

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE DRS35004-MK-19 (01/15)

Short Title: Appoint Superintendent of Public Instruction. (Public)

Sponsors: Senator Tillman (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE CONSTITUTION TO AUTHORIZE THE GOVERNOR TO  
3 APPOINT THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Section 4(2) of Article IX of the North Carolina Constitution reads as  
6 rewritten:

7 "(2) Superintendent of Public Instruction. The Superintendent of Public Instruction shall  
8 be appointed by the Governor and shall be the secretary and chief administrative officer of the  
9 State Board of Education."

10 **SECTION 2.** Section 7(1) of Article III of the North Carolina Constitution reads as  
11 rewritten:

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

19 **SECTION 3.** G.S. 115C-18 reads as rewritten:

20 "**§ 115C-18. Election**~~Appointment~~ **of Superintendent of Public Instruction.**

21 The Superintendent of Public Instruction shall be ~~elected by the qualified voters of the State~~  
22 ~~in 1972 and every four years thereafter at the same time and places as members of the General~~  
23 ~~Assembly are elected. His term of office shall be four years and shall commence on the first~~  
24 ~~day of January next after election and continue until his successor is elected and~~  
25 ~~qualified.~~ appointed by the Governor. The Governor shall make an appointment to fill any  
26 vacancy in the office of the Superintendent of Public Instruction. ~~If the office of the~~  
27 ~~Superintendent of Public Instruction is vacated by death, resignation, or otherwise, it shall be~~  
28 ~~the duty of the Governor to appoint another to serve until his successor is elected and qualified.~~  
29 ~~Every such vacancy shall be filled by election at the first election for members of the General~~  
30 ~~Assembly that occurs more than 30 days after the vacancy has taken place, and the person~~  
31 ~~chosen shall hold the office for the remainder of the unexpired term fixed in Article III, Sec. 7~~  
32 ~~of the Constitution of North Carolina. When a vacancy occurs in the office and the term expires~~  
33 ~~on the first day of January succeeding the next election for members of the General Assembly,~~  
34 ~~the Governor shall appoint to fill the vacancy for the unexpired term of the office. Upon the~~  
35 ~~occurrence of a vacancy in the office for any of the causes stated herein, the Governor may~~



1 appoint an interim officer to perform the duties of that office until a person is appointed or  
2 elected pursuant to Article III, Sec. 7 of the Constitution of North Carolina to fill the vacancy  
3 and is qualified.

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

6 The election, term and induction into office of the Superintendent of Public Instruction shall  
7 be in accordance with the provisions of G.S. 147-4."

8 **SECTION 4.** G.S. 143A-44.3 reads as rewritten:

9 **"§ 143A-44.3. Superintendent of Public Instruction; creation; transfer of powers and**  
10 **duties.**

11 The office of the Superintendent of Public Instruction, as provided for by ~~Article III,~~  
12 ~~Section 7~~Article IX, Section 4(2) of the Constitution, and the Department of Public Instruction  
13 are transferred to the Department of Public Instruction. The Superintendent of Public  
14 Instruction shall be the Secretary and Chief Administrative Officer of the State Board of  
15 Education, and shall have all powers and duties conferred by the Constitution, by the State  
16 Board of Education, Chapter 115C of the General Statutes, and the laws of this State."

17 **SECTION 5.** G.S. 147-4 reads as rewritten:

18 **"§ 147-4. Executive officers – election; term; induction into office.**

19 The executive department shall consist of a Governor, a Lieutenant Governor, a Secretary  
20 of State, an Auditor, a Treasurer, ~~a Superintendent of Public Instruction,~~ an Attorney General, a  
21 Commissioner of Agriculture, a Commissioner of Insurance, and a Commissioner of Labor,  
22 who shall be elected for a term of four years, by the qualified electors of the State, at the same  
23 time and places, and in the same manner, as members of the General Assembly are elected.  
24 Their term of office shall commence on the first day of January next after their election and  
25 continue until their successors are elected and qualified. The persons having the highest number  
26 of votes, respectively, shall be declared duly elected, but if two or more be equal and highest in  
27 votes for the same office, then one of them shall be chosen by joint ballot of both houses of the  
28 General Assembly. Contested elections shall be determined by a joint ballot of both houses of  
29 the General Assembly in such manner as shall be prescribed by law."

30 **SECTION 6.** G.S. 147-11.1 reads as rewritten:

31 **"§ 147-11.1. Succession to office of Governor; Acting Governor.**

32 ...  
33 (b) President of Senate, Speaker of the House and Other Officers. –

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

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

44 (3) If, at the time when under subdivision (2) of this subsection the Speaker of  
45 the House of Representatives is to become Governor, there is no Speaker of  
46 the House of Representatives, or the Speaker of the House of  
47 Representatives fails to qualify as Governor, then that officer of the State of  
48 North Carolina who is highest on the following list, and who is not under  
49 disability to serve as Governor, shall, upon ~~his~~ resignation of the office  
50 which places ~~him~~ the officer in the order of succession, become Governor:  
51 Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction,~~

- 1 Attorney General, Commissioner of Agriculture, Commissioner of Labor,  
 2 and Commissioner of Insurance.
- 3 (c) Acting Governor Generally. –
- 4 (1) If, by reason of absence from the State or physical or mental incapacity,  
 5 there is neither a Governor nor a Lieutenant Governor qualified to discharge  
 6 the powers and duties of the office of Governor, then the President of the  
 7 Senate shall become Acting Governor.
- 8 (2) If, at the time when under subdivision (1) of this subsection the President of  
 9 the Senate is to become Acting Governor, there is no President of the Senate,  
 10 or the President of the Senate fails to qualify as Acting Governor, then the  
 11 Speaker of the House of Representatives shall become Acting Governor.
- 12 (3) If, at the time when under subdivision (2) of this subsection the Speaker of  
 13 the House of Representatives is to become Acting Governor, there is no  
 14 Speaker of the House of Representatives, or the Speaker of the House of  
 15 Representatives fails to qualify as Acting Governor, then that officer of the  
 16 State of North Carolina who is highest on the following list, and who is not  
 17 under disability to serve as Acting Governor, shall become Acting Governor:  
 18 Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction,~~  
 19 Attorney General, Commissioner of Agriculture, Commissioner of Labor,  
 20 and Commissioner of Insurance.

21 ...."

22 **SECTION 7.** G.S. 163-1(d) reads as rewritten:

23 "(d) If primaries for the State Senate or State House of Representatives are temporarily  
 24 moved from the date provided in subsection (b) of this section for any election year, all  
 25 primaries shall be held on the same day.

27 OFFICE	JURISDICTION	DATE OF ELECTION	TERM OF OFFICE
28 Governor	State	29 Tuesday next after 30 the first Monday 31 in November 1968 32 and every four 33 years thereafter	34 Four years, from 35 first day of 36 January next 37 after election
33 Lieutenant 34 Governor	State	35 Tuesday next after 36 the first Monday 37 in November 1968 38 and every four 39 years thereafter	40 Four years, from 41 first day of 42 January next 43 after election
38 Secretary of 39 State	State	40 Tuesday next after 41 the first Monday 42 in November 1968 43 and every four 44 years thereafter	45 Four years, from 46 first day of 47 January next 48 after election
43 Auditor	State	44 Tuesday next after 45 the first Monday 46 in November 1968 47 and every four 48 years thereafter	49 Four years, from 50 first day of 51 January next after election
48 Treasurer	State	49 Tuesday next after 50 the first Monday 51 in November 1968 and every four	Four years, from first day of January next after election

		years thereafter		
1				
2	Superinten-	State	Tuesday next after	Four years, from
3	dent of		the first Monday	first day of
4	Public		in November 1968	January next
5	Instruction		and every four	after election
6			years thereafter	
7	...."			

SECTION 8. G.S. 163-8 reads as rewritten:

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

If the office of Governor or Lieutenant Governor shall become vacant, the provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers shall be vacated by death, resignation, or otherwise than by expiration of term, it shall be the duty of the Governor to appoint another to serve until his that officer's successor is elected and qualified: Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction~~, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance. Each such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 60 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired four-year term: Provided, that when a vacancy occurs in any of the offices named in this section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an acting officer to perform the duties of that office until a person is appointed or elected pursuant to this section and Article III, Section 7 of the State Constitution, to fill the vacancy and is qualified."

SECTION 9. G.S. 163-278.27(b)(2) reads as rewritten:

"(2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, ~~State Superintendent of Public Instruction~~, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior court: report to the district attorney of the prosecutorial district in which Wake County is located;"

SECTION 10. G.S. 163-278.95 reads as rewritten:

"§ 163-278.95. Purpose and establishment of Voter-Owned Elections Act.

The purpose of this Article is to ensure the vitality and fairness of democratic elections in North Carolina to the end that any eligible citizen of this State can realistically choose to seek and run for public office. It is also the purpose of this Article to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent in North Carolina to influence the outcome of elections. It is essential to the public interest that the potential for corruption or the appearance of corruption is minimized and that the equal and meaningful participation of all citizens in the democratic process is ensured. Accordingly, this Article establishes the North Carolina Voter-Owned Elections Fund as an alternative source of campaign financing for candidates who obtain a sufficient number of qualifying contributions from registered voters and who voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for the Council of State offices of ~~Auditor, Superintendent of Public Instruction~~, Auditor and Commissioner of Insurance in elections to be held in 2008 and thereafter."

SECTION 11. G.S. 163-278.96(12) reads as rewritten:

1           "(12) Office. – The Council of State offices of ~~Auditor, Superintendent of Public~~  
2           ~~Instruction, Auditor~~ and Commissioner of Insurance."

3           **SECTION 12.** The amendments set out in Sections 1 and 2 of this act shall be  
4 submitted to the qualified voters of the State at a statewide election to be conducted on  
5 November 4, 2014, which election shall be conducted under the laws then governing elections  
6 in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of  
7 the General Statutes. The question to be used in the voting systems and ballots shall be:

8                                   " FOR        AGAINST

9           Constitutional amendments to make the Superintendent of Public Instruction a  
10 position appointed by the Governor."

11           **SECTION 13.** If a majority of votes cast on the question are in favor of the  
12 amendments set out in Sections 1 and 2 of this act, the State Board of Elections shall certify the  
13 amendments to the Secretary of State. The Secretary of State shall enroll the amendments so  
14 certified among the permanent records of that office. The amendments set out in Sections 1 and  
15 2 of this act shall become effective January 1, 2017, except that there shall be no election held  
16 to fill the office of Superintendent of Public Instruction for a term beginning on or after  
17 December 31, 2016.

18           **SECTION 14.** Sections 3 through 11 of this act become effective only if the  
19 qualified voters approve the constitutional amendments set out in Sections 1 and 2 of this act. If  
20 the voters approve the constitutional amendments, Sections 3 through 11 of this act become  
21 effective January 1, 2017. The remainder of this act is effective when the act becomes law.