

BOARD OF ELECTIONS

Ken Raymond
Chairman

Stuart Russell
Secretary

Fleming El-Amin
Member



Tim Tsujii
Director

Lamar Joyner
Deputy Director

FORSYTH COUNTY BOARD OF ELECTIONS

Meeting Minutes

March 22, 2016 – 10:30 a.m.

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2. Pledge of Allegiance
3. Moment of Silence
4. Public Comments
5. Approval of Supplemental Absentee Ballots
6. Other Business
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FORSYTH COUNTY BOARD OF ELECTIONS
Meeting Minutes
March 22, 2016 – 10:30 a.m.

Meeting Called to Order

A statutory meeting of the Forsyth County Board of Elections was called to order in the fourth floor meeting room on March 22, 2016. The meeting called to order at 10:30 a.m., Chairman Ken Raymond presiding.

Board Members in attendance: Chairman Ken Raymond, Secretary Stuart Russell, and Member Fleming El-Amin

Staff Members in attendance: Director Tim Tsujii, Deputy Director Lamar Joyner, Chris Duffey, Monica Gary, and Kimberly Stuck

Other Staff: Assistant County Attorney – Lonnie Albright

Pledge of Allegiance

Chairman Raymond led the pledge of allegiance.

Moment of Silence

Chairman Raymond led a moment of silence. Member El-Amin called for point of privilege to remember Earline Parmon and her dedication to Forsyth County and the state.

Public Comments

Chairman Raymond opened for public comments; the public offered no comments. Chairman Raymond moved to close public comments; Member El-Amin motioned, Secretary Russell seconded; **Motion carried unanimously.**

Approval of Supplement Absentee Ballots

Ms. Gary recommended 460 stateside absentee ballots for approval, 64 absentee ballots were disapproved due to deficiencies; and 126 absentee ballots received on Election Day without postmark.

Director Tsujii presented the Board with the duplicated UOCAVA (Military and Overseas) ballots for review prior to tabulation. Mr. Tsujii clarified for the Board that the duplication of the ballots was done using a bi-partisan staff. Ten Absentee Ballots, which had been duplicated and 20 overseas ballots that had been remarked were presented for review and approval.

Director Tsujii provided clarification on the North Carolina House of Representative's races as well as *Public Facilities Privacy & Security Act of 2016, H.B.2/S.L. 2016-3* for remarking purposes. Further clarification was provided regarding duplicated ballots, including military/overseas ballots that needed to be on a proper ballot.

The Board completed the review of the UOCAVA ballots, which were included in the 460. 4 preprocessed absentee ballots that needed to be remarked due to coffee stains, etcetera that

were received on Election Day and needed to be run through the tabulator. The Board reviewed the remarking.

Director Tsujii noted 64 ballots were disapproved and 126 were returned on Election Day and the day after Election Day. The Director and the Board discussed the period in which the ballots were received. Secretary Russell inquired about the direction provided by N.C.G.S. §163-231(b)(2). Director Tsujii read it for the record, noting that there are no exceptions provided for in the statute. Chairman Raymond called for discussion; Member El-Amin motioned to accept the 126 all of which were received by mail. Secretary Russell called for clarification on receipt of ballots received after deadline as provided by N.C.G.S. §163-231(b)(2)(c) which Director Tsujii read for the record (see attached). Secretary Russell requested a clarification regarding the receipt of the ballots, noting that the statute did allow for processing if received prior to Canvass. Assistant County Attorney agreed with Secretary Russell's interpretation. Chairman Raymond moved to approve the 126 ballots; Member El-Amin motioned, Secretary Russell seconded. **Motion carried unanimously.**

Director Tsujii noted that Ms. Gary was providing the Board with the Supplemental list for review and that signatures would be needed after the tabulation process.

Mr. Tsujii clarified that the 126 ballots were not Military/Oversees ballots, which would have triggered processing after deadline per the *Uniform Military and Overseas Voters Act (2011-182, s.1)*; even though the ballots had to have been presented at the Post Office prior to deadline to be received even the day after.

Secretary Russell noted that based on the additional information provided by Director Tsujii; only those ballots received on Election Day should be approved. Member El-Amin called for a point of consideration per Mr. Tsujii's comments that ballots were in route. Secretary Russell agreeing with Member El-Amin's sentiment pointed to the statutes nondiscretionary use of the phrase "shall not"; the language was a matter for the North Carolina General Assembly to address. Chairman Raymond noted that the Board could not determine the Post Office's efforts, however that the statute was binding. Attorney Albright inquired about how many of the 126 were Military/Oversee; Secretary Russell stated that none of the 126 were; thus N.C.G.S. §163-231(b)(2)(c) would not be triggered. Member El-Amin called for a point of consideration regarding the approval of Military/Overseas ballots; requesting that they be approved and voters not be penalized for being overseas. Secretary Russell clarified for the Board and public the 126 ballots in question were not Military/Overseas and the statute left no discretion for processing the ballots personal convictions aside. Secretary Russell moved to count only those ballots received on Election Day; Chairman Raymond seconded; Member El-Amin dissented. **Motion carried by majority.**

Chairman Raymond inquired about the 64 not included; Director Tsujii stated that action was needed; Chairman Raymond brought a vote to approve 460 and disapprove 64. **Vote passed unanimously.**

Director Tsujii requested the Board adjourn to enable staff to complete ballot processing. Chairman Raymond inquired if only a break would be needed; Mr. Duffey noted that staff

would need more than 30 minutes to complete the task. Chairman Raymond motioned to recess until 12 Noon; Secretary Russell seconded; **Motion carried unanimously.**

Chairman Raymond addressed the public regarding the tabulation process, requesting patience during the process and assuring them that the meeting would reconvene as soon as possible.

The Board reconvened meeting to order at 12:22 P.M.

Chairman Raymond called to move to item #3 on 11 A.M. agenda Hand Eye Recount; Agenda attached for reference.

Hand/Eye Recount

Deputy Director Joyner provided that the State chose Election Day precincts 305 and 507 for the required audit. Mr. Joyner stated that there were no discrepancies in the count for 305, which balanced; and the only discrepancy was one ballot that the Election Day machine did not count at 507 due to a stray mark, making tally under one. Mr. Joyner noted that this was not unusual, as the machine will not recognize stray marks. Secretary Russell inquired about participants in the audit; Mr. Joyner stated that the audit was done with two Republicans and two Democrats. Chairman Raymond inquired of further discussion; none was requested before moving to item #4 on the agenda.

Review and Approval of Curbside and Duplicate Ballots

Director Tsujii requested to add to agenda provisional ballots, which were being prepared for Thursday's meeting. Mr. Tsujii stated that the One-Stop Curbside ballots had been preprocessed and placed on disc for tabulation; noting that according to Ms. Gary, many of the curbside ballots had to be remarked and would need to be reviewed by the Board. Director Tsujii provided the Board with an update on the Provisional ballots received; and presented the Board with two ballots, which belonged to two people who attempted to vote a provisional ballot on Election Day as well as One-Stop Early Voting, requesting the Board guidance to eliminate one vote and adjust the count.

The Board and Director Tsujii discussed at length best course of action regarding those that voted multiple times; concluding that best course was to inform the voters of the penalties attached to their actions, to forward their information to the State Board as well as notify the District Attorney. Secretary Russell motioned to contact the voters in writing regarding their attempts to vote multiple times and provide the statutes for reference; Chairman Raymond seconded; **Motion carried unanimously.**

Director Tsujii presented the Board with two additional voters that attempted to vote during One-Stop and then again on Election Day. Election Day ballots to be counted and One-Stop ballots to be disqualified. Secretary Russell motioned to count Election Day ballots only; Member El-Amin seconded; **Motion carried unanimously.**

Chairman Raymond inquired if there was any precedent set; Director Tsujii spoke to his experience in Guilford County as well as with many Boards that one ballot would be disqualified. Director Tsujii also clarified the tabulation process and application numbers noting that is to protect the sanctity and privacy of the ballot. Secretary Russell moved to

count the Election Day ballot and disqualify One-Stop ballots and to have Director Tsujii contact State Board of Elections; Member El-Amin seconded; **Motion carried unanimously.** Director Tsujii presented the Board with Provisional ballot submitted at Polo Park by a voter with an out of state driver's license who was provided a Reasonable Impediment form; however, the voter did not sign the Provisional ballot. Mr. Tsujii stated that multiple attempts were made to contact the voter since they were properly voted. The voter was unable to be reached and had not presented with identification. Chairman Raymond inquired of the attempts, Member El-Amin noted that it was the responsibility of the poll workers to verify that Provisional ballots are signed not the voter. Secretary Russell stated that signatures are crucial to processing and approval of Provisional ballots and that he believed that counseling the poll worker was necessary. Director Tsujii stated that he would provide the Board with an after Election assessment, assuring the Board that he would do everything in his power to make sure that it would not happen in future elections. Member El-Amin inquired if there was only one like it and Director Tsujii confirmed. Director Tsujii read N.C.G.S§163-167(c)(10) regarding signature requirement; Secretary Russell inquired if there was any indication that the voter was unable to sign to which Mr. Tsujii stated no and noted the signature requirements for Provisional ballots as per N.C.G.S§163-166.11; Secretary Russell read the statute of reference; noting affirmation is required; repeating his motion not to accept the Provisional ballot. Chairman Raymond motioned; Secretary Russell seconded; Member El-Amin dissented; **Motion carried by majority.**

Director Tsujii presented the Board with the Coleman ballot to initial, verify and disapprove. Mr. Tsujii gave an overview of the reasons and process of the Provisional ballots; Chairman Raymond inquired if there was a statutory requirement for the provisional slip. The Board and Director Tsujii discussed the overall process and precinct transfers. Secretary Russell motioned to revisit precinct transfers Thursday; Member El-Amin seconded; **Motion carried unanimously.**

Secretary Russell motioned to address 10 ballots with missing signatures on Thursday; Member El-Amin seconded; **Motion carried unanimously.**

Ms. Gary presented the Board with curbside ballots that required remarking for review. Director Tsujii requested that tabulation take place at next meeting as it may require additional time; noting that staff will use the preprocessing option approved by the Board and present on Thursday; adding that 212 curbside ballots will be preprocessed.

Director Tsujii provided the Board with a count of what had been processed to present: 890 Provisional ballots on Election Day – 946 total; 380 are left to process; 48 Provisionals were due to Identification issues – seven were Reasonable Impediments, five were during early voting and two on Election Day. Mr. Tsujii also provided the Board with a clarification regarding the reasonable impediment noting that the deadline to present identification was Monday at 12 Noon for those without a Reasonable Impediment. Additionally, the staff had 300 ATV's to process and reconcile.

Director Tsujii requested the Board approve an extension to Thursday, March 24, 2016 at 11 A.M. to complete the process; noting that Executive Director Kim Strach had been notified of the request. Mr. Tsujii also read for the record N.C.G.S§163-182.5(b) and stated that other

counties had also requested an extension. Chairman Raymond motioned; Secretary Russell seconded. **Motion carried unanimously.**

Other Business

Director Tsujii provided insight on the June 7, 2016 Primary as well as candidate filing which had started March 16, 2016 and only two candidates had filed to date. Mr. Tsujii also provided that the North Carolina House of Representatives District 5 and North Carolina Supreme Court Justices would be included on the June 7 ballots; the election will be county wide requiring Early Voting as well as all 101 precincts to be open. Mr. Tsujii provided that the State Board had issued a temporary order to exempt total hours thus the Early Voting schedule would be at the Boards discretion.

Ms. Gary provided the Board with the results of the absentee ballots; 126 without postmark – 25 were returned on Election Day, and 101 were received after Election Day.

Closed Session

Chair inquired of need for closed session; none required.

Adjournment

Chairman Raymond moved to adjourn; Secretary Russell seconded; **Motion carried unanimously.** Meeting adjourned at 2:35 P.M.

Approved:

Ken Raymond, Chair

Date

Stuart Russell, Secretary

Date

Fleming El-Amin, Member

Date

Attachments:

Board of Elections Meeting Agenda 03.22.16 - 11 am
Public Facilities Privacy & Security Act of 2016, H.B.2/S.L. 2016-3
Uniform Military and Overseas Voters Act (2011-182, s.1)
N.C.G.S§163-166.7; 166.11; 182.5; and 231

§ 163-182.5. Canvassing votes.

(a) The Canvass. - As used in this Article, the term "canvass" means the entire process of determining that the votes have been counted and tabulated correctly, culminating in the authentication of the official election results. The board of elections conducting a canvass has authority to send for papers and persons and to examine them and pass upon the legality of disputed ballots.

(b) Canvassing by County Board of Elections. - The county board of elections shall meet at 11:00 A.M. on the tenth day after every election held on the same day as a general election in November of the even-numbered year, and at 11:00 A.M. on the seventh day after every other election, to complete the canvass of votes cast and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. If, despite due diligence by election officials, the initial counting of all the votes has not been completed by that time, the county board may hold the canvass meeting a reasonable time thereafter. The canvass meeting shall be at the county board of elections office, unless the county board, by unanimous vote of all its members, designates another site within the county. The county board shall examine the returns from precincts, from absentee official ballots, from the sample hand-to-eye paper ballot counts, and from provisional official ballots and shall conduct the canvass.

(c) Canvassing by State Board of Elections. - After each general election, the State Board of Elections shall meet at 11:00 A.M. on the Tuesday three weeks after election day to complete the canvass of votes cast in all ballot items within the jurisdiction of the State Board of Elections and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. After each primary, the State Board shall fix the date of its canvass meeting. If, by the time of its scheduled canvass meeting, the State Board has not received the county canvasses, the State Board may adjourn for not more than 10 days to secure the missing abstracts. In obtaining them, the State Board is authorized to secure the originals or copies from the appropriate clerks of superior court or county boards of elections, at the expense of the counties. (2001-398, s. 3; 2003-278, s. 10(a); 2005-323, s. 5(c); 2005-428, s. 11(a).)

§ 163-166.7. Voting procedures.

(a) **Checking Registration.** – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address and presenting photo identification in accordance with G.S. 163-166.13. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots. If a precinct official states that the person is duly registered, the person shall sign the pollbook, other voting record, or voter authorization document in accordance with subsection (c) of this section before voting.

(b) **Distribution of Official Ballots.** – If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) **(Effective until January 1, 2018)** The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

- (1) The voting system remains secure throughout the period voting is being conducted.
- (2) Only properly voted official ballots or paper records of individual voted ballots are introduced into the voting system.
- (3) Except as provided by G.S. 163-166.9, no official ballots leave the voting enclosure during the time voting is being conducted there. The rules shall also provide that during that time no one shall remove from the voting enclosure any paper record or copy of an individually voted ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper record.
- (4) All improperly voted official ballots or paper records of individual voted ballots are returned to the precinct officials and marked as spoiled.
- (5) Voters leave the voting place promptly after voting.
- (6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.
- (7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
- (8) The registration records are kept secure. The State Board of Elections shall permit the use of electronic registration records in the voting place in lieu of or in addition to a paper pollbook or other registration record.
- (9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.
- (10) The voter, before voting, shall sign that voter's name on the pollbook, other voting record, or voter authorization document. If the voter is unable to sign,

a precinct official shall enter the person's name on the same document before the voter votes.

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- (7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
- (8) The registration records are kept secure. The State Board of Elections shall permit the use of electronic registration records in the voting place in lieu of or in addition to a paper pollbook or other registration record.
- (9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.
- (10) The voter, before voting, shall sign that voter's name on the pollbook, other voting record, or voter authorization document. If the voter is unable to sign, a precinct official shall enter the person's name on the same document before the voter votes. (2001-460, s. 3; 2003-226, s. 14.1; 2005-323, s. 1(a1); 2005-428, s. 12; 2013-381, ss. 2.5, 30.4.)

§ 163-231. Voting absentee ballots and transmitting them to the county board of elections.

(a) Procedure for Voting Absentee Ballots. - In the presence of two persons who are at least 18 years of age, and who are not disqualified by G.S. 163-226.3(a)(4) or G.S. 163-237(b1), the voter shall do all of the following:

- (1) Mark the voter's ballots, or cause them to be marked by that person in the voter's presence according to the voter's instruction.
- (2) Fold each ballot separately, or cause each of them to be folded in the voter's presence.
- (3) Place the folded ballots in the container-return envelope and securely seal it, or have this done in the voter's presence.
- (4) Make the application printed on the container-return envelope according to the provisions of G.S. 163-229(b) and make the certificate printed on the container-return envelope according to the provisions of G.S. 163-229(b).
- (5) Require those two persons in whose presence the voter marked that voter's ballots to sign the application and certificate as witnesses and to indicate those persons' addresses. Failure to list a ZIP code does not invalidate the application and certificate.

Alternatively to the prior paragraph of this subsection, any requirement for two witnesses shall be satisfied if witnessed by one notary public, who shall comply with all the other requirements of that paragraph. The notary shall affix a valid notarial seal to the envelope, and include the word "Notary Public" below his or her signature.

The persons in whose presence the ballot is marked shall at all times respect the secrecy of the ballot and the privacy of the absentee voter, unless the voter requests assistance and that person is otherwise authorized by law to give assistance. When thus executed, the sealed container-return envelope, with the ballots enclosed, shall be transmitted in accordance with the provisions of subsection (b) of this section to the county board of elections which issued the ballots.

(a1) Repealed by Session Laws 1987, c. 583, s. 1.

(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 those ballots as follows:

- (1) All ballots issued under the provisions of this Article and Article 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 and received by the county board not later than 5:00 p.m. on the day of 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.
- (2) If ballots are received later than the hour stated in subdivision (1) of this subsection, those ballots shall not be accepted unless one of the following applies:
 - a. Federal law so requires.
 - b. The ballots issued under this Article are postmarked and that postmark is dated on or before 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.
 - c. The ballots issued under Article 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.

(c) For purposes of this section, "Delivered in person" includes delivering the ballot to an election official at a one-stop voting site under G.S. 163-227.2 during any time that site is open for voting. The ballots shall be kept securely and delivered by election officials at that site to the county board of elections office for processing. (1939, c. 159, ss. 2, 5; 1941, c. 248; 1943, c. 736; c. 751, s. 1; 1945, c. 758, s. 5; 1963, c. 457, ss. 2, 5; 1967, c. 775, s. 1; 1971, c. 1247, s. 3; 1973, c. 536, s. 1; 1977, c.

469, s. 1; 1979, c. 799, s. 5; 1985, c. 562, ss. 1, 2; 1987, c. 583, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 991, s. 4; 1999-455, s. 11; 2009-537, ss. 6, 8(a); 2011-182, s. 5; 2013-381, s. 4.4; 2014-111, s. 11.)

Article 21A.

Uniform Military and Overseas Voters Act.

Part 1. Uniform Military and Overseas Voters Act.

§ 163-258.1. Short title.

This Article may be cited as the Uniform Military and Overseas Voters Act. (2011-182, s. 1.)

§ 163-258.2. Definitions.

As used in this Article:

- (1) "Covered voter" means any of the following:
 - a. A uniformed-service voter or an overseas voter who is registered to vote in this State.
 - b. A uniformed-service voter defined in subdivision (7) of this section whose voting residence is in this State and who otherwise satisfies this State's voter eligibility requirements.
 - c. An overseas voter who, before leaving the United States, was last eligible to vote in this State and, except for a State residency requirement, otherwise satisfies this State's voter eligibility requirements.
 - d. An overseas voter who, before leaving the United States, would have been last eligible to vote in this State had the voter then been of voting age and, except for a State residency requirement, otherwise satisfies this State's voter eligibility requirements.
 - e. An overseas voter who was born outside the United States, is not described in sub-subdivision c. or d. of this subdivision, and, except for a State residency requirement, otherwise satisfies this State's voter eligibility requirements, if:
 1. The last place where a parent or legal guardian of the voter was, or under this Article would have been, eligible to vote before leaving the United States is within this State; and
 2. The voter has not previously registered to vote in any other state.
- (2) "Dependent" means an individual recognized as a dependent by a uniformed service.
- (3) "Military-overseas ballot" means any of the following:
 - a. A federal write-in absentee ballot described in the Uniformed and Overseas Citizens Absentee Voting Act, section 103, 42 U.S.C. § 1973ff-2.
 - b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this Article.
 - c. A ballot cast by a covered voter in accordance with this Article.
- (4) "Overseas voter" means a United States citizen who is outside the United States.
- (5) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (6) "Uniformed service" means any of the following:
 - a. Active and reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States.
 - b. The Merchant Marine, the commissioned corps of the Public Health Service, and the commissioned corps of the

- National Oceanic and Atmospheric Administration of the United States.
- c. The National Guard and state militia units.
- (7) "Uniformed-service voter" means an individual who is qualified to vote and is one of the following:
- a. A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty.
 - b. A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States.
 - c. A member of the National Guard or State militia unit who is on activated status.
 - d. A spouse or dependent of a member referred to in this subdivision.
- (8) "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States. (2011-182, s. 1.)

§ 163-258.3. Elections covered.

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

- (1) A primary, general, or special election for federal or State office.
- (2) A State ballot measure.
- (3) A primary, general, special, or runoff election for local government office or a local ballot measure if absentee balloting is allowed under Article 20 of this Chapter. (2011-182, s. 1.)

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

(a) The State Board of Elections is the State official responsible for implementing this Article and the State's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff, et seq.

(b) The State Board of Elections shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots. The State Board of Elections may delegate the responsibility under this subsection only to the State office designated in compliance with the Uniformed and Overseas Citizens Absentee Voting Act, section 102(b)(1), 42 U.S.C. § 1973ff-1(b)(1).

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

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

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

the declaration, is a prominent part of all balloting materials for which the declaration is required. (2011-182, s. 1.)

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

In registering to vote, an overseas voter who is eligible to vote in this State shall use and shall be assigned to the precinct of the address of the last place of residence of the voter in this State, or, in the case of a voter described by G.S. 163-258.2(1)e., the address of the last place of residence in this State of the parent or legal guardian of the voter. If that address is no longer a recognized residential address, the voter shall be assigned an address for voting purposes. (2011-182, s. 1.)

§ 163-258.6. Methods of registering to vote.

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

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

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

(d) A covered voter's registration to vote by any method authorized by this section may be received at any time prior to the primary or election, but no later than 5:00 P.M. on the day before the primary or election. (2011-182, s. 1.)

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

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

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

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

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

(e) To receive the benefits of this Article, a covered voter shall inform the appropriate election official that the voter is a covered

voter. Methods of informing the appropriate election official that a voter is a covered voter include any of the following:

- (1) The use of a federal postcard application or federal write-in absentee ballot.
 - (2) The use of an overseas address on an approved voter registration application or ballot application.
 - (3) The inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.
- (f) This Article does not preclude a covered voter from voting an absentee ballot under Article 20 of this Chapter. (2011-182, s. 1.)

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

An application for a military-overseas ballot is timely if received by the appropriate election official by 5:00 P.M. of the day before the election or primary. An application from a covered voter for a military-overseas ballot shall be considered a valid absentee ballot request for any election covered under G.S. 163-258.3 held during the calendar year in which the application was received. (2011-182, s. 1.)

§ 163-258.9. Transmission of unvoted ballots.

(a) Not later than 60 days before the statewide general election in even-numbered years and not later than 50 days before any other election, the county board of elections shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application, except for a second primary. Provided, in a presidential election year, the board of elections shall provide general election ballots no later than three days after nomination of the presidential and vice presidential candidates if that nomination occurs later than 63 days prior to the statewide general election and makes compliance with the 60-day deadline impossible. However, in the case of municipal elections, absentee ballots shall be made available no later than 30 days before an election. For a second primary which includes a candidate for federal office, the county board of elections shall transmit a ballot and balloting material to all covered voters who by that date submit a valid military-overseas ballot application no later than 45 days before the second primary. For a second primary which does not include a candidate for federal office, the transmission of the ballot and ballot materials shall be as soon as practicable and shall be transmitted electronically no later than three business days and by mail no later than 15 days from the date the appropriate board of elections orders that the second primary be held pursuant to G.S. 163-111. If additional offices are added to the ballot to fill a vacancy occurring after the deadline provided by this subsection, those ballots shall be transmitted as soon as practicable.

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

(c) If a ballot application from a covered voter arrives after the jurisdiction begins transmitting ballots and balloting materials to voters, the official charged with distributing a ballot and balloting materials shall transmit them to the voter not later than two business days after the application arrives. (2011-182, s. 1; 2013-381, s. 17(b).)

§ 163-258.10. Timely casting of ballot.

To be valid, a military-overseas ballot shall either be received by the appropriate county board of elections no later than the close of the polls, or the covered voter shall submit the ballot for mailing, electronic transmission, or other authorized means of delivery not later than

12:01 A.M., at the place where the voter completes the ballot, on the date of the election. (2011-182, s. 1.)

§ 163-258.11. Federal write-in absentee ballot.

A covered voter may use the federal write-in absentee ballot, in accordance with the Uniformed and Overseas Citizens Absentee Voting Act, section 103, 42 U.S.C. § 1973ff-2, to vote for all offices and ballot measures in a covered election. (2011-182, s. 1.)

§ 163-258.12. Receipt of voted ballot.

(a) A valid military-overseas ballot cast in accordance with G.S. 163-258.10 shall be counted if it is delivered to the address that the appropriate State or local election office has specified by 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 to determine the final official results.

(b) If the ballot is timely received, it may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark. (2011-182, s. 1.)

§ 163-258.13. Declaration.

Each military-overseas ballot shall include or be accompanied by a declaration signed by the voter declaring that a material misstatement of fact in completing the document may be grounds for a conviction of perjury under the laws of the United States or this State. (2011-182, s. 1.)

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

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

- (1) The voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted; and
- (2) The voter's military-overseas ballot has been received and the current status of the ballot. (2011-182, s. 1.)

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

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

(b) A covered voter who provides an electronic mail address may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the calendar year of the date of the application or another shorter period the voter specifies, including for any runoff elections that occur as a

result of such elections. An election official shall provide a military-overseas ballot to a voter who makes a request for each election to which the request is applicable. A covered voter entitled to receive a military-overseas ballot for a primary election under this subsection is also entitled to receive a military-overseas ballot for the general election. (2011-182, s. 1.)

§ 163-258.16. Publication of election notice.

(a) Not later than 100 days before a regularly scheduled election to which this Article applies, and as soon as practicable in the case of an election or vacancy election not regularly scheduled, each county board of elections shall prepare an election notice for that jurisdiction to be used in conjunction with the federal write-in absentee ballot described in G.S. 163-258.11. For a second primary required by G.S. 163-111, the county board of elections shall prepare, no later than the day following the date the appropriate board of elections orders that a second primary be held, an election notice for that jurisdiction to be used in conjunction with the federal write-in absentee ballot. The election notice shall contain a list of all of the ballot measures and federal, State, and local offices that, as of that date, the official expects to be on the ballot on the date of the election. The notice also shall contain specific instructions for how a voter is to indicate on the federal write-in absentee ballot the voter's choice for each office to be filled and for each ballot measure to be contested.

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

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

(d) A county board of elections that maintains an Internet Web site shall make updated versions of its election notices regularly available on the Web site. (2011-182, s. 1.)

§ 163-258.17. Prohibition of nonessential requirements.

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

(b) An authentication, other than the declaration specified in G.S. 163-258.13 or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under this Article. The declaration and any information in the declaration may be compared against information on file to ascertain the validity of the document. (2011-182, s. 1.)

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

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

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

(2) An election official in this State. (2011-182, s. 1.)

§ 163-258.19. Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. (2011-182, s. 1.)

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

This Article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b). (2011-182, s. 1.)

§ 163-258.21: Reserved for future codification purposes.

§ 163-258.22: Reserved for future codification purposes.

§ 163-258.23: Reserved for future codification purposes.

§ 163-258.24: Reserved for future codification purposes.

§ 163-258.25: Reserved for future codification purposes.

Part 2. Other Military and Overseas Voters Absentee Provisions.

§ 163-258.26. Certified list of approved military-overseas ballot applications; record of ballots received; disposition of list; list constitutes registration.

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

"State of North Carolina

County of _____

I, _____, Chair of the _____ County Board of Elections, do hereby certify that the foregoing is a list of all executed 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. I further certify that I have issued ballots to no other persons than those listed herein and further that I have not delivered military-overseas ballots to persons other than those listed herein; that this list constitutes the only precinct registration of covered

voters whose names have not heretofore been entered on the regular registration of the appropriate precinct.

This the _____ day of _____, ____.

(Signature of Chair of County Board of Elections)

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

(Signature of Officer administering oath)

(Title of officer)"

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

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

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

(d) Counting Ballots, Hearing Challenges. - The county board of elections shall count military-overseas ballots as provided for civilian absentee ballots in G.S. 163-234, and shall hear challenges as provided in G.S. 163-89. (1941, c. 346, ss. 7-10, 12, 13; 1943, c. 503, ss. 4, 5; 1963, c. 457, s. 15; 1967, c. 775, s. 1; 1973, c. 536, s. 2; 1977, c. 265, s. 17; 1979, c. 797, s. 3; 1981, c. 155, s. 2; c. 308, s. 3; 1983, c. 331, s. 4; 1993 (Reg. Sess., 1994), c. 762, ss. 56, 57; 1999-456, s. 59; 2011-182, s. 2.)

§ 163-258.27. Article inapplicable to persons after change of status; reregistration not required.

An individual who no longer qualifies as a covered voter under the provisions of this Article shall not be entitled subsequently to vote by military-overseas ballot under this Article, but if the covered voter was registered under the provisions of this Article that voter's registration shall remain valid for the remainder of the calendar year that voter registered, and that voter shall be entitled to vote in any primary or election for the remainder of the calendar year without having to reregister. If requested by election officials, the voter shall present proof of

military status at the time of registration. This section does not entitle a person to vote in North Carolina if that person has become disqualified because of change of permanent residence to another State or because of conviction of a felony. (1943, c. 503, s. 12; 1967, c. 775, s. 1; 1999-424, s. 7(k); 2001-466, s. 4(e); 2011-182, s. 2.)

§ 163-258.28. Registration and voting on primary or election day.

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

If an individual so absent on the day registration closes shall appear in person at the voting place on election day and is otherwise eligible to vote, that individual shall be entitled to register and vote at the voting place that day, regardless of whether the person's uniformed service status has changed since the close of registration. (1977, c. 93; 1999-424, s. 7(l); 2001-353, s. 3; 2009-281, s. 1; 2011-182, s. 2.)

§ 163-258.29. Absentee voting at office of board of elections.

Notwithstanding any other provisions of this Chapter, any covered voter under this Article shall be permitted to vote an absentee ballot pursuant to G.S. 163-227.2 if the covered voter has not already voted an absentee ballot which has been returned to the board of elections, and if the covered voter will not be in the county on the day of the primary or election.

In the event an absentee application or ballot has already been mailed to the covered voter applying to vote pursuant to G.S. 163-227.2, the board of elections shall void the application and ballot unless the voted absentee ballot has been received by the board of elections. The covered voter shall be eligible to vote pursuant to G.S. 163-227.2 no later than 5:00 P.M. on the day next preceding the primary, second primary or election. (1977, c. 93; 1979, c. 797, s. 4; 2011-182, s. 2.)

§ 163-258.30. Regulations of State Board of Elections.

(a) The State Board of Elections shall adopt rules and regulations to carry out the intent and purpose of G.S. 163-258.28 and G.S. 163-258.29 and to ensure that a proper list of persons voting under said sections shall be maintained by the boards of elections, and to ensure proper registration records, and such rules and regulations shall not be subject to the provisions of Article 2A of Chapter 150B of the General Statutes.

(b) The State Board of Elections shall be the single office responsible for providing information concerning voter registration and absentee voting procedures to be used by covered voters as to all elections and procedures relating to the use of federal write-in absentee ballots. Unless otherwise required by law, the State Board of Elections shall be responsible for maintaining contact and cooperation with the Federal Voting Assistance Program, the United States Department of Defense, and other federal entities that deal with military and overseas voting. The State Board of Elections shall, as needed, make recommendations concerning military and overseas citizen voting to the General Assembly, the Governor, and other State officials. (1977, c. 93; 1987, c. 827, s. 1; 2003-226, s. 18; 2011-182, s. 2; 2012-194, s. 37.)

§ 163-258.31. Emergency powers.

If an international, national, or local emergency or other situation arises that makes substantial compliance with this Article or the Uniformed and Overseas Citizens Absentee Voting Act impossible or unreasonable, the State Board of Elections may prescribe, by emergency rule, such special procedures or requirements as may be necessary to facilitate absentee voting by those absent uniformed services voters or overseas voters directly affected who are eligible to vote in this State. The rule shall become effective when filed with the Codifier of Rules. (2009-537, s. 9; 2011-182, s. 2.)

**GENERAL ASSEMBLY OF NORTH CAROLINA
SECOND EXTRA SESSION 2016**

**SESSION LAW 2016-3
HOUSE BILL 2**

1 AN ACT TO PROVIDE FOR SINGLE-SEX MULTIPLE OCCUPANCY BATHROOM AND
2 CHANGING FACILITIES IN SCHOOLS AND PUBLIC AGENCIES AND TO CREATE
3 STATEWIDE CONSISTENCY IN REGULATION OF EMPLOYMENT AND PUBLIC
4 ACCOMMODATIONS.

5 Whereas, the North Carolina Constitution directs the General Assembly to provide for
6 the organization and government of all cities and counties and to give cities and counties such
7 powers and duties as the General Assembly deems advisable in Section 1 of Article VII of the
8 North Carolina Constitution; and

9 Whereas, the North Carolina Constitution reflects the importance of statewide laws
10 related to commerce by prohibiting the General Assembly from enacting local acts regulating
11 labor, trade, mining, or manufacturing in Section 24 of Article II of the North Carolina
12 Constitution; and

13 Whereas, the General Assembly finds that laws and obligations consistent statewide for
14 all businesses, organizations, and employers doing business in the State will improve intrastate
15 commerce; and

16 Whereas, the General Assembly finds that laws and obligations consistent statewide for
17 all businesses, organizations, and employers doing business in the State benefit the businesses,
18 organizations, and employers seeking to do business in the State and attracts new businesses,
19 organizations, and employers to the State; Now, therefore,

20
21 The General Assembly of North Carolina enacts:

22
23
24 **PART I. SINGLE-SEX MULTIPLE OCCUPANCY BATHROOM AND CHANGING**
25 **FACILITIES**

26 **SECTION 1.1.** G.S. 115C-47 is amended by adding a new subdivision to read:

27 "(63) To Establish Single-Sex Multiple Occupancy Bathroom and Changing
28 Facilities. – Local boards of education shall establish single-sex multiple
29 occupancy bathroom and changing facilities as provided in G.S. 115C-521.2."

30 **SECTION 1.2.** Article 37 of Chapter 115C of the General Statutes is amended by
31 adding a new section to read:

32 **"§ 115C-521.2. Single-sex multiple occupancy bathroom and changing facilities.**

33 (a) Definitions. – The following definitions apply in this section:

34 (1) Biological sex. – The physical condition of being male or female, which is
35 stated on a person's birth certificate.

36 (2) Multiple occupancy bathroom or changing facility. – A facility designed or
37 designated to be used by more than one person at a time where students may be
38 in various states of undress in the presence of other persons. A multiple
39 occupancy bathroom or changing facility may include, but is not limited to, a
40 school restroom, locker room, changing room, or shower room.

41 (3) Single occupancy bathroom or changing facility. – A facility designed or
42 designated to be used by only one person at a time where students may be in
43 various states of undress. A single occupancy bathroom or changing facility
44 may include, but is not limited to, a single stall restroom designated as unisex
45 or for use based on biological sex.

46 (b) Single-Sex Multiple Occupancy Bathroom and Changing Facilities. – Local boards of
47 education shall require every multiple occupancy bathroom or changing facility that is designated
48 for student use to be designated for and used only by students based on their biological sex.



1 (c) Accommodations Permitted. – Nothing in this section shall prohibit local boards of
2 education from providing accommodations such as single occupancy bathroom or changing
3 facilities or controlled use of faculty facilities upon a request due to special circumstances, but in
4 no event shall that accommodation result in the local boards of education allowing a student to use
5 a multiple occupancy bathroom or changing facility designated under subsection (b) of this section
6 for a sex other than the student's biological sex.

7 (d) Exceptions. – This section does not apply to persons entering a multiple occupancy
8 bathroom or changing facility designated for use by the opposite sex:

9 (1) For custodial purposes.

10 (2) For maintenance or inspection purposes.

11 (3) To render medical assistance.

12 (4) To accompany a student needing assistance when the assisting individual is an
13 employee or authorized volunteer of the local board of education or the
14 student's parent or authorized caregiver.

15 (5) To receive assistance in using the facility.

16 (6) To accompany a person other than a student needing assistance.

17 (7) That has been temporarily designated for use by that person's biological sex."

18 **SECTION 1.3.** Chapter 143 of the General Statutes is amended by adding a new
19 Article to read:

20 "Article 81.

21 "Single-Sex Multiple Occupancy Bathroom and Changing Facilities.

22 **"§ 143-760. Single-sex multiple occupancy bathroom and changing facilities.**

23 (a) Definitions. – The following definitions apply in this section:

24 (1) Biological sex. – The physical condition of being male or female, which is
25 stated on a person's birth certificate.

26 (2) Executive branch agency. – Agencies, boards, offices, departments, and
27 institutions of the executive branch, including The University of North Carolina
28 and the North Carolina Community College System.

29 (3) Multiple occupancy bathroom or changing facility. – A facility designed or
30 designated to be used by more than one person at a time where persons may be
31 in various states of undress in the presence of other persons. A multiple
32 occupancy bathroom or changing facility may include, but is not limited to, a
33 restroom, locker room, changing room, or shower room.

34 (4) Public agency. – Includes any of the following:

35 a. Executive branch agencies.

36 b. All agencies, boards, offices, and departments under the direction and
37 control of a member of the Council of State.

38 c. "Unit" as defined in G.S. 159-7(b)(15).

39 d. "Public authority" as defined in G.S. 159-7(b)(10).

40 e. A local board of education.

41 f. The judicial branch.

42 g. The legislative branch.

43 h. Any other political subdivision of the State.

44 (5) Single occupancy bathroom or changing facility. – A facility designed or
45 designated to be used by only one person at a time where persons may be in
46 various states of undress. A single occupancy bathroom or changing facility
47 may include, but is not limited to, a single stall restroom designated as unisex
48 or for use based on biological sex.

49 (b) Single-Sex Multiple Occupancy Bathroom and Changing Facilities. – Public agencies
50 shall require every multiple occupancy bathroom or changing facility to be designated for and only
51 used by persons based on their biological sex.

52 (c) Accommodations Permitted. – Nothing in this section shall prohibit public agencies
53 from providing accommodations such as single occupancy bathroom or changing facilities upon a
54 person's request due to special circumstances, but in no event shall that accommodation result in
55 the public agency allowing a person to use a multiple occupancy bathroom or changing facility
56 designated under subsection (b) of this section for a sex other than the person's biological sex.

57 (d) Exceptions. – This section does not apply to persons entering a multiple occupancy
58 bathroom or changing facility designated for use by the opposite sex:

59 (1) For custodial purposes.

- 1 (2) For maintenance or inspection purposes.
2 (3) To render medical assistance.
3 (4) To accompany a person needing assistance.
4 (4a) For a minor under the age of seven who accompanies a person caring for that
5 minor.
6 (5) That has been temporarily designated for use by that person's biological sex."
7

8 **PART II. STATEWIDE CONSISTENCY IN LAWS RELATED TO EMPLOYMENT AND**
9 **CONTRACTING**

10 **SECTION 2.1.** G.S. 95-25.1 reads as rewritten:

11 **"§ 95-25.1. Short title and legislative ~~purpose~~; purpose; local governments preempted.**

12 (a) This Article shall be known and may be cited as the "Wage and Hour Act."

13 (b) The public policy of this State is declared as follows: The wage levels of employees,
14 hours of labor, payment of earned wages, and the well-being of minors are subjects of concern
15 requiring legislation to promote the general welfare of the people of the State without jeopardizing
16 the competitive position of North Carolina business and industry. The General Assembly declares
17 that the general welfare of the State requires the enactment of this law under the police power of
18 the State.

19 (c) The provisions of this Article supersede and preempt any ordinance, regulation,
20 resolution, or policy adopted or imposed by a unit of local government or other political
21 subdivision of the State that regulates or imposes any requirement upon an employer pertaining to
22 compensation of employees, such as the wage levels of employees, hours of labor, payment of
23 earned wages, benefits, leave, or well-being of minors in the workforce. This subsection shall not
24 apply to any of the following:

- 25 (1) A local government regulating, compensating, or controlling its own
26 employees.
27 (2) Economic development incentives awarded under Chapter 143B of the General
28 Statutes.
29 (3) Economic development incentives awarded under Article 1 of Chapter 158 of
30 the General Statutes.
31 (4) A requirement of federal community development block grants.
32 (5) Programs established under G.S. 153A-376 or G.S. 160A-456."

33 **SECTION 2.2.** G.S. 153A-449(a) reads as rewritten:

34 (a) Authority. – A county may contract with and appropriate money to any person,
35 association, or corporation, in order to carry out any public purpose that the county is authorized
36 by law to engage in. A county may not require a private contractor under this section to abide by
37 ~~any restriction that the county could not impose on all employers in the county, such as paying~~
38 ~~minimum wage or providing paid sick leave to its employees, regulations or controls on the~~
39 ~~contractor's employment practices or mandate or prohibit the provision of goods, services, or~~
40 ~~accommodations to any member of the public as a condition of bidding on a ~~contract~~ contract or a~~
41 ~~qualification-based selection, except as otherwise required or allowed by State law."~~

42 **SECTION 2.3.** G.S. 160A-20.1(a) reads as rewritten:

43 (a) Authority. – A city may contract with and appropriate money to any person,
44 association, or corporation, in order to carry out any public purpose that the city is authorized by
45 law to engage in. A city may not require a private contractor under this section to abide by ~~any~~
46 ~~restriction that the city could not impose on all employers in the city, such as paying minimum~~
47 ~~wage or providing paid sick leave to its employees, regulations or controls on the contractor's~~
48 ~~employment practices or mandate or prohibit the provision of goods, services, or accommodations~~
49 ~~to any member of the public as a condition of bidding on a ~~contract~~ contract or a~~
50 ~~qualification-based selection, except as otherwise required or allowed by State law."~~

51
52 **PART III. PROTECTION OF RIGHTS IN EMPLOYMENT AND PUBLIC**
53 **ACCOMMODATIONS**

54 **SECTION 3.1.** G.S. 143-422.2 reads as rewritten:

55 **"§ 143-422.2. Legislative declaration.**

56 (a) It is the public policy of this State to protect and safeguard the right and opportunity of
57 all persons to seek, obtain and hold employment without discrimination or abridgement on
58 account of race, religion, color, national origin, age, biological sex or handicap by employers
59 which regularly employ 15 or more employees.

1 (b) It is recognized that the practice of denying employment opportunity and
2 discriminating in the terms of employment foments domestic strife and unrest, deprives the State
3 of the fullest utilization of its capacities for advancement and development, and substantially and
4 adversely affects the interests of employees, employers, and the public in general.

5 (c) The General Assembly declares that the regulation of discriminatory practices in
6 employment is properly an issue of general, statewide concern, such that this Article and other
7 applicable provisions of the General Statutes supersede and preempt any ordinance, regulation,
8 resolution, or policy adopted or imposed by a unit of local government or other political
9 subdivision of the State that regulates or imposes any requirement upon an employer pertaining to
10 the regulation of discriminatory practices in employment, except such regulations applicable to
11 personnel employed by that body that are not otherwise in conflict with State law."

12 **SECTION 3.2.** G.S. 143-422.3 reads as rewritten:

13 **"§ 143-422.3. Investigations; conciliations.**

14 The Human Relations Commission in the Department of Administration shall have the
15 authority to receive charges of discrimination from the Equal Employment Opportunity
16 Commission pursuant to an agreement under Section 709(b) of Public Law 88-352, as amended by
17 Public Law 92-261, and investigate and conciliate charges of discrimination. Throughout this
18 process, the agency shall use its good offices to effect an amicable resolution of the charges of
19 discrimination. This Article does not create, and shall not be construed to create or support, a
20 statutory or common law private right of action, and no person may bring any civil action based
21 upon the public policy expressed herein."

22 **SECTION 3.3.** Chapter 143 of the General Statutes is amended by adding a new
23 Article to read:

24 "Article 49B.

25 "Equal Access to Public Accommodations.

26 **"§ 143-422.10. Short title.**

27 This Article shall be known and may be cited as the Equal Access to Public Accommodations
28 Act.

29 **"§ 143-422.11. Legislative declaration.**

30 (a) It is the public policy of this State to protect and safeguard the right and opportunity of
31 all individuals within the State to enjoy fully and equally the goods, services, facilities, privileges,
32 advantages, and accommodations of places of public accommodation free of discrimination
33 because of race, religion, color, national origin, or biological sex, provided that designating
34 multiple or single occupancy bathrooms or changing facilities according to biological sex, as
35 defined in G.S. 143-760(a)(1), (3), and (5), shall not be deemed to constitute discrimination.

36 (b) The General Assembly declares that the regulation of discriminatory practices in places
37 of public accommodation is properly an issue of general, statewide concern, such that this Article
38 and other applicable provisions of the General Statutes supersede and preempt any ordinance,
39 regulation, resolution, or policy adopted or imposed by a unit of local government or other
40 political subdivision of the State that regulates or imposes any requirement pertaining to the
41 regulation of discriminatory practices in places of public accommodation.

42 **"§ 143-422.12. Places of public accommodation – defined.**

43 For purposes of this Article, places of public accommodation has the same meaning as defined
44 in G.S. 168A-3(8), but shall exclude any private club or other establishment not, in fact, open to
45 the public.

46 **"§ 143-422.13. Investigations; conciliations.**

47 The Human Relations Commission in the Department of Administration shall have the
48 authority to receive, investigate, and conciliate complaints of discrimination in public
49 accommodations. Throughout this process, the Human Relations Commission shall use its good
50 offices to effect an amicable resolution of the complaints of discrimination. This Article does not
51 create, and shall not be construed to create or support, a statutory or common law private right of
52 action, and no person may bring any civil action based upon the public policy expressed herein."

53 **PART IV. SEVERABILITY**

54 **SECTION 4.** If any provision of this act or its application is held invalid, the
55 invalidity does not affect other provisions or applications of this act that can be given effect
56 without the invalid provisions or application, and to this end the provisions of this act are
57 severable. If any provision of this act is temporarily or permanently restrained or enjoined by
58 judicial order, this act shall be enforced as though such restrained or enjoined provisions had not
59

1 been adopted, provided that whenever such temporary or permanent restraining order or injunction
2 is stayed, dissolved, or otherwise ceases to have effect, such provisions shall have full force and
3 effect.
4

5 **PART V. EFFECTIVE DATE**

6 **SECTION 5.** This act is effective when it becomes law and applies to any action
7 taken on or after that date, to any ordinance, resolution, regulation, or policy adopted or amended
8 on or after that date, and to any contract entered into on or after that date. The provisions of
9 Sections 2.1, 2.2, 2.3, 3.1, 3.2, and 3.3 of this act supersede and preempt any ordinance, resolution,
10 regulation, or policy adopted prior to the effective date of this act that purports to regulate a
11 subject matter preempted by this act or that violates or is not consistent with this act, and such
12 ordinances, resolutions, regulations, or policies shall be null and void as of the effective date of
13 this act.

14 In the General Assembly read three times and ratified this the 23rd day of March, 2016.
15

16
17 s/ Daniel J. Forest
18 President of the Senate
19

20
21 s/ Tim Moore
22 Speaker of the House of Representatives
23

24
25 s/ Pat McCrory
26 Governor
27

28
29 Approved 9:57 p.m. this 23rd day of March, 2016

§ 163-166.11. Provisional voting requirements.

If an individual seeking to vote claims to be a registered voter in a jurisdiction as provided in G.S. 163-82.1 and though eligible to vote in the election does not appear on the official list of eligible registered voters in the voting place, that individual may cast a provisional official ballot as follows:

- (1) An election official at the voting place shall notify the individual that the individual may cast a provisional official ballot in that election.
- (2) The individual may cast a provisional official ballot at that voting place upon executing a written affirmation before an election official at the voting place, stating that the individual is a registered voter in the jurisdiction as provided in G.S. 163-82.1 in which the individual seeks to vote and is eligible to vote in that election.
- (2a) A voter who has moved within the county more than 30 days before election day but has not reported the move to the board of elections shall not be required on that account to vote a provisional ballot at the one-stop site, as long as the one-stop site has available all the information necessary to determine whether a voter is registered to vote in the county and which ballot the voter is eligible to vote based on the voter's proper residence address. The voter with that kind of unreported move shall be allowed to vote the same kind of absentee ballot as other one-stop voters as provided in G.S. 163-227.2(e2).
- (3) At the time the individual casts the provisional official ballot, the election officials shall provide the individual written information stating that anyone casting a provisional official ballot can ascertain whether and to what extent the ballot was counted and, if the ballot was not counted in whole or in part, the reason it was not counted. The State Board of Elections or the county board of elections shall establish a system for so informing a provisional voter. It shall make the system available to every provisional voter without charge, and it shall build into it reasonable procedures to protect the security, confidentiality, and integrity of the voter's personal information and vote.
- (4) The cast provisional official ballot and the written affirmation shall be secured by election officials at the voting place according to guidelines and procedures adopted by the State Board of Elections. At the close of the polls, election officials shall transmit the provisional official ballots cast at that voting place to the county board of elections for prompt verification according to guidelines and procedures adopted by the State Board of Elections.
- (5) Repealed by Session Laws 2014-111, s. 12(b), effective August 6, 2014. (2003-226, s. 15; 2005-2, s. 4; 2005-428, s. 6(b); 2013-381, s. 49.3; 2014-111, s. 12(b).)