

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 186

Short Title: Absentee Voting Changes.

(Public)

Sponsors: Senators Rucho; Ballantine, Carpenter, Forrester, Foxx, and Odom.

Referred to: Judiciary II.

March 1, 1999

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

(1) The voter expects 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.

(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

1 otherwise would be entitled to vote. Absentee voting shall be in the
2 same manner as provided in this Article. The chief custodian or
3 superintendent of the institution or other place of confinement shall
4 certify that the applicant is not a felon, and the certification shall be as
5 prescribed by the State Board of Elections. The State Board of
6 Elections is authorized to prescribe procedures to carry out the intent
7 and purpose of this subsection;

8 (3a) The voter because of the observance of a religious holiday pursuant to
9 the tenets of the voter's religion will be unable to cast a ballot at the
10 polling place on the day of the election; or

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

17 (a1) No-Excuse Absentee Voting for One-Stop Only. – The only type of absentee
18 voting under this Article that is not subject to the excuse requirements of subsection (a)
19 of this section is one-stop voting as provided in G.S. 163-227.2.

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

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

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

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

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

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

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

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

40 (1) For any person except the voter's near relative ~~as defined in G.S. 163-~~
41 ~~227(e)(4)~~ or the voter's verifiable legal guardian to assist the voter to
42 vote an absentee ballot when the voter is voting an absentee ballot other
43 than under the procedure described in G.S. 163-227.2; provided that if

- 1 there is not a near relative or legal guardian available to assist the voter,
2 the voter may request some other person to give assistance;
- 3 (2) For any person to assist a voter to vote an absentee ballot under the
4 absentee voting procedure authorized by G.S. 163-227.2 except a
5 member of the county board of elections, the director of elections, an
6 employee of the board authorized by the board, the voter's near relative
7 ~~as defined in G.S. 163-227(e)(4)~~, or the voter's verifiable legal guardian;
- 8 (3) For a voter who votes an absentee ballot under the procedures
9 authorized by G.S. 163-227.2 to vote ~~his~~ that voter's absentee ballot
10 outside of the voting booth or private room provided to ~~him~~ the voter for
11 that purpose in or adjacent to the office of the county board of elections
12 or at the additional site provided by G.S. 163-227.2(f1), or to receive
13 assistance in getting to and from the voting booth or private room and in
14 preparing and marking ~~his~~ that voter's ballots from any person other than
15 a member of the county board of elections, the director of elections, an
16 employee of the board of elections authorized by the board, a near
17 relative of the voter ~~as defined in G.S. 163-227(e)(4)~~, or the voter's
18 verifiable legal guardian;
- 19 (4) For any owner, manager, director, employee, or other person, other than
20 the voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or verifiable
21 legal guardian, to make a written request pursuant to G.S. 163-230.1 or
22 an application on behalf of a registered voter who is a patient in any
23 hospital, clinic, nursing home or rest home in this State or for any
24 owner, manager, director, employee, or other person other than the
25 voter's near relative or verifiable legal guardian, ~~or officer authorized to~~
26 ~~administer oaths acting pursuant to G.S. 163-231(a)(1)~~, to mark the voter's
27 absentee ballot or assist such a voter in marking an absentee ballot;
- 28 (5) Repealed by Session Laws 1987, c. 583, s. 8.
- 29 (6) For any person to take into ~~his~~ that person's possession for delivery to a
30 voter or for return to a county board of elections the absentee ballot of
31 any voter, provided, however, that this prohibition shall not apply to a
32 voter's near relative ~~as defined in G.S. 163-227(e)(4)~~ or the voter's
33 verifiable legal guardian;
- 34 (7) Except as provided in subsections (1), (2), (3), and (4) of this section,
35 G.S. 163-231(a), G.S. 163-250(a), and G.S. 163-227.2(e), for any voter
36 to permit another person to assist ~~him~~ the voter in marking ~~his~~ that
37 voter's absentee ballot, to be in the voter's presence when a voter votes
38 an absentee ballot, or to observe the voter mark ~~his~~ that voter's absentee
39 ballot.
- 40 (b) The State Board of Elections or a county board of elections, upon receipt of a
41 sworn affidavit from any qualified voter of the State or the county, as the case may be,
42 attesting to first-person knowledge of any violation of subsection (a) of this section, shall

1 transmit ~~such~~ that affidavit to the appropriate district attorney, who shall investigate and
2 prosecute any person violating subsection (a)."

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

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

5 **"§ 163-227.1. Second primary; applications for absentee ballots for voting in second**
6 **primary.**

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

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

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

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

26 **"§ 163-227.2. Alternate procedures for requesting application for absentee ballot;**
27 **'one-stop' voting procedure in board office.**

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

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

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

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

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

37 (e) The voter shall vote ~~his~~ that voter's absentee ballot in a voting booth in the
38 office of the county board of elections, and the county board of elections shall provide a
39 voting booth for that purpose, provided however, that the county board of elections may
40 in the alternative provide a private room for the voter adjacent to the office of the board,
41 in which case the voter shall vote ~~his~~ that voter's absentee ballot in that room. ~~The voting~~
42 ~~booth shall be in the office of the county board of elections.~~ If the voter needs assistance in
43 getting to and from the voting booth and in preparing and marking ~~his~~ that voter's ballots
44 or if ~~he~~ the voter is a blind voter, only a member of the county board of elections, the

1 director of elections, an employee of the board of elections authorized by the board, a
2 near relative of the voter ~~as defined in G.S. 163-227(e)(4)~~, or the voter's verifiable legal
3 guardian shall be entitled to assist the voter.

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

21 (f) Notwithstanding the exception specified in G.S. 163-36, counties which
22 operate a modified full-time office shall remain open five days each week during regular
23 business hours consistent with daily hours presently observed by the county board of
24 elections, commencing with the date prescribed in G.S. 163-227.2(b) and continuing until
25 5:00 P.M. on the Friday prior to that election or primary. The boards of county
26 commissioners shall provide necessary funds for the additional operation of the office
27 during ~~such that~~ time.

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

34 (f2) A voter, prior to being issued a ballot, shall show one of the following types of
35 identification at the time of applying for an absentee ballot under subsection (c) or (f1) of
36 this section:

- 37 (1) A voter registration card issued under G.S. 163-82.8 in a county which
38 issues such cards and one other type of identification showing the name
39 and a picture of the voter;
- 40 (2) A drivers license;
- 41 (3) A special identification card issued under G.S. 20-37.7;
- 42 (4) A passport;
- 43 (5) An identification card issued by the U.S. Department of Defense;

1 (6) A social security card and one other type of identification showing the
2 name and address and a picture of the voter; or

3 (7) Other identification acceptable to an election official present at the
4 board of elections office or voting site, so long as that identification
5 shows the name and address and a picture of the voter.

6 (f3) Observers. – The chair of each political party shall have the right to designate
7 observers to attend each site for one-stop voting under this section. Each political party
8 chair shall be allowed to designate a number of observers equal to twice the number of
9 precincts in the county. In any election in which an unaffiliated candidate is named on the
10 ballot, that candidate or that candidate's campaign manager shall have the right to appoint
11 a number of observers equal to the number to which each party chair is entitled. Persons
12 appointed as observers must be registered voters of the county and must have good moral
13 character. The chair of a political party shall not be an observer during a primary unless
14 that party is participating in the primary. Observers shall take no oath of office.

15 Individuals authorized to appoint observers shall submit in writing to the chair of the
16 county board of elections no later than 10:00 a.m. on the fifth day before the opening of
17 the one-stop period a signed list of the observers appointed. Before the opening of voting
18 on the first day of the one-stop period, the chairman may for good cause reject any
19 appointee and require that another be appointed. No later than the time for opening
20 voting on the first day of the one-stop period, the person making the substitute
21 appointment shall furnish in writing to the chair of the county board of elections the
22 names of any persons appointed in place of those persons rejected.

23 An observer shall do no electioneering at the voting place, and an observer shall in no
24 manner impede the voting process or interfere or communicate with or observe the
25 choices made by any voter in casting a ballot, but subject to these restrictions, the
26 elections officials shall permit the observer to make such observation and take such notes
27 as the observer may desire. An observer may come and go from the one-stop site without
28 limitation, but no more than two observers appointed by the same appointing authority
29 shall be in the voting enclosure at the same time.

30 Each observer shall be entitled to obtain at times specified by the State Board of
31 Elections, but not less than three times during each day of one-stop voting with the
32 spacing not less than one hour apart, a list of the persons who have voted at the voting
33 site so far that day. Counties that use an 'authorization to vote document' instead of
34 pollbooks may comply with the requirement in the previous sentence by permitting each
35 observer to inspect election records so that the observer may create a list of persons who
36 have voted at the site so far that day; each observer shall be entitled to make the
37 inspection at times specified by the State Board of Elections, but not less than three times
38 during each day of one-stop voting with the spacing not less than one hour apart.

39 Notwithstanding the provisions of G.S. 163-89(b), any person appointed an observer
40 under this subsection may challenge the absentee ballot cast by a voter under this
41 section."

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

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

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

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

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

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

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

31 **"§ 163-229. Absentee ballots, applications on container-return envelopes, and**
32 **instruction sheets.**

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

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

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

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

9 "Certification of Election Official

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

15 (Seal)
16 Chairman Member"

17
18 (2) ~~On the other side shall be printed the return address of the chairman of~~
19 ~~the county board of elections and the following certificate:~~
20

21 "Certificate of Absentee or Sick Voter

22 State of
23 County of

24 I,, do certify that I am a resident and registered
25 voter in precinct, County, North
26 Carolina; that on the day of an election,,,
27 (check whichever of the following statements is
28 correct.)

- 29 I will be absent from the county in which I reside.
- 30 Due to sickness or physical disability, or incarceration as a
31 misdemeanant, I will be unable to travel to the voting place in the
32 precinct in which I reside.
- 33 Due to the observance of a religious holiday pursuant to the
34 tenets of my religion, I will be unable to cast a ballot at the
35 polling place on the day of the election.

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

41
42 —(Signature of voter)
43

~~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), 163-226(a)(3), 163-226(a)(3a), or 163-226(a)(4), 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 chair, 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

1 request in person for absentee ballots to the board of elections of the county in which the
2 voter is registered after 5:00 p.m. on the Tuesday before the election but not later than
3 5:00 p.m. on the Friday before the election. The county board of elections shall enter in
4 the register of absentee requests, applications, and ballots issued the information required
5 in G.S. 163-228 as soon as each item of that information becomes available. The county
6 board of elections shall personally deliver to the requester in a single package:

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

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

10 (3) An instruction sheet.

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

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

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

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

1 of elections may deliver the sealed envelope containing the instruction
2 sheet and the container-return envelope holding the ballots to a near
3 relative or verifiable legal guardian of the voter.

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

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

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

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

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

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

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

41 (d) ~~The provisions of this section shall apply only to requests received by mail~~
42 from and signed by the voter individually and personally. No near relative, guardian, or

1 other person other than the voter himself shall be permitted to apply for absentee ballots
2 under this section.

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

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

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

10 **"§ 163-231. Voting absentee ballots and transmitting them to ~~chairman of the county~~**
11 **board of elections.**

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

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

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

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

22 (4) Make the application printed on the container-return envelope according
23 to the provisions of G.S. 163-229(b) and make the certificate printed on
24 the container-return envelope according to the provisions of G.S. 163-
25 229(b).

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

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

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

1 the day of the election. If such ballots are received later than that hour, they shall not be
2 accepted for voting."

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

4 **"§ 163-232. Certified list of executed absentee ballots; distribution of list.**

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

11 'State of North Carolina
12 County of

13 I,, ~~chairman~~ chair of the County board of elections, do
14 hereby certify that the foregoing is a list of all executed absentee ballots to
15 be voted in the election to be conducted on the day of, ~~19~~.....,
16 which have been approved by the county board of ~~elections.~~ elections and
17 which have been returned no later than 5:00 p.m. on the day before the
18 election. ~~I further certify that I have issued ballots to no other persons than those~~
19 ~~listed herein, whose original applications or original applications made by near~~
20 ~~relatives are filed in the office of the county board of elections; and I further~~
21 ~~certify that I have the chair, member, officer, or employee of the board of~~
22 elections has not delivered ballots for absentee voting to any person other
23 than the voter himself, voter, by mail or by commercial courier service or in
24 person, except as provided by law, in the case of approved applications
25 received after 5:00 P.M. on the Tuesday or Friday before the election. and have
26 not mailed or delivered ballots when the request for the ballot was received
27 after the deadline provided by law.

28 This the day of, ~~19~~.....

29
30 (Signature of ~~chairman~~ chair of county board of elections)

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

33
34 (Signature of officer administering oath)

35
36 (Title of officer)'

37 No ~~earlier than 3:00 P.M. on the day before the election and no later than 10:00 A.M.~~ a.m.
38 on election day, the ~~chairman~~ county board of elections shall cause one copy of the list of
39 executed absentee ballots, which may be a continuing countywide list or a separate list
40 for each precinct, to be immediately deposited as 'first-class' mail to the State Board of
41 Elections. ~~He~~ The board shall retain one copy in the board office for public inspection
42 and ~~he~~ the board shall cause two copies of the appropriate precinct list to be delivered to
43 the chief judge of each precinct in the county. The ~~chairman~~ county board of elections

1 shall be authorized to call upon the sheriff of the county to distribute the list to the
2 precincts. In addition the ~~chairman~~ county board of elections shall, upon request, provide
3 a copy of the complete list to the ~~chairman~~ chair of each political party, recognized under
4 the provisions of G.S. 163-96, represented in the county.

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

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

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

22 'State of North Carolina
23 County of

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

34 This the day of,

35 _____
36 (Signature of chair of county board of elections)

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

39 _____
40 (Signature of officer administering oath)

41 _____
42 (Title of officer)'

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Section 21. G.S. 163-237 is amended by adding a new subsection to read:

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

18 Section 22. This act applies to elections held on or after July 1, 1999, except
19 that the State Board of Elections may issue rules required or permitted by this act prior to
20 that date.