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SESSION 2017

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HOUSE BILL 1029
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Proposed Conference Committee Substitute H1029-PCCS10546-BKf-4

Short Title: Bipartisan State Board Changes.

(Public)

Sponsors:

Referred to:

May 30, 2018

A BILL TO BE ENTITLED

AN ACT TO RETURN THE ADMINISTRATIVE STRUCTURE OF ELECTIONS, ETHICS,
AND LOBBYING TO THE 2016 STRUCTURE AND TO MAKE OTHER CHANGES TO
THE ELECTIONS, ETHICS, AND LOBBYING LAWS.

The General Assembly of North Carolina enacts:

PART I. DELAY EFFECTIVE DATE PART I OF SB 824, 2017 REGULAR SESSION

SECTION 1. If Senate Bill 824, 2017 Regular Session, becomes law, then Part I of that act shall not apply to any new election ordered under G.S. 163A-1181 in a 2018 election contest.

PART II. ELECTIONS, ETHICS, AND LOBBYING

SECTION 2.1.(a) The Revisor of Statutes is authorized to re-recodify Chapter 163A of the General Statutes back into Chapters 163, 138A, and 120C of the General Statutes. In preparing the re-recodified chapters, the Revisor of Statutes shall revert the changes made by the Revisor pursuant to Section 3 of S.L. 2017-6, except that after consultation with the appropriate agency staff, the Revisor may separate subsections of statutory sections that existed in the former Chapters into new sections and, when necessary to organize relevant law into its proper place in the re-recodified chapters, may rearrange sentences that appeared within those subsections. The Revisor shall also incorporate into the re-recodified chapters all amendments to Chapters 163, 163A, 138A, and 120C that became effective on or after April 25, 2017, other than those made by S.L. 2017-6 or by Part VIII of S.L. 2018-2.

SECTION 2.1.(b) Sections 3 through 21 of S.L. 2017-6 are repealed.

SECTION 2.1.(c) Part VIII of S.L. 2018-2 is repealed.

SECTION 2.1.(d) G.S. 163A-2 is repealed.

SECTION 2.2.(a) G.S. 163-19, as re-recodified by this act, is rewritten to read:

"§ 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.



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1 Not more than three members of the State Board shall be members of the same political party.
2 The Governor shall appoint the members from a list of nominees submitted to the Governor by
3 the State party chair of each of the two political parties having the highest number of registered
4 affiliates as reflected by the latest registration statistics published by the State Board. Each party
5 chair shall submit a list of four nominees who are affiliated with that political party. No person
6 may serve more than two consecutive four-year terms.

7 (c) Any vacancy occurring in the State Board shall be filled by the Governor, and the
8 person so appointed shall fill the unexpired term. The Governor shall fill the vacancy from a list
9 of three nominees submitted to the Governor by the State party chair of the political party that
10 nominated the vacating member as provided in subsection (b) of this section. The three nominees
11 must be affiliated with that political party.

12 (d) At the first meeting held after new appointments are made, the members of the State
13 Board shall take the following oath:

14 "I, _____, do solemnly swear (or affirm) that I will support the Constitution of
15 the United States; that I will be faithful and bear true allegiance to the State of North
16 Carolina, and to the constitutional powers and authorities which are or may be established
17 for the government thereof; that I will endeavor to support, maintain, and defend the
18 Constitution of said State, and that I will well and truly execute the duties of the office of
19 member of the State Board of Elections according to the best of my knowledge and ability,
20 according to law, so help me God."

21 (e) After taking the prescribed oath, the State Board shall organize by electing one of its
22 members chair and another secretary.

23 (f) No person shall be eligible to serve as a member of the State Board who:

- 24 (1) Holds any elective or appointive office under the government of the United
25 States, the State of North Carolina, or any political subdivision thereof.
- 26 (2) Is a candidate for nomination or election to any office.
- 27 (3) Holds any office in a political party or organization.
- 28 (4) Is a campaign manager or treasurer of any candidate in a primary or election.
- 29 (5) Is currently an employee of the State, a community college, or a local school
30 administrative unit.
- 31 (6) Within the 48 months prior to appointment, has held any of the following
32 positions with an organization that has engaged in electioneering in those 48
33 months:
 - 34 a. Director, officer, or governing board member.
 - 35 b. Employee.
 - 36 c. Lobbyist registered under Chapter 120C of the General Statutes.
 - 37 d. Independent contractor.
 - 38 e. Legal counsel of record.

39 (g) No person while serving on the State Board shall:

- 40 (1) Make a reportable contribution to a candidate for a public office over which
41 the State Board would have jurisdiction or authority.
- 42 (2) Register as a lobbyist under Chapter 120C of the General Statutes.
- 43 (3) Make written or oral statements intended for general distribution or
44 dissemination to the public at large supporting or opposing the nomination or
45 election of one or more clearly identified candidates for public office.
- 46 (4) Make written or oral statements intended for general distribution or
47 dissemination to the public at large supporting or opposing the passage of one
48 or more clearly identified referendum or ballot issue proposals.
- 49 (5) Solicit contributions for a candidate, political committee, or referendum
50 committee.
- 51 (6) Serve as a member of any other State board, as defined in G.S. 138A-3."

1 **SECTION 2.2.(b)** G.S. 163-21, as re-recodified by this act, is rewritten to read:

2 "**§ 163-21. Compensation of Board members.**

3 Members of the State Board shall receive per diem, subsistence, and travel, as provided in
4 G.S. 138-5 and G.S. 138-6."

5 **SECTION 2.2.(c)** G.S. 163-23, as re-recodified by this act, is rewritten to read:

6 "**§ 163-23. Powers of chair in execution of Board duties.**

7 In the performance of the duties enumerated in this Chapter, the Chair of the State Board
8 shall have power to administer oaths, issue subpoenas, summon witnesses, and compel the
9 production of papers, books, records, and other evidence. Upon the written request or requests of
10 two or more members of the State Board, the Chair shall issue subpoenas for designated witnesses
11 or identified papers, books, records, and other evidence. In the absence of the Chair or upon the
12 Chair's refusal to act, any two members of the State Board may issue subpoenas, summon
13 witnesses, and compel the production of papers, books, records, and other evidence. In the
14 absence of the Chair or upon the Chair's refusal to act, any member of the State Board may
15 administer oaths."

16 **SECTION 2.2.(d)** G.S. 163-26, as re-recodified by this act, is rewritten to read:

17 "**§ 163-26. Executive Director of State Board of Elections.**

18 There is hereby created the position of Executive Director of the State Board, who shall
19 perform all duties imposed by statute and such duties as may be assigned by the State Board."

20 **SECTION 2.2.(e)** G.S. 163-27, as re-recodified by this act, is rewritten to read:

21 "**§ 163-27. Executive Director to be appointed by State Board.**

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

24 (b) The Executive Director shall serve beginning May 15 after the first meeting held after
25 new appointments to the State Board are made, unless removed for cause, until a successor is
26 appointed.

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

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

31 **SECTION 2.2.(f)** G.S. 163-28, as re-recodified by this act, reads as rewritten:

32 "**§ 163-28. State Board of Elections independent agency.**

33 The State Board of Elections ~~shall be and remain an independent regulatory and quasi-judicial~~
34 ~~agency and~~ shall not be placed within any principal administrative department. The State Board
35 shall exercise its statutory powers, duties, functions, and authority and shall have all powers and
36 duties conferred upon the heads of principal departments under G.S. 143B-10."

37 **SECTION 2.3.(a)** G.S. 138A-6, as re-recodified by this act, is rewritten to read:

38 "**§ 138A-6. State Ethics Commission established.**

39 There is established the State Ethics Commission."

40 **SECTION 2.3.(b)** G.S. 138A-7, as re-recodified by this act, is rewritten to read:

41 "**§ 138A-7. Membership.**

42 (a) The Commission shall consist of eight members. Four members shall be appointed
43 by the Governor, of whom no more than two shall be of the same political party. Four members
44 shall be appointed by the General Assembly, two upon the recommendation of the Speaker of
45 the House of Representatives, neither of whom shall be of the same political party, and two upon
46 the recommendation of the President Pro Tempore of the Senate, neither of whom shall be of the
47 same political party. Members shall serve for four-year terms, beginning January 1, 2019, except
48 for the initial terms that shall be as follows:

49 (1) Two members appointed by the Governor shall serve an initial term of one
50 year.

1 (2) Two members appointed by the General Assembly, one upon the
2 recommendation of the Speaker of the House of Representatives and one upon
3 the recommendation of the President Pro Tempore of the Senate, shall serve
4 initial terms of two years.

5 (3) Two members appointed by the Governor shall serve initial terms of three
6 years.

7 (4) Two members appointed by the General Assembly, one upon the
8 recommendation of the Speaker of the House of Representatives and one
9 member upon the recommendation of the President Pro Tempore of the
10 Senate, shall serve initial terms of four years.

11 (b) Members shall be removed from the Commission only for misfeasance, malfeasance,
12 or nonfeasance. Members appointed by the Governor may be removed by the Governor.
13 Members appointed by the General Assembly upon the recommendation of the Speaker of the
14 House of Representatives shall be removed by the Governor upon the recommendation of the
15 Speaker. Members appointed by the General Assembly upon the recommendation of the
16 President Pro Tempore of the Senate shall be removed by the Governor upon the recommendation
17 of the President Pro Tempore of the Senate.

18 (c) Vacancies in appointments made by the Governor shall be filled by the Governor for
19 the remainder of any unfulfilled term. Vacancies in appointments made by the General Assembly
20 shall be filled in accordance with G.S. 120-122 for the remainder of any unfulfilled term.

21 (d) No member while serving on the Commission or employee while employed by the
22 Commission shall:

23 (1) Hold or be a candidate for any other office or place of trust or profit under the
24 United States, the State, or a political subdivision of the State.

25 (2) Hold office in any political party above the precinct level.

26 (3) Participate in or contribute to the political campaign of any covered person or
27 any candidate for a public office as a covered person over which the
28 Commission would have jurisdiction or authority.

29 (4) Otherwise be an employee of the State, a community college, or a local school
30 administrative unit, or serve as a member of any other State board.

31 (e) No individual is eligible to serve on the Commission who, within the 48 months prior
32 to appointment, has held any of the following positions with an organization that has engaged in
33 electioneering in those 48 months:

34 (1) Director, officer, or governing board member.

35 (2) Employee.

36 (3) Lobbyist registered under Chapter 120C of the General Statutes.

37 (4) Independent contractor.

38 (5) Legal counsel of record.

39 (f) The Governor shall annually appoint a member of the Commission to serve as chair
40 of the Commission. The Commission shall elect a vice-chair annually from its membership. The
41 vice-chair shall act as the chair in the chair's absence or if there is a vacancy in that position.

42 (g) Members of the Commission shall receive no compensation for service on the
43 Commission but shall be reimbursed for subsistence, travel, and convention registration fees as
44 provided under G.S. 138-5 or G.S. 138-7, as applicable.

45 (h) No individual may serve more than two consecutive four-year terms."

46 **SECTION 2.3.(c)** G.S. 138A-8, as re-recodified by this act, is rewritten to read:

47 "**§ 138A-8. Meetings and quorum.**

48 The Commission shall meet at least quarterly and at other times as called by its chair or by
49 four of its members. In the case of a vacancy in the chair, meetings may be called by the
50 vice-chair. Five members of the Commission constitute a quorum."

51 **SECTION 2.3.(d)** G.S. 138A-9, as re-recodified by this act, is rewritten to read:

1 **"§ 138A-9. Staff and offices.**

2 (a) The Commission may employ professional and clerical staff, including an executive
3 director.

4 (b) The Commission shall be located within the Department of Administration for
5 administrative purposes only, but shall exercise all of its powers, including the power to employ,
6 direct, and supervise all personnel, independently of the Secretary of Administration, and is
7 subject to the direction and supervision of the Secretary of Administration only with respect to
8 the management functions of coordinating and reporting. The Department shall provide
9 administrative support to the Commission free of charge."

10 **SECTION 2.3.(e)** G.S. 138A-12(r), as re-recodified by this act, is rewritten to read:

11 "(r) Subpoena Authority. – The Commission may petition the Superior Court of Wake
12 County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct
13 investigations of alleged violations of this Chapter. The court shall authorize subpoenas under
14 this subsection when the court determines the subpoenas are necessary for the enforcement of
15 this Chapter. Subpoenas issued under this subsection shall be enforceable by the court through
16 contempt powers. Venue shall be with the Superior Court of Wake County for any person or
17 governmental unit covered by this Chapter, and personal jurisdiction may be asserted under
18 G.S. 1-75.4."

19 **SECTION 2.4.(a)** The authority, powers, duties and functions, records, personnel,
20 property, and unexpended balances of appropriations, allocations, or other funds, including the
21 functions of budgeting and purchasing, of the ethics compliance and enforcement functions of
22 the Bipartisan State Board of Elections and Ethics Enforcement are transferred as a Type II
23 transfer to the State Ethics Commission as re-recodified in this act. Specifically, the following
24 positions shall be transferred: Administrative Assistant III (Position 60088563), Attorney
25 Supervisor I (Position 60088564), Office Assistant V (Position 60088565), Administrative
26 Assistant II (Position 60088566), Attorney II (Position 60088567), Administrative Assistant II
27 (Position 60088568), Attorney II (Position 60088570), Disclosure Manager (Position 65012029),
28 Compliance Analyst I (Position 65012032), and Compliance Analyst I (Position 65019901).

29 **SECTION 2.4.(b)** The authority, powers, duties and functions, records, personnel,
30 property, and unexpended balances of appropriations, allocations, or other funds, including the
31 functions of budgeting and purchasing, of the lobbying registration and lobbying enforcement
32 functions of the Bipartisan State Board of Elections and Ethics Enforcement are transferred as a
33 Type I transfer to the Secretary of State as re-recodified in this act. Specifically, the following
34 positions shall be transferred: Administrative Assistant II (Position 60088203), Administrative
35 Assistant II (Position 60088204), Administrative Assistant II (Position 60088218), Attorney II
36 (Position 60008800), and Administrative Specialist II (Position 60008803).

37 **SECTION 2.4.(c)** The authority, powers, duties and functions, records, personnel,
38 property, and unexpended balances of appropriations, allocations, or other funds, including the
39 functions of budgeting and purchasing, of the elections and campaign finance functions of the
40 Bipartisan State Board of Elections and Ethics Enforcement are transferred as a Type II transfer
41 to the State Board of Elections as re-recodified in this act. Specifically, the following positions
42 shall be transferred: Executive Director (Position 60088197), Elections Investigator (Position
43 60088201), Senior Elections Specialist (Position 60088207), Director of Election Operations
44 (Position 60088209), Associate General Counsel, Elections (Position 60088211), Elections
45 Support Technician (Position 60088212), Auditor (Position 60088199), Deputy Director/Chief
46 Operating Officer (Position 60088200), Compliance and Disclosure Manager (Position
47 60088205), Elections Specialist (Position 60088206), Office Assistant III (Position 60088215),
48 Business And Technology Applic Tech (Position 60088232), Auditor (Position 60088252),
49 Auditor (Position 60088254), Elections Specialist III (Position 60088256), Elections Specialist
50 III (Position 60088257), Chief Investigator (Position 60088259), Accounting and HR Specialist
51 (Position 65005659), Auditor (Position 65005661), HR Director (Position 65005663), Senior

1 Elections Investigator (Position 65022162), Elections Investigator (Position 65022163),
2 Elections Investigator (Position 65022164), Agency General Counsel (Position 60088198),
3 Software Tester (Position 60088202), Elections Specialist I (Position 60088208), Disclosure
4 Specialist (Position 60088213), Software Tester (Position 60088216), Auditor (Position
5 60088217), Information Technology Director (Position 60088219), Database Administrator
6 (Position 60088220), Senior Business System Analyst (Position 60088221), Business And
7 Technology Applic Tech (Position 60088222), Business And Technology Applic Tech (Position
8 60088223), Business And Technology Applic Tech (Position 60088224), Operations Analyst
9 (Position 60088227), Senior Elections Specialist (Position 60088228), Elections Systems
10 Specialist (Position 60088229), Business And Technology Applic Analyst (Position 60088233),
11 Database Administrator (Position 60088234), Business And Technology Applic Analyst
12 (Position 60088235), Systems Program Analyst (Position 60088237), Elections Systems
13 Specialist (Position 60088239), Elections Systems Specialist (Position 60088240), Information
14 Technology Manager (Position 60088241), Information Technology Manager (Position
15 60088242), GIS Specialist (Position 65005664), Elections Systems Specialist (Position
16 65005665), Software Lead Developer (Position 65021730), Systems/Programmer Analyst
17 (Position 65021731), Public Information Officer (Position 65020532), Chief Learning Officer
18 (Position 65020533), Elections Specialist I (Position 65020534), Elections Specialist I (Position
19 65020535), Elections Specialist I (Position 65020536), Deputy General Counsel (Position
20 65021570), Chief Data Officer (Position 65021571), Administrative Specialist II (Position
21 60008801), Administrative Specialist II (Position 60008802), Executive Assistant (Position
22 60008806), Attorney II (Position 60088571), Attorney II (Position 65005579), Compliance
23 Analyst I (Position 65012030), Voting Systems Manager (Position 65019619), Advanced Data
24 Analyst (Position 65027807), Advanced Data Analyst (Position 65027808), and Chief
25 Information Security Officer (Position 65027809).

26 **SECTION 2.4.(d)** The Director of the Budget shall resolve any disputes arising out
27 of the transfers provided for in this section.

28 **SECTION 2.5.(a)** Any previous assignment of duties of a quasi-legislative or
29 quasi-judicial nature by the Governor or General Assembly to the agencies or functions
30 transferred by this act shall have continued validity with the transfer under this act. Except as
31 otherwise specifically provided in this act, each enumerated commission, board, or other function
32 of State government transferred from the Bipartisan State Board of Elections and Ethics
33 Enforcement, as created in S.L. 2017-6 and S.L. 2018-2, is a continuation of the former entity
34 for purposes of succession to all the rights, powers, duties, and obligations of the former. Where
35 the Bipartisan State Board of Elections and Ethics Enforcement is referred to by law, contract,
36 or other document in lieu of the former entities, as re-recodified in this act, the former entity, as
37 re-recodified by this act, is charged with exercising the functions of the former named entity.

38 **SECTION 2.5.(b)** No action or proceeding pending on January 31, 2019, brought
39 by or against the Bipartisan State Board of Elections and Ethics Enforcement shall be affected
40 by any provision of this act, but the same may be prosecuted or defended in the name of the
41 Secretary of State regarding the lobbyist registration and lobbying enforcement of the Secretary
42 of State, the State Board of Elections, or the State Ethics Commission, as re-recodified in this
43 act. In these actions and proceedings, the former entity, as re-recodified by this act, as
44 appropriate, shall be substituted as a party upon proper application to the courts or other
45 administrative or quasi-judicial bodies.

46 Any business or other matter undertaken or commanded by any State program or
47 office or contract transferred by this act to the former entity, as re-recodified by this act,
48 pertaining to or connected with the functions, powers, obligations, and duties set forth herein,
49 which is pending on January 31, 2019, may be conducted and completed by the former entity, as
50 re-recodified by this act, in the same manner and under the same terms and conditions and with

1 the same effect as if conducted and completed by the Bipartisan State Board of Elections and
2 Ethics Enforcement.

3 **SECTION 2.5.(c)** The reorganization provided for under this act shall not affect any
4 ongoing investigation or audit. Any ongoing hearing or other proceeding before the Bipartisan
5 State Board of Elections and Ethics Enforcement on January 31, 2019, shall be transferred to the
6 former entity, as re-recodified by this act, on January 31, 2019. Prosecutions for offenses or
7 violations committed before January 31, 2019, are not abated or affected by this act, and the
8 statutes that would be applicable but for this act remain applicable to those prosecutions.

9 **SECTION 2.5.(d)** Rules adopted by the Bipartisan State Board of Elections and
10 Ethics Enforcement shall remain in effect as provided in G.S. 150B-21.7. Policies, procedures,
11 and guidance shall remain in effect until amended or repealed by the appropriate former entity,
12 as re-recodified by this act. The list of covered boards adopted by the State Ethics Commission
13 under G.S. 138A-11 as of December 31, 2016, as amended by the Bipartisan State Board of
14 Elections and Ethics Enforcement, shall continue in effect until amended or repealed by the
15 former entity, as re-recodified by this act.

16 **SECTION 2.5.(e)** Any evaluation of a statement of economic interest issued by the
17 Bipartisan State Board of Elections and Ethics Enforcement pursuant to Article 6 of Chapter
18 163A of the General Statutes in 2017 or 2018 shall remain in effect until amended or repealed
19 by the former entity, as re-recodified by this act.

20 **SECTION 2.6.** This Part becomes effective January 31, 2019.

21 22 **PART III. CHANGES**

23 **SECTION 3.1.(a)** G.S. 120C-100(a)(13) is repealed.

24 **SECTION 3.1.(b)** G.S. 120C-215 is repealed.

25 **SECTION 3.1.(c)** G.S. 120C-401(f) and (h), as re-recodified by this act, reads as
26 rewritten:

27 "(f) Failure to file a required report in one of the manners prescribed in this section shall
28 void any and all registrations of the ~~lobbyist, lobbyist principal, or solicitor~~ lobbyist or lobbyist
29 principal. No ~~lobbyist, lobbyist principal, or solicitor~~ lobbyist or lobbyist principal may register
30 or reregister until full compliance with this section has occurred.

31 ...

32 (h) The Secretary of State may adopt rules to facilitate complete and timely disclosure of
33 required reporting, including additional categories of information, and to protect the addresses of
34 payees under protective order issued pursuant to Chapter 50B of the General Statutes or
35 participating in the Address Confidentiality Program pursuant to Chapter 15C of the General
36 Statutes. The Secretary of State shall not impose any penalties or late filing fees upon a ~~lobbyist,~~
37 ~~lobbyist principal, or solicitor~~ lobbyist or lobbyist principal for subsequent failures to comply
38 with the requirements of this section if the Secretary of State failed to provide the required
39 notification under subsection (e) of this section."

40 **SECTION 3.1.(d)** G.S. 120C-402(b)(2) is repealed.

41 **SECTION 3.1.(e)** G.S. 120C-403(b)(2) is repealed.

42 **SECTION 3.1.(f)** G.S. 120C-404 is repealed.

43 **SECTION 3.2.(a)** G.S. 138A-12(b), as re-recodified by this act, reads as rewritten:

44 "(b) Institution of Proceedings. – On its own motion, in response to a signed and ~~sworn~~
45 sworn, under oath or affirmation, complaint of any ~~individual-registered voter~~ filed with the State
46 Board, or upon the written request of any public servant or those responsible for the hiring,
47 appointing, or supervising of a public servant, the State Board shall conduct an inquiry into any
48 of the following:

49 (1) The application or alleged violation of this Subchapter.

50 (2) For legislators, the application or alleged violations of Part 1 of Article 14 of
51 Chapter 120 of the General Statutes.

1 (3) An alleged violation of the criminal law by a covered person in the
2 performance of that individual's official duties.

3 (4) An alleged violation of G.S. 126-14.

4 Upon receipt of a referral under G.S. 147-64.6B or a report under G.S. 147-64.6(c)(19), the State
5 Board may conduct an inquiry under this section on its own motion. Allegations of violations of
6 the Code of Judicial Conduct shall be referred to the Judicial Standards Commission without
7 investigation."

8 **SECTION 3.2.(b)** G.S. 163-278.22(7), as re-recodified by this act, reads as
9 rewritten:

10 "(7) To make investigations to the extent the State Board deems necessary with
11 respect to statements filed under the provisions of this Article and with respect
12 to alleged failures to file any statement required under the provisions of this
13 Article or Article 26 of ~~of this Chapter~~ this Chapter of the General Statutes
14 and, upon ~~complaint~~ complaint, signed and sworn under oath or affirmation,
15 by any registered voter, with respect to alleged violations of any part of this
16 Article or Article 26 ~~this Chapter of~~ of this Chapter of the General Statutes.
17 All investigations shall be confidential, and no investigation shall be initiated
18 more than four years from the earliest of the following dates:

19 a. The facts constituting the violation are known to the State
20 Board or county board with jurisdiction.

21 b. The facts constituting the violation can be determined from the
22 public record.

23 c. The complainant knew or should have known of the conduct
24 upon which the complaint is based."

25 **SECTION 3.2.(c)** G.S. 120-103.1(a) reads as rewritten:

26 "(a) Institution of Proceedings. – On its own motion, upon receipt by the Committee of a
27 signed and ~~sworn~~ sworn, under oath or affirmation, allegation of unethical conduct by a
28 legislator, legislator from a registered voter or upon receipt of a referral of a complaint from the
29 Bipartisan State Board of Elections and Ethics Enforcement under Articles 5, 6, 7, and 9 of
30 Chapter 163A of the General Statutes, the Committee shall conduct an investigation into any of
31 the following:

32 (1) The application or alleged violation of Articles 5, 6, 7, and 9 of Chapter 163A
33 of the General Statutes and of this Article.

34 (2) Repealed by Session Laws 2007-348, s. 2, effective August 9, 2007.

35 (3) The alleged violation of the criminal law by a legislator while acting in the
36 legislator's official capacity as a participant in the lawmaking process."

37 **SECTION 3.3.(a)** G.S. 163-30, as re-recodified by this act, reads as rewritten:

38 "**§ 163-30. County boards of elections; appointments; terms of office; qualifications;**
39 **vacancies; oath of office; instructional meetings.**

40 (a) In every county of the State there shall be a county board of elections, to consist of
41 ~~three-five~~ persons of good moral character who are registered voters in the county in which they
42 are to act. Members of county boards of elections shall be appointed by the State Board of
43 Elections on the last Tuesday in ~~June 1985,~~ June, and every two years thereafter, and their terms
44 of office shall continue for two years from the specified date of appointment and until their
45 successors are appointed and qualified. Four members of county boards of elections shall be
46 appointed by the State Board on the last Tuesday in June and every two years thereafter, and their
47 terms of office shall continue for two years from the specified date of appointment and until their
48 successors are appointed and qualified. One member of the county boards of elections shall be
49 appointed by the Governor to be the chair of the county board on the last Tuesday in June and
50 every two years thereafter, and that member's term of office shall continue for two years from
51 the specified date of appointment and until a successor is appointed and qualified. ~~Not~~Of the

1 appointments by the State Board, not more than two members of the county board of elections
2 shall belong to the same political party.

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

5 (1) ~~holds~~ Holds any elective office under the government of the United States, or
6 of the State of North Carolina or any political subdivision thereof.

7 (2) ~~No person who holds~~ Holds any office in a state, congressional district, county
8 or precinct political party or ~~organization,~~organization. Provided, however,
9 that the position of delegate to a political party convention shall not be
10 considered an office for the purpose of this subdivision.

11 (3) ~~or who is~~ Is a campaign manager or treasurer of any candidate or political
12 party in a primary or ~~election,~~election. ~~shall be eligible to serve as a member~~
13 ~~of a county board of elections, provided however that the position of delegate~~
14 ~~to a political party convention shall not be considered an office for the purpose~~
15 ~~of this section.~~

16 (4) ~~No person shall be eligible to serve as a member of a county board of elections~~
17 ~~who is~~ Is a candidate for nomination or election.

18 (5) ~~No person shall be eligible to serve as a member of a county board of elections~~
19 ~~who is~~ Is the wife, husband, son, son in law, daughter, daughter in law, mother,
20 mother in law, father, father in law, sister, sister in law, brother, brother in
21 law, aunt, uncle, niece, or nephew of any candidate for nomination or election.
22 Upon any member of the board of elections becoming ineligible, that
23 member's seat shall be declared vacant. This ~~paragraph~~subdivision only
24 applies if the county board of elections is conducting the election for which
25 the relative is a candidate.

26 (c) The State ~~chairman~~chair of each political party shall have the right to recommend to
27 the State Board of Elections ~~three~~ registered voters in each county for appointment to the board
28 of elections for that county. If such recommendations are received by the State Board 15 or more
29 days before the last Tuesday in ~~June 1985,~~June 2019, and each two years thereafter, it shall be
30 the duty of the State Board of Elections ~~to~~ appoint the county boards from the names thus
31 recommended.

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

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

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

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

50 **SECTION 3.3.(b)** G.S. 163-31, as re-recodified by this act, reads as rewritten:

51 **"§ 163-31. Meetings of county boards of elections; quorum; minutes.**

1 (a) In each county of the State the members of the county board of elections shall meet
 2 at the courthouse or board office at noon on the Tuesday following the third Monday in July in
 3 the year of their appointment ~~by the State Board of Elections~~ and, after taking the oath of office
 4 provided in G.S. 163-30, they shall organize by electing one member ~~chairman and another~~
 5 ~~member~~ secretary of the county board of elections.

6 (b) On the Tuesday following the third Monday in August of the year in which they are
 7 appointed the county board of elections shall meet and appoint precinct chief judges and judges
 8 of elections.

9 (c) The board may hold other meetings at such times as the ~~chairman~~ chair of the board,
 10 or any ~~two~~ three members thereof, may direct, for the performance of duties prescribed by law.

11 (d) A majority of the members shall constitute a quorum for the transaction of board
 12 business. The ~~chairman~~ chair shall notify, or cause to be notified, all members regarding every
 13 meeting to be held by the board.

14 (e) The county board of elections shall keep minutes recording all proceedings and
 15 findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in
 16 the board office and it shall be the responsibility of the secretary, elected by the board, to keep
 17 the required minute book current and accurate. The secretary of the board may designate the
 18 director of elections to record and maintain the minutes under ~~his~~ the secretary's supervision."

19 **SECTION 3.4.(a)** G.S. 163-278.34(f), as re-recodified by this act, reads as rewritten:

20 "(f) ~~Notifying and Consulting With District Attorney-OAH Review. – Before After~~
 21 assessing a civil penalty under subsection (b) of this section or imposing a civil remedy under
 22 subsection (c) of this section, appeal of the decision of the State Board under this section shall
 23 ~~notify and consult with the district attorney who would be responsible under G.S. 163A-1445 for~~
 24 ~~bringing a criminal prosecution concerning the violation.~~ be in accordance with Article 3 of
 25 Chapter 150B of the General Statutes."

26 **SECTION 3.4.(b)** G.S. 150B-38(a)(6) is repealed.

27 **SECTION 3.5.(a)** G.S. 150B-1(c) and (d) read as rewritten:

28 "(c) Full Exemptions. – This Chapter applies to every agency except:

- 29 (1) The North Carolina National Guard in exercising its court-martial jurisdiction.
- 30 (2) The Department of Health and Human Services in exercising its authority over
 31 the Camp Butner reservation granted in Article 6 of Chapter 122C of the
 32 General Statutes.
- 33 (3) The Utilities Commission.
- 34 (4) Repealed by Session Laws 2011-287, s. 21(a), effective June 24, 2011, and
 35 applicable to rules adopted on or after that date.
- 36 (5) Repealed by Session Laws 2011-401, s. 1.10(a), effective November 1, 2011.
- 37 (6) ~~The Bipartisan State Board of Elections and Ethics Enforcement in~~
 38 ~~administering the HAVA Administrative Complaint Procedure of Part 4 of~~
 39 ~~Article 17 of Chapter 163A of the General Statutes.~~
- 40 (7) The North Carolina State Lottery.
- 41 (8) [Expired June 30, 2012.]

42 (d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
 43 following:

- 44 ...
- 45 (16) ~~The Bipartisan State Board of Elections and Ethics Enforcement with respect~~
 46 ~~to Subchapter II of Chapter 163A of the General Statutes.~~

47"

48 **SECTION 3.5.(b)** G.S. 150B-2(8a) reads as rewritten:

49 "(8a) "Rule" means any agency regulation, standard, or statement of general
 50 applicability that implements or interprets an enactment of the General
 51 Assembly or Congress or a regulation adopted by a federal agency or that

1 describes the procedure or practice requirements of an agency. The term
 2 includes the establishment of a fee and the amendment or repeal of a prior
 3 rule. The term does not include the following:

- 4 a. Statements concerning only the internal management of an agency or
 5 group of agencies within the same principal office or department
 6 enumerated in G.S. 143A-11 or 143B-6, including policies and
 7 procedures manuals, if the statement does not directly or substantially
 8 affect the procedural or substantive rights or duties of a person not
 9 employed by the agency or group of agencies.
- 10 b. Budgets and budget policies and procedures issued by the Director of
 11 the Budget, by the head of a department, as defined by G.S. 143A-2 or
 12 G.S. 143B-3, by an occupational licensing board, as defined by
 13 ~~G.S. 93B-1, or by the Bipartisan State Board of Elections and Ethics~~
 14 ~~Enforcement.~~G.S. 93B-1.
- 15 c. Nonbinding interpretative statements within the delegated authority of
 16 an agency that merely define, interpret, or explain the meaning of a
 17 statute or rule.
- 18 d. A form, the contents or substantive requirements of which are
 19 prescribed by rule or statute.
- 20 e. Statements of agency policy made in the context of another
 21 proceeding, including:
 22 1. Declaratory rulings under G.S. 150B-4.
 23 2. Orders establishing or fixing rates or tariffs.
- 24 f. Requirements, communicated to the public by the use of signs or
 25 symbols, concerning the use of public roads, bridges, ferries,
 26 buildings, or facilities.
- 27 g. Statements that set forth criteria or guidelines to be used by the staff
 28 of an agency in performing audits, investigations, or inspections; in
 29 settling financial disputes or negotiating financial arrangements; or in
 30 the defense, prosecution, or settlement of cases.
- 31 h. Scientific, architectural, or engineering standards, forms, or
 32 procedures, including design criteria and construction standards used
 33 to construct or maintain highways, bridges, or ferries.
- 34 i. Job classification standards, job qualifications, and salaries established
 35 for positions under the jurisdiction of the State Human Resources
 36 Commission.
- 37 j. Establishment of the interest rate that applies to tax assessments under
 38 G.S. 105-241.21.
- 39 k. The State Medical Facilities Plan, if the Plan has been prepared with
 40 public notice and hearing as provided in G.S. 131E-176(25), reviewed
 41 by the Commission for compliance with G.S. 131E-176(25), and
 42 approved by the Governor.
- 43 l. Standards adopted by the Department of Information Technology
 44 applied to information technology as defined by G.S. 147-33.81."

45 **SECTION 3.5(c)** G.S 163-82.12, as recodified by this act, reads as rewritten:

46 **"§ 163-82.12. Promulgation of guidelines relating to computerized voter registration.**

47 The State Board of Elections shall make all guidelines necessary to administer the statewide
 48 voter registration system established by this Article. All county boards of elections shall follow
 49 these guidelines and cooperate with the State Board of Elections in implementing guidelines.
 50 These guidelines shall include provisions for all of the following:

- 1 (1) Establishing, developing, and maintaining a computerized central voter
2 registration file.
- 3 (2) Linking the central file through a network with computerized voter
4 registration files in each of the counties.
- 5 (3) Interacting with the computerized drivers license records of the Division of
6 Motor Vehicles and with the computerized records of other public agencies
7 authorized to accept voter registration applications.
- 8 (4) Protecting and securing the data.
- 9 (5) Converting current voter registration records in the counties in computer files
10 that can be used on the statewide computerized registration system.
- 11 (6) Enabling the statewide system to determine whether the voter identification
12 information provided by an individual is valid.
- 13 (7) Enabling the statewide system to interact electronically with the Division of
14 Motor Vehicles system to validate identification information.
- 15 (8) Enabling the Division of Motor Vehicles to provide real-time interface for the
16 validation of the drivers license number and last four digits of the social
17 security number.
- 18 (8b) Notifying voter-registration applicants whose drivers license or last four digits
19 of social security number does not result in a validation, attempting to resolve
20 the discrepancy, initiating investigations under G.S. 163-33(3) or challenges
21 under Article 8 of this Chapter where warranted, and notifying any voters of
22 the requirement under G.S. 163-166.12(b2) to present identification when
23 voting.
- 24 (9) Enabling the statewide system to assign a unique identifier to each legally
25 registered voter in the State.
- 26 (10) Enabling the State Board of Elections to assist the Division of Motor Vehicles
27 in providing to the jury commission of each county, as required by
28 G.S. 20-43.4, a list of all registered voters in the county and all persons in the
29 county with drivers license records.

30 ~~These guidelines shall not be considered to be rules subject to Article 2A of Chapter 150B of~~
31 ~~the General Statutes. However, the State Board shall publish in the North Carolina Register the~~
32 ~~guidelines and any changes to them after adoption, with that publication noted as information~~
33 ~~helpful to the public under G.S. 150B 21.17(a)(6). Copies of those guidelines shall be made~~
34 ~~available to the public upon request or otherwise by the State Board."~~

35 **SECTION 3.5.(d)** G.S 163-91, as recodified by this act, reads as rewritten:

36 **"§ 163-91. Complaint procedure.**

37 (a) The State Board of Elections shall establish a complaint procedure as required by
38 section 402 of Title IV of the Help America Vote Act of 2002 for the resolution of complaints
39 alleging violations of Title III of that Act.

40 (b) ~~With respect to the adoption of the complaint procedure under this section, the State~~
41 ~~Board of Elections is exempt from the requirements of Article 2A of Chapter 150B of the General~~
42 ~~Statutes. Prior to adoption or amendment of the complaint procedure under this section, the State~~
43 ~~Board of Elections shall complete all of the following:~~

- 44 (1) ~~Publish the proposed plan in the North Carolina Register at least 30 days prior~~
45 ~~to the adoption of the final complaint procedure.~~
- 46 (2) ~~Accept oral and written comments on the proposed complaint procedure.~~
- 47 (3) ~~Hold at least one public hearing on the proposed complaint procedure.~~

48 (c) ~~Hearings and final determinations of complaints filed under the procedure adopted~~
49 ~~pursuant to this section are not subject to Articles 3 and 4 of Chapter 150B of the General~~
50 ~~Statutes."~~

51 **SECTION 3.5.(e)** G.S 163-132.5B, as recodified by this act, is repealed.

1 **SECTION 3.5.(f)** G.S 163-165.7(d), as recodified by this act, reads as rewritten:
2 "(d) **(Effective until January 1, 2018 or September 1, 2019 – see note)** Subject to the
3 provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption,
4 handling, operation, and honest use of certified voting systems, including all of the following:

- 5 (1) Procedures for county boards of elections to utilize when recommending the
6 purchase of a certified voting system for use in that county.
- 7 (2) Form of official ballot labels to be used on voting systems.
- 8 (3) Operation and manner of voting on voting systems.
- 9 (4) Instruction of precinct officials in the use of voting systems.
- 10 (5) Instruction of voters in the use of voting systems.
- 11 (6) Assistance to voters using voting systems.
- 12 (7) Duties of custodians of voting systems.
- 13 (8) Examination and testing of voting systems in a public forum in the county
14 before and after use in an election.
- 15 (9) Notwithstanding G.S. 132-1.2, procedures for the review and examination of
16 any information placed in escrow by a vendor pursuant to G.S. 163-165.9A
17 by only the following persons:
 - 18 a. State Board of Elections.
 - 19 b. Department of Information Technology.
 - 20 c. The State chairs of each political party recognized under G.S. 163-96.
 - 21 d. The purchasing county.

22 Each person listed in sub-subdivisions a. through d. of this subdivision may
23 designate up to three persons as that person's agents to review and examine
24 the information. No person shall designate under this subdivision a business
25 competitor of the vendor whose proprietary information is being reviewed and
26 examined. For purposes of this review and examination, any designees under
27 this subdivision and the State party chairs shall be treated as public officials
28 under G.S. 132-2.

- 29 (10) With respect to electronic voting systems, procedures to maintain the integrity
30 of both the electronic vote count and the paper record. Those procedures shall
31 at a minimum include procedures to protect against the alteration of the paper
32 record after a machine vote has been recorded and procedures to prevent
33 removal by the voter from the voting enclosure of any paper record or copy of
34 an individually voted ballot or of any other device or item whose removal
35 from the voting enclosure could permit compromise of the integrity of either
36 the machine count or the paper record.
- 37 (11) Compliance with section 301 of the Help America Vote Act of 2002.

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

41 (d) **(Effective January 1, 2018 or September 1, 2019 – see note)** Subject to the
42 provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption,
43 handling, operation, and honest use of certified voting systems, including all of the following:

- 44 (1) Procedures for county boards of elections to utilize when recommending the
45 purchase of a certified voting system for use in that county.
- 46 (2) Form of official ballot labels to be used on voting systems.
- 47 (3) Operation and manner of voting on voting systems.
- 48 (4) Instruction of precinct officials in the use of voting systems.
- 49 (5) Instruction of voters in the use of voting systems.
- 50 (6) Assistance to voters using voting systems.
- 51 (7) Duties of custodians of voting systems.

- 1 (8) Examination and testing of voting systems in a public forum in the county
2 before and after use in an election.
- 3 (9) Notwithstanding G.S. 132-1.2, procedures for the review and examination of
4 any information placed in escrow by a vendor pursuant to G.S. 163-165.9A
5 by only the following persons:
6 a. State Board of Elections.
7 b. Department of Information Technology.
8 c. The State chairs of each political party recognized under G.S. 163-96.
9 d. The purchasing county

10 Each person listed in sub-subdivisions a. through d. of this subdivision may
11 designate up to three persons as that person's agents to review and examine
12 the information. No person shall designate under this subdivision a business
13 competitor of the vendor whose proprietary information is being reviewed and
14 examined. For purposes of this review and examination, any designees under
15 this subdivision and the State party chairs shall be treated as public officials
16 under G.S. 132-2.

- 17 (10) With respect to electronic voting systems, procedures to maintain the integrity
18 of both the electronic vote count and the paper ballot. Those procedures shall
19 at a minimum include procedures to protect against the alteration of the paper
20 ballot after a machine vote has been recorded and procedures to prevent
21 removal by the voter from the voting enclosure of any individually voted
22 paper ballot or of any other device or item whose removal from the voting
23 enclosure could permit compromise of the integrity of either the machine
24 count or the paper ballot.

- 25 (11) Compliance with section 301 of the Help America Vote Act of 2002.

26 ~~Any rules adopted under this subsection shall be in conjunction with procedures and~~
27 ~~standards adopted under G.S. 163-182.1, are exempt from Chapter 150B of the General Statutes,~~
28 ~~and are subject to the same procedures for notice and publication set forth in G.S. 163-182.1."~~

29 **SECTION 3.5.(g)** G.S. 163-258.30(a), as re-recodified by this act, reads as rewritten:

30 "(a) The State Board of Elections shall adopt rules and regulations to carry out the intent
31 and purpose of G.S. 163-258.28 and G.S. 163-258.29 and to ensure that a proper list of persons
32 voting under said sections shall be maintained by the boards of elections, and to ensure proper
33 registration records, and such rules and regulations shall not be subject to the provisions of Article
34 2A of Chapter 150B of the General Statutes records."

35 **SECTION 3.5.(h)** G.S. 120C-101, as re-recodified by this act, is repealed.

36 **SECTION 3.6.** G.S. 163-278.6(8j), as re-recodified by this act, reads as rewritten:

37 "(8j) The term "electioneering communication" means any broadcast, cable, or
38 satellite communication, or mass mailing, or telephone bank that has all the
39 following characteristics:

- 40 a. Refers to a clearly identified candidate for elected office.
41 b. In the case of the general election in November of the even-numbered
42 year is aired or transmitted after September 7 of that year, and in the
43 case of any other election is aired or transmitted within 60-30 days of
44 the time set for absentee voting to begin pursuant to G.S. 163A-1300,
45 163A-1301, 163A-1302, 163A-1303, and 163A-1304 in an election
46 for that office.
47 c. May be received by either:
48 1. 50,000 or more individuals in the State in an election for
49 statewide office or 7,500 or more individuals in any other
50 election if in the form of broadcast, cable, or satellite
51 communication.

1 The persons in whose presence the ballot is marked shall at all times respect the secrecy of
2 the ballot and the privacy of the absentee voter, unless the voter requests assistance and that
3 person is otherwise authorized by law to give assistance. When thus executed, the sealed
4 container-return envelope, with the ballots enclosed, shall be transmitted in accordance with the
5 provisions of subsection (b) of this section to the county board of elections which issued the
6 ballots."

7 **SECTION 3.9.** G.S. 163-228, as re-recodified by this act, reads as rewritten:

8 "**§ 163-228. Register of absentee requests, applications, and ballots issued; a public record.**

9 (a) The State Board of Elections shall approve an official register in which the county
10 board of elections in each county of the State shall record the following information:

- 11 (1) Name of voter for whom application and ballots are being requested, and, if
12 applicable, the name and address of the voter's near relative or verifiable legal
13 guardian who requested the application and ballots for the voter.
- 14 (2) Number of assigned voter's application when issued.
- 15 (3) Precinct in which applicant is registered.
- 16 (4) Address to which ballots are to be mailed, or, if the voter voted pursuant to
17 G.S. 163-227.2, a notation of that fact.
- 18 (5) Repealed by Session Laws 2009-537, s. 3, effective January 1, 2010, and
19 applicable with respect to elections held on or after that date.
- 20 (6) Date request for application for ballots is received by the county board of
21 elections.
- 22 (7) The voter's party affiliation.
- 23 (8) The date the ballots were mailed or delivered to the voter.
- 24 (9) Whatever additional information and official action may be required by this
25 Article.

26 (b) The State Board of Elections may provide for the register to be kept by electronic data
27 processing equipment, and a copy shall be printed out each business day or a supplement printed
28 out each business day of new information.

29 (c) The register of absentee requests, applications and ballots issued shall constitute a
30 public record and shall be opened to the inspection of any registered voter of the county within
31 60 days before and 30 days after an election in which absentee ballots were authorized, or at any
32 other time when good and sufficient reason may be assigned for its inspection.

33 (d) The State Board shall require the information in the official register provided for in
34 this section and the list required by G.S. 163-232 to be transmitted to the State Board. The State
35 Board shall adopt rules to implement this subsection, including frequency of transmittal."

36 **SECTION 3.10.(a)** G.S. 1-267.1 reads as rewritten:

37 "**§ 1-267.1. Three-judge panel for actions challenging plans apportioning or redistricting**
38 **State legislative or congressional districts; claims challenging the facial validity**
39 **of an act of the General Assembly.**

40 ...

41 (b) Whenever any person files in the Superior Court of Wake County any action
42 challenging the validity of any act of the General Assembly that apportions or redistricts State
43 legislative or congressional districts, a copy of the complaint shall be served upon the senior
44 resident superior court judge of Wake County, who shall be the presiding judge of the three-judge
45 panel required by subsection (a) of this section. Upon receipt of that complaint, the senior resident
46 superior court judge of Wake County shall notify the Chief Justice, who shall appoint two
47 additional resident superior court judges to the three-judge panel of the Superior Court of Wake
48 County to hear and determine the action. Before making those appointments, the Chief Justice
49 shall consult with the North Carolina Conference of Superior Court Judges, which shall provide
50 the Chief Justice with a list of recommended appointments. To ensure that members of the
51 three-judge panel are drawn from different regions of the State, the Chief Justice shall appoint to

1 the three-judge panel one resident superior court judge from the First through ~~Fourth~~ Third
2 Judicial Divisions and one resident superior court judge from the ~~Fifth~~ Fourth through ~~Eighth~~
3 Fifth Judicial Divisions. In order to ensure fairness, to avoid the appearance of impropriety, and
4 to avoid political bias, no member of the panel, including the senior resident superior court judge
5 of Wake County, may be a former member of the General Assembly. Should the senior resident
6 superior court judge of Wake County be disqualified or otherwise unable to serve on the
7 three-judge panel, the Chief Justice shall appoint another resident superior court judge of Wake
8 County as the presiding judge of the three-judge panel. Should any other member of the
9 three-judge panel be disqualified or otherwise unable to serve on the three-judge panel, the Chief
10 Justice shall appoint as a replacement another resident superior court judge from the same group
11 of judicial divisions as the resident superior court judge being replaced.

12 ...

13 (b2) For each challenge to the validity of statutes and acts subject to subsection (a1) of this
14 section, the Chief Justice of the Supreme Court shall appoint three resident superior court judges
15 to a three-judge panel of the Superior Court of Wake County to hear the challenge. The Chief
16 Justice shall appoint a presiding judge of each three-judge panel. To ensure that members of each
17 three-judge panel are drawn from different regions of the State, the Chief Justice shall appoint to
18 each three-judge panel one resident superior court judge from the ~~First, Second, or Fourth~~ First
19 or Second Judicial Division, one resident superior court judge from the ~~Seventh or Eighth~~ Third
20 or Fourth Judicial Division, and one resident superior court judge from the ~~Third, Fifth, or~~
21 ~~Sixth~~ Fifth Judicial Division. Should any member of a three-judge panel be disqualified or
22 otherwise unable to serve on the three-judge panel or be removed from the panel at the discretion
23 of the Chief Justice, the Chief Justice shall appoint as a replacement another resident superior
24 court judge from the same group of judicial divisions as the resident superior court judge being
25 replaced.

26"

27 **SECTION 3.10.(b)** This section becomes effective January 1, 2019.

28 **SECTION 3.11.(a)** G.S. 138A-10(a), as re-recodified by this act, reads as rewritten:

29 "**§ 138A-10. Powers and duties.**

30 (a) In addition to other powers and duties specified in this Chapter, the Commission shall:

31 ...

32 (6a) Issue confidential recommendations to the State Board of Elections regarding
33 the appropriateness of a criminal referral of campaign finance violations.

34"

35 **SECTION 3.11.(b)** Article 2 of Chapter 138A of the General Statutes, as
36 re-recodified by this act, is amended by adding a new section to read:

37 "**§ 138A-13.5. Recommendations Regarding Criminal Referrals of Campaign Finance**
38 **Violations.**

39 Upon request by the State Board of Elections, the Commission shall offer confidential
40 recommendations regarding the appropriateness of a criminal referral for campaign finance
41 violations. The Commission shall employ staff to conduct an investigation. The investigation and
42 vote of the Commission on the recommendation shall be completed within 90 days of receipt of
43 the request from the State Board of Elections."

44 **SECTION 3.11.(c)** G.S. 163-278.22, as re-recodified by this act, reads as rewritten:

45 "**§ 163-278.22. Duties of State Board.**

46 It shall be the duty and power of the State Board:

47 ...

48 (7a) To request and receive confidential recommendations from the State Ethics
49 Commission regarding the appropriateness of a criminal referral of campaign
50 finance violations.

1 (8) After ~~investigation,~~ investigation and receipt of the confidential
2 recommendations regarding the appropriateness of a criminal referral for
3 campaign finance violations, to report apparent violations by candidates,
4 political committees, referendum committees, legal expense funds,
5 individuals or persons to the proper district attorney as provided in
6 G.S. 163-278.27.

7"

8 **SECTION 3.11.(d)** G.S. 163-278.27, as re-recodified by this act, reads as rewritten:

9 **"§ 163-278.27. Criminal penalties; duty to report and prosecute.**

10 (a) Any individual, candidate, political committee, referendum committee, treasurer,
11 person or media who intentionally violates the applicable provisions of G.S. 163-278.7,
12 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.13, 163-278.13B,
13 163-278.14, 163-278.16, 163-278.16B, 163-278.17, 163-278.18, 163-278.19, 163-278.20,
14 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D, 163-278.40E, or
15 163-278.40J is guilty of a Class 2 misdemeanor. The statute of limitations as stated in G.S. 15-1
16 shall run from the day the last report is due to be filed with the appropriate board of elections for
17 the election cycle for which the violation occurred.

18 (a1) A violation of G.S. 163-278.32 by making a certification knowing the information to
19 be untrue is a Class I felony.

20 (a2) A person or individual who intentionally violates G.S. 163-278.14(a) or
21 G.S. 163-278.19(a) and the unlawful contributions total more than ten thousand dollars (\$10,000)
22 per election is guilty of a Class I felony.

23 (a3) The Board shall refer apparent violations under this section to the State Ethics
24 Commission. The State Ethics Commission shall investigate and make confidential
25 recommendations to the Board regarding the appropriateness of a criminal referral for those
26 alleged violations, as provided in G.S. 138A-13.5. The Board shall not take action under
27 subsection (b) of this section for 90 days after the referral to the State Ethics Commission.

28 (b) ~~Whenever~~ Following receipt and consideration of the confidential recommendation
29 from the State Ethics Commission as provided in subsection (a3) of this section, if the Board has
30 knowledge of or has reason to believe there has been a violation of any section of this Article, it
31 shall report that fact, together with accompanying ~~details,~~ details and a copy of the
32 recommendation issued by the State Ethics Commission, to the following prosecuting authorities:

33 (1) In the case of a candidate for nomination or election to the State Senate or
34 State House of Representatives: report to the district attorney of the
35 prosecutorial district in which the candidate for nomination or election
36 resides;

37 (2) In the case of a candidate for nomination or election to the office of Governor,
38 Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State
39 Superintendent of Public Instruction, State Attorney General, State
40 Commissioner of Agriculture, State Commissioner of Labor, State
41 Commissioner of Insurance, and all other State elective offices, Justice of the
42 Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge
43 of a district court, and district attorney of the superior court: report to the
44 district attorney of the prosecutorial district in which Wake County is located;

45 (3) In the case of an individual other than a candidate, including, without
46 limitation, violations by members of political committees, referendum
47 committees or treasurers: report to the district attorney of the prosecutorial
48 district in which the individual resides; and

49 (4) In the case of a person or any group of individuals: report to the district
50 attorney or district attorneys of the prosecutorial district or districts in which

1 any of the officers, directors, agents, employees or members of the person or
2 group reside.

3 (c) Upon receipt of such a report from the Board, the appropriate district attorney shall
4 prosecute the individual or persons alleged to have violated a section or sections of this Article.

5 (d) As a condition of probation, a sentencing judge may order that the costs incurred by
6 the State Board of Elections in investigating and aiding the prosecution of a case be paid to the
7 State Board of Elections by the defendant on such terms and conditions as set by the judge."

8 **SECTION 3.11.(e)** This section is effective January 31, 2019, and applies to referrals
9 of violations made on or after that date by the State Board of Elections to prosecuting authorities
10 pursuant to G.S. 163-278.27, as re-recodified by this act and amended by this section.

11

12 **PART IV. REPORT ON ABSENTEE BALLOT FRAUD INVESTIGATIONS**

13 **SECTION 4.** By April 1, 2019, the State Board of Elections shall report and make
14 recommendations to the Joint Legislative Elections and Ethics Oversight Committee on absentee
15 ballot fraud. The report shall address all of the following:

16 (1) Efforts to identify and investigate instances of potential mail-in ballot
17 harvesting.

18 (2) Data and statistics on the number of requests for mail-in absentee ballots, the
19 number of returned mail-in absentee ballots for the past five election cycles,
20 and any trends or patterns that appear analyzing those data and statistics.

21 (3) Any other related matter identified by the State Board impacting voting
22 absentee ballot.

23

24 **PART V. EFFECTIVE DATE**

25 **SECTION 5.1.** Consistent with this act, when re-recodifying as directed under this
26 act, the Revisor is authorized to change all references to the Bipartisan State Board of Elections
27 and Ethics Enforcement to instead be references to the State Board of Elections, State Ethics
28 Commission, or Secretary of State, as appropriate. The Revisor may modify statutory citations
29 throughout the General Statutes, as appropriate, and may modify any references to statutory
30 divisions, such as "Chapter," "Subchapter," "Article," "Part," "section," and "subsection"; adjust
31 the order of lists of multiple statutes to maintain statutory order; correct terms and conform names
32 and titles changed by this act; eliminate duplicative references to the State Boards that result from
33 the changes authorized by this section; and make conforming changes to catch lines and
34 references to catch lines. The Revisor may also adjust subject and verb agreement and the
35 placement of conjunctions. The Revisor shall consult with the Bipartisan State Board of Elections
36 and Ethics Enforcement, the State Board of Elections, the State Ethics Commission, and the
37 Secretary of State, as appropriate, on this recodification.

38 **SECTION 5.2.(a)** Notwithstanding G.S. 163-19, 163-30, and 138A-7, as
39 re-recodified by this act, appointments to the State Board of Elections, county boards of elections,
40 and State Ethics Commission shall be made as soon as possible upon enactment of this act, and
41 no further appointments shall be required in 2019, other than to fill vacancies as may occur. The
42 requirements of G.S. 163-19(f)(5) shall not apply to any member of the Bipartisan State Board
43 of Elections and Ethics Enforcement serving on the effective date of this act who is appointed to
44 the State Board of Elections in 2019. In making appointments to the State Board of Elections and
45 State Ethics Commission, any service on the Bipartisan State Board of Elections and Ethics
46 Enforcement shall be considered service for purposes of consecutive terms.

47 **SECTION 5.2.(b)** Notwithstanding G.S. 163-27, the term of office of the Executive
48 Director of the State Board of Elections shall begin upon appointment, which shall be made as
49 soon as possible after the State Board of Elections' initial meeting, and expire in May 2021.

50 **SECTION 5.3.** Except as otherwise provided, this act is effective when it becomes
51 law.