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Short Title: Help America Vote Act Compliance.

(Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE FOR A SYSTEM FOR ALL NORTH CAROLINA
3 ELECTIONS THAT COMPLIES WITH THE HELP AMERICA VOTE ACT AND
4 TO HELP PREVENT DUPLICATE NAMES ON JURY LISTS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The purpose of this act is to ensure that the State of North
7 Carolina has a system for all North Carolina elections that complies with the
8 requirements for federal elections set forth in the federal Help America Vote Act of
9 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 U.S.C. §§
10 15481-15485.

11 The General Assembly finds that the education and training of election
12 officials as required by G.S. 163-82.34 has met and continues to meet the mandate for
13 the education and training of precinct officials and other election officials in section
14 254(a)(3) of the Help America Vote Act of 2002. The General Assembly further finds
15 that the establishment, development, and continued operation of the statewide list
16 maintenance program for voter registration set forth in G.S. 163-82.14 has met and
17 continues to meet the mandates of section 303(a)(2) of the Help America Vote Act of
18 2002.

19 In certain other areas of the election statutes and other laws, the General
20 Assembly finds that the statutes must be amended to comply with the Help America
21 Vote Act.

22 **SECTION 2.** G.S. 163-82.10(a) reads as rewritten:

23 "(a) ~~Application Form Becomes Official Record.~~ – The State voter registration
24 system is the official voter registration list for the conduct of all elections in the State. A
25 completed and signed registration application form-form, if available, described in G.S.
26 163-82.3, once approved by the county board of elections, becomes backup to the
27 official registration record of the voter. Electronically captured images of the signatures

1 of voters, full or partial social security numbers, and drivers license numbers that may
2 be generated in the voter registration process, by either the State Board of Elections or a
3 county board of elections, are confidential and shall not be considered public records
4 and subject to disclosure to the general public under Chapter 132 of the General
5 Statutes. Disclosure of drivers license numbers in violation of this subsection shall not
6 give rise to a civil cause of action. This limitation of liability does not apply to the
7 disclosure of drivers license numbers in violation of this subsection as a result of gross
8 negligence, wanton conduct, or intentional wrongdoing that would otherwise be
9 actionable. The county board of elections shall maintain custody of ~~the official~~ any
10 paper hard copy registration records of all voters in the county and shall keep them in a
11 place where they are secure."

12 **SECTION 3.** G.S. 163-82.10 is amended by adding a new subsection to
13 read:

14 "(a1) Paperless, Instant Electronic Transfer. – The application described in G.S.
15 163-82.3 may be either a paper hard copy or an electronic document."

16 **SECTION 4.** G.S. 163-82.6(b) reads as rewritten:

17 "(b) Signature. – The form shall be valid only if signed by the applicant. An
18 electronically captured image of the signature of a voter on an electronic voter
19 registration form offered by a State agency shall be considered a valid signature for all
20 purposes for which a signature on a paper voter registration form is used."

21 **SECTION 5.** G.S. 132-1.2 reads as rewritten:

22 "**§ 132-1.2. Confidential information.**

23 Nothing in this Chapter shall be construed to require or authorize a public agency or
24 its subdivision to disclose any information that:

25 (1) Meets all of the following conditions:

- 26 a. Constitutes a "trade secret" as defined in G.S. 66-152(3).
- 27 b. Is the property of a private "person" as defined in G.S.
28 66-152(2).
- 29 c. Is disclosed or furnished to the public agency in connection
30 with the owner's performance of a public contract or in
31 connection with a bid, application, proposal, industrial
32 development project, or in compliance with laws, regulations,
33 rules, or ordinances of the United States, the State, or political
34 subdivisions of the State.
- 35 d. Is designated or indicated as "confidential" or as a "trade secret"
36 at the time of its initial disclosure to the public agency.

37 (2) Reveals an account number for electronic payment as defined in G.S.
38 147-86.20 and obtained pursuant to Articles 6A or 6B of Chapter 147
39 of the General Statutes or G.S. 159-32.1.

40 (3) Reveals a document, file number, password, or any other information
41 maintained by the Secretary of State pursuant to Article 21 of Chapter
42 130A of the General Statutes.

43 (4) Reveals the electronically captured image of an individual's signature,
44 drivers license number, or a portion of an individual's social security

1 number if the agency has those items because they are on a voter
2 registration document."

3 **SECTION 6.** G.S. 163-82.11 reads as rewritten:

4 **"§ 163-82.11. Establishment of statewide computerized voter registration.**

5 (a) Statewide System as Official List. – The State Board of Elections shall
6 develop and implement a statewide computerized voter registration system to facilitate
7 voter registration and to provide a central database containing voter registration
8 information for each county. The system shall serve as the single system for storing and
9 managing the official list of registered voters in the State. The system shall serve as the
10 official voter registration list for the conduct of all elections in the State. The system
11 shall encompass both software development and purchasing of the necessary hardware
12 for the central and distributed-network systems.

13 (b) Uses of Statewide System. – The State Board of Elections shall develop and
14 implement the system so that each county board of elections ~~can~~ can do all the
15 following:

- 16 (1) Verify that an applicant to register in its county is not also registered in
17 another ~~county;~~ county.
18 (2) Be notified automatically that a registered voter in its county has
19 registered to vote in another ~~county;~~ and county.
20 (3) Receive automatically data about a person who has applied to vote at a
21 drivers license office or at another public agency that is authorized to
22 accept voter registration applications.

23 (c) Compliance With Federal Law. – The State Board of Elections shall update
24 the statewide computerized voter registration list and database to meet the requirements
25 of section 303(a) of the Help America Vote Act of 2002 and to reflect changes when
26 citizenship rights are restored under G.S. 13-1.

27 (d) Role of County and State Boards of Elections. – Each county board of
28 elections shall be responsible for registering voters within its county according to law.
29 Each county board of elections shall maintain its ~~own computer file of registered voters~~
30 records by using the statewide computerized voter registration system in accordance
31 with rules promulgated by the State Board of Elections. Each county board of elections
32 shall ~~transmit~~ enter through the computer ~~network~~ system all additions, deletions, and
33 changes in its list of registered voters promptly to the statewide computer ~~file.~~ system.
34 ~~The State Board of Elections shall maintain a continually updated duplicate file of each~~
35 ~~county's registered voters.~~

36 (e) Cooperation on List for Jury Commissions. – The State Board of Elections
37 shall assist the Division of Motor Vehicles in providing to the county jury commission
38 of each county, as required by G.S. 20-43.4, a list of all registered voters in the county
39 and all persons in the county with drivers license records."

40 **SECTION 7.(a)** G.S. 163-82.12 reads as rewritten:

41 **"§ 163-82.12. Promulgation of ~~rules~~ guidelines relating to computerized voter**
42 **registration.**

43 The State Board of Elections shall make all ~~rules~~ guidelines necessary to administer
44 the statewide voter registration system established by this Article. All county boards of

1 elections shall follow these guidelines and cooperate with the State Board of Elections
2 in implementing guidelines. These ~~rules~~ guidelines shall include provisions ~~for~~ for all
3 of the following:

- 4 (1) Establishing, developing, and maintaining a computerized central voter
5 registration ~~file;~~ file.
- 6 (2) Linking the central file through a network with computerized voter
7 registration files in each of the ~~counties;~~ counties.
- 8 (3) Interacting with the computerized drivers license records of the
9 Division of Motor Vehicles and with the computerized records of other
10 public agencies authorized to accept voter registration
11 ~~applications;~~ applications.
- 12 (4) Protecting and securing the ~~data;~~ and data.
- 13 (5) Converting current voter registration records in the counties in
14 computer files that can be used on the statewide computerized
15 registration system.
- 16 (6) Enabling the statewide system to determine whether the voter
17 identification information provided by an individual is valid.
- 18 (7) Enabling the statewide system to interact electronically with the
19 Division of Motor Vehicles system to validate identification
20 information.
- 21 (8) Enabling the Division of Motor Vehicles to provide real-time interface
22 for the validation of the drivers license number and last four digits of
23 the social security number.
- 24 (9) Enabling the statewide system to assign a unique identifier to each
25 legally registered voter in the State.
- 26 (10) Enabling the State Board of Elections to assist the Division of Motor
27 Vehicles in providing to the jury commission of each county, as
28 required by G.S. 20-43.4, a list of all registered voters in the county
29 and all persons in the county with drivers license records.

30 These guidelines shall not be considered to be rules subject to Article 2A of Chapter
31 150B of the General Statutes. However, the State Board shall publish in the North
32 Carolina Register the guidelines and any changes to them after adoption, with that
33 publication noted as information helpful to the public under G.S. 150B-21.17(a)(6).
34 Copies of those guidelines shall be made available to the public upon request or
35 otherwise by the State Board."

36 **SECTION 7.(b)** G.S. 163-82.19 reads as rewritten:

37 "**§ 163-82.19. Voter registration at drivers license ~~offices.~~ offices; coordination on**
38 **data interface.**

39 (a) Voter Registration at Drivers License Offices. – The Division of Motor
40 Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its
41 forms so that any eligible person who applies for original issuance, renewal or
42 correction of a drivers license, or special identification card issued under G.S. 20-37.7
43 may, on a part of the form, complete an application to register to vote or to update his
44 registration if the voter has changed his address or moved from one precinct to another

1 or from one county to another. The person taking the application shall ask if the
2 applicant is a citizen of the United States. If the applicant states that the applicant is not
3 a citizen of the United States, or declines to answer the question, the person taking the
4 application shall inform the applicant that it is a felony for a person who is not a citizen
5 of the United States to apply to register to vote. Any person who willfully and
6 knowingly and with fraudulent intent gives false information on the application is guilty
7 of a Class I felony. The application shall state in clear language the penalty for violation
8 of this section. The necessary forms shall be prescribed by the State Board of Elections.
9 The form must ask for the previous voter registration address of the voter, if any. If a
10 previous address is listed, and it is not in the county of residence of the applicant, the
11 appropriate county board of elections shall treat the application as an authorization to
12 cancel the previous registration and also process it as such under the procedures of G.S.
13 163-82.9. If a previous address is listed and that address is in the county where the voter
14 applies to register, the application shall be processed as if it had been submitted under
15 G.S. 163-82.9.

16 Registration shall become effective as provided in G.S. 163-82.7. Applications to
17 register to vote accepted at a drivers license office under this section until the deadline
18 established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no
19 person who completes an application at that drivers license office shall be denied the
20 vote in that election for failure to apply earlier than that deadline.

21 All applications shall be forwarded by the Department of Transportation to the
22 appropriate board of elections not later than five business days after the date of
23 acceptance, according to rules which shall be promulgated by the State Board of
24 Elections. Those rules shall provide for a paperless, instant, electronic transfer of
25 applications to the appropriate ~~county~~ board of elections.

26 (b) Coordination on Data Interface. – The Department of Transportation jointly
27 with the State Board of Elections shall develop and operate a computerized interface to
28 match information in the database of the statewide voter registration system with the
29 drivers license information in the Division of Motor Vehicles to the extent required to
30 enable the State Board of Elections and the Department of Transportation to verify the
31 accuracy of the information provided on applications for voter registration, whether the
32 applications were received at drivers license offices or elsewhere. The Department of
33 Transportation and the State Board shall implement the provisions of this subsection so
34 as to comply with section 303 of the Help America Vote Act of 2002. The Department
35 of Transportation shall enter into an agreement with the Commissioner of Social
36 Security so as to comply with section 303 of the Help America Vote Act of 2002."

37 **SECTION 7.(c)** G.S. 20-43.4 reads as rewritten:

38 **"§ 20-43.4. Current list of licensed drivers to be provided to jury commissions.**

39 The Commissioner of Motor Vehicles shall provide to each county jury commission
40 an alphabetical list of all persons that ~~he~~ the Commissioner has determined are residents
41 of the county, who will be 18 years of age or older as of the first day of January of the
42 following year, and licensed to drive a motor vehicle ~~as of July 1, 1983, and as of July 1~~
43 ~~of each biennium thereafter, odd-numbered year,~~ provided that if an annual jury list is
44 being prepared under G.S. 9-2(a), the list to be provided to the county jury commission

1 shall be provided annually. The list shall include those persons whose license to drive
2 has been suspended, and those former licensees whose license has been canceled. The
3 list shall contain the address and zip code of each driver, plus ~~his~~ the driver's date of
4 ~~birth and~~ birth, sex, and driver's license number, and may be in either printed or
5 computerized form, as requested by each county. Before providing the list to the county
6 jury commission, the Commissioner shall have computer-matched the list with the voter
7 registration list of the State Board of Elections to eliminate duplicates. The
8 Commissioner shall include in the list provided to the county jury commission names of
9 registered voters who do not have drivers licenses, and shall indicate the licensed or
10 formerly licensed drivers who are also registered voters, the licensed or formerly
11 licensed drivers who are not registered voters, and the registered voters who are not
12 licensed or formerly licensed drivers. The list so provided shall be used solely for jury
13 selection and election records purposes and no other. Information provided by the
14 Commissioner to county jury commissions and the State Board of Elections under this
15 section shall remain confidential, shall continue to be subject to the disclosure
16 restriction provisions of G.S. 20-43.1, and shall not be a public record for purposes of
17 Chapter 132 of the General Statute."

18 **SECTION 7.(d)** G.S. 9-2 reads as rewritten:

19 **"§ 9-2. Preparation of jury list; sources of names.**

20 (a) It shall be the duty of the jury commission ~~beginning July 1, 1981, (and each~~
21 ~~biennium thereafter)~~ on July 1 of every odd-numbered year to prepare a list of
22 prospective jurors qualified under this Chapter to serve in the biennium beginning
23 ~~January 1, 1982, (and each biennium thereafter).~~ on January 1 of the next year. Instead
24 of providing a list for an entire biennium, the commission may prepare a list each year if
25 the senior regular resident superior court judge requests in writing that it do so.

26 (b) In preparing the list, the jury commission shall use the ~~voter registration~~
27 ~~records of the county.~~ list of registered voters and persons with drivers license records
28 supplied to the county by the Commissioner of Motor Vehicles pursuant to G.S.
29 20-43.4. The commission may use fewer than all the names from the voter-list if it uses
30 a random method of selection. The commission may use other sources of names deemed
31 by it to be reliable.

32 (c) ~~Effective July 1, 1983, the list of licensed drivers residing in each county, as~~
33 ~~supplied to the county by the Division of Motor Vehicles pursuant to G.S. 20 43.4, shall~~
34 ~~also be required as a source of names for use by the commission in preparing the jury~~
35 ~~list.~~

36 (d) ~~When more than one source is used to prepare the jury list the jury~~
37 ~~commission shall take randomly a sample of names from the list of registered voters and~~
38 ~~each additional source used. The same percentage of names must be selected from each~~
39 ~~list. The names selected from the voter registration list shall be compared with the entire~~
40 ~~list of names, from the second source. Duplicate names shall be removed from the voter~~
41 ~~registration sample, and the remaining names shall then be combined with the sample of~~
42 ~~names selected from the second source to form the jury list. If more than two source~~
43 ~~lists are used, the same procedure must be used to remove duplicates.~~

1 (e) ~~As an alternative to the procedure set forth in subsection (d), the~~ The jury
2 commission ~~may~~ shall merge the entire list of names of each source ~~used, used~~ remove
3 ~~the duplicate names,~~ and randomly select the desired number of names to form the jury
4 list.

5 (f) The jury list shall contain not less than one and one-quarter times and not
6 more than three times as many names as were drawn for jury duty in all courts in the
7 county during the previous biennium, or, if an annual list is being prepared as requested
8 under subsection (a) of this section the jury list shall contain not less than one and
9 one-quarter times and not more than three times as many names as were drawn for jury
10 duty in all courts in the county during the previous year but in no event shall the list
11 include fewer than 500 names, except that in counties in which a different panel of
12 jurors is selected for each day of the week, there is no limit to the number of names that
13 may be placed on the jury list.

14 (g) ~~The custodian of the appropriate election registration records in each county~~
15 ~~shall cooperate with the jury commission in its duty of compiling the list required by~~
16 ~~this section.~~

17 (h) As used in this section 'random' or 'randomly' refers to a method of selection
18 that results in each name on a list having an equal opportunity to be selected."

19 **SECTION 8.** Article 13A of Chapter 163 of the General Statutes is amended
20 by adding a new section to read:

21 "**§ 163-166.7A. Voter education and information.**

22 (a) Posting the Information. – For each election that involves candidates for
23 federal or State office, each county board of elections shall post at each active voting
24 place the following information in a manner and format approved by the State Board of
25 Elections:

- 26 (1) A sample ballot as required by G.S. 163-165.2.
- 27 (2) The date of the election and the hours the voting place will be open.
- 28 (3) Instructions on how to vote, including how to cast a vote or correct a
29 vote on the voting systems available for use in that voting place.
- 30 (4) Instructions on how to cast a provisional ballot.
- 31 (5) Instructions to mail-in registrants and first-time voters on how to
32 comply with the requirements in section 303(b) of the Help America
33 Vote Act of 2002 concerning voter identifications.
- 34 (6) General information on voting rights under applicable federal and
35 State law, including information on the right of an individual to cast a
36 provisional ballot and instructions on how to contact the appropriate
37 officials if the voter believes those rights have been violated.
- 38 (7) General information on federal and State laws that prohibit acts of
39 fraud and misrepresentation as to voting and elections.

40 (b) Intent. – The posting required by subsection (a) of this section is intended to
41 meet the mandate of the voting information requirements in section 302(b) of the Help
42 America Vote Act of 2002."

43 **SECTION 9.** G.S. 163-82.4 reads as rewritten:

44 "**§ 163-82.4. Contents of application form.**

1 (a) Information Requested of Applicant. – The form required by G.S. 163-82.3(a)
2 shall request the applicant's:

- 3 (1) Name,
- 4 (2) Date of birth,
- 5 (3) Residence address,
- 6 (4) County of residence,
- 7 (5) Date of application,
- 8 (6) Gender,
- 9 (7) Race,
- 10 (7a) Ethnicity,
- 11 (8) Political party affiliation, if any, in accordance with subsection (c) of
12 this section,
- 13 (9) Telephone number (to assist the county board of elections in
14 contacting the voter if needed in processing the application),
- 15 (10) Drivers license number or, if the applicant does not have a drivers
16 license number, the last four digits of the applicant's social security
17 number,

18 and any other information the State Board finds is necessary to enable officials of the
19 county where the person resides to satisfactorily process the application. The form shall
20 require the applicant to state whether currently registered to vote anywhere, and at what
21 address, so that any prior registration can be cancelled. The portions of the form
22 concerning race and ethnicity shall include as a choice any category shown by the most
23 recent decennial federal census to compose at least one percent (1%) of the total
24 population of North Carolina. The county board shall make a diligent effort to complete
25 for the registration records any information requested on the form that the applicant
26 does not complete, but no application shall be denied because an applicant does not
27 state race, ethnicity, gender, or telephone number. The application shall conspicuously
28 state that provision of the applicant's telephone number is optional. If the county board
29 maintains voter records on computer, the free list provided under this subsection shall
30 include telephone numbers if the county board enters the telephone number into its
31 computer records of voters.

32 (a1) No Drivers License or Social Security Number Issued. – The State Board
33 shall assign a unique identifier number to an applicant for voter registration if the
34 applicant has not been issued either a current and valid drivers license or a social
35 security number. That unique identifier number shall serve to identify that applicant for
36 voter registration purposes.

37 (b) Notice of Requirements, Attestation, Notice of Penalty, and Notice of
38 Confidentiality. – The form required by G.S. 163-82.3(a) shall contain, in uniform type,
39 the following:

- 40 (1) A statement that specifies each eligibility requirement (including
41 citizenship) and an attestation that the applicant meets each such
42 requirement, with a requirement for the signature of the applicant,
43 under penalty of a Class I felony under G.S. 163-275(4).

1 (2) A statement that, if the applicant declines to register to vote, the fact
2 that the applicant has declined to register will remain confidential and
3 will be used only for voter registration purposes.

4 (3) A statement that, if the applicant does register to vote, the office at
5 which the applicant submits a voter registration application will remain
6 confidential and will be used only for voter registration purposes.

7 (c) Party Affiliation or Unaffiliated Status. – The application form described in
8 G.S. 163-82.3(a) shall provide a place for the applicant to state a preference to be
9 affiliated with one of the political parties in G.S. 163-96, or a preference to be an
10 "unaffiliated" voter. Every person who applies to register shall state his preference. If
11 the applicant fails to declare a preference for a party or for unaffiliated status, that
12 person shall be listed as "unaffiliated", except that if the person is already registered to
13 vote in the county and that person's registration already contains a party affiliation, the
14 county board shall not change the registrant's status to "unaffiliated" unless the
15 registrant clearly indicates a desire in accordance with G.S. 163-82.17 for such a
16 change. An unaffiliated registrant shall not be eligible to vote in any political party
17 primary, except as provided in G.S. 163-119, but may vote in any other primary or
18 general election. The application form shall so state.

19 (d) Citizenship and Age Questions. – Voter registration application forms shall
20 include all of the following:

21 (1) The question 'Are you a citizen of the United States of America?' and
22 boxes for the applicant to check to indicate whether the applicant is or
23 is not a citizen of the United States.

24 (2) The question 'Will you be 18 years of age on or before election day?'
25 and boxes for the applicant to check to indicate whether the applicant
26 will be 18 years of age or older on election day.

27 (3) The statement 'If you checked "no" in response to either of these
28 questions, do not complete this form.'

29 If the voter fails to answer the question set out in subdivision (1) of this subsection,
30 the person filling out the registration shall be notified of the omission and given the
31 opportunity to complete the form in a timely manner in order to be registered for the
32 next election."

33 **SECTION 10.** G.S. 163-82.10A reads as rewritten:

34 **"§ 163-82.10A. Permanent voter registration numbers.**

35 ~~Each county board of elections~~ The statewide voter registration system shall assign
36 to each voter a unique registration number. That number shall be permanent for that
37 voter and shall not be changed or reassigned by the county board of elections."

38 **SECTION 11.** G.S. 163-165.7 reads as rewritten:

39 **"§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

40 The State Board of Elections shall have authority to approve types, makes, and
41 models of voting systems for use in elections and referenda held in this State. Only
42 voting systems that have been approved by the State Board shall be used to conduct
43 elections under this Chapter, and the approved systems shall be valid in any election or
44 referendum held in any county or municipality. The State Board may use guidelines,

1 information, testing reports, certification, decertification, recertification, and any
2 relevant data produced by the Election Assistance Commission, its Standards Board, its
3 Board of Advisors, or the Technical Guidelines Development Committee as established
4 in Title II of the Help America Vote Act of 2002 with regard to any action or
5 investigation the State Board may take concerning a voting system. The State Board
6 may use, for the purposes of voting system certification, laboratories accredited by the
7 Election Assistance Commission under the provisions of section 231(2) of the Help
8 America Vote Act of 2002. The State Board may, upon request of a local board of
9 elections, authorize the use of a voting system not approved for general use. The State
10 Board may also, upon notice and hearing, disapprove types, makes, and models of
11 voting systems. Upon disapproving a type, make, or model of voting system, the State
12 Board shall determine the process by which the disapproved system is discontinued in
13 any county. If a county makes a showing that discontinuance would impose a financial
14 hardship upon it, the county shall be given up to four years from the time of State Board
15 disapproval to replace the system. A county may appeal a decision by the State Board
16 concerning discontinuance of a voting system to the superior court in that county or to
17 the Superior Court of Wake County. The county has 30 days from the time of the State
18 Board's decision on discontinuance to make that appeal.

19 Subject to the provisions of this Chapter, the State Board of Elections shall prescribe
20 rules for the adoption, handling, operation, and honest use of voting systems, including,
21 but not limited to, the following:

- 22 (1) Types, makes, and models of voting systems approved for use in this
23 State.
- 24 (2) Form of official ballot labels to be used on voting systems.
- 25 (3) Operation and manner of voting on voting systems.
- 26 (4) Instruction of precinct officials in the use of voting systems.
- 27 (5) Instruction of voters in the use of voting systems.
- 28 (6) Assistance to voters using voting systems.
- 29 (7) Duties of custodians of voting systems.
- 30 (8) Examination of voting systems before use in an election.
- 31 (9) Compliance with section 301 of the Help America Vote Act of 2002."

32 **SECTION 12.** G.S. 163-165.4A reads as rewritten:

33 "**§ 163-165.4A. Punch-Card ballots. Punch-card ballots and lever machines.**

34 (a) No ballot may be used in any referendum, primary, or other election as an
35 official ballot if it requires the voter to punch out a hole with a stylus or other tool.

36 (a1) No lever machine voting system may be used in any referendum, primary, or
37 other election as a means of voting the official ballot. A 'lever machine voting system' is
38 a voting system on which the voter casts a vote by pressing a lever and the vote is
39 mechanically recorded by the machine.

40 (b) In any counties that used punch-card ballots as official ballots or lever
41 machines in the election of November 2000, and in any municipalities located in those
42 counties, this section becomes effective January 1, 2006. It is the intent of the General
43 Assembly that any county that uses county funds to replace voting equipment to satisfy
44 this section shall be given priority in appropriations to counties for voting equipment."

1 **SECTION 13.** G.S. 163-182.1 reads as rewritten:

2 **"§ 163-182.1. Principles and rules for counting official ballots.**

3 (a) General Principles That Shall Apply. – The following general principles shall
4 apply in the counting of official ballots, whether the initial count or any recount:

5 (1) Only official ballots shall be counted.

6 (2) No official ballot shall be rejected because of technical errors in
7 marking it, unless it is impossible to clearly determine the voter's
8 choice.

9 (3) If it is impossible to clearly determine a voter's choice in a ballot item,
10 the official ballot shall not be counted for that ballot item, but shall be
11 counted in all other ballot items in which the voter's choice can be
12 clearly determined.

13 (4) If an official ballot is marked in a ballot item with more choices than
14 there are offices to be filled or propositions that may prevail, the
15 official ballot shall not be counted for that ballot item, but shall be
16 counted in all other ballot items in which there is no overvote and the
17 voter's choice can be clearly determined.

18 (5) If an official ballot is rejected by a scanner or other counting machine,
19 but human counters can clearly determine the voter's choice, the
20 official ballot shall be counted by hand and eye.

21 (6) Write-in votes shall not be counted in party primaries or in referenda,
22 but shall be counted in general elections if all of the following are true:

23 a. The write-in vote is written by the voter or by a person
24 authorized to assist the voter pursuant to G.S. 163-166.8.

25 b. The write-in vote is not cast for a candidate who has failed to
26 qualify under G.S. 163-123 as a write-in candidate.

27 c. The voter's choice can be clearly determined.

28 (7) Straight-party ticket and split-ticket votes shall be counted in general
29 elections according to the following guidelines:

30 a. If a voter casts a vote for a straight-party ticket, that vote shall
31 be counted for all the candidates of that party, other than those
32 for President and Vice President, in the partisan ballot items on
33 that official ballot except as otherwise provided in this
34 subdivision.

35 b. If a voter casts a vote for a straight-party ticket and also votes in
36 a partisan ballot item for a candidate not of that party, the
37 official ballot shall be counted in that ballot item only for the
38 individually marked candidate. In partisan ballot items where
39 no mark is made for an individual candidate, the official ballot
40 shall be counted for the candidates of the party whose straight
41 ticket the voter voted.

42 c. If a voter casts a vote for a straight-party ticket and also casts a
43 write-in vote in any partisan ballot item, the straight-party ticket
44 vote shall not control the way the official ballot is counted in

1 that ballot item, except to the extent it would control in the case
2 of crossover voting under this subdivision. The following
3 principles shall apply:

- 4 1. If the write-in vote is proper under subdivision (6) of this
5 subsection, that write-in candidate shall receive a vote.
- 6 2. If the write-in vote is not proper under subdivision (6) of
7 this subsection and no other candidate is individually
8 marked in that ballot item, then no vote shall be counted
9 in that ballot item.
- 10 3. If the straight-ticket voter casts both write-in votes and
11 individually marked votes for ballot candidates in a
12 ballot item, then the write-in and individually marked
13 votes shall be counted unless the write-in is not proper
14 under subdivision (6) of this subsection or an overvote
15 results.

16 ~~(b) Rules and Directions by State Board of Elections.—The State Board of~~
17 ~~Elections shall promulgate rules where necessary to apply the principles in subsection~~
18 ~~(a) of this section to each voting system in use in the State. The rules shall prescribe~~
19 ~~procedures and standards for each type of voting system. Those procedures and~~
20 ~~standards shall be followed uniformly throughout the State in all places where that type~~
21 ~~of voting system is used. The State Board shall direct the county boards of elections in~~
22 ~~the application of the principles and rules in individual circumstances.~~

23 (b) Procedures and Standards. – The State Board of Elections shall adopt uniform
24 and nondiscriminatory procedures and standards for voting systems. The standards shall
25 define what constitutes a vote and what will be counted as a vote for each category of
26 voting system used in the State. The State Board shall adopt those procedures and
27 standards at a meeting occurring not earlier than 15 days after the State Board gives
28 notice of the meeting. The procedures and standards adopted shall apply to all elections
29 occurring in the State and shall be subject to amendment or repeal by the State Board
30 acting at any meeting where notice that the action has been proposed has been given at
31 least 15 days before the meeting. These procedures and standards shall not be
32 considered to be rules subject to Article 2A of Chapter 150B of the General Statutes.
33 However, the State Board shall publish in the North Carolina Register the procedures
34 and standards and any changes to them after adoption, with that publication noted as
35 information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those
36 procedures and standards shall be made available to the public upon request or
37 otherwise by the State Board. For optical scan and direct record systems, those
38 procedures and standards shall provide that if the voter selects votes for more than the
39 number of candidates to be elected or proposals to be approved in a ballot item, the
40 voting system shall do all the following:

- 41 (1) Notify the voter that the voter has selected more than the correct
42 number of candidates or proposals in the ballot item.
- 43 (2) Notify the voter before the vote is accepted and counted of the effect
44 of casting overvotes in the ballot item.

1 (3) Provide the voter with the opportunity to correct the official ballot
2 before it is accepted and counted."

3 **SECTION 14.** G.S. 163-166.01 reads as rewritten:

4 "**§ 163-166.01. Hours for voting.**

5 In every election, the voting place shall be open at 6:30 A.M. and shall be closed at
6 7:30 P.M. In extraordinary circumstances, the county board of elections may direct that
7 the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls
8 are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who
9 arrives at the voting place after the closing of the polls.

10 Any voter who votes after the statutory poll closing time of 7:30 P.M. by virtue of a
11 federal or State court order or any other lawful order, including an order of a county
12 board of elections, shall be allowed to vote, under the provisions of that order, only by
13 using a provisional official ballot. Any special provisional official ballots cast under this
14 section shall be separated, counted, and held apart from other provisional ballots cast by
15 other voters not under the effect of the order extending the closing time of the voting
16 place. If the court order has not been reversed or stayed by the time of the county
17 canvass, the total for that category of provisional ballots shall be added to the official
18 canvass."

19 **SECTION 14.1.** G.S. 163-166.7 reads as rewritten:

20 "**§ 163-166.7. Voting procedures.**

21 (a) Checking Registration. – A person seeking to vote shall enter the voting
22 enclosure through the appropriate entrance. A precinct official assigned to check
23 registration shall at once ask the voter to state current name and residence address. The
24 voter shall answer by stating current name and residence address. In a primary election,
25 that voter shall also be asked to state, and shall state, the political party with which the
26 voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to
27 vote. After examination, that official shall state whether that voter is duly registered to
28 vote in that precinct and shall direct that voter to the voting equipment or to the official
29 assigned to distribute official ballots. If a precinct official states that the person is duly
30 registered, the person shall sign the pollbook, other voting record, or voter authorization
31 document in accordance with subsection (c) of this section before voting.

32 (b) Distribution of Official Ballots. – If the voter is found to be duly registered
33 and has not been successfully challenged, the official assigned to distribute the official
34 ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter
35 shall be directed to the voting equipment that contains the official ballot. No voter in a
36 primary shall be permitted to vote in more than one party's primary. The precinct
37 officials shall provide the voter with any information the voter requests to enable that
38 voter to vote as that voter desires.

39 (c) The State Board of Elections shall promulgate rules for the process of voting.
40 Those rules shall emphasize the appearance as well as the reality of dignity, good order,
41 impartiality, and the convenience and privacy of the voter. Those rules, at a minimum,
42 shall include procedures to ensure that all the following occur:

43 (1) The voting system remains secure throughout the period voting is
44 being conducted.

- 1 (2) Only properly voted official ballots are introduced into the voting
2 system.
- 3 (3) Except as provided by G.S. 163-166.9, no official ballots leave the
4 voting enclosure during the time voting is being conducted there.
- 5 (4) All improperly voted official ballots are returned to the precinct
6 officials and marked as spoiled.
- 7 (5) Voters leave the voting place promptly after voting.
- 8 (6) Voters not clearly eligible to vote in the precinct but who seek to vote
9 there are given proper assistance in voting a provisional official ballot
10 or guidance to another voting place where they are eligible to vote.
- 11 (7) Information gleaned through the voting process that would be helpful
12 to the accurate maintenance of the voter registration records is
13 recorded and delivered to the county board of elections.
- 14 (8) The registration records are kept secure.
- 15 (9) Party observers are given access as provided by G.S. 163-45 to current
16 information about which voters have voted.
- 17 (10) The voter, before voting, shall sign that voter's name on the pollbook,
18 other voting record, or voter authorization document. If the voter is
19 unable to sign, a precinct official shall enter the person's name on the
20 same document before the voter votes."

21 **SECTION 15.** Article 13A of Chapter 163 of the General Statutes is
22 amended by adding a new section to read:

23 **"§ 163-166.11. Provisional voting requirements.**

24 If an individual seeking to vote claims to be a registered voter in a jurisdiction and
25 though eligible to vote in the election does not appear on the official list of eligible
26 registered voters in the voting place, that individual may cast a provisional official
27 ballot as follows:

- 28 (1) An election official at the voting place shall notify the individual that
29 the individual may cast a provisional official ballot in that election.
- 30 (2) The individual may cast a provisional official ballot at that voting
31 place upon executing a written affirmation before an election official
32 at the voting place, stating that the individual is a registered voter in
33 the jurisdiction in which the individual seeks to vote and is eligible to
34 vote in that election.
- 35 (3) At the time the individual casts the provisional official ballot, the
36 election officials shall provide the individual written information
37 stating that anyone casting a provisional official ballot can ascertain
38 whether and to what extent the ballot was counted and, if the ballot
39 was not counted in whole or in part, the reason it was not counted. The
40 State Board of Elections or the county board of elections shall
41 establish a system for so informing a provisional voter. It shall make
42 the system available to every provisional voter without charge, and it
43 shall build into it reasonable procedures to protect the security,

1 confidentiality, and integrity of the voter's personal information and
2 vote.

3 (4) The cast provisional official ballot and the written affirmation shall be
4 secured by election officials at the voting place according to guidelines
5 and procedures adopted by the State Board of Elections. At the close
6 of the polls, election officials shall transmit the provisional official
7 ballots cast at that voting place to the county board of elections for
8 prompt verification according to guidelines and procedures adopted by
9 the State Board of Elections.

10 (5) The county board of elections shall count the individual's provisional
11 official ballot for all ballot items on which it determines that the
12 individual was eligible under State or federal law to vote."

13 **SECTION 16.** Article 13A of Chapter 163 of the General Statutes is
14 amended by adding a new section to read:

15 **"§ 163-166.12. Requirements for certain voters who register by mail.**

16 (a) Voting in Person. – An individual who has registered to vote by mail on or
17 after January 1, 2003, and has not previously voted in an election that includes a ballot
18 item for federal office in North Carolina, shall present to a local election official at a
19 voting place before voting there one of the following:

20 (1) A current and valid photo identification.

21 (2) A copy of one of the following documents that shows the name and
22 address of the voter: a current utility bill, bank statement, government
23 check, paycheck, or other government document.

24 (b) Voting Mail-In Absentee. – An individual who has registered to vote by mail
25 on or after January 1, 2003, and has not previously voted in an election that includes a
26 ballot item for federal office in North Carolina, in order to cast a mail-in absentee vote,
27 shall submit with the mailed-in absentee ballot one of the following:

28 (1) A copy of a current and valid photo identification.

29 (2) A copy of one of the following documents that shows the name and
30 address of the voter: a current utility bill, bank statement, government
31 check, paycheck, or other government document.

32 The county board of elections shall note the type of identification proof submitted by
33 the voter and may dispose of the tendered copy of identification proof as soon as the
34 type of proof is noted in the voter registration records.

35 This subsection shall not apply to persons entitled to vote by absentee ballot under
36 the Uniformed and Overseas Citizens Absentee Voting Act.

37 (c) The Right to Vote Provisionally. – If an individual is required under
38 subsection (a) or (b) of this section to present identification in order to vote, but that
39 individual does not present the required identification, that individual may vote a
40 provisional official ballot. If the voter is at the voting place, the voter may vote
41 provisionally there without unnecessary delay. If the voter is voting by mail-in absentee
42 ballot, the mailed ballot without the required identification shall be treated as a
43 provisional official ballot.

44 (d) Exemptions. – This section does not apply to any of the following:

- 1 (1) An individual who registers by mail and submits as part of the
2 registration application either of the following:
3 a. A copy of a current and valid photo identification.
4 b. A copy of one of the following documents that shows the name
5 and address of the voter: a current utility bill, bank statement,
6 government check, paycheck, or other government document.
7 (2) An individual who registers by mail and submits as part of the
8 registration application the individual's drivers license number or at
9 least the last four digits of the individual's social security number
10 where an election official matches either or both of the numbers
11 submitted with an existing State identification record bearing the same
12 number, name, and date of birth contained in the submitted
13 registration.
14 (3) An individual who is entitled to vote by absentee ballot under the
15 Uniformed and Overseas Citizens Absentee Voting Act.
16 (4) An individual who is entitled to vote otherwise than in person under
17 section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and
18 Handicapped Act.
19 (5) An individual who is entitled to vote otherwise than in person under
20 any other federal law."

21 **SECTION 17.(a)** Chapter 163 of the General Statutes is amended by adding
22 a new Article to read:

23 "Article 8A.

24 "HAVA Administrative Complaint Procedure.

25 **"§ 163-91. Complaint procedure.**

26 (a) The State Board of Elections shall establish a complaint procedure as
27 required by section 402 of Title IV of the Help America Vote Act of 2002 for the
28 resolution of complaints alleging violations of Title III of that Act.

29 (b) With respect to the adoption of the complaint procedure under this section,
30 the State Board of Elections is exempt from the requirements of Article 2A of Chapter
31 150B of the General Statutes. Prior to adoption or amendment of the complaint
32 procedure under this section, the State Board of Elections shall complete all of the
33 following:

- 34 (1) Publish the proposed plan in the North Carolina Register at least 30
35 days prior to the adoption of the final complaint procedure.
36 (2) Accept oral and written comments on the proposed complaint
37 procedure.
38 (3) Hold at least one public hearing on the proposed complaint procedure.

39 (c) Hearings and final determinations of complaints filed under the procedure
40 adopted pursuant to this section are not subject to Articles 3 and 4 of Chapter 150B of
41 the General Statutes."

42 **SECTION 17.(b)** G.S. 150B-1(c) is amended by adding a new subdivision
43 to read:

44 "(c) Full Exemptions. – This Chapter applies to every agency except:

1 ...

2 (6) The State Board of Elections in administering the HAVA
3 Administrative Complaint Procedure of Article 8A of Chapter 163 of
4 the General Statutes."

5 **SECTION 18.** G.S. 163-256 reads as rewritten:

6 **"§ 163-256. Regulations of State Board of Elections.**

7 (a) The State Board of Elections shall adopt rules and regulations to carry out the
8 intent and purpose of G.S. 163-254 and 163-255, and to ensure that a proper list of
9 persons voting under said sections shall be maintained by the boards of elections, and to
10 ensure proper registration records, and such rules and regulations shall not be subject to
11 the provisions of ~~G.S. 150B-9~~. Article 2A of Chapter 150B of the General Statutes.

12 (b) The State Board of Elections shall be the single office responsible for
13 providing information concerning voter registration and absentee voting procedures to
14 be used by absent uniformed services voters and overseas voters as to all elections and
15 procedures relating to the use of federal write-in absentee ballots. Unless otherwise
16 required by law, the State Board of Elections shall be responsible for maintaining
17 contact and cooperation with the Federal Voting Assistance Program, the United States
18 Department of Defense, and other federal entities that deal with military and overseas
19 voting. The State Board of Elections shall, as needed, make recommendations
20 concerning military and overseas citizen voting to the General Assembly, the Governor,
21 and other State officials."

22 **SECTION 19.** G.S. 163-245 reads as rewritten:

23 **"§ 163-245. Persons in armed forces, their spouses, certain veterans, civilians**
24 **working with armed forces, and members of Peace Corps may register**
25 **and vote by mail.**

26 (a) Any individual who is eligible to register and who is qualified to vote in any
27 statewide primary or election held under the laws of this State, and who is absent from
28 the county of his residence in any of the capacities specified in subsection (b) of this
29 section, shall be entitled to register by mail and to vote by military absentee ballot in the
30 manner provided in this Article.

31 (b) The provisions of this Article shall apply to the following persons:

32 (1) Individuals serving in the armed forces of the United States, including,
33 but not limited to, the army, the navy, the air force, the marine corps,
34 the coast guard, the Merchant Marine, the National Oceanic and
35 Atmospheric Administration, the commissioned corps of the Public
36 Health Service, and members of the national guard and military
37 reserve.

38 (2) Spouses of persons serving in the armed forces of the United States
39 residing outside the counties of their spouses' voting residence.

40 (3) Disabled war veterans in United States government hospitals.

41 (4) Civilians attached to and serving outside the United States with the
42 armed forces of the United States.

43 (5) Members of the Peace Corps.

1 (c) An otherwise valid voter registration or absentee ballot application submitted
2 by an absent uniformed services voter during a year shall not be refused or prohibited
3 on the grounds that the voter submitted the application before the first date on which the
4 county board of elections otherwise accepts those applications submitted by absentee
5 voters who are not members of the uniformed services for that year.

6 (d) If any absent uniformed services or overseas voter submits a voter
7 registration application or absentee ballot request, and the request is rejected, the board
8 of elections that makes the rejection shall notify the voter of the reasons for the
9 rejection.

10 (e) The requirement for any oath or affirmation to accompany any document as
11 to voter registration or absentee ballots under this Article may be met by use of the
12 standard oath prescribed by the Presidential designee under section 101(b)(7) of the
13 Uniformed and Overseas Citizens Absentee Voting Act."

14 **SECTION 20.** G.S. 163-247(3) reads as rewritten:

15 "(3) If a single application from an absentee uniformed voter is received by
16 an election official, it shall be considered a valid absentee ballot
17 request with respect to all general, primary, and runoff elections for
18 federal, State, county, or those municipal offices in which absentee
19 ballots are allowed under the provisions of G.S. 163-302, ~~held during~~
20 ~~the calendar year the application was received.~~ held through the next
21 two regularly scheduled general elections for federal office. This
22 subdivision does not apply to a special election not involving the
23 election of candidates, unless that special election is being held on the
24 same day as a general or primary election."

25 **SECTION 21.** Article 7A of Chapter 163 of the General Statutes is amended
26 by adding a new section to read:

27 "**§ 163-82.27. Help America Vote Act of 2002.**

28 As used in this Chapter, the term 'Help America Vote Act of 2002' means the Help
29 America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42
30 U.S.C. §§ 15481-15485. Citations to titles and sections of the Help America Vote Act of
31 2002 are as they appear in the Public Law. The State Board shall have the authority to
32 adopt rules and guidelines to implement the minimum requirements of the Help
33 America Vote Act of 2002."

34 **SECTION 22.** Sections 1, 3, 4, 5, 12, 18, 21, and 22 of this act are effective
35 when this act becomes law. Sections 11 and 13 of this act become effective January 1,
36 2006. The remainder of this act becomes effective January 1, 2004. All sections of this
37 act apply with respect to all primaries and elections held on or after the date they
38 become effective.