* and *Cooper I.*” Because “*Cooper I* and *McCrory* control,” the Court said, “the Session Law must be permanently enjoined.” Summary Judg. Order at 6.<sup>2</sup>

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<sup>1</sup> The Court may take judicial notice of the results of the election. *State v. Swink*, 151 N.C. 726 (1909) (taking judicial notice of holding of election and resulting referendum vote in favor of new law); *see also In re Peoples*, 296 N.C. 109, 142 (1978) (taking judicial notice of records of the North Carolina State Board of Elections); *see also* N.C. R. Evid. 201(b).

<sup>2</sup> This Order was vacated with consent of the parties, *see supra* p. 4, and is not controlling precedent.

**B. The General Assembly tries for a sixth time and passes Senate Bill 382.**

Senate Bill 382 marks the General Assembly's sixth attempt to transfer elections authority away from the Governor. Before Senate Bill 382, the Governor appointed the members of the State Board from a list of four nominees submitted by the state party chairman of each of the two largest political parties in the State. N.C. Gen. Stat. § 163-19(b) (2024). The Governor similarly filled vacancies based on a list of nominees from the chair of the political party of the departing member. *Id.* § 163-19(c). The Governor was also empowered to summarily remove any member who failed to attend meetings of the State Board. *Id.* § 163-20(d).

Senate Bill 382 attempts to change this structure by, in large measure, replacing the Governor with the State Auditor in supervising the execution of the relevant statutes. Specifically, Senate Bill 382 attempts to transfer the Governor's authority to appoint members of the State Board to the State Auditor. Session Law 2024-57 § 3A.3.(c) (amending N.C. Gen. Stat. § 163-19(b)). It would do the same for the Governor's authority to fill vacancies or remove members who fail to attend State Board meetings. *Id.* § 3A.3.(d) (amending N.C. Gen. Stat. § 163-20(d)). Senate Bill 382 would also transfer the State Board to the Department of State Auditor and provide that "budgeting functions" for the State Board "shall be performed under the direction and supervision of the State Auditor." *Id.* § 3A.2(a).

Senate Bill 382 adopts much the same approach with respect to county boards of elections. Before Senate Bill 382, county boards were composed of five members. The State Board itself appointed four members, two each from lists of three nominees

provided by the two political parties receiving the most votes in the previous election. N.C. Gen. Stat. § 163-30(a), (c) (2024). The Governor appointed the chair of each county board. *Id.* § 163-30(a). The State Board could remove any county board member for cause and fill the vacancy created by that removal, selecting from a list of two nominees provided by the political party of the departing member. *Id.* §§ 163-22(c), 163-30(d).

Just as Senate Bill 382 would change the State Board, it would change the county boards by transferring the Governor’s powers to the State Auditor. The State Auditor would now appoint the chair of each county board instead of the Governor. Session Law 2024-57 § 3A.3.(f) (amending N.C. Gen. Stat. § 163-30(a)). And the State Auditor, not the Governor, would now indirectly control the composition of county boards through the Auditor’s power to appoint, supervise, and remove all members of the State Board.

## **ARGUMENT**

### **I. Standard of Review**

Laws enacted by the General Assembly are presumed constitutional and will not be declared invalid unless it is determined that they are unconstitutional beyond a reasonable doubt. *Cooper I*, 370 N.C. at 413. “In order to determine whether the violation is plain and clear, we look to the text of the constitution, the historical

context in which the people of North Carolina adopted the applicable constitutional provision, and our precedents.” *Id.* (citation and internal quotation marks omitted).<sup>3</sup>

“Although there is a strong presumption that acts of the General Assembly are constitutional, it is nevertheless the duty of this Court, in some instances, to declare such acts unconstitutional.” *Stephenson v. Bartlett*, 355 N.C. 354, 362 (2002) (citing *Marbury v. Madison*, 5 U.S. 137 (1803)). If a statute can be interpreted to **allow** the legislature—in any circumstance—to violate separation of powers, it is facially invalid. *See Cooper I*, 370 N.C. at 416 n.12; *see also McCrory*, 368 N.C. at 645–47.

## **II. The Governor is the State’s chief executive.**

The North Carolina Constitution vests executive power in a single constitutional officer: the Governor. N.C. CONST. art. III, § 1 (“The executive power of the State shall be vested in the Governor.”); *see also* 1868 N.C. CONST. art. III, § 1 (“The Executive Department shall consist of a Governor (*in whom shall be vested the Supreme executive power of the State*) a Lieutenant Governor, a Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Works, a Superintendent of Public Instruction, and an Attorney General. . . .” (emphasis added)). Though the Constitution names several other “elective officers” within the executive branch, N.C. CONST. art. III, § 7, it contains no provision vesting those officers with executive power. Nor does the Constitution assign those officers any role in the execution of state law. To the contrary, our Constitution gives to the Governor alone the

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<sup>3</sup> This Court is, of course, bound by our Supreme Court’s holdings. If this matter reaches the Supreme Court, the Governor intends to argue that the legislature is not entitled to a presumption of constitutionality in separation-of-powers cases.



obligation to “take care that the laws be faithfully executed.” N.C. CONST. art. III, § 5(4); 1868 N.C. CONST. art. III, § 7.

This constitutional language is bolstered by both history and precedent from the State’s courts. Over the last 250 years, the Governor’s role as chief executive has been fortified through constitutional revisions and amendments. Our courts, moreover, have repeatedly struck down legislative efforts that would have impeded the Governor’s ability to fulfill his role as chief executive.

Together, our Constitution’s text, our State’s history, and our courts’ precedents confirm one key truth: the Governor’s supreme authority to take care that the laws are faithfully executed is unique among executive branch officials. Efforts to undermine that authority—no matter how craftily designed—violate the Constitution.

**A. The Constitution affords executive power to the Governor alone.**

Our Constitution exclusively vests “[t]he executive power of the State” in the Governor. N.C. CONST. art. III, § 1.<sup>4</sup> And it assigns exclusively to the Governor the obligation to “take care that the laws be faithfully executed.” *Id.* art. III, § 5(4). Thus, as a constitutional matter, it is up to the Governor alone to ensure “that our laws are properly enforced.” *Cooper v. Berger (Cooper Confirmation)*, 371 N.C. 799, 799 (2018);

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<sup>4</sup> With only slightly different wording, so too did the 1868 Constitution. N.C. Const. of 1868, art. III, § 1 (providing for a Governor “in whom shall be vested the Supreme executive power of the State”); *see also McKinney v. Goins*, No. 109PA22-2, 2025 WL 350090, at \*7 n.5 (N.C. Jan. 31, 2025) (“Our precedents have repeatedly cited the [1968 constitutional drafting] Commission’s characterization of its edits as non-substantive.”).

*see also, e.g., State v. English*, 5 N.C. 435, 435 (1810) (“The Governor represents the supreme executive power of the State, and according to the theory of our Constitution, is bound to attend to the due enforcement and execution of the laws.”). Consistent with our Constitution’s text, the General Assembly has recognized that the Governor supervises “the official conduct of *all* executive and ministerial officers,” without excluding elected Council of State members. N.C. Gen. Stat. § 147-12(a)(1) (emphasis added).

The decision to vest the supreme executive power in the Governor and to assign the Governor alone the duty to take care that the laws be faithfully executed is a marked contrast from the assignment of the legislative and judicial power to multi-member bodies. N.C. CONST. art. II, § 1, art. IV, §§ 1, 2, 5-7, 9-10. The legislative power to enact the laws is vested in two multi-member legislative bodies: the Senate and the House of Representatives. N.C. CONST. art. II, § 1. And the judicial power to interpret the laws is, with limited exceptions not relevant here, vested in a General Court of Justice, which consists of multiple members in an Appellate Division, Superior Court Division, and District Court Division. N.C. CONST. art. IV, §§ 1, 2, 5-7, 9-10.

By contrast, our 1868 Constitution, in the same clause that first identified other independently elected executive offices, made clear that the *Governor* “shall be vested [with] the Supreme executive power of the State.” 1868 N.C. CONST. art. III, § 1. Similarly, the duty to take care that the laws be faithfully executed was exclusively assigned to the Governor. 1868 N.C. CONST. art. III, § 7. The Governor

alone, moreover, was required to take an oath or affirmation to support the Constitution, laws of the United States and State, and “faithfully perform the duties appertaining to the Office of Governor.” *Id.* § 7. These exclusive assignments of executive power and obligation were not changed in 1876, when thirty revisions to the Constitution were ratified by the people. *McCrory*, 368 N.C. at 431. And they remain in the Constitution today. N.C. CONST. art. III, §§ 1, 4, 5(4). In 1868 or any time in the century-and-a-half thereafter, the executive power could expressly have been vested in the multi-member Council of State, just as the legislative and judicial power are expressly vested in multi-member bodies. But the people of North Carolina have made a different choice.

Further, the people of North Carolina chose to protect the Governor’s executive authority from encroachment by the other branches with an express separation-of-powers guarantee: “The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.” N.C. CONST. art. I, § 6; *see also* 1776 N.C. CONST., Decl. of Rights, § IV; 1868 N.C. CONST. art. I, § 8. As explained by the Court, “[o]ur founders believed that separating the legislative, executive, and judicial powers of state government was necessary for the preservation of liberty.” *McCrory*, 368 N.C. at 635.

This clause constrains the legislature’s relationship to executive authority. Although the “clearest violation” of this constitutional provision occurs when “one branch exercises power that the constitution vests exclusively in another branch,” the clause equally forbids one branch from “prevent[ing] another branch from performing

its constitutional duties.” *McCrory*, 368 N.C. at 645. In other words, it matters little whether the legislature attempts directly to wield executive power or whether it instead merely interferes with the exercise of executive power. In either case, the legislative act runs afoul of our State’s clear constitutional mandate to keep the powers afforded the three coordinate branches “forever separate and distinct,” and it unlawfully encroaches upon the Governor’s constitutional role. N.C. CONST. art. I, § 6; *see also McCrory*, 368 N.C. at 645.

**B. The people of North Carolina have bolstered the Governor’s executive power over time.**

Since 1776, our State has repeatedly changed how power is allocated among the three branches of government. *McCrory*, 368 N.C. at 645. Across the last 250 years, that reallocation has increasingly empowered the Governor. The people of North Carolina, by adopting constitutional amendments, have shifted power away from the General Assembly while enhancing and reinforcing executive power. *See, e.g., John L. Sanders, Our Constitutions: A Historical Perspective* (hereinafter “Sanders”), in NORTH CAROLINA MANUAL 2011-2012 at 73, 73-91, *available at*: <https://digital.ncdcr.gov/Documents/Detail/north-carolina-manual-2011-2012/4384827>.

As originally conceived, the Governor was a short-term, legislatively appointed official almost entirely beholden to the General Assembly. North Carolina’s 1776 Constitution provided for the Governor to be selected jointly by the House and the Senate to a one-year term. 1776 CONST. art. XV. The people amended the Constitution in 1835 to provide for direct election of the Governor to a two-year term,

but the Governor's powers remained relatively circumscribed. Orth & Newby, *THE NORTH CAROLINA STATE CONSTITUTION* 15 (2d ed. 2013) (noting that after this amendment "little changed in reality").

The 1868 Constitution established a much more independent Governor as the State's chief executive. Specifically, it provided that the Governor was to be popularly elected by the people to a four-year term, vested with "the Supreme executive power of the State," and responsible for the faithful execution of the laws. 1868 N.C. CONST. art. III §§ 1, 7; *see also Report of the North Carolina State Constitution Study Commission* 142 (1968) (hereinafter "*1968 Report*").<sup>5</sup>

One hundred years later, the drafters of the 1971 Constitution explained the Governor's supreme executive authority:

State government is rapidly becoming more complex, its concerns more ramified, its operations more expensive, and its management more difficult and demanding. It is the Governor who is looked to to give direction and leadership to this massive activity. No one else in state government has the breadth of view and responsibility and ***no one else has the authority to do the job.***

*1968 Report* at 109 (emphasis added). Unsurprisingly, then, the 1971 Constitution carried forward the modern gubernatorial office that had been established in 1868.<sup>6</sup>

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<sup>5</sup> Our Supreme Court has relied upon the *1968 Report* numerous times. *See, e.g., McCrory*, 368 N.C. at 643.

<sup>6</sup> The 1971 Constitution used different language than the prior iteration, but maintained the Governor's role as chief executive with the supreme executive power. *See* N.C. CONST. art. III, § 1. The 1971 Constitution resulted from a "general editorial revision of the [1868] constitution . . . none [of which was] calculated . . . to bring about any fundamental change in the power of state and local government or the distribution of that power." *1968 Report* at 10; *see also* Orth & Newby, *THE NORTH*

Since the 1971 Constitution was adopted, the people have elected to further strengthen the Governor’s footing, adopting a 1977 amendment to allow the Governor to serve two successive terms. *See Sanders* at 87-88; N.C. CONST. art. III, § 2. And in 1996, the voters, by a 3-to-1 majority, gave the Governor veto power. *See Sanders* at 89.

As recently as November 2018, the people resoundingly reaffirmed their preference for continuing to vest executive authority exclusively in the Governor’s Office and against legislative efforts to encroach on that authority. Specifically, the General Assembly proposed a constitutional amendment to create a new State Board of Ethics and Elections Enforcement composed entirely of legislative appointees—the same structure declared unconstitutional in *Cooper I*. Session Law 2018-133. The voters decisively rejected that amendment by a vote of 2,199,787 against (62%) and 1,371,446 for (38%). *See North Carolina State Board of Elections, 11/06/2018 Official General Election Results – Statewide*, available at: [https://er.ncsbe.gov/?election\\_dt=11/06/2018&county\\_id=0&office=REF&contest=1422](https://er.ncsbe.gov/?election_dt=11/06/2018&county_id=0&office=REF&contest=1422).

Thus, from 1776 to the present, the Governor has shifted from an individual selected by the General Assembly for a one-year term to “the people’s elected executive” with “express constitutional powers,” *Bacon v. Lee*, 353 N.C. 696, 711 (2001), empowered to seek multiple terms of office, veto legislation, administer the

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CAROLINA STATE CONSTITUTION 32-33 (2d ed. 2013) (“[The 1971 Constitution was] a good-government measure . . . designed to consolidate and conserve the best features of the past, not break with it. . . . The text of the new frame of government was that of the 1868 constitution as amended, subjected to rigorous editorial revision.”); *McKinney*, 2025 WL 350090, at \*7 n.5.

budget, and faithfully execute the laws. N.C. CONST. art. II, § 22; art. III, §§ 1, 2, 5, 10; *McCrory*, 368 N.C. at 646.

**C. Supreme Court precedent confirms the Governor’s executive supremacy.**

The North Carolina Supreme Court has also repeatedly confirmed the exclusive nature of the Governor’s executive authority.

On several occasions, the Court has reaffirmed the Governor’s supreme authority to faithfully execute the laws when rejecting legislative attempts to arrogate that authority for itself. In *State ex rel. Wallace v. Bone*, 304 N.C. 591 (1982), for example, our Supreme Court recognized that the Governor alone must control executive branch instrumentalities when it rejected the legislature’s attempt to put four members of the General Assembly on the Environmental Management Commission. *Bone*, 304 N.C. at 607. And in *McCrory v. Berger*, the Court explained that the reason the Governor must control executive branch commissions was that the executive branch’s “distinctive purpose” is to “faithfully execute[], or give[] effect to” laws enacted by the General Assembly, and the “Governor leads” that branch. 368 N.C. at 636. There, the Court sided with then-Governor McCrory in his challenge to “legislation that authorize[d] the General Assembly to appoint a majority of the voting members of three administrative commissions.” *Id.* at 636. That structure, our Supreme Court held, left the “Governor with little control over the views and priorities” of those commissions. *Id.* at 647.

The Court has also held that the Governor’s exclusive duty to take care that the laws be faithfully executed dictates not only that the legislature cannot take

executive power for itself, but also that the legislature cannot “unreasonably disrupt[]” the Governor’s control over the executive branch. *Id.* at 645 (quoting *Bacon*, 353 N.C. at 717). The Governor’s “control” over executive boards and commissions derives from three mechanisms: his “ability [1] to appoint the commissioners, [2] to supervise their day-to-day activities, and [3] to remove them from office.” *Id.* at 646.

Thus, in *Cooper v. Berger (Cooper I)*, 370 N.C. 392 (2018), the Court held that a statute requiring the Governor to select half the members of the State Board from a list provided by leadership of the opposing political party violated separation of powers. *Cooper I*, 370 N.C. at 422. That conclusion turned on the Governor’s obligation to faithfully execute laws, which the Court explained requires that the Governor retain the ability, “within a reasonable period of time” to have “the final say on how to execute the laws.” *Id.* at 418. The General Assembly impermissibly interfered with the Governor’s authority when it adopted a structure for the State Board that restricted the Governor’s ability to select appointees of his choosing and also gave him “limited supervisory control over the agency and circumscribed removal authority over commission members.” *Id.*

Finally, the Court has emphasized the Governor’s supreme executive power even when it has rejected separation of powers challenges to the General Assembly’s enactments. For example, in *Cooper v. Berger (Cooper Confirmation)*, 371 N.C. 799 (2018), the Court explained that “[t]he Governor is our state’s chief executive” and “[h]e or she bears the *ultimate responsibility* of ensuring that our laws are properly



enforced.” *Cooper Confirmation*, 371 N.C. at 799 (emphasis added). Although the Court noted that members of the Council of State were also executive branch officers, it likened them to “the advisory councils of the English monarchs.” *Id.* at 800 n.1. In other words, Council of State members aid the Governor in executing the laws, but the Governor alone wields the ultimate executive authority and bears the ultimate duty of faithful execution.

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At bottom, the Supreme Court has recognized what the people made clear in our Constitution: the Governor—and the Governor alone—has the constitutional duty to ensure the State’s laws are faithfully executed.

**III. Senate Bill 382 violates the separation of powers because it prevents the Governor from ensuring faithful execution of the law, as the Constitution requires.**

Senate Bill 382 cannot be reconciled with the Governor’s role under North Carolina law. By stripping the Governor of control over the State Board and county boards, the General Assembly has interfered with his constitutional obligation to take care that the State’s elections laws are faithfully executed. This interference runs counter to the Constitution, the evolution of the Governor’s role over time, and binding precedent.

That the General Assembly effectuated its interference in Senate Bill 382 by assigning execution of the State’s elections law to a different member of the executive branch, the State Auditor, does not change that conclusion. Indeed, by transferring elections authority to a Council of State member whose role bears no relation to

elections, the General Assembly has merely confirmed its real objective: to dictate the faithful execution of the laws, in violation of the separation of powers.

Because Senate Bill 382—like the five efforts before it—unreasonably disturbs the Governor’s authority to take care that the laws are faithfully executed, the law must be enjoined.

**A. Senate Bill 382 contravenes the Governor’s role as chief executive.**

Senate Bill 382’s reworking of the State Board is simple, though unconstitutional: the law would take *all* the authority previously exercised by the Governor with respect to the State Board and transfer that executive authority to the State Auditor. More specifically, the challenged provisions would:

- End the terms of all gubernatorially appointed members on the existing State Board of Elections. Session Law 2024-57 § 3A.3.(c) (amending N.C. Gen. Stat. § 163-19(b)).
- Empower the State Auditor to appoint all members of the newly constituted State Board of Elections. *Id.*
- Empower the State Auditor to fill all vacancies on the State Board of Elections. *Id.*
- Empower the State Auditor to appoint the chair of all 100 county boards of elections. *Id.* at § 3A.3.(f) (amending N.C. Gen. Stat. § 163-30(a)).
- Assign to the Auditor the statutory power of removal. *Id.* at § 3A.3.(d) (amending § 163-20(d)); *see also* N.C. Gen. Stat. § 143B-2 (Executive Organization Act of 1973, which contains default gubernatorial removal powers, is not expressly applicable to State Board).

These changes cannot be reconciled with the Governor's unique role under our Constitution, especially when compared to the limited, specific role contemplated for the Auditor. While the Governor is mentioned 78 separate times in the Constitution, the Auditor is mentioned just once. *Compare* N.C. CONST. art. III, § 7(1) *with, e.g.*, N.C. CONST. art. I, § 37, art. II, § 22, art. III, art. IV, § 19, art. IX § 4. art. XII, § 1. The Governor—not the Auditor—is our State's chief executive. The Governor—not the Auditor—is tasked with the constitutional obligation to faithfully execute the law. Consequently, Senate Bill 382 has the same constitutional infirmities as the General Assembly's prior attempts to take from the Governor power to supervise the executive officials who administer the State's elections.

North Carolina case law is plain and clear: the North Carolina Constitution requires the Governor to have sufficient control over administrative bodies that have final executive authority to ensure that the laws can be faithfully executed. *McCrory*, 368 N.C. at 646; *Cooper I*, 370 N.C. at 418. To assess the Governor's claims, precedent directs this Court to first consider whether the State Board possesses executive authority, such that the Governor is entitled to control it. *See Wallace*, 304 N.C. at 606–07 (first considering whether the “duties of the EMC are administrative or executive in character”). Next, the Court must consider whether the General Assembly has unconstitutionally encroached on the Governor's control of the State Board. *McCrory*, 368 N.C. at 646; *Cooper I*, 370 N.C. at 418. Here, the answer to both questions is unequivocally yes. Senate Bill 382 is therefore unconstitutional.

First, just six years ago, our Supreme Court concluded that the State Board is primarily administrative or executive in character. *Cooper I*, 370 N.C. at 415. Similarly, this Court held that both the State Board and county boards were executive agencies at summary judgment when assessing the Governor’s challenge to Senate Bill 749. Summary Judgment Order at 5-6 (¶¶11-12). Nothing has changed in the duties or functions of the State Board or county boards that would warrant a different conclusion.

Specifically, the State Board of Elections remains responsible for “general supervision over the primaries and elections in the State,” including authority to issue rules, regulations and guidelines; appoint and remove county board members and advise them as to the “proper methods of conducting primaries and elections”; prepare and print ballots, including determining their form and content; certify election results; and exercise certain emergency powers. *See, e.g.*, N.C. Gen. Stat. §§ 163-22(a)–(k),(m)–(p), 163-22.2, 163-24, 163-27.1, 163-82.12, 163-82.24, 163-91, 163-104, 163-166.8, 163-182.12, 163-227.2. Likewise, the county boards of elections undertake executive functions, such as administering elections on the county level, appointing and removing board employees, preparing ballots, preparing budgets, and issuing certificates of election. N.C. Gen. Stat. § 163-33(6)–(11). Because these functions are “primarily administrative or executive in character,” the State Board and county boards of election are executive agencies. *McCrary*, 368 N.C. at 645–46.

The Court must therefore move to the next step and ask whether Senate Bill 382 affords the Governor sufficient control to “perform his express constitutional duty

to take care that the laws are faithfully executed.” *Id.*; *Cooper I*, 370 N.C. at 414. It does not.

Again, as our Supreme Court has explained, “the relevant issue in a separation-of-powers dispute is whether, based upon a case-by-case analysis of the extent to which the Governor is entitled to appoint, supervise, and remove the relevant executive officials, the challenged legislation impermissibly interferes with the Governor’s ability to execute the laws in any manner.” *Cooper BOE*, 370 N.C. at 417. To survive judicial scrutiny, the Governor must retain “‘enough control over’ the executive officers ‘to perform his constitutional duty’ under the take care clause.” *Cooper Confirmation*, 371 N.C. at 806 (quoting *McCrory*, 368 N.C. at 646).

Here, where Senate Bill 382 would completely remove the Governor from supervising the executive branch officials charged with administering the State’s election laws, the constitutional violation is plain. As explained above, under Senate Bill 382, the Auditor, not the Governor, would have authority to appoint, supervise, and remove the members of the State Board and the chairs of all 100 county boards of elections. *See Cooper Confirmation*, 371 N.C. at 806; *McCrory*, 368 N.C. at 646. Such an approach would functionally deprive the Governor of any role in the administration of the state’s election laws, divest him of the executive power vested in him by the Constitution, and prevent him from ensuring that the election laws are faithfully executed. Legislation of that kind cannot be reconciled with the text of the Constitution, the evolving role of the Governor over the last two centuries, or our Supreme Court’s precedents.

**B. Senate Bill 382 is not saved by the State Auditor's location in the executive branch.**

Senate Bill 382 concededly adopts a somewhat different strategy than the General Assembly's five prior attempts to strip the Governor of control of the State Board in the past decade. For the first time, the General Assembly has sought to transfer authority over the enforcement of the State's election laws from the Governor to another official within the executive branch. But this strategy is no more constitutional than the last five. Because, under Senate Bill 382, the General Assembly claims the power to reassign execution of the election laws to its preferred executive official any time it is dissatisfied with enforcement, the legislature has effectively sought to dictate how the law is enforced. That kind of legislative aggrandizement violates the separation of powers.

**1. The Constitution does not allow the General Assembly to indiscriminately reassign executive authority.**

As the Supreme Court has repeatedly held, the Governor's right to control executive boards and commissions derives from the duty of faithful execution—not from the fact that he is an elected member of the executive branch. *Cooper I*, 370 N.C. at 418 (“The General Assembly cannot, however, *consistent with the textual command contained in Article III, Section 5(4) of the North Carolina Constitution*, structure an executive branch commission in such a manner that *the Governor* is unable, within a reasonable period of time, to ‘take care that the laws be faithfully executed’ . . . .” (emphases added)); *McCrorry*, 368 N.C. at 645 (“In the current constitution, *Article III, Section 5(4) gives the Governor the duty to ‘take care that the laws be faithfully executed.’*” (emphasis added)). For that reason, the General

Assembly cannot simply transfer the Governor’s authority over certain executive or administrative agencies to other executive officials in the Council of State. Because they are not assigned the duty to take care that the laws are faithfully executed, the other Council of State members are not fungible with the Governor.

Precedent from the North Carolina Supreme Court confirms the point. In *North Carolina State Board of Education*, the Court considered legislation that assigned new duties to the State Superintendent of Public Instruction. 371 N.C. 170, 171 (2018). The Court recited the Superior Court’s common-sense statement of the law: “[W]hen [the] constitution expressly confers certain powers and duties on an entity, those powers and duties cannot be transferred to someone else without a constitutional amendment.” *Id.* at 72 (internal quotation marks omitted); *see also* Thomas M. Cooley, *A Treatise on the Constitutional Limitations Which Rest upon the Legislative Power of the States of the American Union* 114-115 (2d ed. 1871) (“[S]uch powers as are specially conferred by the constitution upon the governor, or upon any other specified officer, the legislature cannot authorize to be performed by any other officer or authority; and from those duties which the constitution requires of him he cannot be excused by law.”). The Court then upheld the legislation against a challenge brought by the State Board of Education, a constitutionally created body, because the new duties assigned to the State Superintendent (also a constitutionally created office) “*d[id] not interfere* with the Board’s constitutional authority to generally supervise and administer the public school system . . . .” *Id.* at 185 (emphasis added). This was because the “statutory changes . . . do not, at least on

their face, invade the Board’s constitutional authority under Article IX, Section 5 . . . [because of] numerous statutory provisions *subjecting the Superintendent’s authority* to appropriate rules and regulations adopted by the Board.” *Id.* at 187 (emphasis added); *see also Martin v. Thornburg*, 320 N.C. 533, 545-46 (1987) (finding no constitutional conflict between the authority of the Governor and Attorney General with regard to representation in legal proceedings because statutory responsibilities of the Attorney General were “*not in derogation of or inconsistent with the executive power* vested by the constitution in the Governor” (emphasis added)).

As another example, our Supreme Court has held that a Superior Court judge may not order a District Attorney to request that the Attorney General prosecute a case. This is so because the North Carolina Constitution and related statutes “give the District Attorneys of the State the *exclusive discretion and authority* to determine whether to request—and thus permit—the prosecution of any individual case by the Special Prosecution Division [of the Office of the Attorney General].” *See State v. Camacho*, 329 N.C. 589, 594 (1991) (emphasis added). That power cannot be fulfilled—or even interfered with—by another constitutional officer. *See id.*

*State Board of Education* and *Camacho* illustrate that diffusing the Governor’s exclusive, constitutional duty of faithful execution among other executive branch officers not subject to the Governor’s authority violates the plain language of the North Carolina Constitution and thus cannot be constitutional. The executive power vested in the Governor and his constitutionally assigned duty to take care that the



laws be faithfully executed cannot be transferred to the State Auditor or any other member of the Council of State at the whim of the General Assembly.

Any other approach would afford the General Assembly an easy end-run around the separation of powers. If the General Assembly can simply assign any executive function to any executive official any time it wants, it can effectively control the execution of the law by continuing to transfer executive authority among executive officials until it achieves its desired outcome. “The separation of powers clause plainly and clearly does not allow the General Assembly to take this much control over the execution of the laws from the Governor and lodge it with itself.” *McCrary*, 368 N.C. at 647. Indeed, the rule that the General Assembly seeks “would nullify the separation of powers clause, at least as it pertained to the General Assembly’s ability to control the executive branch.” *Id.*

If the scheme enacted in Senate Bill 382 is allowed to stand executive power would no longer derive from the people and their Constitution but would be subject to arbitrary reassignment at the whim of the General Assembly. The General Assembly could make the Insurance Commissioner, Attorney General, or any other Council of State member responsible for the administration of the election laws or any other executive function. The duty and power to perform independent, impartial audits of state agencies could be assigned to the Commissioner of Agriculture. The state’s agricultural policy could be managed by a commission appointed by the Superintendent of Public Instruction. The Department of Adult Correction could be supervised by a board appointed by the Labor Commissioner.

That approach would shatter our constitutional balance and subvert the will of the people, who elect their executive officials based on their qualifications to fulfill their assigned responsibilities. The people of North Carolina elected the Governor—and only the Governor—to be the State’s chief executive. And they elected the State Auditor to conduct independent audits of government agencies, not to manage those agencies.

**2. The General Assembly cannot constitutionally transfer authority over elections to the State Auditor.**

To resolve this case, the Court need only determine whether our Constitution permits the State Auditor to be solely responsible for execution of the State’s election laws. Constitutional text, history, and precedent establish that it does not.

While the Constitution permits the legislature to “prescribe[] by law” the “respective duties” of the “[o]ther elective officers” in the Council of State, N.C. Const. art III, § 7(2), in assigning those duties it cannot unreasonably disturb the Governor’s supreme executive authority and his obligation to take care that the laws are faithfully executed. *Cooper Confirmation*, 371 N.C. at 806 (“The separation of powers clause requires that the Governor have enough control over executive officers to perform his constitutional duty under the take care clause.” (cleaned up)). Moreover, the General Assembly’s power to prescribe duties to the Council of State is constrained by the people’s understanding of the purpose of those offices when they were created. *See Sneed v. Greensboro City Bd. of Ed.*, 299 N.C. 609, 613 (1980) (“Inquiry must be had into the history of the questioned provision and its antecedents, the conditions that existed prior to its enactment, and the purposes sought to be

accomplished by its promulgation. The court should place itself as nearly as possible in the position of the men who framed the instrument.” (internal quotation marks omitted)). If the people intended § 7(2) to function as plenary authority for the General Assembly to assign *any* duty to *any* Council of State member at *any* time, then they would have assigned the executive authority and the take care obligation to the entire Council of State. They did not.

The elected, constitutional position of State Auditor was first established in the 1868 Constitution. 1868 N.C. CONST. art. III, § 1. By the State Auditor’s own account, the role of the State Auditor as established in 1868 was to “superintend the fiscal affairs of the State; examine and settle accounts of persons indebted to the State; liquidate claims by persons against the State; and to draw warrants on the State Treasurer for moneys to be paid out of the Treasury.” N.C. Office of the State Auditor, *History of the Office of State Auditor* (last accessed Feb. 24, 2025), <https://www.auditor.nc.gov/about-us/history-office-state-auditor> (attached as Exhibit A). The 1869 legislation that implemented the 1868 Constitution provided that “It is the duty of the Auditor: (1) To superintend the fiscal concerns of the State.” Pub. L. ch. 270 § 63(1) (1869). The legislation went on to assign a variety of additional fiscal duties to the Auditor, such as “[t]o keep and state all accounts in which the State is interested,” and “[t]o examine and settle the accounts of all persons indebted to the State.” *Id.* §§ 63(4), (5).

This understanding of the Auditor’s role is also reflected in the General Statutes today. The “General Duty” assigned by the General Assembly to the State

Auditor is “to provide for the auditing and investigation of State agencies by the impartial, independent State Auditor.” N.C. Gen. Stat. § 147-64.6. To preserve the independence necessary to effectively audit state government activities, the General Assembly has generally sought to prevent the State Auditor from being involved in non-audit responsibilities. Specifically, a longstanding statute provides that “the Auditor and his employees” may not, unless otherwise expressly authorized by statute, “serve in any capacity on an administrative board, commission, or agency of government” and further provides that “[t]he Auditor shall not conduct an audit on a program or activity for which he has management responsibility.” N.C. Gen. Stat. § 147-64.12.

This portfolio is consistent with the office’s title. An auditor is “a person authorized to examine and verify accounts.” Merriam-Webster Dictionary (2025); *see also* Black’s Law Dictionary (12th ed. 2024) (“A person or firm, usu. an accountant or an accounting firm, that formally examines an individual’s or entity’s financial records or status.”); *id.* (defining “state auditor” as “The appointed or elected official responsible for overseeing state fiscal transactions and auditing state-agency accounts”). That is precisely how our Constitution’s framers would have understood the role. *E.g.*, Noah Webster, *An American Dictionary of the English Language*, (1828 ed.) (“A person appointed an authorized to examine an account or accounts, compare the charges with the vouchers, examine the parties and witnesses, allow or reject charges, and state the balance.”); John Bouvier, *A Law Dictionary adapted to the Constitution and Laws of the United State of America* (1860 ed.) (“An officer whose

duty is to examine the accounts of officers who have received and disbursed public moneys by lawful authority.”); Oxford University Press, Oxford English Dictionary (2025) (“ An official whose duty it is to receive and examine accounts of money in the hands of others, who verifies them by reference to vouchers, and has power to disallow improper charges.”).

Until the General Assembly enacted Senate Bill 382 in 2024, undersigned counsel’s legal and historical research has not shown that the State Auditor has played any role in election administration. To the contrary, the State Auditor has been responsible only for conducting various independent audits of the State Board of Elections, a function well within the Auditor’s traditional, constitutional role. *See, e.g.,* Investigative Report, North Carolina State Board of Elections, Office of the State Auditor (Feb. 2011), *available at*: <https://files.nc.gov/nc-auditor/documents/reports/investigative/INV-2011-0361.pdf?VersionId=7Kwfy.Ie.zMjHpbHifx4pi0.p189qeA8>; Letter from State Auditor Leslie Merritt, Jr. to Larry Leake, Chairman, State Board of Elections (Apr. 17, 2008), *available at*: [https://files.nc.gov/nc-auditor/documents/reports/investigative/INV-2008-0334.pdf?VersionId=u.rMm740Aa1\\_x8cVvNKfn7b1l0azVFvU](https://files.nc.gov/nc-auditor/documents/reports/investigative/INV-2008-0334.pdf?VersionId=u.rMm740Aa1_x8cVvNKfn7b1l0azVFvU).

Senate Bill 382 would therefore represent a significant departure from historical practice by making the State Auditor responsible for administration of the state’s election laws, as opposed to auditing the functions of the State Board of Elections or county boards of elections. Moreover, the legislation would make North Carolina unique in the nation by assigning the State Auditor complete authority to

appoint, supervise, and remove members of the State Board and the chairs of all 100 county boards. And it would upset the settled expectations of North Carolina’s voters, from whom “[a]ll political power is . . . derived,” by completely changing the executive power over elections just weeks after an election took place. N.C. CONST. art. I, § 2.

By contrast, the Governor’s important role in the faithful execution of our state’s election laws has been consistent: for more than one hundred years, the Governor has appointed the members of the State Board of Elections. *See* N.C. Gen. Stat. § 163-19(b) (2024); 1901 Session Law Ch. 89 at p.244 § 5. While the State Board functioned independently, the Governor was able to supervise its actions and ensure faithful execution of the state’s elections laws in his role as chief executive.<sup>7</sup>

As all of North Carolina’s living former Governors—three Democrats and two Republicans—wrote in an amicus brief to the Court of Appeals in this case just a few months ago, “[f]or nearly 125 years, our Board of Elections, with its members appointed and supervised by the Governor, has faithfully ensured time and time again that our elections are lawful and accurate.” Amicus Brief of Governor James G. Martin et al., No. 24-406 (N.C. Ct. App. Oct. 29, 2024), at 8 (attached as Exhibit B). This has included countless examples in which the Governor’s political allies—or even the Governor himself—lost closely contested races. *See generally id.* at 9-14.

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<sup>7</sup> Until 2018, the State Board of Elections was responsible for appointing all members to three-member county boards of election. The Governor’s direct participation in appointing the chair was established when the General Assembly established five-member county boards. *See* N.C. Sess. L. 2018-146 § 4.3.(a).

The Constitution limits the General Assembly's authority to transfer executive authority away from the Governor. Otherwise, the vesting of supreme executive authority in the Governor and the Governor's take care authority are rendered meaningless, and the General Assembly can effectively wield the ultimate executive power of the State. Because Senate Bill 382 plainly runs afoul of any reasonable constitutional limit, its provisions transferring elections authority to the State Auditor are unlawful.

### **CONCLUSION**

For the foregoing reasons, Plaintiff Governor Josh Stein respectfully requests that this Court grant his Motion for Summary Judgment and permanently enjoin Sections 3A.3.(b), (c), (d), (f), (g), and (h) of Session Law 2024-57 (Senate Bill 382).

This the 25th day of February, 2025.

/s/ Eric M. David

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Jim W. Phillips, Jr.

N.C. State Bar No. 12516

jphillips@brookspierce.com

Eric M. David

N.C. State Bar No. 38118

edavid@brookspierce.com

Daniel F. E. Smith

N.C. State Bar No. 41601

dsmith@brookspierce.com

Amanda S. Hawkins

N.C. State Bar No. 50763

ahawkins@brookspierce.com

BROOKS, PIERCE, MCLENDON,

HUMPHREY & LEONARD, L.L.P.

Suite 2000 Renaissance Plaza

230 North Elm Street

Greensboro, NC 27401

(336) 373-8850

(336) 378-1001 (fax)

W. Swain Wood

N.C. State Bar No. 32037

swain.wood@wilmerhale.com

WILMER, CUTLER, PICKERING, HALE &  
DORR

2100 Pennsylvania Avenue, N.W.

Washington, DC 20037

(202) 663-6885

*Attorneys for Joshua H. Stein, Governor of  
the State of North Carolina*



## **CERTIFICATE OF SERVICE**

I hereby certify that on this day a copy of the foregoing document was served on the following parties via email as follows:

**WOMBLE BOND DICKINSON (US) LLP**

Matthew F. Tilley  
matthew.tilley@wbd-us.com  
Emmett Whelan  
emmett.whelan@wbd-us.com  
Russ Ferguson  
russ.ferguson@wbd-us.com  
*Attorney for Legislative Defendants*

**NELSON MULLINS RILEY &  
SCARBOROUGH LLP**

D. Martin Warf  
martin.warf@nelsonmullins.com  
Noah Huffstetler  
noah.huffstetler@nelsonmullins.com  
Aaron T. Harding  
aaron.harding@nelsonmullins.com  
*Attorneys for Legislative Defendants*

**WILMER CUTLER PICKERING  
HALE AND DORR LLP**

W. Swain Wood  
swain.wood@wilmerhale.com  
*Attorney for Plaintiff*

**WAKE COUNTY SUPERIOR COURT**

Kellie Myers  
kellie.z.myers@nccourts.org  
Lisa Tucker  
Lisa.R.Tucker@nccourts.org  
Aaron Davison  
Aaron.D.Davison@nccourts.org  
Byron Frazelle  
Samuel.B.Frazelle@nccourts.org

This the 25th day of February, 2025.

/s/ Eric M. David

Eric M. David

# EXHIBIT A

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## History of the Office of State Auditor

The term "auditor" dates back to the original colonial constitution adopted on March 1, 1669, where twelve positions were authorized, but there is no evidence that they ever functioned in their capacity to keep rent rolls, and other accounts. As the colony grew, however, the General Assembly and comptrollers of the King of England appointed boards of auditors to serve in various communities to handle matters as designated by the English monarchy.

In 1782, the General Assembly appointed Richard Caswell as the first Comptroller of the State of North Carolina. His duties were to direct the mode of stating, checking, and controlling all public accounts and to keep these accounts for inspection by the General Assembly. In addition, ten boards of auditors were to be located in various parts of the State.

This system remained in place until 1862 when the General Assembly established the Office of Auditor of Public Accounts. The 1868 Constitution provided that the State Auditor should be elected by the people and was to "superintend the fiscal affairs of the State; examine and settle accounts of persons indebted to the State; liquidate claims by persons against the State; and to draw warrants on the State Treasurer for moneys to be paid out of the treasury."

In 1872, the system of county taxes on property, polls, and income was established with the local sheriff acting as the tax collector. The State Auditor was to prepare the forms for listing taxes and provide them to each sheriff. He was to report to the State Treasurer the amounts due to each fund and if any of the sheriffs defaulted on their accounts. The Revenue Act of 1923 relieved the Auditor of his local tax duties.

The legislature in 1921 strengthened the power of the State Auditor by giving the office the power to examine, audit and adjust accounts. However, it also made the Auditor responsible for disbursements and the overall accounting system. This dual role presented the Auditor with substantive issues of potential conflict and certainly independence, in carrying out the assigned duties. It was 1955 before the General Assembly separated the duties by transferring the purely accounting functions to a new position in the executive branch. This change resulted in the State Auditor being in a position of independence to review and comment on the operational and financial affairs of North Carolina State Government.

### [Article V, Chapter 147](#)

([https://ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_147/Article\\_5A.html](https://ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_147/Article_5A.html)) of the North Carolina General Statutes gives the Auditor broad powers to examine all books, records, files, papers, documents, and financial affairs of every state agency. The Auditor also has the power to summon people to produce records and to answer questions under oath.

## State Auditors since 1862

(newest to oldest)

Show  entries

Search:

State Auditors	Term
Dave Boliek	2025 - present
Jessica N. Holmes, J.D.	2023 - 2025
Beth A. Wood, CPA	2009 - 2023
Leslie W. Merritt, Jr.	2005–2009
Ralph Campbell, Jr.	1993–2005
Edward Renfrow	1981–1993
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Auditors of Public Accounts	Term
Richard H. Battle	1864-1865
Samuel F. Phillips	1862-1864

Source: *North Carolina Manual*

# EXHIBIT B

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NORTH CAROLINA COURT OF APPEALS

\*\*\*\*\*

ROY A. COOPER, III,  
in his official capacity,

Plaintiff-Appellee,

v.

PHILIP E. BERGER, in his official  
capacity as President Pro Tempore of  
the North Carolina Senate;  
TIMOTHY K. MOORE, in his official  
capacity as Speaker of the North  
Carolina House of Representatives; and  
THE STATE OF NORTH CAROLINA,

Defendants-Appellants.

From Wake County

\*\*\*\*\*

**AMICUS BRIEF OF  
GOVERNOR JAMES G. MARTIN,  
GOVERNOR JAMES B. HUNT, JR.,  
GOVERNOR MICHAEL F. EASLEY,  
GOVERNOR BEVERLY E. PERDUE, AND  
GOVERNOR PATRICK L. MCCRORY  
IN SUPPORT OF GOVERNOR ROY A. COOPER, III**

\*\*\*\*\*

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NORTH CAROLINA COURT OF APPEALS

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ROY A. COOPER, III,  
in his official capacity,

Plaintiff-Appellee,

v.

PHILIP E. BERGER, in his official  
capacity as President Pro Tempore of  
the North Carolina Senate;  
TIMOTHY K. MOORE, in his official  
capacity as Speaker of the North  
Carolina House of Representatives; and  
THE STATE OF NORTH CAROLINA,

Defendants-Appellants.

From Wake County

\*\*\*\*\*

**AMICUS BRIEF OF  
GOVERNOR JAMES G. MARTIN,  
GOVERNOR JAMES B. HUNT, JR.,  
GOVERNOR MICHAEL F. EASLEY,  
GOVERNOR BEVERLY E. PERDUE, AND  
GOVERNOR PATRICK L. MCCRORY  
IN SUPPORT OF GOVERNOR ROY A. COOPER, III**

\*\*\*\*\*

## **INTRODUCTION**<sup>1</sup>

Shortly after Governor Cooper was elected in 2016, the General Assembly enacted legislation taking away the Governor's executive power to appoint and supervise the state and county boards of elections. Governor Cooper challenged the legislation and the Supreme Court struck it down as unconstitutional. *See Cooper v. Berger*, 370 N.C. 392, 395–400, 422, 809 S.E.2d 98, 100–02, 116 (2018).

Undeterred, but recognizing that taking away the Governor's executive power would require a constitutional amendment, the General Assembly proposed one to the voters seven months later. *See* N.C. Sess. Law 2018-133 (App. 9–10). Like the legislation that the Supreme Court struck down, the proposed constitutional amendment would have taken away the Governor's executive power to supervise the state and county boards of elections.

In the Fall of 2018, with the proposed constitutional amendment on the ballot, the five living former Governors joined together to speak in opposition to the proposed amendment. The former Governors took their message directly to the people of North Carolina through public appearances,

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<sup>1</sup> No one other than the former Governors and the undersigned counsel wrote any part of this brief or contributed any money to support the preparation of this brief, which was prepared pro bono. *See* N.C. R. App. P. 28.1(b)(3)(c).

television programs, and print media, sharing why it was so critically important that the people reject the attempt to ratify the proposed amendment as a part of their Constitution.

The former Governors were well-positioned to offer their insights on the matter. Their unique, shared experience as our State's Chief Executive gave them a deep understanding of how North Carolina's longstanding separation-of-powers guarantee works in the real world. As that experience showed, the General Assembly's proposed amendment would not only have eroded the Constitution's separation-of-powers guarantee, but it would also have impeded the proper functioning of good government where the people of North Carolina perhaps need it the most: in the executive-branch agency charged with ensuring that our elections are lawful and accurate.

The people of North Carolina agreed. At the ballot box in November 2018, they overwhelmingly rejected the General Assembly's proposed constitutional amendment by a vote of 62% to 38%, voting "NO" in 88 out of 100 counties.<sup>2</sup>

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<sup>2</sup> 11/06/2018 Official General Election Results – Statewide, Bipartisan Board of Ethics & Elections, *Historical Election Results Data*, State Board of Elections, [https://er.ncsbe.gov/contest\\_details.html?election\\_dt=11/06/2018&county\\_id=0&contest\\_id=1422](https://er.ncsbe.gov/contest_details.html?election_dt=11/06/2018&county_id=0&contest_id=1422).

Despite all this, the General Assembly has now tried again. This time, even after acknowledging that they would need a constitutional amendment like the one the people overwhelmingly rejected in 2018, the General Assembly in Senate Bill 749 has tried to achieve that result through mere legislation (yet again). *See Cooper*, 370 N.C. at 418, 809 S.E.2d at 114. And so again, the former Governors have united, this time to urge the Court to preserve North Carolina's separation-of-powers guarantee and affirm the three-judge panel's unanimous decision striking down the law.

To be clear, the former Governors strongly agree with Governor Cooper that the three-judge panel in this case got it exactly right. The Supreme Court has already held that this legislation did not present a "political question" insulated from judicial review and, furthermore, that it violated the Constitution "impermissibly, facially, and beyond a reasonable doubt." *Id.* at 418–22, 809 S.E.2d at 114–16. Thus, the only two questions before the Court in this case were definitively answered by controlling precedent from a mere six years ago. Against that backdrop, the General Assembly's passage of Senate Bill 749 is about as "stark" and "blatant" an attempt to violate the Constitution as North Carolina has seen in some time. (R p 128).

Likewise, the arguments that the General Assembly is attempting to make in this case are similarly extreme. The General Assembly's lead argument is that the political-question doctrine can nullify an express

constitutional limitation on the General Assembly (the Constitution's separation-of-powers mandate) that has been in place since the founding of our State. That kind of extreme suggestion has no place in our State's jurisprudence. *See, e.g., Leandro v. State*, 346 N.C. 336, 345, 488 S.E.2d 249, 253 (1997) ("It has long been understood that it is the duty of the courts to determine the meaning of the requirements of our Constitution.").

But beyond the damage that Senate Bill 749 would do to our Constitution, it suffers from a more basic flaw: Not only is it unconstitutional, but it also lacks any legitimate justification for its enactment—a "solution without a problem" that reveals its true motive. As described below, there is no legitimate justification—nor has the General Assembly identified one—for eliminating the Governor's executive power to appoint and supervise the Board of Elections. In short, there is no problem in need of a solution here. Rather, for nearly 125 years, the Board of Elections has faithfully ensured that our elections are lawful and accurate.

Moreover, and ironically, the General Assembly's "solution" to the non-existent problem actually creates a significant problem. Under Senate Bill 749, the state and county boards of elections would have an even number of members, virtually guaranteeing deadlocked votes, including on whether to certify election results—a situation where North Carolinians' long-awaited

end to each November election could unnecessarily extend into the holidays and beyond.

With these practical realities in mind, this brief focuses on the fact that Senate Bill 749 was not driven by any actual need to solve a real-world problem. Instead, it was driven by the General Assembly's continued campaign to seize the Governor's constitutional powers. In focusing on that issue, the former Governors seek to show the Court that Senate Bill 749 should be viewed as what it really is: the General Assembly's latest unconstitutional power grab.

### **NATURE OF AMICI'S INTEREST**

The five living former Governors of North Carolina have a strong interest in this case: their interest in preserving the executive power, status, and dignity that the Constitution confers on the Office of the Governor.

Other than Governor Cooper, they are the only five living individuals who have been entrusted with the State's executive power. *See* N.C. Const. art. III, § 1. That unique, shared experience has given the former Governors a deep understanding of how the Constitution's separation-of-powers guarantee works in the real world. Based on that experience, the former Governors seek to share their perspective that not only is Senate Bill 749 unconstitutional, but it also lacks any legitimate justification.



Although the former Governors' affiliation is bipartisan (two Republican and three Democratic former Governors), their interest is nonpartisan. This case, after all, is not about partisan politics. It is about the separation of powers—a bedrock constitutional principle as old as the State of North Carolina itself. That foundational principle transcends politics.

Embracing that foundational principle, the former Governors ask the Court to affirm the three-judge panel's unanimous decision invalidating Senate Bill 749.

### **ARGUMENT**

**I. With no legitimate justification for its enactment, Senate Bill 749 reveals itself as the General Assembly's latest attempt to seize the Governor's constitutionally conferred executive power.**

**A. There is no legitimate justification—nor has the General Assembly identified one—for eliminating the Governor's power to appoint and supervise the Board of Elections.**

For nearly 125 years, the Governor has appointed the members of the State Board of Elections. Beginning in 1901, the Board was constituted as a five-member entity, with no more than three members from the same political party and any vacancies to be filled by the Governor. *See* N.C. Pub. L. No. 89-1901, § 5 (App. 1–4). That structure has remained to this day—at

least until Senate Bill 749 attempted to take away the Governor's executive power of appointment and supervision.

Had it not been enjoined by the three-judge panel, Senate Bill 749 would have eliminated the Governor's executive power to appoint and supervise the State Board of Elections and the 100 county boards of elections, and it would have transferred that executive power to the General Assembly—in some cases, to the Speaker of the House or Senate President Pro Tempore individually. *See* N.C. Sess. Law 2023-139 (App. 11–27). It would also have created gridlock by design: a State Board of Elections and county boards of elections with an even number of members, virtually guaranteeing deadlocked votes. *See id.*

As justification for such a radical restructuring, one might think that if the Board of Elections had actually failed to administer lawful and accurate elections in North Carolina over the course of almost 125 years, the General Assembly would be quick to cite to those instances. But that is not the case.

Even with a 125-year retrospective, the General Assembly is apparently unable to identify a single instance where the Board failed to administer a lawful and accurate election. In its submissions before the Superior Court and its brief to this Court, nowhere has the General Assembly pointed to a shred of evidence suggesting that the Board of Elections has failed to perform its duties, much less that the Governor's exercise of

executive power to appoint and supervise the Board warrants the gridlock-by-design “solution” proposed in Senate Bill 749.

In its brief, the General Assembly says that it is entitled “to question and try different solutions.” Leg. Defs.’ Br. p. 22. But conspicuously missing from that statement about “solutions” is an identification of a legitimate *problem*.<sup>3</sup> And the absence of any legitimate problem only proves the point: Senate Bill 749 is not legislation that is designed to solve a real problem. Instead, it is the General Assembly’s latest attempt at a power grab.

The reality, as described below, is that not only is the State Board of Elections not in need of a “solution” for a nonexistent problem, but the opposite is true. For nearly 125 years, our Board of Elections, with its members appointed and supervised by the Governor, has faithfully ensured time and time again that our elections are lawful and accurate.<sup>4</sup>

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<sup>3</sup> The closest the General Assembly gets is talking in generalities—“minimiz[ing] political heavy handedness,” “insulat[ing] the elections boards from political influence, [and] promot[ing] compromise rather than polarity”—but without citing to a single, actual example of where any of this actually occurred. See Leg. Defs.’ Br. pp. 4–5.

<sup>4</sup> The same is true for North Carolina’s county boards of elections. Those five-member boards are appointed by the Governor, who appoints the chair, and by the State Board of Elections, which appoints the other four members (two from each party).

**B. For nearly 125 years, the Board of Elections has faithfully ensured that our elections are lawful and accurate.**

Since the Board's creation in 1901, twenty-five Governors have appointed and supervised its members.<sup>5</sup> Over the course of these nearly 125 years, the Board of Elections has faithfully ensured lawful and accurate elections for North Carolina's voters, even when the election outcome might not have been what the Governor desired.

North Carolina's history is replete with these examples, and many of them are recent enough to remember quite well. Many of them are also those that the former Governors experienced firsthand.

Perhaps most notably, in 2016 the Board of Elections (appointed and supervised by Governor McCrory) administered the closest gubernatorial election in state history.<sup>6</sup> Demonstrating the Board's ability to function in even the most heightened of political atmospheres, the Board concluded that

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<sup>5</sup> The Board was briefly placed under the Department of the Secretary of State in 1971, but that legislation was repealed in 1973. *See* N.C. Sess. Law 1971-864, § 4(5) (repealed 1973) (App. 5–7); N.C. Sess. Law 1973-1409 (App. 8). The General Assembly also enacted legislation altering the Board in late 2016 and early 2017 that was struck down as unconstitutional. *See Cooper*, 370 N.C. at 395, 422, 809 S.E.2d at 100, 116.

<sup>6</sup> Jonah Kaplan & Heather Waliga, *State Board Orders Recount of 94,000 Durham County Votes*, ABC News 11 (Dec. 1, 2016, 8:33 AM), <https://web.archive.org/web/20161201201500/http://abc11.com/politics/state-board-orders-recount-of-94000-durham-county-votes/1631935/>.

although ordering a recount could “ease concerns among the population,” it would “very likely not change the result” that Governor Cooper had won.<sup>7</sup> Five days later, Governor McCrory conceded the election, urging North Carolinians to “celebrate our democratic process” and “respect what [he saw] to be the ultimate outcome”—a result certified by a Board of Elections that Governor McCrory appointed and supervised.<sup>8</sup>

Likewise, the Board’s successful administration of elections involving political party transitions in the Governor’s Office has been characteristic of the Board throughout the last several decades. In 1984, the Board of Elections (appointed and supervised by Governor Hunt) administered the election and certified Governor Martin’s victory that year. In 1992, the Board of Elections (appointed and supervised by Governor Martin) administered the election and certified Governor Hunt’s victory that year. And in 2012, the Board of Elections (appointed and supervised by Governor Perdue, who had

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<sup>7</sup> Official Meeting Minutes, State Board of Elections (Nov. 30, 2016), [https://s3.amazonaws.com/dl.ncsbe.gov/State\\_Board\\_Meeting\\_Docs/2016-11-30/sbe\\_minutes\\_2016-11-30.pdf](https://s3.amazonaws.com/dl.ncsbe.gov/State_Board_Meeting_Docs/2016-11-30/sbe_minutes_2016-11-30.pdf).

<sup>8</sup> Office of Governor Pat McCrory, Governor McCrory Statement on 2016 Election Results, YouTube (Dec. 5, 2016), [https://www.youtube.com/watch?v=cvNSmAZs\\_Hc](https://www.youtube.com/watch?v=cvNSmAZs_Hc); *see also* Danielle Battaglia, Former NC Gov. Pat McCrory Launches Group to Boost Confidence in Elections, The News & Observer (Oct. 14, 2024, 8:44 PM), <https://www.newsobserver.com/news/politics-government/election/article293963109.html>.

defeated Governor McCrory in 2008) administered the election and certified Governor McCrory's victory that year.

Even more recently, the Board of Elections showed itself once again to be adept at administering lawful and accurate elections regardless of whether the outcome might disappoint the Governor who appointed and supervised the Board at that time. In 2020, the Board of Elections (appointed and supervised by Governor Cooper) administered the election in which Chief Justice Paul Newby defeated then-Chief Justice Cheri Beasley—a race that was decided by approximately 400 votes.<sup>9</sup> Despite the heavily contested election, both candidates praised the work of the Board of Elections in administering the election lawfully and accurately. Chief Justice Newby specifically thanked the “county boards of elections for their tireless work” in “faithfully and diligently appl[ying] the direction they received through the election, the recount, and the second recount.”<sup>10</sup> Similarly, then-Chief Justice Beasley offered her “deepest thanks to the dedicated Board of Elections

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<sup>9</sup> Press Release, State Board of Elections, State Board Certifies Supreme Court Contest, Removes County Board Member During Final Meeting of 2020 (Dec. 18, 2020), <https://www.ncsbe.gov/news/press-releases/2020/12/18/state-board-certifies-supreme-court-contest-removes-county-board-member-during-final-meeting-2020>.

<sup>10</sup> Chief Justice Paul Newby, Facebook (Dec. 12, 2020), <https://www.facebook.com/JusticePaulNewby/posts/pfbid035W8E9Stom1yQ6mAP1DQ8FiHBFVK8sfdxQ5DTsLcuoWztfGt8Jjpt7NqGUSAYsFpGl>.

officials” who “worked tirelessly to protect and reaffirm the integrity of our most sacred democratic institution.”<sup>11</sup> As both Chief Justice Newby’s and then-Chief Justice Beasley’s public statements made clear, the system worked as it should.

As another example, in 1994 the Board of Elections (appointed and supervised by Governor Hunt) administered a closely contested State Senate election between now-Secretary of State Elaine Marshall and Senator Dan Page. The election did not result in a clear winner, and a recount appeared to have ended in a tie.<sup>12</sup> The Board of Elections then ordered a new election to be conducted in March 1995, which Senator Page won.<sup>13</sup> There as well, although Governor Hunt may have desired a different outcome, the system worked as it should, and this incredibly close election was administered lawfully and accurately.

Nor is there any suggestion that the current Board of Elections appointed and supervised by Governor Cooper has somehow departed from the Board’s exemplary 125-year track record. If anything, the events of the

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<sup>11</sup> @CheriBeasleyNC, Twitter (Dec. 12, 2020), <https://x.com/CheriBeasleyNC/status/1337778604822982657>.

<sup>12</sup> Senate Journal, 1995 Sess., at 11 (N.C. 1995) (App. 28–35).

<sup>13</sup> *Id.*, at 262–63.

past month have only further confirmed that the Board of Elections, with its members appointed and supervised by the Governor, continues to function as it should, effectively meeting even the greatest challenges to administering lawful and accurate elections.

As of the filing of this brief (one week before the 2024 election), the Board of Elections is working around the clock to ensure a lawful and accurate election in the wake of the devastation caused by Hurricane Helene in western North Carolina. Following Governor Cooper's declaration of a state of emergency, the Board of Elections unanimously authorized a series of critical emergency measures ahead of the 2024 election, including authorizing county boards to modify early voting hours, polling locations, and absentee voting procedures to protect the electoral process for voters affected by Hurricane Helene.<sup>14</sup>

The early results of these and other efforts are already a success: In the counties within the federal disaster area, 95% of early voting sites (76 out of

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<sup>14</sup> Michael Perchick, *NC Elections Board Pass Bipartisan Resolution to Support Voting Access in WNC*, ABC 11 News (Oct. 7, 2024, 5:53 PM), <https://abc11.com/post/2024-election-western-nc-voters-access-bipartisan-resolution-helene-recovery/15400078/>; *see also* Press Release, State Board of Elections, Bipartisan State Board Unanimously Approves Measures to Help WNC Voters (Oct. 7, 2024), <https://www.ncsbe.gov/news/press-releases/2024/10/07/bipartisan-state-board-unanimously-approves-measures-help-wnc-voters>.



80) planned before Hurricane Helene were open on the first day of early voting.<sup>15</sup>

These efforts have also drawn bipartisan recognition. The Republican Party Chair for the 11th Congressional District remarked that “[t]he State Board of Elections has done a great job,” and that “[e]very county [board] has done an incredible job.”<sup>16</sup> The Democratic Party Chair for the 11th Congressional District agreed, adding that “[t]he people at the Board of Election[s] . . . are working very hard to make this election go as smoothly as possible.”<sup>17</sup>

As this bipartisan recognition reflects, and as our history shows, our Board of Elections is hardly in need of a “solution,” least of all the unconstitutional, gridlock-by-design “solution” that Senate Bill 749 offers. Instead, for nearly 125 years, the Board of Elections, with its members appointed and supervised by the Governor, has faithfully ensured that our elections are lawful and accurate.

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<sup>15</sup> Press Release, State Board of Elections, Prepared Remarks of Karen Brinson Bell—Press Availability on Start of Early Voting in NC (Oct. 15, 2024), <https://www.ncsbe.gov/news/press-releases/2024/10/15/prepared-remarks-karen-brinson-bell-press-availability-start-early-voting-nc>.

<sup>16</sup> Perchick, *supra* note 14.

<sup>17</sup> *Id.*

\* \* \*

The examples above are just some of the myriad examples of the Board of Elections faithfully administering lawful and accurate elections over the course of nearly 125 years, including when the Governor who appointed and supervised the Board at the time might have desired for an election to come out a different way. Meanwhile, the General Assembly has yet to cite a single, concrete example of a problem that was the motivation for—let alone could justify—Senate Bill 749’s elimination of the Governor’s executive power.

Nor could it. The real motivation for Senate Bill 749 is the General Assembly’s desire to try, yet again, to seize the Governor’s executive power to appoint and supervise the Board of Elections—an attempt that comes after the Supreme Court rejected it the first time and the people of North Carolina overwhelmingly rejected it the second time.

The Court should recognize Senate Bill 749 for what it really is: the legislature’s most recent attempt at an unconstitutional power grab.

### CONCLUSION

The three-judge panel’s unanimous decision invalidating Senate Bill 749 should be affirmed.

Respectfully submitted the 29th day of October, 2024.

**POYNER SPRUILL LLP**

By: /s/ Andrew H. Erteschik  
Andrew H. Erteschik  
N.C. State Bar No. 35269  
aerteschik@poynerspruill.com  
301 Fayetteville Street, Suite 1900  
Raleigh, NC 27601  
Telephone: 919.783.2895  
Facsimile: 919.783.1075

*Counsel for Amici Curiae*  
*Former Governors of North Carolina*

*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.*

**POYNER SPRUILL LLP**

By: /s/ Edwin M. Speas, Jr.  
Edwin M. Speas, Jr.  
N.C. State Bar No. 4112  
espeas@poynerspruill.com  
/s/ Caroline P. Mackie  
Caroline P. Mackie  
N.C. State Bar No. 41512  
cmackie@poynerspruill.com  
/s/ N. Cosmo Zinkow  
N. Cosmo Zinkow  
N.C. State Bar No. 53778  
nzinkow@poynerspruill.com  
301 Fayetteville Street, Suite 1900  
Raleigh, NC 27601  
Telephone: 919.783.6400  
Facsimile: 919.783.1075

*Counsel for Amici Curiae*  
*Former Governors of North Carolina*

**CERTIFICATE OF COMPLIANCE**

Pursuant to N.C. R. App. P. 28.1(b)(3), counsel for the Former Governors certifies that the foregoing brief of *amici curiae*, which uses 13-point Century Schoolbook type, contains fewer than 3,750 words (not counting the parts of the brief excluded by Rule 28(j)(1)) as reported by the word-processing software.

This the 29th day of October, 2024.

/s/ Andrew H. Erteschik  
Andrew H. Erteschik

## **CERTIFICATE OF SERVICE**

I certify that, in accordance with Appellate Rule 26(c), I have served a copy of the foregoing document by e-mail on the following:

Jim W. Phillips, Jr.  
Eric M. David  
Daniel F. E. Smith  
Amanda Hawkins  
BROOKS, PIERCE, MCLENDON,  
HUMPHREY & LEONARD, L.L.P.  
Renaissance Plaza, Suite 2000  
230 North Elm Street  
Greensboro, NC 27401  
jphillips@brookspierce.com  
edavid@brookspierce.com  
dsmith@brookspierce.com  
ahawkins@brookspierce.com

*Counsel for Plaintiff-Appellee  
Governor Roy A. Cooper, III*

Amar Majmundar  
Stephanie A. Brennan  
NORTH CAROLINA  
DEPARTMENT OF JUSTICE  
P.O. Box 629  
Raleigh, NC 27602  
amajmundar@ncdoj.gov  
sbrennan@ncdoj.gov

*Counsel for Defendant-Appellee  
State of North Carolina*

D. Martin Warf  
Noah H. Huffstetler, III  
NELSON MULLINS RILEY &  
SCARBOROUGH LLP  
301 Hillsborough Street, Suite 1400  
Raleigh, NC 27603  
martin.warf@nelsonmullins.com  
noah.huffstetler@nelsonmullins.com

*Counsel for Defendant-Appellants  
Philip E. Berger, in his official  
capacity as President Pro Tempore of  
the North Carolina Senate, and  
Timothy K. Moore, in his official  
capacity as Speaker of the North  
Carolina House of Representatives*

This the 29th day of October, 2024.

/s/ Andrew H. Erteschik  
Andrew H. Erteschik

No. COA 24-406

TENTH JUDICIAL DISTRICT

NORTH CAROLINA COURT OF APPEALS

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ROY A. COOPER, III,  
in his official capacity,

Plaintiff-Appellee,

v.

PHILIP E. BERGER, in his official  
capacity as President Pro Tempore of  
the North Carolina Senate;  
TIMOTHY K. MOORE, in his official  
capacity as Speaker of the North  
Carolina House of Representatives; and  
THE STATE OF NORTH CAROLINA,

Defendants-Appellants.

From Wake County

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APPENDIX

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- App. 1 -

PUBLIC LAWS AND RESOLUTIONS

OF THE

STATE OF NORTH CAROLINA

PASSED BY THE

GENERAL ASSEMBLY

AT ITS

SESSION OF 1901,

BEGUN AND HELD IN THE CITY OF RALEIGH

ON

WEDNESDAY, THE NINTH DAY OF JANUARY, A.D. 1901.

PUBLISHED BY AUTHORITY.

RALEIGH, N. C. :

EDWARDS & BROUGHTON, AND E. M. UZZELL, STATE PRINTERS AND BINDERS.

PRESSES OF EDWARDS & BROUGHTON.

1901.

K

## CHAPTER 89.

**An act to provide for the holding of elections in North Carolina.***The General Assembly of North Carolina do enact:*

SECTION 1. On the Tuesday next after the first Monday in November, in the year of our Lord one thousand nine hundred and two, and every two years thereafter, an election shall be held in the several election precincts in each county for members of Congress in the several districts, members of the General Assembly for their respective counties and districts, a Register of Deeds, County Surveyor, Coroner, Sheriff, County Commissioners, where the County Commissioners are elected by the people, and in such counties as have one, a County Treasurer, and other officers, whose terms are for two years. And on the said first Tuesday after the first Monday in November, in the year of our Lord one thousand nine hundred and two, and every four years thereafter, an election shall be held in each county for Clerk of the Superior Court, and at such times an election shall be held in the several Judicial Districts for the office of Solicitor.

Time of holding elections for members of Congress, members of the General Assembly and county officers.

SEC. 2. On the first Tuesday after the first Monday in November, in the year of our Lord one thousand nine hundred and two, and every two years thereafter, an election shall be held in each township, for the office of Constable, and also for Justices of the Peace in such counties as elect them by a vote of the people, and all other officers elected by a vote of the township.

Clerk of the Superior Court and Solicitor.

Time for holding election of Constable and Justices of the Peace.

SEC. 3. That on Tuesday next after the first Monday in November, in the year of our Lord one thousand nine hundred and four, and every four years thereafter, an election shall be held in the several election precincts in each county for the following officers: Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Attorney-General, and other State officers whose terms last for four years, and at said time and every two years thereafter, elections shall be held in the several election precincts in each county for other State officers whose election is not otherwise provided for by law.

Time for holding election of State officers.

SEC. 4. Whenever any vacancies shall exist by reason of death, resignation or otherwise, in any of the following offices, to-wit: Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Attorney-General, Solicitor, Justices of the Supreme Court, Judges of the Superior Court, or any other State officer elected by the people, the same shall be filled by elections, to be held in the manner and places, and under the same regulations and rules as prescribed for general elections, at the next regular

Vacancy in State office, filled by election at next general election if over 30 days after vacancy, unless otherwise provided in Constitution.



	election for member of the General Assembly, which shall occur more than thirty days after such vacancy, except as otherwise provided for in the Constitution.
State Board of Elections.	SEC. 5. That there shall be a State Board of Elections, consisting of five electors, whose terms of office shall begin on the first day of June, one thousand nine hundred and one, and continue for two years and until their successors are appointed and qualified.
Governor to appoint.	The Governor shall appoint the members of this board, and not more than three of them shall be of the same political party.
Of different political parties.	Their successors shall likewise be appointed by the Governor, and their term of office shall continue for two years and until their successors are elected and qualified.
Term of office.	
County Board of Elections.	SEC. 6. That there shall be in every county in the State a County Board of Elections to consist of three persons of good moral character, who are electors in the county in which they are to act, who shall be appointed by the State Board of Elections at least three months before the next general State election, and biennially thereafter, and whose terms of office shall continue for two years from the time of their appointment and until their successors are appointed and qualified, unless sooner removed therefrom as hereinafter provided. Not more than two members of the County Board of Elections shall belong to the same political party, and the State chairman of each political party shall have the right to recommend three electors in each county, and it shall be the duty of the State Board of Elections to appoint said County Board from the names thus recommended: <i>Provided</i> , that said chairmen shall recommend such persons on or before the first Monday of August of each year in which appointments are to be made.
Qualifications.	
By whom and when appointed.	
Terms of office.	
Political division.	
By whom recommended.	
When recommended.	
Meetings and organization State Board.	SEC. 7. The State Board of Elections shall meet in Raleigh on the first Monday in July, in the year nineteen hundred and one, and shall organize by electing one of their members chairman and another secretary, and the chairman of said board may call such meetings as may be necessary to discharge the duties and functions imposed upon said board by this act at such times and places as he may appoint. Any vacancy occurring in the said board shall be filled by the Governor and the person so appointed shall fill the unexpired term. And the members of the said board shall receive in full compensation for their services four dollars per day for the time they are actually engaged in the discharge of their duties, together with their actual travelling expenses, and such other expenses as are necessary and incident to the discharge of the duties imposed by this act, to be paid by the Treasurer of the State upon the warrant of the Auditor: <i>Provided</i> , that the chairman shall call a meeting of the Board
Called Meetings.	
Vacancy, how filled.	
Compensation.	
By whom paid.	



upon the application in writing of any two members thereof, or if there be no chairman, or the chairman does not call such meeting, any three members of the said board shall have power to call a meeting of the board. And any duty imposed or power conferred by this act may be performed or exercised at such meeting, although the time for performing or exercising the same prescribed by this act may have expired. And if at any meeting any member of said board shall fail to attend, and by reason thereof there is a failure of a quorum, the members attending shall adjourn from day to day, for not more than two days, at the end of which time, if there should be no quorum, the Governor may remove the members so failing to attend summarily and appoint their successors.

Chairman shall call meeting on application of two members. Three members may call meeting.

Any duty may be performed.

Member failing to attend and by reason thereof no quorum, Governor may remove and appoint successor.

SEC. 8. That it shall be the duty of the County Board of Elections in each county to appoint all registrars and judges of election in their respective counties, and to fill vacancies except as herein provided.

County Boards shall appoint registrars and judges and fill vacancies.

SEC. 9. That the State Board of Elections shall have power to remove from office any member of the County Board of Elections for incompetency, failure of duty, or for any other satisfactory cause. When any member of the County Board of Elections shall be removed by the State Board of Elections, the vacancy thus created shall be filled by the State Board of Elections. Vacancies occurring in the County Board of Elections for other cause than removal by the State Board of Elections, shall be filled by the chairman of the State Board of Elections, but the person so appointed to fill any vacancy shall be of the same political party as his predecessor.

State Board may remove members of County Board.

Vacancies, how filled.

SEC. 10. That the County Board of Elections shall have power to remove any registrar or judge of election appointed by them for incompetency, failure to qualify within the time prescribed by law, failure to discharge the duties of office after qualifying, or for any other satisfactory cause. That if any member of the County Board of Elections, or any registrar or judge of election, after having been removed as hereinbefore provided, and notified thereof, shall continue to exercise the duties of the position from which he has been removed, he shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned at the discretion of the Court.

County Boards may remove registrar and judges.

Misdemeanor to exercise duties after removal. Penalty.

SEC. 11. That it shall be the duty of the County Board of Elections to meet in their respective counties not later than the first Monday in September, in the year of our Lord one thousand nine hundred and two, and biennially thereafter, and, a majority being present, they shall organize by electing one of their members chairman and another secretary, and they may meet at such

Meetings of County Boards and organization.

# **STATE OF NORTH CAROLINA**

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**1971**

## **Session Laws and Resolutions**

**PASSED BY THE**

**GENERAL ASSEMBLY**

**AT THE**

**REGULAR SESSION**

**HELD IN THE CITY OF RALEIGH**

**BEGINNING ON**

**WEDNESDAY, THE THIRTEENTH DAY OF JANUARY, A.D. 1971**

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**PUBLISHED BY AUTHORITY**

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In establishing the position of Secretary, and the supporting staff for the principal departments, the cost of such staff positions will be met insofar as possible by utilizing existing positions or funds available from vacant positions within agencies assigned to the principal departments.

(10) *Governor; continuation of powers and duties.*—All powers, duties and functions vested by law in the Governor or in the Office of Governor are continued, except as otherwise provided by this act.

The immediate staff of the Governor shall not be subject to the State Personnel Act; however, salaries for these positions shall be filed with the General Assembly pursuant to G.S. 143-34.3 commencing with the 1973 General Assembly.

(11) *Principal departments.*—Except as otherwise provided by this act, or the State Constitution, all executive and administrative powers, duties and functions, not including those of the General Assembly and the judiciary, previously vested by law in the several State agencies, are vested in the following principal offices or departments.

- (1) Office of the Governor
- (2) Office of the Lieutenant Governor
- (3) Department of the Secretary of State
- (4) Department of State Auditor
- (5) Department of State Treasurer
- (6) Department of Public Education
- (7) Department of Justice
- (8) Department of Agriculture
- (9) Department of Labor
- (10) Department of Insurance
- (11) Department of Administration
- (12) Department of Transportation and Highway Safety
- (13) Department of Natural and Economic Resources.
- (14) Department of Human Resources
- (15) Department of Social Rehabilitation and Control
- (16) Department of Commerce
- (17) Department of Revenue
- (18) Department of Art, Culture and History
- (19) Department of Military and Veterans' Affairs

**Sec. 2.** *Office of the Governor; creation.*—There is hereby created an Office of the Governor.

**Sec. 3.** *Office of the Lieutenant Governor; creation.*—There is hereby created an Office of the Lieutenant Governor.

Department of the Secretary of State

**Sec. 4.** (1) *Department of the Secretary of State; creation.*—There is hereby created a Department of the Secretary of State.

(2) *Head of Department.*—The Head of the Department of the Secretary of State is the Secretary of State.

(3) *Secretary of State; transfer of powers and duties to Secretary.*—The Secretary of State shall have such powers and duties as are conferred on him by Section 1 of this act, delegated to him by the Governor, and conferred by the Constitution and laws of this State.

(4) *Secretary of State; transfer of powers and duties to Department.*—Except as otherwise provided in the Constitution or in this act, all powers, duties and functions vested by law in the Secretary of State are transferred by a Type I transfer to the Department of the Secretary of State.

(5) *The State Board of Elections; transfer.*—The State Board of Elections, as contained in Article 3 of Chapter 163 of the General Statutes and the laws of this State, is hereby transferred by a Type II transfer to the Department of the Secretary of State.

(6) *Notaries public; powers, duties and functions; transfer.*—All of the powers, duties and functions of the Governor under G.S. 10-1 of the General Statutes are transferred by a Type I transfer to the Department of the Secretary of State.

#### Department of State Auditor

**Sec. 5.** (1) *Department of State Auditor; creation.*—There is hereby created a Department of State Auditor.

(2) *Head of Department.*—The head of the Department of the State Auditor is the State Auditor.

(3) *State Auditor; transfer of powers and duties to State Auditor.*—The State Auditor shall have such powers and duties as are conferred on him by Section 1 of this act, delegated to him by the Governor, and conferred by the Constitution and laws of this State.

(4) *State Auditor; transfer of powers and duties to Department.*—Except as otherwise provided in the Constitution or by this act, all powers, duties and functions of the State Auditor are transferred by a Type I transfer to the Department of the State Auditor.

(5) *North Carolina Firemen's Pension Fund; transfer.*—The North Carolina Firemen's Pension Fund, as contained in Article 3 of Chapter 118 of the General Statutes and the laws of this State, is hereby transferred by a Type II transfer to the Department of State Auditor.

(6) *The Law Enforcement Officers' Benefit and Retirement Fund; transfer.*—The Law Enforcement Officers' Benefit and Retirement Fund, as contained in Article 12 of Chapter 143 of the General Statutes and the laws of this State, is hereby transferred by a Type II transfer to the Department of State Auditor.

(7) *State Board of Pensions; transfer.*—The State Board of Pensions, as contained in Article 2 of Chapter 112 of the General Statutes and the laws of this State, is hereby transferred by a Type II transfer to the Department of State Auditor.

#### Department of State Treasurer

**Sec. 6.** (1) *Department of State Treasurer; creation.*—There is hereby created a Department of State Treasurer.

(2) *Head of Department.*—The head of the Department of State Treasurer is the State Treasurer.

(3) *State Treasurer; transfer of powers and duties to State Treasurer.*—The State Treasurer shall have such powers and duties as are conferred on him by Section 1 of this act, delegated to him by the Governor, and conferred by the Constitution and laws of this State.

(4) *State Treasurer; transfer of powers and duties to Department.*—Except as otherwise provided in the Constitution or in this act, all powers, duties and functions vested by law in the State Treasurer are transferred by a Type I transfer to the Department of State Treasurer.



NORTH CAROLINA GENERAL ASSEMBLY  
1973 SESSION

CHAPTER 1409  
SENATE BILL 1011

AN ACT TO PROVIDE THAT THE STATE BOARD OF ELECTIONS SHALL BE AN  
INDEPENDENT AGENCY.

The General Assembly of North Carolina enacts:

**Section 1.** G.S. 143A-22 is hereby repealed.

**Sec. 2.** Article 3 of Chapter 163 of the General Statutes is hereby amended by adding a new section immediately following G.S. 163-19 to be designated as G.S. 163-19.1 and to read as follows:

**"§ 163-19.1. State Board of Elections Independent Agency.** — The State Board of Elections shall be and remain an independent regulatory and quasi-judicial agency and shall not be placed within any principal administrative department. The State Board of Elections shall exercise its statutory powers, duties, functions, authority, and shall have all powers and duties conferred upon the heads of principal departments under G.S. 143B-10."

**Sec. 3.** Article 3 of Chapter 163 of the General Statutes is hereby amended by adding a new section immediately following G.S. 163-19.1 to be designated as G.S. 163-19.2 and to read as follows:

**"§ 163-19.2. Executive Secretary-Director to be appointed by Board.** — The appointment of the Executive Secretary-Director of the State Board of Elections is extended to May 15, 1977, unless removed for proper cause, and thereafter the Board shall appoint an Executive Secretary-Director for a term of four years with compensation to be determined by the Department of Personnel. He shall serve, unless removed for cause, until his successor is appointed. Such Executive Secretary-Director shall be responsible for staffing, administration, execution of the Board's decisions and orders and shall perform such other responsibilities as may be assigned by the Board. In the event of a vacancy, the vacancy shall be filled for the remainder of the term."

**Sec. 4.** All funds budgeted to the Department of the Secretary of State for the State Board of Elections are hereby transferred to the State Board of Elections.

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SECOND EXTRA SESSION 2018

SESSION LAW 2018-133  
HOUSE BILL 4

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO ESTABLISH A  
BIPARTISAN BOARD OF ETHICS AND ELECTIONS ENFORCEMENT.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article VI of the North Carolina Constitution is amended by adding a new section to read:

**"Sec. 11. Bipartisan State Board of Ethics and Elections Enforcement.**

(1) The Bipartisan State Board of Ethics and Elections Enforcement shall be established to administer ethics and elections law, as prescribed by general law. The Bipartisan State Board of Ethics and Elections Enforcement shall be located within the Executive Branch for administrative purposes only and shall exercise all of its powers independently of the Executive Branch.

(2) The Bipartisan State Board of Ethics and Elections Enforcement shall consist of eight members, each serving a term of four years, who shall be qualified voters of this State. Of the total membership, no more than four members may be registered with the same political affiliation, if defined by general law. Appointments shall be made by the Governor as follows:

(a) Four members upon the recommendation of the leader, as prescribed by general law, of each of the two Senate political party caucuses with the most members. The Governor shall not appoint more than two members from the recommendations of each leader.

(b) Four members upon the recommendation of the leader, as prescribed by general law, of each of the two House of Representatives political party caucuses with the most members. The Governor shall not appoint more than two members from the recommendations of each leader.

(3) The General Assembly shall enact general laws governing how appointments shall be made if the Governor fails to appoint a member within 10 days of receiving recommendations as required by this section."

**SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at a statewide general election to be held in November of 2018, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163A of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment to establish an eight-member Bipartisan Board of Ethics and Elections Enforcement in the Constitution to administer ethics and elections law."

**SECTION 3.** If a majority of the votes cast on the question are in favor of the amendment set out in Section 1 of this act, the Bipartisan State Board of Elections and Ethics Enforcement shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of that office.

**SECTION 4.** If the amendment is approved by the qualified voters as provided in this section, Section 1 becomes effective March 1, 2019.



**SECTION 5.** Except as otherwise provided, this act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 27<sup>th</sup> day of August, 2018.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

SESSION LAW 2023-139  
SENATE BILL 749

AN ACT TO REVISE THE STRUCTURES OF THE NORTH CAROLINA STATE BOARD OF ELECTIONS AND COUNTY BOARDS OF ELECTIONS, TO REVISE THE EMERGENCY POWERS OF THE EXECUTIVE DIRECTOR OF THE STATE BOARD OF ELECTIONS, TO MAKE CLARIFYING CHANGES TO SENATE BILL 512 OF THE 2023 REGULAR SESSION, TO MAKE ADDITIONAL CONFORMING AND CLARIFYING CHANGES TO IMPLEMENT PHOTO IDENTIFICATION FOR VOTING, AND TO AMEND THE TIME FOR CANDIDATES AND VACANCY APPOINTEES TO FILE STATEMENTS OF ECONOMIC INTERESTS.

The General Assembly of North Carolina enacts:

**PART I. TRANSFER OF STATE BOARD OF ELECTIONS**

**SECTION 1.1.(a)** The North Carolina State Board of Elections is transferred administratively to the Department of the Secretary of State. 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 Secretary of State.

**SECTION 1.1.(b)** G.S. 163-28 reads as rewritten:

**"§ 163-28. State Board of Elections independent agency.**

~~The State Board of Elections shall not be placed within any principal administrative department, administratively located within, and supported administratively by, the Department of the Secretary of State. The State Board shall exercise its statutory powers, duties, functions, and authority and shall have all powers and duties conferred upon the heads of principal departments under G.S. 143B-10, independently from authority of the Secretary of State."~~

**SECTION 1.1.(c)** This Part becomes effective January 1, 2024.

**PART II. RESTRUCTURE STATE BOARD OF ELECTIONS**

**SECTION 2.1.** 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, and shall continue for four years, and until their successors are appointed and qualified. The Governor 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 shall appoint the members from a list of nominees submitted to the Governor 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 party chair shall submit a list of four nominees who are affiliated with that political party.~~eight registered voters in this State who are appointed by the General Assembly as follows:



- (1) Two members appointed upon recommendation of the President Pro Tempore of the Senate.
- (2) Two members appointed upon recommendation of the Speaker of the House of Representatives.
- (3) Two members appointed upon recommendation of the minority leader of the Senate.
- (4) Two members appointed upon recommendation of the minority leader of the House of Representatives.

(b1) No later than April 1 immediately following each election of the members of the Council of State, 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 shall submit to the General Assembly a list of four nominees who are affiliated with that political party. The General Assembly shall give due consideration to the nominees provided by the party chairs. However, the General Assembly is not required to appoint members from the submitted nominees and may appoint any registered voter in the State in accordance with this section.

(b2) Members shall serve four-year terms, until a successor is appointed and qualified, beginning May 1 immediately following each election of the members of the Council of State. No person may serve more than two consecutive four-year terms.

(c) Any vacancy occurring in the State Board shall be filled by the ~~Governor, General Assembly,~~ and the person so appointed shall ~~fill~~ serve the remainder of the unexpired term. The ~~Governor shall fill the vacancy from a list of three nominees submitted to the Governor by the~~ State party chair of the political party that nominated the vacating member as provided in subsection ~~(b)~~ (b1) of this section. ~~The section may submit, within five business days of the occurrence of the vacancy, a list of three nominees must be to fill the vacancy who are affiliated with that political party. The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. Notwithstanding G.S. 120-122, if the General Assembly has adjourned for more than 10 days, the vacancy shall be filled by the individual recommending the initial appointment of the vacating member in accordance with subsection (b) of this section via a letter appointing an individual to serve until the expiration of the term under subsection (b1) of this section or until the General Assembly fills the vacancy, whichever occurs first.~~

...

(e) After taking the prescribed oath, the State Board shall organize by electing one of its members chair and another secretary. If for any reason a chair is not elected within 30 days after taking the prescribed oath or within 30 days of the occurrence of a vacancy in the office of the chair, the office of the chair may be filled by legislative appointment in accordance with G.S. 120-121 as if the chair is a member of a board or commission with the appointing authority being as follows:

- (1) If the vacancy occurs in 2025 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (2) If the vacancy occurs in 2026 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (3) If the vacancy occurs in 2027 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (4) If the vacancy occurs in 2028 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.

- (5) If the vacancy occurs in 2029 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (6) If the vacancy occurs in 2030 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (7) If the vacancy occurs in 2031 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (8) If the vacancy occurs in 2032 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.

...."

**SECTION 2.2.** 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~~ three 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~~ three members, any ~~three~~ six 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 duties imposed or powers conferred~~ 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,~~ (c) of this section, upon the prior written request of ~~any four~~ five members, the State Board of Elections shall meet at any other place in the State designated by the ~~four~~ five 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. ~~If any member of the 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 may summarily remove any member failing to attend and appoint his successor.~~ Board.

(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 2.3.** G.S. 163-22 reads as rewritten:

**"§ 163-22. Powers and duties of State Board of Elections.**

(a) The State Board of Elections shall have general supervision over the primaries and elections in the State, and it shall have authority to make such reasonable rules and regulations with respect to the conduct of primaries and elections as it may deem advisable so long as they do not conflict with any provisions of this Chapter.

(b) From time to time, the State Board shall publish and furnish to the county boards of elections and other election officials a sufficient number of indexed copies of all election laws and State Board rules and regulations then in force. It shall also publish, issue, and distribute to the electorate such materials explanatory of primary and election laws and procedures as the State Board shall deem necessary.

(c) ~~The State Board of Elections shall appoint, in the manner provided by law, all members of the county boards of elections and advise them the county boards of elections~~ as to the proper methods of conducting primaries and elections. The State Board shall require ~~such all~~ reports from the county boards of elections and election officers as ~~are~~ 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 ~~such a board, county board of elections.~~ The State Board ~~of Elections~~ 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. ~~When any county board member shall be removed by the State Board of Elections, the vacancy occurring shall be filled by the State Board of Elections.~~

(d) ~~The State Board of Elections~~ shall investigate when necessary or advisable, the administration of election laws, frauds and irregularities in elections in any county and municipality and special district, and shall report violations of the election laws to the Attorney General or district attorney or prosecutor of the district for further investigation and prosecution.

(e) ~~The State Board of Elections~~ shall determine, in the manner provided by law, the form and content of ballots, instruction sheets, pollbooks, tally sheets, abstract and return forms, certificates of election, and other forms to be used in primaries and elections. The State Board shall furnish to the county boards of elections the registration application forms required pursuant to G.S. 163-82.3. The State Board ~~of Elections~~ shall direct the county boards of elections to purchase a sufficient quantity of all forms attendant to the registration and elections process. In addition, the State Board shall provide a source of supply from which the county boards of elections may purchase the quantity of pollbooks needed for the execution of its responsibilities. In the preparation of ballots, pollbooks, abstract and return forms, and all other forms, the State Board ~~of Elections~~ may call to its aid the Attorney General of the State, and it shall be the duty of the Attorney General to advise and aid in the preparation of these books, ballots and forms.

(f) ~~The State Board of Elections~~ shall prepare, print, and distribute to the county boards of elections all ballots for use in any primary or election held in the State which the law provides shall be printed and furnished by the State to the counties. The State Board shall instruct the county boards of elections as to the printing of county and local ballots.

(g) ~~The State Board of Elections~~ shall certify to the appropriate county boards of elections the names of candidates for district offices who have filed notice of candidacy with the State Board and whose names are required to be printed on county ballots.

(h) ~~It shall be the duty of the~~ The State Board of Elections to shall tabulate the primary and election returns, ~~to declare the results, and to prepare abstracts of the votes cast in each county in the State for offices which, according to law, shall be tabulated by the State Board.~~

(i) ~~The State Board of Elections~~ shall make recommendations to the ~~Governor and~~ legislature relative to the conduct and administration of the primaries and elections in the State as it may deem advisable.

(j) Notwithstanding the provisions of any other section of this Chapter, the State Board ~~of Elections is empowered to shall~~ have access to any ballot boxes and their contents, any voting machines and ~~their~~ its contents, any registration records, pollbooks, voter authorization cards or voter lists, any lists of absentee voters, any lists of presidential registrants under the Voting Rights Act of 1965 as amended, and any other voting equipment or similar records, books or lists in any precinct, county, municipality or electoral district over whose elections it has jurisdiction or for whose elections it has responsibility.



(j1) Notwithstanding G.S. 153A-98 or any other provision of law, all officers, employees, and agents of a county board of elections ~~are required to~~ shall give to the State Board of Elections, Board, upon request, all information, documents, and data within their possession, or ascertainable from ~~their~~ its records, including any internal investigation or personnel documentation and ~~are required to~~ shall make available, upon request pursuant to an investigation under subsection (d) of this section, any county board of elections employee for interview and to produce any equipment, hardware, or software for inspection. These requirements are mandatory and shall be timely complied with as specified in a request made by any ~~four~~ five members of the State Board.

(k) Notwithstanding the provisions contained in Article 20 or Article 21A of ~~Chapter 163~~ this Chapter, the State Board of Elections shall be authorized, by resolution adopted prior to the printing of the primary ballots, to reduce the time by which absentee ballots are required to be printed and distributed for the primary election from 50 days to 45 days. This authority shall not be authorized for absentee ballots to be voted in the general election, except if the law requires ballots to be available for mailing 60 days before the general election, and ~~they~~ the absentee ballots are not ready by that date, the State Board of Elections shall allow the counties to mail ~~them~~ absentee ballots out as soon as ~~they~~ the absentee ballots are available.

(l) Notwithstanding any other provision of law, in order to obtain judicial review of any decision of the State Board of Elections rendered in the performance of its duties or in the exercise of its powers under this Chapter, the person seeking review must file ~~his~~ a petition in the Superior Court of Wake County.

(m) The State Board of Elections shall provide specific training to county boards of elections regarding rules for registering students.

(n) The State Board of Elections shall promulgate minimum requirements for the number of pollbooks, voting machines and curbside ballots to be available at each precinct, such that more ~~of such~~ will be available at general elections and a sufficient number will be available to allow voting without excessive delay. The State Board of Elections shall provide for a training and screening program for chief judges and judges. The State Board shall provide additional testing of voting machines to ensure that they operate properly even with complicated ballots.

(o) The State Board of Elections shall require counties with voting systems to have sufficient personnel available on election day with technical expertise to ~~make repairs in such repair equipment,~~ to investigate election day problems, and to assist in curbside voting.

(o1) The State Board of Elections shall include in all forms prepared by the State Board a prominent statement that submitting fraudulently or falsely completed declarations is a Class I felony under ~~Chapter 163 of the General Statutes.~~ this Chapter.

(p) ~~The~~ Except as provided in G.S. 163-27, the State Board of Elections may assign responsibility for enumerated administrative matters to the Executive Director by resolution, if that resolution provides a process for the State Board to review any administrative decision made by the Executive Director.

(q) Nothing in this Chapter shall grant authority to the State Board of Elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted by the General Assembly.

(r) Nothing in this Chapter shall grant authority to the State Board of Elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of local government other than a plan imposed by a court, a plan enacted by the General Assembly, or a plan adopted by the appropriate unit of local government under statutory or local act authority."

**SECTION 2.4.** G.S. 163-25 reads as rewritten:

**"§ 163-25. Authority of State Board to assist in litigation.**

(a) ~~The State Board of Elections~~ shall possess authority to assist any county board of elections in any matter in which litigation is contemplated or has been initiated, provided, the county board of elections in such county petitions, by majority resolution, for such assistance from the State Board of Elections and, provided further, that the State Board of Elections determines, in its sole discretion by majority vote, to assist in any such matter. It is further stipulated that the State Board of Elections shall not be authorized under this provision to enter into any litigation in assistance to counties, except in those instances where the uniform administration of this Chapter has been, or would be threatened.

(b) The Attorney General shall provide the State Board of Elections with legal assistance in execution of its authority under this section or, in the Attorney General's discretion, recommend that private counsel be employed.

(c) If the Attorney General recommends employment of private counsel, the State Board may employ counsel with the approval of the ~~Governor~~ General Assembly."

**SECTION 2.5.** G.S. 163-27 reads as rewritten:

**"§ 163-27. Executive Director to be appointed by State Board.**

(a) The State Board shall appoint an Executive Director for a term of two years with compensation to be determined by the Office of State Human Resources.

(b) ~~The term of office for the Executive Director shall serve beginning~~ begins May 15 after the first meeting held after new appointments to the State Board are made, of the year after each even-year election, unless removed for cause, until a successor is appointed. ~~cause. If for any reason the position of Executive Director is not filled by June 15 of the year after each even-year election or within 30 days of the occurrence of a vacancy in the position of Executive Director, the position of Executive Director may be filled by legislative appointment in accordance with G.S. 120-121 as if the Executive Director is a member of a board or commission with the appointing authority being as follows:~~

- (1) If the vacancy occurs in 2025 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (2) If the vacancy occurs in 2026 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (3) If the vacancy occurs in 2027 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (4) If the vacancy occurs in 2028 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (5) If the vacancy occurs in 2029 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (6) If the vacancy occurs in 2030 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (7) If the vacancy occurs in 2031 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (8) If the vacancy occurs in 2032 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.

(c) The Executive Director shall be responsible for staffing, administration, and execution of the State Board's decisions and orders and shall perform such other responsibilities as may be assigned by the State Board.

(d) The Executive Director shall be the chief State elections official."

**SECTION 2.6.** This Part becomes effective January 1, 2024, and appointments may be made accordingly. The eight members of the State Board of Elections appointed in accordance



with G.S. 163-19, as amended by this act, shall serve until May 1, 2029. Any member so appointed shall be eligible to serve one additional full consecutive term in accordance with G.S. 163-19, as amended by this act.

### **PART III. EMERGENCY POWERS**

**SECTION 3.1.** G.S. 163-27.1 reads as rewritten:

#### **"§ 163-27.1. Emergency powers.**

(a) The ~~Executive Director, as chief State elections official, State Board, in an open meeting,~~ may exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by any of the following:

- (1) A natural disaster.
- (2) Extremely inclement weather.
- (3) An armed conflict involving Armed Forces of the United States, or mobilization of those forces, including North Carolina National Guard and reserve components of the Armed Forces of the United States.

In exercising those emergency powers, the ~~Executive Director State Board~~ shall avoid unnecessary conflict with the provisions of this Chapter. The ~~Executive Director State Board~~ shall adopt rules describing the emergency powers and the situations in which the emergency powers will be exercised.

(b) Nothing in this Chapter shall grant authority to the State Board of Elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted by the General Assembly.

(c) Nothing in this Chapter shall grant authority to the State Board of Elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of local government other than a plan imposed by a court, a plan enacted by the General Assembly, or a plan adopted by the appropriate unit of local government under statutory or local act authority.

(d) Under no circumstances shall the ~~Executive Director or the State Board of Elections~~ have the authority to do any of the following:

- (1) Deliver absentee ballots to an eligible voter who did not submit a valid written request form for absentee ballots as provided in G.S. 163-230.1 and G.S. 163-230.2.
- (2) Order an election to be conducted using all mail-in absentee ballots.
- (3) Delegate its authority under this section to the Executive Director or any other individual."

### **PART IV. COUNTY BOARDS OF ELECTIONS**

**SECTION 4.1.** 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 consist of ~~five-four~~ 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 General Assembly~~ for a two-year term of office that begins 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 county boards of elections shall be appointed by the State Board 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. One member of the county boards of elections shall be appointed by the Governor to be the chair of~~

~~the county board on the last Tuesday in June and every two years thereafter, 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. June of each odd-numbered year, as follows:~~

- (1) One member appointed upon recommendation of the President Pro Tempore of the Senate.
- (2) One member appointed upon recommendation of the Speaker of the House of Representatives.
- (3) One member appointed upon recommendation of the minority leader of the Senate.
- (4) One member appointed upon recommendation of the minority leader of the House of Representatives.

(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 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 No later than April 1 of each odd-numbered year, 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 each have the right to recommend to the State Board three two registered voters in each county for appointment to the 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, it shall be the duty of the State Board to appoint the county boards from the names thus recommended.~~

(c1) At the first meeting in July of each year, the county board of elections shall organize by electing one member of that county board of elections to serve a one-year term as chair of the county board of elections. If for any reason a chair is not elected within 15 days after the first meeting in July or within 30 days of the occurrence of a vacancy, the office of chair may be filled by legislative appointment in accordance with G.S. 120-121 as if the chair is a member of a board or commission with the appointing authority being as follows:

- (1) If the vacancy occurs in 2025 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (2) If the vacancy occurs in 2026 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.

- (3) If the vacancy occurs in 2027 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (4) If the vacancy occurs in 2028 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (5) If the vacancy occurs in 2029 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (6) If the vacancy occurs in 2030 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (7) If the vacancy occurs in 2031 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (8) If the vacancy occurs in 2032 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.

(d) Whenever a vacancy occurs in the membership of a county board of elections for any ~~cause-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 to fill the vacancy. The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. Notwithstanding G.S. 120-122, if the General Assembly has adjourned for more than 10 days, the vacancy shall be filled by the individual recommending the appointment of the vacating member in accordance with subsection (a) of this section via a letter appointing an individual to serve until the expiration of the term under subsection (a) of this section or until the General Assembly fills the vacancy, whichever occurs first.

...."

**SECTION 4.2.** G.S. 163-35 is amended by adding a new subsection to read:

"(b1) If the county board of elections is unable to agree on a name of the person the county board recommends to fill a vacancy in the position of county director of elections, the Executive Director of the State Board shall designate a person qualified to serve as acting county director of elections until the county board of elections nominates a person in accordance with this section."

**SECTION 4.3.(a)** G.S. 163-27.2 reads as rewritten:

**"§ 163-27.2. Criminal history record checks of current and prospective employees of the State Board and county directors of elections.**

(a) As used in this section, the term "current or prospective employee" means any of the following:

- (1) A current or prospective permanent or temporary employee of the State Board or a current or prospective county director of elections.
- (2) An employee or agent of a current or prospective contractor with the State Board.
- (3) Any other individual otherwise engaged by the State Board who has or will have the capability to update, modify, or change elections systems or confidential elections or ethics data.

(b) A criminal history record check shall be required of all current or prospective permanent or temporary employees of the State Board and all current or prospective county directors of elections, which shall be conducted by the Department of Public Safety as provided in ~~G.S. 143B-968. The criminal history report shall be provided to the Executive Director, who shall keep all information obtained pursuant to this section confidential to the State Board, as provided in G.S. 143B-968(d).~~ G.S. 143B-969. A criminal history record check report provided

~~under this subsection~~ received in accordance with G.S. 143B-969 is not a public record under Chapter 132 of the General Statutes.

(c) If the current or prospective employee's verified criminal history record check reveals one or more convictions, the conviction shall constitute just cause for not selecting the person for employment or for dismissing the person from current employment. The conviction shall not automatically prohibit employment.

(d) A prospective employee may be denied ~~employment~~ employment, or a current employee may be dismissed from ~~employment~~ employment, for refusal to consent to a criminal history record check or to submit fingerprints or to provide other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

...."

**SECTION 4.3.(b)** G.S. 163-37.1 reads as rewritten:

**"§ 163-37.1. Criminal history record checks of current and prospective employees of county boards of elections.**

(a) As used in this section, the term "current or prospective employee" means a current or prospective permanent or temporary employee of a county board of elections who has or will have access to the statewide computerized voter registration system maintained under G.S. 163-82.11 or has a position or function designated by the State Board as provided in G.S. 163-27.2.

(b) The county board of elections shall require a criminal history record check of all current or prospective employees, which shall be conducted by the Department of Public Safety as provided in ~~G.S. 143B-969~~. ~~The criminal history report shall be provided to the county board of elections. A county board of elections shall provide the criminal history record of all current or prospective employees required by G.S. 163-27.2 to the Executive Director and the State Board. The G.S. 143B-970. A criminal history record check report shall be kept confidential as provided in G.S. 143B-969(d) and~~ received in accordance with G.S. 143B-970 is not a public record under Chapter 132 of the General Statutes.

...."

**SECTION 4.3.(c)** G.S. 143B-969 reads as rewritten:

**"§ 143B-969. Criminal record checks for employees and contractors of the State Board of Elections and county directors of elections.**

(a) As used in this section, the term:

(1) "Current or prospective employee" means any of the following:

- a. A current or prospective permanent or temporary employee of the ~~State Board or a current or prospective county director of elections~~. Board, other than the Executive Director.
- b. A current or prospective contractor with the State Board.
- c. An employee or agent of a current or prospective contractor with the State Board.
- d. Any other individual otherwise engaged by the State Board who has or will have the capability to update, modify, or change elections systems or confidential elections or ethics data.

(2) "State Board" means the State Board of Elections.

(b) The Department of Public Safety may provide to the Executive Director of the State Board a current or prospective employee's criminal history from the State and National Repositories of Criminal Histories. The Department of Public Safety may provide the criminal history record check report regarding any prospective appointee for the position of Executive Director to the chair of the State Board in accordance with G.S. 163-27(a) or to the chair or chairs of each standing committee handling the legislation regarding the appointment of the Executive Director in accordance with G.S. 163-27(b). The Executive Director shall provide to the

Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, a form signed by the current or prospective employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(d) ~~The Except for criminal history reports on prospective appointees for the position of Executive Director pursuant to subsection (b) of this section, the criminal history report shall be provided to the Executive Director of the State Board, who shall keep all information obtained pursuant to this section confidential to the State Board. The criminal history reports on prospective appointees for the position of Executive Director shall be kept confidential by the recipient under subsection (b) of this section.~~ A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes."

**SECTION 4.4.** This Part becomes effective January 1, 2024, and appointments may be made accordingly. The four members of each county board of elections appointed in accordance with G.S. 163-30, as amended by this act, shall serve until the last Tuesday in June of 2027.

## **PART V. CONFORMING STATUTORY CHANGES**

**SECTION 5.1.** G.S. 163-182.6 reads as rewritten:

### **"§ 163-182.6. Abstracts.**

(a) Abstracts to Be Prepared by County Board of Elections. – As soon as the county canvass has been completed, the county board of elections shall prepare abstracts of all the ballot items in a form prescribed by the State ~~Board of Elections.~~ Board. The county board of elections shall prepare those abstracts in triplicate originals. The county board shall retain one of the triplicate originals, and shall distribute one each to the clerk of superior court for the county and the State ~~Board of Elections.~~ Board. The State Highway Patrol may, upon request of the State ~~Board of Elections.~~ Board, be responsible for the delivery of the abstracts from each county to the State ~~Board of Elections.~~ Board. The State Board of Elections shall ~~forward~~ provide the original abstract it receives to the Secretary of State.

(b) Composite Abstracts to Be Prepared by the State ~~Board of Elections.~~ Board. – As soon as the State canvass has been completed, the State Board shall prepare composite abstracts of all those ballot items. ~~It~~ The State Board shall prepare those composite abstracts in duplicate originals. ~~It~~ The State Board shall retain one of the originals and ~~shall send~~ shall be kept by the Secretary of State.

...."

**SECTION 5.2.** G.S. 163-182.13 reads as rewritten:

### **"§ 163-182.13. New elections.**

(a) When State Board May Order New Election. – The State Board ~~of Elections~~ may order a new election, upon agreement of at least ~~four~~ five of its members, in the case of any one or more of the following:

- (1) Ineligible voters sufficient in number to change the outcome of the election were allowed to vote in the election, and it is not possible from examination of the official ballots to determine how those ineligible voters voted and to correct the totals.

- (2) Eligible voters sufficient in number to change the outcome of the election were improperly prevented from voting.
- (3) Other irregularities affected a sufficient number of votes to change the outcome of the election.
- (4) Irregularities or improprieties occurred to such an extent that they taint the results of the entire election and cast doubt on its fairness.

...

(e) Which Candidates to Be on Official Ballot. – All the candidates who were listed on the official ballot in the original election shall be listed in the same order on the official ballot for the new election, except in either of the following:

- (1) If a candidate dies or otherwise becomes ineligible between the time of the original election and the new election, that candidate may be replaced in the same manner as if the vacancy occurred before the original election.
- (2) If the election is for a multiseat office, and the irregularities could not have affected the election of one or more of the candidates, the new election, upon agreement of at least ~~four~~ five members of the State Board, may be held among only those candidates whose election could have been affected by the irregularities.

...."

**SECTION 5.3.** G.S. 163-182.15(c) reads as rewritten:

"(c) Copy ~~to~~ for Secretary of State. – ~~The State Board of Elections shall provide to the Secretary of State a copy of each certificate of nomination or election, or certificate of the results of a referendum, issued by it. The Secretary of State shall keep a copy of each certificate of nomination or election, or each certificate of results of a referendum, issued by the State Board.~~ The Secretary of State shall keep the certificates in a form readily accessible and useful to the public."

**SECTION 5.4.** G.S. 163-182.17(d)(8) reads as rewritten:

"(8) Retain one original of the composite abstract and ~~deliver to~~ provide the Secretary of State with the other original composite abstract of the results of ballot items within the jurisdiction of the State ~~Board of Elections.~~ Board.  
G.S. 163-182.6."

**SECTION 5.5.** G.S. 163-213.4 reads as rewritten:

**"§ 163-213.4. Nomination by State Board of Elections.**

(a) No later than 90 days preceding the North Carolina presidential preference primary, the chair of each political party shall submit to the State Board ~~of Elections~~ a list of its presidential candidates to be placed on the presidential preference primary ballot. The list must be comprised of candidates whose candidacy is generally advocated and recognized in the news media throughout the United States or in North Carolina, unless any such candidate executes and files with the chair of the political party an affidavit stating without qualification that the candidate is not and does not intend to become a candidate for nomination in the North Carolina Presidential Preference Primary Election. The State Board ~~of Elections~~ shall prepare and publish a list of the names of the presidential candidates submitted.

(b) The State Board ~~of Elections~~ shall convene in Raleigh on the first Tuesday in January preceding the presidential preference primary election, unless the first Tuesday in January is the first day of that month, in which case the State Board shall meet on January 2. At the meeting required by this section, the State Board ~~of Elections~~ shall nominate as presidential primary candidates all candidates affiliated with a political party, recognized pursuant to the provisions of Article 9 of this Chapter, who have been submitted to the State ~~Board of Elections.~~ Board. Additionally, the State ~~Board of Elections.~~ Board, by vote of at least ~~three~~ five of its members in the affirmative, may nominate as a presidential primary candidate any other person affiliated with



a political party that it finds is generally advocated and recognized in the news media throughout the United States or in North Carolina as candidates for the nomination by that party.

(c) Immediately upon completion of these requirements, adjourning the meeting as required by subsection (b) of this section, the State Board shall release to the news media all such nominees selected. Provided, however, nothing shall prohibit the partial selection of nominees prior to the meeting required by this subsection (b) of this section, if all provisions herein have been complied with, provided the State Board has complied with the requirements of this section."

**SECTION 5.6.** G.S. 163-258.30 reads as rewritten:

**"§ 163-258.30. Regulations of State Board of Elections.**

(a) The State Board of Elections shall adopt rules and regulations to carry out the intent and purpose of G.S. 163-258.28 and G.S. 163-258.29 and to ensure that a proper list of persons voting under said sections shall be maintained by the boards of elections, and to ensure proper registration records.

(b) The State Board of Elections shall be the single office responsible for providing information concerning voter registration and absentee voting procedures to be used by covered voters as to all elections and procedures relating to the use of federal write-in absentee ballots. Unless otherwise required by law, the State Board of Elections shall be responsible for maintaining contact and cooperation with the Federal Voting Assistance Program, the United States Department of Defense, and other federal entities that deal with military and overseas voting. The State Board of Elections shall, as needed, make recommendations concerning military and overseas citizen voting to the General Assembly, the Governor, Assembly and other State officials."

**SECTION 5.7.** This Part becomes effective January 1, 2024.

## **PART VI. TECHNICAL AND CLARIFYING CHANGES**

**SECTION 6.1.(a)** If Senate Bill 512, 2023 Regular Session, becomes law, then:

- (1) The changes made to subdivisions (5) and (9) of G.S. 143B-283(a1) by Section 2.1(a) of that act, are effective when that act becomes law, at which point the terms of members serving on the Environmental Management Commission pursuant to those subdivisions by appointment of the Governor shall terminate, and the Commissioner of Agriculture's power to appoint members pursuant to those subdivisions shall arise.
- (2) The Environmental Management Commission shall elect a chair and vice-chair pursuant to G.S. 143B-284, as amended by Section 2.1(b) of that act, no later than 90 days after the date that both members to be appointed by the Commissioner of Agriculture pursuant to G.S. 143B-283(a1), as amended by Section 2.1(a) of that act, have been initially appointed by the Commissioner.

**SECTION 6.1.(b)** If Senate Bill 512, 2023 Regular Session, becomes law, then Section 12.1(d) of that act reads as rewritten:

**"SECTION 12.1.(d)** Notwithstanding G.S. 116-31.5, as enacted by this section, members elected to the North Carolina State University Board of Trustees as of the effective date of this section shall serve the remainder of their terms and the General Assembly shall appoint two additional members of the North Carolina State University Board of Trustees to terms beginning on the date of appointment and expiring June 30, 2027. In accordance with G.S. 120-121, one appointment shall be upon the recommendation of the President Pro Tempore of the Senate and one appointment shall be upon the recommendation of the Speaker of the House of Representatives. A term served A member appointed to a term expiring June 30, 2027, pursuant to this subsection shall not count as a full four-year term under G.S. 116-31(g)."

**SECTION 6.1.(c)** If Senate Bill 512, 2023 Regular Session, becomes law, then Section 12.1(e) of that act reads as rewritten:

**"SECTION 12.1.(e)** Notwithstanding G.S. 116-31.7, as enacted by this section, members elected to the University of North Carolina at Chapel Hill Board of Trustees as of the effective date of this section shall serve the remainder of their terms and the General Assembly shall appoint two additional members of the University of North Carolina at Chapel Hill Board of Trustees to terms beginning on the date of appointment and expiring June 30, 2027. In accordance with G.S. 120-121, one appointment shall be upon the recommendation of the President Pro Tempore of the Senate and one appointment shall be upon the recommendation of the Speaker of the House of Representatives. A term served by a member appointed to a term expiring June 30, 2027, pursuant to this subsection shall not count as a full four-year term under G.S. 116-31(g)."

**SECTION 6.2.** If Senate Bill 512, 2023 Regular Session, becomes law, then the Board of Transportation shall elect a chair and vice-chair pursuant to G.S. 143B-350(e), as amended by Section 4.1(a) of that act, no later than 90 days after the date that all members to be appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives pursuant to G.S. 143B-350(b)(1), as amended by Section 4.1(a) of that act, have been initially appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

**SECTION 6.3.** If Senate Bill 512, 2023 Regular Session, becomes law, then the Coastal Resources Commission shall elect a chair and vice-chair pursuant to G.S. 113A-104(i), as amended by Section 5.1(a) of that act, no later than 90 days after the date that all members to be appointed by the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Commissioner of Insurance, pursuant to the new subdivisions of G.S. 113A-104(b1), as amended by Section 5.1(a) of that act, have been initially appointed.

**SECTION 6.4.** If Senate Bill 512, 2023 Regular Session, becomes law, then the North Carolina Railroad Board of Directors shall elect a chair pursuant to G.S. 124-15(a), as amended by Section 7.1(a) of that act, no later than 90 days after the date that the member to be appointed by the State Treasurer pursuant to G.S. 124-15(a), as amended by Section 7.1(a) of that act, has been initially appointed by the Treasurer.

**SECTION 6.5.** G.S. 163-230.1(g)(2) reads as rewritten:

- "(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 ~~written request returned application and voted ballots~~ as a reasonable impediment to compliance with the identification requirement. ~~If a reasonable impediment under this subdivision states inability to attach a physical copy of the voter's identification with the written request, requirement, provided the reasonable impediment shall include~~ 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."

**SECTION 6.6.** G.S. 20-30(6) reads as rewritten:

- "(6) To make a color photocopy or otherwise make a color reproduction of a drivers license, learner's permit, or special identification card, unless such color photocopy or other color reproduction was authorized by the Commissioner or is made to comply with ~~G.S. 163-230.2~~ G.S. 163-230.1. It shall be lawful to make a black and white photocopy of a drivers license, learner's permit, or special identification card or otherwise make a black and



white reproduction of a drivers license, learner's permit, or special identification card. This subdivision does not apply to: (i) a lender that is licensed or otherwise authorized to engage in the lending business in this State; (ii) a licensed motor vehicle dealer creating, storing, or receiving, in the ordinary course of business, a color image of a drivers license, learner's permit, or special identification card of a borrower or loan applicant; or (iii) a federally insured depository institution or its affiliates creating, storing, or receiving, in the ordinary course of business, a color image of a drivers license, learner's permit, or special identification card of a consumer."

**SECTION 6.7.(a)** G.S. 163-82.8A(c) reads as rewritten:

"(c) County boards of elections or the State Board shall maintain a secure database containing the photographs of registered voters taken for the purpose of issuing voter photo identification cards."

**SECTION 6.7.(b)** G.S. 163-82.10(a1) reads as rewritten:

"(a1) Personal Identifying Information. – Full or partial social security ~~numbers, numbers;~~ dates of ~~birth, birth;~~ the identity of the public agency at which the voter registered under ~~G.S. 163-82.20, G.S. 163-82.20;~~ any electronic mail address submitted under this Article, Article 20, or Article 21A of this ~~Chapter, Chapter;~~ photographs for voter photo identification under G.S. 163-82.8A; photocopies of identification for ~~voting, voting;~~ and drivers license numbers, whether held by the State Board or a county board of elections, are confidential and shall not be considered public records and subject to disclosure to the general public under Chapter 132 of the General Statutes. Cumulative data based on those items of information may be publicly disclosed as long as information about any individual cannot be discerned from the disclosed data. Disclosure of information in violation of this subsection shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of information in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable."

**SECTION 6.8.** Notwithstanding any provision of S.L. 2022-74 or the Committee Report described in Section 43.2 of that act to the contrary, the sum of five million dollars (\$5,000,000) in nonrecurring funds appropriated in S.L. 2021-180 for the 2021-2022 fiscal year to the State Board of Elections for a mobile voting program to assist individuals in need of photo identification for in-person voting is expanded to allow the State Board of Elections to use those funds for any photo identification implementation efforts and to implement the requirements of Senate Bill 747, 2023 Regular Session, if that bill becomes law. These funds shall not revert on June 30, 2023, but shall remain available until expended.

**SECTION 6.9.(a)** G.S. 138A-22 reads as rewritten:

**"§ 138A-22. Statement of economic interest; filing required.**

...  
(b1) Notwithstanding subsection (a) of this section, covered persons subject to this Chapter who are appointed to fill a vacancy in elective office may file a statement of economic interest within 30 days after appointment to elective office.

...  
(f) A candidate for an office subject to this Article shall file the statement of economic interest with the Commission ~~within 10 days of the filing deadline for the office the candidate seeks, no earlier than the first business day in January and no later than 45 days before the primary.~~ An individual nominated under G.S. 163-114 shall file the statement within three days following the individual's nomination, or not later than the day preceding the general election, whichever occurs first. An individual seeking to qualify as an unaffiliated candidate under G.S. 163-122 shall file the statement of economic interest within three days of filing the petition required under that section. An individual seeking to have write-in votes counted for that individual in a general election shall file a statement of economic interest within three days of

the time the candidate files a declaration of intent under G.S. 163-123. A candidate of a new party chosen by convention shall file a statement of economic interest within three days of the time that the president of the convention certifies the names of its candidates to the State Board of Elections under G.S. 163-98.

...

(h) The State Board of Elections shall provide for notification of the statement of economic interest requirements of this Article to be given to any candidate filing for nomination or election to those offices subject to this Article and to any nominee under G.S. 163-114. Each year, the Commission shall publish the date by which the statement of economic interest is to be filed. In the year candidates file for office, the State Board of Elections shall notify candidates filing for offices subject to this Article of the date published by the Commission.

(i) Within 10 days of the filing deadline for office of a covered person, the executive director of the State Board of Elections shall send to the ~~State Ethics~~ Commission a list of the names and addresses of each candidate who has filed as a candidate for office as a covered person. Within five days of an individual otherwise qualifying to be on the ballot, the State Board of Elections shall send notice of that qualification to the ~~State Ethics~~ Commission.

...."

**SECTION 6.9.(b)** This section is effective when it becomes law and applies to statements of economic interest filed on or after that date.

## **PART VII. SEVERABILITY CLAUSE**

**SECTION 7.1.** If any provision of this act or its application to any person, group of persons, or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.

## **PART VIII. EFFECTIVE DATE**

**SECTION 8.1.** Notwithstanding G.S. 163-19(e), as amended by this act, if a chair is not elected by January 10, 2024, or within 30 days of the occurrence of a vacancy in the office of the chair in 2024, the office of the chair may be filled by legislative appointment in accordance with G.S. 120-121 as if the chair is a member of a board or commission by the President Pro Tempore of the Senate.

**SECTION 8.2.** Notwithstanding G.S. 163-30(c1), as amended by this act, if a chair is not elected by January 10, 2024, or within 30 days of the occurrence of a vacancy in 2024, the office of the chair may be filled by legislative appointment in accordance with G.S. 120-121 as if the chair is a member of a board or commission by the President Pro Tempore of the Senate.

**SECTION 8.3.** Notwithstanding G.S. 163-27(b), as amended by this act, if an Executive Director is not selected by January 10, 2024, or within 30 days of the occurrence of a vacancy in 2024, the position of Executive Director may be filled by legislative appointment in accordance with G.S. 120-121 as if the chair is a member of a board or commission by the President Pro Tempore of the Senate.

**SECTION 8.4.** For the 2024 presidential preference primary only, the following shall apply:

- (1) Notwithstanding G.S. 163-213.4, the State Board of Elections shall meet on December 19, 2023, to perform its duties under G.S. 163-213.4.
- (2) Notwithstanding G.S. 163-213.5, petitions shall be presented to the county board of elections no later than December 4, 2023, and filed with the State Board of Elections no later than December 18, 2023.
- (3) The December 19, 2023, meeting of the State Board of Elections required by this section shall be deemed to be the January 2024 meeting required by G.S. 163-213.4, as amended by Section 5.5 of this act.

- (4) No petitions filed under G.S. 163-213.5 after December 18, 2023, may be considered by the State Board of Elections.

**SECTION 8.5.** Except as otherwise provided, this act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of September, 2023.

s/ Phil Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

VETO Roy Cooper  
Governor

Became law notwithstanding the objections of the Governor at 1:42 p.m. this 10<sup>th</sup> day of October, 2023.

s/ Mr. James White  
House Principal Clerk

**JOURNAL  
OF THE  
SENATE  
OF THE  
GENERAL ASSEMBLY  
OF THE  
STATE OF NORTH CAROLINA  
  
SESSION  
  
1995**



And we must do more. I Chaired the Governor's Task Force on the Driving While Impaired, serving with Senator Odom and Senator Forrester, and by continuing to be pro-active, the package of recommendations by this Task Force will do even more to stop drunk driving and help prevent repeat offenders—repeat offenders from getting behind the wheel in this State.

"And finally, I'll be working very closely with the Governor to cut taxes. I very deeply believe, deeply believe that we must provide relief to our working families. It's working families who pay the most cost of government, and they're the ones who deserve the relief.

"Members of the Senate, as your presiding officer, I pledge to you my commitment to working with you. My role is best served as being a facilitator for your agenda. And every presiding officer has his or her own leadership style. I hope I have a reputation for being fair-minded and even-handed. But I'll tell you what I told those in orientation, I expect order, and I believe that we have an obligation to conduct ourselves with dignity while the Senate is in session. Remember that the eyes of the public are upon you, and we must lead by example. We are here to help our people and empower them the opportunities that will help them reach their full potential. I believe that this is the true function of government, empowering our people promotes and enriches our most precious resource, and this is a legacy that I believe that we should leave behind so that generations to follow us will inherit a better quality of life in this State. And I look forward to working with you as your Lieutenant Governor in pursuit of that legacy. Thank you very much."

The Senate responds with a standing ovation.

The President directs the Reading Clerk to read, as follows:

#### CERTIFICATION FROM SECRETARY OF STATE

I, RUFUS L. EDMISTEN, Secretary of State of the State of North Carolina, do hereby certify that the State Board of Elections has forwarded to me, a copy of an Order, in accordance with Chapter 163-191 of the General Statutes of North Carolina, that ordered a special election for State Senate District 15 to be conducted by the county boards of election in Lee, Harnett, Johnston and Sampson on March 28, 1995.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal.

DONE IN OFFICE at Raleigh, this 23rd day of January, 1995

(SEAL)

S/Rufus L. Edmisten  
Secretary of State



The Order of the State Board of Elections attached reads as follows:

**BEFORE THE NORTH CAROLINA  
STATE BOARD OF ELECTIONS**

**IN RE:**

**N.C. STATE SENATE DISTRICT 15)      ORDER**

In resolution of all appeals currently pending before the State Board of Elections and based upon the administrative record, the Board enters the following order:

1. That the results of the recount concluded on December 28, 1994, in State Senate District 15 show a tie between Democratic candidate Elaine Marshall and Republican candidate Dan Page.

2. Based upon the results of the recount concluded on December 28, 1994, and pursuant to G.S. 163-191, it is hereby ordered that a special election for State Senate District 15 shall be held by the county boards of election in Lee, Harnett, Johnston, and Sampson on March 28, 1995.

3. In all counties in District 15, both political parties may appoint persons to serve as precinct judges where any vacancies currently exist. Any person so appointed shall only serve as judge in the precinct to which they are appointed for this special election. For this special election, persons so appointed must be residents of District 15 and the county in which they are appointed, but need not be residents of the precincts in which they are appointed. Any persons appointed by either party to serve as precinct judges shall have their names submitted by the county chairman of their respective party to the chairman of the county board of elections on or before March 17, 1995.

4. In each county, all precinct chief judges and precinct judges, including but not limited to those judges appointed pursuant to the terms of this order, shall attend a three-hour training session to be held by each county board of elections during the week of March 20, 1995, on or before March 23, 1995. All county board members and a representative from the State Board of Elections will attend each training session.

5. For purposes of this special election, either political party may appoint to the position of observer persons who are not residents of the precinct in which they are appointed provided they are residents of District 15 and the county in which they are appointed. In all other respects, the appointment of observers shall be governed by the provisions of G.S. 163-45, including, but not limited to, the requirement that individuals authorized to appoint observers (the chairman of each political party) must, prior to 10:00 a.m. on the fifth day prior to the special election (March 23, 1995), submit in writing to the chairman of the county board of elections two signed copies of a list of observers appointed by them designating the precinct for which each observer is appointed.

6. On the day of the special election, a representative of the State Board of Elections shall be present in each county from the time the polls are opened until vote totals from all precincts are reported to the county board.



7. In Lee County, a representative of the State Board of Elections shall be present in each precinct before the polls are opened and until vote totals are calculated and ballots are sealed in the ballot box in accordance with the requirements of the General Statutes. The representative of the State Board of Elections will take possession of each precinct's ballot box after it is sealed.

8. In Lee County, a representative of the State Board of Elections shall be present at the Lee County Board of Elections for the counting of absentee and transfer ballots and shall take possession of those ballots after they are counted and sealed in accordance with the General Statutes.

9. All ballots used in all counties shall only contain the names of the two candidates and shall not contain provisions for straight ticket voting. The ballots will also show the party affiliation of each candidate in the customary manner.

10. For this special election, the county boards of election in Harnett, Johnston, and Sampson shall use the voting systems used in those counties during the 1994 General Election.

11. For this special election, in Lee County voting shall be done by traditional paper ballots that will be printed by the State Board of Elections. All ballots in each precinct shall be counted only by the precinct officials for each precinct. Any ballot that is disputed by any of the precinct officials shall be segregated from the other ballots for the precinct by placing them in a sealed envelope signed and dated by each precinct official. The envelope containing disputed ballots shall be placed in the precinct's ballot box and sealed with the other ballots for the precinct.

12. In all counties observers and members of the public shall have full and complete access to observe the counting of ballots.

13. It is stipulated by candidates Elaine Marshall and Dan Page that neither of them will appeal this order and that Page will dismiss his petition for judicial review of previous orders of the State Board, now pending in Wake County Superior Court as 94 CIV 11980.

14. In all respects not addressed by this order, this special election shall be conducted under the supervision of the State Board of Elections and in accordance with the appropriate procedures contained in Chapter 163 of the General Statutes.

This the 12th day of January, 1995.

State Board of Elections

By: S/Edward J. High, Chairman

By: S/Gary O. Bartlett, Executive  
*Secretary-Director*

So Stipulated:

S/John R. Wallace

Wallace, Creech, Sarda & Zaytoun

*Counsel for Elaine Marshall*

P.O. Box 12065

Raleigh, North Carolina 27605

S/Thomas A. Farr  
Maupin, Taylor, Ellis & Adams, P.A.  
*Counsel for Dan Page*  
P.O. Drawer 19764  
Raleigh, North Carolina 27619

S/Charles Hensey  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, North Carolina 27602

### RESIGNATION

The President directs the Reading Clerk to read as follows:

**The University of North Carolina  
BOARD OF GOVERNORS**

December 14, 1994

The Honorable Dennis Wicker  
Lieutenant Governor of North Carolina  
Hawkins-Hartness House  
310 North Blount Street  
Raleigh, North Carolina 27603

RE: Vacancy on the Board of Governors of the University of North Carolina  
Seat formerly held by James Earl Danieleley

*Dear Sir:*

The provisions of G.S. 116-7 require the Board of Governors to notify you when any vacancy occurs in its membership.

The Board wishes to inform you that the seat on the Board of Governors previously held by James Earl Danieleley is vacant. Dr. Danieleley resigned from the board effective November 30, 1994. Under the provisions of G.S. 116-7(c), the seat is deemed vacant. The Senate elected Dr. Danieleley to a political minority seat with a four year term extending through June 30, 1995.

Dr. Danieleley served on the Board of Governors since 1983. He was a valuable colleague and contributed significantly to the work of the Board.

Sincerely yours,  
S/D. Samuel Neill  
*Secretary*

The Chair orders the letter held in the Office of the Principal Clerk until committees are announced.

The President of the Senate directs the Reading Clerk to read as follows:



"We want one key that will unlock all doors, one medicine that will cure all ills, one solution that will cure all problems. And sometimes in all our busy searchings, we are reminded that You have been left behind.

"So let our first order of business be to seek Your Guidance in all that is deliberated in this Chamber, so that You may be a lamp unto our feet and a light unto our pathways. Hear our prayer, O Lord. Amen."

With unanimous consent, the President grants leaves of absence for tonight to Senator Sawyer due to hospitalization; to Senator Smith due to illness; to Senator Odom due to trial of a lawsuit; and to Senator Hartsell to attend a county commissioner's meeting.

Senator Basnight, President *Pro Tempore*, announces the Journal of Thursday, March 30, has been examined and is found to be correct. On his motion, the Senate dispenses with the reading of the Journal and it stands approved as written (45-0).

The President of the Senate extends courtesies of the floor to Dr. Sidney A. Martin of Raleigh, who is serving the Senate as Doctor of the Day.

#### ELECTION TO 15TH SENATORIAL DISTRICT

The Chair directs the Reading Clerk to read as follows:

I, RUFUS L. EDMISTEN, Secretary of State of the State of North Carolina, do hereby certify that the State Board of Elections met via telephone conference on Monday, the 3rd day of April, A.D., 1995, in accordance with Chapter 163 of the General Statutes of North Carolina, at which time the Board did open, canvass and determine the returns of votes cast in the special election held on Tuesday, March 28th, 1995, and certified to me the person duly elected as a member of the Senate from Senate District 15 by the State Board of Elections as having the highest number of votes cast in the special election for Senate District 15 for General Assembly of 1995, to wit:

DISTRICT  
15th

NAME  
Daniel E. Page

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal.

DONE IN OFFICE at Raleigh, this 3rd day of April, 1995.

(SEAL)

S/Rufus L. Edmisten  
Secretary of State

The Chair recognizes the Sergeant-at-Arms, who announces the presence of Senator-elect Daniel E. Page, his wife, Amy Page, and Judge Samuel Stuart Stephenson from the 11th Judicial District, in the Chamber and awaits direction of the Chair.

The Chair greets Senator-elect Page and recognizes Senator Basnight, President *Pro Tempore*, who appoints Senator Cochrane, Senator Allran, Senator Shaw, and



Senator Hobbs to escort the newly elected member, Daniel E. Page, to the Well of the Senate.

*The Chair extends courtesies of the floor to Mrs. Daniel E. Page and Judge Samuel Stuart Stephenson, and directs the Sergeant-at-Arms to escort them to the Well of the Senate.*

On motion of Senator Cochrane, remarks are spread upon the Journal, as follows:

**By Judge Stephenson:**

"Thank you, Mr. President; To you and to the President *Pro Tem* of the Senate, to the Senators here, to the ladies and gentlemen.

"It is an honor and a distinct pleasure for me to swear in this evening Dan E. Page as a member of the Senate representing the Fifteenth District.

"He is my neighbor and friend and he is an outstanding Christian gentleman. He has conducted himself honorably in two campaigns and he was overwhelmingly elected last Tuesday. We all wish him the best and, of course, have great expectations for him. Mrs. Page, please hold the Bible. Senator-elect Page, if you will, please place your left hand on the Bible and hold up your right, and repeat after me.

"Do you, Daniel E. Page, solemnly swear that you will support the Constitution and laws of the United States, so help you God?"

**By Senator-Elect Page:**

"I do."

**By Judge Stephenson:**

"Do you solemnly and sincerely swear that you 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, and will you endeavor to support, maintain, and defend the Constitution and laws of said State, not inconsistent with the Constitution of the United States to the best of your knowledge and ability?"

**By Senator-Elect Page:**

"I will."

**By Judge Stephenson:**

"Do you solemnly and sincerely swear that you will faithfully discharge your duties as a Senator representing the Fifteenth Senatorial District of the Senate of the 1995 General Assembly of the State of North Carolina to the best of your skill and ability, so help you God?"

**By Senator-Elect Page:**

"I do."

**By Judge Stephenson:**

"All right. I'm going to ask you now, Senator-elect Page, if you will, I'm going to ask you to sign your oath, and if you will, place your name, Daniel E. Page, above the line. Okay.

"Madam Clerk, I herewith submit to you and ask you to receive the signed oath of Daniel E. Page bearing his signature and mine to be accepted as a part of the the North Carolina State Senate records. (Applause) I want to congratulate you as being the newest Member of the North Carolina State Senate and also, I understand, the youngest. Congratulations." (Applause)



**By Lieutenant Governor Wicker:**

"The Chair recognizes the President Pro Tem of the Senate, Senator Basnight of Dare."

**By Senator Basnight:**

"Thank you again, Mr. President, and Members of the Senate. I now move that the escort committee please escort our newly elected and sworn in Senator to Seat 19 while he will represent his people of the District, and at the same time would the escort committee please escort the Judge and the wife of the Senator to the rear of the Chambers."

**By Lieutenant Governor Wicker:**

"The Chair so directs."

"The Chair recognizes Senator Page to speak to the Senate on a point of personal privilege. You have the floor, Senator."

**By Senator Page:**

"Thank you, Mr. President. I want to say thank you, Mr. President, to you; to President *Pro Tem*, Marc Basnight; to Senate Minority Leader, Betsy Cochrane; and to many of you for extending the courtesies that you have to me in getting settled in; and I also want to thank the people of the Fifteenth Senate District from Harnett, Lee, Johnston, and Sampson Counties, many of whom are here tonight for the privilege and the opportunity to serve you in this Senate. And I just want to say that I look forward to working with the Senate members in the upcoming weeks and months. Thank you." (Applause)

### COMMITTEE APPOINTMENTS

Senator Basnight appoints Senator Page to the Finance Committee, the Agriculture/Environment/Natural Resources Committee, the Transportation Committee, and to the Judiciary I/Constitution Committee, and assigns his office as Room 1414 of the Legislative Building.

The President *Pro Tempore* announces changes in assignments to Standing Committees as follows:

### AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES

Senator Kincaid is removed.

### FINANCE

Senator Little is temporarily appointed until such time as either Senator Sawyer or Senator Smith withdraw the leave of absence granted.

The Chair recognizes Senator Basnight, President *Pro Tempore*, who offers congratulatory remarks to Senator Page, as follows:

"For our newly seated Senator, we wish you the best in your endeavors to represent the people of your District and this State in the vision and the mindset you feel is in the best interest of all of us. And in that effort, all of us stand ready, as well, to assist you in any way we can. Welcome to your family."

The Chair declares a ten minute recess at 7:19 P.M. to the end members may offer congratulations to Senator Page.