



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR

ROY COOPER
GOVERNOR

William C. McKinney
General Counsel

February 21, 2017

The Honorable Bill Rabon
North Carolina Senate
16 West Jones St., Room 2010
Raleigh, NC 27601

Re: Cooper v. Berger separation of powers claims pertaining to the
Advice and Consent Amendment of Senate Bill 4 (S.L. 2016-126 §§
38-39).

Dear Senator Rabon,

As you know, the Governor's Cabinet Secretaries have been visiting with you and your colleagues in the North Carolina Senate and House since the legislature convened. The Governor looks forward to them continuing to build upon that working relationship, both formally and informally.

On February 13, the Court hearing the separation of powers claims brought by the Governor issued an order finding that "the Senate cannot begin the advice and consent process until the Governor submits a nominee." The Court also found that "the statutory deadline for the Governor to submit his nominees to the President of the Senate and begin the Senatorial confirmation and consent process under the Advice and Consent Amendment is May 15, 2017." Finally, the Court found that the Governor has not yet provided that notice to the President of the Senate.

While the panel denied our request for a preliminary injunction, it did so based on the findings referenced above. Since the confirmation process has not yet started, the matter was not ripe for consideration.

Consistent with those findings, please know that the Governor will view efforts to conduct confirmation hearings prior to our formal notification to the President of the Senate as contrary to the Court's order.

With kind regards, I am

Very truly yours,

Handwritten signature of William C. McKinney in black ink.
William C. McKinney

Cc: Senator Dan Blue
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301 • TELEPHONE: 919-814-2000
WWW.GOVERNOR.NC.GOV