

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 250

Short Title: Education Governance Changes.

(Public)

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Sponsors: Senator Royall.

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Referred to: Constitution.

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March 21, 1991

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CONSTITUTION TO CHANGE THE COMPOSITION  
2 OF THE STATE BOARD OF EDUCATION, TO MAKE THE GOVERNOR THE  
3 CHAIRMAN OF THE STATE BOARD OF EDUCATION, TO MAKE THE  
4 SUPERINTENDENT OF PUBLIC INSTRUCTION AN APPOINTEE OF THE  
5 STATE BOARD OF EDUCATION, AND TO MAKE CORRESPONDING  
6 STATUTORY CHANGES.  
7

8 The General Assembly of North Carolina enacts:

9 Section 1. Section 7(1) of Article III of the Constitution reads as rewritten:

10 "(1) Officers. A Secretary of State, an Auditor, a Treasurer, a ~~Superintendent of~~  
11 ~~Public Instruction~~, an Attorney General, a Commissioner of Agriculture, a Commissioner  
12 of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of  
13 the State in 1972 and every four years thereafter, at the same time and places as  
14 members of the General Assembly are elected. Their term of office shall be four years  
15 and shall commence on the first day of January next after their election and continue  
16 until their successors are elected and qualified."

17 Sec. 2. Section 4 of Article IX of the Constitution reads as rewritten:

18 "Sec. 4. State Board of Education.

19 (1) Board. The State Board of Education shall consist of the Governor, the  
20 Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor,  
21 subject to confirmation by the General Assembly in joint session. ~~six members elected by the~~  
22 Senate, and six members elected by the House of Representatives. The General  
23 Assembly shall divide the State into ~~eight~~ 12 educational districts. Of the ~~appointive~~  
24 elected members of the Board, one shall be ~~appointed~~ elected from each of the ~~eight~~ 12

1 educational ~~districts and three shall be appointed from the State at large.~~ districts.  
2 Appointments shall be for overlapping terms of eight years. ~~four-year terms, except that~~  
3 the election of three members elected by the Senate and three members elected by the  
4 House of Representatives in 1993 shall be for two-year terms. Appointments to fill  
5 vacancies shall be made by the Governor for the unexpired terms and shall not be subject to  
6 confirmation, as provided by law. The General Assembly may authorize a member of  
7 the General Assembly, a member of the General Assembly after the expiration of his  
8 term but before his successor is qualified, a committee of the General Assembly, or a  
9 committee of the Senate or the House of Representatives, to fill vacancies in positions  
10 filled by the Senate or the House of Representatives.

11 The Governor shall serve as chairman of the Board.

12 (2) Superintendent of Public Instruction. The Superintendent of Public  
13 Instruction shall be the secretary and chief administrative officer of the State Board of  
14 Education. He shall be appointed by the State Board of Education, subject to  
15 confirmation by the General Assembly, and shall serve at the pleasure of the State  
16 Board of Education. If a vacancy occurs in the office of Superintendent of Public  
17 Instruction while the General Assembly is in session, the State Board shall appoint an  
18 acting superintendent who may serve as acting superintendent until the General  
19 Assembly rejects his appointment or adjourns **sine die** or for more than 10 days without  
20 acting on his appointment, whichever is sooner. If a vacancy occurs in the office of  
21 Superintendent of Public Instruction while the General Assembly is not in session, the  
22 State Board shall appoint an acting superintendent who may serve as acting  
23 superintendent until the General Assembly rejects his appointment, until the thirtieth  
24 legislative day of either house of the General Assembly, or until **sine die** adjournment,  
25 whichever is sooner.

26 For the purposes of this subdivision, the General Assembly is not in session when  
27 the General Assembly has adjourned a regular session to a date certain, which date is  
28 more than 10 days after the date of adjournment, after **sine die** adjournment of the  
29 regular session, or after the beginning of the terms of members of the General Assembly  
30 but before convening of the regular session."

31 Sec. 3. G.S. 115C-10 reads as rewritten:

32 "**§ 115C-10. Appointment of Board.**

33 The State Board of Education shall consist of the Governor, the Lieutenant  
34 Governor, the State Treasurer, and ~~11 members appointed by the Governor, subject to~~  
35 ~~confirmation by the General Assembly in joint session.~~ six members elected by the Senate,  
36 and six members elected by the House of Representatives. Not more than one public  
37 school employee paid from State or local funds may shall serve as an appointive-elected  
38 member of the State Board of Education. No spouse of any public school employee  
39 paid from State or local funds and no employee of the Department of Public Instruction  
40 or his spouse, may shall serve as an appointive-elected member of the State Board of  
41 Education. No elected member shall serve on the Board within four years of having  
42 served in the General Assembly. Of the appointive-elected members of the State Board  
43 of Education, one shall be appointed from each of the eight educational districts and three  
44 shall be appointed as members at large. elected by the Senate from the first, third, fifth,

1 seventh, ninth, and eleventh educational districts and one shall be elected by the House  
2 of Representatives from the second, fourth, sixth, eighth, tenth, and twelfth educational  
3 districts. ~~Appointments shall be for terms of eight years and shall be made in four classes.~~  
4 ~~four-year terms, except that the election of three members elected by the Senate and~~  
5 ~~three members elected by the House of Representatives in 1993 shall be for two-year~~  
6 ~~terms.~~

7 The Senate and the House of Representatives, in electing members of the State  
8 Board of Education, shall select from a slate of nominees made in each house as  
9 provided by resolution of that house. In the event there is more than one individual who  
10 is seeking nomination, the slate of nominees shall contain at least two nominations for  
11 any vacancy.

12 ~~Appointments to fill vacancies in positions filled by the Senate shall be made by the~~  
13 ~~Governor for the unexpired terms and shall not be subject to confirmation by the President~~  
14 ~~Pro Tempore of the Senate when the General Assembly has adjourned a regular session~~  
15 ~~to a date certain, which date is more than 10 days after the date of adjournment, after~~  
16 ~~sine die adjournment of the regular session, or after the beginning of the terms of~~  
17 ~~members of the General Assembly but before convening of the regular session;~~  
18 ~~otherwise, the appointments shall be made by the Senate. Appointments to fill~~  
19 ~~vacancies in positions filled by the House of Representatives shall be made by the~~  
20 ~~Speaker of the House of Representatives when the General Assembly has adjourned a~~  
21 ~~regular session to a date certain, which date is more than 10 days after the date of~~  
22 ~~adjournment, after sine die adjournment of the regular session, or after the beginning of~~  
23 ~~the terms of members of the General Assembly but before convening of the regular~~  
24 ~~session; otherwise, the appointments shall be made by the House of Representatives.~~  
25 The President Pro Tempore of the Senate and the Speaker of the House of  
26 Representatives shall continue to exercise their authority to fill vacancies under this  
27 section until each of their successors in office is selected.

28 ~~The Governor shall transmit to the presiding officers of the Senate and the House of~~  
29 ~~Representatives, on or before the sixtieth legislative day of the General Assembly, the~~  
30 ~~names of the persons appointed by him and submitted to the General Assembly for~~  
31 ~~confirmation; thereafter, pursuant to joint resolution, the Senate and the House of~~  
32 ~~Representatives shall meet in joint session for consideration of an action upon such~~  
33 ~~appointments."~~

34 Sec. 4. G.S. 115C-11(a) reads as rewritten:

35 **"§ 115C-11. Organization and internal procedures of Board.**

36 (a) Presiding Officer. – The Governor shall be the chairman of the State Board of  
37 Education. The State Board of Education shall elect from its membership a chairman and  
38 vice-chairman. A majority of the Board shall constitute a quorum for the transaction of  
39 business. Per diem and expenses of the appointive members of the Board shall be  
40 provided by the General Assembly. The chairman of the Board shall preside at all  
41 meetings of the Board. In the absence of the chairman, the vice-chairman shall preside;  
42 in the absence of both the chairman and the vice-chairman, the Board shall name one of  
43 its own members as chairman pro tempore."

44 Sec. 5. G.S. 115C-18 reads as rewritten:

1 **"§ 115C-18. Election-Appointment of Superintendent of Public Instruction.**

2 The Superintendent of Public Instruction shall be elected by the qualified voters of  
3 the State in 1972 and every four years thereafter at the same time and places as  
4 members of the General Assembly are elected. His term of office shall be four years and  
5 shall commence on the first day of January next after election and continue until his  
6 successor is elected and qualified.

7 If the office of the Superintendent of Public Instruction is vacated by death,  
8 resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve  
9 until his successor is elected and qualified. Every such vacancy shall be filled by  
10 election at the first election for members of the General Assembly that occurs more than  
11 30 days after the vacancy has taken place, and the person chosen shall hold the office  
12 for the remainder of the unexpired term fixed in Article III, Sec. 7 of the Constitution of  
13 North Carolina. When a vacancy occurs in the office and the term expires on the first  
14 day of January succeeding the next election for members of the General Assembly, the  
15 Governor shall appoint to fill the vacancy for the unexpired term of the office. Upon the  
16 occurrence of a vacancy in the office for any of the causes stated herein, the Governor  
17 may appoint an interim officer to perform the duties of that office until a person is  
18 appointed or elected pursuant to Article III, Sec. 7 of the Constitution of North Carolina  
19 to fill the vacancy and is qualified.

20 The time of the election of the Superintendent of Public Instruction shall be in  
21 accordance with the provisions of Article 1 of Subchapter I of Chapter 163 of the  
22 General Statutes.

23 The election, term and induction into office of the Superintendent of Public  
24 Instruction shall be in accordance with the provisions of G.S. 147-4. appointed by the  
25 State Board of Education, subject to confirmation by the General Assembly, and shall  
26 serve at the pleasure of the State Board of Education. If a vacancy occurs in the office  
27 of Superintendent of Public Instruction while the General Assembly is in session, the  
28 State Board shall appoint an acting superintendent who may serve as acting  
29 superintendent until the General Assembly rejects his appointment or adjourns **sine die**  
30 or for more than 10 days without acting on his appointment, whichever is sooner. If a  
31 vacancy occurs in the office of Superintendent of Public Instruction while the General  
32 Assembly is not in session, the State Board shall appoint an acting superintendent who  
33 may serve as acting superintendent until the General Assembly rejects his appointment,  
34 until the thirtieth legislative day of either house of the General Assembly, or until **sine**  
35 **die** adjournment, whichever is sooner.

36 For the purposes of this section, the General Assembly is not in session when the  
37 General Assembly has adjourned a regular session to a date certain, which date is more  
38 than 10 days after the date of adjournment, after **sine die** adjournment of the regular  
39 session, or after the beginning of the terms of members of the General Assembly but  
40 before convening of the regular session."

41 Sec. 6. G.S. 115C-21(a) reads as rewritten:

42 "(a) Administrative Duties. – It shall be the duty of the Superintendent of Public  
43 Instruction:

- 1 (1) To organize and establish a Department of Public Instruction which  
 2 shall include such divisions and departments as are necessary for  
 3 supervision and administration of the public school system, to  
 4 administer the funds for the operation of the Department of Public  
 5 Instruction, and to enter into contracts for the operations of the  
 6 Department of Public Instruction.
- 7 (2) To keep the public informed as to the problems and needs of the public  
 8 schools by constant contact with all school administrators and  
 9 teachers, by his personal appearance at public gatherings, and by  
 10 information furnished to the press of the State.
- 11 (3) To report biennially to the Governor 30 days prior to each regular  
 12 session of the General Assembly, such report to include information  
 13 and statistics of the public schools, with recommendations for their  
 14 improvement and for such changes in the school law as shall occur to  
 15 him.
- 16 (4) To have printed and distributed such educational bulletins as he shall  
 17 deem necessary for the professional improvement of teachers and for  
 18 the cultivation of public sentiment for public education, and to have  
 19 printed all forms necessary and proper for the administration of the  
 20 Department of Public Instruction.
- 21 (5) To have under his direction, in his capacity as the ~~constitutional head of~~  
 22 ~~the public school system,~~ chief administrative officer of the State Board  
 23 of Education, all those matters relating to the supervision and  
 24 administration of the public school system."

25 Sec. 7. G.S. 115C-65 reads as rewritten:

26 **"§ 115C-65. State divided into districts.**

27 The State of North Carolina shall be divided into ~~eight~~ 12 educational districts  
 28 embracing the counties herein set forth:

29  
 30 **FIRST DISTRICT**

31  
 32 ~~Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Martin,~~  
 33 ~~Pasquotank, Perquimans, Pitt, Tyrrell, Washington.~~

34  
 35 **Second District**

36  
 37 ~~Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow,~~  
 38 ~~Pamlico, Pender, Sampson, Wayne.~~

39  
 40 **Third District**

41  
 42 ~~Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Nash, Northampton,~~  
 43 ~~Vance, Wake, Warren, Wilson.~~

## Fourth District

~~Bladen, Columbus, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond, Robeson, Seotland.~~

## Fifth District

~~Alamance, Caswell, Chatham, Davidson, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, Stokes.~~

## Sixth District

~~Anson, Cabarrus, Cleveland, Gaston, Lincoln, Mecklenburg, Stanly, Union.~~

## Seventh District

~~Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Davie, Iredell, Rowan, Surry, Watauga, Wilkes, Yadkin.~~

## Eighth District

~~Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey.~~

districts. The twelve educational districts are the same as the districts specified for the purpose of nominating and electing members of the House of Representatives of the Congress of the United States in 1992."

Sec. 8. G.S. 20-81(4) reads as rewritten:

"(4) Elective and Appointive. – Official plates issued to elective and appointive members of State government shall bear number designations beginning with number 1 which shall be assigned to the Governor of North Carolina and numbers following thereafter shall be issued to in the following order:

2. Lieutenant Governor of North Carolina.
3. Speaker of the House of Representatives.
4. President Pro Tempore of the Senate.
5. Secretary of State.
6. State Auditor.
7. State Treasurer.
8. Superintendent of Public Instruction.
9. Attorney General.
10. Commissioner of Agriculture.
11. Commissioner of Labor.
12. Commissioner of Insurance.
13. Speaker Pro Tempore of the House.

1	14.	Legislative Services Officer.
2	15.	Secretary of Administration.
3	16.	Secretary of Environment, Health, and Natural
4		Resources.
5	17.	Secretary of Revenue.
6	18.	Secretary of Human Resources.
7	19.	Secretary of Economic and Community Development.
8	20.	Secretary of the Department of Correction.
9	21.	Secretary of Cultural Resources.
10	22.	Secretary of Crime Control and Public Safety.
11	23-29.	To be reserved for and assigned to members of the
12		Governor's staff at the direction of the Governor.
13	30.	State Budget Officer.
14	31.	State Personnel Director.
15	32-41.	To be reserved for and assigned to nonlegislative
16		members of the Advisory Budget Commission at the
17		direction of the Governor.
18	<del>42.</del>	<del>Chairman, State Board of Education.</del>
19	43.	President, U.N.C. System.
20	44.	Chairman, A.B.C. Commission.
21	45.	Member, A.B.C. Commission.
22	46.	Member, A.B.C. Commission.
23	47.	Assistant Commissioner of Agriculture.
24	48.	Assistant Commissioner of Agriculture.
25	49.	Deputy Secretary of State.
26	50.	Deputy State Treasurer.
27	51.	Assistant State Treasurer.
28	52.	Deputy Commissioner, Department of Labor.
29	53.	Chief Deputy, Department of Insurance.
30	54.	Assistant Commissioner of Insurance.
31	55-65.	Shall be reserved for and assigned to the Attorney
32		General's deputies and assistants only. Specific number
33		assignments shall be at the direction of the Attorney
34		General.
35	66-88.	Shall be reserved for and assigned upon request to
36		nonlegislative members of the Board of Economic
37		Development. Specific number assignments to such
38		members shall be at the direction of the Governor.
39	89-96.	Shall be reserved for and assigned upon request to
40		nonlegislative members of the State Ports Authority.
41		Specific number assignments to such members shall be
42		at the direction of the Governor.
43	97-104.	Shall be reserved for and assigned upon request to
44		members of the Utilities Commission. Number 97 to be

1 upon request assigned to the Chairman of the Utilities  
2 Commission with remaining numbers to be assigned  
3 upon request to the remaining members of the Utilities  
4 Commission on the basis of seniority.

5 105-109. Shall be reserved for and assigned upon request to  
6 members of the Parole Commission. Number 105 to be  
7 upon request assigned to the Chairman of the Parole  
8 Commission with remaining numbers to be assigned  
9 upon request to the remaining members of the Parole  
10 Commission on the basis of seniority.

11 110-200. Shall be reserved for and assigned upon request to  
12 members of State boards and commissions and State  
13 employees at the direction of the Governor."

14 Sec. 9. G.S. 115C-105(a) reads as rewritten:

15 "(a) There is hereby established the North Carolina Education Council composed  
16 of the members of the education commission of the states representing this State, and  
17 not exceeding five other persons appointed by the Governor for terms of three years.  
18 Such other persons shall be selected so as to be broadly representative of professional  
19 and lay interests within this State having the responsibilities for, knowledge with respect  
20 to, and interest in educational matters. The Governor shall serve as chairman of the  
21 North Carolina Education Council or any person that the Governor may designate shall  
22 serve as chairman. ~~The chairman of the State Board of Education, the Superintendent of~~  
23 ~~Public Instruction, the chairman of the Board of Governors of The University of North~~  
24 ~~Carolina, and the President of The University of North Carolina shall be ex officio~~  
25 ~~members of the North Carolina Education Council. The council shall meet on the call of~~  
26 ~~its chairman or at the request of a majority of its members, but in any event the Council~~  
27 ~~shall meet not less than three times in each year. The Council may consider any and all~~  
28 ~~matters relating to the recommendations of the education commission of the states and~~  
29 ~~the activities of the members in representing this State thereon."~~

30 Sec. 10. G.S. 116-237 reads as rewritten:

31 "**§ 116-237. Educational Advisory Council.**

32 The Board of Governors shall establish a 12-member Educational Advisory Council  
33 consisting of (1) ex officio, the State Superintendent of the Department of Public  
34 Instruction and the chairman of the State Board of Education, or their designees, and (2)  
35 10 persons who are scientists, mathematicians, public school representatives, or other  
36 persons having an interest in the School and desiring to contribute to its work. The  
37 members of the Advisory Council shall be appointed by the Board of Governors for  
38 four-year terms. No person shall be eligible to serve more than two successive four-year  
39 terms. The Advisory Council shall give advice and counsel to the Director and the  
40 Board of Trustees."

41 Sec. 11. G.S. 143-42 reads as rewritten:

42 "**§ 143A-42. Superintendent of Public Instruction; transfer of office and**  
43 **Department of Public Instruction; powers and duties.**



1 The office of the Superintendent of Public Instruction, as provided for by ~~Article III,~~  
2 ~~Sec. 7,~~ Article IX, Sec. 4(2), of the Constitution, and the Department of Public  
3 Instruction are hereby transferred to the Department of Public Education. The  
4 Superintendent of Public Instruction shall be the secretary and chief administrative  
5 officer of the State Board of Education, and shall have such powers and duties as are  
6 conferred by the Constitution, by the State Board of Education, Chapter 115C of the  
7 General Statutes, and the laws of this State."

8 Sec. 12. G.S. 143B-426.9 reads as rewritten:

9 **"§ 143B-426.9. North Carolina Agency for Public Telecommunications – creation;**  
10 **membership; appointments, terms and vacancies; officers; meetings and**  
11 **quorum; compensation.**

12 The North Carolina Agency for Public Telecommunications is created. It is  
13 governed by the Board of Public Telecommunications Commissioners, composed of 27  
14 members as follows:

- 15 (1) A Chairman appointed by, and serving at the pleasure of, the  
16 Governor;
- 17 (2) Ten at-large members, appointed by the Governor from the general  
18 public;
- 19 (3) Two members appointed by the General Assembly upon the  
20 recommendation of the Speaker of the House of Representatives in  
21 accordance with G.S. 120-121;
- 22 (4) Two members appointed by the General Assembly upon the  
23 recommendation of the President of the Senate in accordance with  
24 G.S. 120-121;
- 25 (5) The Secretary of Administration, ex officio;
- 26 (6) The Chairman of the Board of Trustees of The University of North  
27 Carolina Center for Public Television (if and when established), ex  
28 officio;
- 29 (7) ~~The Chairman~~ Vice-chairman of the State Board of Education, ex  
30 officio;
- 31 (8) The Chairman of the OPEN/net Committee, ex officio, so long as such  
32 person is not a State employee;
- 33 (9) The Chairman of the North Carolina Utilities Commission, ex officio;
- 34 (10) The Director of the Public Staff of the North Carolina Utilities  
35 Commission, ex officio;
- 36 (11) The Chairman of the Public Radio Advisory Committee of the North  
37 Carolina Agency for Public Telecommunications, ex officio;
- 38 (12) The Superintendent of Public Instruction, ex officio;
- 39 (13) The President of the University of North Carolina, ex officio;
- 40 (14) The President of the Department of Community Colleges, ex officio;  
41 and
- 42 (15) Two members ex officio who shall rotate from among the remaining  
43 heads of departments enumerated in G.S. 143A-11 or G.S. 143B-6,  
44 appointed by the Governor.

1 The 10 at-large members shall serve for terms staggered as follows: four terms shall  
2 expire on June 30, 1980; and three terms shall expire on June 30, 1982; and three terms  
3 shall expire on June 30, 1984. Thereafter, the members at large shall be appointed for  
4 full four-year terms and until their successors are appointed and qualified. In making  
5 appointments of members at large, the Governor shall seek to appoint persons from the  
6 various geographic areas of the State including both urban and rural areas; persons from  
7 various classifications as to sex, race, age, and handicapped persons; and persons who  
8 are representatives of the public broadcast, commercial broadcast, nonbroadcast  
9 distributive systems and private education communities of the State.

10 The terms of the ex officio members are coterminous with their respective terms of  
11 office. In the event that any of the offices represented on the Board ceases to exist, the  
12 successor officer to the designated member shall become an ex officio member of the  
13 Board; if there shall be no successor, then the position on the Board shall be filled by a  
14 member to be appointed by the Governor from the general public. The ex officio  
15 members shall have the right to vote.

16 The initial members appointed to the Board by the General Assembly shall serve for  
17 terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms  
18 beginning July 1 of odd-numbered years.

19 The terms of the rotating ex officio members shall be of one-year duration, and the  
20 schedule of rotation is determined by the Governor.

21 Each State official who serves on the Board may designate a representative of his  
22 department, agency or institution to sit in his place on the Board and to exercise fully  
23 the official's privileges of membership.

24 The Secretary of Administration or his designee serves as secretary of the Board.

25 Vacancies in appointments made by the General Assembly shall be filled in  
26 accordance with G.S. 120-122. Other vacancies shall be filled in the same manner as the  
27 original appointment.

28 The Governor may remove any member of the Board from office in accordance with  
29 the provisions of G.S. 143B-16.

30 The Board meets quarterly and at other times at the call of the chairman or upon  
31 written request of at least six members.

32 A majority of the Board members shall constitute a quorum for the transaction of  
33 business."

34 Sec. 13. G.S. 147-3(c) reads as rewritten:

35 "(c) The general civil executive officers of this State are as follows:

- 36 (1) A Governor;
- 37 (2) A Lieutenant Governor;
- 38 (3) Private secretary for the Governor;
- 39 (4) A Secretary of State;
- 40 (5) An Auditor;
- 41 (6) A Treasurer;
- 42 (7) An Attorney General;
- 43 ~~(8) A Superintendent of Public Instruction;~~
- 44 (9) The members of the Governor's Council;

1 (10) A Commissioner of Agriculture;

2 (11) A Commissioner of Labor;

3 (12) A Commissioner of Insurance."

4 Sec. 14. G.S 147-4 reads as rewritten:

5 **"§ 147-4. Executive officers – election; term; induction into office.**

6 The executive department shall consist of a Governor, a Lieutenant Governor, a  
7 Secretary of State, an Auditor, a Treasurer, a ~~Superintendent of Public Instruction,~~ an  
8 Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a  
9 Commissioner of Labor, who shall be elected for a term of four years, by the qualified  
10 electors of the State, at the same time and places, and in the same manner, as members  
11 of the General Assembly are elected. Their term of office shall commence on the first  
12 day of January next after their election and continue until their successors are elected  
13 and qualified. The persons having the highest number of votes, respectively, shall be  
14 declared duly elected, but if two or more be equal and highest in votes for the same  
15 office, then one of them shall be chosen by joint ballot of both houses of the General  
16 Assembly. Contested elections shall be determined by a joint ballot of both houses of  
17 the General Assembly in such manner as shall be prescribed by law."

18 Sec. 15. G.S. 147-11.1 reads as rewritten:

19 **"§ 147-11.1. Succession to office of Governor; Acting Governor.**

20 (a) Lieutenant Governor. –

21 (1) The Lieutenant Governor-elect shall become Governor upon the  
22 failure of the Governor-elect to qualify. The Lieutenant Governor shall  
23 become Governor upon the death, resignation, or removal from office  
24 of the Governor. The further order of succession to the office of  
25 Governor shall be prescribed by law. A successor shall serve for the  
26 remainder of the term of the Governor whom he succeeds and until a  
27 new Governor is elected and qualified.

28 (2) During the absence of the Governor from the State, or during the  
29 physical or mental incapacity of the Governor to perform the duties of  
30 his office, the Lieutenant Governor shall be Acting Governor. The  
31 further order of succession as Acting Governor shall be prescribed by  
32 law.

33 (b) President of Senate, Speaker of the House and Other Officers. –

34 (1) If, by reason of failure to qualify, death, resignation, or removal from  
35 office, there is neither a Governor nor a Lieutenant Governor to  
36 discharge the powers and duties of the office of Governor, then the  
37 President of the Senate shall, upon his resignation as President of the  
38 Senate and as Senator, become Governor.

39 (2) If, at the time when under subdivision (1) of this subsection the  
40 President of the Senate is to become Governor, there is no President of  
41 the Senate, or the President of the Senate fails to qualify as Governor,  
42 then the Speaker of the House of Representatives shall, upon his  
43 resignation as Speaker and as Representative, become Governor.

- 1 (3) If, at the time when under subdivision (2) of this subsection the  
2 Speaker of the House of Representatives is to become Governor, there  
3 is no Speaker of the House of Representatives, or the Speaker of the  
4 House of Representatives fails to qualify as Governor, then that officer  
5 of the State of North Carolina who is highest on the following list, and  
6 who is not under disability to serve as Governor, shall, upon his  
7 resignation of the office which places him in the order of succession,  
8 become Governor: Secretary of State, Auditor, Treasurer,  
9 ~~Superintendent of Public Instruction~~, Attorney General, Commissioner of  
10 Agriculture, Commissioner of Labor, and Commissioner of Insurance.
- 11 (c) Acting Governor Generally. –
- 12 (1) If, by reason of absence from the State or physical or mental  
13 incapacity, there is neither a Governor nor a Lieutenant Governor  
14 qualified to discharge the powers and duties of the office of Governor,  
15 then the President of the Senate shall become Acting Governor.
- 16 (2) If, at the time when under subdivision (1) of this subsection the  
17 President of the Senate is to become Acting Governor, there is no  
18 President of the Senate, or the President of the Senate fails to qualify  
19 as Acting Governor, then the Speaker of the House of Representatives  
20 shall become Acting Governor.
- 21 (3) If, at the time when under subdivision (2) of this subsection the  
22 Speaker of the House of Representatives is to become Acting  
23 Governor, there is no Speaker of the House of Representatives, or the  
24 Speaker of the House of Representatives fails to qualify as Acting  
25 Governor, then that officer of the State of North Carolina who is  
26 highest on the following list, and who is not under disability to serve  
27 as Acting Governor, shall become Acting Governor: Secretary of  
28 State, Auditor, Treasurer, ~~Superintendent of Public Instruction~~, Attorney  
29 General, Commissioner of Agriculture, Commissioner of Labor, and  
30 Commissioner of Insurance.
- 31 (d) Governor Serving under Subsection (c). – An individual serving as Acting  
32 Governor under subsection (c) of this section shall continue to act for the remainder of  
33 the term of the Governor whom he succeeds and until a new Governor is elected and  
34 qualified, except that:
- 35 (1) If his tenure as Acting Governor is founded in whole or in part upon  
36 the absence of both the Governor and Lieutenant Governor from the  
37 State, then he shall act only until the Governor or Lieutenant Governor  
38 returns to the State; and
- 39 (2) If his tenure as Acting Governor is founded in whole or in part upon  
40 the physical or mental incapacity of the Governor or Lieutenant  
41 Governor, then he shall act only until the removal of the incapacity of  
42 the Governor or Lieutenant Governor.
- 43 (e) Officers to Which Subsections (b), (c) and (d) Applicable. – Subsections (b),  
44 (c), and (d) of this section shall apply only to such officers as are eligible to the office of

1 Governor under the Constitution of North Carolina, and only to officers who are not  
2 under impeachment by the House of Representatives at the time they are to become  
3 Governor or Acting Governor.

4 (f) Compensation of Acting Governor. – During the period that any individual  
5 serves as Acting Governor under subsection (c) of this section, his compensation shall  
6 be at the rate then provided by law in the case of the Governor."

7 Sec. 16. G.S. 163-1 is amended by deleting the entry in the table for  
8 "Superintendent of Public Instruction".

9 Sec. 17. G.S. 163-8 reads as rewritten:

10 **"§ 163-8. Filling vacancies in State executive offices.**

11 If the office of Governor or Lieutenant Governor shall become vacant, the  
12 provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers  
13 shall be vacated by death, resignation, or otherwise than by expiration of term, it shall  
14 be the duty of the Governor to appoint another to serve until his successor is elected and  
15 qualified: Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction,~~  
16 Attorney General, Commissioner of Agriculture, Commissioner of Labor, and  
17 Commissioner of Insurance. Each such vacancy shall be filled by election at the first  
18 election for members of the General Assembly that occurs more than 60 days after the  
19 vacancy has taken place, and the person chosen shall hold the office for the remainder  
20 of the unexpired four-year term: Provided, that when a vacancy occurs in any of the  
21 offices named in this section and the term expires on the first day of January succeeding  
22 the next election for members of the General Assembly, the Governor shall appoint to  
23 fill the vacancy 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  
25 of the causes stated in the preceding paragraph, the Governor may appoint an acting  
26 officer to perform the duties of that office until a person is appointed or elected pursuant  
27 to this section and Article III, Section 7 of the State Constitution, to fill the vacancy and  
28 is qualified."

29 Sec. 18. G.S. 163-278.27 reads as rewritten:

30 **"§ 163-278.27. Penalty for violations; duty to report and prosecute.**

31 (a) Any individual, candidate, political committee, referendum committee,  
32 treasurer, person or media who violates the provisions of G.S. 163-278.7, 163-278.8,  
33 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.14, 163-278.16, 163-278.17,  
34 163-278.18, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D or 163-278.40E is  
35 guilty of a misdemeanor.

36 (b) Whenever the Board has knowledge of or has reason to believe there has been  
37 a violation of any section of this Article, it shall report that fact, together with  
38 accompanying details, to the following prosecuting authorities:

39 (1) In the case of a candidate for nomination or election to the State Senate  
40 or State House of Representatives: report to the district attorney of the  
41 prosecutorial district in which the candidate for nomination or election  
42 resides;

43 (2) In the case of a candidate for nomination or election to the office of  
44 Governor, Lieutenant Governor, Secretary of State, State Auditor,

1 State Treasurer, ~~State Superintendent of Public Instruction~~, State Attorney  
2 General, State Commissioner of Agriculture, State Commissioner of  
3 Labor, State Commissioner of Insurance, and all other State elective  
4 offices, Justice of the Supreme Court, Judge of the Court of Appeals,  
5 judge of a superior court, judge of a district court, and district attorney  
6 of the superior court: report to the district attorney of the prosecutorial  
7 district in which Wake County is located;

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

12 (4) In the case of a person or any group of individuals: report to the  
13 district attorney or district attorneys of the prosecutorial district or  
14 districts in which any of the officers, directors, agents, employees or  
15 members of the person or group reside.

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

19 Sec. 19. The amendments set out in Sections 1 and 2 of this act shall be  
20 submitted to the qualified voters of the State at an election to be held on November 5,  
21 1991, which election shall be conducted under the laws then governing elections in the  
22 State. At that election, each qualified voter desiring to vote shall be provided a ballot on  
23 which shall be printed the following:

24  FOR Constitutional amendments to change the composition of the  
25 State Board of Education, to make the Governor the chairman of the  
26 State Board of Education, and to make the Superintendent of Public  
27 Instruction an appointee of the State Board of Education.

28  AGAINST Constitutional amendments to change the composition of  
29 the State Board of Education, to make the Governor the chairman of  
30 the State Board of Education, and to make the Superintendent of  
31 Public Instruction an appointee of the State Board of Education."

32 Those qualified voters favoring the amendments set out in Sections 1 and 2  
33 of this act shall vote by making an X or a check mark in the square beside the statement  
34 beginning "FOR", and those qualified voters opposed to those amendments shall vote  
35 by making an X or check mark in the square beside the statement beginning  
36 "AGAINST".

37 Notwithstanding the foregoing provisions of this section, voting machines  
38 may be used in accordance with rules and regulations prescribed by the State Board of  
39 Elections.

40 Sec. 20. If a majority of votes cast thereon are in favor of the amendments set  
41 out in Sections 1 and 2 of this act, the State Board of Elections shall certify the  
42 amendments to the Secretary of State, who shall enroll the amendments so certified  
43 among the permanent records of his office, and the amendments shall become effective  
44 upon such certification, except that:

- 1           (1) Such amendments do not affect the manner of filling vacancies of the  
2           Superintendent of Public Instruction for the term that commenced  
3           January 1, 1989;
- 4           (2) The term of office of the Superintendent of Public Instruction for the  
5           term that commenced January 1, 1989, is extended until March 31,  
6           1993; and
- 7           (3) The term of office of all members of the State Board of Education who  
8           were appointed prior to March 31, 1993, shall expire on March 31,  
9           1993.

10           Sec. 21. Sections 3 through 18 of this act shall become effective only if the  
11 constitutional amendments set out in Sections 1 and 2 of this act are approved by the  
12 voters. If the constitutional amendments are approved by the voters, Sections 3 through  
13 18 of this act shall become effective March 31, 1993. Sections 19 and 20 of this act are  
14 effective upon ratification.

15           Sec. 22. This act is effective upon ratification.