

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
23CV028505-910

ROY A. COOPER, III, in his official
capacity as GOVERNOR OF THE STATE
OF NORTH CAROLINA,

Plaintiff,

v.

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

Defendants.

LEGISLATIVE DEFENDANTS'
ANSWER

NOW COME Defendants, Philip E. Berger, in his official capacity as President Pro Tempore of the North Carolina Senate and Timothy K. Moore, in his official capacity as Speaker of the North Carolina House of Representatives (collectively, "Legislative Defendants) and hereby respond to the Complaint filed on behalf of Plaintiff Roy A. Cooper, III ("Plaintiff") as follows:

FIRST DEFENSE

(Motion to Dismiss Pursuant to Rules 12(b)(1) and 12(b)(6))

Legislative Defendants move the Court, pursuant to N.C. Gen. Stat. § 1A-1, Rules 12(b)(1) and 12(b)(6) to dismiss Plaintiff's claims (a) due to lack of subject matter jurisdiction and (b) on the grounds that the Complaint fails to state claim upon which relief may be granted. First, the Court lacks subject matter jurisdiction

over Plaintiff's claims because, among other things, Plaintiff's claims present nonjusticiable political questions and Plaintiff lacks standing to assert challenges to laws changes the appointments to certain boards and commissions that will not take effect until after his term as Governor has ended. Second, Plaintiffs' claims fail to state a claim as a matter of law.

SECOND DEFENSE¹
(Answer to Complaint)

Legislative Defendants answer and respond to the individually numbered paragraphs of the Complaint as follows:

1. The allegations in this paragraph appear to summarize State ex rel. McCrory v. Berger, 368 N.C. 633 (2016) and Cooper v. Berger, 370 N.C. 392 (2018) ("Cooper I"), as well as quote State ex rel. Wallace v. Bone, 304 N.C. 591, 607-08 (1982), and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinions in McCrory, Cooper I, and Wallace are the best evidence of the contents thereof and speak for themselves, and Legislative Defendants deny the allegations in this paragraph inconsistent with those opinions' contents. Legislative Defendants further deny that McCrory, Cooper I, or Wallace control the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

2. Denied.

¹ All headings used herein mirror the language, formatting, and style of those in Plaintiff's Complaint.

3. Legislative Defendants admit that Session Law 2023-136 (“Senate Bill 512”) was passed on October 10, 2023, over the Governor’s veto, and that Senate Bill 512 alters the appointment structure and procedure for the boards and commissions alleged. The remaining allegations in paragraph 3 make a legal argument to which no response is required, but to the extent a response is required, the allegations are denied. Except as expressly admitted or otherwise stated, the allegations in paragraph 3 of the Complaint are denied.

4. Legislative Defendants admit that Session Law 2023-108 (“House Bill 488”) was passed on August 16, 2023, over the Governor’s veto, and that House Bill 488 creates the Residential Code Council, composed as alleged. Legislative Defendants further admit that the Governor appoints a mathematical majority of Residential Code Council members, and House Bill 488 requires an affirmative vote of 9 members to act. The remaining allegations in paragraph 4 make a legal argument to which no response is required, but to the extent a response is required, the allegations are denied. Except as expressly admitted or otherwise stated, the allegations in paragraph 4 of the Complaint are denied.

5. Denied.

6. Denied.

PARTIES AND JURISDICTION

7. Admitted upon information and belief.

8. Admitted.

9. Admitted.

10. Admitted.

11. This paragraph states a legal conclusion to which no response is required. To extent a response is required, the allegations in this paragraph are denied.

12. Legislative Defendants admit the Governor seeks the relief alleged in this paragraph but deny that he is entitled to any of the relief he seeks.

13. This paragraph states a legal conclusion to which no response is required. To extent a response is required, the allegations in this paragraph are denied.

14. This paragraph states a legal conclusion to which no response is required. To extent a response is required, the allegations in this paragraph are denied.

15. This paragraph states a legal conclusion to which no response is required. To extent a response is required, the allegations in this paragraph are denied.

FACTS

16. The allegations in this paragraph appear to quote McCrory, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in McCrory is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that McCrory controls

the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

17. The allegations in this paragraph appear to quote Wallace, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in Wallace is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that Wallace controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

18. The allegations in this paragraph appear to quote the North Carolina Constitution and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Constitution is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with its contents. Except as expressly admitted, the allegations in this paragraph are denied.

19. The allegations in this paragraph appear to summarize McCrory, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in McCrory is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that McCrory controls

the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

20. The allegations in this paragraph appear to quote and argue the North Carolina Constitution and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Constitution is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with its contents. Except as expressly admitted, the allegations in this paragraph are denied.

21. The allegations in this paragraph appear to quote and argue the North Carolina Constitution and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Constitution is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with its contents. Except as expressly admitted, the allegations in this paragraph are denied.

22. The allegations in this paragraph appear to quote and argue the North Carolina Constitution and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Constitution is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with its contents. Except as expressly admitted, the allegations in this paragraph are denied.

23. The allegations in this paragraph appear to quote McCrory and Wallace, and therefore no response is required. To the extent a response to this paragraph is

required, Legislative Defendants admit that the North Carolina Supreme Court's opinions in McCrory and Wallace are the best evidence of the contents thereof and speak for themselves, and Legislative Defendants deny the allegations in this paragraph inconsistent with those opinions' contents. Legislative Defendants further deny that McCrory or Wallace control the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

24. The allegations in this paragraph contain legal conclusions and arguments to which no response is required, but to the extent a response is required, the allegations are denied.

25. The allegations in this paragraph appear to quote and argue McCrory, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in McCrory is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that McCrory controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

26. The allegations in this paragraph appear to quote and argue McCrory, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in McCrory is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with

that opinion's contents. Legislative Defendants further deny that McCrory controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

27. The allegations in this paragraph appear to quote and summarize Cooper I, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in Cooper I is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that Cooper I controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

28. This paragraph makes a legal argument to which no response is required, but to the extent a response to this paragraph is required, Legislative Defendants admit that Session Law 2017-6 is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with Session Law 2017-6's contents. Except as expressly admitted, the allegations in this paragraph are denied.

29. The allegations in this paragraph appear to quote and summarize Cooper I, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in Cooper I is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph

inconsistent with that opinion's contents. Legislative Defendants further deny that Cooper I controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

30. The allegations in this paragraph appear to quote and argue McCrory, Cooper I, and Wallace, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinions in McCrory, Cooper I, and Wallace are the best evidence of the contents thereof and speak for themselves, and Legislative Defendants deny the allegations in this paragraph inconsistent with those opinions' contents. Legislative Defendants further deny that McCrory, Cooper I, or Wallace control the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

31. Denied.

32. Legislative Defendants state that the Complaint speaks for itself and no response is required to the allegations in this paragraph. To the extent a response is required, the allegations are denied.

33. Denied.

34. The allegations in this paragraph appear to quote and argue Wallace, *City of Arlington, Tex. v. F.C.C.*, 569 U.S. 290 (2013), and *Consumer Energy Council of Am. v. Fed. Energy Reg. Comm'n*, 673 F.2d 425 (D.C. Cir. 1982), and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the opinions in these cases are the best evidence of the contents thereof and speak for themselves, and Legislative Defendants deny

the allegations in this paragraph inconsistent with those opinions' contents. Legislative Defendants further deny that any of these cases control the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

35. The allegations in this paragraph appear to quote and argue Cooper I, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in Cooper I is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that Cooper I controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

36. Denied.

37. The allegations in this paragraph appear to quote Cooper I, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in Cooper I is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that Cooper I controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

38. The allegations in this paragraph appear to quote Cooper I, and therefore no response is required. To the extent a response to this paragraph is

required, Legislative Defendants admit that the North Carolina Supreme Court's opinion and Chief Justice Martin's dissent in Cooper I are the best evidence of their contents thereof and each speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that Cooper I controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

39. The allegations in this paragraph appear to selectively and partially quote Exhibit 1 to the Complaint, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the text of Complaint Exhibit 1 is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with Complaint Exhibit 1's contents. Legislative Defendants further deny that Complaint Exhibit 1 constitutes an admission or otherwise controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

40. Legislative Defendants state that N.C. Gen. Stat. § 143B-437.54 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

41. This paragraph makes a legal argument to which no response is required, but to the extent a response is required, this paragraph is denied. Further, Legislative Defendants state that N.C. Gen. Stat. § 143B-437.54 speaks for itself and deny any allegations in this paragraph and all subparts inconsistent with the provisions thereof.

42. Legislative Defendants state that N.C. Gen. Stat. § 143B-437.54 prior to Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

43. Legislative Defendants state that N.C. Gen. Stat. §§ 143B-437.54, 143B-9, and 143C-2-1 speak for themselves and deny any allegations in this paragraph inconsistent with the provisions thereof.

44. Legislative Defendants state that Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

45. Legislative Defendants state that Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

46. Denied.

47. The allegations in this paragraph appear to selectively and partially quote Exhibit 1 to the Complaint, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the text of Complaint Exhibit 1 is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with Complaint Exhibit 1's contents. Legislative Defendants further deny that Complaint Exhibit 1 constitutes an admission or otherwise controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

52. Denied.

53. Legislative Defendants state that N.C. Gen. Stat. § 143B-282 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

54. This paragraph contains legal argument and conclusions to which no response is required. To the extent a response is required, the allegations in this paragraph, including all subparts, are denied. Legislative Defendants further state that N.C. Gen. Stat. § 143B-282 speaks for itself and deny any allegations in this paragraph or its subparts inconsistent with the provisions thereof.

55. Legislative Defendants further state that N.C. Gen. Stat. § 143B-282.1 speaks for itself and deny any allegations in this paragraph or its subparts inconsistent with the provisions thereof.

56. The allegations in this paragraph appear to quote Wallace, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in Wallace is the best evidence of their contents thereof and each speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that Wallace controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

57. Legislative Defendants state that the provisions of N.C. Gen. Stat. § 143B-283(a1) prior to Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

58. Legislative Defendants state that Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the text thereof.

59. Legislative Defendants admit that the Commissioner of Agriculture is a member of the Council of State whose office is established by the North Carolina State Constitution. Except as expressly admitted, the allegations in this paragraph are denied.

60. Legislative Defendants admit that the current Commissioner of Agriculture is not a member of the Governor's political party. The remaining allegations in this paragraph appear to quote and argue Cooper I, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion and in Cooper I are the best evidence of their contents thereof and each speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that Cooper I controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

61. The allegations in this paragraph appear to quote and argue the North Carolina State Constitution and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North

Carolina State Constitution is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with its contents. Except as expressly admitted, the allegations in this paragraph are denied.

62. The allegations in this paragraph appear to quote and argue the North Carolina State Constitution and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina State Constitution is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with its contents. Except as expressly admitted, the allegations in this paragraph are denied.

63. The allegations in this paragraph appear to quote and argue the North Carolina State Constitution and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina State Constitution is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with its contents. Except as expressly admitted, the allegations in this paragraph are denied.

64. The allegations in this paragraph appear to quote and argue McCrory, and further contains legal argument, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in McCrory is the best evidence of their

contents thereof and each speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that McCrory controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

65. Denied.

66. Legislative Defendants state that the version of N.C. Gen. Stat. § 143B-284 prior to Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

67. Legislative Defendants state that Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the text thereof.

68. Legislative Defendants state that the version of N.C. Gen. Stat. § 143B 283(b1) prior to Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof. Further, the allegations in this paragraph appear to quote and argue Cooper I, and therefore no response is required. To the extent a response to this paragraph is required, Legislative Defendants admit that the North Carolina Supreme Court's opinion in Cooper I is the best evidence of their contents thereof and each speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with that opinion's contents. Legislative Defendants further deny that Cooper I controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

69. Denied.

70. Denied.

71. Denied, including as to each subpart.

72. Denied.

73. Denied.

74. Legislative Defendants state that N.C. Gen. Stat. § 130A-29 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

75. Legislative Defendants state that N.C. Gen. Stat. § 130A-29 speaks for itself and deny any allegations in this paragraph and its subparts inconsistent with the provisions thereof.

76. Legislative Defendants state that N.C. Gen. Stat. §§ 130A-9, -22, and -9 speak for themselves and deny any allegations in this paragraph inconsistent with the provisions thereof.

77. Legislative Defendants state that the version of N.C. Gen. Stat. § 130A-30 prior to Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

78. Legislative Defendants state that Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

79. Legislative Defendants state that Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

80. Legislative Defendants state that Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

81. Denied.

82. Denied.

83. Denied, including as to each subpart.

84. Denied.

85. Denied.

86. Legislative Defendants state that N.C. Gen. Stat. § 143B-350 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

87. Legislative Defendants state that N.C. Gen. Stat. § 143B-350 speaks for itself and deny any allegations in this paragraph and each subpart inconsistent with the provisions thereof.

88. Legislative Defendants state that N.C. Gen. Stat. § 143B-350 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

89. Legislative Defendants state that the version of N.C. Gen. Stat. § 143B-350 prior to Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

90. Legislative Defendants further state that Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the text thereof.

91. Legislative Defendants further state that Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the text thereof.

92. The allegations in this paragraph appear to quote Exhibit 1 to the Complaint, and therefore no response is required. To the extent a response to this

paragraph is required, Legislative Defendants admit that the text of Complaint Exhibit 1 is the best evidence of the contents thereof and speaks for itself, and Legislative Defendants deny the allegations in this paragraph inconsistent with Complaint Exhibit 1's contents. Legislative Defendants further deny that Complaint Exhibit 1 constitutes an admission or otherwise controls the outcome in this case. Except as expressly admitted, the allegations in this paragraph are denied.

93. Legislative Defendants state that the version of N.C. Gen. Stat. § 143B-350 prior to Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the provisions thereof.

94. Legislative Defendants further state that Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the text thereof.

95. Legislative Defendants further state that Senate Bill 512 speaks for itself and deny any allegations in this paragraph inconsistent with the text thereof.

96. Denied.

97. Denied.

98. Denied, including as to each subpart.

99. Denied.

100. Denied.

101. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

102. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

103. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

104. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

105. It is admitted that the Commissioner of Insurance is an independently elected member of the Council of State, with an office established in the North Carolina State Constitution. Except as expressly admitted, the allegations in this paragraph are denied.

106. It is admitted that Mike Causey is the current Commissioner of Insurance. The remaining allegations in this paragraph do not allege facts, but instead state legal arguments to which no response is required. To the extent a response is required, the remaining allegations in this paragraph are denied.

107. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

108. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

109. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

110. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

111. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

112. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

113. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

114. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

115. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

116. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

117. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

118. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

119. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

120. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

121. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

122. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

123. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

124. It is admitted that the Commissioner of Agriculture is an independently elected member of the Council of State, with an office established in the North Carolina State Constitution. Except as expressly admitted, the allegations in this paragraph are denied.

125. It is admitted that Steve Troxler is the current Commissioner of Agriculture. The remaining allegations in this paragraph do not allege facts, but instead state legal arguments to which no response is required. To the extent a response is required, the remaining allegations in this paragraph are denied.

126. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

127. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

128. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

129. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

130. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

131. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

132. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

133. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

134. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

135. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

136. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

137. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

138. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

139. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

140. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

141. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

142. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

143. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

144. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

145. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

146. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

147. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

148. This paragraph makes a legal argument to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

COUNT 1: DECLARATORY JUDGMENT (FACIAL CHALLENGE)

Part I of Senate Bill 512 (Economic Investment Committee) Facially Violates the Separation of Powers Clauses of the North Carolina Constitution

149. Legislative Defendants restate and incorporate by reference their responses set forth in the preceding paragraphs of their Answer.

150. Denied.

151. Denied.

152. Denied.

153. Denied.

154. Denied.

COUNT 2: DECLARATORY JUDGMENT (FACIAL CHALLENGE)

Part II of Senate Bill 512 (Environmental Management Committee) Facially Violates the Separation of Powers and Faithful Execution Clauses of the North Carolina Constitution

155. Legislative Defendants restate and incorporate by reference their responses set forth in the preceding paragraphs of their Answer.

156. Denied.

157. Denied.

158. Denied.

159. Denied.

COUNT 3: DECLARATORY JUDGMENT (FACIAL CHALLENGE)

Part III of Senate Bill 512 (Commission for Public Health) Facially Violates the Separation of Powers and Faithful Execution Clauses of the North Carolina Constitution

160. Legislative Defendants restate and incorporate by reference their responses set forth in the preceding paragraphs of their Answer.

161. Denied.

162. Denied.

163. Denied.

164. Denied.

COUNT 4: DECLARATORY JUDGMENT (FACIAL CHALLENGE)

Part IV of Senate Bill 512 (Board of Transportation) Facially Violates the Separation of Powers and Faithful Execution Clauses of the North Carolina Constitution

165. Legislative Defendants restate and incorporate by reference their responses set forth in the preceding paragraphs of their Answer.

166. Denied.

167. Denied.

168. Denied.

169. Denied.

COUNT 5: DECLARATORY JUDGMENT (FACIAL CHALLENGE)

Part V of Senate Bill 512 (Coastal Resources Commission) Facially Violates the Separation of Powers and Faithful Execution Clauses of the North Carolina Constitution

170. Legislative Defendants restate and incorporate by reference their responses set forth in the preceding paragraphs of their Answer.

171. Denied.

172. Denied.

173. Denied.

174. Denied.

COUNT 6: DECLARATORY JUDGMENT (FACIAL CHALLENGE)
Part VI of Senate Bill 512 (Wildlife Resources Commission) Facially Violates the
Separation of Powers and Faithful Execution Clauses of the North Carolina
Constitution

175. Legislative Defendants restate and incorporate by reference their responses set forth in the preceding paragraphs of their Answer.

176. Denied.

177. Denied.

178. Denied.

179. Denied.

COUNT 7: DECLARATORY JUDGMENT (FACIAL CHALLENGE)
Session Law 2023-108 (Residential Code Council) Facially Violates the Separation
of Powers and Faithful Execution Clauses of the North Carolina Constitution

180. Legislative Defendants restate and incorporate by reference their responses set forth in the preceding paragraphs of their Answer.

181. Denied.

182. Denied.

183. Denied.

184. Denied.

THIRD DEFENSE
(Nonjusticiable Political Question)

Without implying that Legislative Defendants have the burden to prove such, Plaintiff's claims and requests for relief constitute nonjusticiable political questions.

RESERVATION OF RIGHTS

Legislative Defendants expressly reserve the right to respond further to Plaintiff's allegations and to amend their Answer to assert other affirmative defenses.


PRAYER FOR RELIEF

WHEREFORE, Legislative Defendants pray that the Court:

1. Dismiss Plaintiff's claims for lack of subject matter jurisdiction and/or failure to state a claim upon which relief may be granted;
2. Deny and dismiss all of Plaintiff's claims and requests for relief in this action with prejudice;
3. Dissolve and vacate any interlocutory or preliminary injunction or restraining order;
4. Tax the costs of this action, including attorneys' fees as allowed by law, against the Plaintiff; and
5. Grant such other and further relief as the Court deems just and proper.

This the 17th day of November, 2023.

WOMBLE BOND DICKINSON (US) LLP



Matthew F. Tilley (N.C. Bar No. 40125)
Russ Ferguson (N.C. Bar No. 39671)
Sean E. Andrussier (N.C. Bar No. 25790)
Mike Ingersoll (N.C. Bar. No.52217)
Peyton M. Poston (N.C. Bar No. 53553)

301 South College Street, Suite 3500
Charlotte, North Carolina 28202-6037
Telephone: (704) 331-4900
E-Mail: Matthew.Tilley@wbd-us.com
Russ.Ferguson@wbd-us.com
Sean.Andrussier@wbd-us.com
Mike.Ingersoll@wbd-us.com
Peyton.Poston@wbd-us.com

Attorneys for Philp E. Berger, in his official capacity as President Pro Tempore of the North Carolina Senate, and Timothy K. Moore, in his official capacity as Speaker of the North Carolina House of Representatives

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2023, I caused a copy of the foregoing to be served by email and regular, first-class mail to:

Jim W. Phillips, Jr.

jphillips@brookspierce.com

Eric M. David

edavid@brookspierce.com

Daniel F.E. Smith

dsmith@brookspierce.com

Amanda S. Hawkins

ahawkins@brookspierce.com

BROOKS, PIERCE, MCLENDON, HUMPHREY & LEONARD, L.L.P.

Renaissance Plaza, Suite 2000

230 North Elm Street

Greensboro, NC 27401

Attorneys for Plaintiff Roy Cooper,

Governor of the State of North Carolina

Amar Majmundar

amajmundar@ncdoj.gov

Stephanie A. Brennan

sbrennan@ncdoj.gov

NC DEPARTMENT OF JUSTICE

P.O. Box 629

Raleigh, NC 27602

Attorneys for The State of North Carolina



Matthew F. Tilley