

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE BILL 858**

Short Title: Help America Vote Act Compliance.

(Public)

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Sponsors: Senators Clodfelter; and Gulley.

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Referred to: Judiciary I.

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April 3, 2003

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR A SYSTEM FOR ALL NORTH CAROLINA  
2 ELECTIONS THAT COMPLIES WITH THE HELP AMERICA VOTE ACT AND  
3 TO HELP PREVENT DUPLICATE NAMES ON JURY LISTS.  
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The purpose of this act is to ensure that the State of North  
7 Carolina has a system for all North Carolina elections that complies with the  
8 requirements for federal elections set forth in the federal Help America Vote Act of  
9 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 U.S.C. §§  
10 15481-15485.

11 The General Assembly finds that the education and training of election  
12 officials as required by G.S. 163-82.34 has met and continues to meet the mandate for  
13 the education and training of precinct officials and other election officials in section  
14 254(a)(3) of the Help America Vote Act of 2002. The General Assembly further finds  
15 that the establishment, development, and continued operation of the statewide list  
16 maintenance program for voter registration set forth in G.S. 163-82.14 has met and  
17 continues to meet the mandates of section 303(a)(2) of the Help America Vote Act of  
18 2002.

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

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

23 "(a) Application Form Becomes Official Record. – The State voter registration  
24 system is the official voter registration list for the conduct of all elections in the State. A  
25 completed and signed registration application form-form, if available, described in G.S.  
26 163-82.3, once approved by the county board of elections, becomes backup to the  
27 official registration record of the voter. Electronically captured images of the signatures  
28 of voters, full or partial social security numbers, and drivers license numbers that may  
29 be generated in the voter registration process, by either the State Board of Elections or a

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

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

12 "(a1) Paperless, Instant Electronic Transfer. – The application described in G.S.  
13 163-82.3 may be either a paper hard copy or an electronic document."

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

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

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

20 **"§ 132-1.2. Confidential information.**

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

23 (1) Meets all of the following conditions:

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

35 (2) Reveals an account number for electronic payment as defined in G.S.  
36 147-86.20 and obtained pursuant to Articles 6A or 6B of Chapter 147  
37 of the General Statutes or G.S. 159-32.1.

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

41 (4) Reveals the electronically captured image of an individual's signature,  
42 drivers license number, or a portion of an individual's social security  
43 number if the agency has those items because they are on a voter  
44 registration document."

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

2   "**§ 163-82.11. Establishment of statewide computerized voter registration.**

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

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

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

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

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

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

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

41   "**§ 163-82.12. Promulgation of ~~rules~~ guidelines relating to computerized voter**  
42 **registration.**

43       The State Board of Elections shall make all ~~rules~~ guidelines necessary to administer  
44 the statewide voter registration system established by this Article. All county boards of

1 elections shall follow these guidelines and cooperate with the State Board of Elections  
2 in implementing guidelines. These ~~rules~~ guidelines shall include provisions ~~for~~ for all  
3 of the following:

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

31 These guidelines shall not be considered to be rules subject to Article 2A of Chapter  
32 150B of the General Statutes. However, the State Board shall publish in the North  
33 Carolina Register the guidelines and any changes to them after adoption, with that  
34 publication noted as information helpful to the public under G.S. 150B-21.17(a)(6).  
35 Copies of those guidelines shall be made available to the public upon request or  
36 otherwise by the State Board."

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

38 "**§ 163-82.19. Voter registration at drivers license ~~offices;~~ offices; coordination on**  
39 **data interface.**

40 (a) Voter Registration at Drivers License Offices. – The Division of Motor  
41 Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its  
42 forms so that any eligible person who applies for original issuance, renewal or  
43 correction of a drivers license, or special identification card issued under G.S. 20-37.7  
44 may, on a part of the form, complete an application to register to vote or to update his

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

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

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

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

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

37 "**§ 20-43.4. Current list of licensed drivers to be provided to jury**  
38 **commissions-commissions and county boards of elections.**

39 The Commissioner of Motor Vehicles shall provide to each county jury commission  
40 and each county board of elections an alphabetical list of all persons that ~~he~~ the  
41 Commissioner has determined are residents of the county, who will be 18 years of age  
42 or older as of the first day of January of the following year, and licensed to drive a  
43 motor vehicle as of July 1, 1983, and as of July 1 of each biennium thereafter, provided  
44 that if an annual jury list is being prepared under G.S. 9-2(a), the list to be provided to

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

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

12 "**§ 9-2. Preparation of jury list; sources of names.**

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

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

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

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

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

38 (f) The jury list shall contain not less than one and one-quarter times and not  
39 more than three times as many names as were drawn for jury duty in all courts in the  
40 county during the previous biennium, or, if an annual list is being prepared as requested  
41 under subsection (a) of this section the jury list shall contain not less than one and  
42 one-quarter times and not more than three times as many names as were drawn for jury  
43 duty in all courts in the county during the previous year but in no event shall the list  
44 include fewer than 500 names, except that in counties in which a different panel of

1 jurors is selected for each day of the week, there is no limit to the number of names that  
2 may be placed on the jury list.

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

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

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

13 **"§ 163-166.7A. Voter Education and Information.**

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

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

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

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

35 **"§ 163-82.4. Contents of application form.**

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

- 38 (1) Name,
- 39 (2) Date of birth,
- 40 (3) Residence address,
- 41 (4) County of residence,
- 42 (5) Date of application,
- 43 (6) Gender,
- 44 (7) Race,

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

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

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

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

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

41 (c) Party Affiliation or Unaffiliated Status. – The application form described in  
42 G.S. 163-82.3(a) shall provide a place for the applicant to state a preference to be  
43 affiliated with one of the political parties in G.S. 163-96, or a preference to be an  
44 "unaffiliated" voter. Every person who applies to register shall state his preference. If



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

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

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

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

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

24 **"§ 163-82.10A. Permanent voter registration numbers.**

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

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

29 **"§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

30 The State Board of Elections shall have authority to approve types, makes, and  
31 models of voting systems for use in elections and referenda held in this State. Only  
32 voting systems that have been approved by the State Board shall be used to conduct  
33 elections under this Chapter, and the approved systems shall be valid in any election or  
34 referendum held in any county or municipality. The State Board may use guidelines,  
35 information, testing reports, certification, decertification, recertification, and any  
36 relevant data produced by the Election Assistance Commission, its Standards Board, its  
37 Board of Advisors, or the Technical Guidelines Development Committee as established  
38 in Title II of the Help America Vote Act of 2002, with regard to any action or  
39 investigation the State Board may take concerning a voting system. The State Board  
40 may use, for the purposes of voting system certification, laboratories accredited by the  
41 Election Assistance Commission under the provisions of section 231(2) of the Help  
42 America Vote Act of 2002. The State Board may, upon request of a local board of  
43 elections, authorize the use of a voting system not approved for general use. The State  
44 Board may also, upon notice and hearing, disapprove types, makes, and models of

1 voting systems. Upon disapproving a type, make, or model of voting system, the State  
2 Board shall determine the process by which the disapproved system is discontinued in  
3 any county. If a county makes a showing that discontinuance would impose a financial  
4 hardship upon it, the county shall be given up to four years from the time of State Board  
5 disapproval to replace the system. A county may appeal a decision by the State Board  
6 concerning discontinuance of a voting system to the superior court in that county or to  
7 the Superior Court of Wake County. The county has 30 days from the time of the State  
8 Board's decision on discontinuance to make that appeal.

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

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

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

23 "**§ 163-165.4A. ~~Punch-Card~~ Punch-card ballots, ballots and lever machines.**

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

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

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

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

36 "**§ 163-182.1. Principles and rules for counting official ballots.**

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

- 39 (1) Only official ballots shall be counted.
- 40 (2) No official ballot shall be rejected because of technical errors in  
41 marking it, unless it is impossible to clearly determine the voter's  
42 choice.
- 43 (3) If it is impossible to clearly determine a voter's choice in a ballot item,  
44 the official ballot shall not be counted for that ballot item, but shall be

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

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

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

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

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

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

39           **"§ 163-166.01. Hours for voting.**

40           In every election, the voting place shall be open at 6:30 A.M. and shall be closed at  
41           7:30 P.M. In extraordinary circumstances, the county board of elections may direct that  
42           the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls  
43           are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who  
44           arrives at the voting place after the closing of the polls.

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

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

12        **"§ 163-166.11. Provisional voting requirements.**

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

- 17        (1) An election official at the voting place shall notify the individual that  
18 the individual may cast a provisional official ballot in that election.
- 19        (2) The individual may cast a provisional official ballot at that voting  
20 place upon executing a written affirmation before an election official  
21 at the voting place, stating that the individual is a registered voter in  
22 the jurisdiction in which the individual seeks to vote and is eligible to  
23 vote in that election.
- 24        (3) At the time the individual casts the provisional official ballot, the  
25 election officials shall provide the individual written information  
26 stating that anyone casting a provisional official ballot can ascertain  
27 whether and to what extent the ballot was counted and, if the ballot  
28 was not counted in whole or in part, the reason it was not counted. The  
29 State Board of Elections or the county board of elections shall  
30 establish a system for so informing a provisional voter. It shall make  
31 the system available to every provisional voter without charge, and it  
32 shall build into it reasonable procedures to protect the security,  
33 confidentiality, and integrity of the voter's personal information and  
34 vote.
- 35        (4) The cast provisional official ballot and the written affirmation shall be  
36 secured by election officials at the voting place according to guidelines  
37 and procedures adopted by the State Board of Elections. At the close  
38 of the polls, election officials shall transmit the provisional official  
39 ballots cast at that voting place to the county board of elections for  
40 prompt verification according to guidelines and procedures adopted by  
41 the State Board of Elections.
- 42        (5) The county board of elections shall count the individual's provisional  
43 official ballot for all ballot items on which it determines that the  
44 individual was eligible under State or federal law to vote."

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

3 **"§ 163-166.12. Requirements for certain voters who register by mail.**

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

8           (1) A current and valid photo identification.

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

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

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

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

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

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

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

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

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

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

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

39           (2) An individual who registers by mail and submits as part of the  
40 registration application the individual's drivers license number or at  
41 least the last four digits of the individual's social security number  
42 where an election official matches either or both of the numbers  
43 submitted with an existing State identification record bearing the same

1 number, name, and date of birth contained in the submitted  
2 registration.

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

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

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

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

12 "Article 8A.

13 "HAVA Administrative Complaint Procedure.

14 **"§ 163-91. Complaint procedure.**

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

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

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

24 (2) Accept oral and written comments on the proposed complaint  
25 procedure.

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

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

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

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

33 ...

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

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

38 **"§ 163-256. Regulations of State Board of Elections.**

39 (a) The State Board of Elections shall adopt rules and regulations to carry out the  
40 intent and purpose of G.S. 163-254 and 163-255, and to ensure that a proper list of  
41 persons voting under said sections shall be maintained by the boards of elections, and to  
42 ensure proper registration records, and such rules and regulations shall not be subject to  
43 the provisions of ~~G.S. 150B-9~~. Article 2A of Chapter 150B of the General Statutes.

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

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

12       **"§ 163-245. Persons in armed forces, their spouses, certain veterans, civilians**  
13 **working with armed forces, and members of Peace Corps may register**  
14 **and vote by mail.**

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

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

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

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

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

42       (e) The requirement for any oath or affirmation to accompany any document as  
43 to voter registration or absentee ballots under this Article may be met by use of the



1 standard oath prescribed by the Presidential designee under section 101(b)(7) of the  
2 Uniformed and Overseas Citizens Absentee Voting Act."

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

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

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

16 **"§ 163-82.27. Citation to Help America Vote Act of 2002.**

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

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