

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 469
HOUSE BILL 227

AN ACT REWRITING ARTICLE 20 OF CHAPTER 163 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of Chapter 163, as it appears in the 1976 Replacement Volume 3D of the General Statutes, is rewritten in its entirety as follows:

"§ 163-226. Who may vote an absentee ballot. — (a) 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) 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 specified 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 specified election in which he desires to vote because of his sickness or other physical disability; or
- (3) he 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, specified herein, in which he otherwise would be entitled to vote. Absentee voting shall be in the same manner as provided in this Article. The chief custodian or superintendent of the institution or other place of confinement shall certify that the applicant is not a felon, and the certification shall be as prescribed by the State Board of Elections. The State Board of Elections is authorized to prescribe procedures to carry out the intent and purpose of this subsection;
- (4) he is an employee of the county board of elections and his assigned duties on the day of the election will cause him to be unable to be present at the voting place to vote in person and provided such employee has his application witnessed by the chairman of the county board of elections.

(b) Absentee ballots; exceptions. Notwithstanding the authority contained in G.S. 163-226(a), absentee ballots shall not be permitted in ABC elections conducted under authority of G.S. 18A-51 or G.S. 18A-52 or in sanitary district elections or in fire district elections or soil and water conservation district elections.

"§ 163-226.1. Absentee voting in primary. — A qualified voter may vote by absentee ballot in a statewide or countywide primary provided he is affiliated, at the time he makes application for absentee ballots, with the political party in whose primary he wishes to vote. 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.

"§ 163-226.2. Absentee voting in municipal elections. — Absentee voting by qualified voters residing in a municipality shall be in accordance with the authorization specified in G.S. 163-302.

"§ 163-227. State Board to prescribe forms of applications for absentee ballots; county to secure. — (a) A voter falling in any one of the categories defined in G.S. 163-226, G.S. 163-226.1 or G.S. 163-226.2 may apply for absentee ballots not earlier than 60 days prior to the statewide, county or municipal election in which he seeks to vote and not later than 5:00 p.m. on the Wednesday before that election. Subject to all other provisions contained in this Article, a voter applying for an absentee ballot shall complete the appropriate application to be secured by the county board of elections, lettered A, B, C, or OS, as designed and prescribed by the State Board of Elections and specified below:

Application A shall be completed by a voter expecting to be absent from the county of his residence all day on the day of the specified election. (G.S. 163-226(1)(3)).

Application B shall be completed by a voter who is unable to be present at the voting place to vote in person on the day of the specified election because of his sickness or other physical disability occurring before 5:00 p.m. on the Wednesday prior to the date of the specified election. (G.S. 163-226(2)). Application B shall be printed on the reverse side of Application A.

Application C shall be completed by a voter who is unable to be present at the voting place to vote in person on the day of the specified election because of his sickness or other physical disability occurring since 5:00 p.m. on the Wednesday prior to the date of the specified election. (G.S. 163-226(2)).

Application OS shall be completed by a voter expecting to be absent from the county, or due to emergency disability will be unable to vote in person, or a person who qualifies under G.S. 163-226(a)(4), and who, in lieu of making application by mail, wishes to apply in person and receive a ballot which he may immediately vote in the office of the county board of elections.

(b) Forms of applications; instructions.

(1) Expected absence from county on election day; Form A. 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 5:00 p.m. on the Wednesday before the election. The application shall be submitted in the form set out in 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.

(2) Absence for sickness or physical disability occurring before 5:00 p.m. on the Wednesday prior to the primary or general election; Form B. 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 5:00 p.m. on the Wednesday before the election. The application shall be submitted in the form set out in 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.

(3) Absence for sickness or physical disability occurring after 5:00 p.m. on the Wednesday prior to primary or general election; Form C. 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 5:00 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 12:00 noon on the day preceding the election. The application shall be submitted in the form set out in 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 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.

(4) 'One-stop' voting procedure, in office of the county board of elections; Form OS. A voter falling in the category specified in G.S. 163-227.2 may execute Form OS and proceed to vote his absentee ballot in the office of the county board of elections only.

(c) 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, but he, the secretary of the board and the executive secretary of the board, in accordance with one of the following two procedures, 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:

- (1) The chairman, secretary or executive secretary 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
- (2) The chairman, secretary or executive secretary 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 the board's 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.

- (3) 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.
- (4) 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.
- (5) The form of application for persons applying to vote in a primary under the provisions of this section shall be as designed and prescribed by the State Board of Elections. 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 at the time he makes application for absentee ballots. 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.
- (6) 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 special election) to be held in _____ County on the _____ day of _____, 19____.'

The county board of elections shall not issue any absentee ballots on the basis of any application that does not bear the completed legend.

- (7) No applications shall be issued earlier than 60 days prior to the election in which the voter wishes to vote. Nothing herein shall prohibit the county board of elections from receiving written requests for applications earlier

than 60 days prior to the election but such applications shall not be mailed or issued to the voter in person earlier than 60 days prior to the election.

(8) Applications for absentee ballots shall be issued only by mail or in the office of the county board of elections to the voter or a near relative authorized to make application. No election official shall issue applications for absentee ballots except in compliance with the provisions stated herein.

"§ 163-227.1. Second primary; applications for absentee ballots for voting in second primary. — A voter applying for an absentee ballot for a primary election who will be absent from the county of his residence on the day of the primary and second primary shall be permitted by the county board of elections to indicate such fact on his application and such voter shall automatically be issued an absentee ballot for the second primary if one is called. The county board of elections shall consider such indication a separate application for the second primary and, at the proper time, shall enter such voter's name in the absentee register along with the listing of other applicants for absentee ballots for the second primary.

In addition, a voter entitled to absentee ballots under the provisions of this Article who did not make application for the primary or who failed to apply for a second primary ballot at the time of application for a first primary ballot may apply for absentee ballots for a second primary not earlier than the day a second primary is called and not later than 5:00 p.m. on the Wednesday prior to the date on which the second primary is held.

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

"§ 163-227.2. Alternate procedures for requesting application for absentee ballot; 'one-stop' voting procedure in board office. — (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 an election in which absentee ballots are authorized or is eligible under G.S. 163-227(a)(2) or G.S. 163-227(a)(4) may request an application for absentee ballots, complete the application, receive the absentee ballots, vote and deliver them sealed in a container-return envelope to the county board of elections in the county in which he is registered under the provisions of this section.

(b) Not earlier than 60 days before an election, in which absentee ballots are authorized, in which he seeks to vote and not later than 5:00 p.m. on the Wednesday prior to that election, the voter shall appear in person only at the office of the county board of elections and request that the chairman, a member, or the executive secretary of the board, or an employee of the board of elections, authorized by the board, furnish him with application Form OS as specified in G.S. 163-227. The voter shall complete the application in the presence of the chairman, member, executive secretary or authorized employee of the board, and shall deliver the application to that person.

(c) If the application is properly filled out, the chairman, member, executive secretary of the board, or employee of the board of elections, authorized by the board, 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, executive secretary of the board, or an employee of the board of elections, authorized by the board, 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, member, executive secretary of the board, or full-time employee, authorized by the board, is 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, member, executive secretary of the board, or full-time employee, authorized by the board, 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) Only the chairman, member or executive secretary of the board shall keep the voter's application for absentee ballots and the sealed container-return envelope in a safe place, separate and apart from other applications and container-return envelopes. At the first meeting of the board pursuant to G.S. 163-230(2) held after receipt of the application and envelope, the chairman shall comply with the requirements of G.S. 163-230(1) and G.S. 163-230(2)b. and c. If the voter's application for absentee ballots is approved by the board at that meeting, the application form and container-return envelope, with the ballots enclosed, shall be handled in the same manner and under the same provisions of law as applications and container-return envelopes received by the board under other provisions of this Article. If the voter's application for absentee ballots is disapproved by the board, the board shall so notify the voter stating the reason for disapproval by first-class mail addressed to the voter at his 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.

§ 163-227.3. Date by which absentee ballots must be available for voting. — (a) The State Board of Elections shall provide absentee ballots of the kinds to be furnished by the State board, to the county boards of elections 60 days prior to the date on which the election shall be conducted unless there shall exist an appeal before the State board or the courts not concluded, in which case the State board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. In every instance the State board shall exert every effort to provide absentee ballots, of the kinds to be furnished by the State board, to each county by the date on which absentee voting is authorized to commence.

(b) Second primary. The State Board of Elections shall provide absentee ballots, of the kinds to be furnished by the State board, as quickly as possible after the ballot information has been determined.

§ 163-228. Register of absentee ballot applications and ballots issued; a public record. — The State Board of Elections shall design an official register and provide a source of supply thereof from which the chairman of the county board of elections in each county of the State shall purchase a book to be called the register of absentee ballot applications and ballots issued in which shall be recorded 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 an election in which absentee ballots were authorized, 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 an 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.

(Signature of voter)

Sworn to and subscribed before me this _____ day of _____, 19____.

(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 meeting of county board of elections. During the period commencing 60 days before an election, and until 30 days before the election, in which absentee ballots are authorized, the county board of elections shall hold one or more public meetings each week on a day and at an hour to be determined by the board for the purpose of acting on applications for absentee ballots. Each member of the board shall be notified in writing of the day and hour such meetings shall be conducted. During the period opening 30 days before an election in which absentee ballots are authorized and closing at 5:00 p.m. on the Wednesday before the election, the county board of elections shall hold public meetings at 10:00 a.m. on Tuesday and Friday of each week, and it shall also hold public meetings at 10:00 a.m. on the eighth, fifth, 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 Tuesday 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 Tuesday and Friday meetings or provides for additional meetings on Tuesdays 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-return 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 the voter is registered. 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 5:00 p.m. on the Wednesday before the election under the provisions of G.S. 163-227(b)(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 chairman of the 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 5:00 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 executed absentee ballots, distribution of list. — The chairman of the county board of elections shall prepare, or cause to be prepared, a list in at least quadruplicate, of all absentee ballots returned to the county board of elections to be counted, which have been approved by the county board of elections. At the end of the list, the chairman shall execute the following certificate under oath:

State of North Carolina

County of _____

I, _____, chairman of the _____ County board of elections, do hereby certify that the foregoing is a list of all executed absentee ballots to be voted in the election to be conducted on the _____ day of _____, 19____, which have been approved by the county board of elections. I further certify that I have issued ballots to no other persons than those listed herein, whose original applications or original applications made by near relatives are filed in the office of the county board of elections; and I further certify that I have 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 5:00 p.m. on the Wednesday before the election.

This the _____ day of _____, 19____.

(Signature of chairman of
county board of elections)

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

(Signature of officer
administering oath)

(Title of officer)

No earlier than 3:00 p.m. on the day before the election and no later than 10:00 a.m. on election day, the chairman shall cause one copy of the list of executed absentee ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately deposited as 'first-class' mail to the State Board of Elections, Post Office Box 1166, Raleigh, N.C. 27602. He shall retain one copy in the board office for public inspection and he shall cause two copies of the appropriate precinct list to be delivered to the registrar of each precinct in the county. The chairman shall be authorized to call upon the sheriff of the county to distribute the list to the precincts. In addition the chairman shall, upon request, provide a copy of the complete list to the chairman of each political party, recognized under the provisions of G.S. 163-96, represented in the county.

The 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.

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 voting square 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.

All lists required by this section shall be retained by the county board of elections for a period of four years after which they may then be destroyed.

§ 163-233. Applications for absentee ballots; how retained. — The chairman of the county board of elections shall retain, in a safe place, the original of all applications made for absentee ballots and shall make them available to inspection by the State Board of Elections or to any person upon the directive of the State Board of Elections.

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

"§ 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. — 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 5:00 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 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.

Provided, that the county board of elections is authorized to begin counting absentee ballots between the hours of 2:00 p.m. and 5:00 p.m. upon the adoption of a resolution at least two weeks prior to the election wherein the hour and place of counting absentee ballots shall be stated. A copy of the resolutions shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable necessity. The board shall not announce the result of the count before 7:30 p.m.

- (3) The counting of absentee ballots shall not commence until a majority and at least one board member of each political party represented on the board is present and such 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 prescribed by the

State Board of Elections. The abstract shall be signed by the members of the board in attendance and the original mailed immediately to the State Board of Elections, Raleigh, North Carolina 27602.

- (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.

"§ 163-236. Violations by chairman of county board of elections. — The chairman of the county board of elections shall be sole custodian of blank applications for absentee ballots, official ballots, and container-return envelopes for absentee ballots. He shall issue and deliver blank applications for absentee ballots in strict accordance with the provisions of G.S. 163-277(4). The issuance of ballots to persons whose applications for absentee ballots have been approved by the county board of elections under the provisions of G.S. 163-230(3) is the responsibility and duty of the chairman of the county board of elections.

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

The willful violation of the terms of this section shall constitute a misdemeanor, and upon conviction, the offender shall be fined not less than one hundred dollars (\$100.00), or imprisoned not less than 60 days, or both, in the discretion of the court.

"§ 163-237. Certain violations of absentee ballot law made criminal offenses. — (a) False statements under oath made misdemeanor. If any person shall willfully and falsely make any affidavit or statement, under oath, which affidavit or statement under oath, is required to be made by the provisions of this Article, he shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00), or imprisoned for not less than 60 days, or both, in the discretion of the court.

(b) False statements not under oath made misdemeanor. If any person, for the purpose of obtaining or voting any official ballot under the provisions of this Article, shall willfully sign any printed or written false statement which does not purport to be under oath, or which, if it purports to be under oath, was not duly sworn to, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars (\$100.00), or imprisoned not less than 60 days, or both, in the discretion of the court.

(c) Fraud in connection with absentee vote; forgery. Any person attempting to aid and abet fraud in connection with any absentee vote cast or to be cast, under the provisions of this Article, shall be guilty of a misdemeanor, and, upon conviction, be fined or imprisoned, in the discretion of the court. Any person attempting to vote by fraudulently signing the name of a regularly qualified voter shall be guilty of forgery, and be punished accordingly.

(d) Violations not otherwise provided for made misdemeanors. If any person shall willfully violate any of the provisions of this Article, or willfully fail to comply with any of the provisions thereof, for which no other punishment is herein provided, he shall be guilty of a

misdemeanor, and upon conviction, shall be fined not less than one hundred dollars (\$100.00), or imprisoned not less than six months, or both, in the discretion of the court.

"§ 163-238. Reports of violations to district attorneys. — It shall be the duty of the State Board of Elections to report to the district attorney of the appropriate prosecutorial district, any violation of this Article, or the failure of any person charged with a duty under its provisions to comply with and perform that duty, and it shall be the duty of the district attorney to cause such a person to be prosecuted therefor.

"§ 163-239. Article 21 relating to absentee voting by servicemen and certain civilians not applicable. — Except as otherwise provided therein, Article 21 of this Chapter, relating to absentee registration and voting by servicemen and certain civilians, shall not apply to or modify the provisions of this Article."

Sec. 2. This act shall become effective with respect to elections held on or after September 1, 1977.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.