

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 536
HOUSE BILL 94

AN ACT TO AMEND ARTICLE 20 OF CHAPTER 163 OF THE GENERAL STATUTES
SO AS TO PERMIT ABSENTEE VOTING.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of Chapter 163 of the General Statutes is hereby amended by rewriting G.S. 163-226 through G.S. 163-234 to read as follows:

"§ 163-226. **Who may vote an absentee ballot.** — (a) Any qualified voter of the State, whether or not in the armed forces of the United States, may vote by absentee ballot in a statewide primary or general election in the manner provided in this Article if:

- (1) He 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 statewide primary or general election in which he desires to vote; or
- (2) He is unable to be present at the voting place to vote in person on the day of the statewide primary or general election in which he desires to vote because of his sickness or other physical disability.

(b) Any qualified voter of a county who is qualified to vote by absentee ballot under this section in a statewide primary or general election is authorized to vote by absentee ballot in any county bond election in accordance with the provisions of this Article.

(c) Any qualified voter who has been convicted of a misdemeanor and who is incarcerated, whether in his county of residence or elsewhere, shall be entitled to vote by absentee ballot in the county of his residence in any election in which he otherwise would be entitled to vote under the provisions of subsections (a) and (b), above. Absentee voting shall be in the same manner as provided in this Article. The chief custodian or superintendent of the institution or other place of confinement shall certify that the applicant is a misdemeanant, and the certification shall be as prescribed by the State Board of Elections. The State Board of Elections is authorized to adopt and promulgate rules and regulations to carry out the intent and purpose of this subsection.

(d) A qualified voter may vote by absentee ballot in a statewide primary of his political party only if, at the time he makes application for absentee ballots for that primary, he is affiliated with that political party. The official registration records of the county in which the voter is registered shall be proof of whether he is affiliated with a political party and of the party, if any, with which he is affiliated.

"§ 163-227. **Application for absentee ballots; forms of application.** — A voter falling in either of the categories defined in G.S. 163-226 may apply for absentee ballots not earlier than 60 days prior to the statewide primary or general election or county bond election in which he seeks to vote and not later than 6:00 p.m. on the Wednesday before that election. Subject to the provisions of G.S. 163-227.2 and except as provided in the following paragraph, the voter or a near relative shall apply for absentee ballots under the provisions of subdivision (1) or subdivision (2) of this section.

If a voter unexpectedly becomes ill or physically disabled to the extent defined in G.S. 163-226 after 6:00 p.m. on the Wednesday before the primary or general election and before

10:00 a.m. on the day before the election, he or a near relative may apply for absentee ballots under the provisions of subdivision (3) of this section.

(1) Expected absence from county on election day. A voter expecting to be absent from the county in which registered during the entire period that the polls will be open on primary or general election day, or a near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which the voter is registered not earlier than 60 days nor later than 6:00 p.m. on the Wednesday before the election. The application shall be submitted in the form set out at the end of this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The applicant shall sign his application personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness, who shall sign his name in the place provided on the form. The application form when properly filled out shall be transmitted by mail or delivered in person by the applicant or a near relative to the chairman or the executive secretary of the county board of elections.

The form for use in applying for absentee ballots under this subdivision shall be as follows:
AFFIDAVIT AND APPLICATION FOR BALLOTS BY VOTER WHO EXPECTS TO BE ABSENT FROM COUNTY IN WHICH REGISTERED ON PRIMARY OR GENERAL ELECTION DAY.

(Anyone who falsifies this statement is subject to a fine or imprisonment, or both.)

Application No. _____ issued to _____

(This line shall be filled out before application is issued.)

State of _____

County of _____

I, _____ certify that I am a registered voter residing in _____ precinct, _____ township, in the County of _____,

North Carolina, and that I am lawfully entitled to vote in that precinct at the primary, general or bond election to be held thereon on the _____ day of _____, 19____ that I expect to be absent from the county of my residence during the entire period that the polls will be open on the day of the election, and that I will have no opportunity to vote in person on that day.

I hereby make application for an official ballot or ballots on which I may vote at the primary, general or bond election specified. I will return the ballot or ballots by mail or will deliver them in person to the chairman or executive secretary of the board of elections of the county of my residence prior to 6:00 p.m. on the day before the election in which they shall be cast.

This _____ day of _____, 19____.

(Voter's name and signature; if application is requested by other person than voter, that person should write the voter's name on the above line)

(address to which ballots are to be delivered)

(Name and signature of near relative of voter if application sought by near relative)

(relationship of near relative to voter)

(Signature of person witnessing application)

(address of witness)

(The above application for absentee ballots may be completed and signed on behalf of the voter applying for absentee ballots by any one of his or her near relatives as follows: spouse, parent, child, grandparent, grandchild, brother, or sister.)

I, the undersigned, certify that I am the (fill in appropriate box with cross "X" mark):

- Spouse
- Parent
- Child
- Grandparent
- Grandchild
- Brother
- Sister

of the voter applying for absentee ballots and that I have been authorized by that person to make application on his or her behalf for absentee ballots for the primary or election identified in the application.

_____ (date) _____ (signature)

(2) Absence for sickness or physical disability occurring before 6:00 p.m. on the Wednesday prior to the primary or general election. A voter expecting to be unable to go to the voting place to vote in person on primary or general election day because of his sickness or other physical disability, or his near relative shall make written application for absentee ballots to the chairman of the board of elections of the county in which the voter is registered not earlier than 60 days nor later than 6:00 p.m. on the Wednesday before the election. The application shall be submitted in the form set out at the end of this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The application shall be signed by the voter personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness, who shall sign his name in the place provided on the form.

The application form, when properly filled out, shall be transmitted by mail or delivered in person by the applicant or a near relative to the chairman or executive secretary of the county board of elections of the county in which the applicant is registered.

The form for use in applying for absentee ballots under this subdivision shall be as follows:
APPLICATION FOR BALLOTS BY VOTER WHO EXPECTS TO BE UNABLE TO GO TO VOTING PLACE ON PRIMARY OR GENERAL ELECTION DAY BECAUSE OF SICKNESS OR PHYSICAL DISABILITY OCCURRING PRIOR TO 6:00 P.M. ON THE WEDNESDAY BEFORE THE PRIMARY OR GENERAL ELECTION.

(Anyone who falsifies this statement is subject to a fine or imprisonment, or both.)

Application No. _____ issued to _____

(This line shall be filled out before application is issued.)

State of North Carolina

County of _____

I, _____, certify that I am a registered voter residing in _____ precinct, _____ township, in the County of _____, North Carolina, and that I am lawfully entitled to vote in that precinct at the primary, general or bond election to be held therein on the _____ day of _____, 19_____; that by reason of sickness or physical disability, to wit: _____

(Insert here statement of nature of illness or disability.)

I will be unable to travel from my home or place of confinement to the voting place in my precinct on election day.

I hereby make application for an official ballot or ballots on which I may vote at the primary, general or bond election specified. I will return the ballot or ballots by mail or will deliver it in person or cause it to be delivered as authorized by law to the chairman or executive

secretary of the board of elections of the county of my residence prior to 6:00 p.m. on the day before the election in which they shall be cast.

This _____ day of _____, 19_____.

(Voter's name and signature; if application is requested by other person than voter, that person should write the voter's name on the above line)

(address to which ballots are to be delivered)

(Name and signature of near relative of voter if application sought by near relative)

(relationship of near relative to voter)

(signature of person witnessing application)

(address of witness)

(The above application for absentee ballots may be completed and signed on behalf of the voter applying for absentee ballots by any one of his or her near relatives as follows: spouse, parent, child, grandparent, grandchild, brother, or sister.)

I, the undersigned, certify that I am the (fill in appropriate box with cross "X" mark):

- () Spouse
() Parent
() Grandparent
() Brother
() Child
() Grandchild
() Sister

of the voter applying for absentee ballots and that I have been authorized by that person to make application on his or her behalf for absentee ballots for the primary or election identified in the application.

_____ (date) _____ (signature)

(3) Absence for sickness or physical disability occurring after 6:00 p.m. on the Wednesday prior to primary or general election. A voter expecting to be unable to go to the voting place to vote in person on primary or general election day because of sickness or other disability occurring after 6:00 p.m. on the Wednesday before the election, or a near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which he is registered not later than 10:00 a.m. on the day preceding the election. The application shall be submitted in the form set out at the end of this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The chairman of the county board of elections shall not issue or accept an application under the provisions of this subdivision later than 10:00 a.m. on the day preceding the primary or general election in which the voter seeks to vote.

The application shall be signed by the voter personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness who shall sign his name in the place provided on the form.

The certificate printed on the application form below the signatures of the applicant and his subscribing witness shall be filled in and signed in the presence of a witness by a licensed physician who is attending the applicant. The witness to the physician's certificate shall sign his name in the place provided on the form.

The application form, when properly filled out, signed by or for the applicant in the presence of a subscribing witness as provided in this subdivision, and certified and signed by the attending physician in the presence of a subscribing witness, may be transmitted by mail to

the chairman or executive secretary of the board of elections of the county in which the applicant is registered, or it may be delivered to the chairman or executive secretary in person by the applicant or by his near relative.

The form for use in applying for absentee ballots under this subdivision shall be as follows: APPLICATION FOR BALLOTS BY VOTER WHO EXPECTS TO BE UNABLE TO GO TO VOTING PLACE ON PRIMARY OR GENERAL ELECTION DAY BECAUSE OF SICKNESS OR PHYSICAL DISABILITY OCCURRING AFTER 6:00 P.M. ON THE WEDNESDAY BEFORE THE ELECTION AND CERTIFICATE OF ATTENDING PHYSICIAN.

(Anyone who falsifies this statement is subject to a fine or imprisonment, or both.)

Application No. _____ issued to _____

(This line shall be filled out before application is issued.)

State of North Carolina

County of _____

I, _____, certify that I am a registered voter residing in _____ precinct, _____ township, in the County of _____, North Carolina, and that I am lawfully entitled to vote in that precinct at the primary, general or bond election to be held therein on the _____ day of _____, 19_____, that by reason of sickness or physical disability occurring since 6:00 p.m. on the Wednesday before that election, I will be unable to travel from my home or place of confinement to the voting place in my precinct on election day.

I hereby make application for an official ballot or ballots on which I may vote at the primary, general or bond election specified. I will transmit the ballot or ballots to the chairman or executive secretary of the board of elections of the county of my residence prior to 6:00 p.m. on the day prior to the election.

This _____ day of _____, 19_____.

(Voter's name and signature; (address to which ballots are if application is requested by _____ to be delivered) other person than voter, that person should write the voter's name on the above line)

(Name and signature of near relative of voter if application sought by near relative) (relationship of near relative to voter)

(Signature of person witnessing application) (address of witness)

(The above application for absentee ballots may be completed and signed on behalf of the voter applying for absentee ballots by any one of his or her near relatives, as follows: spouse, parent, child, grandparent, grandchild, brother, or sister.)

I, the undersigned, certify that I am the (fill in appropriate box with cross "X" mark):

- Spouse
- Parent
- Child
- Grandparent
- Grandchild
- Brother
- Sister

of the voter applying for absentee ballots and that I have been authorized by that person to make application on his or her behalf for absentee ballots for the primary or election identified in the application.

_____ (date) _____ (signature)

Physician's Certificate

State of _____

County of _____

I, _____, certify that I am a physician, duly licensed to practice medicine in the State of _____; that I have examined _____ (insert applicant's name) on _____ (insert date) for an illness

or physical disability occurring since 6:00 p.m. on the Wednesday prior to the primary or general election to be held on the _____ day of _____, 19_____, and that I

believe that he (or she) will be physically incapable of being at the voting place at that election for the following reasons:

_____ (insert reasons in space provided).

This _____ day of _____, 19_____.

(Signature of physician)

(Address of physician)

Witness: _____
(Signature of person witnessing signing of certificate)

(Address of witness)

(4) Application forms issued by chairman of county board of elections. The chairman of the county board of elections shall be sole custodian of all absentee ballot application forms. In accordance with one of the following two procedures, he shall issue and deliver a single application form, upon request, to a person authorized to sign such an application under the provisions of this section:

- a. He may deliver the form to a voter personally or to his near relative at the office of the county board of elections for the voter's own use; or
- b. He may mail the form to a voter for his own use upon receipt of a written request from the voter or his near relative.

At the time he issues an application form, the chairman, secretary or executive secretary of the county board of elections shall number it and write the name of the voter in the space provided therefor at the top of the form. At the same time the chairman, secretary or executive secretary shall insert the name of the voter and the number assigned his application in the Register of Absentee Ballot Applications and Ballots Issued provided for in G.S. 163-228. If the application is requested by the voter's near relative, the chairman, secretary or executive secretary also shall insert that person's name in the register after the name of the voter.

The chairman, secretary or executive secretary shall issue only one application form to a voter or his near relative unless a form previously issued is returned to the chairman, secretary or executive secretary and marked 'Void' by him. In such a situation, the chairman, secretary or executive secretary may issue another application form to the voter or a near relative, but he shall retain the voided application form in his records. If the application is requested by the voter's near relative, the chairman, secretary or executive secretary shall write the name of the near relative on the index of near relatives applying for applications for absentee ballots; the index shall be in such form as may be prescribed or approved by the State Board of Elections, a

separate index shall be maintained for each primary, general or special election in which absentee voting is allowed.

(5) Applications for absentee ballots transmitted by mail or in person. An application for absentee ballots shall be made and signed only by the voter desiring to use them or the voter's near relative and shall be valid only when transmitted to the chairman or executive secretary of the county board of elections by mail or delivered in person by the voter or his near relative.

(6) Who is authorized to request applications for absentee ballots. A voter may personally request an application for absentee ballots or may cause such request to be made through a near relative. For the purpose of this Article, 'near relative' means spouse, brother, sister, parent, grandparent, child, or grandchild.

(7) The form of application for person applying to vote in a primary under the provisions of this section shall be the same as the application now required under the provisions of this section for persons applying to vote in a general or county bond election except that the chairman or executive secretary of each county board of elections shall cause to be printed or stamped on the margin of the application the phrase 'I certify that I am now registered as an affiliate of the _____ party.' A line or space for the signature of the voter shall be provided. No voter shall be furnished ballots for voting in a primary except the ballots for candidates for nomination in the primary of the political party with which he is affiliated. The official registration records of the county in which the voter is registered shall be proof of the party, if any, with which the voter is affiliated.

(8) The county board of elections shall cause to be stamped or printed on the face of each application for absentee ballots the following legend, and the blank space in the legend to be completed: 'This application is issued for absentee ballots to be voted in the _____ (primary or general or county bond election) to be held in _____ County on the _____ day of _____, 19____.' The county board of elections shall not issue any applications unless they bear the completed legend and it shall not issue any absentee ballots on the basis of any application that does not bear the completed legend.

"§ 163-227.1. Second primary; applications for absentee ballots for voting in second primary. — When a second primary is called, each county board of elections shall mail applications for absentee ballots for the second primary to all voters who voted by absentee ballot in the first primary. The board shall take this action automatically and no action on the part of any voter shall be first required by the board. The board shall complete this action within three days after a second primary is called. It shall mail the application for absentee ballots for the second primary to the address of the voter given in the application for absentee ballots for the first primary or to the voter's residence address if the person voted the absentee ballot pursuant to G.S. 163-227.2.

In addition, a voter entitled to absentee ballots under the provisions of this Article may apply for absentee ballots for a second primary not earlier than the day a second primary is called and not later than 6:00 p.m. on the Wednesday immediately preceding the second primary election date.

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

"§ 163-227.2. Alternate procedures for requesting application for absentee ballot, completing application for absentee ballot, and voting absentee ballot. — (a) A person expecting to be absent from the county in which he is registered during the entire period that the polls are open on the day of a statewide primary or general election or county bond election may request an application for absentee ballots, complete the application, receive the absentee ballots, vote and deliver them sealed in a container-return envelope to the county board of elections in the county in which he is registered under the provisions of this section.

(b) Not earlier than 60 days before a primary or general election or county bond election in which he seeks to vote and not later than 6:00 p.m. on the Wednesday before that election, the voter shall appear in person at the office of the county board of elections and request that the chairman, a member, or the executive secretary of the board furnish him with the application for absentee ballots called for under G.S. 163-227(1). The voter shall complete the application in the presence of the chairman, member or executive secretary of the board, and shall deliver the application to that person.

(c) If the application is properly filled out, the chairman, member or executive secretary shall enter the voter's name in the Register of Absentee Ballot Applications and Ballots Issued; shall furnish the voter with the instruction sheets called for by G.S. 163-229(c); shall furnish the voter with the ballots to which the application for absentee ballots applies; and shall furnish the voter with a container-return envelope. The voter thereupon shall comply with the provisions of G.S. 163-231(a) except that he shall deliver the container-return envelope to the chairman, member or executive secretary immediately after making and subscribing the affidavit printed on the container-return envelope as provided in G.S. 163-229(b). All actions required by this subsection (c) shall be performed in the office of the board of elections. For the purposes of this section only, the chairman, a member or the executive secretary of the county board of elections are authorized to administer the oath required for the affidavit on the container-return envelope; in such case, no seal shall be required, but the chairman, board member or executive secretary shall sign and indicate the official title held by him or her, and shall charge no fee of any voter for taking the acknowledgement required under this section.

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

"§ 163-228. Register of absentee ballot applications and ballots issued; a public record. — The State Board of Elections shall furnish the chairman of the board of elections in each county of the State with a book to be called the Register of Absentee Ballot Applications and Ballots Issued in which shall be recorded whatever information and official action may be required by this Article.

The Register of Absentee Ballot Applications and Ballots Issued shall constitute a public record and shall be opened to the inspection of any registered voter of the county at any time within 60 days before and 30 days after a statewide primary, general election or county bond election, or at any other time when good and sufficient reason may be assigned for its inspection.

"§ 163-229. Absentee ballots, container-return envelopes, and instruction sheets. — (a) Absentee ballot form. In accordance with the provisions of G.S. 163-230(3), persons entitled to vote by absentee ballot shall be furnished with regular official ballots; separate or distinctly marked absentee ballots shall not be used.

(b) Container-return envelope. In time for use not later than 60 days before a statewide primary, general election or county bond election, the county board of elections shall print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the chairman of the county board of elections. Each container-return envelope shall be printed in accordance with the following instructions:

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

'Certification of Election Official

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

_____(SEAL)
Chairman-Member'

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

'Affidavit of Absentee or Sick Voter

State of _____

County of _____

I, _____, do solemnly swear that I am a resident and registered voter in _____ precinct, _____

County, North Carolina; that on the day of the primary, general or bond election, _____, 19_____, (Check whichever of the following statements is correct.)

- ☐ I will be absent from the county in which I reside.
☐ Due to sickness or physical disability, or incarceration as a misdemeanant, I will be unable to travel to the voting place in the precinct in which I reside.

I further swear that I made application for absentee ballots, and that I marked the ballots enclosed herein, or that they were marked for me in my presence and according to my instructions.

Sworn to and subscribed before me this _____ day of _____, 19_____.
(Signature of voter)

(Signature and seal of officer administering oath)
My commission (if any) expires

(Title of officer)'

Note: The acknowledgment of a member of the armed forces of the United States may be taken before any commissioned officer or noncommissioned officer of the rank of sergeant in the army, petty officer in the navy, or equivalent rank in other branches of the armed forces.

(c) Instruction sheets. In time for use not later than 60 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.

"§ 163-230. Consideration and approval of applications and issuance of absentee ballots.

— The procedure to be followed in receiving applications for absentee ballots, passing upon their validity, and issuing absentee ballots shall be governed by the provisions of this section.

- (1) Record of applications received and ballots issued. Upon receipt of a voter's written application for absentee ballots the chairman of the county board of elections shall promptly enter in the Register of Absentee Ballot Applications and Ballots Issued so much of the following information as he has not already entered there under the provisions of G.S. 163-227(4):
 - a. Name of voter applying for absentee ballots, and, if applicable, the name and address of the voter's near relative who applied for the application for absentee ballots.
 - b. Number of assigned voter's application when issued.
 - c. Precinct in which applicant is registered.
 - d. Address to which ballots are to be mailed, or that the voter voted pursuant to G.S. 163-227.2.
 - e. Reason assigned for requesting absentee ballots.
 - f. Date application for ballots is received by chairman.
 - g. The voter's party affiliation.
- (2) Determination of validity of applications for absentee ballots. The county board of elections shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.
 - a. Required meetings of county board of elections. During the period opening 60 days before a statewide primary, general election or county bond election and closing at 6:00 p.m. on the Wednesday before the election, the county board of elections shall hold public meetings on Monday and Friday of each week at 10:00 a.m., and it shall also hold public meetings at 10:00 a.m. on both the seventh, third and first days immediately preceding election day. These meetings shall be held at the county courthouse or at the elections board's office at the hour fixed by law. At these meetings the county board of elections shall pass upon applications for absentee ballots.

Upon a majority vote, the county board of elections may hold the required public meetings at an hour other than 10:00 a.m., and it may hold more than one session on each Monday and Friday it is required to meet and may set the hours of any additional sessions. If the board desires to exercise either or both of the options granted by the preceding sentence, it shall do so prior to the date on which it is required to hold its first public meeting under the provisions of this subdivision and in time to give the notice required by the fourth paragraph of this lettered portion of this subdivision; thereafter, no change shall be made in the hours fixed for the board's public meetings on absentee ballot applications.

It shall not be necessary for the chairman of the county board of elections to give notice to other board members of weekly meetings of the board which are fixed as to time and place by this section.

If the county board of elections changes the time of holding its Monday and Friday meetings or provides for additional meetings on Mondays and Fridays in accordance with the terms of this subdivision, notice of the change in hour and notice of the schedule

of additional meetings, if any, shall be published in a newspaper circulated in the county, and a notice thereof shall be posted at the courthouse door of the county, at least one week prior to the time fixed for holding the first meeting under this subdivision.

The county board of elections shall not be required to hold any of the meetings prescribed by this subdivision unless, since its last preceding meeting, it actually has received one or more applications for absentee ballots which it has not passed upon. When no meeting is to be held for this reason, the chairman shall notify each of the other members of the county board of elections that the scheduled public meeting will not be held and state the reasons for its cancellation.

- b. Procedure at required meeting; making determination. At each public meeting of the county board of elections the chairman shall present for consideration, and the board shall pass upon, the validity of all applications for absentee ballots received since its last preceding public meeting held for that purpose. In connection with each application received by mail the chairman shall also present the container envelope in which the application was received. At each such meeting any registered voter of the county shall be heard and allowed to present evidence in opposition to, or in favor of, the issuance of absentee ballots to any voter making application for them.

The county board of elections may consider the registration records as evidence of the voter's signature, if available, and as any other evidence that may be necessary to pass upon such an application, including the party affiliation of a voter seeking to vote in a primary.

If the board finds that the applicant is a qualified voter of the county, that he is registered in the precinct stated in his application, that the assertions in his application are true, and that his application is in proper form, it shall approve his application for absentee ballots.

- c. Record of board's determination; decision final. At the time the county board of elections makes its decision on an application for absentee ballots, the chairman shall enter in the appropriate column in the Register of Absentee Ballot Applications and Ballots Issued opposite the name of the applicant a notation of whether his application was 'Approved' or 'Disapproved'. The decision of the board on the validity of an application for absentee ballots shall be final, subject only to such review as may be necessary in the event of an election contest.
- (3) Delivery of absentee ballots and container-return envelope to applicant. When the county board of elections approves an application for absentee ballots, the chairman shall promptly issue and transmit them to the voter only, and not to his near relative, in accordance with the following instructions:
 - a. On the top margin of each ballot the applicant is entitled to vote, the chairman shall write or type the words 'Absentee Ballot No. _____' and insert in the blank space the number assigned the applicant's application in the Register of Applications for Absentee Ballots and

- Ballots Issued. He shall not write, type, or print any other matter upon the ballots transmitted to the absentee voter.
- b. The chairman shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's name, his application number, and the designation of the precinct in which his ballots are to be voted. The chairman shall leave the container-return envelope holding the ballots unsealed.
 - c. The chairman shall then place the unsealed container-return envelope holding the ballots, together with printed instructions for voting and returning the ballots, in an envelope addressed to the applicant at the post-office address stated in his application, seal the envelope, and mail it at the expense of the county board of elections, or deliver it to the applicant in person: Provided, that in case of approval of an application received after 6:00 p.m. on the Wednesday before the election under the provisions of G.S. 163-227(3), in lieu of transmitting the ballots to the applicant in person or by mail, the chairman may deliver the sealed envelope containing the instruction sheet and the container-return envelope holding the ballots to a near relative of the voter.

"§ 163-231. Voting absentee ballots and transmitting them to the chairman of county board of elections. — (a) Procedure for voting absentee ballots. In the presence of an officer authorized to administer oaths, having an official seal, the voter shall:

- (1) Mark his ballots, or cause them to be marked in his presence according to his instructions.
- (2) Fold each ballot separately, or cause each of them to be folded in his presence.
- (3) Place the folded ballots in the container-return envelope and securely seal it, or have this done in his presence.
- (4) Make and subscribe the affidavit printed on the container-return envelope according to the provisions of G.S. 163-229(b).

The officer administering the oath shall then complete the form on the container-return envelope and affix his seal, if any, in the place indicated. When thus executed, the sealed container-return envelope, with the ballots enclosed, shall be transmitted in accordance with the provisions of subsection (b) of this section to the chairman of the county board of elections who issued the ballots.

In the case of voters who are members of the armed forces of the United States, as defined in G.S. 163-245, the signature of any commissioned officer or noncommissioned officer of the rank of sergeant in the army, petty officer in the navy, or equivalent rank in other branches of the armed forces, as a witness to the execution of any certificate required by this or any other section of this Article to be under oath shall have the force and effect of the jurat of an officer with a seal fully authorized to take and administer oaths in connection with absentee ballots.

(b) Transmitting executed absentee ballots to chairman of county board of elections. The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the chairman of the county board of elections who issued them as follows: All ballots issued under the provisions of Articles 20 and 21 of this Chapter shall be transmitted by mail, at the voter's expense, or delivered in person, or by the voter's spouse, brother, sister, parent, grandparent, child, or grandchild not later than 6:00 p.m. on the day before the statewide primary or general election or county bond election. If such ballots are received later than that hour, they shall not be accepted for voting.

"§ 163-232. Certified list of approved applications to be transmitted to State Board of Elections and posted; original applications to accompany list. — The chairman of the county board of elections shall prepare a list, in quadruplicate, of all applications for absentee ballots received by him which have been approved by the county board of elections. At the end of the list he shall execute the following certificate under oath:

'State of North Carolina

County of _____

I, _____, Chairman of the _____

County Board of Elections, do hereby certify that the foregoing

is a list of all applications filed with me for absentee ballots

to be voted in the primary or general election or county bond

election on the _____ day of _____,

19____, which have been approved by the county board of elections.

I further certify that I have issued ballots to no other persons than those listed herein, whose original applications or original applications made by near relatives are enclosed to be filed with the State Board of Elections; and I further certify that I have not delivered ballots for absentee voting to any person other than the voter himself, by mail or in person, except as provided by law in the case of approved applications received after 6:00 p.m. on the Wednesday before the election.

This the _____ day of _____, 19____.

(Signature of chairman of county board of election)

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

(Signature of officer administering oath)

(Title of Officer)

Before noon on the day before a statewide primary, general election or county bond election, the chairman of the county board of elections shall send one copy of the list required by this section, together with the original of all applications for absentee ballots received by him, by registered mail to the chairman of the State Board of Elections, at Raleigh, North Carolina. He shall post one copy of the list at a conspicuous place at the county courthouse door, he shall deliver one copy to the registrar of each precinct for posting in a conspicuous place in the voting enclosure immediately upon the opening of the polls on the day of a statewide primary, general election or county bond election, and he shall retain the fourth copy for himself.

"§ 163-233. Lists of absentee ballots; distribution. — On the day of election, the chairman of the county board of elections shall prepare for each precinct a list, in quadruplicate, of all executed absentee ballots he has received. He shall cause two copies of the appropriate list to be delivered to the registrar of the precinct no later than 4:00 p.m. on election day. The county board of elections may call upon the sheriff of the county to distribute the list to the precincts.

The registrar shall post one copy of the list immediately in a conspicuous location in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made to absentee ballots as provided in G.S. 163-89. On election day the chairman shall mail to the State Board of Elections, Raleigh, North Carolina, one copy of each of the lists prepared under this section, and he shall retain one copy for his use.

After the last person has voted, the registrar shall call the name of each person recorded on the list and enter an 'X' in the appropriate place on the voter's permanent registration record. If

such person is already recorded as having voted in that election, the registrar shall enter a challenge.

"§ 163-233.1. Withdrawal of absentee ballots not allowed. — No person shall be permitted to withdraw an absentee ballot after such ballot has been mailed to or returned to the county board of elections.

"§ 163-234. Counting absentee ballots by county board of elections. — (a) All absentee ballots returned to the chairman or executive secretary of the county board of elections in the container-return envelopes shall be retained by the chairman to be counted by the county board of elections as herein provided.

- (1) Only those absentee ballots returned to the county board of elections no later than 6:00 p.m. on the day before election day in a properly executed container-return envelope shall be counted.
- (2) The county board of elections shall meet at 5:00 p.m. on the election day in the board office or other public location in the county courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 p.m. on election day. Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, provided he shall not in any manner interfere with the election officials in the discharge of their duties.
- (3) The counting of absentee ballots shall not commence until a majority and at least one board member of each political party represented on the board is present and such fact is publicly declared and entered in the official minutes of the county board.
- (4) The county board of elections may employ such assistants as deemed necessary to count the absentee ballots, but each board member present shall be responsible for and observe and supervise the opening and tallying of the ballots.
- (5) As each ballot envelope is opened, the board shall cause to be entered into a pollbook designated 'Pollbook of Absentee Voters' the name of the absentee voter. Preserving secrecy, the ballots shall be placed in the appropriate ballot boxes, at least one of which shall be provided for each type of ballot. After all ballots have been placed in the boxes, the counting process shall begin.
If a challenge transmitted to the board on canvass day by a registrar is sustained, the ballots challenged and sustained shall be withdrawn from the appropriate boxes, as provided in G.S. 163-89(e).
As soon as the absentee ballots have been counted and the names of the absentee voters entered in the pollbook as required herein, the board members and assistants employed to count the absentee ballots shall each sign the pollbook immediately beneath the last absentee voter's name entered therein. The chairman shall be responsible for the safekeeping of the Pollbook of Absentee Voters.
- (6) Upon completion of the counting process the board members shall cause the results of the tally to be entered on the absentee abstract provided by the State Board of Elections. The abstract shall be signed by the members of the board in attendance and the original mailed immediately to the State Board of Elections, Raleigh, North Carolina.
- (7) One copy of the absentee abstract shall be retained by the county board of elections and the totals appearing thereon shall be added to the final totals of all votes cast in the county for each office as determined on the official canvass.

- (8) In the event a political party does not have a member of the county board of elections present at the 5:00 p.m. meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party chairman of said absent member, or a member of the party's county executive committee, is in attendance. Such person shall act as an official witness to the counting and shall sign the absentee ballot abstract as an 'observer'.
- (9) The county board of elections shall retain all container-return envelopes and absentee ballots, in a safe place, for at least four months, and longer if any contest is pending concerning the validity of any ballot."

Sec. 2. G.S. 163-251 is amended:

Amend subsection (a)3 by deleting from lines 3 and 4 the words "appropriate precinct registrars for voting" and insert the words "county board of elections".

Amend subsection (b) by rewriting the last two sentences in the first paragraph to read:

"The chairman shall deliver two copies of the list to the appropriate precinct registrar and retain one copy for the county board. The registrar shall post one copy in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made as provided in G.S. 163-89.

After the last person has voted, the registrar shall call the name of each person recorded on the list and enter an 'A' in the appropriate place on the voter's permanent registration record, if any. If such person is already recorded as voting in that election, the registrar shall enter a challenge."

Amend subsection (b) by deleting all of the second and third paragraphs thereof.

Add a new subsection (d) at the end of G.S. 163-251 to read:

"(d) Counting ballots, hearing challenges. The county board of elections shall count military ballots as provided for civilian absentee ballots in G.S. 163-234, and shall hear challenges as provided in G.S. 163-89."

Sec. 3. G.S. 163-137(b) is amended by deleting "45" and inserting in lieu thereof "60" in the third line of that section.

Sec. 4. G.S. 163-89 is repealed and rewritten to read as follows:

"§ 163-89. Procedures for challenging absentee ballots. — (a) Time for Challenge. The absentee ballot of any voter may be challenged on the day of any statewide primary or general election or county bond election beginning no earlier than noon and ending no later than 5:00 p.m., or by the registrar at the time of closing of the polls as provided in G.S. 163-233 and G.S. 163-251(b).

(b) Who may challenge. Any registered voter of the same precinct as the absentee voter may challenge that voter's absentee ballot.

(c) Form and nature of challenge. Each challenged absentee ballot shall be challenged separately. The burden of proof shall be on the challenger. Each challenge shall be made in writing and, if they are available, shall be made on forms prescribed by the State Board of Elections. Each challenge shall specify the reasons why the ballot does not comply with the provisions of this Article or why the absentee voter is not legally entitled to vote in the particular primary or election. The challenge shall be signed by the challenger.

(d) To whom challenge addressed; to whom challenge delivered. Each challenge shall be addressed to the county board of elections. It may be filed with the board at its offices or with the registrar of the precinct in which the challenger and absentee voter are registered. If it is delivered to the registrar, the registrar shall personally deliver the challenge to the chairman of the county board of elections on the day of the county canvass.

(e) Hearing procedure. All challenges filed under this section shall be heard by the county board of elections on the day set for the canvass of the returns. All members of the

board shall attend the canvass and all members shall be present for the hearing of challenges to absentee ballots.

Before the board hears a challenge to an absentee ballot, the chairman shall mark the word 'challenged' after the voter's name in the Register of Absentee Ballot Applications and Ballots Issued and in the Pollbook of Absentee Voters.

The board then shall hear the challenger's reasons for the challenge, and it shall make its decision without opening the container-return envelope or removing the ballots from it.

The board shall have authority to administer the necessary oaths or affirmations to all witnesses brought before it to testify to the qualifications of the voter challenged or to the validity or invalidity of the ballot.

If the challenge is sustained, the chairman shall mark the word 'sustained' after the word 'challenged' following the voter's name in the Register of Absentee Ballot Applications and Ballots Issued and in the Pollbook of Absentee Voters; the voter's ballots shall not be counted; and the container-return envelope shall not be opened but shall be marked 'Challenge Sustained'. All envelopes so marked shall be preserved intact by the chairman for a period of six months from canvass day or longer if any contest then is pending concerning the validity of any absentee ballot.

If the challenge is overruled, the absentee ballots shall be removed from the container-return envelopes and counted by the board of elections, and the board shall adjust the appropriate abstracts of returns to show that the ballots have been counted and tallied in the manner provided for unchallenged absentee ballots.

If the challenge was delivered to the board by the registrar of the precinct and was sustained, the board shall reopen the appropriate ballot boxes, remove such ballots, determine how those ballots were voted, deduct such ballots from the returns, and adjust the appropriate abstracts of returns.

Any voter whose ballots have been challenged may, either personally or through an authorized representative, appear before the board at the hearing on the challenge and present evidence as to the validity of the ballot."

Sec. 5. G.S. 163-252 and G.S. 163-235 are repealed.

Sec. 6. This act shall take effect July 1, 1973. No absentee voting shall be allowed in any county bond election between the date of ratification of this bill and July 1, 1973, in order that the State Board of Elections and county boards of elections may prepare for the new system provided in this act.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.