

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 514
Committee Substitute Favorable 5/12/11
Senate Judiciary I Committee Substitute Adopted 6/9/11

Short Title: Uniform Military and Overseas Voters Act.

(Public)

Sponsors:

Referred to:

March 30, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO ADOPT PROVISIONS OF THE UNIFORM MILITARY AND OVERSEAS
3 VOTERS ACT PROMULGATED BY THE NATIONAL CONFERENCE OF
4 COMMISSIONERS ON UNIFORM STATE LAW, WHILE RETAINING EXISTING
5 NORTH CAROLINA LAW MORE BENEFICIAL TO THOSE VOTERS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Chapter 163 of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 21A.

10 "Uniform Military and Overseas Voters Act.

11 **"§ 163-258.1. Short title.**

12 This Article may be cited as the Uniform Military and Overseas Voters Act.

13 **"§ 163-258.2. Definitions.**

14 As used in this Article:

15 (1) "Covered voter" means any of the following:

- 16 a. A uniformed-service voter or an overseas voter who is registered to
17 vote in this State.
- 18 b. A uniformed-service voter defined in subdivision (7) of this section
19 whose voting residence is in this State and who otherwise satisfies
20 this State's voter eligibility requirements.
- 21 c. An overseas voter who, before leaving the United States, was last
22 eligible to vote in this State and, except for a State residency
23 requirement, otherwise satisfies this State's voter eligibility
24 requirements.
- 25 d. An overseas voter who, before leaving the United States, would have
26 been last eligible to vote in this State had the voter then been of
27 voting age and, except for a State residency requirement, otherwise
28 satisfies this State's voter eligibility requirements.
- 29 e. An overseas voter who was born outside the United States, is not
30 described in sub-subdivision c. or d. of this subdivision, and, except
31 for a State residency requirement, otherwise satisfies this State's
32 voter eligibility requirements, if:
- 33 1. The last place where a parent or legal guardian of the voter
34 was, or under this Article would have been, eligible to vote
35 before leaving the United States is within this State; and



- 1 2. The voter has not previously registered to vote in any other
2 state.
- 3 (2) "Dependent" means an individual recognized as a dependent by a uniformed
4 service.
- 5 (3) "Military-overseas ballot" means any of the following:
6 a. A federal write-in absentee ballot described in the Uniformed and
7 Overseas Citizens Absentee Voting Act, section 103, 42 U.S.C. §
8 1973ff-2.
9 b. A ballot specifically prepared or distributed for use by a covered
10 voter in accordance with this Article.
11 c. A ballot cast by a covered voter in accordance with this Article.
- 12 (4) "Overseas voter" means a United States citizen who is outside the United
13 States.
- 14 (5) "State" means a state of the United States, the District of Columbia, Puerto
15 Rico, the United States Virgin Islands, or any territory or insular possession
16 subject to the jurisdiction of the United States.
- 17 (6) "Uniformed service" means any of the following:
18 a. Active and reserve components of the Army, Navy, Air Force,
19 Marine Corps, and Coast Guard of the United States.
20 b. The Merchant Marine, the commissioned corps of the Public Health
21 Service, and the commissioned corps of the National Oceanic and
22 Atmospheric Administration of the United States.
23 c. The National Guard and state militia units.
- 24 (7) "Uniformed-service voter" means an individual who is qualified to vote and
25 is one of the following:
26 a. A member of the active or reserve components of the Army, Navy,
27 Air Force, Marine Corps, or Coast Guard of the United States who is
28 on active duty.
29 b. A member of the Merchant Marine, the commissioned corps of the
30 Public Health Service, or the commissioned corps of the National
31 Oceanic and Atmospheric Administration of the United States.
32 c. A member of the National Guard or State militia unit who is on
33 activated status.
34 d. A spouse or dependent of a member referred to in this subdivision.
- 35 (8) "United States," used in the territorial sense, means the several states, the
36 District of Columbia, Puerto Rico, the United States Virgin Islands, and any
37 territory or insular possession subject to the jurisdiction of the United States.

38 **§ 163-258.3. Elections covered.**

39 The voting procedures in this Article apply to all of the following:

- 40 (1) A primary, general, or special election for federal or State office.
41 (2) A State ballot measure.
42 (3) A primary, general, special, or runoff election for local government office or
43 a local ballot measure if absentee balloting is allowed under Article 20 of
44 this Chapter.

45 **§ 163-258.4. Role of State Board of Elections.**

- 46 (a) The State Board of Elections is the State official responsible for implementing this
47 Article and the State's responsibilities under the Uniformed and Overseas Citizens Absentee
48 Voting Act, 42 U.S.C. § 1973ff, et seq.
49 (b) The State Board of Elections shall make available to covered voters information
50 regarding voter registration procedures for covered voters and procedures for casting
51 military-overseas ballots. The State Board of Elections may delegate the responsibility under

1 this subsection only to the State office designated in compliance with the Uniformed and
2 Overseas Citizens Absentee Voting Act, section 102(b)(1), 42 U.S.C. § 1973ff-1(b)(1).

3 (c) The State Board of Elections shall establish an electronic transmission system
4 through which covered voters may apply for and receive voter registration materials,
5 military-overseas ballots, and other information under this Article.

6 (d) The State Board of Elections shall develop standardized absentee-voting materials,
7 including privacy and transmission envelopes and their electronic equivalents, authentication
8 materials, and voting instructions, to be used with the military-overseas ballot of a voter
9 authorized to vote in any jurisdiction in this State, and, to the extent reasonably possible, shall
10 do so in coordination with other states.

11 (e) The State Board of Elections shall prescribe the form and content of a declaration
12 for use by a covered voter to swear or affirm specific representations pertaining to the voter's
13 identity, eligibility to vote, status as a covered voter, and timely and proper completion of an
14 overseas-military ballot. The declaration shall be based on the declaration prescribed to
15 accompany a federal write-in absentee ballot under the Uniformed and Overseas Citizens
16 Absentee Voting Act, section 103, 42 U.S.C. § 1973ff-2, as modified to be consistent with this
17 Article. The State Board of Elections shall ensure that a form for the execution of the
18 declaration, including an indication of the date of execution of the declaration, is a prominent
19 part of all balloting materials for which the declaration is required.

20 **§ 163-258.5. Overseas voter's registration address.**

21 In registering to vote, an overseas voter who is eligible to vote in this State shall use and
22 shall be assigned to the precinct of the address of the last place of residence of the voter in this
23 State, or, in the case of a voter described by G.S. 163-258.2(1)e., the address of the last place of
24 residence in this State of the parent or legal guardian of the voter. If that address is no longer a
25 recognized residential address, the voter shall be assigned an address for voting purposes.

26 **§ 163-258.6. Methods of registering to vote.**

27 (a) In addition to any other approved method for registering to vote, a covered voter
28 may use a federal postcard application, as prescribed under the Uniformed and Overseas
29 Citizens Absentee Voting Act, section 101(b)(2), 42 U.S.C. § 1973ff(b)(2), or the application's
30 electronic equivalent, to apply to register to vote.

31 (b) A covered voter may use the declaration accompanying the federal write-in absentee
32 ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, section
33 103, 42 U.S.C. § 1973ff-2, to apply to register to vote simultaneously with the submission of
34 the federal write-in absentee ballot.

35 (c) The State Board of Elections shall ensure that the electronic transmission system
36 described in G.S. 163-258.4(c) is capable of accepting both a federal postcard application and
37 any other approved electronic registration application sent to the appropriate election official.
38 The voter may use the electronic transmission system or any other approved method to register
39 to vote.

40 (d) A covered voter's registration to vote by any method authorized by this section may
41 be received at any time prior to the primary or election, but no later than 5:00 P.M. on the day
42 before the primary or election.

43 **§ 163-258.7. Methods of applying for military-overseas ballot.**

44 (a) A covered voter who is registered to vote in this State may apply for a
45 military-overseas ballot using either the regular application provided by Article 20 of this
46 Chapter or the federal postcard application, as prescribed under the Uniformed and Overseas
47 Citizens Absentee Voting Act, section 101(b)(2), 42 U.S.C. § 1973ff(b)(2), or the application's
48 electronic equivalent.

49 (b) A covered voter who is not registered to vote in this State may use the federal
50 postcard application or the application's electronic equivalent simultaneously to apply to
51 register to vote under G.S. 163-258.6 and to apply for a military-overseas ballot.

1 (c) The State Board of Elections shall ensure that the electronic transmission system
2 described in G.S. 163-258.4(c) is capable of accepting the submission of both a federal
3 postcard application and any other approved electronic military-overseas ballot application sent
4 to the appropriate election official. The voter may use the electronic transmission system or any
5 other approved method to apply for a military-overseas ballot.

6 (d) A covered voter may use the declaration accompanying the federal write-in absentee
7 ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, section
8 103, 42 U.S.C. § 1973ff-2, as an application for a military-overseas ballot simultaneously with
9 the submission of the federal write-in absentee ballot, if the declaration is received by the
10 appropriate election official no later than 5:00 P.M. on the day before the election.

11 (e) To receive the benefits of this Article, a covered voter shall inform the appropriate
12 election official that the voter is a covered voter. Methods of informing the appropriate election
13 official that a voter is a covered voter include any of the following:

14 (1) The use of a federal postcard application or federal write-in absentee ballot.

15 (2) The use of an overseas address on an approved voter registration application
16 or ballot application.

17 (3) The inclusion on an approved voter registration application or ballot
18 application of other information sufficient to identify the voter as a covered
19 voter.

20 (f) This Article does not preclude a covered voter from voting an absentee ballot under
21 Article 20 of this Chapter.

22 **"§ 163-258.8. Timeliness and scope of application for military-overseas ballot.**

23 An application for a military-overseas ballot is timely if received by the appropriate
24 election official by 5:00 P.M. of the day before the election or primary. An application from a
25 covered voter for a military-overseas ballot shall be considered a valid absentee ballot request
26 for any election covered under G.S. 163-258.3 held during the calendar year in which the
27 application was received.

28 **"§ 163-258.9. Transmission of unvoted ballots.**

29 (a) Not later than 60 days before the statewide general election in even-numbered years
30 and not later than 50 days before any other election, the county board of elections shall transmit
31 a ballot and balloting materials to all covered voters who by that date submit a valid
32 military-overseas ballot application, except for a second primary. However, in the case of
33 municipal elections, absentee ballots shall be made available no later than 30 days before an
34 election. For a second primary which includes a candidate for federal office, the county board
35 of elections shall transmit a ballot and balloting material to all covered voters who by that date
36 submit a valid military-overseas ballot application no later than 45 days before the second
37 primary. For a second primary which does not include a candidate for federal office, the
38 transmission of the ballot and ballot materials shall be as soon as practicable and shall be
39 transmitted electronically no later than three business days and by mail no later than 15 days
40 from the date the appropriate board of elections orders that the second primary be held pursuant
41 to G.S. 163-111. If additional offices are added to the ballot to fill a vacancy occurring after the
42 deadline provided by this subsection, those ballots shall be transmitted as soon as practicable.

43 (b) A covered voter who requests that a ballot and balloting materials be sent to the
44 voter by electronic transmission may choose facsimile transmission or electronic mail delivery,
45 or, if offered by the voter's jurisdiction, Internet delivery. The election official in each
46 jurisdiction charged with distributing a ballot and balloting materials shall transmit the ballot
47 and balloting materials to the voter using the means of transmission chosen by the voter.

48 (c) If a ballot application from a covered voter arrives after the jurisdiction begins
49 transmitting ballots and balloting materials to voters, the official charged with distributing a
50 ballot and balloting materials shall transmit them to the voter not later than two business days
51 after the application arrives.

1 **"§ 163-258.10. Timely casting of ballot.**

2 To be valid, a military-overseas ballot shall either be received by the appropriate county
3 board of elections no later than the close of the polls, or the covered voter shall submit the
4 ballot for mailing, electronic transmission, or other authorized means of delivery not later than
5 12:01 A.M., at the place where the voter completes the ballot, on the date of the election.

6 **"§ 163-258.11. Federal write-in absentee ballot.**

7 A covered voter may use the federal write-in absentee ballot, in accordance with the
8 Uniformed and Overseas Citizens Absentee Voting Act, section 103, 42 U.S.C. § 1973ff-2, to
9 vote for all offices and ballot measures in a covered election.

10 **"§ 163-258.12. Receipt of voted ballot.**

11 (a) A valid military-overseas ballot cast in accordance with G.S. 163-258.10 shall be
12 counted if it is delivered to the address that the appropriate State or local election office has
13 specified by the end of business on the business day before the canvass conducted by the
14 county board of elections held pursuant to G.S. 163-182.5 to determine the final official results.

15 (b) If the ballot is timely received, it may not be rejected on the basis that it has a late
16 postmark, an unreadable postmark, or no postmark.

17 **"§ 163-258.13. Declaration.**

18 Each military-overseas ballot shall include or be accompanied by a declaration signed by
19 the voter declaring that a material misstatement of fact in completing the document may be
20 grounds for a conviction of perjury under the laws of the United States or this State.

21 **"§ 163-258.14. Confirmation of receipt of application and voted ballot.**

22 The State Board of Elections, in coordination with local election officials, shall implement
23 an electronic free access system by which a covered voter may determine by telephone,
24 electronic mail, or Internet whether:

25 (1) The voter's federal postcard application or other registration or
26 military-overseas ballot application has been received and accepted; and

27 (2) The voter's military-overseas ballot has been received and the current status
28 of the ballot.

29 **"§ 163-258.15. Use of voter's electronic mail address.**

30 (a) The county board of elections shall request an electronic mail address from each
31 covered voter who registers to vote after January 1, 2012. An electronic mail address provided
32 by a covered voter is not a public record under Chapter 132 of the General Statutes. The
33 address may be used only for official communication with the voter about the voting process,
34 including transmitting military-overseas ballots and election materials if the voter has requested
35 electronic transmission, and verifying the voter's mailing address and physical location, as
36 needed. The request for an electronic mail address shall describe the purposes for which the
37 electronic mail address may be used and include a statement that any other use or disclosure of
38 the electronic mail address is prohibited.

39 (b) A covered voter who provides an electronic mail address may request that the
40 voter's application for a military-overseas ballot be considered a standing request for electronic
41 delivery of a ballot for all elections held through December 31 of the year following the
42 calendar year of the date of the application or another shorter period the voter specifies,
43 including for any runoff elections that occur as a result of such elections. An election official
44 shall provide a military-overseas ballot to a voter who makes a request for each election to
45 which the request is applicable. A covered voter entitled to receive a military-overseas ballot
46 for a primary election under this subsection is also entitled to receive a military-overseas ballot
47 for the general election.

48 **"§ 163-258.16. Publication of election notice.**

49 (a) Not later than 100 days before a regularly scheduled election to which this Article
50 applies, and as soon as practicable in the case of an election or vacancy election not regularly
51 scheduled, each county board of elections shall prepare an election notice for that jurisdiction

1 to be used in conjunction with the federal write-in absentee ballot described in
2 G.S. 163-258.11. For a second primary required by G.S. 163-111, the county board of elections
3 shall prepare, no later than the day following the date the appropriate board of elections orders
4 that a second primary be held, an election notice for that jurisdiction to be used in conjunction
5 with the federal write-in absentee ballot. The election notice shall contain a list of all of the
6 ballot measures and federal, State, and local offices that, as of that date, the official expects to
7 be on the ballot on the date of the election. The notice also shall contain specific instructions
8 for how a voter is to indicate on the federal write-in absentee ballot the voter's choice for each
9 office to be filled and for each ballot measure to be contested.

10 (b) A covered voter may request a copy of an election notice. The official charged with
11 preparing the election notice shall send the notice to the voter by facsimile, electronic mail, or
12 regular mail, as the voter requests.

13 (c) As soon as ballot styles are printed, the county board of elections shall update the
14 notice with the certified candidates for each office and ballot measure questions and make the
15 updated notice publicly available.

16 (d) A county board of elections that maintains an Internet Web site shall make updated
17 versions of its election notices regularly available on the Web site.

18 **"§ 163-258.17. Prohibition of nonessential requirements.**

19 (a) If a voter's mistake or omission in the completion of a document under this Article
20 does not prevent determining whether a covered voter is eligible to vote, the mistake or
21 omission does not invalidate the document. Failure to satisfy a nonessential requirement, such
22 as using paper or envelopes of a specified size or weight, does not invalidate a document
23 submitted under this Article. In any write-in ballot authorized by this Article or in any vote for
24 a write-in candidate on a regular ballot, if the intention of the voter is discernable under this
25 State's uniform definition of what constitutes a vote, as required by the Help America Vote Act,
26 42 U.S.C. § 15481(a)(6), an abbreviation, misspelling, or other minor variation in the form of
27 the name of a candidate or a political party shall be accepted as a valid vote.

28 (b) An authentication, other than the declaration specified in G.S. 163-258.13 or the
29 declaration on the federal postcard application and federal write-in absentee ballot, is not
30 required for execution of a document under this Article. The declaration and any information in
31 the declaration may be compared against information on file to ascertain the validity of the
32 document.

33 **"§ 163-258.18. Issuance of injunction or other equitable relief.**

34 A court may issue an injunction or grant other equitable relief appropriate to ensure
35 substantial compliance with, or enforce, this Article on application by:

36 (1) A covered voter alleging a grievance under this Article; or

37 (2) An election official in this State.

38 **"§ 163-258.19. Uniformity of application and construction.**

39 In applying and construing this uniform act, consideration shall be given to the need to
40 promote uniformity of the law with respect to its subject matter among states that enact it.

41 **"§ 163-258.20. Relation to Electronic Signatures in Global and National Commerce Act.**

42 This Article modifies, limits, and supersedes the federal Electronic Signatures in Global and
43 National Commerce Act, 15 U.S.C. § 7001, et seq., but does not modify, limit, or supersede
44 section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the
45 notices described in section 103(b) of that act, 15 U.S.C. § 7003(b)."

46 **SECTION 2.** Article 21 of Chapter 163 of the General Statutes is repealed, except
47 that G.S. 163-251, 253, 254, 255, 256, and 258 are recodified as G.S. 163-258.21 through
48 G.S. 163-258.26, respectively, and as such read as rewritten:

49 **"§ ~~163-258-21~~163-258.21. Certified list of approved ~~military absentee~~military-overseas**
50 **ballot applications; record of ballots received; disposition of list; list constitutes**
51 **registration.**

1 (a) Preparation of List. – The ~~chairman~~chair of the county board of elections shall
2 prepare, or cause to be prepared, a list in quadruplicate of all ~~military absentee~~military-overseas
3 ballots returned to the county board of elections under this Article to be counted which have
4 been approved by the county board of elections. At the end of the list the ~~chairman~~chair shall
5 execute the following certificate under oath:

6 "State of North Carolina

7 County of _____

8 I, _____, ~~Chairman~~Chair of the _____

9 County Board of Elections, do hereby certify that the foregoing is a list of all

10 executed ~~military absentee~~military-overseas ballots to be voted in the

11 election to be conducted on the _____ day of _____,

12 _____, which have been approved by the County Board of Elections. I

13 further certify that I have issued ballots to no other persons than those listed

14 herein and further that I have not delivered ~~military~~
15 ~~absentee~~military-overseas ballots to persons other than those listed herein;

16 that this list constitutes the only precinct registration of ~~military~~
17 ~~absentee~~covered voters whose names have not heretofore been entered on

18 the regular registration of the appropriate precinct.

19 This the _____ day of _____, _____.

20 _____

21 (Signature of ~~Chairman~~Chair of County
22 Board of Elections)

23 Sworn to and subscribed before me this _____ day of _____,

24 _____

25 _____

26 (Signature of Officer administering oath)

27 _____

28 (Title of officer)"

29 (b) Distribution of List. – No earlier than 3:00 P.M. on the day before the election and
30 no later than 10:00 A.M. on election day, the ~~chairman~~chair shall cause one copy of the list of
31 executed ~~military absentee~~military-overseas ballots, which may be a continuing countywide list
32 or a separate list for each precinct, to be immediately deposited as first-class mail to the State
33 Board of Elections. The ~~chairman~~chair shall retain one copy in the board office for public
34 inspection and ~~he~~ shall cause two copies of the appropriate precinct list to be delivered to the
35 chief judge of each precinct in the county. The chief judge shall post one copy in the voting
36 place and retain one copy until all challenges of absentee ballots have been heard by the county
37 board of elections. Challenges shall be made as provided in G.S. 163-89.

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

44 (c) List Constitutes Registration. – The "List of Applicants for ~~Military~~
45 ~~Absentee~~Military-Overseas Ballots to Whom Ballots Have Been Issued" prescribed by this
46 section, when delivered to the chief judges of the various precincts, shall constitute the only
47 precinct registration of the ~~military absentee~~covered voters listed thereon whose names are not
48 already entered in the registration records of the appropriate precinct. Chief judges shall not
49 add the names of persons listed on the ~~military absentee~~covered voters list to the regular
50 registration books of their precincts.

1 (d) Counting Ballots, Hearing Challenges. – The county board of elections shall count
2 ~~military-military-overseas~~ ballots as provided for civilian absentee ballots in G.S. 163-234, and
3 shall hear challenges as provided in G.S. 163-89.

4 **"§ 163-258.22. Article inapplicable to persons after change of status; reregistration not**
5 **required.**

6 ~~Upon discharge from the armed forces of the United States or termination of any other~~
7 ~~status qualifying the voter to register and vote by absentee ballot~~An individual who no longer
8 qualifies as a covered voter under the provisions of this Article, ~~the voter~~Article shall not be
9 entitled subsequently to vote by ~~military absentee ballot, military-overseas ballot~~ under this
10 Article, but if the covered voter was registered under the provisions of this Article that voter's
11 registration shall remain valid for the remainder of the calendar year that voter registered, and
12 that voter shall be entitled to vote in any primary or election for the remainder of the calendar
13 year without having to reregister. If requested by election officials, the voter shall present proof
14 of military status at the time of registration. This section does not entitle a person to vote in
15 North Carolina if that person has become disqualified because of change of permanent
16 residence to another State or because of conviction of a felony.

17 **"§ 163-258.23. Registration and voting on primary or election day.**

18 Notwithstanding any other provisions of ~~Chapter 163 of the General Statutes,~~ this Chapter,
19 an individual shall be permitted to register in person at any time the office of the board of
20 elections or the voting place is open, including the day of a primary or election if that
21 individual was absent on the day the registration records close for an election, but returns to
22 that individual's county of residence in North Carolina thereafter, and if the absence is due to
23 uniformed service as defined by G.S. 163-258.2. ~~an occupation or status of that individual~~
24 ~~listed below:~~

- 25 (1) ~~Individuals serving in the armed forces of the United States, including (but~~
26 ~~not limited to) the Army, the Navy, the Air Force, the Marine Corps, the~~
27 ~~Coast Guard, the Merchant Marine, the National Oceanic and Atmospheric~~
28 ~~Administration, the commissioned corps of the Public Health Service, and~~
29 ~~members of the National Guard and military reserve.~~
- 30 (2) ~~Spouses of individuals serving in the armed forces of the United States~~
31 ~~residing outside the counties of their spouses' voting residence.~~
- 32 (3) ~~Disabled war veterans in United States government hospitals.~~
- 33 (4) ~~Civilians attached to and serving outside the United States with the armed~~
34 ~~forces of the United States.~~
- 35 (5) ~~Members of the Peace Corps.~~

36 If an individual so absent on the day registration closes shall appear in person at the voting
37 place on election day and is otherwise eligible to vote, that individual shall be entitled to
38 register and vote at the voting place that day, regardless of whether the person's ~~occupation or~~
39 ~~status as outlined in subdivisions (1) through (5) of this section~~ uniformed service status has
40 changed since the close of registration.

41 **"§ 163-258.24. Absentee voting at office of board of elections.**

42 Notwithstanding any other provisions of ~~Chapter 163 of the General Statutes,~~ this Chapter,
43 any ~~person eligible to vote an absentee ballot pursuant to G.S. 163-245~~ covered voter under this
44 Article shall be permitted to vote an absentee ballot pursuant to G.S. 163-227.2 if the ~~person~~
45 covered voter has not already voted an absentee ballot which has been returned to the board of
46 elections, and if ~~he~~ the covered voter will not be in the county on the day of the primary or
47 election.

48 In the event an absentee application or ballot has already been mailed to ~~such person~~ the
49 covered voter applying to vote pursuant to G.S. 163-227.2, the board of elections shall void the
50 application and ballot unless the voted absentee ballot has been received by the board of

1 elections. ~~Such person~~The covered voter shall be eligible to vote pursuant to G.S. 163-227.2 no
2 later than 5:00 P.M. on the day next preceding the primary, second primary or election.

3 **"§ 163-258.25. Regulations of State Board of Elections.**

4 (a) The State Board of Elections shall adopt rules and regulations to carry out the intent
5 and purpose of G.S. ~~163-254 and 163-255, 163-278.23 and G.S. 163-278.24~~ and to ensure that
6 a proper list of persons voting under said sections shall be maintained by the boards of
7 elections, and to ensure proper registration records, and such rules and regulations shall not be
8 subject to the provisions of Article 2A of Chapter 150B of the General Statutes.

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

18 **"§ 163-258.26. Emergency powers.**

19 If an international, national, or local emergency or other situation arises that makes
20 substantial compliance with this Article or the Uniformed and Overseas Citizens Absentee
21 Voting Act impossible or unreasonable, the State Board of Elections may prescribe, by
22 emergency rule, such special procedures or requirements as may be necessary to facilitate
23 absentee voting by those absent uniformed services voters or overseas voters directly affected
24 who are eligible to vote in this State. The rule shall become effective when filed with the
25 Codifier of Rules."

26 **SECTION 3.** G.S. 163-22(k) reads as rewritten:

27 "(k) Notwithstanding the provisions contained in Article 20 or Article ~~21~~ 21A of Chapter
28 163 the State Board of Elections shall be authorized, by resolution adopted prior to the printing
29 of the primary ballots, to reduce the time by which absentee ballots are required to be printed
30 and distributed for the primary election from 50 days to 45 days. This authority shall not be
31 authorized for absentee ballots to be voted in the general election, except if the law requires
32 ballots to be available for mailing 60 days before the general election, and they are not ready by
33 that date, the State Board of Elections shall allow the counties to mail them out as soon as they
34 are available."

35 **SECTION 4.** G.S. 163-111(e) reads as rewritten:

36 "(e) Date of Second Primary; Procedures. – If a second primary is required under the
37 provisions of this section, the appropriate board of elections, State or county, shall order that it
38 be held ~~seven weeks after the first primary.~~ 10 weeks after the first primary if any of the offices
39 for which a second primary is required are for a candidate for the office of United States Senate
40 or member of the United States House of Representatives. Otherwise, the second primary shall
41 be held seven weeks after the first primary.

42 There shall be no registration of voters between the dates of the first and second primaries.
43 Persons whose qualifications to register and vote mature after the day of the first primary and
44 before the day of the second primary may register on the day of the second primary and, when
45 thus registered, shall be entitled to vote in the second primary. The second primary is a
46 continuation of the first primary and any voter who files a proper and timely written affirmation
47 of change of address within the county under the provisions of G.S. 163-82.15, in the first
48 primary may vote in the second primary without having to refile that written affirmation if ~~he~~
49 the voter is otherwise qualified to vote in the second primary. Subject to this provision for
50 registration, the second primary shall be held under the laws, rules, and regulations provided
51 for the first primary."

SECTION 5. G.S. 163-231(b) reads as rewritten:

"(b) Transmitting Executed Absentee Ballots to County Board of Elections. – The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the county board of elections who issued them as follows: All ballots issued under the provisions of Articles 20 and ~~21~~ 21A of this Chapter shall be transmitted by mail or by commercial courier service, at the voter's expense, or delivered in person, or by the voter's near relative or verifiable legal guardian not later than 5:00 p.m. on the day before the statewide primary or general election or county bond election. Ballots issued under the provisions of Article 21A of this Chapter may also be electronically transmitted. If ballots are received later than that hour, they shall not be accepted unless (i) federal law so requires, (ii) if ballots issued under Article 20 of this Chapter are postmarked by the day of the statewide primary or general election or county bond election and are received by the county board of elections not later than three days after the election by 5:00 p.m., or (iii) if ballots issued under Article ~~21~~ 21A of this Chapter are received by the county board of elections not later than the end of business on the business day before the canvass conducted by the county board of elections held pursuant to G.S. 163-182.5. ~~three days after the election by 5:00 p.m.~~ Ballots issued under Article 20 of this Chapter not postmarked by the day of the election shall not be accepted by the county board of elections."

SECTION 6. G.S. 163-232.1(b) reads as rewritten:

"(b) The county board of elections shall prepare, or cause to be prepared, a list in at least triplicate, of all ~~military absentee~~ military-overseas ballots issued under Article ~~21~~ 21A of this Chapter and returned to the county board of elections to be counted, which have been approved by the county board of elections, have not been included on the certified list prepared pursuant to G.S. 163-232, and which have been received by the county board of elections not later than three days after the election by 5:00 p.m. The list shall be supplemented with new information each business day following the day of the election until the deadline for receipt of such absentee ballots. At the end of the list, the ~~chairman~~ chair shall execute the following certificate under oath:

"State of North Carolina

County of _____

I, _____, ~~chairman~~ chair of the _____ County Board of Elections, do hereby certify that the foregoing is a list of all executed ~~military absentee~~ military-overseas ballots to be voted in the election to be conducted on the ____ day of _____, _____, which have been approved by the county board of elections, and which have been postmarked by the day of the statewide primary or general election or county bond election and received by the county board of elections not later than three days after the election by 5:00 p.m. I further certify that I have issued ballots to no other persons than those listed herein and further that I have not delivered ~~military absentee~~ military-overseas ballots to persons other than those listed herein; that this list constitutes the only precinct registration of ~~military absentee~~ covered voters whose names have not heretofore been entered on the regular registration of the appropriate precinct.

This the _____ day of _____, _____

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

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

Witness my hand and official seal.

 (Signature of officer
 administering oath)

(Title of officer)".

SECTION 7. G.S. 163-234(2) reads as rewritten:

"(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 (10) 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."

SECTION 8. G.S. 163-239 reads as rewritten:

"§ 163-239. Article ~~21-21A~~ relating to absentee voting by servicemen and certain civilians military and overseas voters not applicable.

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

SECTION 9. G.S. 163-82.10(a) reads as rewritten:

"(a) Official Record. – The State voter registration system is the official voter registration list for the conduct of all elections in the State. The State Board of Elections and the county board of elections may keep copies of voter registration data, including voter registration applications, in any medium and format expressly approved by the Department of Cultural Resources pursuant to standards and conditions established by the Department and mutually agreed to by the Department and the State Board of Elections. A completed and signed registration application 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. Full or partial social security numbers, dates of birth, the identity of the public agency at which

1 the voter registered under G.S. 163-82.20, any electronic mail address submitted under Article
2 21A of this Chapter, and drivers license numbers that may be generated in the voter registration
3 process, by either the State Board of Elections or a county board of elections, are confidential
4 and shall not be considered public records and subject to disclosure to the general public under
5 Chapter 132 of the General Statutes. Cumulative data based on those items of information may
6 be publicly disclosed as long as information about any individual cannot be discerned from the
7 disclosed data. Disclosure of information in violation of this subsection shall not give rise to a
8 civil cause of action. This limitation of liability does not apply to the disclosure of information
9 in violation of this subsection as a result of gross negligence, wanton conduct, or intentional
10 wrongdoing that would otherwise be actionable. The signature of the voter, either on the paper
11 application or an electronically captured image of it, may be viewed by the public but may not
12 be copied or traced except by election officials for election administration purposes. Any such
13 copy or tracing is not a public record."

14 **SECTION 10.** This act becomes effective January 1, 2012.