



State Democracy Research Initiative

UNIVERSITY OF WISCONSIN LAW SCHOOL

Explainer: Lame-Duck Power Grabs in North Carolina and Beyond

Derek Clinger, Senior Staff Attorney

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Just weeks after North Carolina Democrats won several prominent statewide offices in the 2024 general election, including governor, lieutenant governor, and attorney general, the Republican-controlled legislature moved swiftly to limit the authority of these offices in what many have called a significant [“power grab.”](#) The proposals were controversially attached to legislation ostensibly meant to provide relief for Hurricane Helene victims, [Senate Bill 382](#), and then rushed through the lame-duck legislature with little public notice. The timing is especially notable, as the state’s Republicans also just lost their veto-proof supermajority in the state house of representatives, meaning the legislature will have less ability to act unilaterally in the new year.

Outgoing Democratic Governor Roy Cooper [vetoed the bill](#) shortly before Thanksgiving, [calling it](#) “a sham” that violates the state constitution by stripping executive branch officials of important powers. He further criticized the bill for failing even to deliver aid to the state’s hurricane-affected region, saying it “does not send money to Western North Carolina but merely shuffles money from one fund to another in Raleigh.” Despite this, both legislative chambers subsequently voted to override Cooper’s veto, with the state house of representatives doing so most recently on December 11. As a result, Senate Bill 382 will become law.

The legislation has sparked widespread backlash. Even former Republican Governor Pat McCrory, who signed a controversial power grab on his way out of office in 2016, [condemned the tactic](#) of attaching the proposals to a hurricane relief package as “just not the way government should work.”

This legislative maneuver exemplifies a trend of [escalating “power plays” in state governments](#), where officials pursue institutional changes for partisan gain. This Explainer analyzes Senate Bill 382 and seeks to situate it within the broader context of similar efforts in North Carolina and other states. Ultimately, the bill represents one of the most significant lame-duck power grabs anywhere in the country in recent history, rivaled only by similar episodes that played out in North Carolina in 2016 and Wisconsin in 2018.

Unpacking Senate Bill 382

[Senate Bill 382](#) spans over 130 pages and begins with a section titled “The Disaster Recovery Act of 2024—Part III.” Ostensibly meant to provide relief for Hurricane Helene victims, it transfers

\$277 million from a general savings fund to a special hurricane victims fund, though it requires the funds to remain unspent until appropriated by subsequent legislation. However, the hurricane relief provisions conclude on page 13. The remaining pages address [scores of unrelated topics](#).

Among the most consequential proposals are sweeping changes that will strip key powers from incoming Democratic officials and give them to Republican-controlled offices.

The bill drastically curtails the governor's ability to make appointments:

- **State and County Boards of Elections:** It transfers the power to appoint members of the state's five-member election board from the governor to the state auditor, who will be a Republican next year. (The governor has had the power to appoint a majority of the board [since 1901](#), but in recent years the legislature has repeatedly—and [unsuccessfully](#)—sought to take this power away from the governor.) The auditor will also gain the authority to designate chairs of county boards of elections—another power currently held by the governor.
- **Utility Commission:** It reduces the number of commissioners appointed by the governor on the five-member Utility Commission from three to two, transferring one appointment to the state treasurer, who will also be a Republican next year. It also removes the governor's power to appoint the commission's chair, providing instead that the commissioners will elect their chair.
- **State Supreme Court and Court of Appeals:** It requires the governor to select judicial replacements for vacancies from a list provided by the departing judge's political party, effectively barring the incoming Democratic governor from appointing Democrats to seats vacated by Republicans.
- **State Highway Patrol:** It requires legislative confirmation for the state's highway patrol commander.
- **Legislative Involvement in Appointments:** It removes the ability of the governor to reject appointees recommended by the legislature for offices subject to appointment by the legislature, and it shortens the amount of time the governor has to fill vacancies in these offices. It also allows the state senate to block the governor's department heads from serving a second consecutive term if the governor is re-elected to a second term.

The bill also limits the powers of other offices that will be held by Democrats next year:

- **Attorney General:** It prohibits the Attorney General from taking positions in lawsuits that contradict the legislature's position, from making any argument that would invalidate a state law, and from intervening on behalf of the public interest in public utility matters before the Utility Commission.
- **Lieutenant Governor:** It removes the Lieutenant Governor from the Legislative Committee on Energy Crisis Management, stripping the office from its chairmanship of the committee and removing its ability to break tie votes.
- **Superintendent of Public Instruction:** It removes the Superintendent's authority to appeal final decisions by the Charter Schools Review Board.

- Judiciary: It eliminates two trial court judgeships starting in 2029, both currently held by judges who have [reportedly ruled against the legislature](#).

The bill also proposes other controversial changes to state law, including:

- Election Law: It reduces the time voters have to cure their absentee ballots or provide identification for provisional ballots. It also shortens the timeframe for election officials to count provisional ballots from ten days to three.
- Building Codes: It further delays implementation of the state’s 2024 building code until July 2025. This follows the state’s earlier [failure to secure \\$70 million](#) in federal disaster relief due to outdated building codes.

North Carolina’s History of Lame-Duck Power Plays

Senate Bill 382 is not North Carolina’s first experience with lame-duck partisan maneuvering. Some of these tactics date back to at least the 1970s, but the scale and intensity significantly escalated in 2016.

1970s-2000s

Although legislators [have justified](#) their recent maneuvers by pointing to historical examples of similar conduct, the examples prior to 2016 tended to be smaller-scale:

- The “Christmas Massacre” of 1976: Following his election, Democratic Governor-elect Jim Hunt demanded the resignation of 169 state employees, though only about 75 were ultimately removed. Republicans labeled this as the “Christmas Massacre” of 1976, but the contemporaneous use of that term [is debated](#). Hunt defended his actions as a routine effort to hire his own top staff. However, in 1985, when Hunt was succeeded by Republican Jim Martin, the Democratic-controlled legislature [capped the number of employee positions](#) under the governor—a seemingly partisan response.
- Stripping the Lieutenant Governor’s Powers in 1989: After a Republican Lieutenant Governor was elected, the Democratic-controlled legislature transferred the power to appoint senate committee members and chairs—previously held by the Lieutenant Governor—to the senate president pro tempore. This sharply curtailed the Lieutenant Governor’s influence of the legislative agenda.
- Court of Appeals Expansion in 2000: Democrats [passed legislation](#) months before the 2000 election to expand the state’s Court of Appeals from 12 to 15 judges, allowing outgoing Democratic Governor Jim Hunt to appoint judges to the new seats in January 2001. Although the legislation was not enacted during a lame-duck session, Republicans have [cited this as a partisan maneuver](#).

2016

The events following the 2016 general election marked a significant escalation in North Carolina’s history of lame-duck politics.

After Democrat Roy Cooper narrowly defeated Republican Governor Pat McCrory, the Republican-led legislature sought to dramatically limit the incoming administration's powers. In December, McCrory called a special legislative session ostensibly to address disaster recovery needs after Hurricane Matthew. However, McCrory's call for a special session also [cryptically stated](#) that legislators could use the session to address "any other matters."

Within 48 hours of the start of the special session, the legislature passed two controversial bills that limited gubernatorial authority. One was [Senate Bill 4](#):

- State Board of Elections: It stripped the governor of the ability to appoint a majority to the State Board of Elections. It also increased the board's size to eight members and required that members be evenly divided between the two major parties, with Republicans guaranteed to chair the board in all even-numbered (election) years.
- Industrial Commission: It removed the governor's ability to appoint a majority to the Industrial Commission, a workers' compensation board, by extending the term of one commissioner and allowing McCrory to fill other existing vacancies.
- State Supreme Court Appeals: It made it more difficult for litigants to appeal lower court decisions to the then-Democratic controlled state supreme court.

While the state supreme court [later invalidated](#) the election board changes as violating the state constitution's separation of powers, the legislature has continued to pursue similar changes. It [proposed a constitutional amendment](#) to make this change, but the proposal was overwhelmingly rejected by the state's voters in 2018. Additional legislation to alter the election board has also been [blocked by the state's courts](#); this litigation is still pending but will likely be mooted by Senate Bill 382's changes.

The other bill passed during the 2016 lame-duck session was [House Bill 17](#):

- Governor's Employees: It [reduced the number of state employees](#) under the governor's control from 1,500 to 425. This notably reversed an earlier increase from 400 to 1,500 when McCrory first took office in 2012.
- University Boards: It stripped the governor of the authority to appoint members to university boards.
- K-12 Education Powers: It shifted significant K-12 education powers from the governor to the Superintendent of Public Instruction, a Republican.
- Senate Confirmation: It also made the governor's cabinet appointments subject to senate approval.

These changes represented a dramatic escalation in scope and impact, eclipsing previous episodes in North Carolina; one observer called them "[unusually aggressive even by North Carolina's standards](#)." Senate Bill 382 now stands alongside the 2016 lame-duck bills as one of the most far-reaching examples of partisan power plays in the state's history.

Lame-Duck Power Grabs Beyond North Carolina

Episodes in Wisconsin and Michigan after the 2018 elections, as well as more recent developments in Kentucky and Ohio, demonstrate that lame-duck power grabs are not unique to North Carolina. However, only Wisconsin's experience in 2018 is in the same ballpark as North Carolina's in 2016—or now in 2024.

Wisconsin, 2018:

The Wisconsin Legislature's actions following the 2018 general election stand out as the most prominent example of a lame-duck power grab outside North Carolina. After Democrats won the governorship, lieutenant governorship, and attorney general's office, the Republican-controlled legislature convened a special lame-duck session to pass two sweeping laws (Acts [369](#) and [370](#)), which outgoing Republican Governor Scott Walker [promptly signed](#).

These laws curtailed key powers of the incoming Democrats. For example, one of the bills authorized three legislative committees to intervene in lawsuits challenging state laws and required the attorney general to obtain legislative approval to settle litigation involving the state. It also targeted the incoming administration's ability to promulgate administrative rules, [giving a legislative committee](#) multiple mechanisms to block proposed and existing rules. And it limited the governor's authority over a key agency focused on business development, the Wisconsin Economic Development Corporation, by [restructuring the agency's board](#) to give legislative leaders more appointment powers.

The lame-duck legislation made several other controversial changes, too, including a [work requirement](#) for people on Medicaid and revisions to the state's [voter ID law](#).

Michigan, 2018:

Around the same time Wisconsin lawmakers were enacting lame-duck legislation, Michigan's Republican-controlled legislature passed over 400 bills during its lame-duck session after Democrats won races for governor, attorney general, and secretary of state. Some were clear attempts to limit the incoming administration's authority, but unlike in Wisconsin, the state's outgoing Republican Governor, Rick Snyder, vetoed a few.

One proposal ([HB 6553](#)) sought to grant the legislature the power to intervene in lawsuits challenging state laws. However, Governor Snyder [vetoed the bill](#), calling it "well-intentioned" but reasoning that it would "serve only to complicate the management of [such] litigation." Another bill ([SB 1176](#)) sought to bar state agencies, including the attorney general and secretary of state, from requiring "dark money" nonprofits to disclose donors and sought to limit the attorney general's authority over fraudulent charities. However, this was likewise vetoed.

Other proposals failed to pass the legislature. For example, there was a bill ([SB 1252](#)) that proposed shifting oversight of campaign finance law from the secretary of state to a six-person bipartisan commission appointed by the governor. It [passed the state senate](#) but stalled in the house.

Kentucky, 2019-2020:

Kentucky offers a more limited but still noteworthy example. On the same day that Democrat Andy Beshear defeated incumbent Republican Governor Matt Bevin in 2019, three Republican senators, including the senate president, [proposed a bill](#) to limit the governor's control over transportation policy. It would have created a transportation board whose members would be recommended by business and government groups, and it would have required the governor to select his transportation secretary from a list of names provided by this board. It also would have stripped the power of the governor to prepare the first draft of the state's two-year road budget. Although the bill [passed the senate](#) in early 2020, it [stalled in the house](#).

Ohio, 2022-2023:

Another example comes from Ohio. While Republicans swept every statewide office and retained legislative supermajorities at the 2022 general election, Democratic-backed candidates won most of the elected seats on the state board of education. During the subsequent lame-duck session, Republican legislators [revived a dormant proposal](#) to strip the board of [most of its powers](#). The measure failed to pass during the lame-duck session but was re-introduced and enacted as [part of the state budget](#) the following summer.

Conclusion

While other states have enacted controversial lame-duck measures, none rival the scale or ambition of North Carolina's efforts in 2016 and now in 2024, though Wisconsin's experience in 2018 came close. By targeting the powers of the governor, attorney general, and other statewide officials—and by attaching these changes to hurricane relief—Senate Bill 382 represents an escalation in partisan power grabs, one that could inspire similar tactics in other states.