

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 951

Short Title: Absentee Technical Amendments.

(Public)

Sponsors: Senator Gulley.

Referred to: Judiciary.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES IN THE ABSENTEE VOTING LAWS TO SIMPLIFY THE PROCESS FOR VOTERS AND BOARDS OF ELECTIONS WHILE MAINTAINING SECURITY AGAINST FRAUD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-226 is amended by adding a new subsection to read:

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

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

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

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

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

1 **"§ 163-226.3. Certain acts declared felonies.**

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

- 6 (1) For any person except the voter's near relative ~~as defined in G.S. 163-~~  
7 ~~227(e)(4)~~ or the voter's verifiable legal guardian to assist the voter to  
8 vote an absentee ballot when the voter is voting an absentee ballot other  
9 than under the procedure described in G.S. 163-227.2; provided that if  
10 there is not a near relative or legal guardian available to assist the voter,  
11 the voter may request some other person to give assistance;
- 12 (2) For any person to assist a voter to vote an absentee ballot under the  
13 absentee voting procedure authorized by G.S. 163-227.2 except a  
14 member of the county board of elections, the director of elections, an  
15 employee of the board authorized by the board, the voter's near relative  
16 ~~as defined in G.S. 163-227(e)(4)~~, or the voter's verifiable legal guardian;
- 17 (3) For a voter who votes an absentee ballot under the procedures  
18 authorized by G.S. 163-227.2 to vote ~~his~~ that voter's absentee ballot  
19 outside of the voting booth or private room provided to ~~him~~ the voter  
20 for that purpose in or adjacent to the office of the county board of  
21 elections or at the additional site provided by G.S. 163-227.2(f1), or to  
22 receive assistance in getting to and from the voting booth or private  
23 room and in preparing and marking ~~his~~ that voter's ballots from any  
24 person other than a member of the county board of elections, the  
25 director of elections, an employee of the board of elections authorized  
26 by the board, a near relative of the voter ~~as defined in G.S. 163-~~  
27 ~~227(e)(4)~~, or the voter's verifiable legal guardian;
- 28 (4) For any owner, manager, director, employee, or other person, other than  
29 the voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or verifiable  
30 legal guardian, to make a written request pursuant to G.S. 163-230.1 or  
31 an application on behalf of a registered voter who is a patient in any  
32 hospital, clinic, nursing home or rest home in this State or for any  
33 owner, manager, director, employee, or other person other than the  
34 voter's near relative or verifiable legal guardian, ~~or officer authorized to~~  
35 ~~administer oaths acting pursuant to G.S. 163-231(a)(1)~~, to mark the  
36 voter's absentee ballot or assist such a voter in marking an absentee  
37 ballot;
- 38 (5) Repealed by Session Laws 1987, c. 583, s. 8.
- 39 (6) For any person to take into ~~his~~ that person's possession for delivery to a  
40 voter or for return to a county board of elections the absentee ballot of  
41 any voter, provided, however, that this prohibition shall not apply to a  
42 voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or the voter's  
43 verifiable legal guardian;

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

7           (b) The State Board of Elections or a county board of elections, upon receipt of a  
8           sworn affidavit from any qualified voter of the State or the county, as the case may be,  
9           attesting to first-person knowledge of any violation of subsection (a) of this section, shall  
10          transmit ~~such~~ that affidavit to the appropriate district attorney, who shall investigate and  
11          prosecute any person violating subsection (a)."

12          Section 4. Article 20 of Chapter 163 of the General Statutes is amended by  
13          adding a new section to read:

14          "**§ 163-226.4. Special deadlines for general election.**

15          ~~Notwithstanding any other provision of this Article or Article 21 of this Chapter, the~~  
16          State Board of Elections shall provide that absentee ballots shall be available for the  
17          primary or general election at the earliest time practicable within 50 days before the  
18          election and may provide an alternative schedule for meetings of the county board of  
19          elections under G.S. 163-230.1(c1) to accommodate the revised schedule."

20          Section 5. G.S. 163-227 is repealed.

21          Section 6. G.S. 163-227.1 reads as rewritten:

22          "**§ 163-227.1. Second primary; applications for absentee ballots for voting in second**  
23          primary.

24          A voter applying for an absentee ballot for a primary election who ~~will be absent from~~  
25          ~~the county of his residence on the day of the primary and second primary is eligible to~~  
26          vote by absentee ballot under this Article shall be permitted by the county board of  
27          elections to indicate ~~such~~ that fact on ~~his~~ that voter's application and ~~such~~ that voter shall  
28          automatically be issued an application and absentee ballot for the second primary if one is  
29          called. The county board of elections shall consider ~~such~~ that indication a separate  
30          request for application for the second primary and, at the proper time, shall enter ~~such~~  
31          that voter's name in the absentee register along with the listing of other applicants for  
32          absentee ballots for the second primary.

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

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

42          Section 7. G.S. 163-227.2 reads as rewritten:

1 **"§ 163-227.2. Alternate procedures for requesting application for absentee ballot;**  
2 **'one-stop' voting procedure in board office.**

3 (a) ~~A person expecting to be absent from the county in which he is registered~~  
4 ~~during the entire period that the polls are open on the day of an election in which~~  
5 ~~absentee ballots are authorized or is eligible under G.S. 163-226(a)(2), 163-226(a)(3a), or~~  
6 ~~163-226(a)(4) who is eligible to vote by absentee ballot under this Article in an election~~  
7 ~~may request an application for absentee ballots, complete the application, receive the~~  
8 ~~absentee ballots, vote and deliver them sealed in a container return envelope to the~~  
9 ~~county board of elections in the county in which he is registered and vote in that election~~  
10 ~~under the provisions of this section.~~

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

20 (c) If the application is properly filled out, the chairman, member, director of  
21 elections of the board, or employee of the board of elections, authorized by the board,  
22 shall enter the voter's name in the register of absentee ~~ballot requests, applications, and~~  
23 ~~ballots issued; shall furnish the voter with the instruction sheets called for by G.S. 163-~~  
24 ~~229(c); and shall furnish the voter with the ballots to which the application for absentee~~  
25 ~~ballots applies; and shall furnish the voter with a container return envelope. applies. The~~  
26 ~~voter thereupon shall comply with the provisions of G.S. 163-231(a) except that he shall~~  
27 ~~deliver the container return envelope to the chairman, member, supervisor of elections of~~  
28 ~~the board, or an employee of the board of elections, authorized by the board, immediately~~  
29 ~~after making and subscribing the certificate printed on the container return envelope as~~  
30 ~~provided in G.S. 163-229(b). vote in accordance with subsection (e) of this section.~~

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

39 (d) Only the chairman, ~~member member, employee,~~ or director of elections of the  
40 board shall keep the voter's application for absentee ballots ~~and the sealed container-~~  
41 ~~return envelope~~ in a safe place, separate and apart from other applications and container-  
42 return envelopes. ~~At the first meeting of the board pursuant to G.S. 163-230(2) held after~~  
43 ~~receipt of the application and envelope, the chairman shall comply with the requirements~~

1 of G.S. 163-230(1) and G.S. 163-230(2) b. and c. If the voter's application for absentee  
2 ballots is approved by the board at that meeting, the application form and container return  
3 envelope, with the ballots enclosed, shall be handled in the same manner and under the  
4 same provisions of law as applications and container return envelopes received by the  
5 board under other provisions of this Article. If the voter's application for absentee ballots  
6 is disapproved by the board, the board shall so notify the voter stating the reason for  
7 disapproval by first-class mail addressed to the voter at his-that voter's residence address  
8 ~~or~~ and at the address shown in the application for absentee ballots; and the board  
9 chairman shall ~~retain the container return envelope in its unopened condition until the~~  
10 ~~day of the primary or election to which it relates and on that day he shall destroy the~~  
11 ~~container return envelope and the ballots therein, without, however, revealing the manner~~  
12 ~~in which the voter marked the ballots.~~ enter a challenge under G.S. 163-89.

13 (e) The voter shall vote ~~his-that voter's~~ his-that voter's absentee ballot in a voting booth in the  
14 office of the county board of elections, and the county board of elections shall provide a  
15 voting booth for that purpose, provided however, that the county board of elections may  
16 in the alternative provide a private room for the voter adjacent to the office of the board,  
17 in which case the voter shall vote ~~his-that voter's~~ his-that voter's absentee ballot in that room. ~~The voting~~  
18 ~~booth shall be in the office of the county board of elections.~~ If the voter needs assistance  
19 in getting to and from the voting booth and in preparing and marking ~~his-that voter's~~  
20 ballots or if ~~he~~ the voter is a blind voter, only a member of the county board of elections,  
21 the director of elections, an employee of the board of elections authorized by the board, a  
22 near relative of the voter ~~as defined in G.S. 163-227(c)(4),~~ or the voter's verifiable legal  
23 guardian shall be entitled to assist the voter. The ballot shall be a paper ballot or a voting  
24 system in which a paper ballot is counted by computer or mechanical device. The ballot  
25 in any case shall have the ballot number on it in accordance with G.S. 163-230.1(a2)(1).  
26 After the voter casts the ballot, the voter shall deposit the ballot in the ballot box or  
27 voting system in the same manner as if that box or system was in use in a precinct on  
28 election day. At the end of each business day, or at any time when there will be no  
29 employee or officer of the board of elections on the premises, the ballot box or system  
30 shall be secured in accordance with rules approved by the State Board of Elections,  
31 which shall include verifying that no additional ballots have been placed in the box or  
32 system. If a direct record electronic voting system with retrievable ballots is approved by  
33 the State Board of Elections, it may be used for ballots cast under this section under rules  
34 approved by the State Board of Elections.

35 (f) Notwithstanding the exception specified in G.S. 163-36, counties which  
36 operate a modified full-time office shall remain open five days each week during regular  
37 business hours consistent with daily hours presently observed by the county board of  
38 elections, commencing with the date prescribed in G.S. 163-227.2(b) and continuing until  
39 5:00 P.M. on the Friday prior to that election or primary. The boards of county  
40 commissioners shall provide necessary funds for the additional operation of the office  
41 during ~~such~~ that time."

42 Section 8. G.S. 163-228 reads as rewritten:

1 **"§ 163-228. Register of absentee ~~ballot~~ requests, applications, and ballots issued; a**  
2 **public record.**

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

- 8 (1) Name of voter for whom application and ballots are being requested,  
9 and, if applicable, the name and address of the voter's near relative or  
10 verifiable legal guardian who requested the application and ballots for  
11 the voter.  
12 (2) Number of assigned voter's application when issued.  
13 (3) Precinct in which applicant is registered.  
14 (4) Address to which ballots are to be mailed, or, if the voter voted pursuant  
15 to G.S. 163-227.2, a notation of that fact.  
16 (5) Reason assigned for requesting absentee ballots.  
17 (6) Date request for application for ballots is received by the county board  
18 of elections.  
19 (7) The voter's party affiliation.  
20 (8) The date the ballots were mailed or delivered to the voter.  
21 (9) ~~whatever~~ Whatever additional information and official action may be  
22 required by this Article.

23 The State Board of Elections may provide for the register to be kept by electronic data  
24 processing equipment, and a copy shall be printed out each business day, or a supplement  
25 printed out each business day of new information.

26 The register of absentee ~~ballot~~ requests, applications, and ballots issued shall  
27 constitute a public record and shall be opened to the inspection of any registered voter of  
28 the county at any time within 50 days before and 30 days after an election in which  
29 absentee ballots were authorized, or at any other time when good and sufficient reason  
30 may be assigned for its inspection."

31 Section 9. G.S. 163-229 reads as rewritten:

32 **"§ 163-229. Absentee ballots, applications on container-return envelopes, and**  
33 **instruction sheets.**

34 (a) Absentee Ballot Form. – In accordance with the provisions of G.S. ~~163-230(3),~~  
35 163-230.1, persons entitled to vote by absentee ballot shall be furnished with ~~regular~~  
36 ~~official ballots. Separate or distinctly marked absentee ballots shall not be used.~~

37 (b) Application on Container-Return Envelope. – In time for use not later than 50  
38 days before a statewide primary, general election or county bond election, the county  
39 board of elections shall print a sufficient number of envelopes in which persons casting  
40 absentee ballots may transmit their marked ballots to the ~~chairman of the county board of~~  
41 ~~elections.~~ Each container-return envelope shall have printed on it an application which  
42 shall be designed and prescribed by the State Board of Elections, the voter's certification  
43 of eligibility to vote the enclosed ballot and of having voted the enclosed ballot in

1 accordance with this Article, a space for identification of the envelope with the voter, and  
2 a space for approval by the county board of elections. The envelope shall allow reporting  
3 of a change of name as provided by G.S. 163-82.16. The container-return envelope shall  
4 be printed in accordance with the following instructions: ~~instructions of the State Board~~  
5 ~~of Elections.~~

6 (1) ~~On one side shall be printed an identified space in which shall be~~  
7 ~~inserted the application number of the voter and the following statement~~  
8 ~~which shall be certified by one member of the county board of elections:~~  
9

10 "Certification of Election Official

11 ~~The undersigned election official does by his hand and~~  
12 ~~seal certify that..... is a registered and qualified voter of~~  
13 ~~..... County, Precinct # ..... and has made proper~~  
14 ~~application to vote under the Absentee Ballot Law of North~~  
15 ~~Carolina.~~

16 .....(Seal)Ch

17 ~~airman Member"~~

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

20 "Certificate of Absentee or Sick Voter

21 State of

22 County of

I, ....., do certify that I am

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

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

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

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

33 I further certify that I made application for absentee  
34 ballots, and that I marked the ballots enclosed herein, or  
35 that they were marked for me in my presence and  
36 according to my instructions. I understand it is a felony  
37 to falsely sign this certificate.  
38

39 —(Signature of voter)

40 Signature of Witness #1 —

Signature of Witness #2

41 \_\_\_\_\_ Address of Witness #1 Address of Witness

42 #2". (c)Instruction Sheets. – In time for use not later than 50 days before a  
43

1 statewide primary, general or county bond election, the county board of elections shall  
2 prepare and print a sufficient number of sheets of instructions on how voters are to  
3 prepare absentee ballots and return them to the ~~chairman of the~~ county board of  
4 elections."

5 Section 10. G.S. 163-230 is repealed.

6 Section 11. G.S. 163-230.1 reads as rewritten:

7 "**§ 163-230.1. Simultaneous issuance of absentee ballots with application.**

8 (a) ~~When a~~ A qualified voter personally requests by mail who is eligible to vote  
9 by absentee ballot under G.S. 163-226(a)(1), 163-226(a)(3), 163-226(a)(3a), or 163-  
10 226(a)(4) or that voter's near relative or verifiable legal guardian, shall request in writing  
11 an application for absentee ballots, so that the county board of elections receives the  
12 request not later than 5:00 p.m. on the Tuesday before the election. an application for  
13 absentee ballots,—The county board of elections shall enter in the register of absentee  
14 requests, applications, and ballots issued the information required in G.S. 163-228 as  
15 soon as each item of that information becomes available. Upon receiving the application,  
16 the county board of elections shall cause to be mailed to that voter in a single package:

17 (1) The official ballots the voter is entitled to ~~vote if his application is~~  
18 ~~approved; vote;~~

19 (2) A container-return envelope for the ballots, ~~upon the outside of which~~  
20 ~~shall be printed the appropriate application form as provided in G.S.~~  
21 ~~163-227; printed in accordance with G.S. 163-229; and~~

22 (3) ~~A large envelope (similar to a No. 14 or larger manila envelope) in~~  
23 ~~which the container-return envelope with the ballots may be returned~~  
24 ~~and on which the affidavit provided by G.S. 163-229(b) shall be printed;~~  
25 ~~and~~

26 (4) An instruction sheet.

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

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

33 ~~DO NOT PLACE THE ENVELOPE CONTAINING YOUR BALLOTS INTO THIS~~  
34 ~~ENVELOPE UNTIL YOU HAVE COMPLETED THE APPLICATION ON THE~~  
35 ~~ENVELOPE CONTAINING YOUR BALLOTS AND SECURED THE SIGNATURE~~  
36 ~~OF A WITNESS.~~

37 (a1) Absence for Sickness or Physical Disability. – Notwithstanding the provisions  
38 of subsection (a) of this section, if a voter expects to be unable to go to the voting place to  
39 vote in person on election day because of that voter's sickness or other physical disability,  
40 that voter or that voter's near relative or verifiable legal guardian may make written  
41 request in person for absentee ballots to the board of elections of the county in which the  
42 voter is registered after 5:00 p.m. on the Tuesday before the election but not later than  
43 5:00 p.m. on the day before the election. The county board of elections shall enter in the



1 register of absentee requests, applications, and ballots issued the information required in  
2 G.S. 163-228 as soon as each item of that information becomes available. The county  
3 board of elections shall personally deliver to the requester in a single package:

4 (1) The official ballots the voter is entitled to vote;

5 (2) A container-return envelope for the ballots, printed in accordance with  
6 G.S. 163-229; and

7 (3) An instruction sheet.

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

12 (1) On the top margin of each ballot the applicant is entitled to vote, the  
13 chair, a member, officer, or employee of the board of elections shall  
14 write or type the words 'Absentee Ballot No. ....' or an abbreviation  
15 approved by the State Board of Elections and insert in the blank space  
16 the number assigned the applicant's application in the register of  
17 absentee requests, applications, and ballots issued. That person shall not  
18 write, type, or print any other matter upon the ballots transmitted to the  
19 absentee voter. Alternatively, the board of elections may cause to be  
20 barcoded on the ballot the voter's application number, if that barcoding  
21 system is approved by the State Board of Elections.

22 (2) The chair, member, officer, or employee of the board of elections shall  
23 fold and place the ballots (identified in accordance with the preceding  
24 instruction) in a container-return envelope and write or type in the  
25 appropriate blanks thereon, in accordance with the terms of G.S. 163-  
26 229(b), the absentee voter's name, the absentee voter's application  
27 number, and the designation of the precinct in which the voter is  
28 registered. If the ballot is barcoded under this section, the envelope may  
29 be barcoded rather than having the actual number appear. The person  
30 placing the ballots in the envelopes shall leave the container-return  
31 envelope holding the ballots unsealed.

32 (3) The chair, member, officer, or employee of the board of elections shall  
33 then place the unsealed container-return envelope holding the ballots  
34 together with printed instructions for voting and returning the ballots in  
35 an envelope addressed to the voter at the post office address stated in the  
36 request, seal the envelope, and mail it at the expense of the county board  
37 of elections, or deliver it to the voter in person: Provided, that in case of  
38 a request received after 5:00 p.m. on the Tuesday before the election  
39 under the provisions of subsection (a1) of this section, in lieu of  
40 transmitting the ballots to the voter in person or by mail, the chair,  
41 member, officer, or employee of the board of elections may deliver the  
42 sealed envelope containing the instruction sheet and the container-return

1 envelope holding the ballots to a near relative or verifiable legal  
2 guardian of the voter.

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

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

13 (c) At its next official meeting after return of the completed container-return  
14 envelope and large envelope with the voter's ballots, the county board of elections shall  
15 determine whether the container-return envelope and large envelope have has been  
16 properly executed. If the board determines that both the container-return envelope and  
17 large envelope have has been properly executed, it shall approve the application and  
18 deposit the container-return envelope with other container-return envelopes for the  
19 envelope to be opened and the ballots counted at the same time as all other container-  
20 return envelopes and absentee ballots.

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

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

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

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

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

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

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

7 Section 12. G.S. 163-231 reads as rewritten:

8 **"§ 163-231. Voting absentee ballots and transmitting them to ~~chairman of the~~**  
9 **~~county board of elections.~~**

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

13 (1) Mark ~~his~~the voter's ballots, or cause them to be marked by one of such  
14 persons in ~~his~~the voter's presence according to ~~his~~the voter's  
15 instruction;

16 (2) Fold each ballot separately, or cause each of them to be folded in ~~his~~the  
17 voter's presence;

18 (3) Place the folded ballots in the container-return envelope and securely  
19 seal it, or have this done in ~~his~~the voter's presence;

20 (4) Make the application printed on the container-return envelope according  
21 to the provisions of G.S. 163-229(b) and make the certificate printed on  
22 the container-return envelope according to the provisions of G.S. 163-  
23 229(b).

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

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

33 (b) Transmitting Executed Absentee Ballots to ~~Chairman of~~ County Board of  
34 Elections. – The sealed container-return envelope in which executed absentee ballots  
35 have been placed shall be transmitted to the ~~chairman of the~~ county board of elections  
36 who issued them as follows: All ballots issued under the provisions of Articles 20 and 21  
37 of this Chapter shall be transmitted by ~~mail,~~mail or by commercial courier service, at the  
38 voter's expense, or delivered in person, or by the voter's ~~spouse, brother, sister, parent,~~  
39 ~~grandparent, child or grandchild~~ near relative or verifiable legal guardian not later than  
40 5:00 P.M. on the day before the statewide primary or general election or county bond  
41 7:30 p.m. on the day of the election. If such ballots are received later than that hour, they  
42 shall not be accepted for voting."

43 Section 13. G.S. 163-232 reads as rewritten:

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

(a) The chairman of the county board of elections shall prepare, or cause to be prepared, a list in at least quadruplicate, of all absentee ballots returned to the county board of elections to be counted, which have been approved by the county board of elections. elections, and which have been received as of 5:00 p.m. on the day before the election. 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 ....., 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 has not mailed or delivered ballots when the request for the ballots 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 has not mailed or delivered ballots when the request for the ballots 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)'

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

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

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

17 Section 14. G.S. 163-233 reads as rewritten:

18 **"§ 163-233. Applications for absentee ballots; how retained.**

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

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

25 Section 15. G.S. 163-234 reads as rewritten:

26 **"§ 163-234. Counting absentee ballots by county board of elections.**

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

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

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

40 Provided, that the county board of elections is authorized to begin  
41 counting absentee ballots between the hours of 2:00 P.M. and 5:00 P.M.  
42 upon the adoption of a resolution at least two weeks prior to the election  
43 wherein the hour and place of counting absentee ballots shall be stated.

1 A copy of the resolutions shall be published once a week for two weeks  
2 prior to the election, in a newspaper having general circulation in the  
3 county. Notice may additionally be made on a radio or television station  
4 or both, but such notice shall be in addition to the newspaper and other  
5 required notice. The count shall be continuous until completed and the  
6 members shall not separate or leave the counting place except for  
7 unavoidable ~~necessity~~. necessity, except that if the count has been  
8 completed prior to the time the polls close, it shall be suspended until  
9 that time pending receipt of any additional ballots, and except that one-  
10 stop ballots under G.S. 163-227.2 counted electronically shall not be  
11 counted until the polls close; provided, however, that if there are  
12 outstack ballots in the counting device, they may be counted at the same  
13 time as other ballots are counted under this subdivision. The county  
14 board of elections may begin putting them in the tabulator at the same  
15 time as other ballots are counted under this subdivision if the system for  
16 counting one-stop ballots requires them to be put in a tabulator but the  
17 process has the voter place them in a ballot box. The board shall not  
18 announce the result of the count before 7:30 P.M.

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

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

27 (5) As each ballot envelope is opened, the board shall cause to be entered  
28 into a pollbook designated 'Pollbook of Absentee Voters' the name of  
29 the absentee ~~voter~~. voter, or if the pollbook is computer-generated, the  
30 board shall check off the name. Preserving secrecy, the ballots shall be  
31 placed in the appropriate ballot boxes, at least one of which shall be  
32 provided for each type of ballot. The 'Pollbook of Absentee Voters'  
33 shall also contain the names of all persons who voted under G.S. 163-  
34 227.2, but those names may be printed by computer for inclusion in the  
35 pollbook.

36 After all ballots have been placed in the boxes, the counting process  
37 shall begin.

38 If one-stop ballots under G.S. 163-227.2 are counted electronically,  
39 that count shall commence at the time the polls close. If one-stop  
40 ballots are paper ballots counted manually, that count shall commence at  
41 the same time as other absentee ballots are counted.

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

4 As soon as the absentee ballots have been counted and the names of  
5 the absentee voters entered in the pollbook as required herein, the board  
6 members and assistants employed to count the absentee ballots shall  
7 each sign the pollbook immediately beneath the last absentee voter's  
8 name entered therein. The ~~chairman~~ county board of elections shall be  
9 responsible for the safekeeping of the pollbook of absentee voters.

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

17 (7) One copy of the absentee abstract shall be retained by the county board  
18 of elections and the totals appearing thereon shall be added to the final  
19 totals of all votes cast in the county for each office as determined on the  
20 official canvass.

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

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

31 Section 16. G.S. 163-236 reads as rewritten:

32 "**§ 163-236. Violations by ~~chairman of county board of elections.~~**

33 The ~~chairman of the~~ county board of elections shall be sole custodian of blank  
34 applications for absentee ballots, official ballots, and container-return envelopes for  
35 absentee ballots. ~~He~~ The board shall issue and deliver blank applications for absentee  
36 ballots in strict accordance with the provisions of G.S. ~~163-227(e).~~ 163-230.1. The  
37 issuance of ballots to persons whose applications requests for absentee ballots have been  
38 approved received by the county board of elections under the provisions of G.S. ~~163-~~  
39 ~~230(3)~~ 163-230.1 is the responsibility and duty of the ~~chairman of the~~ county board of  
40 elections.

41 It shall be the duty of the ~~chairman of the~~ county board of elections to keep current all  
42 records required ~~of him~~ by this Article and to make promptly all reports required ~~of him~~



1 by this Article. If that duty has been assigned to the chair, member, officer, or employee  
2 of the board of elections, they shall carry out the duty.

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

4 Section 17. G.S. 163-82.7(g)(2) reads as rewritten:

5 "(2) If the Postal Service has returned as undeliverable a notice sent within  
6 25 days before the election to the applicant under subsection (c) of this  
7 section, then the applicant may vote only in person in that first election  
8 and may not vote by ~~mailed-absentee ballot.~~ ballot except in person  
9 under G.S. 163-227.2. The county board of elections shall establish a  
10 procedure at the voting site for:

- 11 a. Obtaining the correct address of any person described in this  
12 subdivision who appears to vote in person; and  
13 b. Assuring that the person votes in the proper place and in the  
14 proper contests.

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

19 Section 18. G.S. 163-137(b) reads as rewritten:

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

25 Section 19. G.S. 163-155(4) reads as rewritten:

26 "(4) The affidavit executed by the voter shall be retained by the county board  
27 of elections for a period of six months. In those precincts using voting  
28 machines, the county board of elections shall furnish paper ballots of  
29 each kind for use by persons authorized to vote outside the voting place  
30 by this section. In any precinct using direct record electronic voting  
31 equipment, the county board of elections, with the approval of the State  
32 Board of Elections, may provide for all such paper ballots to be  
33 transported upon closing of the polls to the office of the county board of  
34 elections for counting. Those ballots may be transported only by the  
35 chief judge, judge, or assistant. Upon receipt by the county board of  
36 elections, those ballots shall be counted and canvassed in the same  
37 manner as one-stop ballots cast under G.S. 163-227.2, except that rather  
38 than the count commencing when the polls close under G.S. 163-234(5)  
39 as provided for one-stop ballots, the count shall commence when the  
40 board has received from each precinct either that precinct's ballots or  
41 notification that no such ballots were cast.

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

1           Section 20. G.S. 163-169(i) reads as rewritten:

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

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

6 **"§ 163-257. Facsimile transmission of election materials.**

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

12           Section 22. This act applies to elections held on or after January 1, 1998,  
13 except that the State Board of Elections may issue rules required or permitted by this act  
14 prior to that date.