

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

SESSION LAW 1999-455  
SENATE BILL 568

AN ACT TO REMOVE THE EXCUSE REQUIREMENT FROM ONE-STOP ABSENTEE VOTING FOR THE GENERAL ELECTION HELD IN NOVEMBER OF EVEN-NUMBERED YEARS, TO ALLOW COUNTY BOARDS OF ELECTIONS TO DESIGNATE ADDITIONAL ONE-STOP SITES, AND TO MAKE CHANGES RELATED TO STREAMLINING THE ABSENTEE BALLOT PROCESS.

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 to be absent from the county in which he is registered during the entire period that the polls are open on the day of the specified election in which the voter desires to vote;
- (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~~-disability;
- (3) The voter is incarcerated, whether in the voter's county of residence or elsewhere, shall be entitled to vote by absentee ballot in the county of the voter's residence in any election, specified herein, in which the voter otherwise would be entitled to vote. Absentee voting shall be in the same manner as provided in this Article. The chief custodian or superintendent of the institution or other place of confinement shall certify that the applicant is not a felon, and the certification shall be as prescribed by the State Board of Elections. The State Board of Elections is authorized to prescribe procedures to carry out the intent and purpose of this subsection;
- (3a) The voter because of the observance of a religious holiday pursuant to the tenets of the voter's religion will be unable to cast a ballot at the polling place on the day of the election; or

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

(a1) No-Excuse Absentee Voting for One-Stop in General Elections Only. – The only type of absentee voting that is not subject to the excuse requirements of subsection (a) of this section is one-stop voting as provided in G.S. 163-227.2 for elections held on the day of the general elections in November of even-numbered years.

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

(c) The Term 'Election'. – 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:

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

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

- (1) For any person except the voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or the voter's verifiable legal guardian to assist the voter to vote an absentee ballot when the voter is voting an absentee ballot other than under the procedure described in G.S. 163-227.2; provided that if there is not a near relative or legal guardian available to assist the voter, the voter may request some other person to give assistance;
- (2) For any person to assist a voter to vote an absentee ballot under the absentee voting procedure authorized by G.S. 163-227.2 except a member of the county board of elections, the director of elections, an employee of the board authorized by the board, the voter's near relative ~~as defined in G.S. 163-227(e)(4)~~, or the voter's verifiable legal guardian;

- (3) For a voter who votes an absentee ballot under the procedures authorized by G.S. 163-227.2 to vote ~~his-that voter's~~ absentee ballot outside of the voting booth or private room provided to ~~him-the voter~~ for that purpose in or adjacent to the office of the county board of elections or at the additional site provided by G.S. 163-227.2(f1), or to receive assistance in getting to and from the voting booth or private room and in preparing and marking ~~his-that voter's~~ ballots from any person other than a member of the county board of elections, the director of elections, an employee of the board of elections authorized by the board, a near relative of the voter ~~as defined in G.S. 163-227(e)(4)~~, or the voter's verifiable legal guardian;
- (4) For any owner, manager, director, employee, or other person, other than the voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or verifiable legal guardian, to make a written request pursuant to G.S. 163-230.1 or an application on behalf of a registered voter who is a patient in any hospital, clinic, nursing home or rest home in this State or for any owner, manager, director, employee, or other person other than the voter's near relative or verifiable legal guardian, or officer authorized to administer oaths acting pursuant to G.S. 163-231(a)(1), to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot;
- (5) Repealed by Session Laws 1987, c. 583, s. 8.
- (6) For any person to take into ~~his-that person's~~ possession for delivery to a voter or for return to a county board of elections the absentee ballot of any voter, provided, however, that this prohibition shall not apply to a voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or the voter's verifiable legal guardian;
- (7) Except as provided in subsections (1), (2), (3), and (4) of this section, G.S. 163-231(a), G.S. 163-250(a), and G.S. 163-227.2(e), for any voter to permit another person to assist ~~him-the voter~~ in marking ~~his-that voter's~~ absentee ballot, to be in the voter's presence when a voter votes an absentee ballot, or to observe the voter mark ~~his-that voter's~~ absentee ballot.

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

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

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

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

A voter applying for an absentee ballot for a primary election who will be ~~absent from the county of his residence~~ eligible to vote under this Article on the day of the

primary and second primary shall be permitted by the county board of elections to indicate ~~such that~~ fact on ~~his that~~ voter's application and ~~such that~~ voter shall automatically be issued an application and absentee ballot for the second primary if one is called. The county board of elections shall consider ~~such that~~ indication a separate request for application for the second primary and, at the proper time, shall enter ~~such that~~ voter's name in the absentee register along with the listing of other applicants for absentee ballots for the second primary.

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

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

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

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

(a) ~~A~~ Except as provided in subsection (a1) of this section, a person expecting to be absent from the county in which ~~he that~~ person is registered during the entire period that the polls are open on the day of an election in which absentee ballots are authorized or is eligible under G.S. 163-226(a)(2), 163-226(a)(3a), or 163-226(a)(4) may request an application for absentee ballots, complete the application, ~~receive the absentee ballots, vote and deliver them sealed in a container return envelope to the county board of elections in the county in which he is registered and~~ vote under the provisions of this section.

(a1) The excuse requirements of G.S. 163-226(a) do not apply to one-stop voting for elections held on the day of the general elections in November of even-numbered years.

(b) Not earlier than the first business day after the twenty-fifth day before an election, in which absentee ballots are authorized, in which ~~he a~~ voter seeks to vote and not later than 5:00 P.M. ~~p.m.~~ on the Friday prior to that election, the voter shall appear in person only at the office of the county board of ~~elections and~~ elections, except as provided in subsection (f1) of this section. That voter shall enter the voting enclosure at the board office through the appropriate entrance and shall at once state his or her name and place of residence to an authorized member or employee of the board. In a primary election, the voter shall also state the political party with which the voter affiliates and in whose primary the voter desires to vote, or if the voter is an unaffiliated voter permitted to vote in the primary of a particular party under G.S. 163-119, the voter shall state the name of the authorizing political party in whose primary he wishes to vote. The board member or employee to whom the voter gives this information shall announce the name and residence of the voter in a distinct tone of voice. After examining the registration records, an employee of the board shall state whether the person seeking to

vote is duly registered. If the voter is found to be registered that voter may request that the chairman, a member, authorized member or the director of elections of the board, or an employee of the board of elections, authorized by the board, furnish him the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the chairman, member, director of elections or authorized member or employee of the board, and shall deliver the application to that person.

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

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

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

(e) The voter shall vote ~~his~~ that voter's absentee ballot in a voting booth in the office of the county board of elections, and the county board of elections shall provide a voting booth for that purpose, provided however, that the county board of elections may in the alternative provide a private room for the voter adjacent to the office of the board, in which case the voter shall vote ~~his~~ that voter's absentee ballot in that room. ~~The voting booth shall be in the office of the county board of elections.~~ If the voter needs assistance in getting to and from the voting booth and in preparing and marking ~~his~~ that voter's ballots or if ~~he~~ the voter is a blind voter, only a member of the county board of elections, the director of elections, an employee of the board of elections authorized by the board, a near relative of the voter ~~as defined in G.S. 163-227(c)(4)~~, or the voter's verifiable legal guardian shall be entitled to assist the voter.

(e1) If a county uses a voting system with retrievable ballots, that county's board of elections may by resolution elect to conduct one-stop absentee voting according to the provisions of this subsection. In a county in which the board has opted to do so, a one-stop voter shall cast the ballot and then shall deposit the ballot in the ballot box or voting system in the same manner as if such box or system was in use in a precinct on election day. At the end of each business day, or at any time when there will be no employee or officer of the board of elections on the premises, the ballot box or system shall be secured in accordance with a plan approved by the State Board of Elections, which shall include that no additional ballots have been placed in the box or system. Any county board desiring to conduct one-stop voting according to this subsection shall submit a plan for doing so to the State Board of Elections. The State Board shall adopt standards for conducting one-stop voting under this subsection and shall approve any county plan that adheres to its standards. The county board shall adhere to its State Board-approved plan. The plan shall provide that each one-stop ballot shall have a ballot number on it in accordance with G.S. ~~163-230(3)a.~~ 163-230.1(a2), or shall have an equivalent identifier to allow for retrievability. The standards shall address retrievability in one-stop voting on direct record electronic equipment where no paper ballot is used.

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

(f1) Notwithstanding any other provision of this section, a county board of elections by unanimous vote of all its members may provide for one or more sites in that county for absentee ballots to be applied for and cast under this section. Any site other than the county board of elections office shall be in any building or part of a building that the county board of elections is entitled under G.S. 163-129 to demand and use as a voting place. Every individual staffing any of those sites shall be a member or full-time employee of the county board of elections or an employee of the county board of elections whom the board has given training equivalent to that given a full-time

employee. Those sites must be approved by the State Board of Elections as part of a Plan for Implementation approved by both the county board of elections and by the State Board of Elections which shall also provide adequate security of the ballots and provisions to avoid allowing persons to vote who have already voted. The Plan for Implementation shall include a provision for the presence of political party observers at each one-stop site equivalent to the provisions in G.S. 163-45 for party observers at voting places on election day.

(f2) Notwithstanding the provisions of G.S. 163-89(a) and (b), a challenge may be entered against a voter at a one-stop site under subsection (f1) of this section or during one-stop voting at the county board office. The challenge may be entered by a person conducting one-stop voting under this section or by another registered voter who resides in the same precinct as the voter being challenged. If challenged at the place where one-stop voting occurs, the voter shall be allowed to cast a ballot in the same way as other voters. The challenge shall be made on forms prescribed by the State Board of Elections. The challenge shall be heard by the county board of elections in accordance with the procedures set forth in G.S. 163-89(e)."

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

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

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

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

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

The register of absentee ~~ballot applications~~ requests, applications, and ballots issued shall constitute a public record and shall be opened to the inspection of any registered

voter of the county at any time within 50 days before and 30 days after an election in which absentee ballots were authorized, or at any other time when good and sufficient reason may be assigned for its inspection."

Section 8. G.S. 163-229 reads as rewritten:

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

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

(b) Application on Container-Return Envelope. – In time for use not later than 50 days before a statewide primary, general election or county bond election, the county board of elections shall print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the ~~chairman of the~~ county board of elections. Each container-return envelope shall have printed on it an application which shall be designed and prescribed by the State Board of Elections, the voter's certification of eligibility to vote the enclosed ballot and of having voted the enclosed ballot in accordance with this Article, a space for identification of the envelope with the voter, and a space for approval by the county board of elections. The envelope shall allow reporting of a change of name as provided by G.S. 163-82.16. The container-return envelope shall be printed in accordance with the following instructions: instructions of the State Board of Elections.

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

~~"Certification of Election Official~~

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

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

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

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

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

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

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

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

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

- (1) On the top margin of each ballot the applicant is entitled to vote, the chair, a member, officer, or employee of the board of elections shall write or type the words 'Absentee Ballot No. ....' or an abbreviation approved by the State Board of Elections and insert in the blank space the number assigned the applicant's application in the register of absentee requests, applications, and ballots issued. That person shall not write, type, or print any other matter upon the ballots transmitted to the absentee voter. Alternatively, the board of elections may cause to be barcoded on the ballot the voter's application number, if that barcoding system is approved by the State Board of Elections.
- (2) The chair, member, officer, or employee of the board of elections shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's name, the absentee voter's application

number, and the designation of the precinct in which the voter is registered. If the ballot is barcoded under this section, the envelope may be barcoded rather than having the actual number appear. The person placing the ballots in the envelopes shall leave the container-return envelope holding the ballots unsealed.

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

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

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

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

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

If the county board of elections changes the time of holding its meetings or provides for additional meetings in accordance with the terms of this subsection, notice of the

change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county at least 30 days prior to the election.

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

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

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

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

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

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

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

(a) Procedure for Voting Absentee Ballots. – In the presence of two other persons who are at least 18 years of age, and who are not disqualified by G.S. 163-226.3(a)(4) or G.S. 163-237(b1), the voter shall:

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

The persons in whose presence the ballot is marked shall at all times respect the secrecy of the ballot and the privacy of the absentee voter, unless the voter requests their assistance and they are otherwise authorized by law to give assistance. The persons in whose presence the ballot was marked shall sign the application and certificate as witnesses, and shall indicate their address. When thus executed, the sealed container-

return envelope, with the ballots enclosed, shall be transmitted in accordance with the provisions of subsection (b) of this section to the ~~chairman of the~~ county board of elections ~~who~~ which issued the ballots.

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

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

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

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

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 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. 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.

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."

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

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

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

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

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

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

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

- (1) Only those absentee ballots returned to the county board of elections no later than 5:00 ~~P.M.~~ p.m. on the day before election day in a properly executed container-return envelope shall be ~~counted~~ counted, except to the extent federal law requires otherwise.
- (2) The county board of elections shall meet at 5:00 ~~P.M.~~ p.m. on election day in the board office or other public location in the county

courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 ~~P.M.~~ p.m. on election day. Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, provided ~~he~~ the elector shall not in any manner interfere with the election officials in the discharge of their duties.

Provided, that the county board of elections is authorized to begin counting absentee ballots between the hours of 2:00 ~~P.M.~~ p.m. and 5:00 ~~P.M.~~ p.m. upon the adoption of a resolution at least two weeks prior to the election wherein the hour and place of counting absentee ballots shall be stated. A copy of the resolutions shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable ~~necessity.~~ necessity, except that if the count has been completed prior to the time the polls close, it shall be suspended until that time pending receipt of any additional ballots, and except that one-stop ballots under G.S. 163-227.2 counted electronically shall not be counted until the polls close; provided, however, that if there are outstack ballots in the counting device, they may be counted at the same time as other ballots are counted under this subdivision. The county board of elections may begin putting them in the tabulator at the same time as other ballots are counted under this subdivision if the system for counting one-stop ballots requires them to be put in a tabulator but the process has the voter place them in a ballot box. The board shall not announce the result of the count before 7:30 ~~P.M.~~ p.m.

- (3) The counting of absentee ballots shall not commence until a majority and at least one board member of each political party represented on the board is present and ~~such~~ that fact is publicly declared and entered in the official minutes of the county board.
- (4) The county board of elections may employ such assistants as deemed necessary to count the absentee ballots, but each board member present shall be responsible for and observe and supervise the opening and tallying of the ballots.
- (5) As each ballot envelope is opened, the board shall cause to be entered into a pollbook designated 'Pollbook of Absentee Voters' the name of the absentee ~~voter.~~ voter, or if the pollbook is computer-generated, the board shall check off the name. Preserving secrecy, the ballots shall be placed in the appropriate ballot boxes, at least one of which shall be provided for each type of ballot. The 'Pollbook of Absentee Voters' shall also contain the names of all persons who voted under G.S. 163-

227.2, but those names may be printed by computer for inclusion in the pollbook.

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

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

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

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

- (6) Upon completion of the counting process the board members shall cause the results of the tally to be entered on the absentee abstract prescribed by the State Board of Elections. The abstract shall be signed by the members of the board in attendance and the original mailed immediately to the State Board of ~~Elections, Raleigh, North Carolina 27602.~~ Elections. The county board of elections may have a separate count on the abstract for one-stop absentee ballots under G.S. 163-227.2.
- (7) One copy of the absentee abstract shall be retained by the county board of elections and the totals appearing thereon shall be added to the final totals of all votes cast in the county for each office as determined on the official canvass.
- (8) In the event a political party does not have a member of the county board of elections present at the ~~5:00 P.M.~~ meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party chairman of said absent member, or a member of the party's county executive committee, is in attendance. Such person shall act as an official witness to the counting and shall sign the absentee ballot abstract as an 'observer.'
- (9) The county board of elections shall retain all container-return envelopes and absentee ballots, in a safe place, for at least four months, and longer if any contest is pending concerning the validity of any ballot."

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

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



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

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

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

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

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

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

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

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

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

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

"(4) The affidavit executed by the voter shall be retained by the county board of elections for a period of six months. In those precincts using voting machines, the county board of elections shall furnish paper ballots of each kind for use by persons authorized to vote outside the voting place by this section. In any precinct using direct record electronic voting equipment, the county board of elections, with the approval of the State Board of Elections, may provide for all such paper ballots to be transported upon closing of the polls to the office of the county board of elections for counting. Those ballots may be

transported only by the chief judge, judge, or assistant. Upon receipt by the county board of elections, those ballots shall be counted and canvassed in the same manner as one-stop ballots cast under G.S. 163-227.2, except that rather than the count commencing when the polls close under G.S. 163-234(5) as provided for one-stop ballots, the count shall commence when the board has received from each precinct either that precinct's ballots or notification that no such ballots were cast.

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

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

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

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

**"§ 163-257. Facsimile and electronic mail transmission of election materials.**

An applicant entitled to exercise the rights conferred by this Article may apply for registration and an absentee ballot by facsimile or electronic mail if otherwise qualified to apply for and vote by absentee ballot. A county board of elections may send and receive absentee ballot applications and accept voted ballots by facsimile or electronic mail from eligible electors as defined in G.S. 163-245. The State Board of Elections shall promulgate uniform rules for the use of facsimiles and electronic mail in application and voting under this section, and all county boards of elections shall adhere to those rules."

Section 21. G.S. 163-274(5a) is repealed.

Section 22. G.S. 163-237 is amended by adding a new subsection to read:

"(b1) Candidate Witnessing Absentee Ballots of Nonrelative Made Class 2 Misdemeanor. – A person is guilty of a Class 2 misdemeanor if that person acts as a witness under G.S. 163-231(a) or G.S. 163-250(a) in any primary or election in which the person is a candidate for nomination or election, unless the voter is the candidate's near relative as defined in G.S. 163-230.1(f)."

Section 23. Article 3 of Chapter 163 of the General Statutes is amended by adding a new section to read:

**"§ 163-27.1. Emergency powers.**

The Executive Secretary-Director, as chief State elections official, may exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by any of the following:

- (1) A natural disaster.
- (2) Extremely inclement weather.
- (3) An armed conflict involving United States armed forces, or mobilization of those forces, including State National Guard and reserve components.

In exercising those emergency powers, the Executive Secretary-Director shall avoid unnecessary conflict with the provisions of this Chapter. The Executive Secretary-

Director shall adopt rules describing the emergency powers and the situations in which the emergency powers will be exercised."

Section 24. This act applies to elections held on or after January 1, 2000, except that the State Board of Elections may issue rules required or permitted by this act prior to that date.

In the General Assembly read three times and ratified this the 20th day of July, 1999.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ James B. Hunt, Jr.  
Governor

Approved 4:05 p.m. this 13th day of August, 1999