

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24CV _____

JOSHUA H. STEIN, in his official capacity
as GOVERNOR-ELECT OF THE STATE
OF NORTH CAROLINA and ROY A.
COOPER, III, in his official capacity as
GOVERNOR OF THE STATE OF NORTH
CAROLINA,

Plaintiffs,

v.

TIMOTHY K. MOORE, in his official
capacity as SPEAKER OF THE NORTH
CAROLINA HOUSE OF
REPRESENTATIVES; PHILIP E.
BERGER, in his official capacity as
PRESIDENT PRO TEMPORE OF THE
NORTH CAROLINA SENATE; and
FREDDY L. JOHNSON, in his official
capacity as COMMANDER OF THE
STATE HIGHWAY PATROL,

Defendants.

COMPLAINT

Plaintiffs Joshua H. Stein, in his official capacity as Governor-Elect of the State of North Carolina and Roy A. Cooper, III, in his official capacity as Governor of the State of North Carolina, seeking (a) a declaratory judgment under N.C. Gen. Stat. §§ 1-253, *et seq.*, and North Carolina Rule of Civil Procedure 57 and (b) preliminary and permanent injunctions under North Carolina Rule of Civil Procedure 65, hereby allege and say:

INTRODUCTION

1. One of the chief responsibilities of the Governor of North Carolina is to lead efforts to keep North Carolinians safe. In doing so, the Governor is directly accountable to the people of the State. Individuals who are ultimately accountable to the Governor and who act under his or her supervision and control play a leading role in responding to states of emergency (including

hurricanes, winter weather, and civil unrest); coordinating emergency rescue operations; assisting sheriffs and local law enforcement with the tracking and apprehension of suspects accused of murder, robbery, and other violent crimes; and other law enforcement tasks too numerous to list.

2. In the words of a unanimous, bipartisan Supreme Court: “The Governor is our state’s chief executive. He or she bears the ultimate responsibility of ensuring that our laws are properly enforced.” *Cooper v. Berger* (“*Cooper Confirmation*”), 371 N.C. 799 (2018).

3. Through the Constitution, the people invest the Governor with the executive power of the State and make him Commander in Chief. *See* N.C. CONST. art. III, §§ 1, 5(4), 5(5); *id.* art. XII.

4. The North Carolina Constitution’s foundational guarantee of separation of powers, art. I, § 6, protects the people’s decision to allocate these duties to the Governor. In situations like emergency response, where effective executive authority is critical to public safety, separation of powers ensures a clear and unified chain of command with the Governor at the apex. That clarity helps keep people safe.

5. The constitutional separation of powers ensures that, just as the executive and judicial branches cannot interfere with core legislative functions, the legislative branch cannot directly exercise or interfere with the exercise of core executive functions—including essential law enforcement functions—by the people’s elected Governor, even when the legislative majority’s preferred candidate fails at the ballot box. *See, e.g., State ex rel. McCrory v. Berger*, 368 N.C. 633, 635 (2016); *Cooper v. Berger* (“*Cooper BOE*”), 370 N.C. 392 (2018). Separation of powers also protects the will of the voters by preventing one branch of government from accumulating undue power at the expense of the others, and by preventing the General Assembly from revising, by mere statute, the constitutional powers and duties of the elected Governor.

6. In order to fulfill his constitutional duties and conform with separation-of-powers principles, the Governor must have sufficient control over executive officers to ensure the laws are faithfully and effectively executed. *Cooper BOE*, 370 N.C. at 418; *McCrorry*, 368 N.C. at 646; *State ex rel. Wallace v. Bone*, 304 N.C. 591, 607-08 (1982).

7. Just days after the voters overwhelmingly chose Governor-Elect Stein to be their chief executive for the next four years, the leadership of the North Carolina General Assembly used a purported hurricane relief bill to curtail, in significant ways, core executive and law enforcement responsibilities that, under our Constitution, pass to Governor Stein on January 1, 2025.

8. On December 11, 2024, the General Assembly overrode Governor Cooper's veto and enacted Session Law 2024-57 ("Senate Bill 382"), which, in Subpart III-E, reorganizes the State Highway Patrol ("Patrol") as a principal, cabinet-level department and legislatively appoints the Commander of the Patrol—now the equivalent of a Cabinet Secretary to the Governor, but not accountable to the Governor—to serve until July 1, 2030. *See Exhibit A* hereto (Governor's veto message); *Exhibit B* hereto (Subpart III-E of Senate Bill 382).

9. In his new role as a cabinet-secretary, the Commander is assigned duties previously performed by the Department of Public Safety, including: (1) the provision of "law enforcement and emergency services" to respond to "crime and against natural and man-made disasters" and protect public safety; (2) planning and directing "a coordinated effort by the law enforcement agencies of State government"; (3) "ensur[ing] maximum cooperation between State and local law enforcement agencies in the fight against crime"; (4) serving "as the State's chief coordinating agency to control crime, to ensure the safety of the public, and to ensure an effective and efficient State criminal justice system"; (5) having "charge of investigations of criminal matters particularly

set forth in this Article [about the Patrol] and of other crimes and areas of concern as the General Statutes or the Governor may direct”; and (6) “regularly patrol[ing] the highways of the State and enforc[ing] all laws and regulations respecting travel and the use of vehicles upon the highways of the State and all laws for the protection of the highways of the State.” *See* Senate Bill 382 § 3E.1.(p) (enacting N.C. Gen. Stat. § 143B-1701); *id.* § 3E.2.(dd) (amending § 143B-601 to remove these duties from the Department of Public Safety).

10. Section 3E.1.(u) of Senate Bill 382 (the “Legislative Commander Provision”), which takes immediate effect, reads in full:

Notwithstanding the provisions of G.S. 143B-1700, as enacted by this section, the Commander of the State Highway Patrol, position number 60084937, serving on November 18, 2024, shall, in the absence of vacancy resulting from death, resignation, or physical or mental incapacity, (i) continue to serve as the Commander of the State Highway Patrol until July 1, 2025, and (ii) serve, for the five-year term beginning July 1, 2025, without additional nomination by the Governor or confirmation by the General Assembly.

Senate Bill 382, § 3E.1.(u); *id.* § 3E.1.(x) (stating subsection (u) is effective when it becomes law).

11. In other words, the General Assembly identified a specific person, serving in a specific position, and purported to mandate that specific person to serve as Commander of the State Highway Patrol until at least July of 2030 unless that person dies, resigns, or is rendered incapable of serving.

12. Incredibly, Senate Bill 382 prohibits the Governor or anyone else from removing the legislatively appointed Commander for any reason—even if he were to commit serious criminal misconduct.

13. Moreover, Senate Bill 382 threatens the safety of North Carolinians by eliminating the Governor’s powers of supervision and removal over the Commander. The legislatively-

appointed Commander may feel empowered to delay, modify, or flatly reject the direction that he receives from the Governor, since he is legislatively mandated to serve until at least July 1, 2030. “When the General Assembly appoints executive officers that the Governor has little power to remove, it can appoint them essentially without the Governor's influence. That leaves the Governor with little control over the views and priorities of the” Commander. *McCrorry*, 368 N.C. at 647.

14. This fracturing of the chain-of-command for state law enforcement in North Carolina plainly and clearly violates constitutional provisions ultimately intended to protect public safety and ensure accountability to the people. *See* N.C. CONST. art I, § 6; *id.* art. III, §§ 1, 5(4).

15. In the moments of crisis that periodically face this State and its Governor, a clear chain of command ultimately leading to State’s elected chief executive is vital to protect public safety. Breaking that chain profoundly weakens the State’s ability to respond effectively and efficiently to emergencies in a clear and coordinated fashion, whether the crisis at issue is civil unrest, a mass shooting event, an ice storm, a hurricane, or some other regional or statewide emergency.

16. Hurricane Helene provides a recent example of the Governor’s clear authority as the chief decisionmaker effectuating a coordinated response to deploy resources, waive certain regulations as necessary to allow for emergency response, and ultimately protect the safety and health of the public. *See* Governor Cooper, Executive Order No. 315, *Declaration of a Statewide State of Emergency and Temporary Waiver and Suspension of Motor Vehicle Regulations* (Sept. 25, 2024), attached hereto as **Exhibit C**; *see also, e.g., id.* § 9 (ordering the Patrol to “enforce the conditions set forth in Sections 4 through 8 of this Executive Order in a manner that does not endanger North Carolina motorists”).

17. Other examples include the Patrol's role, coordinated with local, State, and federal law enforcement agencies, to respond to the October 2022 mass shooting in the Hedingham neighborhood in Raleigh (where a Patrol helicopter was in the air searching for the suspect within approximately 22 minutes of the first 911 calls), the August 2023 shooting of a professor at the UNC-Chapel Hill campus, and the April 2024 killing of members of the Charlotte-Mecklenburg Police Department and United States Marshals Fugitive Task Force in Charlotte (where the Patrol was one of approximately eight law enforcement agencies responding). The ability of the Patrol to respond quickly throughout the State and help ensure public safety depends on quick, coordinated executive decisions that are only possible with a clear chain of command.

18. In this lawsuit, Governor Cooper and Governor-Elect Stein seek to safeguard the people of North Carolina from threats to their public safety and to the people's assignment of core executive responsibilities to their chief executive. They therefore challenge the Legislative Commander Provision for its direct infringement on the Governor's law enforcement powers in plain violation of our Constitution. *See* N.C. CONST. art. I, § 6; *id.* art. II, § 1; *id.* art. III, §§ 1, 5(4). The Governor and Governor-Elect also challenge the Legislative Commander Provision as an impermissible grant of exclusive privileges and violation of equal protection. N.C. CONST. art. I, §§ 19, 32.

19. The statutes challenged in this lawsuit threaten the safety of the public by preventing the Governor from performing his core function under the North Carolina Constitution to enforce our State's laws and "take care that the laws be faithfully executed." N.C. CONST. art. III, § 5(4). They also violate fundamental principles of representative government and the basic guarantees of the North Carolina Constitution, thus requiring the Governor and Governor-Elect to bring this action to protect the constitutional role that the people have assigned to the Governor.

PARTIES AND JURISDICTION

20. Governor Cooper is a resident of Wake County, North Carolina.

21. On November 5, 2024, the voters of the State of North Carolina chose Plaintiff Joshua H. Stein (“Governor Stein”) to be their governor for a four-year term that commences on January 1, 2025. Governor Stein is a resident of Wake County, North Carolina.

22. Defendant Timothy K. Moore is the Speaker of the North Carolina House of Representatives and, upon information and belief, is a resident of Cleveland County, North Carolina.

23. Defendant Philip E. Berger is the President Pro Tempore of the North Carolina Senate and, upon information and belief, is a resident of Rockingham County, North Carolina.

24. Defendant Colonel Freddy L. Johnson, Jr. (“Defendant Johnson”) is the legislatively selected Commander of the State Highway Patrol, and, upon information and belief, is a resident of Cumberland County, North Carolina.

25. Defendant Johnson was first appointed as commander of the State Highway Patrol by Governor Cooper in April 2021.

26. Defendants lack sovereign immunity for the claims alleged herein, all of which arise under the exclusive rights and privileges enjoyed by—and duties assigned to—the Governor of the State of North Carolina by the North Carolina Constitution.

27. Pursuant to N.C. Gen. Stat. §§ 1-253, *et seq.*, and § 7A-245(a), as well as North Carolina Rules of Civil Procedure 57 and 65, the Governor seeks judgment declaring unconstitutional and enjoining the effectiveness of the Legislative Commander Provision.

28. As further alleged below, a present and real controversy exists between the parties as to the constitutionality of the Legislative Commander Provision.

29. This Court has jurisdiction over the parties and subject matter of this lawsuit, and venue is proper.

THE CHALLENGED STATUTE

30. Since creating the Patrol in 1929, previous General Assemblies have recognized the core executive function the Patrol serves and, accordingly, made its leadership subject to the Governor’s supervision and authority.

31. Since its founding in 1929, all officers of the Patrol have been appointed “with the approval of the Governor” and “serve at the pleasure of the Governor.” 1929 N.C. Public Laws and Resolutions, Ch. 218, § 1; *see also* N.C. Gen. Stat. § 20-184 (2024); *id.* § 20-185 (2024) (“Members of the State Highway Patrol shall be appointed by the Secretary [of Public Safety], with the approval of the Governor, and shall serve at the pleasure of the Governor and Secretary.”).

32. A 1935 act further defining the law enforcement duties of the Patrol provided its members with “full power and authority to perform such additional duties as peace officers as may from time to time be directed *by the Governor. . . .*” 1935 N.C. Public Laws and Resolutions, Ch. 324, § 3 (emphasis added). Such direction of the Patrol by the Governor continues today. *See* N.C. Gen. Stat. § 20-188 (“The State Highway Patrol shall have full power and authority to perform such additional duties as peace officers as may from time to time be directed by the Governor. . . .”); *see also* Senate Bill 382 §§ 3E.1.(i), 3E.1.(p) (recodifying § 20-188 as § 143B-1716).

33. A 1975 act specifically addressing supervisory authority over the Patrol made it unlawful for any non-Patrol members, “other than the Governor and the Secretary [(then of Transportation)] . . . to hold any supervisory position over uniformed personnel within the Patrol.” 1975 N.C. Sess. Laws, Ch. 47, § 1; *see also* N.C. Gen. Stat. § 20-196.3 (2024) (codification of

1975 session law that currently provides that, aside from members of the Patrol, only the Governor and Secretary of Public Safety “may hold a supervisory position over sworn members of the Patrol”).

34. Under the direction of Defendants Moore and Berger, Senate Bill 382 was introduced in its current form on November 19, 2024 by gutting a preexisting Senate bill that amended the laws of dentistry. Senate Bill 382, which received no public hearing or committee consideration, then passed both chambers of the General Assembly on November 20, 2024 and was presented to the Governor later that day. Governor Cooper vetoed Senate Bill 382 on November 26, 2024. The General Assembly overrode that veto on December 11, 2024.

35. Senate Bill 382 amends the law governing the State Highway Patrol to establish it as a cabinet-level department independent of the Department of Public Safety. While the General Assembly may reorganize executive departments and amend the substantive laws that they enforce, they may not do so in ways that violate the constitutional guarantee of separation of powers. Senate Bill 382 violates that guarantee by legislatively appointing the Commander of the Patrol for the entirety of Governor Stein’s first term, dictating his presence in the Governor’s cabinet and profoundly disrupting the chain of command governing the Patrol’s law enforcement role throughout North Carolina.

A. THE LEGISLATIVE COMMANDER PROVISION VIOLATES THE SEPARATION OF POWERS AND FAITHFUL EXECUTION CLAUSES OF THE NORTH CAROLINA CONSTITUTION.

(1) Separation of powers is a constitutional “cornerstone.”

36. In 2016, a bipartisan Supreme Court reaffirmed that “[o]ur founders believed that separating the legislative, executive, and judicial powers of state government was necessary for the preservation of liberty” and thus guaranteed in the North Carolina Constitution that the three

branches “shall be forever separate and distinct from each other.” *McCrorry*, 368 N.C. at 635 (quoting N.C. CONST. art. I, § 6).

37. “There should be no doubt that the principle of separation of powers is a cornerstone of our state and federal governments.” *State ex rel. Wallace v. Bone*, 304 N.C. 591, 601 (1982).

38. Indeed, our founders embedded separation of powers in our state Constitution. *See, e.g.*, N.C. CONST. art. I, § 6 (“The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.”); art. III, § 1 (“The executive power of the State shall be vested in the Governor.”); art. III, § 5(4) (“The Governor shall take care that the laws be faithfully executed.”); art. II, § 1 (“The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.”); art. IV, § 1 (“The judicial power of the State shall . . . be vested in a Court for the Trial of Impeachments and in a General Court of Justice.”).

39. These foundational principles guided our Supreme Court in *McCrorry v. Berger*, when it held that the General Assembly had unconstitutionally encroached on the province of the Governor by establishing three commissions (including the Coal Ash Commission), according them executive authority, and then limiting the Governor’s ability to control those commissions.

40. “The clearest violation of the separation of powers clause occurs when one branch exercises power that the constitution vests exclusively in another branch.” 368 N.C. at 645. The constitutional guarantee of separation of powers also “requires that, as the three branches of government carry out their duties, one branch will not prevent another branch from performing its core functions.” *See id.* at 636.

41. *McCrorry* made clear that the Governor’s ability to control executive branch officers, boards, and commissions—and, concomitantly, the exercise of final executive authority by those executive entities—depends on the Governor’s ability to appoint such officials, “to supervise their day-to-day activities, and to remove them from office.” *McCrorry*, 368 N.C. at 646.

42. As the Court held in *McCrorry*:

When the General Assembly appoints executive officers that the Governor has little power to remove, it can appoint them essentially without the Governor’s influence. That leaves the Governor with little control over the views and priorities of the officers that the General Assembly appoints. When those officers form a majority on a commission that has the final say on how to execute the laws, the General Assembly, not the Governor, can exert most of the control over the executive policy that is implemented in any area of the law that the commission regulates. As a result, the Governor cannot take care that the laws are faithfully executed in that area. *The separation of powers clause plainly and clearly does not allow the General Assembly to take this much control over the execution of the laws from the Governor and lodge it with itself.*

368 N.C. at 647 (emphasis added).

43. Applying *McCrorry*’s framework to an attempted restructuring of the State Board of Elections, the Court in 2018 further elaborated on how separation of powers restricts legislative interference with the Governor’s executive function:

The General Assembly cannot, however, consistent with the textual command contained in Article III, Section 5(4) of the North Carolina Constitution, structure an executive branch commission in such a manner that the Governor is unable, within a reasonable period of time, to “take care that the laws be faithfully executed” because he or she is required to appoint half of the commission members from a list of nominees consisting of individuals who are, in all likelihood, not supportive of, if not openly opposed to, his or her policy preferences while having limited supervisory control over the agency and circumscribed removal authority over commission members. An agency structured in that manner “leaves the Governor with little control over the views and priorities of the [majority of] officers” and prevents the Governor from having “the final say on how to execute the laws.”

Cooper v. Berger (“*Cooper BOE*”), 370 N.C. 392, 418 (2018) (quoting *McCrory*, 368 N.C. at 647) (emphases added).

44. A unanimous, bipartisan Supreme Court, applying *McCrory* and *Cooper BOE* in *Cooper Confirmation*, upheld a statute requiring senatorial confirmation of the Governor’s cabinet secretaries because the Governor “retains the power to nominate them, has strong supervisory authority over them, and has the power to remove them at will.” 371 N.C. at 801.

45. Requiring Senate confirmation did not violate separation of powers because: (1) “the Governor retain[ed] the most important role in the [appointment] process: the ability to choose, from the universe of all eligible people, the person on whom the Senate will have an up-or-down vote”; (2) “the Governor ha[d] extensive supervisory power, allowing him to directly manage his Cabinet members in virtually every aspect of their authority”; and (3) the Governor retained the ability to “remove [his Cabinet members] for any reason or for no reason at all” and thus could “prevent any member of his Cabinet from refusing to properly implement his preferred policies.” *Cooper Confirmation*, 371 N.C. at 807–09.

46. Here, in contrast to *Cooper Confirmation*, Governor Stein did not play any role in the selection of Defendant Johnson, and the Legislative Commander Provision eliminates the Governor’s powers of supervision and removal. While Governor Cooper did appoint Defendant Johnson to command the State Highway Patrol, he did so at a time when Defendant Johnson could be removed at any point and did not appoint him for a specified term of years. *See* N.C. Gen. Stat. § 20-185 (2024). After the enactment of Senate Bill 382, Governor Cooper and Governor Stein do not “retain[] ample post-appointment control over how” Defendant Johnson performs his duties as Commander, as our Constitution requires. 371 N.C. at 801.

47. As detailed herein, the Legislative Commander Provision violates the Supreme Court’s command in *McCrorry* because, among other things, they strip from Governor Stein the authority to appoint, remove, and supervise the leader of a newly created principal executive department.

(2) The executive nature of the State Highway Patrol.

48. Prior General Assemblies repeatedly recognized the core executive role played by the Patrol to enforce the laws. Since its founding in 1929 and up until the enactment of Senate Bill 382 over the Governor’s veto, the Patrol has been subject to the direct supervision and control of the Governor, with its leadership serving at the Governor’s pleasure. *See, e.g.*, 1929 N.C. Public Laws and Resolutions, Ch. 218, § 1; 1935 N.C. Public Laws and Resolutions, Ch. 324, § 3; 1975 N.C. Sess. Laws, Ch. 47, § 1; N.C. Gen. Stat. § 20-184 (2024); *id.* § 20-185 (2024); *id.* § 20-188 (2024).

49. The Court of Appeals, in a dispute over the Patrol’s ability to enact regulations governing wrecker services, also recognized the executive role played by the Patrol and its ability to enact administrative regulations to fulfill that role. *See Ramey v. Easley*, 178 N.C. App. 197, 204 (2006). (“The General Assembly delegated to the Department of Crime Control and Public Safety and the Highway Patrol the authority to promulgate regulations regarding the requirements a private wrecker service must meet to be included and remain on the Highway Patrol’s Wrecker Rotation Services List in the interest of public safety.”).

50. The Patrol, like other cabinet-level departments, is vested with “executive and administrative powers, duties, and functions.” Senate Bill 382, § 3E.1.(c) (amending N.C. Gen. Stat. § 143B-6 to add the Patrol to the list of cabinet-level departments).

51. More specifically, as part of its creation of the Patrol as a cabinet-level department, Senate Bill 382 transfers law enforcement functions previously performed by other cabinet-level departments to the Patrol, including: (a) the “functions, powers, duties, and obligations vested in the State Capitol Police Division of the Department of Public Safety”; (b) the powers and funding “for the regulation and enforcement of commercial motor vehicles, oversize and overweight vehicles, motor carrier safety, and mobile and manufactured housing”; and (c) the “sworn law enforcement personnel” and “statutory authority, powers, duties, and functions . . . performed by the Department of Transportation, Division of Motor Vehicles License and Theft Bureau.” Senate Bill 382, §§ 3E.1.(k), 3E.1.(n), 3E.1.(o). The Patrol is also assigned duties of law enforcement coordination, crime prevention, emergency response, and criminal investigation that were previously assigned to the Department of Public Safety. *See* Senate Bill 382 § 3E.1.(p) (enacting N.C. Gen. Stat. § 143B-1701); *id.* § 3E.2.(dd) (amending § 143B-601 to remove these duties from the Department of Public Safety).

52. In plainer terms, the Patrol, none of whose members are elected by the public, and whose leader is now effectively unaccountable to the Governor for his actions, among other powers:

- a. responds to mass protests and civil unrest when appropriate to support other law enforcement;
- b. assists sheriffs and local law enforcement with the apprehension of suspects accused of murder, robbery, and other violent crimes;
- c. responds to states of emergency (whether due to winter weather, hurricanes, or otherwise) along with the National Guard and other law enforcement;
- d. effectuates the Executive Orders made by the Governor related to states of emergency, including as they relate to waiving of vehicle weight and size restrictions, driving hours, or other regulatory requirements;

- e. maintains helicopters and boats to assist with air response, swift water rescue, and suspect tracking and apprehension;
- f. enforces motor vehicle laws through North Carolina, including those related to commercial vehicles;
- g. conducts school safety checks as part of routine patrols;
- h. functions as the prime contractor for the State's VIPER system (i.e., Voice Interoperability Plan for Emergency Responders), which involves a total cost of \$189 million for statewide infrastructure that includes 240 transmitter sites spread throughout North Carolina; and
- i. is responsible for executive protection of the Governor and Lieutenant Governor and, when requested, legislative leadership.

53. In sum, the Patrol is plainly an executive department carrying out core executive functions, including day-to-day enforcement of public safety laws that directly and indirectly impact the entire State and its citizens. Those citizens, however, elect a Governor, accountable to them, to be responsible for those functions.

(3) The Commander leads the Patrol.

54. The Commander is designated by statute as the “head of the State Highway Patrol,” and is given substantial statutory authority to direct the activities of the Patrol. Senate Bill 382, § 3E.1.(p) (enacting N.C. Gen. Stat. §§ 143B-1700(a), 143B-1702).

55. The Commander leads the law enforcement function of the Patrol and is “authorized to adopt rules and procedures” to implement that function, receive federal grants, “carry out the regulatory and enforcement duties assigned to the State Highway Patrol as provided by the various commercial vehicle, oversize/overweight, motor carrier safety, motor fuel, and mobile and manufactured home statutes,” and “for the organization, assignment, and conduct of the members of the” Patrol. Senate Bill 382, § 3E.1.(p) (enacting N.C. Gen. Stat. §§ 143B-1702, 143B-1712).

56. With respect to personnel, including sworn law enforcement officers, the Commander appoints the “Chief of the State Capitol Police Division” and the members of the State Highway Patrol Division, who serve at the Commander’s pleasure. Senate Bill 382, § 3E.1.(p) (enacting N.C. Gen. Stat. §§ 143B-1702, 143B-1705). The Commander may designate up to ten positions as exempt from the protections of the North Carolina Human Resources Act. *See id.* §§ 3E.1.(d), 3E.1.(q).

(4) The Legislative Commander Provision strips from the popularly elected Governor the power to appoint and remove the Commander of the Patrol and thus interferes with the Governor’s supervision of the Commander’s enforcement of the laws.

57. Prior to the Legislative Commander Provision, the Commander was appointed by the Governor and subject to gubernatorial supervision, control, and removal both directly by the Governor and indirectly through the Secretary of Public Safety. *See* N.C. Gen. Stat. §§ 20-184, 20-185 (2024).

58. Through the Legislative Commander Provision, however, the General Assembly has arrogated to itself the power to appoint the Commander. Further, it has mandated that—absent death, disability, or resignation—he will serve through July 1, 2030. Accordingly, the legislatively selected Commander is set to serve throughout the entirety of Governor Stein’s four-year term and eighteen-months into the gubernatorial term starting January 1, 2029.

59. The legislative appointment of Defendant Johnson as Commander is the equivalent of the Governor (rather than the President Pro Tempore) appointing the Chair of the Senate Rules and Operations Committee, *see* S. Res. 1., Rule 31, 2023 Session (N.C.), or the Speaker appointing the Clerk of the Court of Appeals. *See* N.C. Gen. Stat. § 7A-20. Such interference by one branch of North Carolina government in the core functions of another branch is wisely and expressly forbidden by our Constitution’s guarantee of separation of powers. *See* N.C. CONST. art. I, § 6.

60. In summary: (a) the legislature appointed the Commander who will serve for the Governor's entire first term and elevated him to be a required member of the Governor's cabinet; (b) the Governor has no ability to remove him; and (c) the Governor has limited ability to supervise him, due to the absence of removal power and the disruption of the chain of command. Accordingly, the Governor effectively has no control over the "views and priorities" of the individual leading one of the most important law enforcement agencies in our State. *See McCrory*, 368 N.C. at 646-47.

61. Upon information and belief, Defendant Moore and Berger's intent in enacting Senate Bill 382, just days after Governor Stein was elected, was to deprive the Governor of the ability to faithfully execute the laws by selecting and supervising a Commander who shares his policy views and priorities, thus thwarting the will of the majority of the electorate.

62. By enacting the Legislative Commander Provision on the eve of Governor Stein's inauguration, the General Assembly took for itself the power of deciding who would lead a newly formed cabinet-level department charged with executing and enforcing the laws governing public safety so that that Commander would act in accordance with Defendants' views and priorities, rather than the Governor's.

63. These actions directly conflict with the electorate's selection of Governor as the State's chief executive. *See Young v. Bailey*, 368 N.C. 665, 671 (2016) ("The election of a particular candidate signifies public support for that candidate's platform, policies, and ideology.").

64. Because the Legislative Commander Provisions makes the Commander effectively unaccountable in conducting core law enforcement functions, the Governor cannot fulfill his constitutional duty to ensure that the laws are faithfully executed.

B. THE LEGISLATIVE COMMANDER PROVISION VIOLATES THE EXCLUSIVE PRIVILEGES AND EQUAL PROTECTION CLAUSES OF THE NORTH CAROLINA CONSTITUTION.

65. The “Exclusive Privileges Clause” of the North Carolina Constitution provides: “No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.” N.C. CONST. art. I, § 32.

66. A statute that provides an exclusive privilege to a single person will only survive constitutional scrutiny if: “(1) the exemption is intended to promote the general welfare rather than the benefit of the individual, and (2) there is a reasonable basis for the legislature to conclude the granting of the exemption serves the public interest.” *Emerald Isle v. State*, 320 N.C. 640, 654 (1987) (emphasis added).

67. The Equal Protection Clause of the North Carolina Constitution provides, in relevant part: “No person shall be denied the equal protection of the laws.” N.C. CONST. art. I, § 19. Rational basis review applies here and requires that the distinctions drawn by the General Assembly “bear some rational relationship to a conceivable legitimate governmental interest.” *Texfi Indus., Inc. v. City of Fayetteville*, 301 N.C. 1, 11 (1980).

68. The Legislative Commander Provision changed, for one specifically identified person only, the Governor’s longstanding ability, rooted in his constitutional authority, to select the Patrol Commander of his choosing and remove the Commander at will. *See* N.C. Gen. Stat. § 20-195(a) (2024); Senate Bill 382, §§ 3.E.1.(u), 3.E.2.(cc), 3.E.1.p (enacting § 143B-1700).

69. The effect of the Legislative Commander Provision is to grant Defendant Johnson a special, one-time-only appointment for a five-year position that pays more than \$175,000 per year, or a total of more than \$875,000.

70. But for the Legislative Commander Provision, the governing statutory scheme (as amended by Senate Bill 382) provides for the Patrol Commander to be selected by the Governor for a five-year term, subject to confirmation by the General Assembly. Senate Bill 382, §§ 3.E.1.(u), 3.E.2.(cc), 3.E.1.p (enacting § 143B-1700).

71. All past and future Patrol Commanders—except for Defendant Johnson—have served and will “serve at the Governor’s pleasure.” *See* N.C. Gen. Stat. § 20-195(a) (2024); Senate Bill 382, §§ 3.E.1.(u), 3.E.2.(cc), 3.E.1.p (enacting § 143B-1700).

72. Thus, the net result of the Legislative Commander Provision is that Defendant Johnson—and, by statutory design, only Defendant Johnson—received the exclusive privilege of a five-year term as Patrol Commander valued at more than \$875,000.

73. Moreover, the Legislative Commander Provision harms Governor Stein by denying him the ability to appoint the Commander of his choice, an authority he would have had but for that provision. *See* N.C. Gen. Stat. § 143B-9(a); Senate Bill 382, § 3.E.1.(p) (enacting § 143B-1700(b),(c)).

74. There is no explanation or indication in the language of Senate Bill 382 of why the General Assembly believed Defendant Johnson was personally entitled to a unique, nearly six-year additional term as legislatively selected Patrol Commander or how doing so would advance our State’s general welfare.

75. Similarly, Senate Bill 382 provides no basis to conclude that the distinction drawn between Defendant Johnson and all other potential patrol commanders bears a rational relationship to a conceivable, legitimate government interest.

COUNT 1: DECLARATORY JUDGMENT

THE LEGISLATIVE COMMANDER PROVISION VIOLATES THE SEPARATION OF POWERS AND FAITHFUL EXECUTION CLAUSES OF THE NORTH CAROLINA CONSTITUTION

76. The Governor restates and incorporates by reference the preceding paragraphs of this Complaint, as if fully set forth herein.

77. A present and real controversy exists between the parties as to the constitutionality of Section 3.E.1(u) of Senate Bill 382 (i.e., the Legislative Commander Provision).

78. The Legislative Commander Provision unconstitutionally prevents the Governor from performing his core executive and law enforcement function of ensuring that the laws are faithfully executed. *McCrorry*, 368 N.C. at 635 (“[T]he separation of powers clause requires that, as the three branches of government carry out their duties, one branch will not prevent another branch from performing its core functions.”).

79. Accordingly, the Legislative Commander Provision violates the Separation of Powers Clause (Article I, Section 6) and the Faithful Execution Clause (Article III, Section 5(4)) of the North Carolina Constitution.

80. Pursuant to N.C. Gen. Stat. §§ 1-253, *et seq.*, and North Carolina Rules of Civil Procedure 57 and 65, the Governor is entitled to a judgment and permanent injunction declaring that Section 3.E.1(u) of Session Law 2024-57 is unconstitutional and therefore void and of no effect.

COUNT 2: DECLARATORY JUDGMENT

THE LEGISLATIVE COMMANDER PROVISION VIOLATES THE EXCLUSIVE PRIVILEGES CLAUSE OF THE NORTH CAROLINA CONSTITUTION

81. The Governor restates and incorporates by reference the preceding paragraphs of this Complaint, as if fully set forth herein.

82. A present and real controversy exists between the parties as to the constitutionality of Section 3.E.1(u) of Senate Bill 382.

83. The Legislative Commander Provision provided Defendant Johnson—and no one else—with the exclusive privilege of a nearly six-year term as Commander of the Patrol.

84. The unique benefit given to Defendant Johnson does nothing to promote the general welfare of our State. Instead, by the very terms of the Legislative Commander Provision, the General Assembly intended to benefit only a single individual.

85. There was no reasonable basis for the General Assembly to conclude that the granting of this exclusive, one-time-only individual benefit served the public interest.

86. Because the appointment as Commander was given to Defendant Johnson for a private purpose—to unconstitutionally interfere with the Governor’s constitutional duties and countermand the electorate’s choice of Governor Stein as our State’s chief executive—and because it does nothing to promote the general welfare of our State or to serve the public interest, the Legislative Commander Provision violates the Exclusive Privileges Clause of the North Carolina Constitution. *See* N.C. CONST. art. I, § 32.

87. Pursuant to N.C. Gen. Stat. §§ 1-253, *et seq.*, and North Carolina Rules of Civil Procedure 57 and 65, the Governor is entitled to a judgment and permanent injunction declaring that Section 3.E.1(u) of Senate Bill 382 is unconstitutional and therefore void and of no effect.

COUNT 3: DECLARATORY JUDGMENT
**THE LEGISLATIVE COMMANDER PROVISION VIOLATES THE EQUAL PROTECTION CLAUSE OF
THE NORTH CAROLINA CONSTITUTION**

88. The Governor restates and incorporates by reference the preceding paragraphs of this Complaint, as if fully set forth herein.

89. A present and real controversy exists between the parties as to the constitutionality of Section 3.E.1(u) of Senate Bill 382.

90. The Legislative Commander Provision provided Defendant Johnson—and no one else—with the exclusive privilege of a five-year term as Commander of the Patrol.

91. The General Assembly’s creation of a single-member classification—for Defendant Johnson only—is arbitrary and irrational. The arbitrary and irrational classification scheme bears no rational relationship to any conceivable legitimate governmental interest.

92. Accordingly, the Legislative Commander Provision violates the Equal Protection Clause of the North Carolina Constitution. *See* N.C. CONST. art. I, § 19.

93. Pursuant to N.C. Gen. Stat. §§ 1-253, *et seq.*, and North Carolina Rules of Civil Procedure 57 and 65, the Governor is entitled to a judgment and permanent injunction declaring that Section 3.E.1(u) of Senate Bill 382 is unconstitutional and therefore void and of no effect.

PRAYER FOR JUDGMENT

WHEREFORE, Plaintiffs Governor Cooper and Governor-Elect Stein pray as follows:

1. That the Court, during the pendency of this litigation, issue a preliminary injunction pursuant to North Carolina Rule of Civil Procedure 65 enjoining the effectiveness of Section 3.E.1(u) of Session Law 2024-57 in its entirety;

2. That the Court enter a declaratory judgment and injunction, pursuant to N.C. Gen. Stat. § 1-253, *et seq.*, and North Carolina Rules of Civil Procedure 57 and 65, declaring that Section 3.E.1(u) of Session Law 2024-57 is unconstitutional and therefore is void and of no effect;

3. That the Court award to Plaintiffs their costs and expenses, pursuant to applicable statutory and common law, including N.C. Gen. Stat. §§ 6-20, and 1-263; and

4. That the Court grant such other and further relief as the Court deems just and proper.

Respectfully submitted this the 12th day of December, 2024.

/s/ Daniel F. E. Smith

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COMPLAINT EXHIBIT A



Roy Cooper, Governor
State of North Carolina

GOVERNOR ROY COOPER OBJECTIONS AND VETO MESSAGE:

Senate Bill 382, "AN ACT TO MAKE MODIFICATIONS TO AND PROVIDE ADDITIONAL APPROPRIATIONS FOR DISASTER RECOVERY; TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO THE CURRENT OPERATIONS APPROPRIATIONS ACT OF 2023; AND TO MAKE VARIOUS CHANGES TO THE LAW."

This legislation is a sham. It does not send money to Western North Carolina but merely shuffles money from one fund to another in Raleigh. This legislation was titled disaster relief but instead violates the constitution by taking appointments away from the next Governor for the Board of Elections, Utilities Commission and Commander of the NC Highway Patrol, letting political parties choose appellate judges and interfering with the Attorney General's ability to advocate for lower electric bills for consumers. Instead of giving small business grants to disaster counties it strikes a cruel blow by blocking the extension of better unemployment benefits for people who have lost jobs because of natural disasters. Finally, it plays politics by taking away two judges elected by the people and adding two judges appointed by the legislature, taking away authority from the Lieutenant Governor and the Superintendent of Public Instruction and more.

Therefore, I veto the bill.

A handwritten signature in black ink that reads "Roy Cooper".

Roy Cooper
Governor

The bill, having been vetoed, is returned to the Clerk of the North Carolina Senate on this the 26th day of November 2024, at 10:27 AM for reconsideration by that body.

The Capitol Building, Raleigh, NC 27602
Mail: 20301 Mail Service Center, Raleigh, NC 27699-0301
Phone: (919)814-2100

RECEIVED FROM GOVERNOR

Date 11-26-24

Time 10:27 a.m.

Signed Leigh Hipple

SECTION 4.2. Effective Date. – Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of November, 2024.



Phil Berger
President Pro Tempore of the Senate



Timothy Reeder, MD
Presiding Officer of the House of Representatives

VETO


Roy Cooper
Governor

Approved _____ .m. this _____ day of _____, 2024

RECEIVED FROM GOVERNOR

Date 11-26-24

Time 10:27 a.m.

Signed Reigh Hipple

COMPLAINT EXHIBIT B

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SESSION LAW 2024-57
SENATE BILL 382**

AN ACT TO MAKE MODIFICATIONS TO AND PROVIDE ADDITIONAL APPROPRIATIONS FOR DISASTER RECOVERY; TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO THE CURRENT OPERATIONS APPROPRIATIONS ACT OF 2023; AND TO MAKE VARIOUS CHANGES TO THE LAW.

The General Assembly of North Carolina enacts:

PART I. DISASTER RELIEF

SUBPART I-A. GENERAL PROVISIONS

SECTION 1A.1. Title. – This Part shall be known as "The Disaster Recovery Act of 2024 – Part III."

SECTION 1A.2. Maximum Amounts; Effectuate Savings. – The appropriations and allocations made in this Part are for maximum amounts necessary to implement this Part. Savings shall be effected where the total amounts appropriated or allocated are not required to implement this Part.

SECTION 1A.3. Scope. – Unless otherwise provided, this Part applies to the North Carolina counties in the affected area, as defined in Section 1A.4 of this Part.

SECTION 1A.4. Definitions. – Unless otherwise provided, the following definitions apply in this Part:

- (1) Affected area. – The counties designated before, on, or after the effective date of this act under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Helene.
- (2) FEMA. – The Federal Emergency Management Agency.
- (3) Helene Fund. – The Hurricane Helene Disaster Recovery Fund established in Section 4.1 of S.L. 2024-51.
- (4) OSBM. – The Office of State Budget and Management.
- (5) Recipient. – A State agency or a non-State entity, as those terms are defined in G.S. 143C-1-1.
- (6) Savings Reserve. – The Savings Reserve established in G.S. 143C-4-2.
- (7) SERDRF. – The State Emergency Response and Disaster Relief Fund established in G.S. 166A-19.42.

SECTION 1A.5. Transfer of Additional Disaster Relief Funds. – Notwithstanding G.S. 143C-4-2, the State Controller shall transfer the sum of two hundred twenty-seven million dollars (\$227,000,000) from the Savings Reserve to the Helene Fund and, except as otherwise provided in this act, the funds shall remain unspent until appropriated by an act of the General Assembly. It is the intent of the General Assembly to review funding and to consider actions needed to address remaining unmet needs.

SUBPART I-B. EDUCATION



SECTION 3D.2.(e) G.S. 7A-343(17) reads as rewritten:

"(17) ~~Review requests for To employ staff counsel or retain private counsel for the defense of a to provide legal services for the Judicial Department official or employee. Department. The Director may approve the expenditure of lapsed salary savings to retain private counsel to provide litigation services for the defense of an official or employee of the Judicial Department in any action arising from conduct undertaken in the course of the official's or employee's official duties and in which the Attorney General has declined to provide the litigation services. For purposes of this subdivision, the terms "litigation services" and "private counsel" are as defined in G.S. 147-17 and G.S. 114-2.3-pay for legal services under G.S. 7A-343.7(a).~~"

SUBPART III-E. STATE HIGHWAY PATROL

MAKE STATE HIGHWAY PATROL INDEPENDENT DEPARTMENT

SECTION 3E.1.(a) The State Highway Patrol is established in this subpart as a single, unified cabinet-level department. All functions, powers, duties, and obligations vested in the State Highway Patrol under the Department of Public Safety are transferred to, vested in, and consolidated within the State Highway Patrol in the manner of a Type I transfer as defined in G.S. 143A-6.

SECTION 3E.1.(b) G.S. 143B-2 reads as rewritten:

"§ 143B-2. Interim applicability of the Executive Organization Act of 1973.

The Executive Organization Act of 1973 shall be applicable only to the following named departments:

...

(14) State Highway Patrol."

SECTION 3E.1.(c) G.S. 143B-6 reads as rewritten:

"§ 143B-6. Principal departments.

In addition to the principal departments enumerated in the Executive Organization Act of 1971, all executive and administrative powers, duties, and functions not including those of the General Assembly and its agencies, the General Court of Justice and the administrative agencies created pursuant to Article IV of the Constitution of North Carolina, and higher education previously vested by law in the several State agencies, are vested in the following principal departments:

...

(16) State Highway Patrol."

SECTION 3E.1.(d) G.S. 126-5(c1) is amended by adding a new subdivision to read:

"(40) Employees of the State Highway Patrol, that the Commander of the State Highway Patrol, at any time, in the Commander of the State Highway Patrol's discretion, exempts from the application of this Chapter by means of a letter to the Director of the Office of State Human Resources designating these employees. The Commander of the State Highway Patrol may exempt no more than 10 employees under the authorization set forth in this subdivision."

SECTION 3E.1.(e) Chapter 143B of the General Statutes is amended by adding a new Article 17 to be entitled "State Highway Patrol."

SECTION 3E.1.(f) Article 17 of Chapter 143B of the General Statutes, as enacted by subsection (e) of this section, is amended by adding a new Part 1 to be entitled "General Provisions."

SECTION 3E.1.(g) G.S. 20-184 is recodified as G.S. 143B-1700 under Part 1 of Article 17 of Chapter 143B of the General Statutes as created by subsection (f) of this section.

SECTION 3E.1.(h) Article 17 of Chapter 143B of the General Statutes, as enacted by subsection (e) of this section, is amended by adding a new Part 2 to be entitled "State Highway Patrol Division."

SECTION 3E.1.(i) Except as otherwise provided in subsection (g) of this section, Article 4 of Chapter 20 of the General Statutes is recodified under Part 2 of Article 17 of Chapter 143B of the General Statutes as created by subsections (e) and (h) of this section, as follows:

<u>Former Citation</u>	<u>Recodified Citation</u>
20-185	143B-1705
20-185.1	143B-1710
20-186	143B-1711
20-187	143B-1712
20-187.1	143B-1713
20-187.3	143B-1714
20-187.5	143B-1715
20-188	143B-1716
20-189	143B-1717
20-189.1	143B-1718
20-189.2	143B-1719
20-190	143B-1720
20-190.1	143B-1721
20-190.3	143B-1722
20-191	143B-1723
20-192	143B-1724
20-195	143B-1725
20-196	143B-1726
20-196.2	143B-1727
20-196.3	143B-1728
20-196.4	143B-1729
20-196.5	143B-1730

SECTION 3E.1.(j) G.S. 143B-602.1 is recodified as G.S. 143B-1710.1 under Part 2 of Article 17 of Chapter 143B of the General Statutes as created by subsection (h) of this section.

SECTION 3E.1.(k) All functions, powers, duties, and obligations vested in the State Capitol Police Division of the Department of Public Safety are transferred to, vested in, and consolidated within the State Highway Patrol by a Type I transfer, as defined in G.S. 143A-6.

SECTION 3E.1.(l) Article 17 of Chapter 143B of the General Statutes, as enacted by subsection (e) of this section, is amended by adding a new Part 3 to be entitled "State Capitol Police Division."

SECTION 3E.1.(m) Subpart B of Part 4 of Article 13 of Chapter 143B of the General Statutes is recodified as Part 3 of Article 17 of Chapter 143B of the General Statutes, as enacted by subsection (l) of this section, as follows:

<u>Former Citation</u>	<u>Recodified Citation</u>
143B-911	143B-1750

SECTION 3E.1.(n) All statutory authority, powers, duties, and functions including rulemaking, budgeting, purchasing, records, personnel, personnel positions, salaries, property, and unexpended balances of appropriations, allocations, reserves, support costs, and other funds allocated to the Department of Public Safety for the regulation and enforcement of commercial motor vehicles, oversize and overweight vehicles, motor carrier safety, and mobile and manufactured housing are transferred to and vested in the State Highway Patrol. This transfer has all the elements of a Type I transfer, as defined in G.S. 143A-6.

The State Highway Patrol shall be considered a continuation of the transferred portion of the Department of Public Safety for the purpose of succession to all rights, powers, duties, and

obligations of the Department of Public Safety currently performed by the Motor Carrier Enforcement Administrative Section located administratively in the State Highway Patrol prior to the enactment of subsection (a) of this section.

All equipment, supplies, personnel, or other properties rented or controlled by the Department of Public Safety for the regulation and enforcement of commercial motor vehicles, oversize and overweight vehicles, motor carrier safety, and mobile and manufactured housing shall be administered by the State Highway Patrol.

SECTION 3E.1.(o) All sworn law enforcement personnel located in the Department of Transportation, Division of Motor Vehicles License and Theft Bureau, including the personnel positions, salaries, property, and other funds allocated for sworn law enforcement personnel, are transferred to the State Highway Patrol. All statutory authority, powers, duties, and functions currently statutorily assigned to the Department of Transportation, Division of Motor Vehicles, and performed by the Department of Transportation, Division of Motor Vehicles License and Theft Bureau, that are required to be performed by sworn law enforcement personnel are transferred to the State Highway Patrol. This transfer has all the elements of a Type I transfer, as defined in G.S. 143A-6.

The State Highway Patrol shall be considered a continuation of the transferred portion of the Department of Transportation, Division of Motor Vehicles License and Theft Bureau, for the purpose of succession to all rights, powers, duties, and obligations of the transferred portion of the License and Theft Bureau and of those rights, powers, duties, and obligations exercised by the Department of Transportation, Division of Motor Vehicles, on behalf of the transferred portion of the License and Theft Bureau.

All equipment, supplies, or other properties rented or controlled by the Department of Transportation, Division of Motor Vehicles License and Theft Bureau, for the use by or benefit of sworn law enforcement personnel shall be administered by the State Highway Patrol.

SECTION 3E.1.(p) Article 17 of Chapter 143B of the General Statutes, as enacted by subsections (e), (f), (h), and (l) of this section, reads as rewritten:

"Article 17.

"State Highway Patrol.

"Part 1. General Provisions.

§ 143B-1700. Patrol under supervision of Department of Public Safety-Organization.

~~The Secretary of Public Safety, under the direction of the Governor, shall have supervision, direction and control of the State Highway Patrol. The Secretary shall establish in the Department of Public Safety a State Highway Patrol Division, prescribe regulations governing the Division, and assign to the Division such duties as the Secretary may deem proper.~~

(a) There is established the State Highway Patrol. The head of the State Highway Patrol is the Commander of the State Highway Patrol (Commander).

(b) The Commander shall be appointed by the Governor for a term of five years subject to confirmation by the General Assembly by joint resolution. The first full five-year term shall begin July 1, 2025. The Commander shall be appointed by the Governor from the uniformed members of the North Carolina State Highway Patrol who have met all requirements for employment within the Patrol, including completion of the basic Patrol school, and the Commander's rank shall be designated by the Governor.

The Governor shall submit the name of the person to be appointed, for confirmation by the General Assembly, to the General Assembly by May 1 of the year in which the Commander is to be appointed. If the Governor does not submit the name by that date, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall submit a name to the General Assembly on or before May 15 of the same year. The appointment shall then be made by enactment of a bill. The bill shall state the name of the person being appointed, the office to which the appointment is being made, the effective date of the appointment, the date of expiration of the term, the residence of the appointee, and that the appointment is made upon the joint

recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Nothing precludes any member of the General Assembly from proposing an amendment to any bill making such an appointment. If there is no vacancy in the office of the Commander of the State Highway Patrol and a bill that would confirm the appointment of the person as Commander fails a reading in either chamber of the General Assembly, then the Governor shall submit a new name within 30 days.

(c) In case of a vacancy in the office of Commander of the State Highway Patrol for any reason prior to the expiration of the Commander's term of office, the name of the Commander's successor shall be submitted by the Governor to the General Assembly not later than 60 days after the vacancy arises. If a vacancy arises in the office when the General Assembly is not in session, an acting Commander shall be appointed by the Governor to serve pending confirmation by the General Assembly. However, in no event shall an acting Commander serve (i) for more than 12 months without General Assembly confirmation or (ii) after a bill that would confirm the appointment of the person as Commander fails a reading in either chamber of the General Assembly.

(d) The powers and duties of the chiefs, directors, and the divisions of the State Highway Patrol shall be subject to the direction and control of the Commander of the State Highway Patrol.

"§ 143B-1701. Powers and duties of the State Highway Patrol.

It shall be the duty of the State Highway Patrol to do all of the following:

- (1) To provide assigned law enforcement and emergency services to protect the public against crime and against natural and man-made disasters.
- (2) To plan and direct a coordinated effort by the law enforcement agencies of State government and to ensure maximum cooperation between State and local law enforcement agencies in the fight against crime.
- (3) To serve as the State's chief coordinating agency to control crime, to ensure the safety of the public, and to ensure an effective and efficient State criminal justice system.
- (4) To have charge of investigations of criminal matters particularly set forth in this Article and of other crimes and areas of concern as the General Statutes or the Governor may direct.
- (5) To regularly patrol the highways of the State and enforce all laws and regulations respecting travel and the use of vehicles upon the highways of the State and all laws for the protection of the highways of the State.
- (6) To develop a plan for a coordinated and integrated electronic communications system for State government and cooperating local agencies, including coordination and integration of existing electronic communications systems.

"§ 143B-1702. Powers and duties of the Commander of the State Highway Patrol.

The Commander of the State Highway Patrol shall have the powers and duties as are conferred on the Commander by this Article, delegated to the Commander by the Governor, and conferred on the Commander by the Constitution and laws of this State. These powers and duties include the following:

- (1) Provision of assistance to other agencies. – The Commander, through appropriate subunits of the State Highway Patrol, shall, at the request of the Governor, provide assistance to State and local law enforcement agencies, district attorneys, and judges when called upon by them and so directed.
- (2) Rulemaking. – The Commander is authorized to adopt rules and procedures for the implementation of this section.
- (3) Other powers and duties. – The Commander has the following additional powers and duties:
 - a. Adopting rules as may be required by the federal government for federal grants-in-aid for criminal justice purposes and to implement

and carry out the regulatory and enforcement duties assigned to the State Highway Patrol as provided by the various commercial vehicle, oversize/overweight, motor carrier safety, motor fuel, and mobile and manufactured home statutes.

- b. Appointing a special police officer to serve as Chief of the State Capitol Police Division.

"Part 2. State Highway Patrol Division.

"§ 143B-1705. Personnel; appointment; salaries.

(a) ~~The State Highway Patrol shall consist of a commanding officer, who shall be appointed by the Governor and whose rank shall be designated by the Governor, and such additional subordinate officers and members as the Secretary of Public Safety, with the approval of the Governor, shall direct. Members of the State Highway Patrol Division shall be appointed by the ~~Secretary, Commander,~~ with the approval of the Governor, and shall serve at the pleasure of the Governor and ~~Secretary, Commander.~~ The ~~commanding officer, Commander,~~ other officers and members of the State Highway Patrol Division shall be paid such salaries as may be established by the Division of Personnel of the Department of Administration. Notwithstanding any other provision of this Article, the number of supervisory personnel of the State Highway Patrol Division shall not exceed a number equal to twenty-one percent (21%) of the personnel actually serving as uniformed highway patrolmen. Nothing in the previous sentence is intended to require the demotion, reassignment or change in status of any member of the State Highway Patrol Division presently assigned in a supervisory capacity. If a reduction in the number of Highway Patrol Division personnel assigned in supervisory capacity is required in order for the State Highway Patrol Division to meet the mandatory maximum percentage of supervisory personnel as set out in the fourth sentence of this subsection, that reduction shall be achieved through normal attrition resulting from supervisory personnel resigning, retiring or voluntarily transferring from supervisory positions.~~

(a1) Applicants for employment as a State Trooper shall be at least 21 years of age and not more than 39 years of age as of the first day of patrol school. Highway Patrol enforcement personnel hired on or after July 1, 2013, shall retire not later than the end of the month in which their 62nd birthday falls.

(b) to (f) Repealed by Session Laws 1979, 2nd Session, c. 1272, s. 2.

(g), (h) Struck out by Session Laws 1961, c. 833, s. 6.2.

(i) Positions in the State Highway Patrol Division approved by the General Assembly in the first fiscal year of a biennium to be added in the second fiscal year of a biennium may not be filled before adjustments to the budget for the second fiscal year of the budget are enacted by the General Assembly. If a position to be added in the State Highway Patrol Division for the second fiscal year of the biennium requires training, no applicant may be trained to fill the position until the budget adjustments for the second fiscal year are enacted by the General Assembly.

"§ 143B-1710. Trooper training; reimbursement.

(a) Trooper Training Reimbursement. – The training of State Troopers is a substantial investment of State resources that provides individuals with skills that are transferable to other law enforcement opportunities. The State may require an individual to agree in writing to reimburse a portion of the training costs incurred if the individual completes the training and becomes a State Trooper but does not remain a State Trooper for 36 months. The portion of the State's cost to be reimbursed is thirty-six thousand dollars (\$36,000), less one thousand dollars (\$1,000) for each month an individual served as a State Trooper and member of the State Highway Patrol.

(b) Administration. – ~~The Secretary of Public Safety, Commander~~ shall perform all of the administrative functions necessary to implement the reimbursement agreements required by this section, including rule making, disseminating information, implementing contracts, and taking other necessary actions.

(c) Hardships. – No contract shall be enforced under this section if the ~~Secretary~~ Commander finds that it is impossible for the individual to serve as a member of the State Highway Patrol Division due to death, health-related reasons, or other hardship.

(d) Law Enforcement Agency Requirements. – If a State Trooper separates from the State Highway Patrol Division before 36 months of service following completion of the training program and the State Trooper is hired within six months of separation from the State Highway Patrol Division by a municipal law enforcement agency, a Sheriff's office, or a company police agency certified under Chapter 74E of the General Statutes, then that hiring entity is liable to the State in the amount of thirty-six thousand dollars (\$36,000), to be paid in full within 90 days of the date the State Trooper is employed by the hiring entity. No hiring entity shall make any arrangement to circumvent any portion of this subsection.

"§ 143B-1710.1. Annual report on trooper training reimbursement agreements.

By January 1, 2021, and annually thereafter, the ~~Secretary~~ Commander shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the following:

- (1) The implementation of the trooper training reimbursement agreements required under ~~G.S. 20-185.1~~ G.S. 143B-1710.
- (2) The amount of reimbursements received from individuals who did not remain employed as State Troopers for 36 months after completing training and the amount of reimbursements received from other law enforcement agencies, as required under ~~G.S. 20-185.1(d)~~ G.S. 143B-1710(d).
- (3) Program outcomes, including the turnover rate for individuals employed as State Troopers on and after the date ~~the Department of Public Safety implemented~~ the trooper training reimbursement agreements were implemented.

"§ 143B-1711. Oath of office.

Each member of the State Highway Patrol Division shall subscribe and file with the ~~Secretary of Public Safety~~ Commander of the State Highway Patrol an oath of office for the faithful performance of ~~his~~ the member's duties.

"§ 143B-1712. Orders and rules for organization and conduct.

The ~~Secretary of Public Safety~~ Commander is authorized and empowered to make all necessary orders, rules and regulations for the organization, assignment, and conduct of the members of the State Highway Patrol Patrol Division. Such orders, rules and regulations shall be subject to the approval of the Governor.

"§ 143B-1713. Awards.

(a) The ~~patrol commander~~ Commander shall appoint an awards committee consisting of one troop commander, one troop executive officer, one district sergeant, one corporal, two troopers and one member of patrol headquarters staff. All committee members shall serve for a term of one year. The member from patrol headquarters staff shall serve as secretary to the committee and shall vote only in case of ties. The committee shall meet at such times and places designated by the ~~patrol commander~~ Commander.

(b) The award to be granted under the provisions of this section shall be the North Carolina State Highway Patrol award of honor. The North Carolina State Highway Patrol award of honor is awarded in the name of the people of North Carolina and by the Governor to a person who, while a member of the North Carolina State Highway Patrol, distinguishes himself conspicuously by gallantry and intrepidity at the risk of personal safety and beyond the call of duty while engaged in the preservation of life and property. The deed performed must have been one of personal bravery and self-sacrifice so conspicuous as to clearly distinguish the individual above his colleagues and must have involved risk of life. Proof of the performance of the service will be required and each recommendation for the award of this decoration will be considered on the standard of extraordinary merit.

(c) Recipients of the awards hereinabove provided for will be entitled to receive a framed certificate of the award and an insignia designed to be worn as a part of the State Highway Patrol uniform.

(d) The awards committee shall review and investigate all reports of outstanding service and shall make recommendations to the ~~patrol commander~~ Commander with respect thereto. The committee shall consider members of the Patrol for the awards created by this section when properly recommended by any individual having personal knowledge of an act, achievement or service believed to warrant the award of a decoration. No recommendation shall be made except by majority vote of all members of the committee. All recommendations of the committee shall be in writing and shall be forwarded to the ~~patrol commander~~ Commander.

(e) Upon receipt of a recommendation of the committee, the ~~patrol commander~~ Commander shall inquire into the facts of the matter and shall ~~reduce his recommendation to writing. The patrol commander shall forward his recommendation, together with the recommendation of the committee, to the Secretary of Public Safety. The Secretary shall have final authority to approve or disapprove recommendations affecting the issuance of all awards except the award of honor. All recommendations for the award of honor shall be forwarded to the Governor for final approval or disapproval.~~

(f) The ~~patrol commander shall, with the approval of the Secretary,~~ Commander shall establish all necessary rules and regulations to fully implement the provisions of this section and such rules and regulations shall include, but shall not be limited to, the following:

- (1) Announcement of ~~awards~~ awards.
- (2) Presentation of ~~awards~~ awards.
- (3) Recording of ~~awards~~ awards.
- (4) Replacement of ~~awards~~ awards.
- (5) Authority to wear award insignias.

"§ 143B-1714. Quotas prohibited.

(a) The ~~Secretary of Public Safety~~ Commander shall not make or permit to be made any order, rule, or regulation requiring the issuance of any minimum number of traffic citations, or ticket quotas, by any member or members of the State Highway Patrol. Pay and promotions of members of the Highway Patrol shall be based on their overall job performance and not on the basis of the volume of citations issued or arrests made. Members of the Highway Patrol shall be subject to the salary schedule established by the ~~Secretary of Public Safety~~ Commander and shall receive longevity pay for service as applicable to other State employees generally.

(b) Repealed by Session Laws 2018-5, s. 35.25(b), effective July 1, 2018.

"§ 143B-1715. Trademark authorization.

The North Carolina Troopers Association is authorized to use all trademarks identifying the North Carolina State Highway Patrol held by the ~~North Carolina Department of Public Safety~~ State Highway Patrol or its Divisions. The use authorized under this section shall be limited to purposes that support the State Highway Patrol, employees of the State Highway Patrol, and the family members of the employees of the State Highway Patrol.

"§ 143B-1716. Duties of Highway Patrol.

The State Highway Patrol shall be subject to such orders, rules and regulations as may be adopted by the ~~Secretary of Public Safety,~~ Commander, with the approval of the Governor, and shall regularly patrol the highways of the State and enforce all laws and regulations respecting travel and the use of vehicles upon the highways of the State and all laws for the protection of the highways of the State. To this end, the members of the Patrol are given the power and authority of peace officers for the service of any warrant or other process issuing from any of the courts of the State having criminal jurisdiction, and are likewise authorized to arrest without warrant any person who, in the presence of said officers, is engaged in the violation of any of the laws of the State regulating travel and the use of vehicles upon the highways, or of laws with respect to the protection of the highways, and they shall have jurisdiction anywhere within the

State, irrespective of county lines. The State Highway Patrol shall enforce the provisions of G.S. 14-399.

The State Highway Patrol shall have full power and authority to perform such additional duties as peace officers as may from time to time be directed by the Governor, and such officers may at any time and without special authority, either upon their own motion or at the request of any sheriff or local police authority, arrest persons accused of highway robbery, bank robbery, murder, or other crimes of violence.

The ~~Secretary of Public Safety~~ Commander shall direct the officers and members of the State Highway Patrol in the performance of such other duties as may be required for the enforcement of the motor vehicle laws of the State.

Members of the State Highway Patrol, in addition to the duties, power and authority hereinbefore given, shall have the authority throughout the State of North Carolina of any police officer in respect to making arrests for any crimes committed in their presence and shall have authority to make arrests for any crime committed on any highway.

Regardless of territorial jurisdiction, any member of the State Highway Patrol who initiates an investigation of an accident or collision may not relinquish responsibility for completing the investigation, or for filing criminal charges as appropriate, without clear assurance that another law-enforcement officer or agency has fully undertaken responsibility, and in such cases he shall render reasonable assistance to the succeeding officer or agency if requested.

The State Highway Patrol recognizes the need to utilize private wrecker services to remove vehicles from public roadways as part of its public safety responsibility. In order to assure that this public safety responsibility is accomplished, the Troop Commander shall include on the Highway Patrol's rotation wrecker list only those wrecker services which agree in writing to impose reasonable charges for work performed and present one bill to the owner or operator of any towed vehicle. Towing, storage, and related fees charged may not be greater than fees charged for the same service for nonrotation calls that provide the same service, labor, and conditions.

"§ 143B-1717. Patrolmen assigned to Governor's office.

The ~~Secretary of Public Safety, Commander,~~ at the request of the Governor, shall assign and attach two members of the State Highway Patrol to the office of the Governor, there to be assigned such duties and perform such services as the Governor may direct. The cost of the State Highway Patrol members so assigned to the office of the Governor shall be paid from appropriations made to the ~~Department of Public Safety.~~ State Highway Patrol.

"§ 143B-1718. Lieutenant Governor Executive Protection Detail.

(a) Creation. – There is created within the State Highway Patrol a Lieutenant Governor's Executive Protection Detail. The Lieutenant Governor shall submit the names of three sworn members in good standing of the North Carolina Highway Patrol to the Commander, and the Commander shall assign those officers to serve in the Lieutenant Governor's Executive Protection Detail. The Lieutenant Governor is authorized to remove any members of the detail, with or without cause. If the Lieutenant Governor removes a member of the detail, the Lieutenant Governor shall submit to the Commander the name of an officer to replace the member who has been removed and the Commander shall assign the replacement. Members of the Lieutenant Governor's Executive Protection Detail shall continue to be employed by the North Carolina Highway Patrol subject to the laws, rules, and regulations of the Highway Patrol. The North Carolina Highway Patrol shall provide vehicles necessary for the carrying out of the Detail's duties under this Article.

(b) Duties. – The members of the Lieutenant Governor's Executive Protection Detail shall protect the Lieutenant Governor and the Lieutenant Governor's immediate family and perform duties as assigned by the Lieutenant Governor relating to the protection of the Lieutenant Governor.

"§ 143B-1719. State Highway Patrol Security Detail.

The Speaker of the House of Representatives and the President Pro Tempore of the Senate, while traveling within the State on State business, may request a security detail. The request shall be made to the ~~commander~~ Commander of the State Highway Patrol. If the request is made at least 48 hours in advance, the ~~commander~~ Commander shall provide the detail. If the request is made less than 48 hours in advance, the ~~commander~~ Commander shall provide the detail unless doing so would otherwise impair the ability of the State Highway patrol to perform its lawful duties.

"§ 143B-1720. Uniforms; motor vehicles and arms; expense incurred; color of vehicle.

The ~~Department of Public Safety~~ State Highway Patrol shall adopt some distinguishing uniform for the members of ~~said the State Highway Patrol~~, Patrol Division and furnish each member of the Patrol with an adequate number of ~~said the~~ uniforms and each member of ~~said the~~ Patrol force when on duty shall be dressed in ~~said the~~ uniform. The ~~Department of Public Safety~~ State Highway Patrol shall likewise furnish each member of the Patrol with a suitable motor vehicle, and necessary arms, and provide for all reasonable expense incurred by ~~said the~~ Patrol while on duty, provided, that not less than eighty-three percent (83%) of the number of motor vehicles operated on the highways of the State by members of the State Highway Patrol shall be painted a uniform color of black and silver.

"§ 143B-1721. Patrol vehicles to have sirens; sounding siren.

Every motor vehicle operated on the highways of the State by officers and members of the State Highway Patrol shall be equipped with a siren. Whenever any such officer or member operating any unmarked car shall overtake another vehicle on the highway after sunset of any day and before sunrise for the purpose of stopping the same or apprehending the driver thereof, he shall sound said siren before stopping such other vehicle.

"§ 143B-1722. Assignment of new highway patrol cars.

All new highway patrol cars, whether marked or unmarked, placed in service after July 1, 1985, shall be assigned to all members of the Highway Patrol.

"§ 143B-1723. Use of facilities.

Office space and other equipment and facilities of the Division of Motor Vehicles, Department of Transportation, presently being used by the State Highway Patrol shall continue to be used by the Patrol, and joint use of space, equipment and facilities between any division of the Department of Transportation and the State Highway Patrol may continue, unless such arrangements are changed by agreements between the ~~Secretary of Public Safety~~ Commander of the State Highway Patrol and the Secretary of Transportation.

"§ 143B-1724. Shifting of personnel from one district to another.

The ~~commanding officer~~ Commander of the State Highway Patrol ~~under such rules and regulations as the Department of Public Safety may prescribe~~ shall have authority from time to time to shift the forces from one district to another, or to consolidate more than one district force at any point for special purposes. Whenever a member of the State Highway Patrol is transferred from one point to another for the convenience of the State or otherwise than upon the request of the Highway Patrol member, the ~~Department~~ State Highway Patrol shall be responsible for transporting the household goods, furniture and personal apparel of the Highway Patrol member and members of the Highway Patrol member's household.

"§ 143B-1725. Cooperation between Patrol and local officers.

The ~~Secretary of Public Safety~~ Commander of the State Highway Patrol, with the approval of the Governor, ~~through the State Highway Patrol~~, shall encourage the cooperation between the Highway Patrol and the several municipal and county peace officers of the State for the enforcement of all traffic laws and the proper administration of the Uniform Drivers' License Law, and arrangements for compensation of special services rendered by such local officers out of the funds allotted to the State Highway Patrol may be made, subject to the approval of the Director of the Budget.

"§ 143B-1726. Statewide radio system authorized; use of telephone lines in emergencies.

The ~~Secretary of Public Safety, through~~ Commander of the State Highway Patrol is hereby authorized and directed to set up and maintain a statewide radio system, with adequate broadcasting stations so situate as to make the service available to all parts of the State for the purpose of maintaining radio contact with the members of the State Highway Patrol and other officers of the State, to the end that the traffic laws upon the highways may be more adequately enforced and that the criminal use of the highways may be prevented. The ~~Secretary of Public Safety, through~~ Commander of the State Highway Patrol, is hereby authorized to establish a plan of operation in accordance with Federal Communication Commission rules so that all certified law-enforcement officers within the State may use the law enforcement emergency frequency of 155.475MHz.

The ~~Secretary of Public Safety~~ Commander of the State Highway Patrol is likewise authorized and empowered to arrange with the various telephone companies of the State for the use of their lines for emergency calls by the members of the State Highway Patrol, if it shall be found practicable to arrange apparatus for temporary contact with said telephone circuits along the highways of the State.

In order to make this service more generally useful, the various boards of county commissioners and the governing boards of the various cities and towns are hereby authorized and empowered to provide radio receiving sets in the offices and vehicles of their various officers, and such expenditures are declared to be a legal expenditure of any funds that may be available for police protection.

"§ 143B-1727. Use of aircraft to discover certain motor vehicle violations; declaration of policy.

The State Highway Patrol is hereby permitted the use of aircraft to discover violations of Part 10 of Article 3 of Chapter 20 of the General Statutes relating to operation of motor vehicles and rules of the road. It is hereby declared the public policy of North Carolina that the aircraft should be used primarily for accident prevention and should also be used incident to the issuance of warning citations in accordance with the provisions of G.S. 20-183.

"§ 143B-1728. Who may hold supervisory positions over sworn members of the Patrol.

Notwithstanding any other provision of the General Statutes, only the following individuals may hold a supervisory position over sworn members of the Patrol:

- (1) The Governor.
- (2) ~~The Secretary of Public Safety.~~
- (3) A uniformed member of the North Carolina State Highway Patrol who has met all requirements for employment within the Patrol, including completion of the basic Patrol school.

"§ 143B-1729. Oversized and hazardous shipment escort fee.

(a) Every person, firm, corporation, or entity required by the North Carolina Department of Transportation or any federal agency or commission to have a law enforcement escort provided by the State Highway Patrol for the transport of any oversized load or hazardous shipment by road or rail shall pay to the ~~Department of Public Safety~~ State Highway Patrol a fee covering the full cost to administer, plan, and carry out the escort within this State.

(b) If the State Highway Patrol provides an escort to accompany the transport of oversized loads or hazardous shipments by road or rail at the request of any person, firm, corporation, or entity that is not required to have a law enforcement escort pursuant to subsection (a) of this section, then the requester shall pay to the ~~Department of Public Safety~~ State Highway Patrol a fee covering the full cost to administer, plan, and carry out the escort within this State.

(c) A fee established under this section is subject to G.S. 12-3.1. The full cost of an escort includes costs for vehicle or equipment maintenance required before or after an escort to ensure the visibility and safety of the law enforcement escort and the motoring public.

(d) All fees collected pursuant to this section shall be placed in a special Escort Fee Account. Revenue in the account is annually appropriated to the ~~Department~~ State Highway

Patrol to reimburse the ~~Department~~ State Highway Patrol for its expenses in providing escorts under this section.

(e) Repealed by Session Laws 2010-129, s. 4, effective July 21, 2010.

"§ 143B-1730. Report on gang prevention recommendations.

The State Highway Patrol, in conjunction with the State Bureau of Investigation and the Governor's Crime Commission, shall develop recommendations concerning the establishment of priorities and needed improvements with respect to gang prevention and shall report those recommendations to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on or before March 1 of each year.

"Part 3. State Capitol Police Division.

"§ 143B-1750. Creation of State Capitol Police Division; powers and duties.

(a) Division Established. – There is created the State Capitol Police Division of the ~~Department of Public Safety~~ State Highway Patrol with the organization, powers, and duties defined in Article 1 of this Chapter, except as modified in this Part.

(b) Purpose. – The State Capitol Police Division shall serve as a police agency of the ~~Department of Public Safety~~ State Highway Patrol. The Chief of the State Capitol Police, appointed by the ~~Secretary~~ Commander pursuant to ~~G.S. 143B-602~~, G.S. 143B-1702, with the approval of the Governor, may appoint as police officers such reliable persons as the Chief may deem necessary.

(c) Appointment of Officers. – Police officers appointed pursuant to this section may not exercise the power of arrest until they shall take an oath, to be administered by any person authorized to administer oaths, as required by law.

(d) Jurisdiction of Officers. – Each State Capitol Police officer shall have the following authority:

- (1) The same power of arrest as the police officers of the City of Raleigh. Such authority may be exercised within the same territorial jurisdiction as exercised by the police officers of the City of Raleigh.
- (2) The same authority as a deputy sheriff in buildings and on the grounds of property owned, leased, or maintained by the State located in Wake County.
- (3) The same authority as a deputy sheriff in a building or a portion of a building, or on the grounds thereof, when owned or leased by the State, located anywhere in the State, when the State agency responsible for that building or any portion thereof executes a written agreement for service with the State Capitol Police related to that specific building or portion thereof.

(e) Public Safety. – The Chief of the State Capitol Police, or the Chief's designee, shall exercise at all times those means that, in the opinion of the Chief or the designee, may be effective in protecting all State buildings and grounds, except for the State legislative buildings and grounds as defined in G.S. 120-32.1(d), and the persons within those buildings and grounds from fire, bombs, bomb threats, or any other emergency or potentially hazardous conditions, including both the ordering and control of the evacuation of those buildings and grounds. The Chief, or the Chief's designee, may employ the assistance of other available law enforcement agencies and emergency agencies to aid and assist in evacuations of those buildings and grounds."

SECTION 3E.1.(q) Notwithstanding any provision of law to the contrary, positions exempted within the State Highway Patrol, State Capitol Police, or Division of Motor Vehicles by the Governor under the authority set forth in G.S. 126-5(d)(1) and transferred to the State Highway Patrol pursuant to this section shall no longer be exempt under that authority upon the effective date of this section. Nothing in this subsection shall be construed as prohibiting the Commander of the State Highway Patrol from exempting those same positions under the authority set forth in G.S. 126-5(c1)(40), as enacted by subsection (d) of this section.

SECTION 3E.1.(r) The State Highway Patrol shall adopt rules or amend its rules consistent with the provisions of this section. The State Highway Patrol may use the procedure set forth in G.S. 150B-21.1 to adopt or amend any rules as required by this subsection.

SECTION 3E.1.(s) The Department of Transportation, Division of Motor Vehicles, in consultation with the State Highway Patrol, shall review the current statutory responsibilities assigned to the Division of Motor Vehicles that are being performed by the Division of Motor Vehicles License and Theft Bureau to determine which statutory responsibilities must be performed by sworn law enforcement personnel and make recommendations for statutory changes necessary to place those responsibilities with the State Highway Patrol. The Division shall report its findings and recommendations to the Joint Legislative Transportation Oversight Committee no later than March 1, 2025.

SECTION 3E.1.(t) The State Highway Patrol is authorized to complete transitional training for all sworn law enforcement personnel transferred from the Department of Transportation, Division of Motor Vehicles License and Theft Bureau, pursuant to subsection (q) of this section to become State Troopers.

SECTION 3E.1.(u) Notwithstanding the provisions of G.S. 143B-1700, as enacted by this section, the Commander of the State Highway Patrol, position number 60084937, serving on November 18, 2024, shall, in the absence of vacancy resulting from death, resignation, or physical or mental incapacity, (i) continue to serve as the Commander of the State Highway Patrol until July 1, 2025, and (ii) serve, for the five-year term beginning July 1, 2025, without additional nomination by the Governor or confirmation by the General Assembly.

SECTION 3E.1.(v) G.S. 143B-1325(c) reads as rewritten:

"(c) Participating Agencies. – The State CIO shall prepare detailed plans to transition each of the participating agencies. As the transition plans are completed, the following participating agencies shall transfer information technology personnel, operations, projects, assets, and appropriate funding to the Department of Information Technology:

- (1) Department of Natural and Cultural Resources.
- (2) Department of Health and Human Services.
- (3) Repealed by Session Laws 2018-5, s. 37.5(b), effective June 12, 2018.
- (4) Department of Environmental Quality.
- (5) Department of Transportation.
- (6) Department of Administration.
- (7) Department of Commerce.
- (8) Governor's Office.
- (9) Office of State Budget and Management.
- (10) Office of State Human Resources.
- (11) Repealed by Session Laws 2016-94, s. 7.11(a), effective July 1, 2016.
- (12) Department of Military and Veterans Affairs.
- (13) Department of Public Safety, with the exception of the following:
 - a. State Bureau of Investigation.
 - b. ~~State Highway Patrol.~~
 - c. Division of Emergency Management.

The State CIO shall ensure that State agencies' operations are not adversely impacted under the State agency information technology consolidation."

SECTION 3E.1.(w) Section 38.4 of S.L. 2023-134, as amended by Section 7.1 of S.L. 2024-1, reads as rewritten:

SECTION 38.4.(a) In accordance with G.S. 143B-1325(c)(13), and notwithstanding any other provision of Article 15 of Chapter 143B of the General Statutes to the contrary, the State Highway Patrol, the State Bureau of Investigation, and the Division of Emergency Management within the Department of Public Safety shall continue to be entirely exempt from any and all information technology oversight by the Department of Public Safety and the Department of

Information Technology. The State Highway Patrol, the State Bureau of Investigation, and the Division of Emergency Management shall initiate a pilot project where those ~~divisions~~ agencies shall be deemed as separate, stand-alone entities ~~within the Department of Public Safety~~ in all matters related to information technology, and each shall autonomously manage their own respective information technology infrastructure and all associated services without oversight from the Department of Information Technology or the Department of Public Safety. Exemption from information technology oversight includes, but is not limited to, the following:

- (1) Information technology architecture and planning.
- (2) Information technology personnel management.
- (3) Information technology project management.
- (4) Information technology purchasing and procurement decisions and methodologies.
- (5) Hardware acquisition, configuration, implementation, and management.
- (6) Software acquisition, configuration, implementation, and management.
- (7) Data center locations, operations, and management.
- (8) Network topology, operations, and management.
- (9) System and data security, including disaster recovery planning.
- (10) Reporting requirements.
- (11) Any future transfers of information technology personnel, operations, projects, assets, and information technology budgets to the Department of Information Technology.

"SECTION 38.4.(a1) For the duration of the pilot project described in this section, the State Highway Patrol and the Division of Emergency Management shall continue to utilize personnel from the Department of Public Safety to perform information technology purchasing and procurement functions in order to ensure compliance with applicable law.

"SECTION 38.4.(b) This section expires on June 30, 2025."

SECTION 3E.1.(x) This subsection and subsections (d), (q), (s), and (u) of this section are effective when they become law. The remainder of this section becomes effective July 1, 2025.

HIGHWAY PATROL CONFORMING CHANGES

SECTION 3E.2.(a) G.S. 17C-6(a)(18) reads as rewritten:

"(18) Monitor compliance with ~~G.S. 20-185.1(d)~~, G.S. 143B-1710(d)."

SECTION 3E.2.(b) G.S. 17E-4(a)(14) reads as rewritten:

"(14) Monitor compliance with ~~G.S. 20-185.1(d)~~, G.S. 143B-1710(d)."

SECTION 3E.2.(c) G.S. 20-17.7 reads as rewritten:

"§ 20-17.7. Commercial motor vehicle out-of-service fines authorized.

The ~~Secretary of Public Safety~~ Commander of the State Highway Patrol may adopt rules implementing fines for violation of out-of-service criteria as defined in 49 C.F.R. § 390.5. These fines may not exceed the schedule of fines adopted by the Commercial Motor Vehicle Safety Alliance that is in effect on the date of the violations."

SECTION 3E.2.(d) G.S. 20-49 reads as rewritten:

"§ 20-49. Police authority of Division.

The ~~Commissioner and such officers and inspectors of the Division as he shall designate and all~~ All members of the Highway Patrol and law enforcement officers of the Department of Public Safety shall have the power:

- (1) Of peace officers for the purpose of enforcing the provisions of this Article, G.S. 14-160.4, and of any other law regulating the operation of vehicles or the use of the highways.

- (2) To make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this Article or other laws regulating the operation of vehicles or the use of the highways.
- (3) At all ~~time~~ times to direct all traffic in conformance with law, and in the event of a fire or other emergency or to expedite traffic or to ~~insure~~ ensure safety, to direct traffic as conditions may require, notwithstanding the provisions of law.
- (4) When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this Article or of any other law regulating the operation of vehicles to require the driver thereof to stop and exhibit his driver's license and the registration card issued for the vehicle, and submit to an inspection of such vehicle, the registration plates and registration card thereon or to an inspection and test of the equipment of such vehicle.
- (5) To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.
- (6) To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways.
- (7) To investigate traffic accidents and secure testimony of witnesses or of persons involved.
- (8) To investigate reported thefts of motor vehicles, trailers and semitrailers and make arrest for thefts thereof.
- (9) For the purpose of determining compliance with the provisions of this Chapter, to inspect all files and records of the persons hereinafter designated and required to be kept under the provisions of this Chapter or of the registrations of the Division:
 - a. Persons dealing in or selling and buying new, used or junked motor vehicles and motor vehicle parts; and
 - b. Persons operating garages or other places where motor vehicles are repaired, dismantled, or stored."

SECTION 3E.2.(e) G.S. 20-49.1 is repealed.

SECTION 3E.2.(f) G.S. 20-49.3 reads as rewritten:

"§ 20-49.3. ~~Bureau of License and Theft, State Highway Patrol; custody of seized vehicles.~~

(a) Vehicles Seized by the ~~Division of Motor Vehicles, State Highway Patrol.~~ – Notwithstanding any other provision of law, the ~~Division of Motor Vehicles, Bureau of License and Theft, State Highway Patrol~~ may retain any vehicle seized by the ~~Division of Motor Vehicles, Bureau of License and Theft, State Highway Patrol~~ in the course of any investigation authorized by the provisions of G.S. 20-49 or G.S. 20-49.1 and forfeited to the ~~Division State Highway Patrol~~ by a court of competent jurisdiction.

(b) Vehicles Seized by the United States Government. – Notwithstanding any other provision of law, the Division may accept custody and ownership of any vehicle seized by the United States Government, forfeited by a court of competent jurisdiction, and turned over to the Division.

(c) Use of Vehicles. – All vehicles forfeited to, or accepted by, the ~~Division State Highway Patrol~~ pursuant to this section shall be used by the ~~Bureau of License and Theft State Highway Patrol~~ to conduct undercover operations and inspection station compliance checks throughout the State.

(d) Disposition of Seized Vehicles. – Upon determination by the ~~Commissioner of Motor Vehicles Commander of the State Highway Patrol~~ that a vehicle transferred pursuant to the provisions of this section is of no further use to the agency for use in official investigations, the vehicle shall be sold as surplus property in the same manner as other vehicles owned by the law

enforcement agency and the proceeds from the sale after deducting the cost of sale shall be paid to the treasurer or proper officer authorized to receive fines and forfeitures to be used for the school fund of the county in the county in which the vehicle was seized, provided, that any vehicle transferred to any law enforcement agency under the provisions of this Article that has been modified to increase speed shall be used in the performance of official duties only and not for resale, transfer, or disposition other than as junk. The ~~Division~~State Highway Patrol shall also reimburse the appropriate county school fund for any diminution in value of any vehicle seized under subsection (a) of this section during its period of use by the ~~Division~~State Highway Patrol. Any vehicle seized outside of this State shall be sold as surplus property in the same manner as other vehicles owned by the law enforcement agency and the proceeds from the sale after deducting the cost of sale shall be paid to the treasurer and placed in the Civil Fines and Forfeitures Fund established pursuant to G.S. 115C-457.1."

SECTION 3E.2.(g) G.S. 20-84(c) reads as rewritten:

"(c) State Highway Patrol. – In lieu of all other registration requirements, the Commissioner shall each year assign to the State Highway Patrol, upon payment of six dollars (\$6.00) per registration plate, a sufficient number of regular registration plates of the same letter prefix and in numerical sequence beginning with number 100 to meet the requirements of the State Highway Patrol for use on Division vehicles assigned to the State Highway Patrol. The ~~commander~~Commander of the Patrol shall, when such plates are assigned, issue to each member of the State Highway Patrol a registration plate for use upon the Division vehicle assigned to the member pursuant to ~~G.S. 20-190~~G.S. 143B-1720 and assign a registration plate to each Division service vehicle operated by the Patrol. An index of such assignments of registration plates shall be kept at each State Highway Patrol radio station and a copy of it shall be furnished to the registration division of the Division. Information as to the individual assignments of the registration plates shall be made available to the public upon request to the same extent and in the same manner as regular registration information. The ~~commander~~Commander, when necessary, may reassign registration plates provided that the reassignment shall appear upon the index required under this subsection within 20 days after the reassignment."

SECTION 3E.2.(h) G.S. 20-102 reads as rewritten:

"§ 20-102. Report of stolen and recovered motor vehicles.

Every sheriff, chief of police, or peace officer upon receiving reliable information that any vehicle registered hereunder has been stolen shall report such theft to the ~~Division~~Division and the State Highway Patrol. Any said officer upon receiving information that any vehicle, which he has previously reported as stolen, has been recovered, shall report the fact of such recovery to the ~~Division~~Division and the State Highway Patrol."

SECTION 3E.2.(i) G.S. 20-116(e) reads as rewritten:

"(e) Except as provided by G.S. 20-115.1, no combination of vehicles coupled together shall consist of more than two units and no such combination of vehicles shall exceed a total length of 60 feet inclusive of front and rear bumpers, subject to the following exceptions: Motor vehicle combinations of one semitrailer of not more than 53 feet in length and a truck tractor (power unit) may exceed the 60-foot maximum length. Said maximum overall length limitation shall not apply to vehicles operated in the daytime when transporting poles, pipe, machinery or other objects of a structural nature which cannot readily be dismembered, nor to such vehicles transporting such objects operated at nighttime by a public utility when required for emergency repair of public service facilities or properties, provided the trailer length does not exceed 53 feet in length, but in respect to such night transportation every such vehicle and the load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of said projecting load to clearly mark the dimensions of such load: Provided that vehicles designed and used exclusively for the transportation of motor vehicles shall be permitted an overhang tolerance front or rear not to exceed five feet. Provided, that wreckers may tow a truck, combination tractor and trailer, trailer, or any other disabled vehicle or combination

of vehicles to a place for repair, parking, or storage within 50 miles of the point where the vehicle was disabled and may tow a truck, tractor, or other replacement vehicle to the site of the disabled vehicle. Provided further, that the said limitation that no combination of vehicles coupled together shall consist of more than two units shall not apply to trailers not exceeding three in number drawn by a motor vehicle used by municipalities for the removal of domestic and commercial refuse and street rubbish, but such combination of vehicles shall not exceed a total length of 50 feet inclusive of front and rear bumpers. Provided further, that the said limitation that no combination of vehicles coupled together shall consist of more than two units shall not apply to a combination of vehicles coupled together by a saddle mount device used to transport motor vehicles in a driveway service when no more than three saddle mounts are used and provided further, that equipment used in said combination is approved by the safety regulations of the Federal Highway Administration and the safety rules of the ~~Department of Public Safety~~ State Highway Patrol."

SECTION 3E.2.(j) G.S. 20-118(e) reads as rewritten:

"(e) Penalties. –

- (1) Except as provided in subdivision (2) of this subsection, for each violation of the single-axle or tandem-axle weight limits set in subdivision (b)(1), (b)(2), or (b)(4) of this section or axle weights authorized by special permit according to G.S. 20-119(a), the ~~Department of Public Safety~~ State Highway Patrol shall assess a civil penalty against the owner or registrant of the vehicle in accordance with the following schedule: for the first 1,000 pounds or any part thereof, four cents (4¢) per pound; for the next 1,000 pounds or any part thereof, six cents (6¢) per pound; and for each additional pound, ten cents (10¢) per pound. These penalties apply separately to each weight limit violated. In all cases of violation of the weight limitation, the penalty shall be computed and assessed on each pound of weight in excess of the maximum permitted.
- (2) The penalty for a violation of the single-axle or tandem-axle weight limits by a vehicle that is transporting an item listed in subdivision (c)(5) of this section is one-half of the amount it would otherwise be under subdivision (1) of this subsection.
- (3) If an axle-group weight of a vehicle exceeds the weight limit set in subdivision (b)(3) of this section plus any tolerance allowed in subsection (h) of this section or axle-group weights or gross weights authorized by special permit under G.S. 20-119(a), the ~~Department of Public Safety~~ State Highway Patrol shall assess a civil penalty against the owner or registrant of the motor vehicle. The penalty shall be assessed on the number of pounds by which the axle-group weight exceeds the limit set in subdivision (b)(3) of this section, or by a special permit issued pursuant to G.S. 20-119, as follows: for the first 2,000 pounds or any part thereof, two cents (2) per pound; for the next 3,000 pounds or any part thereof, four cents (4) per pound; for each pound in excess of 5,000 pounds, ten cents (10) per pound. Tolerance pounds in excess of the limit set in subdivision (b)(3) of this section are subject to the penalty if the vehicle exceeds the tolerance allowed in subsection (h) of this section.

These penalties apply separately to each axle-group weight limit violated. Notwithstanding any provision to the contrary, a vehicle with a special permit that is subject to additional penalties under this subsection based on a violation of any of the permit restrictions set out in G.S. 20-119(d1) shall be assessed a civil penalty, not to exceed ten thousand dollars (\$10,000), based on the number of pounds by which the axle-group weight exceeds the limit set in subdivision (b)(3) of this section.

- (4) The penalty for a violation of an axle-group weight limit by a vehicle that is transporting an item listed in subdivision (c)(5) of this section is one-half of the amount it would otherwise be under subdivision (3) of this subsection.
- (5) A violation of a weight limit in this section or of a permitted weight under G.S. 20-119 is not punishable under G.S. 20-176.
- (6) The penalty for violating the gross weight or axle-group weight by a dump truck or dump trailer vehicle transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings intrastate from a site that does not have a certified scale for weighing the vehicle is one-half of the amount it otherwise would be under subdivisions (1) and (3) of this subsection.
- (7) The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by the Department of Transportation pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 3E.2.(k) G.S. 20-119 reads as rewritten:

"§ 20-119. Special permits for vehicles of excessive size or weight; fees.

...

(a1) Where permitted by the posted road and bridge limits, the Department may issue a single trip permit for a vehicle or vehicle combination responding to an emergency event that could result in severe damage, injury, or loss of life or property resulting from any natural or man-made emergency as determined by either the ~~Secretary of Public Safety~~ Commander of the State Highway Patrol or the Secretary of Transportation or their designees. A permit issued under this subsection may allow for travel from a specific origin to destination and return 24 hours a day, seven days a week, including holidays. Permits issued under this subsection shall include a requirement for banners, flags, and other safety devices, as determined by the Department, and a requirement for a law enforcement escort or a vehicle being operated by a certified escort vehicle operator if traveling between sunset and sunrise. To obtain authorization to travel during restricted times, application shall be made with any required documentation to the proper officials as designated by the Department. If an emergency permit is issued under this subsection, the requestor shall contact the Department of Transportation's central permit office on the next business day to complete any further documentation and pay the applicable fees.

...

(d) For each violation of any of the terms or conditions of a special permit issued or where a permit is required but not obtained under this section the ~~Department of Public Safety~~ State Highway Patrol shall assess a civil penalty for each violation against the registered owner of the vehicle as follows:

- (1) A fine of one thousand five hundred dollars (\$1,500) for operating without the proper number of certified escorts as determined by the actual loaded weight or size of the vehicle combination.
- (1a) A fine of five hundred dollars (\$500.00) for any of the following: operating without the issuance of a permit, moving a load off the route specified in the permit, falsifying information to obtain a permit, or failing to comply with dimension restrictions of a permit.
- (2) A fine of two hundred fifty dollars (\$250.00) for moving loads beyond the distance allowances of an annual permit covering the movement of house trailers from the retailer's premises or for operating in violation of time of travel restrictions.
- (3) A fine of one hundred dollars (\$100.00) for any other violation of the permit conditions or requirements imposed by applicable regulations.

The Department of Transportation may refuse to issue additional permits or suspend existing permits if there are repeated violations of subdivision (1), (1a), or (2) of this subsection.

(d1) In addition to the penalties assessed under subsection (d) of this section, the ~~Department of Public Safety~~ State Highway Patrol shall assess a civil penalty, not to exceed ten thousand dollars (\$10,000), in accordance with G.S. 20-118(e)(1) and (e)(3) against the registered owner of the vehicle for any of the following:

- (1) Operating without the issuance of a required permit.
- (2) Operating off permitted route of travel.
- (3) Failing to comply with travel restrictions of the permit.
- (4) Operating without the proper vehicle registration or license for the class of vehicle being operated.

A violation of this subsection constitutes operating a vehicle without a special permit.

...

(h) No law enforcement officer shall issue a citation to a person for a violation of this section if the officer is able to determine by electronic means that the person has a permit valid at the time of the violation but does not have the permit in his or her possession. Any person issued a citation pursuant to this section who does not have the permit in his or her possession at the time of the issuance of the citation shall not be responsible for a violation, and the ~~Department of Public Safety~~ State Highway Patrol may not impose any fines under this section if the person submits evidence to the Department of the existence of a permit valid at the time of the violation within 30 days of the date of the violation.

(i) One, two, or three steel coils, transported on the same vehicle, shall be considered a nondivisible load for purposes of permit issuance pursuant to this section."

SECTION 3E.2.(I) G.S. 20-125(b) reads as rewritten:

"(b) Every vehicle owned or operated by a police ~~department or by department,~~ the Department of Public Safety including Safety, the State Highway Patrol or by Patrol, the Wildlife Resources ~~Commission or Commission,~~ the Division of Marine Fisheries of the Department of Environmental Quality, ~~or by the Division of Parks and Recreation of the Department of Natural and Cultural Resources, or by the North Carolina Forest Service of the Department of Agriculture and Consumer Services,~~ and used exclusively for law enforcement, firefighting, or other emergency response purposes, or by the Division of Emergency Management, or by a fire department, either municipal or rural, or by a fire patrol, whether such fire department or patrol be a paid organization or a voluntary association, vehicles used by an organ procurement organization or agency for the recovery and transportation of human tissues and organs for transplantation, and every ambulance or emergency medical service emergency support vehicle used for answering emergency calls, shall be equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles.

The operators of all such vehicles so equipped are hereby authorized to use such equipment at all times while engaged in the performance of their duties and services, both within their respective corporate limits and beyond.

In addition to the use of special equipment authorized and required by this subsection, the chief and assistant chiefs of any police department or of any fire department, whether the same be municipal or rural, paid or voluntary, county fire marshals, assistant fire marshals, transplant coordinators, and emergency management coordinators, are hereby authorized to use such special equipment on privately owned vehicles operated by them while actually engaged in the performance of their official or semiofficial duties or services either within or beyond their respective corporate limits.

And vehicles driven by law enforcement officers of the North Carolina Division of Motor Vehicles shall be equipped with a bell, siren, or exhaust whistle of a type approved by the Commissioner, and all vehicles owned and operated by the State Bureau of Investigation for the use of its agents and officers in the performance of their official duties may be equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles.

Every vehicle used or operated for law enforcement purposes by the sheriff or any salaried deputy sheriff or salaried rural policeman of any county, whether owned by the county or not, may be, but is not required to be, equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles. Such special equipment shall not be operated or activated by any person except by a law enforcement officer while actively engaged in performing law enforcement duties.

In addition to the use of special equipment authorized and required by this subsection, the chief and assistant chiefs of each emergency rescue squad which is recognized or sponsored by any municipality or civil preparedness agency, are hereby authorized to use such special equipment on privately owned vehicles operated by them while actually engaged in their official or semiofficial duties or services either within or beyond the corporate limits of the municipality which recognizes or sponsors such organization."

SECTION 3E.2.(m) G.S. 20-183.9 reads as rewritten:

"§ 20-183.9. Establishment and maintenance of permanent weigh stations.

The ~~Department of Public Safety~~ State Highway Patrol is hereby authorized, empowered and directed to equip and operate permanent weigh stations equipped to weigh vehicles using the streets and highways of this State to determine whether such vehicles are being operated in accordance with legislative enactments relating to weights of vehicles and their loads. The permanent weigh stations shall be established at such locations on the streets and highways in this State as will enable them to be used most advantageously in determining the weight of vehicles and their loads. The Department of Transportation shall be responsible for the maintenance and upkeep of all permanent weigh stations established pursuant to this section."

SECTION 3E.2.(n) G.S. 20-183.10 reads as rewritten:

"§ 20-183.10. Operation of the permanent weigh stations by the ~~Department of Public Safety~~, State Highway Patrol, uniformed personnel.

The permanent weigh stations to be established pursuant to the provisions of this Article shall be operated by the ~~Department of Public Safety~~, State Highway Patrol, who shall assign a sufficient number of sworn and nonsworn personnel to the various weigh stations. Sworn personnel of the State Highway Patrol shall supervise all nonsworn personnel assigned to weigh stations. The sworn and nonsworn personnel shall have authority to weigh vehicles and to assess civil penalties pursuant to Article 3, Part 9 of this Chapter and shall wear uniforms to be selected and furnished by the ~~Department of Public Safety~~, State Highway Patrol. The uniformed sworn and nonsworn personnel assigned to the various permanent weigh stations shall weigh vehicles and complete various reports as may be necessary for recording violations relating to the weight of vehicles and their loads. The uniformed officers assigned to the various permanent weigh stations shall have the powers of peace officers for the purpose of enforcing the provisions of this Chapter and in making arrests, serving process, and appearing in court in all matters and things relating to the weight of vehicles and their loads."

SECTION 3E.2.(o) G.S. 20-377 reads as rewritten:

"§ 20-377. General powers of ~~Department of Public Safety~~, State Highway Patrol.

The ~~Department of Public Safety~~ State Highway Patrol shall have and exercise such general power and authority to supervise and control the motor carriers of the State as may be necessary to carry out the laws providing for their regulation, and all such other powers and duties as may be necessary or incident to the proper discharge of its duties."

SECTION 3E.2.(p) G.S. 20-379 reads as rewritten:

"§ 20-379. ~~Department of Public Safety~~ State Highway Patrol to audit motor carriers for compliance.

The ~~Department of Public Safety~~ State Highway Patrol must periodically audit each motor carrier to determine if the carrier is complying with this Article and, if the motor carrier is subject to regulation by the North Carolina Utilities Commission, with Chapter 62 of the General Statutes. In conducting the audit, the ~~Department of Public Safety~~ State Highway Patrol may

examine a person under oath, compel the production of papers and the attendance of witnesses, and copy a paper for use in the audit. An employee of the ~~Department of Public Safety State Highway Patrol~~ may enter the premises of a motor carrier during reasonable hours to enforce this Article. When on the premises of a motor carrier, an employee of the ~~Department of Public Safety State Highway Patrol~~ may set up and use equipment needed to make the tests required by this Article."

SECTION 3E.2.(q) G.S. 20-380 reads as rewritten:

"§ 20-380. ~~Department of Public Safety State Highway Patrol~~ may investigate accidents involving motor carriers and promote general safety program.

The ~~Department of Public Safety State Highway Patrol~~ may conduct a program of accident prevention and public safety covering all motor carriers with special emphasis on highway safety and transport safety and may investigate the causes of any accident on a highway involving a motor carrier. Any information obtained in an investigation shall be reduced to writing and a report thereof filed in the office of the ~~Department of Public Safety, State Highway Patrol~~, which shall be subject to public inspection but such report shall not be admissible in evidence in any civil or criminal proceeding arising from such accident. The ~~Department of Public Safety State Highway Patrol~~ may adopt rules for the safety of the public as affected by motor carriers and the safety of motor carrier employees. The ~~Department of Public Safety State Highway Patrol~~ shall cooperate with and coordinate its activities for motor carriers with other agencies and organizations engaged in the promotion of highway safety and employee safety."

SECTION 3E.2.(r) G.S. 20-381 reads as rewritten:

"§ 20-381. Specific powers and duties of ~~Department of Public Safety State Highway Patrol~~ applicable to motor carriers; agricultural exemption.

(a) The ~~Department of Public Safety State Highway Patrol~~ has the following powers and duties concerning motor carriers:

- (1) To prescribe qualifications and maximum hours of service of drivers and their helpers.
- (1a) To set safety standards for vehicles of motor carriers engaged in foreign, interstate, or intrastate commerce over the highways of this State and for the safe operation of these vehicles. The ~~Department of Public Safety State Highway Patrol~~ may stop, enter upon, and perform inspections of motor carriers' vehicles in operation to determine compliance with these standards and may conduct any investigations and tests it finds necessary to promote the safety of equipment and the safe operation on the highway of these vehicles.
- (1b) To enforce this Article, rules adopted under this Article, and the federal safety and hazardous materials regulations.
- (2) To enter the premises of a motor carrier to inspect a motor vehicle or any equipment used by the motor carrier in transporting passengers or property.
- (2a) To prohibit the use by a motor carrier of any motor vehicle or motor vehicle equipment the ~~Department of Public Safety State Highway Patrol~~ finds, by reason of its mechanical condition or loading, would be likely to cause a crash or breakdown in the transportation of passengers or property on a highway. If an agent of the ~~Department of Public Safety State Highway Patrol~~ finds a motor vehicle of a motor carrier in actual use upon the highways in the transportation of passengers or property that, by reason of its mechanical condition or loading, would be likely to cause a crash or breakdown, the agent shall declare the vehicle "Out of Service." The agent shall require the operator thereof to discontinue its use and to substitute therefor a safe vehicle, parts or equipment at the earliest possible time and place, having regard for both the convenience and the safety of the passengers or property. When an inspector or agent stops a motor vehicle on the highway, under authority of this section,

and the motor vehicle is declared "Out of Service," no motor carrier operator shall require, or permit, any person to operate, nor shall any person operate, any motor vehicle equipment declared "Out of Service" until all repairs required by the "Out of Service" notice have been satisfactorily completed. Such agents or inspectors shall also have the right to stop any motor vehicle which is being used upon the public highways for the transportation of passengers or property by a motor carrier subject to the provisions of this Article and to eject therefrom any driver or operator who shall be operating or be in charge of such motor vehicle while under the influence of alcoholic beverages or impairing substances. It shall be the duty of all inspectors and agents of the ~~Department of Public Safety~~ State Highway Patrol to make a written report, upon a form prescribed by the ~~Department of Public Safety~~, State Highway Patrol, of inspections of all motor equipment and a copy of each such written report, disclosing defects in such equipment, shall be served promptly upon the motor carrier operating the same, either in person by the inspector or agent or by mail. Such agents and inspectors shall also make and serve a similar written report in cases where a motor vehicle is operated in violation of this Chapter or, if the motor vehicle is subject to regulation by the North Carolina Utilities Commission, of Chapter 62 of the General Statutes.

- (3) To relieve the highways of all undue burdens and safeguard traffic thereon by adopting and enforcing rules and orders designed and calculated to minimize the dangers attending transportation on the highways of all hazardous materials and other commodities.
- (4) To determine the safety fitness of intrastate motor carriers, to assign safety ratings to intrastate motor carriers as defined in 49 C.F.R. § 385.3, to direct intrastate motor carriers to take remedial action when required, to prohibit the operation of intrastate motor carriers when subject to an out-of-service order issued by the Federal Motor Carrier Safety Administration or the ~~Department~~, State Highway Patrol.
- (5) To enforce any order issued by the Federal Motor Carrier Safety Administration including the authority to seize registration plates pursuant to the provisions of G.S. 20-45 from motor carriers whose registration was rescinded and cancelled pursuant to G.S. 20-110(m) or G.S. 20-110(n).

...."

SECTION 3E.2.(s) G.S. 20-382.2 reads as rewritten:

"§ 20-382.2. Penalty for failure to comply with registration or insurance verification requirements.

(a) Acts. – A motor carrier who does any of the following is subject to a civil penalty of one thousand dollars (\$1,000):

- (1) Operates a for-hire motor vehicle in this State without registering its operations, as required by this Part.
- (2) Repealed by Session Laws 2007-492, s. 4, effective August 30, 2007.
- (3) Operates a for-hire motor vehicle in intrastate commerce in this State for which it has not verified it has insurance, as required by G.S. 20-382.1.

(b) Payment and Review. – When the ~~Department of Public Safety~~ State Highway Patrol finds that a for-hire motor vehicle is operated in this State in violation of the registration and insurance verification requirements of this Part, the ~~Department~~ State Highway Patrol must place the motor vehicle out of service until the motor carrier is in compliance and the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty. A motor carrier that denies liability

for a penalty imposed under this section may pay the penalty under protest and follow the procedure in G.S. 20-178.1 for a departmental review of the penalty.

(c) Judicial Restriction. – A court of this State may not issue a restraining order or an injunction to restrain or enjoin the collection of a penalty imposed under this section or to permit the operation of a vehicle placed out of service under this section without payment of the penalty.

(d) Proceeds. – A penalty imposed under this section is payable to the Department of Transportation, Fiscal Section. The clear proceeds of all civil penalties assessed by the ~~Department of Public Safety~~ State Highway Patrol pursuant to this section, minus any fees paid as interest, filing fees, attorneys' fees, or other necessary costs of court associated with the defense of penalties imposed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 3E.2.(t) G.S. 20-383 reads as rewritten:

"§ 20-383. Inspectors and officers given enforcement authority.

Only designated inspectors, officers, and personnel of the ~~Department of Public Safety~~ State Highway Patrol shall have the authority to enforce the provisions of this Article and provisions of Chapter 62 applicable to motor transportation, and they are empowered to make complaint for the issue of appropriate warrants, information, presentments or other lawful process for the enforcement and prosecution of violations of the transportation laws against all offenders, whether they be regulated motor carriers or not, and to appear in court or before the North Carolina Utilities Commission and offer evidence at the trial pursuant to such processes."

SECTION 3E.2.(u) Part 4 of Article 17 of Chapter 20 of the General Statutes reads as rewritten:

"Part 4. Penalties and Actions.

"§ 20-387. Motor carrier violating any provision of Article, rules or orders; penalty.

Any motor carrier which violates any of the provisions of this Article or refuses to conform to or obey any rule, order or regulation of the Division or ~~Department of Public Safety~~ State Highway Patrol shall, in addition to the other penalties prescribed in this Article forfeit and pay a sum up to one thousand dollars (\$1,000) for each offense, to be recovered in an action to be instituted in the Superior Court of Wake County, in the name of the State of North Carolina on the relation of the ~~Department of Public Safety~~ State Highway Patrol; and each day such motor carrier continues to violate any provision of this Article or continues to refuse to obey or perform any rule, order or regulation prescribed by the Division or ~~Department of Public Safety~~ State Highway Patrol shall be a separate offense.

...

"§ 20-389. Actions to recover penalties.

Except as otherwise provided in this Article, an action for the recovery of any penalty under this Article shall be instituted in Wake County, and shall be instituted in the name of the State of North Carolina on the relation of the ~~Department of Public Safety~~ State Highway Patrol against the person incurring such penalty; or whenever such action is upon the complaint of any injured person, it shall be instituted in the name of the State of North Carolina on the relation of the ~~Department of Public Safety~~ State Highway Patrol upon the complaint of such injured person against the person incurring such penalty. Such action may be instituted and prosecuted by the Attorney General, the District Attorney of the Wake County Superior Court, or the injured person. The procedure in such actions, the right of appeal and the rules regulating appeals shall be the same as provided by law in other civil actions.

"§ 20-390. Refusal to permit ~~Department of Public Safety~~ State Highway Patrol to inspect records made misdemeanor.

Any motor carrier, its officers or agents in charge thereof, that fails or refuses upon the written demand of the ~~Department of Public Safety~~ State Highway Patrol to permit its authorized representatives or employees to examine and inspect its books, records, accounts and documents, or its plant, property, or facilities, as provided for by law, shall be guilty of a Class 3

misdemeanor. Each day of such failure or refusal shall constitute a separate offense and each such offense shall be punishable only by a fine of not less than five hundred dollars (\$500.00) and not more than five thousand dollars (\$5,000).

"§ 20-391. Violating rules, with injury to others.

If any motor carrier doing business in this State by its agents or employees shall be guilty of the violations of the rules and regulations provided and prescribed by the Division or the ~~Department of Public Safety, State Highway Patrol~~, and if after due notice of such violation given to the principal officer thereof, if residing in the State, or, if not, to the manager or superintendent or secretary or treasurer if residing in the State, or, if not, then to any local agent thereof, ample and full recompense for the wrong or injury done thereby to any person as may be directed by the Division or ~~Department of Public Safety State Highway Patrol~~ shall not be made within 30 days from the time of such notice, such motor carrier shall incur a penalty for each offense of five hundred dollars (\$500.00).

"§ 20-392. Failure to make report; obstructing Division or ~~Department of Public Safety, State Highway Patrol~~.

Every officer, agent or employee of any motor carrier, who shall willfully neglect or refuse to make and furnish any report required by the Division or ~~Department of Public Safety State Highway Patrol~~ for the purposes of this Article, or who shall willfully or unlawfully hinder, delay or obstruct the Division or ~~Department of Public Safety State Highway Patrol~~ in the discharge of the duties hereby imposed upon it, shall forfeit and pay five hundred dollars (\$500.00) for each offense, to be recovered in an action in the name of the State. A delay of 10 days to make and furnish such report shall raise the presumption that the same was willful.

"§ 20-393. Disclosure of information by employee of ~~Department of Public Safety State Highway Patrol~~ unlawful.

It shall be unlawful for any agent or employee of the ~~Department of Public Safety State Highway Patrol~~ knowingly and willfully to divulge any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of this Article, except to the ~~Department of Public Safety State Highway Patrol~~ or as may be directed by the ~~Department of Public Safety State Highway Patrol~~ or upon approval of a request to the ~~Department of Public Safety State Highway Patrol~~ by the Utilities Commission or by a court or judge thereof.

...

"§ 20-396. Unlawful motor carrier operations.

(a) Any person, whether carrier, shipper, consignee, or any officer, employee, agent, or representative thereof, who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, shall knowingly and willfully seek to evade or defeat regulations as in this Article provided for motor carriers, shall be deemed guilty of a Class 3 misdemeanor and only punished by a fine of not more than five hundred dollars (\$500.00) for the first offense and not more than two thousand dollars (\$2,000) for any subsequent offense.

(b) Any motor carrier, or other person, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Division or ~~Department of Public Safety State Highway Patrol~~ as required by this Article, or other applicable law, or to make specific and full, true, and correct answer to any question within 30 days from the time it is lawfully required by the Division or ~~Department of Public Safety State Highway Patrol~~ so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Division or ~~Department of Public Safety State Highway Patrol~~ or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully neglect or fail to make true and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, or person

required under this Article to keep the same, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Division or ~~Department of Public Safety~~ State Highway Patrol with respect thereto, shall be deemed guilty of a Class 3 misdemeanor and be punished for each offense only by a fine of not more than five thousand dollars (\$5,000). As used in this subsection the words "kept" and "keep" shall be construed to mean made, prepared or compiled as well as retained.

"§ 20-397. Furnishing false information to the ~~Department of Public Safety~~; State Highway Patrol; withholding information from the ~~Department of Public Safety~~.State Highway Patrol.

(a) Every person, firm or corporation operating under the jurisdiction of the ~~Department of Public Safety~~ State Highway Patrol or who is required by law to file reports with the ~~Department of Public Safety~~ State Highway Patrol who shall knowingly or willfully file or give false information to the ~~Department of Public Safety~~ State Highway Patrol in any report, reply, response, or other statement or document furnished to the ~~Department of Public Safety~~ State Highway Patrol shall be guilty of a Class 1 misdemeanor.

(b) Every person, firm, or corporation operating under the jurisdiction of the ~~Department of Public Safety~~ State Highway Patrol or who is required by law to file reports with the ~~Department of Public Safety~~ State Highway Patrol who shall willfully withhold clearly specified and reasonably obtainable information from the ~~Department of Public Safety~~ State Highway Patrol in any report, response, reply or statement filed with the ~~Department of Public Safety~~ State Highway Patrol in the performance of the duties of the ~~Department of Public Safety~~ State Highway Patrol or who shall fail or refuse to file any report, response, reply or statement required by the ~~Department of Public Safety~~ State Highway Patrol in the performance of the duties of the ~~Department of Public Safety~~ State Highway Patrol shall be guilty of a Class 1 misdemeanor.

...."

SECTION 3E.2.(v) G.S. 74E-4(10) reads as rewritten:

"(10) To monitor compliance with ~~G.S. 20-185.1(d)~~ G.S. 143B-1710(d)."

SECTION 3E.2.(w) G.S. 105-259(b)(7) reads as rewritten:

"(7) To exchange information with the ~~State Highway Patrol of the Department of Public Safety~~, Patrol, the Division of Motor Vehicles of the Department of Transportation, the International Fuel Tax Association, Inc., or the Joint Operations Center for National Fuel Tax Compliance when the information is needed to fulfill a duty imposed on the Department of Revenue, the ~~State Highway Patrol of the Department of Public Safety~~, Patrol, or the Division of Motor Vehicles of the Department of Transportation."

SECTION 3E.2.(x) G.S. 105-449.44 reads as rewritten:

"§ 105-449.44. How to determine the amount of fuel used in the State; presumption of amount used.

(a) Calculation. – The amount of motor fuel or alternative fuel a motor carrier uses in its operations in this State for a reporting period is the number of miles the motor carrier travels in this State during that period divided by the calculated miles per gallon for the motor carrier for all qualified motor vehicles during that period.

(b) Presumption. – The Secretary must check returns filed under this Article against the weigh station records and other records of the Division of Motor Vehicles of the Department of Transportation and the ~~State Highway Patrol of the Department of Public Safety~~ State Highway Patrol concerning motor carriers to determine if motor carriers that are operating in this State are filing the returns required by this Article. If the records indicate that a motor carrier operated in this State in a quarter and either did not file a return for that quarter or understated its mileage in this State on a return filed for that quarter by at least twenty-five percent (25%), the Secretary may assess the motor carrier for an amount based on the motor carrier's presumed operations. The motor carrier

is presumed to have mileage in this State equal to 10 trips of 450 miles each for each of the motor carrier's qualified motor vehicles and to have fuel usage of four miles per gallon.

(c) Vehicles. – The number of qualified motor vehicles of a motor carrier that is licensed under this Article is the number of sets of decals issued to the carrier. The number of qualified motor vehicles of a carrier that is not licensed under this Article is the number of qualified motor vehicles licensed or registered by the motor carrier in the carrier's base state under the International Registration Plan."

SECTION 3E.2.(z) G.S. 143-166.13(a) reads as rewritten:

"(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

- (1) State Government Security Officers, Department of Administration;
- (2) State Correctional Officers, Division of Prisons of the Department of Adult Correction;
- (3) State Probation and Parole Officers, Division of Community Supervision and Reentry of the Department of Adult Correction;
- (4) Sworn State Law-Enforcement Officers with the power of arrest, Department of Adult Correction or Division of Juvenile Justice of the Department of Public Safety;
- (5) Sworn Law Enforcement Officers in the Medicaid Fraud Unit of the Department of Justice;
- (6) State Highway Patrol Officers, ~~Department of Public Safety~~; Officers;
- (7) General Assembly Special Police, General Assembly;
- (8) Sworn State Law-Enforcement Officers with the power of arrest, Department of Health and Human Services;
- (9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of Public Safety;
- (10) Insurance Investigators, Department of Insurance;
- (11) State Bureau of Investigation Officers and Alcohol Law Enforcement Agents, Department of Public Safety;
- (12) Director and Assistant Director, License and Theft Enforcement ~~Section, Division of Motor Vehicles, Department of Transportation~~; Section, State Highway Patrol;
- (13) Members of License and Theft Enforcement Section, ~~Division of Motor Vehicles, Department of Transportation, State Highway Patrol~~, designated by the ~~Commissioner of Motor Vehicles~~ Commander of the State Highway Patrol as either "inspectors" or uniformed weigh station personnel;
- (14) Repealed by Session Laws 2021-23, s. 21, effective May 17, 2021.
- (15) North Carolina Ports Authority Police, Department of Transportation;
- (16) Sworn State Law-Enforcement Officers with the power of arrest, Department of Environmental Quality;
- (17) Sworn State Law-Enforcement Officers with the power of arrest, Department of Public Safety.
- (18) Sworn State Law-Enforcement Officers with the power of arrest, Department of Revenue.
- (19) Sworn State Law-Enforcement Officers with the power of arrest, University System.
- (20) Sworn State Law-Enforcement Officers with the power of arrest, Department of Agriculture and Consumer Services.
- (21) Sworn State Law-Enforcement Officers with the power of arrest, Department of Natural and Cultural Resources.

(22) Sworn State Law-Enforcement Officers of the State Capitol Police in the State Highway Patrol."

SECTION 3E.2.(aa) G.S. 143-341(8) reads as rewritten:

"(8) General Services:

...

i. To establish and operate a central motor fleet and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

...

7a. To adopt with the approval of the Governor and to enforce rules and to coordinate State policy regarding (i) the permanent assignment of state-owned passenger motor vehicles and (ii) the use of and reimbursement for those vehicles for the limited commuting permitted by this subdivision. For the purpose of this subdivision 7a., "state-owned passenger motor vehicle" includes any state-owned passenger motor vehicle, whether or not owned, maintained or controlled by the Department of Administration, and regardless of the source of the funds used to purchase it. Notwithstanding the provisions of ~~G.S. 20-190~~ G.S. 143B-1720 or any other provisions of law, all state-owned passenger motor vehicles are subject to the provisions of this subdivision 7a.; no permanent assignment shall be made and no one shall be exempt from payment of reimbursement for commuting or from the other provisions of this subdivision 7a. except as provided by this subdivision 7a. Commuting, as defined and regulated by this subdivision, is limited to those specific cases in which the Secretary has received and accepted written justification, verified by historical data. The Department shall not assign any state-owned motor vehicle that may be used for commuting other than those authorized by the procedure prescribed in this subdivision.

A State-owned passenger motor vehicle shall not be permanently assigned to an individual who is likely to drive it on official business at a rate of less than 3,150 miles per quarter unless (i) the individual's duties are routinely related to public safety or (ii) the individual's duties are likely to expose the individual routinely to life-threatening situations. A State-owned passenger motor vehicle shall also not be permanently assigned to an agency that is likely to drive it on official business at a rate of less than 3,150 miles per quarter unless the agency can justify to the Division of Motor Fleet Management the need for permanent assignment because of the unique use of the vehicle. Each agency, other than the Department of Transportation, that has a vehicle assigned to it or has an employee to whom a vehicle is assigned shall submit a quarterly report to the Division of Motor Fleet Management on the miles driven during the quarter by the assigned vehicle. The Division of Motor Fleet Management shall review the report to verify that each motor vehicle has been driven at the minimum allowable rate. If it has not and if the department by whom the individual to which the car is assigned is employed or the agency to which the car is assigned cannot justify the

lower mileage for the quarter, the permanent assignment shall be revoked immediately. The Department of Transportation shall submit an annual report to the Division of Motor Fleet Management on the miles driven during the year by vehicles assigned to the Department or to employees of the Department. If a vehicle included in this report has not been driven at least 12,600 miles during the year, the Department of Transportation shall review the reasons for the lower mileage and decide whether to terminate the assignment. The Division of Motor Fleet Management may not revoke the assignment of a vehicle to the Department of Transportation or an employee of that Department for failure to meet the minimum mileage requirement unless the Department of Transportation consents to the revocation.

Every individual who uses a State-owned passenger motor vehicle, pickup truck, or van to drive between the individual's official work station and his or her home, shall reimburse the State for these trips at a rate computed by the Department. This rate shall be derived from a method that approximates the benefit derived from the use of the vehicle as prescribed by federal law, which may include the lease value rule described in Publication 15-B of the Internal Revenue Service. Reimbursement for a member of the Council of State shall be for the actual number of days the member uses the vehicle to commute during the month. Reimbursement for any other individual shall be for 20 days per month regardless of how many days the individual uses the vehicle to commute during the month. Reimbursement shall be made by payroll deduction. Funds derived from reimbursement on vehicles owned by the Motor Fleet Management Division shall be deposited to the credit of the Division; funds derived from reimbursements on vehicles initially purchased with appropriations from the Highway Fund and not owned by the Division shall be deposited in a Special Depository Account in the Department of Transportation, which shall revert to the Highway Fund; funds derived from reimbursement on all other vehicles shall be deposited in a Special Depository Account in the Department of Administration which shall revert to the General Fund. Commuting, for purposes of this sub-sub-subdivision, does not include those individuals whose office is in their home, as determined by the Department of Administration, Division of Motor Fleet Management. Also, this sub-sub-subdivision does not apply to the following vehicles: (i) clearly marked police and fire vehicles, (ii) delivery trucks with seating only for the driver, (iii) flatbed trucks, (iv) cargo carriers with over a 14,000 pound capacity, (v) school and passenger buses with over 20 person capacities, (vi) ambulances, (vii) [Repealed]. (viii) bucket trucks, (ix) cranes and derricks, (x) forklifts, (xi) cement mixers, (xii) dump trucks, (xiii) garbage trucks, (xiv) specialized utility repair trucks (except vans and pickup trucks), (xv) tractors,

(xvi) unmarked law-enforcement vehicles that are used in undercover work and are operated by full-time, fully sworn law-enforcement officers whose primary duties include carrying a firearm, executing search warrants, and making arrests, and (xvii) any other vehicle exempted under Section 274(d) of the Internal Revenue Code of 1954, and Federal Internal Revenue Service regulations based thereon. The Department of Administration, Division of Motor Fleet Management, shall report quarterly to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office on individuals who use State-owned passenger motor vehicles, pickup trucks, or vans between their official work stations and their homes, who are not required to reimburse the State for these trips.

The Department of Administration shall revoke the assignment or require the Department owning the vehicle to revoke the assignment of a State-owned passenger motor vehicle, pickup truck or van to any individual who:

- I. Uses the vehicle for other than official business except in accordance with the commuting rules;
- II. Fails to supply required reports to the Department of Administration, or supplies incomplete reports, or supplies reports in a form unacceptable to the Department of Administration and does not cure the deficiency within 30 days of receiving a request to do so;
- III. Knowingly and willfully supplies false information to the Department of Administration on applications for permanent assignments, commuting reimbursement forms, or other required reports or forms;
- IV. Does not personally sign all reports on forms submitted for vehicles permanently assigned to him or her and does not cure the deficiency within 30 days of receiving a request to do so;
- V. Abuses the vehicle; or
- VI. Violates other rules or policy promulgated by the Department of Administration not in conflict with this act.

A new requisition shall not be honored until the Secretary of the Department of Administration is assured that the violation for which a vehicle was previously revoked will not recur.

The Department of Administration, with the approval of the Governor, may delegate, or conditionally delegate, to the respective heads of agencies which own passenger motor vehicles or to which passenger motor vehicles are permanently assigned by the Department, the duty of enforcing all or part of the rules adopted by the Department of Administration pursuant to this subdivision 7a. The Department of

Administration, with the approval of the Governor, may revoke this delegation of authority.

Notwithstanding the provisions of this section and G.S. 14-247, the Department of Administration may allow the organization sanctioned by the Governor's Council on Physical Fitness to conduct the North Carolina State Games to use State trucks and vans for the State Games of North Carolina. The Department of Administration shall not charge any fees for the use of the vehicles for the State Games. The State shall incur no liability for any damages resulting from the use of vehicles under this provision. The organization that conducts the State Games shall carry liability insurance of not less than one million dollars (\$1,000,000) covering such vehicles while in its use and shall be responsible for the full cost of repairs to these vehicles if they are damaged while used for the State Games.

...."

SECTION 3E.2.(bb) G.S. 143A-242 is repealed.

SECTION 3E.2.(cc) G.S. 143B-9(a) reads as rewritten:

"(a) ~~The~~ Except as otherwise provided in this Chapter, the head of each principal State department, except those departments headed by popularly elected officers, shall be appointed by the Governor and serve at the Governor's pleasure. The salary of the head of each of the principal State departments shall be set by the Governor, and the salary of elected officials shall be as provided by law.

For each head of each principal State department covered by this subsection, the Governor shall notify the President of the Senate of the name of each person to be appointed, and the appointment shall be subject to senatorial advice and consent in conformance with Section 5(8) of Article III of the North Carolina Constitution unless (i) the senatorial advice and consent is expressly waived by an enactment of the General Assembly or (ii) a vacancy occurs when the General Assembly is not in regular session. Any person appointed to fill a vacancy when the General Assembly is not in regular session may serve without senatorial advice and consent for no longer than the earlier of the following:

- (1) The date on which the Senate adopts a simple resolution that specifically disapproves the person appointed.
- (2) The date on which the General Assembly shall adjourn pursuant to a joint resolution for a period longer than 30 days without the Senate adopting a simple resolution specifically approving the person appointed."

SECTION 3E.2.(dd) G.S. 143B-601 reads as rewritten:

"§ 143B-601. Powers and duties of the Department of Public Safety.

It shall be the duty of the Department of Public Safety to do all of the following:

- (1) Provide ~~assigned law enforcement and~~ emergency services to protect the public ~~against crime and~~ against natural and man-made disasters.
- (2) ~~To plan and direct a coordinated effort by the law enforcement agencies of State government and to ensure maximum cooperation between State and local law enforcement agencies in the fight against crime.~~
- (3) To prepare annually, in consultation with the Judicial Department and the Department of Justice, a State plan for the State's criminal justice system.
- (4) ~~To serve as the State's chief coordinating agency to control crime, to ensure the safety of the public, and to ensure an effective and efficient State criminal justice system.~~

- (5) To have charge of investigations of criminal matters particularly set forth in this Article and of such other crimes and areas of concern in the criminal justice system as the Governor may direct.
- (6) ~~To regularly patrol the highways of the State and enforce all laws and regulations respecting travel and the use of vehicles upon the highways of the State and all laws for the protection of the highways of the State.~~
- (7) To provide North Carolina National Guard troops trained by the State to federal standards.
- (8) To ensure the preparation, coordination, and currency of military and civil preparedness plans and the effective conduct of emergency operations by all participating agencies to sustain life and prevent, minimize, or remedy injury to persons and damage to property resulting from disasters caused by enemy attack or other hostile actions or from disasters due to natural or man-made causes.
- (9) ~~To develop a plan for a coordinated and integrated electronic communications system for State government and cooperating local agencies, including coordination and integration of existing electronic communications systems.~~
- (10) Repealed by Session Laws 2021-180, s. 19C.9(h), effective January 1, 2023.
- (11) To carry out the relevant provisions of Part 3 of this Article, Chapter 7B of the General Statutes, and other provisions of the General Statutes governing juvenile justice and the prevention of delinquent acts by juveniles.
- (12) To provide central storage and management of evidence according to the provisions of Article 13 of Chapter 15A of the General Statutes and create and maintain a databank of statewide storage locations of postconviction evidence or other similar programs.
- (13) To provide central storage and management of rape kits according to the federal Violence Against Women and Department of Justice Reauthorization Act of 2005 with specific protections against release of names of victims providing anonymous or "Jane Doe" rape kits without victim consent.
- (14) To provide for the storage and management of evidence."

SECTION 3E.2.(ee) G.S. 143B-602 reads as rewritten:

"§ 143B-602. Powers and duties of the Secretary of Public Safety.

The Secretary of Public Safety shall have the powers and duties as are conferred on the Secretary by this Article, delegated to the Secretary by the Governor, and conferred on the Secretary by the Constitution and laws of this State. These powers and duties include the following:

- (1) Provision of assistance to other agencies. – The Secretary, through appropriate subunits of the Department, shall, at the request of the Governor, provide assistance to State and local law enforcement agencies, district attorneys, and judges when called upon by them and so directed.
- (2) Coordination of government subunits emergencies. – In the event that the Governor, in the exercise of the Governor's constitutional and statutory responsibilities, shall deem it necessary to utilize the services of more than one subunit of State government to provide protection to the people from natural or man-made disasters or emergencies, including, but not limited to, wars, insurrections, riots, civil disturbances, or accidents, the Secretary, under the direction of the Governor, shall serve as the chief coordinating officer for the State between the respective subunits so utilized.
- (3) Allocation of State resources during emergencies. – Whenever the Secretary exercises the authority provided in subdivision (2) of this section, the Secretary shall be authorized to utilize and allocate all available State

resources as are reasonably necessary to cope with the emergency or disaster, including directing of personnel and functions of State agencies or units thereof for the purpose of performing or facilitating the initial response to the disaster or emergency. Following the initial response, the Secretary, in consultation with the heads of the State agencies which have or appear to have the responsibility for dealing with the emergency or disaster, shall designate one or more lead agencies to be responsible for subsequent phases of the response to the emergency or disaster. Pending an opportunity to consult with the heads of such agencies, the Secretary may make interim lead agencies designations.

- (4) Reporting of emergencies to the Secretary. – Every department of State government is required to report to the Secretary, by the fastest means practicable, all natural or man-made disasters or emergencies, including, but not limited to, wars, insurrections, riots, civil disturbances, or accidents which appear likely to require the utilization of the services of more than one subunit of State government.
- (5) Rule making. – The Secretary is authorized to adopt rules and procedures for the implementation of this section.
- (6) Powers of Governor and Council of State not superseded. – Nothing contained in this section shall be construed to supersede or modify those powers granted to the Governor or the Council of State to declare and react to a state of disaster as provided in Chapter 166A of the General Statutes, the Constitution, or elsewhere.
- (7) Reporting required prior to grant awards. – Prior to any notification of proposed grant awards to State agencies for use in pursuing the objectives of the Governor's Crime Commission pursuant to sub-subdivisions a. through g. of subdivision (8) of this section, the Secretary shall report to the Senate and House of Representatives Appropriations Committees for review of the proposed grant awards.
- (8) Other powers and duties. – The Secretary has the following additional powers and duties:
 - a. Accepting gifts, bequests, devises, grants, matching funds, and other considerations from private or governmental sources for use in promoting the work of the Governor's Crime Commission.
 - b. Making grants for use in pursuing the objectives of the Governor's Crime Commission.
 - c. ~~Adopting rules as may be required by the federal government for federal grants in aid for criminal justice purposes and to implement and carry out the regulatory and enforcement duties assigned to the Department of Public Safety as provided by the various commercial vehicle, oversize/overweight, motor carrier safety, motor fuel, and mobile and manufactured home statutes.~~
 - d. Ascertaining the State's duties concerning grants to the State by the Law Enforcement Assistance Administration of the United States Department of Justice, and developing and administering a plan to ensure that the State fulfills its duties.
 - e. Administering the Assistance Program for Victims of Rape and Sex Offenses.
 - f. ~~Appointing, with the Governor's approval, a special police officer to serve as Chief of the State Capitol Police Division.~~

- g. Appointing an employee of the Division of Administration to be the central point of contact for any federal surplus property or purchasing programs.
- h. Being responsible for federal and State liaison activities, victim services, the Victim Services Warehouse, and the storage and management of evidence and other contents housed in the warehouse, and public affairs."

SECTION 3E.2.(ff) G.S. 143C-4-9(a) reads as rewritten:

"(a) Creation. – The Pay Plan Reserve is established within the General Fund. The General Assembly shall appropriate in the Current Operations Appropriations Act (Act) or other appropriations act a specific amount to this reserve for allocation, on an as-needed basis only, to fund statutory and scheduled pay expenses authorized by:

- (1) ~~G.S. 20-187.3,~~ G.S. 143B-1714, and the Act, for troopers of the State Highway Patrol compensated pursuant to an experience-based salary schedule.
- (2) G.S. 7A-102.
- (3) G.S. 7A-171.1.
- (4) Teacher Salary Schedule, as enacted by the General Assembly.
- (5) Pay Plans for Principals and Assistant Principals, as enacted by the General Assembly.
- (6) The Act, for law enforcement officers of the State Bureau of Investigation and Alcohol Law Enforcement.
- (7) The Act, for correctional officers and other employees compensated pursuant to the Correctional Officer Salary Schedule.
- (8) The Act, for probation and parole officers and other employees compensated pursuant to the Probation and Parole Officer Salary Schedule."

SECTION 3E.2.(gg) G.S. 143C-5-4(b) reads as rewritten:

"(b) Procedure for Budget Continuation. – If a fiscal year begins for which no Current Operations Appropriations Act providing for current operations of State government during that fiscal year has become law, then the following procedures shall be followed and the following limitations shall apply:

- ...
- (5) State employee salaries. – The salary schedules and specific salaries established for the prior fiscal year and in effect on June 30 of the prior fiscal year for offices and positions shall remain in effect until the Current Operations Appropriations Act for the current fiscal year becomes law. State employees subject to G.S. 7A-102(c), 7A-171.1, ~~20-187.3,~~ 143B-1714, or any other statutory salary schedule, shall not move up on salary schedules or receive automatic increases, including automatic step increases, until authorized by the General Assembly. State employees, including those exempt from the classification and compensation rules established by the State Human Resources Commission, shall not receive any automatic step increases, annual, performance, merit, bonuses, or other increments until authorized by the General Assembly.

...."

SECTION 3E.2.(hh) G.S. 146-29(d) reads as rewritten:

"(d) Exemptions. – This section shall not apply to the following:

- (1) The granting of utility easements, including the lease of interests in real property pursuant to G.S. 146-29.2.
- (2) Leases for student housing projects, including a ground lease to a university endowment for the purpose of facilitating the construction of student housing.

- (3) Leases made as part of the Voice Interoperability Plan for Emergency Responders (VIPER) project being managed by the ~~Department of Public Safety-State Highway Patrol.~~"

SECTION 3E.2.(ii) G.S. 146-30(d)(2) reads as rewritten:

- "(2) No service charge into the State Land Fund shall be deducted from or levied against the proceeds of any disposition by lease, rental, or easement of State lands purchased and owned by the North Carolina State Highway Patrol, ~~Department of Public Safety,~~ as part of the Voice Interoperability Plan for Emergency Responders (VIPER) project being managed by the North Carolina State Highway Patrol, ~~Department of Public Safety-Patrol.~~ All net proceeds of these dispositions shall be deposited into an account created in the ~~Department of Public Safety-State Highway Patrol~~ to be used only for the purpose of constructing, maintaining, or supporting the VIPER network."

SECTION 3E.2.(jj) Section 19G.2 of S.L. 2023-134 reads as rewritten:

"**SECTION 19G.2.(a)** Seized and forfeited assets transferred to the Department of Justice, Department of Public Safety, State Highway Patrol, and Department of Adult Correction during the 2023-2025 fiscal biennium pursuant to applicable federal law shall be credited to the budget of the recipient department and shall result in an increase of law enforcement resources for that department. The Department of Justice, Department of Public Safety, State Highway Patrol, and Department of Adult Correction shall each make the following reports to the chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety:

- (1) A report upon receipt of any assets.
- (2) A report that shall be made prior to use of the assets on their intended use and the departmental priorities on which the assets may be expended.
- (3) A report on receipts, expenditures, encumbrances, and availability of these assets for the previous fiscal year, which shall be made no later than September 1 of each year.

"**SECTION 19G.2.(b)** The General Assembly finds that the use of seized and forfeited assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, Department of Public Safety, State Highway Patrol, and Department of Adult Correction are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

"**SECTION 19G.2.(c)** Nothing in this section prohibits State law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

"**SECTION 19G.2.(d)** The Joint Legislative Oversight Committee on Justice and Public Safety shall study the impact on State and local law enforcement efforts of the receipt of seized and forfeited assets. The Committee shall report its findings and recommendations prior to the convening of the 2024 Regular Session of the 2023 General Assembly."

SECTION 3E.2.(kk) Section 16B.2 of S.L. 2015-241 reads as rewritten:

"**SECTION 16B.2.** The ~~Department of Public Safety-State Highway Patrol~~ shall report annually no later than March 1 to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the progress of the State's VIPER system."

SECTION 3E.2.(ll) This section becomes effective July 1, 2025.

STATE HIGHWAY PATROL APPROPRIATIONS AND FUNDING

SECTION 3E.3.(a) Notwithstanding G.S. 143C-5-2, there is appropriated from the General Fund to the State Highway Patrol established in Section 3E.1 of this act for the 2025–

2026 fiscal year the sum of two million eight hundred ninety-four thousand four hundred sixty-eight dollars (\$2,894,468) in recurring funds to be used to hire 20 full-time equivalent positions as follows:

- (1) Seven personnel positions.
- (2) Eight budget positions.
- (3) One Safety Director position.
- (4) Two Information Technology Communications positions.
- (5) One Staff Attorney position.
- (6) One Legislative Liaison position.

SECTION 3E.3.(b) The Department of Transportation shall transfer to the State Highway Patrol on a recurring basis all funds necessary to fully support salary, benefits, property, operational expenses, and all other costs associated with the sworn personnel positions transferred by this act from the License and Theft Bureau to the State Highway Patrol.

SECTION 3E.3.(c) This section becomes effective July 1, 2025.

SUBPART III-F. UTILITIES COMMISSION AND ENERGY

CHANGE APPOINTMENTS TO UTILITIES COMMISSION

SECTION 3F.1.(a) G.S. 62-10 reads as rewritten:

"§ 62-10. Number; appointment; terms; qualifications; chairman; vacancies; compensation; other employment prohibited.

(a) The North Carolina Utilities Commission shall consist of five commissioners who shall be appointed as follows: ~~three~~ two by the Governor, one by the State Treasurer, one by the General Assembly, upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Each commissioner shall serve for a term of six years commencing on July 1 of the year in which the predecessor term expired and ending on June 30 of the sixth year thereafter. Commissioners appointed by the Governor and Treasurer are subject to confirmation by the General Assembly by joint resolution. The names of commissioners to be appointed by the Governor and Treasurer shall be submitted by the Governor and Treasurer to the General Assembly for confirmation by the General Assembly on or before May 1, of the year in which the terms for which the appointments are to be made are to expire. Upon failure of the Governor or Treasurer to submit names as herein provided, the President Pro Tempore of the Senate and Speaker of the House of Representatives jointly shall submit the names of a like number of commissioners to the General Assembly on or before May 15 of the same year for confirmation by the General Assembly. Regardless of the way in which names of commissioners are submitted, confirmation of commissioners must be accomplished prior to adjournment of the then current session of the General Assembly.

(b) Repealed by Session Laws 2023-136, s. 10.1(a), effective October 10, 2023.

(c) Repealed by Session Laws 2023-136, s. 10.1(a), effective October 10, 2023.

(d) A commissioner in office shall continue to serve until his successor is duly confirmed and qualified but such holdover shall not affect the expiration date of such succeeding term.

(e) On July 1, 1965, and every three years thereafter, one of the commissioners shall be ~~designated by the Governor~~ elected by and from the members of the Commission to serve as chairman of the Commission for the succeeding three years and until his or her successor is duly confirmed and qualifies. Upon death or resignation of the commissioner appointed as chairman, ~~the Governor shall designate the chairman~~ shall be elected by and from the remaining commissioners and appoint a successor as hereinafter provided to fill the vacancy on the Commission. ~~commissioners.~~

(f) In case of death, incapacity, resignation or vacancy for any other reason in the office of any commissioner appointed by the Governor prior to the expiration of the commissioner's

SECTION 4.2. Effective Date. – Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of November, 2024.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Timothy Reeder, MD
Presiding Officer of the House of Representatives

VETO Roy Cooper
Governor

Became law notwithstanding the objections of the Governor at 4:50 p.m. this 11th day of December, 2024.

s/ Mr. James White
House Principal Clerk

COMPLAINT EXHIBIT C



State of North Carolina

ROY COOPER
GOVERNOR

September 25, 2024

EXECUTIVE ORDER NO. 315

DECLARATION OF A STATEWIDE STATE OF EMERGENCY AND TEMPORARY WAIVER AND SUSPENSION OF MOTOR VEHICLE REGULATIONS

WHEREAS, Tropical Storm Helene (“Helene”) will likely cause significant impacts to the State of North Carolina and the southeastern United States; and

WHEREAS, Helene could have a significant impact on public and private property and could seriously disrupt essential utility services and systems; and

WHEREAS, the anticipated impacts from Helene constitute a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(20); and

WHEREAS, certain measures are necessary to ensure the protection and safety of North Carolina residents and to coordinate the emergency response among state and local government officials; and

WHEREAS, N.C. Gen. Stat. § 166A-19.1(3) provides that it is the responsibility of the undersigned, state agencies, and local governments to “provide for the rapid and orderly rehabilitation of persons and restoration of property”; and

WHEREAS, N.C. Gen. Stat. § 166A-19.1(4) provides that it is the responsibility of the undersigned, state agencies, and local governments to “provide for cooperation and coordination of activities relating to emergency mitigation preparedness, response, and recovery among agencies and officials of this state and with similar agencies and officials of other states and with other private and quasi-official organizations”; and

WHEREAS, N.C. Gen. Stat. §§ 166A-19.10 and 166A-19.20 authorize the undersigned to declare a state of emergency and exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, Helene will create a statewide emergency area, as that term is defined in the Emergency Management Act to mean an “emergency applicable to two-thirds or more of the counties in North Carolina”; and

WHEREAS, the undersigned has sought and obtained Concurrence of the Council of State, as that term is defined in N.C. Gen. Stat. §19.3(2d), in the declaration of the State of Emergency for the emergency area identified herein; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(3) authorizes the undersigned to delegate any gubernatorial authority vested in him under the Emergency Management Act, and to provide for the subdelegation of that authority; and

WHEREAS, under N.C. Gen. Stat. § 166A-19.30(b)(3) the undersigned, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, under N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering; and

WHEREAS, the anticipated impacts from Helene may result in extensive damage, including widespread power outages throughout the state that will require vehicles bearing equipment and supplies for utility restoration and debris removal to be moved through North Carolina on the interstate and intrastate highways; and

WHEREAS, the uninterrupted supply of electricity, fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum gas, food, water, and medical supplies to residential and commercial establishments is essential before, during, and after Helene, and any interruption in the delivery of those commodities threatens the public welfare; and

WHEREAS, the prompt restoration of utility services is essential to the safety and well-being of the State's residents; and

WHEREAS, the undersigned has found that residents may suffer losses and further widespread damage within the meaning of N.C. Gen. Stat. §§ 166A-19.3 and 166A-19.21(b); and

WHEREAS, 49 C.F.R. § 390.23 allows the Governor of a State to suspend the rules and regulations under 49 C.F.R. Parts 390 if the Governor determines that an emergency condition exists; and

WHEREAS, nothing contained in this declaration shall be construed as an exemption from the controlled substances and alcohol use and testing requirements (49 C.F.R. Part 382), the commercial driver's license requirements (49 C.F.R. Part 383), the financial responsibility (insurance) requirements (49 C.F.R. Part 387), operating authority (49 C.F.R. Part 365), applicable size and weight requirements, ill or fatigued operator (49 C.F.R. Part 392.3) or any other portion of the regulations not specifically identified; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70(g), upon the recommendation of the North Carolina Commissioner of Agriculture and the existence of an imminent threat of severe economic loss of livestock, poultry, or crops ready to be harvested, the Governor may direct the North Carolina Department of Public Safety ("DPS") to temporarily suspend weighing vehicles used to transport livestock, poultry or crops ready to be harvested; and

WHEREAS, this suspension does not permit the gross weight of any vehicle or combination to exceed the safe load-carrying capacity established by the North Carolina Department of Transportation ("DOT") on any bridge pursuant to N.C. Gen. Stat. § 136-72, or to permit the operation of a vehicle when a law enforcement officer has probable cause to believe the vehicle is creating an imminent hazard to public safety; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70, the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C. Gen. Stat. § 20-381 should be waived for (1) persons transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) persons transporting livestock, poultry, and crops ready to be harvested, and (3) vehicles used in the restoration of utility and transportation services; and

WHEREAS, the undersigned has sought and obtained Concurrence from the Council of State, as that term is defined in N.C. Gen. Stat. 19.3(2d) on the provisions of this Executive Order requiring concurrence; and

WHEREAS, the undersigned has documented the contact and response of each Council of State member and is releasing the concurrence, non-concurrence, or non-response of each member by position on the website in which this Executive Order is published.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1.

I hereby declare that a statewide state of emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) exists in the State of North Carolina due to the anticipated impacts from Helene.

For purposes of this Executive Order, the emergency area is the entire State of North Carolina (“the Emergency Area”).

Section 2.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan (“the Plan”).

I delegate to Eddie M. Buffaloe, Jr., the Secretary of DPS, or his designee, all power and authority granted to and required of me by Article 1A of Chapter 166A of the North Carolina General Statutes to implement the Plan and deploy the State Emergency Response Team to take the appropriate actions necessary to promote and secure the safety and protection of the populace in North Carolina.

Secretary Buffaloe, as Chief Coordinating Officer for the State of North Carolina, shall exercise the powers prescribed in N.C. Gen. Stat. § 143B-602.

Section 3.

I further direct Secretary Buffaloe, or his designee, to seek assistance from any agencies of the United States Government as may be needed to meet the emergency and to seek reimbursement for costs incurred by the state in responding to this emergency.

Section 4.

DPS, in conjunction with DOT, shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381 for (1) persons transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) persons transporting livestock, poultry, and crops ready to be harvested, and (3) vehicles used in the restoration of utility and transportation services. In addition, DPS shall, pursuant to N.C. Gen. Stat. § 166A-19.70(g), temporarily suspend weighing pursuant to N.C. Gen. Stat. § 20-118.1 vehicles used to transport livestock, poultry, livestock or poultry feed, or crops ready to be harvested.

Section 5.

Subject to Section 8 below, DPS, in conjunction with DOT, shall waive enforcement of certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 20-86.1 and 20-382, and certain registration and filing requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles supporting emergency relief efforts in the Emergency Area.

Section 6.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (“GVWR”) or 90,000 pounds gross weight, whichever is less.
- b. When the vehicle weight exceeds a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
- c. When the vehicle consists of a five or more axle combination vehicle that exceeds a single-axle weight of 26,000 pounds, a tandem-axle weight of 42,000 pounds and a gross weight 90,000 pounds, with a length of at least forty-eight (48) feet between the center of axle one and the center

of the last axle of the vehicle and a minimum of eleven (11) feet between the center of axle one and the center of axle two of the vehicle.

- d. When the vehicle consists of a two-axle vehicle that exceeds a gross weight of 37,000 pounds and a single-axle weight of no more than 27,000 pounds, with a length of at least fourteen (14) feet between the center of axle one and the center of axle two of the vehicle.
- e. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.
- f. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having (A) a yellow banner on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters, 1.5 inches wide and (B) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet six (6) inches in width.
- g. Commercial vehicles operating outside the normal weight, height, and length restrictions under the authority of this State of Emergency shall be issued permits by DOT. Said vehicles shall be subject to any special conditions DOT and DPS may list on applicable permits. Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, nor shall anything in this Executive Order be construed to relieve compliance with restrictions other than those specified in this Executive Order or from any statute, rule, order, or other legal requirement not specifically waived herein.
- h. Oversize permits may be issued by the DOT, Oversize/Overweight Unit, during normal business hours, Monday through Friday by calling 1-888-221-8166 or contacting them through the online portal at <https://connect.ncdot.gov/business/trucking/Pages/overpermits.aspx>

Section 7.

Vehicles referenced under Sections 5 and 6 of this Executive Order shall be exempt from the following registration requirements, except where otherwise noted below:

- a. The requirement to obtain a temporary trip permit in N.C. Gen. Stat. § 105-449.49.
- b. The requirement of filing a quarterly fuel tax return.
- c. The registration requirements under N.C. Gen. Stat. §§ 20-382.1 and 20-382 concerning interstate for-hire authority; however, vehicles shall maintain the required limits of insurance as required.
- d. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified by this Executive Order.

Section 8.

The size and weight exemption for vehicles will be allowed on all DOT designated routes, except those routes designated as light traffic roads under N.C. Gen. Stat. § 20-118. Size and weight exemptions shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72.

Section 9.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 4 through 8 of this Executive Order in a manner that does not endanger North Carolina motorists.

Section 10.

Pursuant to 49 C.F.R. § 390.23, I hereby waive 49 C.F.R. § 395.3 for vehicles transporting loads that are for use in (1) providing direct assistance supporting emergency relief efforts including transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock

and poultry, (2) transporting livestock, poultry, and crops ready to be harvested, or (3) the restoration of utility and transportation services in response to Helene in North Carolina and affected states for fourteen (14) days.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish that their loads are for use in providing direct assistance supporting emergency relief efforts including transporting loads that are for use in (1) providing direct assistance supporting emergency relief efforts including transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) transporting livestock, poultry, and crops ready to be harvested, or (3) the restoration of utility and transportation services in response to Helene.

Direct assistance terminates when a driver or commercial motor vehicle is used in intrastate/interstate commerce to transport cargo or provide services that are not in support of emergency relief efforts related to Helene in North Carolina or affected states, or when the motor carrier dispatches a driver or commercial motor vehicle to another location to begin operations in commerce. (49 C.F.R. § 390.23(b)).

Upon termination of direct assistance to emergency relief efforts related to transporting loads that are for use in (1) providing direct assistance supporting emergency relief efforts including transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) transporting livestock, poultry, and crops ready to be harvested, or (3) the restoration of utility and transportation services in response to Helene in North Carolina or affected states, the motor carrier and driver are subject to the requirements of 49 C.F.R. § 395.3, except that a driver may return empty to the motor carrier's terminal or the driver's normal work reporting location without complying with 49 C.F.R. § 395.3. When a driver is moving from emergency relief efforts to normal operations a 10-hour break is required if the total time a driver operated, whether conducting emergency relief efforts or a combination of emergency relief efforts and normal operations, equals or exceeds fourteen (14) hours.

Section 11.

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale, or purchase of alcoholic beverages.

Section 12.

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38 in the Emergency Area.

Section 13.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days, unless earlier terminated, provided, however, that the provisions in Section 10 shall remain in effect for fourteen days (14).

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 25th day of September in the year of our Lord two thousand and twenty-four.



Roy Cooper
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

