

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 663
Judiciary Committee Substitute Adopted 4/29/97

Short Title: Absentee Voting Changes.

(Public)

Sponsors:

Referred to:

April 2, 1997

A BILL TO BE ENTITLED
AN ACT TO MAKE CHANGES IN THE ELECTION LAWS DESIGNED TO
PREVENT LONG LINES AT THE POLLS ON ELECTION DAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-226 reads as rewritten:

"§ 163-226. Who may vote an absentee ballot.

(a) Who May Vote Absentee Ballot; Generally. – Any qualified voter of the State may vote by absentee ballot in a statewide primary, general, or special election on constitutional amendments, referenda or bond proposals, and any qualified voter of a county is authorized to vote by absentee ballot in any primary or election conducted by the county board of elections, in the manner provided in this Article if:

- (1) The voter expects not to be ~~absent from the county in which he is registered during the entire period that the polls are open~~ present at the voting place to vote in person on the day of the specified election in which the voter desires to vote; or
- (2) The voter is unable to be present at the voting place to vote in person on the day of the specified election in which the voter desires to vote because of the voter's sickness or other physical disability.

1 (3) ~~The voter is incarcerated, whether in the voter's county of residence or~~
2 ~~elsewhere, shall be entitled to vote by absentee ballot in the county of~~
3 ~~the voter's residence in any election, specified herein, in which the voter~~
4 ~~otherwise would be entitled to vote. Absentee voting shall be in the~~
5 ~~same manner as provided in this Article. The chief custodian or~~
6 ~~superintendent of the institution or other place of confinement shall~~
7 ~~certify that the applicant is not a felon, and the certification shall be as~~
8 ~~prescribed by the State Board of Elections. The State Board of~~
9 ~~Elections is authorized to prescribe procedures to carry out the intent~~
10 ~~and purpose of this subsection;~~

11 (3a) ~~The voter because of the observance of a religious holiday pursuant to~~
12 ~~the tenets of the voter's religion will be unable to cast a ballot at the~~
13 ~~polling place on the day of the election; or~~

14 (4) ~~The voter is an employee of the county board of elections or a precinct~~
15 ~~official, observer, or ballot counter, in another precinct and the voter's~~
16 ~~assigned duties on the day of the election will cause the voter to be~~
17 ~~unable to be present at the voting place to vote in person and provided~~
18 ~~such employee has the application witnessed by the chairman of the~~
19 ~~county board of elections.~~

20 (b) Absentee Ballots; Exceptions. – Notwithstanding the authority contained in
21 G.S. 163-226(a), absentee ballots shall not be permitted in fire district elections.

22 (c) As used in this Subchapter, unless the context clearly requires otherwise, the
23 term 'election' includes a general, primary, second primary, runoff election, bond
24 election, referendum, or special election."

25 Section 2. G.S. 163-226.1 reads as rewritten:

26 **"§ 163-226.1. Absentee voting in primary.**

27 A qualified voter may vote by absentee ballot in a ~~statewide or countywide partisan~~
28 ~~primary provided he the qualified voter is affiliated, at the time he the qualified voter~~
29 ~~makes application for absentee ballots, with the political party in whose primary he the~~
30 ~~qualified voter wishes to vote. vote, except that an affiliated voter may vote in a party~~
31 ~~primary if permitted under G.S. 163-119. The official registration records of the county~~
32 ~~in which the voter is registered shall be proof of whether he the qualified voter is~~
33 ~~affiliated with a political party and of the party, if any, with which he the qualified voter~~
34 ~~is affiliated."~~

35 Section 3. G.S. 163-226.3 reads as rewritten:

36 **"§ 163-226.3. Certain acts declared felonies.**

37 (a) Any person who shall, in connection with absentee voting in any ~~primary,~~
38 ~~general, municipal or special~~ election held in this State, do any of the acts or things
39 declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be
40 unlawful:

41 (1) For any person except the voter's near relative ~~as defined in G.S. 163-~~
42 ~~227(e)(4)~~ or the voter's verifiable legal guardian to assist the voter to
43 vote an absentee ballot when the voter is voting an absentee ballot other

1 than under the procedure described in G.S. 163-227.2; provided that if
2 there is not a near relative or legal guardian available to assist the voter,
3 the voter may request some other person to give assistance;

4 (2) For any person to assist a voter to vote an absentee ballot under the
5 absentee voting procedure authorized by G.S. 163-227.2 except a
6 member of the county board of elections, the director of elections, an
7 employee of the board authorized by the board, the voter's near relative
8 ~~as defined in G.S. 163-227(e)(4)~~, or the voter's verifiable legal guardian;

9 (3) For a voter who votes an absentee ballot under the procedures
10 authorized by G.S. 163-227.2 to vote ~~his~~that voter's absentee ballot
11 outside of the voting booth or private room provided to ~~him~~the voter
12 for that purpose in or adjacent to the office of the county board of
13 elections or at the additional site provided by G.S. 163-227.2(f1), or to
14 receive assistance in getting to and from the voting booth or private
15 room and in preparing and marking ~~his~~that voter's ballots from any
16 person other than a member of the county board of elections, the
17 director of elections, an employee of the board of elections authorized
18 by the board, a near relative of the voter ~~as defined in G.S. 163-~~
19 ~~227(e)(4)~~, or the voter's verifiable legal guardian;

20 (4) For any owner, manager, director, employee, or other person, other than
21 the voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or verifiable
22 legal guardian, to make a written request pursuant to G.S. 163-230.1 or
23 an application on behalf of a registered voter who is a patient in any
24 hospital, clinic, nursing home or rest home in this State or for any
25 owner, manager, director, employee, or other person other than the
26 voter's near relative or verifiable legal guardian, or officer authorized to
27 ~~administer oaths acting pursuant to G.S. 163-231(a)(1)~~, to mark the
28 voter's absentee ballot or assist such a voter in marking an absentee
29 ballot;

30 (5) Repealed by Session Laws 1987, c. 583, s. 8.

31 (6) For any person to take into ~~his~~that person's possession for delivery to a
32 voter or for return to a county board of elections the absentee ballot of
33 any voter, provided, however, that this prohibition shall not apply to a
34 voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or the voter's
35 verifiable legal guardian;

36 (7) Except as provided in subsections (1), (2), (3), and (4) of this section,
37 G.S. 163-231(a), G.S. 163-250(a), and G.S. 163-227.2(e), for any voter
38 to permit another person to assist ~~him~~the voter in marking ~~his~~that
39 voter's absentee ballot, to be in the voter's presence when a voter votes
40 an absentee ballot, or to observe the voter mark ~~his~~that voter's absentee
41 ballot.

42 (b) The State Board of Elections or a county board of elections, upon receipt of a
43 sworn affidavit from any qualified voter of the State or the county, as the case may be,

1 attesting to first-person knowledge of any violation of subsection (a) of this section, shall
2 transmit ~~such that~~ affidavit to the appropriate district attorney, who shall investigate and
3 prosecute any person violating subsection (a)."

4 Section 4. G.S. 163-227 is repealed.

5 Section 5. G.S. 163-227.1 reads as rewritten:

6 **"§ 163-227.1. Second primary; applications for absentee ballots for voting in second
7 primary.**

8 A voter applying for an absentee ballot for a primary election who will be ~~absent from~~
9 ~~the county of his residence~~ eligible to vote under this Article on the day of the primary
10 and second primary shall be permitted by the county board of elections to indicate ~~such~~
11 ~~that~~ fact on ~~his that~~ voter's application and ~~such that~~ voter shall automatically be issued
12 an application and absentee ballot for the second primary if one is called. The county
13 board of elections shall consider ~~such that~~ indication a separate request for application for
14 the second primary and, at the proper time, shall enter ~~such that~~ voter's name in the
15 absentee register along with the listing of other applicants for absentee ballots for the
16 second primary.

17 In addition, a voter entitled to absentee ballots under the provisions of this Article
18 who did not make application for the primary or who failed to apply for a second primary
19 ballot at the time of application for a first primary ballot may ~~apply for~~ make a written
20 request for absentee ballots for a second primary not earlier than the day a second
21 primary is called and not later than 5:00 P.M. ~~on the Tuesday prior to the date on which~~
22 ~~the second primary is held.~~ the date and time provided by G.S. 163-230.1.

23 All procedures with respect to absentee ballots in a second primary shall be the same
24 as with respect to absentee ballots in a first primary except as otherwise provided by this
25 section."

26 Section 6. G.S. 163-227.2 reads as rewritten:

27 **"§ 163-227.2. Alternate procedures for requesting application for absentee ballot;
28 'one-stop' voting procedure in board office.**

29 (a) A person expecting ~~to be absent from the county not to be present at the~~
30 polling place in which he that person is registered during the entire period that the polls
31 are open on the day of an election in which absentee ballots are authorized ~~or is eligible~~
32 ~~under G.S. 163-226(a)(2), 163-226(a)(3a), or 163-226(a)(4)~~ may request an application
33 for absentee ballots, complete the application, ~~receive the absentee ballots, vote and~~
34 ~~deliver them sealed in a container-return envelope to the county board of elections in the~~
35 county in which he is registered and vote under the provisions of this section.

36 (b) Not earlier than the ~~twenty-fourth day~~ first business day after the twenty-fifth
37 day before an election, in which absentee ballots are authorized, in which ~~he a~~ voter seeks
38 to vote and not later than 5:00 P.M. on the Friday prior to that election, the voter shall
39 appear in person only at the office of the county board of elections and request that the
40 chairman, a member, or the director of elections of the board, or an employee of the
41 board of elections, authorized by the board, furnish ~~him the~~ voter with an application
42 form as specified in G.S. ~~163-227.~~ 163-229. The voter shall complete the application in

1 the presence of the chairman, member, director of elections or authorized employee of
2 the board, and shall deliver the application to that person.

3 (c) If the application is properly filled out, the chairman, member, director of
4 elections of the board, or employee of the board of elections, authorized by the board,
5 shall enter the voter's name in the register of absentee ~~ballot requests, applications, and~~
6 ballots issued; shall furnish the voter with the instruction sheets called for by G.S. 163-
7 229(c); and shall furnish the voter with the ballots to which the application for absentee
8 ballots applies; and shall furnish the voter with a container return envelope. applies. The
9 voter thereupon shall ~~comply with the provisions of G.S. 163-231(a) except that he shall~~
10 ~~deliver the container return envelope to the chairman, member, supervisor of elections of~~
11 ~~the board, or an employee of the board of elections, authorized by the board, immediately~~
12 ~~after making and subscribing the certificate printed on the container return envelope as~~
13 ~~provided in G.S. 163-229(b).~~ vote in accordance with subsection (e) of this section.

14 All actions required by this subsection shall be performed in the office of the board of
15 ~~elections.~~ elections, except that the voting may take place in an adjacent room as
16 provided by subsection (e) of this section. For the purposes of this section only, the ~~The~~
17 application under this subsection shall be signed in the presence of the chairman,
18 member, director of elections of the board, or full-time employee, authorized by the
19 board who shall sign the application and certificate as the witness and indicate the official
20 title held by him or her. Notwithstanding G.S. 163-231(a), in the case of this subsection,
21 only one witness shall be required on the certificate.

22 (d) Only the chairman, ~~member~~ member, employee, or director of elections of the
23 board shall keep the voter's application for absentee ballots ~~and the sealed container~~
24 ~~return envelope~~ in a safe place, separate and apart from other applications and container-
25 return envelopes. ~~At the first meeting of the board pursuant to G.S. 163-230(2) held after~~
26 ~~receipt of the application and envelope, the chairman shall comply with the requirements~~
27 ~~of G.S. 163-230(1) and G.S. 163-230(2) b. and c. If the voter's application for absentee~~
28 ~~ballots is approved by the board at that meeting, the application form and container return~~
29 ~~envelope, with the ballots enclosed, shall be handled in the same manner and under the~~
30 ~~same provisions of law as applications and container return envelopes received by the~~
31 ~~board under other provisions of this Article. If the voter's application for absentee ballots~~
32 ~~is disapproved by the board, the board shall so notify the voter stating the reason for~~
33 ~~disapproval by first-class mail addressed to the voter at his that voter's residence address~~
34 ~~or and~~ at the address shown in the application for absentee ballots; and the board
35 ~~chairman shall retain the container return envelope in its unopened condition until the~~
36 ~~day of the primary or election to which it relates and on that day he shall destroy the~~
37 ~~container return envelope and the ballots therein, without, however, revealing the manner~~
38 ~~in which the voter marked the ballots.~~ enter a challenge under G.S. 163-89.

39 (e) The voter shall vote ~~his that voter's~~ absentee ballot in a voting booth in the
40 office of the county board of elections, and the county board of elections shall provide a
41 voting booth for that purpose, provided however, that the county board of elections may
42 in the alternative provide a private room for the voter adjacent to the office of the board,
43 in which case the voter shall vote his that voter's absentee ballot in that room. The voting

1 ~~booth shall be in the office of the county board of elections.~~ If the voter needs assistance
2 in getting to and from the voting booth and in preparing and marking ~~his~~ that voter's
3 ballots or if ~~he~~ the voter is a blind voter, only a member of the county board of elections,
4 the director of elections, an employee of the board of elections authorized by the board, a
5 near relative of the voter as defined in G.S. 163-227(e)(4), or the voter's verifiable legal
6 guardian shall be entitled to assist the voter. The ballot shall be a paper ballot or a voting
7 system in which a paper ballot is counted by computer or mechanical device. The ballot
8 in any case shall have the ballot number on it in accordance with G.S. 163-230.1(a2)(1).
9 After the voter casts the ballot, the voter shall deposit the ballot in the ballot box or
10 voting system in the same manner as if that box or system was in use in a precinct on
11 election day. At the end of each business day, or at any time when there will be no
12 employee or officer of the board of elections on the premises, the ballot box or system
13 shall be secured in accordance with rules approved by the State Board of Elections,
14 which shall include verifying that no additional ballots have been placed in the box or
15 system. If a direct record electronic voting system with retrievable ballots is approved by
16 the State Board of Elections, it may be used for ballots cast under this section under rules
17 approved by the State Board of Elections.

18 (f) Notwithstanding the exception specified in G.S. 163-36, counties which
19 operate a modified full-time office shall remain open five days each week during regular
20 business hours consistent with daily hours presently observed by the county board of
21 elections, commencing with the date prescribed in G.S. 163-227.2(b) and continuing until
22 5:00 P.M. on the Friday prior to that election or primary. The boards of county
23 commissioners shall provide necessary funds for the additional operation of the office
24 during ~~such~~ that time.

25 (f1) Notwithstanding any other provision of this section, a county board of
26 elections may provide for one or more sites in that county for absentee ballots to be
27 applied for and cast under this section. Those sites must be approved by the State Board
28 of Elections as part of a Plan for Implementation approved by both the county board of
29 elections and by the State Board of Elections which shall also provide adequate security
30 of the ballots and provisions to avoid allowing persons to vote who have already voted."

31 Section 7. G.S. 163-228 reads as rewritten:

32 "**§ 163-228. Register of absentee ~~ballot requests, applications, and ballots issued; a~~**
33 **public record.**

34 The State Board of Elections shall ~~design~~ approve an official register and ~~provide a~~
35 ~~source of supply thereof from~~ in which the ~~chairman~~ of the county board of elections in
36 each county of the State shall ~~purchase a book to be called the register of absentee ballot~~
37 ~~applications and ballots issued in which shall be recorded~~ record the following
38 information:

39 (1) Name of voter for whom application and ballots are being requested,
40 and, if applicable, the name and address of the voter's near relative or
41 verifiable legal guardian who requested the application and ballots for
42 the voter.

43 (2) Number of assigned voter's application when issued.

~~..... County, Precinct # and has made proper application to vote under the Absentee Ballot Law of North Carolina.~~

~~.....(Seal)Ch~~

~~airman-Member"~~

(2) On the other side shall be printed the return address of the chairman of the county board of elections and the following certificate:

~~"Certificate of Absentee or Sick Voter~~

~~State of~~

~~County of~~

I,, do certify that I am

a resident and registered voter in precinct, County, North Carolina; that on the day of an election,, (check whichever of the following statements is correct.)

~~[] I will be absent from the county in which I reside.~~

~~[] Due to sickness or physical disability, or incarceration as a misdemeanor, I will be unable to travel to the voting place in the precinct in which I reside.~~

~~[] Due to the observance of a religious holiday pursuant to the tenets of my religion, I will be unable to cast a ballot at the polling place on the day of the election.~~

~~I further certify that I made application for absentee ballots, and that I marked the ballots enclosed herein, or that they were marked for me in my presence and according to my instructions. I understand it is a felony to falsely sign this certificate.~~

~~—(Signature of voter)~~

~~Signature of Witness #1~~

~~Signature of Witness #2~~

~~..... Address of Witness #1 Address of Witness~~

~~#2".(c) Instruction Sheets. – In time for use not later than 50 days before a statewide primary, general or county bond election, the county board of elections shall prepare and print a sufficient number of sheets of instructions on how voters are to prepare absentee ballots and return them to the chairman of the county board of elections."~~

~~Section 9. G.S. 163-230 is repealed.~~

~~Section 10. G.S. 163-230.1 reads as rewritten:~~

~~"§ 163-230.1. Simultaneous issuance of absentee ballots with application.~~

~~(a) When a qualified voter personally requests by mail who is eligible to vote by absentee ballot under G.S. 163-226(a)(1), or that voter's near relative or verifiable legal guardian, shall request in writing an application for absentee ballots, so that the county board of elections receives the request not later than 5:00 p.m. on the Tuesday before the election. an application for absentee ballots, The county board of elections shall enter in the register of absentee requests, applications, and ballots issued the information required~~

1 in G.S. 163-228 as soon as each item of that information becomes available. Upon
2 receiving the application, the county board of elections shall cause to be mailed to that
3 voter in a single package:

- 4 (1) The official ballots the voter is entitled to ~~vote if his application is~~
5 ~~approved;~~ vote;
- 6 (2) A container-return envelope for the ballots, ~~upon the outside of which~~
7 ~~shall be printed the appropriate application form as provided in G.S.~~
8 ~~163-227;~~ printed in accordance with G.S. 163-229; and
- 9 (3) A large envelope (similar to a No. 14 or larger manila envelope) in
10 which the container-return envelope with the ballots may be returned
11 and on which the affidavit provided by G.S. 163-229(b) shall be printed;
12 and
- 13 (4) An instruction sheet.

14 The ballots, ~~envelopes~~ envelope, and instructions shall be mailed to the voter by the
15 county board's ~~chairman, secretary or director~~ chairman, member, officer, or employee as
16 determined by the board and entered in its ~~official minutes.~~ the register as provided by
17 this Article.

18 ~~On the back of the large transmittal envelope shall be clearly printed or stamped the~~
19 ~~following statement:~~

20 ~~DO NOT PLACE THE ENVELOPE CONTAINING YOUR BALLOTS INTO THIS~~
21 ~~ENVELOPE UNTIL YOU HAVE COMPLETED THE APPLICATION ON THE~~
22 ~~ENVELOPE CONTAINING YOUR BALLOTS AND SECURED THE SIGNATURE~~
23 ~~OF A WITNESS.~~

24 (a1) Absence for Sickness or Physical Disability. – Notwithstanding the provisions
25 of subsection (a) of this section, if a voter expects to be unable to go to the voting place to
26 vote in person on election day because of that voter's sickness or other physical disability,
27 that voter or that voter's near relative or verifiable legal guardian may make written
28 request in person for absentee ballots to the board of elections of the county in which the
29 voter is registered after 5:00 p.m. on the Tuesday before the election but not later than
30 5:00 p.m. on the Friday before the election. The county board of elections shall enter in
31 the register of absentee requests, applications, and ballots issued the information required
32 in G.S. 163-228 as soon as each item of that information becomes available. The county
33 board of elections shall personally deliver to the requester in a single package:

- 34 (1) The official ballots the voter is entitled to vote;
- 35 (2) A container-return envelope for the ballots, printed in accordance with
36 G.S. 163-229; and
- 37 (3) An instruction sheet.

38 (a2) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. –
39 When the county board of elections receives a request for applications and absentee
40 ballots, the board shall promptly issue and transmit them to the voter in accordance with
41 the following instructions:

- 42 (1) On the top margin of each ballot the applicant is entitled to vote, the
43 chair, a member, officer, or employee of the board of elections shall

1 write or type the words 'Absentee Ballot No.' or an abbreviation
2 approved by the State Board of Elections and insert in the blank space
3 the number assigned the applicant's application in the register of
4 absentee requests, applications, and ballots issued. That person shall not
5 write, type, or print any other matter upon the ballots transmitted to the
6 absentee voter. Alternatively, the board of elections may cause to be
7 barcoded on the ballot the voter's application number, if that barcoding
8 system is approved by the State Board of Elections.

9 (2) The chair, member, officer, or employee of the board of elections shall
10 fold and place the ballots (identified in accordance with the preceding
11 instruction) in a container-return envelope and write or type in the
12 appropriate blanks thereon, in accordance with the terms of G.S. 163-
13 229(b), the absentee voter's name, the absentee voter's application
14 number, and the designation of the precinct in which the voter is
15 registered. If the ballot is barcoded under this section, the envelope may
16 be barcoded rather than having the actual number appear. The person
17 placing the ballots in the envelopes shall leave the container-return
18 envelope holding the ballots unsealed.

19 (3) The chair, member, officer, or employee of the board of elections shall
20 then place the unsealed container-return envelope holding the ballots
21 together with printed instructions for voting and returning the ballots, in
22 an envelope addressed to the voter at the post office address stated in the
23 request, seal the envelope, and mail it at the expense of the county board
24 of elections, or deliver it to the voter in person: Provided, that in case of
25 a request received after 5:00 p.m. on the Tuesday before the election
26 under the provisions of subsection (a1) of this section, in lieu of
27 transmitting the ballots to the voter in person or by mail, the chair,
28 member, officer, or employee of the board of elections may deliver the
29 sealed envelope containing the instruction sheet and the container-return
30 envelope holding the ballots to a near relative or verifiable legal
31 guardian of the voter.

32 The county board of elections may receive written requests for applications earlier
33 than 50 days prior to the election but shall not mail applications and ballots to the voter or
34 issue applications and ballots in person earlier than 50 days prior to the election, except
35 as provided in G.S. 163-227.2. No election official shall issue applications for absentee
36 ballots except in compliance with this Article.

37 (b) The application shall be ~~completed~~, completed and signed by the voter
38 personally, the ballots marked, the ballots sealed in the container-return envelope, and the
39 large envelope affidavit certificate completed as provided in G.S. 163-227 and G.S. 163-
40 231. The container return envelope shall be placed in the large transmittal envelope for
41 return to the chairman of the county board of elections.

42 (c) At its next official meeting after return of the completed container-return
43 envelope and large envelope with the voter's ballots, the county board of elections shall

1 determine whether the container-return envelope ~~and large envelope have~~ has been
2 properly executed. If the board determines that ~~both the container-return envelope and~~
3 ~~large envelope have~~ has been properly executed, it shall approve the application and
4 deposit the container-return envelope with other container-return envelopes for the
5 envelope to be opened and the ballots counted at the same time as all other container-
6 return envelopes and absentee ballots.

7 (c1) Required Meeting of County Board of Elections. – During the period
8 commencing on the third Tuesday before an election, in which absentee ballots are
9 authorized, the county board of elections shall hold one or more public meetings each
10 Tuesday at 5:00 p.m. for the purpose of action on applications for absentee ballots. At
11 these meetings, the county board of elections shall pass upon applications for absentee
12 ballots.

13 If the county board of elections changes the time of holding its meetings or provides
14 for additional meetings in accordance with the terms of this subsection, notice of the
15 change in hour and notice of the schedule of additional meetings, if any, shall be
16 published in a newspaper circulated in the county at least 30 days prior to the election.

17 At the time the county board of elections makes its decision on an application for
18 absentee ballots, the board shall enter in the appropriate column in the register of
19 absentee requests, applications, and ballots issued opposite the name of the applicant a
20 notation of whether the applicant's application was 'Approved' or 'Disapproved'.

21 The decision of the board on the validity of an application for absentee ballots shall be
22 final subject only to such review as may be necessary in the event of an election contest.
23 The county board of elections shall constitute the proper official body to pass upon the
24 validity of all applications for absentee ballots received in the county; this function shall
25 not be performed by the chairman or any other member of the board individually.

26 ~~(d) The provisions of this section shall apply only to requests received by mail~~
27 ~~from and signed by the voter individually and personally. No near relative, guardian, or~~
28 ~~other person other than the voter himself shall be permitted to apply for absentee ballots~~
29 ~~under this section.~~

30 (e) The State Board of Elections, by ~~regulation~~ rule or by instruction to the county
31 board of elections, shall establish procedures to provide appropriate safeguards in the
32 implementation of this section.

33 (f) For the purpose of this Article, 'near relative' means spouse, brother, sister,
34 parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law,
35 son-in-law, stepparent, or stepchild."

36 Section 11. G.S. 163-231 reads as rewritten:

37 **"§ 163-231. Voting absentee ballots and transmitting them to ~~chairman of the~~**
38 **county board of elections.**

39 (a) Procedure for Voting Absentee Ballots. – In the presence of two other persons
40 who are at least 18 years of age, and who are not disqualified by G.S. 163-226.3(a)(4) or
41 G.S. 163-274(5a), the voter shall:

- 1 (1) Mark ~~his~~the voter's ballots, or cause them to be marked by one of such
- 2 persons in ~~his~~the voter's presence according to ~~his~~the voter's
- 3 instruction;
- 4 (2) Fold each ballot separately, or cause each of them to be folded in ~~his~~the
- 5 voter's presence;
- 6 (3) Place the folded ballots in the container-return envelope and securely
- 7 seal it, or have this done in ~~his~~the voter's presence;
- 8 (4) Make the application printed on the container-return envelope according
- 9 to the provisions of G.S. 163-229(b) and make the certificate printed on
- 10 the container-return envelope according to the provisions of G.S. 163-
- 11 229(b).

12 The persons in whose presence the ballot is marked shall at all times respect the
 13 secrecy of the ballot and the privacy of the absentee voter, unless the voter requests their
 14 assistance and they are otherwise authorized by law to give assistance. The persons in
 15 whose presence the ballot was marked shall sign the application and certificate as
 16 witnesses, and shall indicate their address. When thus executed, the sealed container-
 17 return envelope, with the ballots enclosed, shall be transmitted in accordance with the
 18 provisions of subsection (b) of this section to the ~~chairman of the~~ county board of
 19 elections ~~who~~which issued the ballots.

20 (a1) Repealed by Session Laws 1987, c. 583, s. 1.

21 (b) Transmitting Executed Absentee Ballots to ~~Chairman of~~ County Board of
 22 Elections. – The sealed container-return envelope in which executed absentee ballots
 23 have been placed shall be transmitted to the ~~chairman of the~~ county board of elections
 24 who issued them as follows: All ballots issued under the provisions of Articles 20 and 21
 25 of this Chapter shall be transmitted by ~~mail,~~mail or by commercial courier service, at the
 26 voter's expense, or delivered in person, or by the voter's ~~spouse, brother, sister, parent,~~
 27 ~~grandparent, child or grandchild~~near relative or verifiable legal guardian not later than
 28 ~~5:00 P.M. on the day before the statewide primary or general election or county bond~~
 29 ~~7:30 p.m. on the day of the election.~~ If such ballots are received later than that hour, they
 30 shall not be accepted for voting."

31 Section 12. G.S. 163-232 reads as rewritten:

32 "**§ 163-232. Certified list of executed absentee ballots; distribution of list.**

33 (a) The ~~chairman of the~~ county board of elections shall prepare, or cause to be
 34 prepared, a list in at least quadruplicate, of all absentee ballots returned to the county
 35 board of elections to be counted, which have been approved by the county board of
 36 ~~elections.~~elections, and which have been received as of 5:00 p.m. on the day before the
 37 election. At the end of the list, the chairman shall execute the following certificate under
 38 oath:

39 'State of North Carolina
 40 County of

41 I,, chairman of the County board of elections, do hereby
 42 certify that the foregoing is a list of all executed absentee ballots to be
 43 voted in the election to be conducted on the day of, ~~19~~....., which

have been approved by the county board of ~~elections.~~ elections and which have been returned no later than 5:00 p.m. on the day before the election. I further certify that I have issued ballots to no other persons than those listed herein, whose original applications or original applications made by near relatives are filed in the office of the county board of elections; and I further certify that I have the chairman, member, officer, or employee of the board of elections has not delivered ballots for absentee voting to any person other than the voter himself, voter, by mail or by commercial courier service or in person, except as provided by law, in the case of approved applications received after 5:00 P.M. on the Tuesday or Friday before the election. and have not mailed or delivered ballots when the request for the ballot was received after the deadline provided by law.

This the day of, 19.....

.....
(Signature of chairman of county board of elections)

Sworn to and subscribed before me this day of, 19..... Witness my hand and official seal.

.....
(Signature of officer administering oath)

.....
(Title of officer)'

No ~~earlier than 3:00 P.M. on the day before the election and no later than 10:00 A.M.~~ on election day, the ~~chairman~~ county board of elections shall cause one copy of the list of executed absentee ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately deposited as 'first-class' mail to the State Board of Elections. ~~He~~ The board shall retain one copy in the board office for public inspection and ~~he~~ the board shall cause two copies of the appropriate precinct list to be delivered to the chief judge of each precinct in the county. The ~~chairman~~ county board of elections shall be authorized to call upon the sheriff of the county to distribute the list to the precincts. In addition the ~~chairman~~ county board of elections shall, upon request, provide a copy of the complete list to the chairman of each political party, recognized under the provisions of G.S. 163-96, represented in the county.

The chief judge shall post one copy of the list immediately in a conspicuous location in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made to absentee ballots as provided in G.S. 163-89.

After receipt of the list of absentee voters required by this section the chief judge shall call the name of each person recorded on the list and enter an 'A' in the appropriate voting square on the voter's permanent registration ~~record.~~ record, or a similar entry on the computer list used at the polls. If such person is already recorded as having voted in that election, the chief judge shall enter a challenge which shall be presented to the ~~chairman~~ of the county board of elections for resolution by the board of elections prior to certification of results by the board.

(b) The county board of elections shall prepare, or cause to be prepared, a list in at least duplicate, of all absentee ballots returned to the county board of elections to be counted, which have been approved by the county board of elections, and which have been received after 5:00 p.m. on the day before the election but before 7:30 p.m. on election day. At the end of the list, the chairman shall execute the following certificate under oath:

'State of North Carolina

County of

I,, chairman of the County board of elections, do hereby certify that the foregoing is a list of all executed absentee ballots to be voted in the election to be conducted on the day of,, which have been approved by the county board of elections and which have been returned after 5:00 p.m. on the day before the election but before 7:30 p.m. on election day, and I further certify that the chairman, member, officer, or employee of the board of elections has not delivered ballots for absentee voting to any person other than the voter, by mail or in person, except as provided by law, and have not mailed or delivered ballots when the request for the ballot was received after the deadline provided by law.

This the day of,

.....

(Signature of chairman of county board of elections)

Sworn to and subscribed before me this day of, Witness my hand and official seal.

.....

(Signature of officer administering oath)

.....

(Title of officer)'

No later than 10:00 p.m. on election day, the county board of elections shall cause one copy of the list of executed absentee ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately deposited as 'first-class' mail to the State Board of Elections. The board shall retain one copy in the board office for public inspection. In addition the county board of elections shall, upon request, provide a copy of the complete list to the chairman of each political party, recognized under the provisions of G.S. 163-96, represented in the county. Challenges shall be made to absentee ballots as provided in G.S. 163-89.

On or before the day of the canvass by the county board of elections, a member or employee of the board of elections shall call the name of each person recorded on the list and enter an 'A' in the appropriate voting square on the voter's permanent registration record. If that person is already recorded as having voted in that election, the director of elections shall enter a challenge which shall be presented to the county board of elections for resolution by the board of elections prior to certification of results by the board.

(c) All lists required by this section shall be retained by the county board of elections for a period of ~~four years~~ 22 months after which they may then be destroyed."

1 Section 13. G.S. 163-233 reads as rewritten:

2 **"§ 163-233. Applications for absentee ballots; how retained.**

3 The ~~chairman of the~~ county board of elections shall retain, in a safe place, the original
4 of all applications made for absentee ballots and shall make them available to inspection
5 by the State Board of Elections or to any person upon the directive of the State Board of
6 Elections.

7 All applications for absentee ballots shall be retained by the county board of elections
8 for a period of one year after which they may be destroyed."

9 Section 14. G.S. 163-234 reads as rewritten:

10 **"§ 163-234. Counting absentee ballots by county board of elections.**

11 All absentee ballots returned to the ~~chairman or supervisor of elections of the county~~
12 board of elections in the container-return envelopes shall be retained by the ~~chairman~~
13 board to be counted by the county board of elections as herein provided.

14 (1) Only those absentee ballots returned to the county board of elections no
15 later than ~~5:00 P.M.~~ 7:30 p.m. on the ~~day before~~ election day in a
16 properly executed container-return envelope shall be counted.

17 (2) The county board of elections shall meet at 5:00 P.M. on election day in
18 the board office or other public location in the county courthouse for the
19 purpose of counting all absentee ballots except those which have been
20 challenged before 5:00 P.M. on election day. Any elector of the county
21 shall be permitted to attend the meeting and allowed to observe the
22 counting process, provided ~~he~~ the elector shall not in any manner
23 interfere with the election officials in the discharge of their duties.

24 Provided, that the county board of elections is authorized to begin
25 counting absentee ballots between the hours of 2:00 P.M. and 5:00 P.M.
26 upon the adoption of a resolution at least two weeks prior to the election
27 wherein the hour and place of counting absentee ballots shall be stated.
28 A copy of the resolutions shall be published once a week for two weeks
29 prior to the election, in a newspaper having general circulation in the
30 county. Notice may additionally be made on a radio or television station
31 or both, but such notice shall be in addition to the newspaper and other
32 required notice. The count shall be continuous until completed and the
33 members shall not separate or leave the counting place except for
34 unavoidable ~~necessity.~~ necessity, except that if the count has been
35 completed prior to the time the polls close, it shall be suspended until
36 that time pending receipt of any additional ballots, and except that one-
37 stop ballots under G.S. 163-227.2 counted electronically shall not be
38 counted until the polls close; provided, however, that if there are
39 outstack ballots in the counting device, they may be counted at the same
40 time as other ballots are counted under this subdivision. The county
41 board of elections may begin putting them in the tabulator at the same
42 time as other ballots are counted under this subdivision if the system for
43 counting one-stop ballots requires them to be put in a tabulator but the

1 process has the voter place them in a ballot box. The board shall not
2 announce the result of the count before 7:30 P.M.

3 (3) The counting of absentee ballots shall not commence until a majority
4 and at least one board member of each political party represented on the
5 board is present and ~~such~~ that fact is publicly declared and entered in the
6 official minutes of the county board.

7 (4) The county board of elections may employ such assistants as deemed
8 necessary to count the absentee ballots, but each board member present
9 shall be responsible for and observe and supervise the opening and
10 tallying of the ballots.

11 (5) As each ballot envelope is opened, the board shall cause to be entered
12 into a pollbook designated 'Pollbook of Absentee Voters' the name of
13 the absentee ~~voter.~~ voter, or if the pollbook is computer-generated, the
14 board shall check off the name. Preserving secrecy, the ballots shall be
15 placed in the appropriate ballot boxes, at least one of which shall be
16 provided for each type of ballot. The 'Pollbook of Absentee Voters'
17 shall also contain the names of all persons who voted under G.S. 163-
18 227.2, but those names may be printed by computer for inclusion in the
19 pollbook.

20 After all ballots have been placed in the boxes, the counting process
21 shall begin.

22 If one-stop ballots under G.S. 163-227.2 are counted electronically,
23 that count shall commence at the time the polls close. If one-stop
24 ballots are paper ballots counted manually, that count shall commence at
25 the same time as other absentee ballots are counted.

26 If a challenge transmitted to the board on canvass day by a chief
27 judge is sustained, the ballots challenged and sustained shall be
28 withdrawn from the appropriate boxes, as provided in G.S. 163-89(e).

29 As soon as the absentee ballots have been counted and the names of
30 the absentee voters entered in the pollbook as required herein, the board
31 members and assistants employed to count the absentee ballots shall
32 each sign the pollbook immediately beneath the last absentee voter's
33 name entered therein. ~~The chairman~~ county board of elections shall be
34 responsible for the safekeeping of the pollbook of absentee voters.

35 (6) Upon completion of the counting process the board members shall cause
36 the results of the tally to be entered on the absentee abstract prescribed
37 by the State Board of Elections. The abstract shall be signed by the
38 members of the board in attendance and the original mailed immediately
39 to the State Board of ~~Elections, Raleigh, North Carolina 27602.~~
40 Elections. The county board of elections may have a separate count on
41 the abstract for one-stop absentee ballots under G.S. 163-227.2.

42 (7) One copy of the absentee abstract shall be retained by the county board
43 of elections and the totals appearing thereon shall be added to the final

1 totals of all votes cast in the county for each office as determined on the
2 official canvass.

3 (8) In the event a political party does not have a member of the county
4 board of elections present at the ~~5:00 P.M.~~ meeting to count absentee
5 ballots due to illness or other cause of the member, the counting shall
6 not commence until the county party chairman of said absent member,
7 or a member of the party's county executive committee, is in attendance.
8 Such person shall act as an official witness to the counting and shall
9 sign the absentee ballot abstract as an 'observer.'

10 (9) The county board of elections shall retain all container-return envelopes
11 and absentee ballots, in a safe place, for at least four months, and longer
12 if any contest is pending concerning the validity of any ballot."

13 Section 15. G.S. 163-236 reads as rewritten:

14 **"§ 163-236. Violations by ~~chairman of county board of elections.~~**

15 The ~~chairman of the~~ county board of elections shall be sole custodian of blank
16 applications for absentee ballots, official ballots, and container-return envelopes for
17 absentee ballots. ~~He~~ The board shall issue and deliver blank applications for absentee
18 ballots in strict accordance with the provisions of G.S. ~~163-227(e).~~ 163-230.1. The
19 issuance of ballots to persons whose ~~applications requests~~ for absentee ballots have been
20 ~~approved received~~ by the county board of elections under the provisions of G.S. ~~163-~~
21 ~~230(3)~~ 163-230.1 is the responsibility and duty of the ~~chairman of the~~ county board of
22 elections.

23 It shall be the duty of the ~~chairman of the~~ county board of elections to keep current all
24 records required ~~of him~~ by this Article and to make promptly all reports required ~~of him~~
25 by this Article. If that duty has been assigned to the chair, member, officer, or employee
26 of the board of elections, they shall carry out the duty.

27 The willful violation of this section shall constitute a Class 2 misdemeanor."

28 Section 16. G.S. 163-82.7(g)(2) reads as rewritten:

29 "(2) If the Postal Service has returned as undeliverable a notice sent within
30 25 days before the election to the applicant under subsection (c) of this
31 section, then the applicant may vote only in person in that first election
32 and may not vote by ~~mailed absentee ballot.~~ ballot except in person
33 under G.S. 163-227.2. The county board of elections shall establish a
34 procedure at the voting site for:

- 35 a. Obtaining the correct address of any person described in this
36 subdivision who appears to vote in person; and
- 37 b. Assuring that the person votes in the proper place and in the
38 proper contests.

39 If a notice mailed under subsection (c) or subsection (e) of this section is
40 returned as undeliverable after a person has already voted by absentee
41 ballot, then that person's ballot may be challenged in accordance with
42 G.S. 163-89."

43 Section 17. G.S. 163-137(b) reads as rewritten:

1 (b) The ballots prepared for use in general and special elections under the
2 provisions of this Article by the State Board of Elections shall be printed and delivered to
3 the county boards of elections at least ~~60~~50 days prior to the date of any ~~election in~~
4 ~~which absentee voting is permitted and at least 60 days prior to the date of any election in~~
5 ~~which absentee voting is not permitted.~~ election."

6 Section 18. G.S. 163-155(4) reads as rewritten:

7 "(4) The affidavit executed by the voter shall be retained by the county board
8 of elections for a period of six months. In those precincts using voting
9 machines, the county board of elections shall furnish paper ballots of
10 each kind for use by persons authorized to vote outside the voting place
11 by this section. In any precinct using direct record electronic voting
12 equipment, the county board of elections, with the approval of the State
13 Board of Elections, may provide for all such paper ballots to be
14 transported upon closing of the polls to the office of the county board of
15 elections for counting. Those ballots may be transported only by the
16 chief judge, judge, or assistant. Upon receipt by the county board of
17 elections, those ballots shall be counted and canvassed in the same
18 manner as one-stop ballots cast under G.S. 163-227.2, except that rather
19 than the count commencing when the polls close under G.S. 163-234(5)
20 as provided for one-stop ballots, the count shall commence when the
21 board has received from each precinct either that precinct's ballots or
22 notification that no such ballots were cast.

23 The total for ballots counted by the county board of elections under
24 this subdivision shall be canvassed as if it were a separate precinct."

25 Section 19. G.S. 163-169(i) reads as rewritten:

26 "(i) Absentee Ballots. – Absentee ballots shall be deposited and voted in
27 accordance with the provisions of G.S. 163-227.2 and G.S. 163-234; they shall be
28 counted and tabulated as provided in this section and G.S. 163-170."

29 Section 20. Article 21 is amended by adding a new section to read:

30 "**§ 163-257. Facsimile transmission of election materials.**

31 An applicant entitled to exercise the rights conferred by this Article may apply for
32 registration and an absentee ballot by facsimile if otherwise qualified to apply for and
33 vote by absentee ballot. A county board of elections may send and receive facsimile
34 absentee ballot applications and accept voted ballots by facsimile from eligible electors as
35 defined in G.S. 163-245."

36 Section 21. This act applies to elections held on or after January 1, 1998,
37 except that the State Board of Elections may issue rules required or permitted by this act
38 prior to that date.