

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**SENATE BILL 226\***

Short Title: Early Prep for Absentee Count. (Public)

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Sponsors: Senators Allran, Kinnaird; Apodaca, Atwater, Bingham, Blake, Boseman, Brock, Brown, Dalton, Dorsett, East, Forrester, Garwood, Goodall, Graham, Hagan, Holloman, Hoyle, Hunt, Jacumin, Jenkins, Lucas, Malone, Nesbitt, Pittenger, Presnell, Purcell, Rand, Shaw, Snow, Soles, Stevens, Swindell, Thomas, Tillman, and Weinstein.

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Referred to: Judiciary I.

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February 28, 2005

A BILL TO BE ENTITLED  
AN ACT TO AUTHORIZE COUNTY BOARDS OF ELECTIONS TO TAKE STEPS  
EARLIER TO COUNT MAILED ABSENTEE VOTES, AS RECOMMENDED BY  
THE JOINT SELECT COMMITTEE ON ELECTRONIC VOTING SYSTEMS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 163-234 reads as rewritten:

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

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

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

(2) The county board of elections shall meet at 5:00 p.m. on election day in the board office or other public location in the county courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 p.m. on election day. 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 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

1 be stated. A copy of the resolutions shall be published once a week for  
2 two weeks prior to the election, in a newspaper having general  
3 circulation in the county. Notice may additionally be made on a radio  
4 or television station or both, but such notice shall be in addition to the  
5 newspaper and other required notice. The count shall be continuous  
6 until completed and the members shall not separate or leave the  
7 counting place except for unavoidable necessity, except that if the  
8 count has been completed prior to the time the polls close, it shall be  
9 suspended until that time pending receipt of any additional ballots, and  
10 except that one-stop ballots under G.S. 163-227.2 counted  
11 electronically shall not be counted until the polls close; provided,  
12 however, that if there are outstack ballots in the counting device, they  
13 may be counted at the same time as other ballots are counted under this  
14 subdivision. The county board of elections may begin putting them in  
15 the tabulator at the same time as other ballots are counted under this  
16 subdivision if the system for counting one-stop ballots requires them to  
17 be put in a tabulator but the process has the voter place them in a ballot  
18 box. The board shall not announce the result of the count before 7:30  
19 p.m.

20 (2a) Notwithstanding the provisions of subdivision (2) of this section, a  
21 county board of elections may, at each meeting at which it approves  
22 absentee ballot applications pursuant to G.S. 163-230.1(c) and (c1),  
23 remove those ballots from their envelopes and have them read by an  
24 optical scanning machine, without printing the totals on the scanner.  
25 The board shall complete the counting of these ballots at the times  
26 provided in subdivision (2) of this section. The State Board of  
27 Elections shall provide instructions to county boards of elections for  
28 executing this procedure, and the instructions shall be designed to  
29 ensure the accuracy of the count, the participation of board members  
30 of both parties, and the secrecy of the results before election day. This  
31 subdivision applies only in counties that use optical scan devices to  
32 count absentee ballots.

33 (3) The counting of absentee ballots shall not commence until a majority  
34 and at least one board member of each political party represented on  
35 the board is present and that fact is publicly declared and entered in the  
36 official minutes of the county board.

37 (4) The county board of elections may employ such assistants as deemed  
38 necessary to count the absentee ballots, but each board member present  
39 shall be responsible for and observe and supervise the opening and  
40 tallying of the ballots.

41 (5) As each ballot envelope is opened, the board shall cause to be entered  
42 into a pollbook designated "Pollbook of Absentee Voters" the name of  
43 the absentee voter, or if the pollbook is computer-generated, the board  
44 shall check off the name. Preserving secrecy, the ballots shall be

1 placed in the appropriate ballot boxes, at least one of which shall be  
2 provided for each type of ballot. The "Pollbook of Absentee Voters"  
3 shall also contain the names of all persons who voted under  
4 G.S. 163-227.2, but those names may be printed by computer for  
5 inclusion in the pollbook.

6 After all ballots have been placed in the boxes, the counting  
7 process shall begin.

8 If one-stop ballots under G.S. 163-227.2 are counted electronically,  
9 that count shall commence at the time the polls close. If one-stop  
10 ballots are paper ballots counted manually, that count shall commence  
11 at the same time as other absentee ballots are counted.

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

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

21 (6) Upon completion of the counting process the board members shall  
22 cause the results of the tally to be entered on the absentee abstract  
23 prescribed by the State Board of Elections. The abstract shall be signed  
24 by the members of the board in attendance and the original mailed  
25 immediately to the State Board of Elections. The county board of  
26 elections may have a separate count on the abstract for one-stop  
27 absentee ballots under G.S. 163-227.2.

28 (7) One copy of the absentee abstract shall be retained by the county board  
29 of elections and the totals appearing thereon shall be added to the final  
30 totals of all votes cast in the county for each office as determined on  
31 the official canvass.

32 (8) In the event a political party does not have a member of the county  
33 board of elections present at the meeting to count absentee ballots due  
34 to illness or other cause of the member, the counting shall not  
35 commence until the county party chairman of said absent member, or a  
36 member of the party's county executive committee, is in attendance.  
37 Such person shall act as an official witness to the counting and shall  
38 sign the absentee ballot abstract as an "observer."

39 (9) The county board of elections shall retain all container-return  
40 envelopes and absentee ballots, in a safe place, for at least four  
41 months, and longer if any contest is pending concerning the validity of  
42 any ballot."

43 **SECTION 2.** This act is effective when it becomes law.