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SENATE BILL DRS45583-LUa-105A

Short Title: Safeguard Fair Elections Act. (Public)

Sponsors: Senators Chaudhuri and Murdock (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE INCREASED PROTECTIONS FOR VOTERS AND ELECTIONS
3 OFFICIALS AGAINST VARIOUS FORMS OF INTERFERENCE WITH AN ELECTION
4 AND TO APPROPRIATE FUNDS FOR CERTAIN PURPOSES.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. VOTER PROTECTIONS AGAINST INTIMIDATION, THREATS, OR**
8 **COERCION**

9 **SECTION 1.1.** Article 22 of Chapter 163 of the General Statutes is amended by
10 adding the following new sections to read:

11 "**§ 163-275.1. Voter intimidation, threats, or coercion.**

12 (a) As used in this section, the following definitions shall apply:

13 (1) Coerce. – To compel another person's conduct using force or threat of force,
14 whether that force is physical or economic, and is judged not in isolation but
15 in the context and background of contemporaneous events.

16 (2) Intimidate. – To willfully engage in conduct without legal purpose that would
17 cause a reasonable person to fear for the person's safety or the safety of the
18 person's immediate family or close personal associates by placing the person
19 in fear of death, bodily injury, or continued harassment.

20 (3) Threaten. – To express an intention to harm another.

21 (b) Notwithstanding any other provision of law, any person who does any of the
22 following is guilty of a Class H felony:

23 (1) Threatens or attempts to threaten any person:

24 a. For voting or attempting to vote.

25 b. For voting or attempting to vote for or against a particular candidate.

26 c. For registering to vote.

27 d. For urging or aiding any individuals to vote or attempting to vote, as
28 allowed by law.

29 e. For exercising any lawful powers or duties as an election official or
30 enlisting another person to do the same.

31 For purposes of this section, a person shall be found to have threatened another
32 person if the person knew or reasonably should have known that his or her
33 actions would produce that effect.

34 (2) Knowingly challenges a person's right to vote on fraudulent or spurious
35 grounds.



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- 1 (3) Engages in mass, indiscriminate, and groundless challenging of voters solely
 2 for the purpose of preventing voters from voting or to delay the process of
 3 voting or the lawful and orderly administration of an election.
 4 (4) Fraudulently advises any person that the person is not eligible to vote or is not
 5 registered to vote when in fact that person is eligible or registered to vote.
 6 (c) Notwithstanding any other provision of law, an employer, whether a corporation or
 7 natural person or any other person who employs, who shall, in paying its employees the salary
 8 or wages due the employees, do any of the following shall be guilty of a Class H felony:
 9 (1) Enclose the employees' pay in pay envelopes upon which or in which there is
 10 written or printed the name of any candidate or any political mottoes, devices,
 11 or arguments containing threats, express or implied, intended or calculated to
 12 influence the political opinions or actions of the employees.
 13 (2) In any way, express or implied, communicate that the employees' pay or
 14 continued employment is conditioned on voting or not voting, or voting or not
 15 voting for a specific candidate.
 16 (d) Notwithstanding any other provision of law, any person who intimidates or coerces
 17 or attempts to intimidate or coerce any person for any of the following is guilty of a Class A1
 18 misdemeanor:
 19 (1) Voting or attempting to vote.
 20 (2) For voting or attempting to vote for or against a particular candidate.
 21 (3) Urging or aiding any persons to vote or attempt to vote, as allowed by law.
 22 (4) Exercising any lawful powers or duties as an election official or enlisting
 23 another person for the purpose of doing the same.

24 For purposes of this section, a person shall be found to have intimidated or coerced another
 25 person if the person knew or reasonably should have known that his or her actions would produce
 26 that effect.

27 **"§ 163-275.2. Right of action.**

28 Any person aggrieved by a violation of G.S. 163-275.1 may bring an action for preventive
 29 relief, including an application in a district court for a permanent or temporary injunction,
 30 restraining order, or other order. In any action commenced pursuant to this section, the court, in
 31 its discretion, may allow the prevailing party reasonable attorney's fees.

32 **"§ 163-275.3. Restitution; fund.**

33 (a) In addition to any other fine or penalty imposed by this Article, the court may order
 34 any person convicted of violating this Article to pay a restitution fine, the amount of which shall
 35 be determined by the court and be commensurate with the seriousness of the offense. The moneys
 36 derived from the fine assessed pursuant to this subsection shall be deposited in the Voter
 37 Intimidation Restitution Fund created under subsection (b) of this section.

38 (b) The Voter Intimidation Restitution Fund (Fund) is hereby established in the State
 39 Treasury. Upon appropriation by the General Assembly, moneys in the Fund shall be allocated
 40 to the State Board of Elections to be used in voter education campaigns addressing the specific
 41 crime committed by anyone convicted of violations of this Article. The funds shall also be used
 42 for the administrative costs associated with distribution of the Fund."

43
 44 **PART II. ELECTION OFFICIAL AND POLL WORKER INTIMIDATION**

45 **SECTION 2.1.** Article 22 of Chapter 163 of the General Statutes reads as rewritten:

46 "Article 22.

47 "Corrupt Practices and Other Offenses Against the Elective Franchise.

48 "Part 1. Criminal Penalties for Voter Interference.

49 ...

50 **"§ 163-278. Duty of investigating and prosecuting violations of this Article.**

1 (a) It shall be the duty of the State Board of Elections and the district attorneys to
2 investigate any violations of this Article, and the State Board and district attorneys are authorized
3 and empowered to subpoena and compel the attendance of any person before them for the
4 purpose of making such investigation. The State Board and the district attorneys are authorized
5 to call upon the Director of the State Bureau of Investigation to furnish assistance by the State
6 Bureau of Investigation in making the investigations of such violations. The State Board shall
7 furnish the district attorney a copy of its investigation. The district attorney shall initiate
8 prosecution and prosecute any violations of this Article. The provisions of G.S. 163-278.28 shall
9 be applicable to violations of this Article.

10 (b) In addition to the penalties described under this Article, the State Board of Elections
11 and the district attorneys are authorized to investigate, prosecute, and seek increased penalties
12 for a person that intimidates, threatens, or coerces an election worker, as defined in
13 G.S. 163-278.1A, engaged in performing official duties.

14 "Part 2. Election Administrator and Poll Worker Intimidation.

15 **"§ 163-278.1A. Intimidation, threats, or coercion of election workers; cause of action;**
16 **penalties; immunity.**

17 (a) Any person that intimidates, threatens, coerces, as those terms are defined in
18 G.S. 163-275.1, or attempts to intimidate, threaten, or coerce an election worker with intent to
19 impede, intimidate, or interfere with the election worker's official duties is liable in civil damages
20 to the election worker for any injury or loss resulting from the intimidation, threats, or coercion.
21 For purposes of this section, an election worker is any individual who is an election official, poll
22 worker, or an election volunteer performing duties in connection with an election.

23 (b) Any person that violates subsection (a) of this section shall be fined not more than
24 one hundred thousand dollars (\$100,000), imprisoned for not more than five years, or both.

25 (c) An election worker acting in good faith to prevent election interference or preserve
26 ballot access in accordance with this section shall not incur liability."

27 28 **PART III. DISQUALIFY ANY PUBLIC OFFICIAL WHO REFUSES TO CERTIFY** 29 **ELECTION**

30 **SECTION 3.1.** Chapter 163 of the General Statutes is amended by adding a new
31 Article to read:

32 "Article 15B.

33 "Safeguard Fair Elections Act.

34 **"§ 163-183. Short title.**

35 This act shall be known as the "Safeguard Fair Elections Act."

36 **"§ 163-183.1. Findings; purpose.**

37 (a) The General Assembly makes the following findings:

38 (1) Following the 2020 election, anti-democratic extremists tried to get election
39 officials to lie about election results. In some cases, public officials either
40 hesitated or outright refused to accept plainly truthful election results.

41 (2) Scores of court cases and administrative challenges proved without doubt that
42 the 2020 election was counted correctly and that the candidates who were
43 certified as winners had fairly and honestly won.

44 (3) Those same extremists have made it clear that they are preparing an election
45 nullification strategy to implement in the near future, which is an outright
46 subversion of the American democratic system.

47 (4) Each public official, whether an elected official, a government employee, or
48 a volunteer empowered to take official action, has a sacred responsibility to
49 place loyalty to the Constitution, laws, and ethical principles above partisan
50 politics.

1 (5) Efforts to subvert vote counting and the recognition of election winners are,
2 by definition, destructive to our system of democracy and the rule of law.
3 There can be no government "of, by and for the people" if officials are
4 dishonest about election results.

5 (b) The purpose of this act is to protect the democratic system and rule of law.

6 **"§ 163-183.2. Definitions.**

7 For purposes of this Article, the following definitions apply:

8 (1) Official act. – A decision or action where a public official is acting for or on
9 behalf of the State government or local government, or any branch of either
10 government.

11 (2) Public official. – An individual legally authorized or permitted to execute laws
12 or make decisions on behalf of any government, including any branch,
13 subdivision, or agency of the State or any county, city, district, or other local
14 government. "Public official" includes, but is not limited to, elected and
15 appointed officials, government employees, and people who are officially
16 selected or acknowledged as acting on behalf of the government, such as
17 election judges and election poll workers.

18 (3) Substantial evidence. – Any relevant evidence that a reasonable person might
19 accept as adequate to support a conclusion.

20 **"§ 163-183.3. Vote counting and election certification based on fact.**

21 (a) No public official shall perform or communicate the intention to perform an official
22 act in which that official, without substantial evidence, refuses to certify the actual results or
23 count of an election.

24 (b) If any public official performs or communicates the intention to perform an official
25 act in violation of subsection (a) of this section, the performance or communication shall
26 constitute an automatic resignation from office and any official act in violation of subsection (a)
27 of this section considered null and void.

28 (c) A willful violation of subsection (a) of this section shall be a Class 1 misdemeanor,
29 punishable by a fine of up to ten thousand dollars (\$10,000).

30 (d) This section shall be enforced in addition to any other existing civil and criminal
31 penalties established under this Chapter."

32 **SECTION 3.2.** This section is effective when it becomes law and applies to elections
33 held on or after that date.

34
35 **PART IV. PROHIBITING THIRD-PARTY FORENSIC AUDIT**

36 **SECTION 4.1.** G.S. 163-182.12A reads as rewritten:

37 **"§ 163-182.12A. Post-election audits.**

38 (a) When conducting post-election audits, the State Board shall implement best practices
39 to ensure, at a minimum, each audit complies with the following:

40 (1) Is conducted by nonpartisan officials with expertise in elections.

41 (2) Is routine and conducted prior to State certification.

42 (3) Is transparent and open to the public.

43 (4) Preserves the integrity of election systems and voting equipment.

44 (5) Preserves ballot secrecy and voter privacy.

45 (6) Is conducted according to statistically sound methodology.

46 (7) Requires that any State or county procedures governing audits be established
47 before Election Day and before results are known.

48 (b) No public official shall provide funding for or participate in a post-election audit or
49 review that fails to comply with the best practices required by this section.

50 (c) After conducting a post-election audit, the State Board shall produce a report which
51 summarizes the audit, including the rationale for and the findings of the audit. The report shall

1 be submitted to the Joint Legislative Elections Oversight Committee and the Joint Legislative
2 Oversight Committee on General Government within 10 business days of the date the audit is
3 completed."

4 **SECTION 4.2.** Article 15A of Chapter 163 of the General Statutes is amended by
5 adding a new section to read:

6 "**§ 163-182.12B. Risk-limiting audits.**

7 In addition to any other audits required under State or federal law, the State Board of
8 Elections shall conduct a risk-limiting audit after the general election in each county in
9 accordance with requirements established by the State Board. However, an audit conducted in
10 accordance with this section shall not change the results of an election. For purposes of this
11 section, a "risk-limiting audit" is a hand-to-eye recount of a randomly selected sample of ballots
12 in a contest that provides strong statistical evidence that the machine-counted results are correct
13 and is based on a "risk-limit"; the largest chance that an incorrect outcome of a contest could
14 escape correction by the audit."

15
16 **PART V. PREVENT IMPEDIMENT/INTERFERENCE WITH ELECTION PROCESS**

17 **SECTION 5.1.** G.S. 163-45 reads as rewritten:

18 "**§ 163-45. Observers; appointment.**

19 (a) The chair of each political party in the county shall have the right to designate two
20 observers to attend each voting place at each primary and election and such observers may, at the
21 option of the designating party chair, be relieved during the day of the primary or election after
22 serving no less than four hours and provided the list required by this section to be filed by each
23 chair contains the names of all persons authorized to represent such chair's political party. The
24 chair of each political party in the county shall have the right to designate 10 additional at-large
25 observers who are residents of that county who may attend any voting place in that county. The
26 chair of each political party in the State shall have the right to designate up to 100 additional
27 at-large observers who are residents of the State who may attend any voting place in the State.
28 The list submitted by the chair of the political party may be amended between the one-stop period
29 under G.S. 163-227.2, 163-227.5, and 163-227.6 and general election day to substitute one or all
30 at-large observers for election day. Not more than two observers from the same political party
31 shall be permitted in the voting enclosure at any time, except that in addition one of the at-large
32 observers from each party may also be in the voting enclosure. This right shall not extend to the
33 chair of a political party during a primary unless that party is participating in the primary. In any
34 election in which an unaffiliated candidate is named on the ballot, the candidate or the candidate's
35 campaign manager shall have the right to appoint two observers for each voting place consistent
36 with the provisions specified herein. Persons appointed as observers by the chair of a county
37 political party must be registered voters of the county for which ~~appointed~~ appointed, must
38 complete training before acting as an observer and complete additional training at least once
39 every two years, as applicable, and must have good moral character. Persons appointed as
40 observers by the chair of a State political party must be registered voters of the ~~State~~ State, must
41 complete training before acting as an observer and complete additional training at least once
42 every two years, as applicable, and must have good moral character. The State Board of Elections
43 shall establish training standards and requirements for observers. No person who is a candidate
44 on the ballot in a primary or election may serve as an observer or runner in that primary or
45 election. ~~Observers shall take no oath of office.~~

46 (b) Individuals authorized to appoint observers must submit in writing to the chief judge
47 of each precinct a signed list of the observers appointed for that precinct, except that the list of
48 at-large observers authorized in subsection (a) of this section shall be submitted to the county
49 director of elections. Individuals authorized to appoint observers must, prior to 10:00 A.M. on
50 the fifth day prior to any primary or general election, submit in writing to the chair of the county
51 board of elections two signed copies of a list of observers appointed by them, designating the

1 precinct or at-large status for which each observer is appointed. Before the opening of the voting
2 place on the day of a primary or general election, the chair shall deliver one copy of the list to
3 the chief judge for each affected precinct, except that the list of at-large observers shall be
4 provided by the county director of elections to the chief judge. The chair shall retain the other
5 copy. The chair, or the chief judge and judges for each affected precinct, may for good cause
6 reject any appointee and require that another be appointed. The names of any persons appointed
7 in place of those persons rejected shall be furnished in writing to the chief judge of each affected
8 precinct no later than the time for opening the voting place on the day of any primary or general
9 election, either by the chair of the county board of elections or the person making the substitute
10 appointment.

11 If party chairs appoint observers at one-stop sites under G.S. 163-227.2, 163-227.5, and
12 163-227.6, those party chairs shall provide a list of the observers appointed before 10:00 A.M.
13 on the fifth day before the observer is to observe. At-large observers may serve at any one-stop
14 site.

15 (c) An observer shall sign a sworn oath that the observer shall do no electioneering at the
16 voting place, and shall in no manner impede the voting process or interfere or communicate with
17 or observe any voter in casting a ballot, but, subject to these restrictions, the chief judge and
18 judges of elections shall permit the observer to ~~make such observation and take such observe and~~
19 take notes as the observer may desire. While observing, an observer shall wear clear
20 identification, including the observer's name, role, and partisan affiliation.

21 (d) Whether or not the observer attends to the polls for the requisite time provided by this
22 section, each observer shall be entitled to obtain at times specified by the State Board of
23 Elections, but not less than three times during election day with the spacing not less than one
24 hour apart, a list of the persons who have voted in the precinct so far in that election day. Counties
25 that use an "authorization to vote document" instead of poll books may comply with the
26 requirement in the previous sentence by permitting each observer to inspect election records so
27 that the observer may create a list of persons who have voted in the precinct so far that election
28 day; each observer shall be entitled to make the inspection at times specified by the State Board
29 of Elections, but not less than three times during election day with the spacing not less than one
30 hour apart.

31 Instead of having an observer receive the voting list, the county party chair may send a runner
32 to do so, even if an observer has not been appointed for that precinct. The runner may be the
33 precinct party chair or any person named by the county party chair. Each county party chair using
34 runners in an election shall provide to the county board of elections before 10:00 A.M. on the
35 fifth day before election day a list of the runners to be used. That party chair must notify the chair
36 of the county board of elections or the board chair's designee of the names of all runners to be
37 used in each precinct before the runner goes to the precinct. The runner may receive a voter list
38 from the precinct on the same schedule as an observer. Whether obtained by observer or runner,
39 each party is entitled to only one voter list at each of the scheduled times. No runner may enter
40 the voting enclosure except when necessary to announce that runner's presence and to receive the
41 list. The runner must leave immediately after being provided with the list."

42 **SECTION 5.2.** During the conduct of elections, the State Board of Elections, in
43 collaboration with county boards of elections, shall do each of the following:

- 44 (1) Ensure election administrators are adequately compensated equitably
45 throughout the State to reduce attrition and loss of institutional knowledge.
 - 46 (2) Ensure clear and conspicuous notices are placed at voting locations
47 establishing clear rights and responsibilities for voters, poll workers, and
48 observers.
 - 49 (3) Develop a statewide, uniform system of reporting incidents of voter
50 intimidation anonymously.
- 51

1 **PART VI. PROTECTING ELECTION OFFICIALS' PERSONALLY IDENTIFIABLE**
2 **INFORMATION IN PUBLIC RECORDS**

3 **SECTION 6.1.** Article 5 of Chapter 163 of the General Statutes is amended by
4 adding a new section to read:

5 **"§ 163-49. Protecting precinct election officials' personally identifiable information in**
6 **public records.**

7 (a) Notwithstanding any provision of law to the contrary, a precinct official may file
8 written notice with the State Board of Elections requesting that the precinct official and the
9 precinct official's immediate family, if applicable, be placed on a list prohibiting disclosure of
10 personally identifiable information in public records when the precinct official deems the official
11 or the official's immediate family is at risk of intimidation, threat, or coercion in response to
12 official election duties. For purposes of this section, "personally identifiable information" means
13 any of the following:

- 14 (1) A person's home address, home telephone number, personal mobile telephone
15 number, pager number, or personal email address.
- 16 (2) A photograph of a person.
- 17 (3) Directions to a person's home.
- 18 (4) A photograph or description of a person's home, vehicle, or vehicle license
19 plate.

20 (b) The State Board of Elections shall develop a process and establish criteria for precinct
21 officials requesting nondisclosure of their personally identifiable information pursuant to this
22 section. In developing the process, the State Board of Elections shall provide a means to notify
23 the appropriate county boards of elections and other entities of the request."
24

25 **PART VII. SECURITY TRAINING FUNDS**

26 **SECTION 7.1.** There is appropriated from the General Fund to the State Board of
27 Elections the sum of two hundred fifty thousand dollars (\$250,000) in recurring funds for the
28 2022-2023 fiscal year to provide biennial security training for election officials and their
29 immediate family members, as defined in G.S. 14-43.17. Security training shall include, at a
30 minimum, each of the following:

- 31 (1) Best practices for using social media and other forms of online engagement
32 and maintaining online privacy.
- 33 (2) Home security program and maintenance.
- 34 (3) Understanding removal programs and requirements for election officials'
35 personally identifiable information in accordance with Part 6 of this act.
- 36 (4) Any other security training deemed relevant.
37

38 **PART VIII. NEW THREAT MANAGEMENT CAPABILITY FUNDS**

39 **SECTION 8.1.** There is appropriated from the General Fund to the State Board of
40 Elections the sum of two million dollars (\$2,000,000) in nonrecurring funds for the 2022-2023
41 fiscal year to establish, in coordination with the Department of Justice and Public Safety, as
42 appropriate, a new threat management capability for monitoring all-source information that shall
43 do the following:

- 44 (1) Provide a threat monitoring and analysis capability for the protection of
45 election officials and their immediate family members, as applicable.
- 46 (2) Coordinate social media monitoring and threat assessments.
- 47 (3) Proactively manage the monitoring of websites for election officials'
48 personally identifiable information and report violations to the appropriate
49 law enforcement authorities.
- 50 (4) Maintain files of escalating behaviors and work in conjunction with the
51 appropriate law enforcement to counteract overt acts of aggression.

- 1 (5) Maintain a database of each election official to catalogue complaints,
2 including the name and other relevant personal information of the individual
3 or group of individuals engaging in direct or indirect threatening behavior.
4 (6) Coordinate complaints by election officials of all sources and other online
5 threats, whether direct or indirect, with law enforcement partners.
6

7 **PART IX. SEVERABILITY**

8 **SECTION 9.1.** If any provision of this act or its application is held invalid, the
9 invalidity does not affect other provisions or applications of this act that can be given effect
10 without the invalid provisions or application, and to this end, the provisions of this act are
11 severable.
12

13 **PART X. EFFECTIVE DATE**

14 **SECTION 10.1.** Parts 7 and 8 of this act become effective July 1, 2022. Except as
15 otherwise provided, the remainder of this act is effective when it becomes law.