GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

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SENATE BILL 104 Judiciary I Committee Substitute Adopted 4/23/01

Short Title: Four-Year Terms and Session Length Limits. (Public) Sponsors: Referred to: February 8, 2001 1 A BILL TO BE ENTITLED 2 AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE 3 FOR FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL ASSEMBLY 4 AND TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS. 5 The General Assembly of North Carolina enacts: SECTION 1. Section 2 of Article II of the North Carolina Constitution reads 6 7 as rewritten: 8 "Sec. 2. Number of Senators. 9 The Senate shall be composed of 50 Senators, biennially quadrennially chosen by 10 ballot." 11 **SECTION 2.** Section 4 of Article II of the North Carolina Constitution reads 12 as rewritten: 13 "Sec. 4. Number of Representatives. 14 The House of Representatives shall be composed of 120 Representatives, biennially quadrennially chosen by ballot." 15 **SECTION 3.** Section 8 of Article II of the North Carolina Constitution reads 16 17 as rewritten: 18 "Sec. 8. Elections. 19 The election for members of the General Assembly shall be held for the respective 20 districts in <u>1972-2002</u> and every two-four years thereafter, at the places and on the day prescribed by law." 21 22 SECTION 4. Section 14(1) of Article II of the North Carolina Constitution 23 reads as rewritten: 24 "(1) President Pro Tempore - succession to presidency. The Senate shall elect from its membership a President Pro Tempore, who shall become President of the 25 Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession 26 by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or 27 removal from office of the President of the Senate, and who shall serve until the 28 expiration of his term of office as Senator.until the first of: 29

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- The expiration of the term of office as Senator; or (a)
- The qualification of a new Lieutenant Governor." (b)

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

5 "(1) Election and term. The Governor and Lieutenant Governor shall be elected by 6 the qualified voters of the State in 1972-2000 and every four years thereafter, at the 7 same time and places as members of the General Assembly are elected at the places and 8 on the day prescribed by law. Their term of office shall be four years and shall 9 commence on the first day of January next after their election and continue until their 10 successors are elected and qualified."

11 **SECTION 6.** Section 7 of Article III of the North Carolina Constitution 12 reads as rewritten:

13 "Sec. 7. Other elective officers.

(1) Officers. A Secretary of State, an Auditor, a Treasurer, a Superintendent of 14 15 Public Instruction, an Attorney General, a Commissioner of Agriculture, a 16 Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972-2000 and every four years thereafter, at the same 17 18 time and places as members of the General Assembly are the Governor is elected. Their 19 term of office shall be four years and shall commence on the first day of January next 20 after their election and continue until their successors are elected and qualified. 21

(2) Duties. Their respective duties shall be prescribed by law.

22 Vacancies. If the office of any of these officers is vacated by death, (3)23 resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve 24 until his the successor is elected and qualified. Every such vacancy shall be filled by 25 election at the first election for members of the General Assembly or Governor, 26 whichever comes first, that occurs more than 60 days after the vacancy has taken place, 27 and the person chosen shall hold the office for the remainder of the unexpired term 28 fixed in this Section. When a vacancy occurs in the office of any of the officers named 29 in this Section and the term expires on the first day of January succeeding the next 30 election for members of the General Assembly, the Governor shall appoint to fill the 31 vacancy for the unexpired term of the office.

(4) Interim officers. Upon the occurrence of a vacancy in the office of any one of 32 33 these officers for any of the causes stated in the preceding paragraph, the Governor may 34 appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified. 35

36 (5) Acting officers. During the physical or mental incapacity of any one of these 37 officers to perform the duties of his-the office, as determined pursuant to this Section, 38 the duties of his-the office shall be performed by an acting officer who shall be 39 appointed by the Governor.

40 (6) Determination of incapacity. The General Assembly shall by law prescribe with 41 respect to those officers, other than the Governor, whose offices are created by this 42 Article, procedures for determining the physical or mental incapacity of any officer to 43 perform the duties of his-the office, and for determining whether an officer who has

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2 capacity to perform the duties of his-the office. Removal of those officers from office 3 for any other cause shall be by impeachment. 4 (7) Special qualifications for Attorney General. Only persons duly authorized to 5 practice law in the courts of this State shall be eligible for appointment or election as 6 Attorney General." 7 **SECTION 7.** Section 9(3) of Article V of the North Carolina Constitution 8 reads as rewritten: 9 "(3) Clerks. A Clerk of the Superior Court for each county shall be elected for a 10 term of four years by the qualified voters thereof, at the same time and places as 11 members of the General Assembly or the Governor are elected. If the office of Clerk of 12 the Superior Court becomes vacant otherwise than by the expiration of the term, or if 13 the people fail to elect, the senior regular resident Judge of the Superior Court serving 14 the county shall appoint to fill the vacancy until an election can be regularly held." 15 **SECTION 8.** Section 18(1) of Article IV of the North Carolina Constitution 16 reads as rewritten: 17 "(1) District Attorneys. The General Assembly shall, from time to time, divide the 18 State into a convenient number of prosecutorial districts, for each of which a District 19 Attorney shall be chosen for a term of four years by the qualified voters thereof, at the 20 same time and places as members of the General Assembly or the Governor are elected. 21 Only persons duly authorized to practice law in the courts of this State shall be eligible 22 for election or appointment as a District Attorney. The District Attorney shall advise the 23 officers of justice in his-the district, be responsible for the prosecution on behalf of the 24 State of all criminal actions in the Superior Courts of his-the district, perform such 25 duties related to appeals therefrom as the Attorney General may require, and perform 26 such other duties as the General Assembly may prescribe." 27 **SECTION 9.** Section 19 of Article IV of the North Carolina Constitution 28 reads as rewritten: 29 "Sec. 19. Vacancies. 30 Unless otherwise provided in this Article, all vacancies occurring in the offices 31 provided for by this Article shall be filled by appointment of the Governor, and the 32 appointees shall hold their places until the next election for members of the General 33 Assembly or Governor, whichever comes first, that is held more than 60 days after the 34 vacancy occurs, when elections shall be held to fill the offices. When the unexpired 35 term of any of the offices named in this Article of the Constitution in which a vacancy 36 has occurred, and in which it is herein provided that the Governor shall fill the vacancy, 37 expires on the first day of January succeeding the next election for members of the 38 General Assembly or Governor, whichever comes first, the Governor shall appoint to 39 fill that vacancy for the unexpired term of the office. If any person elected or appointed 40 to any of these offices shall fail to qualify, the office shall be appointed to, held and 41 filled as provided in case of vacancies occurring therein. All incumbents of these offices 42 shall hold until their successors are qualified."

been temporarily incapacitated has sufficiently recovered his the physical or mental

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

3 Regular sessions. The General Assembly shall meet in regular session in 1973 "(1) 4 and every two years thereafter on the day prescribed by law. Beginning with the regular 5 session in 2003, during an odd-numbered year the General Assembly shall remain in 6 session for no more than 135 calendar days, except that this period may be extended by 7 joint resolution once per regular session for not more than 10 days. The month of 8 December in each even-numbered year is also included in the calculation. If the General 9 Assembly upon convening of the regular session meets for not more than two 10 consecutive calendar days and then adjourns for not less than 30 days, that period of 11 adjournment shall be excluded from the 135 days. If the regular session meets in even-12 numbered years, the General Assembly shall remain in session for no more than 60 13 calendar days, except that this period may be extended by joint resolution once per 14 regular session for not more than 10 days, but the month in December in each even-15 numbered year is excluded from the calculation. Any reconvened session called under 16 Section 5 of Article III of this Constitution shall be excluded from the calculations of 17 this section. Neither house shall proceed upon public business unless a majority of all of 18 its members are actually present. No valid action, other than a resolution of 19 adjournment, may be taken by the General Assembly after the time limits prescribed in 20 this section have expired."

21 **SECTION 11.** Section 9 of Article II of the North Carolina Constitution 22 reads as rewritten:

23 "Sec. 9. Term of office.

The term of office of Senators and Representatives shall commence on the first day
of January Wednesday in December next after their election."

SECTION 12. The amendments set out in Sections 1 through 11 of this act shall be submitted to the qualified voters of the State at the next statewide election, primary or otherwise, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

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"[]FOR []AGAINST

Constitutional amendments limiting the length of the legislative session and making the term of members of the General Assembly four years, beginning with members elected in 2002, and making conforming amendments concerning the election of other officers, the filling of vacancies and the date of the beginning of the term."

SECTION 13. If a majority of votes cast on the question are in favor of the amendments set out in Sections 1 through 11 of this act, the State Board of Elections shall certify the amendments to the Secretary of State whereupon the amendments shall become effective. The constitutional amendments shall apply beginning with members of the General Assembly elected in the 2002 general election so that they shall begin serving four-year terms. The Secretary of State shall enroll the amendments so certified among the permanent records of that office.

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SECTION 14. This act is effective when it becomes law.