A BILL TO BE ENTITLED

AN ACT TO REVISE THE STRUCTURES OF THE NORTH CAROLINA STATE BOARD OF ELECTIONS AND COUNTY BOARDS OF ELECTIONS, TO REVISE THE EMERGENCY POWERS OF THE EXECUTIVE DIRECTOR OF THE STATE BOARD OF ELECTIONS, AND TO MAKE VARIOUS CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

PART I. STATE BOARD OF ELECTIONS

SECTION 1.1. Effective January 1, 2025, the North Carolina State Board of Elections is transferred administratively to the Department of the Secretary of State. The transfer shall have all the elements of a Type II transfer, as described in G.S. 143A-6.

SECTION 1.2. G.S. 163-19 reads as rewritten:

"§ 163-19. State Board of Elections; appointment; term of office; vacancies; oath of office.
(a) There is established the State Board of Elections, which may be referred to as the "State Board" in this Chapter.
(b) The State Board of Elections shall consist of five registered voters whose terms of office shall begin on May 1, 2019, and shall continue for four years, and until their successors are appointed and qualified. The Governor shall appoint the members of the State Board and likewise shall appoint their successors every four years at the expiration of each four-year term. Not more than three members of the State Board shall be members of the same political party. The Governor shall appoint the members from a list of nominees submitted to the Governor by the State party chair of each of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board. Each party shall submit a list of four nominees who are affiliated with that political party. The General Assembly shall give due consideration to the nominations provided by the party chairs. However, the General Assembly is not required to appoint members from those lists..."
and may appoint any registered voter in the State. Members shall serve four-year terms, and until
their successors are appointed and qualified, beginning May 1 immediately following the
elections of the members of the Council of State. No person may serve more than two consecutive
four-year terms.

(c) Any vacancy occurring in the State Board shall be filled by the Governor—initial
appointing authority, and the person so appointed shall fill the unexpired term. The Governor
General Assembly shall fill the vacancy from a list of three nominees submitted to the Governor
by the State party chair of the political party that nominated the vacating member as provided in
subsection (b)(b1) of this section. The three nominees must be affiliated with that political party.
However, the General Assembly is not required to appoint members from the lists of nominees
submitted.

... After taking the prescribed oath, the State Board shall organize by electing one of its
members chair and another secretary. If for any reason a chair is not elected within 30 days from
the date new members are appointed to the State Board, the office may be filled by legislative
appointment in the same manner as vacancies arising under G.S. 96-15.3(e).

SECTION 1.3. G.S. 163-20(d) reads as rewritten:

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

SECTION 1.4. G.S. 163-25 reads as rewritten:

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

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

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

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

SECTION 1.5. G.S. 163-28 is repealed.

SECTION 1.6. G.S. 163-27(b) reads as rewritten:

"(b) The Executive Director shall serve beginning May 15 after the first meeting held after
new appointments to the State Board are made, unless removed for cause, until a successor is
appointed. If for any reason the position of Executive Director is not filled within 30 days from
the date new members are appointed to the State Board, the position may be filled by legislative
appointment in the same manner as vacancies arising under G.S. 96-15.3(e). Any vacancy
occurring in the position of Executive Director that is not filled by the State Board within 30 days
from the date the vacancy occurs shall be filled in the same manner as vacancies arising under
G.S. 96-15.3(e)."

SECTION 1.7. G.S. 163-27.1 reads as rewritten:

"§ 163-27.1. Emergency powers."
(a) The Executive Director, as chief State elections official, State Board, by affirmative vote, may exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by any of the following:

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

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

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

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

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

1. Deliver absentee ballots to an eligible voter who did not submit a valid written request form for absentee ballots as provided in G.S. 163-230.1 and G.S. 163-230.2.
2. Order an election to be conducted using all mail-in absentee ballots."

PART II. COUNTY BOARDS OF ELECTIONS

SECTION 2.1. G.S. 163-30 reads as rewritten:

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

(a) In every county of the State there shall be a county board of elections, to consist of five persons of good moral character who are registered voters in the county in which they are to act. Members of county boards of elections shall be appointed by the General Assembly on the last Tuesday in June, and every two years thereafter, and their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. Four members of county boards of elections shall be appointed by the General Assembly on the last Tuesday in June and every two years thereafter, and their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. One member of the county boards of elections shall be appointed by the Governor to be the chair of the county board on the last Tuesday in June and every two years thereafter, and that member’s term of office shall continue for two years from the specified date of appointment and until a successor is appointed and qualified. Of the appointments to each county board of elections by the General Assembly, two members each shall belong to the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the General Assembly, qualified, as follows:

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

... (c) The State chair of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board shall have the right to recommend to the State Board appointing authority three registered voters in each county for appointment to the board of elections for that county. If such recommendations are received by the State Board appointing authority 15 or more days before the last Tuesday in June 2019, and each two years thereafter, it shall be the duty of the State Board to appoint the county boards from the names thus recommended. The appointing authority shall give due consideration to the recommendations provided but is not required to appoint members from those recommendations and may appoint any registered voter who is otherwise ineligible under this section.

(c1) At the first meeting in July, annually, the county boards shall organize by electing one of its members chair to serve a one-year term. If for any reason a chair is not elected within 15 days from the date new members are appointed to the county board, the office may be filled by legislative appointment.

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

PART III. CONFORMING STATUTORY CHANGES

SECTION 3.1. G.S. 163-182.6 reads as rewritten:

"§ 163-182.6. Abstracts.

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

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

..."

SECTION 3.2. G.S. 163-182.13(a) reads as rewritten:

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

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

(2) Eligible voters sufficient in number to change the outcome of the election were improperly prevented from voting."
(3) Other irregularities affected a sufficient number of votes to change the outcome of the election.

(4) Irregularities or improprieties occurred to such an extent that they taint the results of the entire election and cast doubt on its fairness."

SECTION 3.3. G.S. 163-182.15(c) reads as rewritten:
"(c) Copy to for Secretary of State. – The State Board of Elections shall provide to the Secretary of State a copy of each certificate of nomination or election, or certificate of the results of a referendum, issued by it. The Secretary of State shall keep a copy of each certificate of nomination or election, or certificate of results of a referendum, issued by the State Board of Elections. The Secretary shall keep the certificates in a form readily accessible and useful to the public."

SECTION 3.4. G.S. 163-182.17(d)(8) reads as rewritten:
"(8) Retain one original of the composite abstract and deliver to provide the Secretary of State with the other original composite abstract of the results of ballot items within the jurisdiction of the State Board of Elections. G.S. 163-182.6."

SECTION 3.5. Notwithstanding G.S. 163-19, as amended by Section 1.2 of this act, the chairs of the two political parties shall submit a list of names to the General Assembly on or before April 20, 2025, and the General Assembly shall make appointments to the State Board of Elections from those lists no later than May 1, 2025. After members of the State Board of Elections are appointed, a chair of the State Board of Elections and an Executive Director shall be appointed in accordance with this act.

SECTION 3.6. Notwithstanding G.S. 163-30, as amended by Section 2.1 of this act, the chairs of the two political parties shall submit a list of names to the General Assembly on or before June 9, 2025, and the General Assembly shall make appointments to the county boards of elections from those lists no later than June 24, 2025.

PART IV. SEVERABILITY CLAUSE
SECTION 4.1. If any provision of this act or its application to any person, group of persons, or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.

PART V. EFFECTIVE DATE
SECTION 5.1. Except as otherwise provided, this act is effective when it becomes law.