

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**HOUSE BILL 90
RATIFIED BILL**

AN ACT TO PROVIDE ADDITIONAL FUNDS TO SCHOOLS LOCATED IN COUNTIES THROUGH WHICH THE ATLANTIC COAST PIPELINE RUNS; TO PHASE IN CLASS SIZE REQUIREMENTS OVER FOUR YEARS; TO CREATE AN ALLOTMENT FOR PROGRAM ENHANCEMENT TEACHERS; TO MODIFY TRANSFER REQUIREMENTS FOR THE CLASSROOM TEACHER AND PROGRAM ENHANCEMENT TEACHER ALLOTMENTS; TO PHASE IN FUNDING OF PROGRAM ENHANCEMENT TEACHERS STARTING IN 2018-2019; TO MAKE CHANGES TO PERSONAL EDUCATION SAVINGS ACCOUNTS; TO APPROPRIATE FUNDS FOR THE NC PRE-K PROGRAM IN FUTURE YEARS; AND TO IMPLEMENT THE NORTH CAROLINA SUPREME COURT'S HOLDING IN *COOPER V. BERGER* BY GIVING THE GOVERNOR INCREASED CONTROL OVER THE BIPARTISAN STATE BOARD OF ELECTIONS AND ETHICS ENFORCEMENT.

The General Assembly of North Carolina enacts:

PART I. ACP/MOU/ADDITIONAL FUNDING FOR PUBLIC SCHOOLS

SECTION 1.(a) Purpose. – The purpose of this section is to ensure that the local school administrative units (school units) located, in whole or in part, in the counties directly impacted by placement of the Atlantic Coast Pipeline (ACP) within their respective jurisdictions shall receive the benefit of any funds provided or gifted for the benefit of the State or the people of the State as a result of the ACP. In addition, the General Assembly finds that compensatory mitigation payments for proposed impacts to streams, buffers, and wetlands in those areas were assessed under the 401 Certification issued by the Department of Environmental Quality to the Atlantic Coast Pipeline, LLC, on January 26, 2018.

SECTION 1.(b) Memorandum of Understanding. – The Mitigation Project Memorandum of Understanding by and between Roy Cooper, Governor of North Carolina, in his Official Capacity and Atlantic Coast Pipeline, LLC, dated January 25, 2018, (MOU) purports to provide funding in the form of a gift, voluntary contribution, or otherwise (funds) to be used for (i) mitigation for the unavoidable effects of the ACP on the interior forest habitats, open-space lands, waterbodies, and natural resources of the communities along the ACP's route; (ii) support and funding for economic development in the counties that would be impacted by the ACP; and (iii) extension of renewable energy projects into certain local communities which may stand to be affected by the ACP's operation. Notwithstanding the terms of the MOU, the allocation of funds to State and local entities, officers, or officials falls within the purview of the General Assembly; and, therefore, the General Assembly authorizes the acceptance of these funds only if the requirements of this section are met.

SECTION 1.(c) Required School Unit Allocation. – Notwithstanding any other provision of law, a state or local entity, officer, or official acting within an official capacity may accept, direct the use of, or otherwise participate in directing the disbursement of the funds received pursuant to the MOU, or any successive contract or document evidencing an intent to agree that funds be used for the benefit of the State or the people of the State for effects of the ACP, only if the school units located, in whole or in part, in counties through which the ACP



runs are the sole recipients of these funds. Of the funds received, one-half shall be allocated among the school units based on the allotted average daily membership for the 2017-2018 fiscal year as determined and certified by the State Board of Education (ADM) as follows: the ADM allocation to a school unit is equal to one-half of the total amount of the funds multiplied by a fraction, the numerator of which is the ADM of the school unit located in the county through which the ACP runs and the denominator of which is the ADM of all school units located in all counties through which the ACP in the State runs. The remaining funds shall be allocated among the school units based on linear ACP miles as follows: the linear ACP miles allocation to a school unit is equal to the remainder of the total amount of the funds multiplied by a fraction, the numerator of which is the linear miles of the ACP in the county in which the school unit is located and the denominator of which is the total linear miles of the ACP in the State. If more than one school unit is located in a county through which the ACP runs, the linear ACP miles allocation for that county shall be allocated among the school units pro rata based on ADM.

SECTION 1.(d) Reports. – Each school unit receiving funds pursuant to subsection (c) of this section shall report to the Department of Public Instruction on funds received within 10 days of receipt of the funds. The Department of Public Instruction shall collate all reports required by this section and remit the collated information to the Joint Legislative Commission on Governmental Operations quarterly. The first submission of collated information shall be remitted no later than September 1, 2018, and the school units shall continue to report, and the Department shall continue to remit the collated information until the Department certifies that all funds governed by the MOU have been received by the school units.

SECTION 1.(e) No Conflict. – The legislative power of the State is vested in the General Assembly of the State of North Carolina. The Legislature must declare the policy of the law, fix legal principles which are to control in given cases, and provide standards for guidance in executing the law. The Governor shall take care that the laws be faithfully executed. Therefore, nothing in this section shall be construed, or is intended, to (i) be in conflict with the rights of any person or any mandatory provision of federal law or to infringe on the constitutional powers of the Governor to execute the laws of this State or (ii) preclude or supersede any mitigation agreement entered into under applicable State or federal law.

SECTION 1.(f) Effective date. – This section becomes effective January 25, 2018.

PART II. CLASS SIZE PHASE IN

SECTION 2.(a) Section 1(b) of S.L. 2017-9 reads as rewritten:

"**SECTION 1.(b)** Notwithstanding G.S. 115C-301, as amended by this act and any other provision of law, for the 2017-2018 and 2018-2019 school ~~year, years,~~ the average class size for kindergarten through third grade in a local school administrative unit shall not exceed one teacher per 20 students. At the end of the second school month and for the remainder of the school year, the size of an individual class in kindergarten through third grade shall not exceed one teacher per 23 students. ~~The class size requirements set forth in G.S. 115C-301, as amended by this act, shall apply beginning with the 2018-2019 school year."~~

SECTION 2.(b) Notwithstanding G.S. 115C-301, as amended by this act, and any other provision of law, for the 2019-2020 school year, the average class size for kindergarten through third grade in a local school administrative unit shall not exceed one teacher per 19 students. At the end of the second school month and for the remainder of the school year, the size of an individual class in kindergarten through third grade shall not exceed one teacher per 22 students.

SECTION 2.(c) Notwithstanding G.S. 115C-301, as amended by this act, and any other provision of law, for the 2020-2021 school year, the average class size for kindergarten through third grade in a local school administrative unit shall not exceed one teacher per 18 students. At the end of the second school month and for the remainder of the school year, the

size of an individual class in kindergarten through third grade shall not exceed one teacher per 21 students.

SECTION 2.(d) The class size requirements set forth in G.S. 115C-301, as amended by this act, shall apply beginning with the 2021-2022 school year.

PART III. PROGRAM ENHANCEMENT TEACHER ALLOTMENT

SECTION 3.(a) Effective July 1, 2018, G.S. 115C-301 is amended by adding a new subsection to read:

"(a1) Teacher Position Allotments. – Funds for classroom teachers in the State Public School Fund shall consist of the following position allotments:

- (1) Classroom teachers for kindergarten through twelfth grade, which shall include funds for program enhancement teachers, self-contained exceptional children teachers, math, science, and computer teachers, and matching benefits.
- (2) Program enhancement teachers for kindergarten through fifth grade."

SECTION 3.(b) Effective July 1, 2021, G.S. 115C-301(a1), as enacted by subsection (a) of this section, reads as rewritten:

"(a1) Teacher Position Allotments. – Funds for classroom teachers in the State Public School Fund shall consist of the following position allotments:

- (1) Classroom teachers for kindergarten through twelfth grade, which shall include funds for program enhancement ~~teachers,~~ teachers for sixth through twelfth grade, self-contained exceptional children teachers, math, science, and computer teachers, and matching benefits.
- (2) Program enhancement teachers for kindergarten through fifth grade."

SECTION 3.(c) G.S. 115C-301(c1) reads as rewritten:

"(c1) Class Size Exceptions for Kindergarten Through Third Grade. – Class size requirements for kindergarten through third grade provided in subsection (c) of this section shall not apply to ~~and~~ the following classes:

- (1) Dual language immersion classes. For the purposes of this subsection, dual language immersion classes are classes in which (i) at least one-third of the students' dominant language is English and (ii) instruction involves both English and a target foreign language with a minimum of fifty percent (50%) of core content taught in the target foreign language in order to promote dual language proficiency for all students.
- (2) Program enhancement classes."

SECTION 3.(d) G.S. 115C-301 is amended by adding a new subsection to read:

"(c2) Program Enhancement Teacher Allotment for Kindergarten Through Fifth Grade. –

- (1) Definitions. – For the purposes of this section, "program enhancement" refers to any of the following:
 - a. Arts disciplines, including dance, music, theater, and the visual arts.
 - b. Physical education and health programs.
 - c. World languages.
 - d. Other supplemental classes as defined by the State Board of Education.
- (2) Allotment ratio calculation. – The allotment ratio for kindergarten through fifth grade program enhancement teachers shall be one teacher per 191 students."

SECTION 3.(e) G.S. 115C-301(f)(2)a. reads as rewritten:

- "a. The number of program enhancement teachers. ~~For the purposes of this subdivision, program enhancement teachers are teachers who teach any of the following:~~

1. ~~Arts disciplines, including dance, music, theater, and the visual arts.~~
2. ~~Physical education and health programs.~~
3. ~~World languages."~~

SECTION 3.(f) Effective July 1, 2018, Section 1(a)(2) of S.L. 1995-450 is repealed.

PART IV. ALLOTMENT TRANSFER RESTRICTIONS

SECTION 4.(a) Effective July 1, 2018, G.S. 115C-105.25(b) is amended by adding a new subdivision to read:

"(5d) No positions shall be transferred out of the allocation for program enhancement teachers for kindergarten through fifth grade except as provided in this subdivision. Positions allocated for program enhancement teachers for kindergarten through fifth grade may be converted into positions allocated for classroom teachers for kindergarten through twelfth grade. For the purposes of this subdivision, the term "program enhancement" is as defined in G.S. 115C-301(c2)."

SECTION 4.(b) Effective July 1, 2021, G.S. 115C-105.25(b), as amended by subsection (a) of this section, reads as rewritten:

"(b) Subject to the following limitations, local boards of education may transfer and may approve transfers of funds between funding allotment categories:

...

(5a) No positions shall be transferred out of the allocation for classroom teachers for kindergarten through twelfth grade, except as provided in this subdivision. Positions allocated for classroom teachers may be converted to dollar equivalents to contract for visiting international exchange teachers through a visiting international exchange teacher program approved by the State. These positions shall be converted at the statewide average salary for classroom teachers, including benefits. The converted funds shall be used only to provide visiting international exchange teachers with salaries commensurate with their experience levels, to provide any State-approved bonuses, and to cover the costs associated with supporting visiting international exchange teachers within the local school administrative unit, including programming and related activities, background checks, medical coverage, and other program administration services in accordance with the federal regulations for the Exchange Visitor Program, 22 C.F.R. Part 62.

(5b) ~~Except as provided in subdivision (5a) of this subsection, positions~~Positions allocated for ~~classroom teachers and~~ instructional support personnel may be converted to dollar equivalents for any purpose authorized by the policies of the State Board of Education. These positions shall be converted at the salary on the first step of the "A" Teachers Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position.

...."

PART V. APPROPRIATIONS FOR PROGRAM ENHANCEMENT TEACHERS

SECTION 5.(a) Notwithstanding G.S. 143C-5-2, for the 2018-2019 fiscal year, there is appropriated from the unappropriated fund balance of the General Fund to the Department of Public Instruction the sum of sixty-one million three hundred fifty-nine thousand two hundred twenty-five dollars (\$61,359,225) in recurring funds for a position allotment for program enhancement teachers for kindergarten through fifth grade.

SECTION 5.(b) Section 2.1 of S.L. 2017-57 reads as rewritten:

"**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2019, according to the following schedule:

| Current Operations – General Fund | FY 2017-2018 | FY 2018-2019 |
|--|---------------------|--|
| EDUCATION | | |
| ... | | |
| Department of Public Instruction | ... | 9,425,109,426,9,486,468,651 |
| ... | | |
| TOTAL CURRENT OPERATIONS – GENERAL FUND | ... | \$ 23,650,253,958,23,711,613,183" |

SECTION 5.(c) Section 2.2(a) of S.L. 2017-57 reads as rewritten:

"**SECTION 2.2.(a)** The General Fund availability used in developing the 2017-2019 fiscal biennial budget is shown below:

| | FY 2017-2018 | FY 2018-2019 |
|--|-----------------------|-----------------------|
| Unappropriated Balance | \$ 208,607,416 | \$ 499,303,328 |
| Disaster Recovery Appropriations (S.L. 2016-124) | (200,928,370) | 0 |
| Transfer From Savings Reserve | 100,928,370 | 0 |
| Revised Unappropriated Balance | 108,607,416 | 499,303,328 |
| Over Collections FY 2016-17 | 580,600,000 | 0 |
| Reversions FY 2016-17 | 271,000,000 | 0 |
| Replenish Savings Reserve (S.L. 2016-124) | (100,928,370) | 0 |
| Earmarkings of Year End Fund Balance: | | |
| Savings Reserve | (263,000,000) | 0 |
| Repairs and Renovations | (125,000,000) | 0 |
| Beginning Unreserved Fund Balance | 471,279,046 | 499,303,328 |
| Revenues Based on Existing Tax Structure | 22,303,700,000 | 23,299,200,000 |
| Non-tax Revenues | | |
| Investment Income | 60,100,000 | 60,600,000 |
| Judicial Fees | 240,900,000 | 240,500,000 |
| Disproportionate Share | 164,700,000 | 149,600,000 |
| Insurance | 75,500,000 | 75,500,000 |
| Master Settlement Agreement (MSA) | 127,200,000 | 127,200,000 |
| Other Non-Tax Revenues | 180,600,000 | 182,900,000 |
| Subtotal Non-tax Revenues | 849,000,000 | 836,300,000 |
| Total General Fund Availability | 23,623,979,046 | 24,634,803,328 |
| Adjustments to Availability: 2017 Session | | |
| Tax Law Changes | (6,900,000) | (521,800,000) |
| Transfer of Taxes From Short-Term Lease | | |

| | | |
|---|--------------------------|--------------------------|
| or Rental of Motor Vehicles to Highway Fund | (10,000,000) | (10,000,000) |
| Transfer to Savings Reserve (S.L. 2017-5) | 0 | (72,090,000) |
| Transfer Additional MSA funds to Golden L.E.A.F. | (7,500,000) | (7,500,000) |
| Transfer to Medicaid Transformation Fund | (75,000,000) | 0 |
| Transfer from Contingency and Emergency Fund | 7,000,000 | 0 |
| Transfer from Department of Insurance | 3,655,405 | 4,026,728 |
| Transfer from the Department of the State Treasurer | (5,453,230) | (5,434,773) |
| Subtotal Adjustments to Availability: 2017 Session | (94,197,825) | (612,798,045) |
| Revised General Fund Availability | \$ 23,529,781,221 | \$ 24,022,005,283 |
| Less General Fund Net Appropriations | (23,030,477,893) | (23,652,171,951) |

Unappropriated Balance

Remaining **\$ 499,303,328** **\$ ~~369,833,332~~ 308,474,107"**

SECTION 5.(d) G.S. 115C-301(c2), as enacted by Section 3(d) of this act, is amended by adding a new subdivision to read:

"(3) Appropriation. – Beginning with the 2019-2020 fiscal year, there is appropriated from the General Fund to the Department of Public Instruction for the allotment for program enhancement teachers for kindergarten through fifth grade an amount equal to the percentage of the total funds required to allot program enhancement teacher positions for kindergarten through fifth grade on a basis of one teacher per 191 students for each fiscal year as follows:

| <u>Fiscal Year</u> | <u>Appropriation</u> |
|---|----------------------|
| <u>2019-2020</u> | <u>50%</u> |
| <u>2020-2021</u> | <u>75%</u> |
| <u>2021-2022 and each subsequent fiscal year thereafter</u> | <u>100%.</u> |

When developing the base budget, as defined by G.S. 143C-1-1, for each fiscal year specified in this subdivision, the Director of the Budget shall include the appropriated amount for that fiscal year."

PART VI. CHANGES TO PERSONAL EDUCATION SAVINGS ACCOUNTS

SECTION 6.(a) G.S. 115C-591(3) reads as rewritten:

"(3) Eligible student. – A student residing in North Carolina who has not yet received a high school diploma and who meets all of the following requirements:

a. ~~Meets one of the following criteria:~~ Is eligible to attend a North Carolina public school pursuant to G.S. 115C-366.

- ~~1. Was a full time student (i) assigned to and attending a public school pursuant to G.S. 115C-366 or (ii) enrolled in a Department of Defense Elementary and Secondary School, established pursuant to 10 U.S.C. § 2164 and located in North Carolina, during the previous semester.~~
- ~~2. Received scholarship funds for a personal education savings account during the previous school year.~~
- ~~3. Is entering either kindergarten or the first grade.~~
- ~~4. Is a child in foster care, as defined in G.S. 131D-10.2(9).~~
- ~~5. Is a child whose adoption decree was entered not more than one year prior to submission of the scholarship application.~~

- 6. ~~Is a child whose parent or legal guardian is on full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. § 12301, et seq., and 10 U.S.C. § 12401, et seq.~~
- 7. ~~Is a child enrolled part time in a public school and part time in a nonpublic school that exclusively provides services for children with disabilities.~~
- b. Has not enrolled in a postsecondary institution in a matriculated status eligible for enrollment for 12 hours of academic credit.
- c. Is a child with a disability, as defined in G.S. 115C-106.3(1), including, for example, intellectual disability, hearing impairment, speech or language impairment, visual impairment, serious emotional disturbance, orthopedic impairment, autism, traumatic brain injury, other health impairments, specific learning disability, or disability as may be required to be included under IDEA.
- d. Has not been placed in a nonpublic school or facility by a public agency at public expense."

SECTION 6.(b) G.S. 115C-591 is amended by adding a new subdivision to read:

"(5a) Part-time student. – A child enrolled part time in a public school and part time in a nonpublic school that exclusively provides services for children with disabilities."

SECTION 6.(c) G.S. 115C-592(b) reads as rewritten:

"(b) Scholarship Awards. – Scholarships shall be awarded each year for an amount not to exceed nine thousand dollars (\$9,000) per eligible student for the fiscal year in which the application is ~~received~~received, except for eligible part-time students, who shall be awarded scholarships each year for an amount not to exceed four thousand five hundred dollars (\$4,500) per eligible student for the fiscal year in which the application is received. Recipients shall receive scholarship funds deposited in equal amounts to a PESA in each quarter of the fiscal year. The first deposit of funds to a PESA shall be subject to the execution of the parental agreement required by G.S. 115C-595. The parent shall then receive a debit card with the prepaid funds loaded on the card at the beginning of the fiscal year. After the initial disbursement of funds, each subsequent, quarterly disbursement of funds shall be subject to the submission by the parent of an expense report. The expense report shall be submitted electronically and shall include documentation that the student received an education, as described in G.S. 115C-595(a)(1), for no less than 35 days of the applicable quarter. The debit card shall be renewed upon the receipt of the parental agreement under G.S. 115C-595 for recipients awarded scholarship funds in subsequent fiscal years. Any funds remaining on the card at the end of the fiscal year may be carried forward to the next fiscal year if the card is renewed. Any funds remaining on the card if an agreement is not renewed shall be returned to the Authority."

SECTION 6.(d) G.S. 115C-595(a)(2) reads as rewritten:

"(2) Unless the student is ~~an eligible student pursuant to G.S. 115C-591(3)a.7., a~~ part-time eligible student, release a local education agency in which the student is eligible to attend under G.S. 115C-366 of all obligations to educate the eligible student while the eligible student is receiving scholarship funds under this Article. A parent of a student, ~~other than a student who is an eligible student pursuant to G.S. 115C-591(3)a.7., other~~ than a part-time eligible student, who decides to enroll the student into the local education agency or other North Carolina public school during the term

of the agreement shall notify the Authority to request a release from the agreement and shall return any unexpended funds to the Authority."

SECTION 6.(e) Notwithstanding G.S. 115C-592(a), for the 2018-2019 school year only, the State Education Assistance Authority shall give priority in award of scholarships to applicants with one or more of the following disabilities:

- (1) Autism.
- (2) Developmental disability.
- (3) Hearing impairment.
- (4) Moderate or severe intellectual disability.
- (5) Multiple, permanent orthopedic impairments.
- (6) Visual impairment.

PART VII. NC PRE-K STATUTORY APPROPRIATION

SECTION 7. Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-168.10B. NC Prekindergarten Program Funds.

The General Assembly finds that due to the continued growth and ongoing need in this State to provide early childhood services and education to North Carolina children from birth to five years, it is imperative that the State provide an increase in funds to the General Fund for two fiscal years for the NC Prekindergarten (NC Pre-K) program. To that end, there is appropriated from the General Fund to the Department of Health and Human Services, Division of Child Development and Early Education, the following amounts each fiscal year to provide funds for NC Pre-K slots for the NC Pre-K program:

| <u>Fiscal Year</u> | <u>Appropriation</u> |
|---|----------------------|
| <u>2019-2020</u> | <u>\$82,001,394</u> |
| <u>2020-2021 and each subsequent fiscal year thereafter</u> | <u>\$91,351,394</u> |

When developing the base budget, as defined by G.S. 143C-1-1, for each fiscal year specified in this section, the Director of the Budget shall include the appropriated amount specified in this section for that fiscal year."

PART VIII. IMPLEMENT THE NORTH CAROLINA SUPREME COURT'S HOLDING IN COOPER V. BERGER BY GIVING THE GOVERNOR INCREASED CONTROL OVER THE BIPARTISAN STATE BOARD OF ELECTIONS AND ETHICS ENFORCEMENT

SECTION 8.(a) The General Assembly finds that the legislative intent in the enactment of S.L. 2017-6 and establishment of the Bipartisan State Board of Elections and Ethics Enforcement was to continue the practice of having an independent, quasi-judicial body for elections and ethics enforcement for the State and consolidate those bodies under a single entity. The General Assembly finds that the entity enforcing these laws must have sufficient distance from political interference due to the potential for abuse of oversight of elections and ethics investigations for partisan purposes. The General Assembly further finds that appointment of a State Board member who is not affiliated with the two largest political parties will foster nonpartisan decision-making by the State Board. As such, by amending the section of the General Statutes establishing the membership of the State Board enacted in S.L. 2017-6, the purpose of this legislation is to implement the decision of the North Carolina Supreme Court on January 26, 2018, in *Cooper V. Berger* (No. 52PA17-2) to give the Governor executive control over the Bipartisan State Board of Elections and Ethics Enforcement and to provide for representation on the State Board by unaffiliated and third-party voters.

SECTION 8.(b) G.S. 163A-2 reads as rewritten:

"§ 163A-2. Membership.

(a) The State Board shall consist of ~~eight~~nine individuals registered to vote in North Carolina, appointed by the Governor, as follows:

- (1) ~~four of whom shall be of~~Four individuals registered with the political party with the highest number of registered affiliates~~affiliates in the State, from a list of six nominees submitted by the State party chairs of that party.~~
- (2) ~~and four of whom shall be of~~Four individuals registered with the political party with the second highest number of registered affiliates~~affiliates in the State, from a list of six nominees submitted by the State party chairs of that party.~~
- (3) One individual not registered with either the political party with the largest number of registered affiliates in the State or of the political party with the second-largest number of registered affiliates in the State, from a list of two nominees selected by the other eight members of the State Board.

The number of registered affiliates shall be as reflected by the latest registration statistics published by the State Board. The Governor shall appoint four members each from a list of six nominees submitted by the State party chairs of the two political parties with the highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board. The Governor shall make all appointments promptly upon receipt of the list of nominees from each nominating entity and in no instance shall appoint later than 30 days after receipt of the list.

(a1) Within 14 days of appointment by the Governor of the eight members appointed under subdivisions (1) and (2) of subsection (a) of this section, the eight members shall hold an initial appointment selection meeting for the sole purpose of selecting two nominees who meet the qualifications for appointment under subdivision (3) of subsection (a) of this section and shall promptly submit those names to the Governor. No additional actions, other than the oath of office, shall be taken by the eight members appointed under subdivisions (1) and (2) of subsection (a) of this section at the appointment selection meeting.

...

(c) Members shall be removed by the Governor from the State Board only for misfeasance, malfeasance, or nonfeasance. Violation of G.S. 163A 3(d) shall be considered nonfeasance. Members may be removed from the State Board by the Governor, acting in the Governor's discretion. Vacancies created on the State Board by removal from office by the Governor shall be filled in accordance with subsection (d) of this section.

(d) Any vacancy occurring on the State Board shall be filled by an individual affiliated with the same political party of~~meeting~~the same appointment criteria under subsection (a) of this section as the vacating member. Any vacancy occurring in the State Board shall be filled by the Governor, and the person so appointed shall fill the unexpired term. The Governor shall fill vacancies as follows:

- (1) For a vacancy for an appointment under subdivision (1) or (2) of subsection (a) of this section, The~~the~~Governor shall fill the vacancy from a list of two names submitted by the State party chair of the political party with which the vacating member was affiliated if that list is submitted within 30 days of the occurrence of the vacancy.
- (2) For a vacancy for an appointment under subdivision (3) of subsection (a) of this section, the Governor shall fill the vacancy from a list of two names submitted by the remaining members of the State Board if that list is submitted within 30 days of the occurrence of the vacancy. The State Board shall hold a meeting within 21 days of the occurrence of the vacancy for the purpose of selecting two nominees for submission to the Governor to fill the vacancy.

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

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

(f) At the first meeting ~~in May~~ held after the appointment of the member under subdivision (3) of subsection (a) of this section, the State Board shall organize by electing one of its members chair and one of its members vice-chair, each to serve a two-year term as such. In 2017 and every four years thereafter, the chair shall be a member of the political party with the highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board, and the vice-chair a member of the political party with the second highest number of registered affiliates. In 2019 and every four years thereafter, the chair shall be a member of the political party with the second highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board, and the vice-chair a member of the political party with the highest number of registered affiliates.

(g) At the first meeting held ~~after new appointments are made after taking the oath, after the appointment under subdivision (3) of subsection (a) of this section,~~ the State Board shall elect one of its members secretary, to serve a two-year term as such.

...."

SECTION 8.(c) Notwithstanding G.S. 163A-2, members appointed to the Bipartisan State Board of Elections and Ethics Enforcement in 2018 shall serve a term of office beginning March 1, 2018, and expiring April 30, 2019, and the State Board shall hold its first meeting in March 2018.

PART IX. EFFECTIVE DATE

SECTION 9. Except as otherwise provided herein, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of February, 2018.

s/ Joyce Krawiec
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____, m. this _____ day of _____, 2018