

NORTH CAROLINA GENERAL ASSEMBLY  
1961 SESSION

CHAPTER 466  
SENATE BILL 154

1 AN ACT TO AMEND ARTICLES II, III AND XIV OF THE CONSTITUTION OF NORTH  
2 CAROLINA WITH RESPECT TO SUCCESSION TO ELECTIVE STATE EXECUTIVE  
3 OFFICES, THE APPOINTMENT OF ACTING OFFICERS IN CERTAIN INSTANCES,  
4 THE DETERMINATION OF THE INCAPACITY OF ELECTED STATE EXECUTIVE  
5 OFFICERS TO PERFORM THE DUTIES OF THEIR OFFICES, AND FIXING A  
6 PERMANENT SEAT OF GOVERNMENT.

7  
8 The General Assembly of North Carolina do enact:  
9

10 **Section 1.** Article II of the Constitution of North Carolina is hereby amended by  
11 rewriting Section 20 thereof to read as follows:

12 "Sec. 20. Other senatorial officers. The Senate shall elect from its membership a President  
13 Pro Tempore, who shall become President of the Senate upon the failure of the  
14 Lieutenant-Governor-elect to qualify, or upon succession by the Lieutenant-Governor to the  
15 office of Governor, or upon the death, resignation, or removal from office of the President of  
16 the Senate, and who shall serve until the expiration of his term of office as Senator.

17 "During the physical or mental incapacity of the President of the Senate to perform the  
18 duties of his office, or during the absence of the President of the Senate, the President Pro  
19 Tempore shall preside over the Senate. The Senate shall elect its other officers."

20 **Sec. 2.** Article III of the Constitution of North Carolina is hereby amended by  
21 rewriting Section 2 thereof to read as follows:

22 "Sec. 2. Qualifications of Governor and Lieutenant-Governor. No person shall be eligible  
23 for election to the office of Governor or Lieutenant-Governor, unless he shall have attained the  
24 age of 30 years, shall have been a citizen of the United States five years, and shall have been a  
25 resident of this State for two years next before the election; nor shall a person elected to either  
26 of these two offices be eligible for election for the next succeeding term of the same office."

27 **Sec. 3.** Article III of the Constitution of North Carolina is hereby amended by  
28 rewriting Section 12 thereof to read as follows:

29 "Sec. 12. Succession to office of Governor. The Lieutenant-Governor-elect shall become  
30 Governor upon the failure of the Governor-elect to qualify. The Lieutenant-Governor shall  
31 become Governor upon the death, resignation, or removal from office of the Governor. The  
32 further order of succession to the office of Governor shall be prescribed by law. A successor  
33 shall serve for the remainder of the term of the Governor whom he succeeds and until a new  
34 Governor is elected and qualified.

35 "During the absence of the Governor from the State, or during the physical or mental  
36 incapacity of the Governor to perform the duties of his office, the Lieutenant-Governor shall be  
37 Acting Governor. The further order of succession as Acting Governor shall be prescribed by  
38 law.

39 "The Governor may, by a written statement filed with the Secretary of State, declare that he  
40 is physically incapable of performing the duties of his office, and may thereafter in the same  
41 manner declare that he is physically capable of performing the duties of his office.

42 "The mental incapacity of the Governor to perform the duties of his office shall be  
43 determined only by joint resolution adopted by a vote of two-thirds of all the members of each

1 house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the  
2 duties of his office shall be determined only by joint resolution adopted by a vote of a majority  
3 of all the members of each house of the General Assembly. In all cases, the General Assembly  
4 shall give the Governor such notice as it may deem proper and shall allow him an opportunity  
5 to be heard before a Joint Session of the General Assembly before it takes final action. When  
6 the General Assembly is not in Session, the Council of State, a majority of its members  
7 concurring, may convene it in Extra Session for the purpose of proceeding under this  
8 paragraph.

9 "Removal of the Governor from office for any other cause shall be by impeachment."

10 **Sec. 4.** Article III of the Constitution of North Carolina is hereby amended by  
11 rewriting Section 13 thereof to read as follows:

12 **"Sec. 13.** Duties of other executive officers. The respective duties of the Secretary of State,  
13 Auditor, Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of  
14 Agriculture, Commissioner of Labor, and Commissioner of Insurance shall be prescribed by  
15 law. If the office of any of these officers shall be vacated by death, resignation, or otherwise, it  
16 shall be the duty of the Governor to appoint another to serve until his successor be elected and  
17 qualified. Every such vacancy shall be filled by election at the first election for members of the  
18 General Assembly that occurs more than 30 days after the vacancy has taken place, and the  
19 person chosen shall hold the office for the remainder of the unexpired term fixed in the first  
20 Section of this Article: Provided, that when a vacancy occurs in the office of any of the officers  
21 named in this Section and the term expires on the first day of January succeeding the next  
22 election for members of the General Assembly, the Governor shall appoint to fill the vacancy  
23 for the unexpired term of the office.

24 "Upon the occurrence of a vacancy in the office of any one of these officers for any of the  
25 causes stated in the preceding paragraph, the Governor may appoint an acting officer to  
26 perform the duties of that office until a person is appointed or elected pursuant to this Section  
27 to fill the vacancy and is qualified.

28 "During the physical or mental incapacity of any one of these officers to perform the duties  
29 of his office, as determined pursuant to the provisions of this Section, the duties of his office  
30 shall be performed by an acting officer who shall be appointed by the Governor.

31 "The General Assembly shall by law prescribe with respect to those officers, other than the  
32 Governor, whose offices are created by this Article, procedures for determining the physical or  
33 mental incapacity of any officer to perform the duties of his office, and for determining whether  
34 an officer who has been temporarily incapacitated has sufficiently recovered his physical or  
35 mental capacity to perform the duties of his office. Removal of those officers from office for  
36 any other cause shall be by impeachment."

37 **Sec. 5.** Article XIV of the Constitution of North Carolina is hereby amended by  
38 rewriting Section 6 thereof to read as follows:

39 **"Sec. 6.** Seat of Government. The permanent seat of Government in this State shall be at  
40 the City of Raleigh."

41 **Sec. 6.** The amendments set out in Sections 1, 2, 3, 4, and 5 of this Act shall be  
42 submitted to the qualified voters of the State as a single proposition at the next general election.  
43 The election shall be conducted under the laws then governing general elections in this State.

44 **Sec. 7.** At that election, the voters favoring the amendments set out in Sections 1, 2,  
45 3, 4, and 5 of this Act shall vote ballots on which shall be printed or written the words:

46 "FOR constitutional amendments concerning succession to office of Governor,  
47 providing methods for determining incapacity of Governor, concerning appointment of acting  
48 officers to perform duties of elected State executive officers in certain cases, authorizing  
49 General Assembly to provide a method for determining incapacity of elected State executive  
50 officers other than Governor, and fixing the permanent seat of government at Raleigh."

51 and those voters opposed shall vote ballots in which shall be printed or written the words:

1 "AGAINST constitutional amendments concerning succession to office of Governor,  
2 providing methods for determining incapacity of Governor, concerning appointment of acting  
3 officers to perform duties of elected State executive officers in certain cases, authorizing  
4 General Assembly to provide a method for determining incapacity of elected State executive  
5 officers other than Governor, and fixing the permanent seat of government at Raleigh."

6 **Sec. 8.** If a majority of the votes cast thereon be in favor of the amendments set out  
7 in Sections 1, 2, 3, 4, and 5 of this Act, it shall be the duty of the Governor of the State to  
8 certify those amendments under the Great Seal of the State to the Secretary of State, who shall  
9 enroll those amendments so certified among the permanent records of his office, and the  
10 amendments shall take effect upon such certification.

11 **Sec. 9.** All laws and clauses of laws in conflict with this Act are hereby repealed.

12 **Sec. 10.** This Act shall become effective upon its ratification.

13 In the General Assembly read three times and ratified, this the 23rd day of May,  
14 1961.