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

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

(1) Only those absentee ballots returned to the county board of elections no later than 5:00 p.m. on the day before election day in a properly executed container-return envelope or absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) shall be counted, except to the extent federal law requires otherwise.

(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 and those received pursuant to G.S. 163-231(b)(ii) or (iii). Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, provided the elector shall not in any manner interfere with the election officials in the discharge of their duties.

Provided, that the county board of elections is authorized to begin counting absentee ballots issued under Article 21A of this Chapter between the hours of 9:00 A.M. and 5:00 P.M. and to begin counting all 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. Such resolution also may provide for an additional meeting following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) as provided in subdivision (11) of this section. A copy of the resolutions shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable necessity, except that if the count has been completed prior to the time the polls close, it shall be suspended until that time pending receipt of any additional ballots. Nothing in this section shall prohibit a county board of elections from taking preparatory steps for the count earlier than the times specified in this section, as long as the preparatory steps do not reveal to any individual not engaged in the actual count election results before the times specified in this subdivision for the count to begin. By way of illustration and not limitation, a preparatory step for the count would be the entry of tally cards from direct record electronic voting units into a computer for processing. The board shall not announce the result of the count before 7:30 p.m.

(3) Notwithstanding the provisions of subdivision (2) of this section, a county board of elections may, at each meeting at which it approves absentee ballot applications pursuant to G.S. 163-230.1(c) and (c1), remove those ballots from their envelopes and have them read by an optical scanning machine, without printing the totals on the scanner. The board shall complete the counting of these ballots at the times provided in subdivision (2) of this section. The State Board of Elections shall provide instructions to county boards of elections for executing this procedure, and the instructions shall be
designed to ensure the accuracy of the count, the participation of board
members of both parties, and the secrecy of the results before election day.
This subdivision applies only in counties that use optical scan devices to count
absentee ballots.

(4) 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 that fact is publicly declared and entered in the official minutes of
the county board.

(5) 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.

(6) 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, or if the pollbook is computer-generated, the board shall check off the
name. Preserving secrecy, the ballots shall be placed in the appropriate ballot
boxes, at least one of which shall be provided for each type of ballot. The
"Pollbook of Absentee Voters" shall also contain the names of all persons who
voted under G.S. 163-227.2, 163-227.5, and 163-227.6, but those names may
be printed by computer for inclusion in the pollbook.

After all ballots have been placed in the boxes, the counting process shall begin.
If one-stop ballots under G.S. 163-227.2, 163-227.5, and 163-227.6 are counted
electronically, that count shall commence at the time the polls close. If
one-stop ballots are paper ballots counted manually, that count shall
commence at the same time as other absentee ballots are counted.

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

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

(7) 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. The county board of elections may have a separate count on the
abstract for one-stop absentee ballots under G.S. 163-227.2, 163-227.5, and
163-227.6.

(8) 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.

(9) In the event a political party does not have a member of the county board of
elections present at the 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".

(10) 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.

(11) The county board of elections shall meet after election day and prior to the
date of canvass to determine where the container-return envelopes for
absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) has been
properly executed. The county board of elections shall comply with the
requirements of G.S. 163-230.1 for approval of applications. Any absentee
ballots received pursuant to G.S. 163-231(b)(ii) or (iii) shall be counted by the
county board of elections on the day of canvass. The county board of elections
is also authorized to meet following the day of the election and prior to the
day of canvass to count absentee ballots received pursuant to
G.S. 163-231(b)(ii) or (iii) upon the adoption of a resolution pursuant to
subdivision (2) of this section. The county board of elections shall comply
with all other requirements of this section for the counting of such absentee
ballots. (1939, c. 159, ss. 8, 9; 1945, c. 758, s. 8; 1953, c. 1114; 1963, c. 547,
s. 8; 1967, c. 775, s. 1; c. 851, s. 2; 1973, c. 536, s. 1; 1975, c. 798, s. 3; 1977,
c. 469, s. 1; c. 626, s. 1; 1989, c. 93, s. 7; 1993 (Reg. Sess., 1994), c. 762, s.
55; 1995, c. 243, s. 1; 1999-455, s. 14; 2005-159, s. 1; 2006-262, s. 1;
2009-537, s. 8(d); 2011-182, s. 7; 2017-6, s. 3; 2018-144, s. 3.4(k); 2018-146,
s. 3.1(a), (b).)