

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE DRS85166-RR-31 (03/25)**

Short Title: Help America Vote Act Compliance.

(Public)

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Sponsors: Senator Clodfelter.

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Referred to:

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A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

In certain other areas of the election statutes and other laws, the General Assembly finds that the statutes must be amended to comply with the Help America Vote Act of 2002.

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

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

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

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

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

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

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

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

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

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

25 (1) Meets all of the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

36                    (e)    Voter Registration List to County Jury Commissions. – The State Board of  
37                    Elections shall make available, upon request, to the county jury commission of each  
38                    county the voter registration list of that county. Included in the information furnished to  
39                    the county jury commission under this subsection should be the drivers license number  
40                    of each registered voter if it is available. The list provided to the jury commission shall  
41                    have been matched with that of the Division of Motor Vehicles to eliminate duplicates."

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

43                    **"§ 163-82.12. Promulgation of rules ~~guidelines~~ relating to computerized voter**  
44                    **registration.**

1 The State Board of Elections shall make all ~~rules-guidelines~~ necessary to administer  
2 the statewide voter registration system established by this Article. All county boards of  
3 elections shall follow these guidelines and cooperate with the State Board of Elections  
4 in implementing guidelines. These ~~rules-guidelines~~ shall include provisions ~~for:~~ for all  
5 of the following:

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

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

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

40 "**§ 163-82.19. Voter registration at drivers license ~~offices;~~ offices; coordination on**  
41 **data interface.**

42 (a) Voter Registration at Drivers License Offices. – The Division of Motor  
43 Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its  
44 forms so that any eligible person who applies for original issuance, renewal or

1 correction of a drivers license, or special identification card issued under G.S. 20-37.7  
2 may, on a part of the form, complete an application to register to vote or to update his  
3 registration if the voter has changed his address or moved from one precinct to another  
4 or from one county to another. The person taking the application shall ask if the  
5 applicant is a citizen of the United States. If the applicant states that the applicant is not  
6 a citizen of the United States, or declines to answer the question, the person taking the  
7 application shall inform the applicant that it is a felony for a person who is not a citizen  
8 of the United States to apply to register to vote. Any person who willfully and  
9 knowingly and with fraudulent intent gives false information on the application is guilty  
10 of a Class I felony. The application shall state in clear language the penalty for violation  
11 of this section. The necessary forms shall be prescribed by the State Board of Elections.  
12 The form must ask for the previous voter registration address of the voter, if any. If a  
13 previous address is listed, and it is not in the county of residence of the applicant, the  
14 appropriate county board of elections shall treat the application as an authorization to  
15 cancel the previous registration and also process it as such under the procedures of G.S.  
16 163-82.9. If a previous address is listed and that address is in the county where the voter  
17 applies to register, the application shall be processed as if it had been submitted under  
18 G.S. 163-82.9.

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

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

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

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

39 "**§ 20-43.4. Current list of licensed drivers to be provided to jury**  
40 **commissions,commissions and county boards of elections.**

41 The Commissioner of Motor Vehicles shall provide to each county jury commission  
42 and each county board of elections an alphabetical list of all persons that ~~he~~ the  
43 Commissioner has determined are residents of the county, who will be 18 years of age  
44 or older as of the first day of January of the following year, and licensed to drive a

1 motor vehicle as of July 1, 1983, and as of July 1 of each biennium thereafter, provided  
2 that if an annual jury list is being prepared under G.S. 9-2(a), the list to be provided to  
3 the county jury commission shall be provided annually. The list shall include those  
4 persons whose license to drive has been suspended, and those former licensees whose  
5 license has been canceled. The list shall contain the address and zip code of each driver,  
6 plus ~~his~~ the driver's date of ~~birth~~ and birth, sex, and drivers license number, and may be  
7 in either printed or computerized form, as requested by each county. The list so  
8 provided shall be used solely for jury selection and election record purposes and no  
9 other. Information provided by the Commissioner to county jury commissions and  
10 county boards of elections under this section shall remain confidential, shall continue to  
11 be subject to the disclosure restriction provisions of G.S. 20-43.1, and shall not be a  
12 public record for purposes of Chapter 132 of the General Statutes."

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

14 **"§ 9-2. Preparation of jury list; sources of names.**

15 (a) It shall be the duty of the jury commission beginning July 1, 1981, (and each  
16 biennium thereafter) to prepare a list of prospective jurors qualified under this Chapter  
17 to serve in the biennium beginning January 1, 1982, (and each biennium thereafter).  
18 Instead of providing a list for an entire biennium, the commission may prepare a list  
19 each year if the senior regular resident superior court judge requests in writing that it do  
20 so.

21 (b) In preparing the list, the jury commission shall use the State voter registration  
22 ~~records of list for~~ the county. The commission may use fewer than all the names from  
23 the voter list if it uses a random method of selection. The commission may use other  
24 sources of names deemed by it to be reliable.

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

29 (d) When more than one source is used to prepare the jury list the jury  
30 commission shall take randomly a sample of names from the list of registered voters and  
31 each additional source used. The same percentage of names must be selected from each  
32 list. The names selected from the voter registration list shall be compared with the entire  
33 list of names, from the second source. Duplicate names shall be removed from the voter  
34 registration sample, and the remaining names shall then be combined with the sample of  
35 names selected from the second source to form the jury list. If more than two source  
36 lists are used, the same procedure must be used to remove duplicates.

37 (e) As an alternative to the procedure set forth in subsection (d), the jury  
38 commission may merge the entire list of names of each source used, remove the  
39 duplicate names, and randomly select the desired number of names to form the jury list.

40 (f) The jury list shall contain not less than one and one-quarter times and not  
41 more than three times as many names as were drawn for jury duty in all courts in the  
42 county during the previous biennium, or, if an annual list is being prepared as requested  
43 under subsection (a) of this section the jury list shall contain not less than one and  
44 one-quarter times and not more than three times as many names as were drawn for jury

1 duty in all courts in the county during the previous year but in no event shall the list  
2 include fewer than 500 names, except that in counties in which a different panel of  
3 jurors is selected for each day of the week, there is no limit to the number of names that  
4 may be placed on the jury list.

5 (g) ~~The eustodian of the appropriate election registration records in each county~~  
6 State Board of Elections shall cooperate with the jury commission in its duty of  
7 compiling the list required by this section. The State Board of Elections shall match its  
8 list with that of the Division of Motor Vehicles to avoid duplicates pursuant to Article  
9 7A of Chapter 163 of the General Statutes before providing its list to the jury  
10 commission.

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

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

15 **"§ 163-166.7A. Voter Education and Information.**

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

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

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

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

37 **"§ 163-82.4. Contents of application form.**

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

- 40 (1) Name,
- 41 (2) Date of birth,
- 42 (3) Residence address,
- 43 (4) County of residence,
- 44 (5) Date of application,

- 1 (6) Gender,
- 2 (7) Race,
- 3 (7a) Ethnicity,
- 4 (8) Political party affiliation, if any, in accordance with subsection (c) of
- 5 this section,
- 6 (9) Telephone number (to assist the county board of elections in
- 7 contacting the voter if needed in processing the application),
- 8 (10) Drivers license number or, if the applicant does not have a drivers
- 9 license number, the last four digits of the applicant's social security
- 10 number.

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

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

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

- 33 (1) A statement that specifies each eligibility requirement (including
- 34 citizenship) and an attestation that the applicant meets each such
- 35 requirement, with a requirement for the signature of the applicant,
- 36 under penalty of a Class I felony under G.S. 163-275(4).
- 37 (2) A statement that, if the applicant declines to register to vote, the fact
- 38 that the applicant has declined to register will remain confidential and
- 39 will be used only for voter registration purposes.
- 40 (3) A statement that, if the applicant does register to vote, the office at
- 41 which the applicant submits a voter registration application will remain
- 42 confidential and will be used only for voter registration purposes.

43 (c) Party Affiliation or Unaffiliated Status. – The application form described in  
44 G.S. 163-82.3(a) shall provide a place for the applicant to state a preference to be



1 affiliated with one of the political parties in G.S. 163-96, or a preference to be an  
2 "unaffiliated" voter. Every person who applies to register shall state his preference. If  
3 the applicant fails to declare a preference for a party or for unaffiliated status, that  
4 person shall be listed as "unaffiliated", except that if the person is already registered to  
5 vote in the county and that person's registration already contains a party affiliation, the  
6 county board shall not change the registrant's status to "unaffiliated" unless the  
7 registrant clearly indicates a desire in accordance with G.S. 163-82.17 for such a  
8 change. An unaffiliated registrant shall not be eligible to vote in any political party  
9 primary, except as provided in G.S. 163-119, but may vote in any other primary or  
10 general election. The application form shall so state.

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

- 13 (1) The question 'Are you a citizen of the United States of America?' and  
14 boxes for the applicant to check to indicate whether the applicant is or  
15 is not a citizen of the United States.
- 16 (2) The question 'Will you be 18 years of age on or before election day?'  
17 and boxes for the applicant to check to indicate whether the applicant  
18 will be 18 years of age or older on election day.
- 19 (3) The statement 'If you checked "no" in response to either of these  
20 questions, do not complete this form.'

21 If the voter fails to check the box set out in subdivision (1) of this subsection, the  
22 person filling out the application shall be notified of the omission and given the  
23 opportunity to complete the form in a timely manner in order to be registered for the  
24 next election."

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

26 **"§ 163-82.10A. Permanent voter registration numbers.**

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

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

31 **"§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

32 The State Board of Elections shall have authority to approve types, makes, and  
33 models of voting systems for use in elections and referenda held in this State. Only  
34 voting systems that have been approved by the State Board shall be used to conduct  
35 elections under this Chapter, and the approved systems shall be valid in any election or  
36 referendum held in any county or municipality. The State Board may use guidelines,  
37 information, testing reports, certification, decertification, recertification, and any  
38 relevant data produced by the Election Assistance Commission, its Standards Board, its  
39 Board of Advisors, or the Technical Guidelines Development Committee as established  
40 in Title II of the Help America Vote Act of 2002, with regard to any action or  
41 investigation the State Board may take concerning a voting system. The State Board  
42 may use, for the purposes of voting system certification, laboratories accredited by the  
43 Election Assistance Commission under the provisions of section 231(2) of the Help  
44 America Vote Act of 2002. The State Board may, upon request of a local board of

1 elections, authorize the use of a voting system not approved for general use. The State  
2 Board may also, upon notice and hearing, disapprove types, makes, and models of  
3 voting systems. Upon disapproving a type, make, or model of voting system, the State  
4 Board shall determine the process by which the disapproved system is discontinued in  
5 any county. If a county makes a showing that discontinuance would impose a financial  
6 hardship upon it, the county shall be given up to four years from the time of State Board  
7 disapproval to replace the system. A county may appeal a decision by the State Board  
8 concerning discontinuance of a voting system to the superior court in that county or to  
9 the Superior Court of Wake County. The county has 30 days from the time of the State  
10 Board's decision on discontinuance to make that appeal.

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

- 14 (1) Types, makes, and models of voting systems approved for use in this  
15 State.
- 16 (2) Form of official ballot labels to be used on voting systems.
- 17 (3) Operation and manner of voting on voting systems.
- 18 (4) Instruction of precinct officials in the use of voting systems.
- 19 (5) Instruction of voters in the use of voting systems.
- 20 (6) Assistance to voters using voting systems.
- 21 (7) Duties of custodians of voting systems.
- 22 (8) Examination of voting systems before use in an election.
- 23 (9) Compliance with section 301 of the Help America Vote Act of 2002."

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

25 **"§ 163-165.4A. ~~Punch-Card~~ Punch-card ballots, ballots and lever machines.**

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

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

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

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

38 **"§ 163-182.1. Principles and rules for counting official ballots.**

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

- 41 (1) Only official ballots shall be counted.
- 42 (2) No official ballot shall be rejected because of technical errors in  
43 marking it, unless it is impossible to clearly determine the voter's  
44 choice.

- 1 (3) If it is impossible to clearly determine a voter's choice in a ballot item,  
2 the official ballot shall not be counted for that ballot item, but shall be  
3 counted in all other ballot items in which the voter's choice can be  
4 clearly determined.
- 5 (4) If an official ballot is marked in a ballot item with more choices than  
6 there are offices to be filled or propositions that may prevail, the  
7 official ballot shall not be counted for that ballot item, but shall be  
8 counted in all other ballot items in which there is no overvote and the  
9 voter's choice can be clearly determined.
- 10 (5) If an official ballot is rejected by a scanner or other counting machine,  
11 but human counters can clearly determine the voter's choice, the  
12 official ballot shall be counted by hand and eye.
- 13 (6) Write-in votes shall not be counted in party primaries or in referenda,  
14 but shall be counted in general elections if all of the following are true:  
15 a. The write-in vote is written by the voter or by a person  
16 authorized to assist the voter pursuant to G.S. 163-166.8.  
17 b. The write-in vote is not cast for a candidate who has failed to  
18 qualify under G.S. 163-123 as a write-in candidate.  
19 c. The voter's choice can be clearly determined.
- 20 (7) Straight-party ticket and split-ticket votes shall be counted in general  
21 elections according to the following guidelines:  
22 a. If a voter casts a vote for a straight-party ticket, that vote shall  
23 be counted for all the candidates of that party, other than those  
24 for President and Vice President, in the partisan ballot items on  
25 that official ballot except as otherwise provided in this  
26 subdivision.  
27 b. If a voter casts a vote for a straight-party ticket and also votes in  
28 a partisan ballot item for a candidate not of that party, the  
29 official ballot shall be counted in that ballot item only for the  
30 individually marked candidate. In partisan ballot items where  
31 no mark is made for an individual candidate, the official ballot  
32 shall be counted for the candidates of the party whose straight  
33 ticket the voter voted.  
34 c. If a voter casts a vote for a straight-party ticket and also casts a  
35 write-in vote in any partisan ballot item, the straight-party ticket  
36 vote shall not control the way the official ballot is counted in  
37 that ballot item, except to the extent it would control in the case  
38 of crossover voting under this subdivision. The following  
39 principles shall apply:  
40 1. If the write-in vote is proper under subdivision (6) of this  
41 subsection, that write-in candidate shall receive a vote.  
42 2. If the write-in vote is not proper under subdivision (6) of  
43 this subsection and no other candidate is individually

1 marked in that ballot item, then no vote shall be counted  
2 in that ballot item.

- 3 3. If the straight-ticket voter casts both write-in votes and  
4 individually marked votes for ballot candidates in a  
5 ballot item, then the write-in and individually marked  
6 votes shall be counted unless the write-in is not proper  
7 under subdivision (6) of this subsection or an overvote  
8 results.

9 ~~(b) Rules and Directions by State Board of Elections.—The State Board of~~  
10 ~~Elections shall promulgate rules where necessary to apply the principles in subsection~~  
11 ~~(a) of this section to each voting system in use in the State. The rules shall prescribe~~  
12 ~~procedures and standards for each type of voting system. Those procedures and~~  
13 ~~standards shall be followed uniformly throughout the State in all places where that type~~  
14 ~~of voting system is used. The State Board shall direct the county boards of elections in~~  
15 ~~the application of the principles and rules in individual circumstances.~~

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

- 34 (1) Notify the voter that the voter has selected more than the correct  
35 number of candidates or proposals in the ballot item.  
36 (2) Notify the voter before the vote is accepted and counted of the effect  
37 of casting overvotes in the ballot item.  
38 (3) Provide the voter with the opportunity to correct the official ballot  
39 before it is accepted and counted."

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

41 **"§ 163-166.01. Hours for voting.**

42 In every election, the voting place shall be open at 6:30 A.M. and shall be closed at  
43 7:30 P.M. In extraordinary circumstances, the county board of elections may direct that  
44 the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls

1 are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who  
2 arrives at the voting place after the closing of the polls.

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

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

14 **"§ 163-166.11. Provisional voting requirements.**

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

19 (1) An election official at the voting place shall notify the individual that  
20 the individual may cast a provisional official ballot in that election.

21 (2) The individual may cast a provisional official ballot at that voting  
22 place upon executing a written affirmation before an election official  
23 at the voting place, stating that the individual is a registered voter in  
24 the jurisdiction in which the individual seeks to vote and is eligible to  
25 vote in that election.

26 (3) At the time the individual casts the provisional official ballot, the  
27 election officials shall provide the individual written information  
28 stating that anyone casting a provisional official ballot can ascertain  
29 whether and to what extent the ballot was counted and, if the ballot  
30 was not counted in whole or in part, the reason it was not counted. The  
31 State Board of Elections or the county board of elections shall  
32 establish a system for so informing a provisional voter. It shall make  
33 the system available to every provisional voter without charge, and it  
34 shall build into it reasonable procedures to protect the security,  
35 confidentiality, and integrity of the voter's personal information and  
36 vote.

37 (4) The cast provisional official ballot and the written affirmation shall be  
38 secured by election officials at the voting place according to guidelines  
39 and procedures adopted by the State Board of Elections. At the close  
40 of the polls, election officials shall transmit the provisional official  
41 ballots cast at that voting place to the county board of elections for  
42 prompt verification according to guidelines and procedures adopted by  
43 the State Board of Elections.

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

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

6    "§ 163-166.12. Requirements for certain voters who register by mail.

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

11           (1)    A current and valid photo identification.

12           (2)    One of the following documents that shows the name and address of  
13           the voter: a current utility bill, bank statement, government check,  
14           paycheck, or other government document.

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

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

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

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

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

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

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

36           (1)    An individual who registers by mail and submits as part of the  
37           registration application either of the following:

38           a.    A copy of a current and valid photo identification.

39           b.    A copy of one of the following documents that shows the name  
40           and address of the voter: a current utility bill, bank statement,  
41           government check, paycheck, or other government document.

42           (2)    An individual who registers by mail and submits as part of the  
43           registration application the individual's drivers license number or at  
44           least the last four digits of the individual's social security number

1 where an election official matches either or both of the numbers  
 2 submitted with an existing State identification record bearing the same  
 3 number, name, and date of birth contained in the submitted  
 4 registration.

5 (3) An individual who is entitled to vote by absentee ballot under the  
 6 Uniformed and Overseas Citizens Absentee Voting Act.

7 (4) An individual who is entitled to vote otherwise than in person under  
 8 section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and  
 9 Handicapped Act.

10 (5) An individual who is entitled to vote otherwise than in person under  
 11 any other federal law."

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

14 "Article 8A.

15 "HAVA Administrative Complaint Procedure.

16 "**§ 163-91. Complaint procedure.**

17 (a) The Board shall establish a complaint procedure as required by section 402 of  
 18 Title IV of the Help America Vote Act of 2002 for the resolution of complaints alleging  
 19 violations of Title III of that Act.

20 (b) With respect to the adoption of the complaint procedure under this section,  
 21 the Board is exempt from the requirements of Article 2A of Chapter 150B of the  
 22 General Statutes. Prior to adoption or amendment of the complaint procedure under this  
 23 section, the Board shall complete all of the following:

24 (1) Publish the proposed plan in the North Carolina Register at least 30  
 25 days prior to the adoption of the final complaint procedure.

26 (2) Accept oral and written comments on the proposed complaint  
 27 procedure.

28 (3) Hold at least one public hearing on the proposed complaint procedure.

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

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

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

35 ...

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

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

40 "**§ 163-256. Regulations of State Board of Elections.**

41 (a) The State Board of Elections shall adopt rules and regulations to carry out the  
 42 intent and purpose of G.S. 163-254 and 163-255, and to ensure that a proper list of  
 43 persons voting under said sections shall be maintained by the boards of elections, and to

1 ensure proper registration records, and such rules and regulations shall not be subject to  
2 the provisions of G.S. 150B-9, Article 2A of Chapter 150B of the General Statutes.

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

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

14 **"§ 163-245. Persons in armed forces, their spouses, certain veterans, civilians**  
15 **working with armed forces, and members of Peace Corps may register**  
16 **and vote by mail.**

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

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

- 23 (1) Individuals serving in the armed forces of the United States, including,  
24 but not limited to, the army, the navy, the air force, the marine corps,  
25 the coast guard, the Merchant Marine, the National Oceanic and  
26 Atmospheric Administration, the commissioned corps of the Public  
27 Health Service, and members of the national guard and military  
28 reserve.
- 29 (2) Spouses of persons serving in the armed forces of the United States  
30 residing outside the counties of their spouses' voting residence.
- 31 (3) Disabled war veterans in United States government hospitals.
- 32 (4) Civilians attached to and serving outside the United States with the  
33 armed forces of the United States.
- 34 (5) Members of the Peace Corps.

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

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



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

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

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

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

18 **"§ 163-82.27. Citation to Help America Vote Act of 2002.**

19 As used in this Chapter, the term 'Help America Vote Act of 2002' means the Help  
20 America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42  
21 U.S.C. §§ 15481-15485. Citations to titles and sections of the Help America Vote Act of  
22 2002 are as they appear in the Public Law."

23 **SECTION 22.** Sections 1, 3, 4, 5, 12, 18, and 21 of this act are effective  
24 when this act becomes law. Sections 11 and 13 of this act become effective January 1,  
25 2006. The remainder of this act becomes effective January 1, 2004. All sections of this  
26 act apply with respect to all primaries and elections held on or after the date they  
27 become effective.