

Section B

U.S. ELECTION ASSISTANCE COMMISSION



2008 Election Administration & Voting Survey

Statutory Overview

In order to better understand state laws governing federal elections, the U.S. Election Assistance Commission, as part of its biennial Election Administration and Voting Survey, is collecting information on state election laws and procedures. These answers will help us to better understand the quantitative data relating to the 2008 general election that we are collecting from all U.S. states and territories.

We understand that responding to this Statutory Overview may require significant staff time on the part of your office. Please be assured that we have attempted to minimize the burden, and we appreciate your cooperation in this very important project.

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DIRECTIONS AND EXAMPLE

Please provide your state's legal citation for the responses to these questions (where applicable).

Please answer each question to the best of your ability. If terms are ambiguous or not relevant, please explain why. If a question is not applicable to your state, please explain why. If a definition or term lacks legal standing but is widely understood in practice, please explain. If election procedures vary at the local level within your state, please explain to the best of your ability.

If state laws are currently enjoined or otherwise blocked from enforcement by a state or federal court, please specify.

Please put your responses between the red, bracketed text lines. This will help us extract your answers into our central database.

Example:

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

- a. Over-vote

[Begin definition (a) below this line.]

Your answer goes here. You may enter the text directly, or cut and paste from another word processing program.

There is no limit to the length of your response.

[End definition (a) above this line.]

SECTION A: GENERAL

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

a. Over-vote

[Begin definition (a) below this line.]

(Beginning note: Please be aware that every voter in North Dakota votes on a paper ballot. The voter is required to darken the oval on the ballot next to the candidate or measure response for which they intend to cast a vote. In the event of a recount, however, voter intent, as far as it can be determined, is taken into account for the final vote tally. Every voter casting their ballot at a polling location does so by inserting their ballot into a polling place optical scan tabulator. Absentee ballots are counted by optical scan tabulators, but the voter is not present when the votes are read by the voting system. Knowing these things from the start should shed significant light on the answers given.)

Over-Vote: This term is not specifically defined in state law, but it is understood as the voter indicating more choices than are allowed for a particular contest on the ballot so that it is impossible to determine the voter's selection. The state's optical scan tabulators are programmed to notify the voter if an over-vote is detected to see if they voter would like a second chance to mark a ballot in a manner that will allow the tabulator to identify the voter's selections.

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

This term is not specifically defined in state law, but it is understood as the voter indicating fewer choices than are allowed for a particular contest on the ballot. The state's optical scan tabulators may be programmed to notify the voter if an under-vote exists, but this is not the general practice since the voter is not required to vote for a certain number of candidates or measure responses. The voter instructions limit the voter to whatever the "Vote For" language is printed on the ballot in connection with a contest.

16.1-06-04. Form and quality of ballots generally. All official ballots prepared under this title must:

1. Be printed on uniform quality and color of paper in an ink color suitable to make the ballot clearly legible and compatible with the electronic voting system requirements necessary to tabulate the votes.
2. Be of sufficient length to contain the names of all candidates to be voted for at that election.

3. Have the language "Vote for no more than _____ name (or names)" placed immediately under the name of each office.
4. Have printed thereon "To vote for the candidate of your choice, you must darken the oval opposite the name of the candidate. To vote for a person whose name is not printed on the ballot, write that person's name in the blank space provided for that purpose and darken the oval opposite the space provided."
5. Leave sufficient space for each office to write a name, or names, as the case may be, in lieu of those printed on the ballot.
6. Immediately preceding and on the same line as the name of each candidate must be printed an oval in which the voter is to mark the voter's choice by darkening the oval next to the name of the candidate chosen.
7. Provide two text boxes in the bottom right-hand corner of the party ballot. The first text box is to contain the words "All ballots, other than those used to vote absentee, must first be initialed by appropriate election officials in order to be counted." The second text box is to contain the words "Official Ballot", the name of the county, the name or number of the precinct, the date of the election, and the word "initials" preceding a blank line where the judge or inspector shall initial the ballot.

All ballots, other than
those used to vote absentee,
must first be initialed by
appropriate election officials
in order to be counted

Official Ballot
County
Precinct
(Date of the Election)
Initials

Any precinct that uses an electronic counting machine may require the use of a particular writing instrument to mark the ballot so the ballots may be properly counted.

The ballot must contain the names of all candidates, the contents of measures as required by section 16.1-06-09, and the statements of questions to be submitted to the voters. The ballot must be arranged in a manner and form approximating as far as possible the requirements of this section.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

This phrase is also not specifically defined in state law, but it is understood as a ballot deposited by a voter into the ballot box without votes marked for any

candidate or measure response in every contest on the ballot. The state's optical scan tabulators are programmed to notify the voter if a blank ballot is detected. The voter does have the right to cast a blank ballot, but we have the tabulator question the voter for the slight chance that the voter didn't follow the instructions on the ballot to mark their choices properly.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

These are two separate terms with different meanings under North Dakota law.

Void Ballot is a ballot from which votes cannot be counted for the following reasons:

1. The ballot was used as a sample ballot for display purposes in the polling location
2. The ballot is missing the initials of an election judge
3. The law does grant us the authority to not count a ballot that is blank or one in which it is impossible to determine any of the voter's choices, but we have elected to count these ballots since they were actually cast by a voter.

16.1-15-01. Ballots void and not counted – Part of ballot may be counted.

1. In the canvass of the votes at any election, a ballot is void and may not be counted if:
 - a. It is not endorsed with the initials as provided in this title; or
 - b. It is impossible to determine the elector's choice from the ballot or parts of a ballot, and in the case of electronic voting systems, based upon the criteria established by the secretary of state for counting votes on each electronic voting system authorized for procurement and use in the state according to section 16.1-06-26.
2. With the exception that a voter must, for paper ballots, darken the oval next to the preprinted name of a candidate or the name of a write-in candidate written on the ballot, if a ballot is marked so only a part of the voter's intention can be determined, the election judges shall count such part. If an elector votes for more than the number of persons to be elected to any office, the elector's ballot may be invalidated only insofar as the elector's vote for such office is concerned, and the balance of the elector's ballot, if otherwise proper, may not be invalidated. However, at primary elections only, a party ballot is void if the elector votes for candidates of more than one party.

A Spoiled Ballot is referenced in state law, but not specifically defined. In general it is used for the circumstance when a voter makes a mistake on their ballot and would like a new one to mark their selections correctly.

16.1-13-23. Preparation of ballot by elector – Depositing – Second-chance voting. Upon receipt of a ballot within the provided secrecy sleeve, the elector, forthwith and without leaving the polling place, shall retire alone to one of the voting booths or compartments to prepare the elector's ballot by darkening the oval opposite the name of each person for whom the elector wishes to vote. In the case of a ballot containing a constitutional amendment, an initiated or referred measure, or any other question to be submitted to a vote of the people, the elector shall darken the oval opposite the word or words expressing the elector's wish. After preparing the ballot, the elector shall place the ballot back in the provided secrecy sleeve so it is concealed and so the endorsement of the inspector or election judge may be seen. The elector then shall deposit the ballot in the optical scanning device and wait to determine if the ballot is deposited into the ballot box or if the optical scanning device has indicated a possibility for a second-chance voting condition. If a second-chance voting condition is indicated, a voter may spoil and receive up to two additional ballots. The voter's third ballot must be cast as is even if errors exist causing certain votes not to be counted.

16.1-13-32. Securing new ballot upon spoiling of others. If any elector spoils a ballot, the elector may obtain others successively, one at a time, not exceeding three in all, upon returning each spoiled ballot. Each paper ballot returned must be canceled immediately and, together with those not distributed to the electors, must be preserved and secured in sealed packages and returned to the county auditor from whom received.

16.1-15-08. Wrapping and returning of ballots to county recorder. After generating the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the election board shall cause the ballots containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. The ballots and wrappers must then be tightly secured at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the names or numbers of the precincts and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the county auditor so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person

to the county recorder. At the meeting of the county canvassing board, the county recorder shall deliver the ballots containing lawful write-in votes from all the precincts within the county. At the meeting of the county canvassing board, the county recorder shall deliver each ballot that may contain a write-in vote referenced in a demand made under subsection 1 of section 16.1-12-02.2. Ballots used with any electronic voting system or counted by an electronic counting machine must be sealed and returned as provided in this section.

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

These are the only provisional ballots allowed according to state law:

16.1-13-34. Voters casting ballots after regular poll closings –

Provisional ballots. An individual who votes after the regular poll closing time in an election in which a federal office appears as a result of a federal or state court order or any other order extending the time established for closing the polls under state law in effect ten days before the date of that election may only vote in that election by casting a provisional ballot. The ballot must be marked as a provisional ballot and must be separated and held apart from other ballots cast by those not affected by the order. The secretary of state shall approve the form of any provisional ballot and may prescribe any procedures the secretary of state determines to be necessary to facilitate the casting, secrecy, and counting of provisional ballots.

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

Any qualified elector of North Dakota may vote an absent voter's ballot prior to any election without need of a reason. A voter may obtain and cast their absent voter's ballot by either of the following ways:

1. Mail their absentee ballot application to the county election official, receive the ballot by mail, vote the ballot, and return it by mail to the county office where it will be accounted for in the Central Voter File and secured until it is processed on Election Day.
2. Whenever the ballots are ready for distribution from the county, which must be at least 40 days prior to the election, a voter may walk-in to the county office, request their ballot, vote, and return the ballot to the county office where it will be accounted for in the Central Voter File and secured until it is processed on Election Day.

UOCAVA voters have additional rights in that their ballot can be sent and returned electronically if they so desire.

16.1-07-01. Absent voter – Who may vote.

1. Any qualified elector of this state, including an individual who is in the armed forces of the United States, is in the merchant marine of the United States, or is a United States citizen living outside the United States who resided in this state immediately prior to the individual's departure from the United States, may vote an absent voter's ballot at any general, special, or primary state election, any county election, or any city or school district election.
2. A citizen of the United States who is eighteen years of age or older, has never lived in the United States, and whose parent is a qualified elector of the state may vote absentee in this state pursuant to this chapter if the individual:
 - a. Does not maintain a domicile;
 - b. Is not registered to vote in any other state, territory, or possession of the United States;
 - c. Is not voting in any other state, territory, or possession of the United States; and
 - d. Possesses a valid passport or card of identity and registration issued under the authority of the secretary of state of the United States.

Such an elector may vote only in federal elections, which means any election held solely or in part for the purpose of electing or nominating any candidate for the office of president, vice president, presidential elector, member of the United States senate, or member of the United States house of representatives.

3. An elector who votes by absentee ballot may not vote in person at the same election.

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

A county may operate one Early Voting Precinct for the entire county during the 15 days prior to Election Day. This polling location has the same look and feel as Election Day voting at a polling place.

16.1-07-15. Early voting precinct – Election board appointment – Closing and canvassing.

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may, before the sixtieth day before the day of the election, create a special precinct, known as an early voting precinct, to facilitate the conduct of early voting in that county according to chapters 16.1-13 and 16.1-15. The election board

of the early voting precinct must be known as the early voting precinct election board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.

2. If the board of county commissioners establishes an early voting precinct according to this section, the following provisions apply:
 - a. Early voting must be authorized during the fifteen days immediately before the day of the election. The county auditor shall designate the business days and times during which the early voting election precinct will be open and publish notice of the dates and times in the official county newspaper once each week for three consecutive weeks immediately before the day of the election.
 - b. The county auditor shall appoint the early voting precinct election board that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set out in section 16.1-05-01, to act as judges. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-05.
 - c. The county auditor, with the consent of the board of county commissioners, shall designate a space in a public facility, accessible to the elderly and the physically disabled as provided in section 16.1-04-02, to locate the early voting precinct.
 - d. At the close of each day of early voting, the inspector, along with a judge from each political party represented on the board, shall secure all election-related materials, including:
 - (1) The pollbooks and access to any electronically maintained pollbooks.
 - (2) The ballot boxes containing voted ballots.
 - (3) Any void, spoiled, and unvoted ballots.
 - e. Ballot boxes containing ballots cast at an early voting precinct may not be opened until the day of the election except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box in order to make room for additional ballots.
 - f. The early voting precinct may be closed, as provided in chapter 16.1-15, at the end of the last business day designated for early voting in the county. Results from the early voting precinct may be counted, canvassed, or released under chapter 16.1-15 as soon as any precinct within the county, city, or legislative district closes its polls on the day of the election. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing.

- g. The early voting precinct election board shall comply with the requirements of chapters 16.1-05, 16.1-13, and 16.1-15, as applicable.

[End definition (g) above this line.]

- h. Active Voter

[Begin definition (h) below this line.]

Any qualified elector who voted in an election during the time between and including the last two General Elections.

16.1-02-03. Secretary of state to establish the central voter file with department of transportation and county auditors.

1. Not later than the primary election in 2008, the secretary of state shall establish the central voter file in cooperation with the department of transportation and county auditors.
2. The secretary of state shall establish the initial central voter file from records maintained by the department of transportation. Each county auditor shall compare the initial central voter file against all precinct pollbooks used in the auditor's county during and created from the general elections in the two previous election years and any reasonably reliable updates made by the county auditor since the general elections in the two previous election years. Any individual contained in the initial central voter file who voted at either of the general elections in the two previous election years must be designated as "active" in the initial central voter file. Any individual contained in the initial central voter file who did not vote at either of the general elections in the two previous election years must be designated as "inactive" in the initial central voter file.
3. Each individual contained in the initial central voter file must be assigned a unique identifier. An individual's unique identifier must be created from unique information and data obtained from records maintained by the department of transportation and the pollbooks from the general elections in the two previous election years. If it is not possible to assign a unique identifier to an individual contained in the initial central voter file, a unique identifier must be randomly generated and assigned to the individual.
4. The secretary of state shall adopt rules for generating and assigning a unique identifier to each individual contained in the central voter file according to section 16.1-02-11 and subsection 3 of section 16.1-01-01.

5. When establishing the initial central voter file from the records maintained by the department of transportation and the pollbooks from the general elections in the two previous election years, the secretary of state and county auditors shall attempt to correct address errors and misspellings of names.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

Any qualified elector who has not voted in an election during the time between and including the last two General Elections.

16.1-02-03. Secretary of state to establish the central voter file with department of transportation and county auditors.

1. Not later than the primary election in 2008, the secretary of state shall establish the central voter file in cooperation with the department of transportation and county auditors.
2. The secretary of state shall establish the initial central voter file from records maintained by the department of transportation. Each county auditor shall compare the initial central voter file against all precinct pollbooks used in the auditor's county during and created from the general elections in the two previous election years and any reasonably reliable updates made by the county auditor since the general elections in the two previous election years. Any individual contained in the initial central voter file who voted at either of the general elections in the two previous election years must be designated as "active" in the initial central voter file. Any individual contained in the initial central voter file who did not vote at either of the general elections in the two previous election years must be designated as "inactive" in the initial central voter file.
3. Each individual contained in the initial central voter file must be assigned a unique identifier. An individual's unique identifier must be created from unique information and data obtained from records maintained by the department of transportation and the pollbooks from the general elections in the two previous election years. If it is not possible to assign a unique identifier to an individual contained in the initial central voter file, a unique identifier must be randomly generated and assigned to the individual.
4. The secretary of state shall adopt rules for generating and assigning a unique identifier to each individual contained in the central voter file according to section 16.1-02-11 and subsection 3 of section 16.1-01-01.
5. When establishing the initial central voter file from the records maintained

16.1-02-10. Posting voting history – Failure to vote – Individuals designated inactive. Within ninety days after each election, each county auditor shall post the voting history for each individual who voted in the election. After the close of the 2010 calendar year, the secretary of state shall determine if any individual has not voted during the preceding four years and shall change the status of each such individual to "inactive" in the central voter file. The secretary of state shall prepare a report to each county auditor which contains the name of each individual who has been designated as "inactive" in the central voter file. Although not counted in an election, a late absentee ballot from an individual may not be used to designate an individual as "inactive" in the central voter file.

[End definition (i) above this line.]

j. Other terms (please specify) _____

[Identify each TERM and definition separately and begin below this line.]

Absentee Ballot Precinct:

16.1-07-12.1. Absentee ballot precinct – Election board appointment – Ballot counting.

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may create a special precinct, known as an absentee ballot precinct, for the purpose of counting all absentee ballots cast in an election in that county. The election board of the absentee ballot precinct must be known as the absentee ballot counting board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.
2. If the board of county commissioners chooses to establish an absentee ballot precinct according to this section, the following provisions apply:
 - a. The county auditor shall appoint the absentee ballot counting board that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set forth in section 16.1-05-01, to act as judges. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-05.

- b. The county auditor shall have the absentee ballots delivered to the inspector of the absentee ballot counting board with the election supplies, or if received later, then prior to the closing of the polls.
- c. On the day of the election, the absentee ballot counting board shall occupy a location designated by the county auditor which must be open to any person for the purpose of observing the counting process.
- d. The absentee ballots must be opened and handled as required in section 16.1-07-12. The absentee ballot counting board may commence counting the absentee ballots at the same time as any precinct within the county, city, or legislative district opens its polls. As soon as all the polls in the county, city, or legislative district close and the count is completed, the inspector shall announce publicly the results. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12, as applicable.

[End TERM(s) and definition(s) above this line.]

A2. Please provide the legal citation for any **significant** changes to election laws or procedures that have been enacted or adopted since the previous Federal election. By “significant,” we do not mean routine or technical changes (such as changes to election district boundaries or polling place changes). However, we would like to learn about any new identification requirements for voters or registrants; changes in eligibility for voting or registering; adoption of alternative voting methods; and other changes that you believe represent a significant change in the way your state runs its elections.

[Begin response to above question (A2) below this line.]

Underline equals new text since the last election cycle:

“Secured Active Voters”

16.1-02-07. Reporting changes of names – Changes to records in the central voter file. The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by divorce or any order or decree of the court since the last report. Within sixty days after receiving the report, the secretary of state shall make the name changes in the central voter file and notify by mail each individual whose name was changed that the individual's name has been changed accordingly in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor. Any individual who has obtained a protection order under section 14-07.1-03 or who is protected by a disorderly conduct restraining order under section 12.1-31.2-01 must be listed in the central voter file with a “secured active” designation. A “secured active” designation means a record maintained as an active voter for pollbook purposes, but otherwise is an exempt record. The state court administrator or the bureau of criminal investigation shall make available upon request of the secretary of state the name of each individual who has obtained such an order.

Vote Centers

16.1-04-02. Voting places – Duties and responsibilities of the board of county commissioners or the governing body of the city. The board of county commissioners of each county:

1. Shall designate a voting place for each precinct and may alter the voting places when there is a good and sufficient reason. However, the voting places for precincts located within the boundaries of any incorporated city must be designated, and altered if required, by the governing body of the city.
2. Shall provide that all voting places are accessible to the elderly and the physically disabled.
3. May utilize vote centers that contain all of the precincts in a county so that any qualified elector of the county may choose to cast a ballot in that polling location. Qualified electors may vote early at early voting precincts, by absentee ballot, at the polling location of their residential precinct, or at a county vote center. Vote center polling places must serve as the designated polling place for at least one precinct in the county in addition to serving as the site where any county voter may cast a ballot. An individual voting or attempting to vote more than once in any single election is guilty of a class A misdemeanor.

Election Clerks Hired by County rather than Appointed by Political Parties

16.1-05-01. Election officers. At each primary, general, and special statewide or legislative district election, and at county elections, each polling place must have an election board in attendance. The election board must consist of an election inspector and at least two election judges. Counties utilizing polling places containing more than one precinct may choose to use one election board to supervise all precincts even if the precincts are within different legislative districts so long as each district chairman of each qualified political party is given the opportunity to have representation on the election board if desired.

1. The election inspector must be selected in the following manner:
 - a. Except as provided in subdivision b, in all precincts established by the governing body of an incorporated city pursuant to chapter 16.1-04, the governing body shall appoint the election inspectors for those precincts and fill all vacancies occurring in those offices.
 - b. In all multiprecinct polling locations containing both rural and city precincts, the county auditor, with the approval of the majority of the board of county commissioners, shall appoint the election inspectors and fill all vacancies occurring in those offices. The selection must be made on the basis of the inspector's knowledge of the election procedure.
 - c. The election inspector shall serve until a successor is named. If an inspector fails to appear for any training session without excuse, the office

is deemed vacant and the auditor shall appoint an individual to fill the vacancy.

All appointments required to be made under this section must be made at least forty days preceding an election.

2. The election judges for each polling place must be appointed in writing by the district chairs representing the two parties that cast the largest number of votes in the state at the last general election. In polling places in which over one thousand votes are cast in any election, the county auditor may request each district party chair to appoint an additional election judge.
3. The district party chair shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges at least forty days before the primary, general, or special election. If this notice is not received within the time specified in this section, the county auditor shall appoint the judges. If the county auditor has exhausted all practicable means to select judges from within the boundaries of the precincts within the polling place and vacancies still remain, the county auditor may select election judges who reside outside of the voting precinct but who reside within the polling place's legislative districts. If vacancies still remain, the county auditor may select election judges who reside outside of the legislative districts but who reside within the county.
4. If at any time before or during an election, it shall be made to appear to an election inspector, by the affidavit of two or more qualified electors of the precinct, that any election judge is disqualified under this chapter, the inspector shall remove that judge at once and shall fill the vacancy by appointing a qualified person of the same political party as that of the judge removed. If the disqualified judge had taken the oath of office as prescribed in this chapter, the inspector shall place the oath or affidavit before the state's attorney of the county.
5. With the approval of the majority of the board of county commissioners, the county auditor may appoint as many poll clerks as are necessary for the proper administration of a polling place. However, no fewer than two poll clerks must be appointed for each polling place. Poll clerks must be appointed based on their knowledge of election matters, attention to detail, and on any necessary technical knowledge.

Post Election Testing of Voting Systems

16.1-06-15. Mandatory testing of electronic voting systems before each election and after tabulation of ballots.

1. All electronic voting systems used in this state must be tested to ascertain whether the automatic tabulating equipment will accurately count the votes

2. The test of an electronic voting system employing paper ballots must be conducted by processing a preaudited group of ballots on which are recorded a predetermined number of valid votes for each candidate and measure and must include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. During the test a different number of valid votes must be assigned to each candidate for an office and for and against each measure. If an error is detected, the cause of it must be ascertained and corrected, and an errorless count must be secured and filed as provided in this section.
3. The test must be conducted at least one week before the election. One week before the test is conducted, the county auditor must send the district chairman of each political party having a candidate on the ballot a notice of the test. The notice must state the time, place, and date of the test or tests and that the district chairman or district chairman's designee may attend.
4. At the conclusion of the test, the programming for each electronic voting device must be sealed within the device with a unique numbered seal that must be verified by the election inspector before the opening of the polls to make sure the programming has not been removed from the device.
5. After each election, the secretary of state shall order a random testing of the voting system programming for one precinct in each county of the state according to logic and accuracy testing procedures detailed in subsection 2 and as may be further defined by the secretary of state in writing. This test is to be conducted before the meeting of the county canvassing board.

Added Requirements for Absentee Ballot Application for Matching Purposes Only

16.1-07-06. Application form.

1. Application for an absent voter's ballot must be made on a form, prescribed by the secretary of state, to be furnished by the proper officer of the county, city, or school district in which the applicant is an elector, on any form, approved by the secretary of state, or any blank containing the following information:
 - a. The applicant's name.
 - b. The applicant's current or most recent North Dakota residential address.
 - c. The applicant's mailing address.
 - d. The applicant's current home telephone number.

- e. The election for which the ballot is being requested.
- f. The date of the request.
- g. An affirmation that the applicant has resided, or will reside, in the precinct for at least thirty days next preceding the election.
- h. The applicant's signature.
- i. A space for the voter to include the voter's precinct or voting location, if known.
- j. The applicant's birth date and year.
- k. The applicant's motor vehicle operator's license or nondriver identification number, if available.

If the applicant is unable to sign the applicant's name, the applicant shall mark (X) on the application in the presence of a disinterested person. The disinterested person shall print the name of the person marking the X below the X and shall sign the disinterested person's own name following the printed name together with the notation "witness to the mark".

- 2. The application for a qualified elector serving on active duty as a uniformed service member or a family member who is a qualified elector and stationed at a location other than that individual's voting residential address must include the following additional information if the voter desires to vote by facsimile or electronic mail:
 - a. Facsimile telephone number; or
 - b. Electronic mail address.
- 3. The application for a qualified elector living outside the United States must include a facsimile telephone number or electronic mail address if the voter desires to vote by facsimile or electronic mail.

Electronic Poll Books Authorized

16.1-11-32. Poll lists kept by clerks of elections. The clerks of primary elections shall keep either one paper or one electronic list of the names of all persons voting at each primary election. The clerks must return the list, which must be a part of the records and filed with other election returns. Only one complete list of voters may be kept whether or not a special election is held simultaneously with the primary election.

Mail Ballot Elections Authorized for All Elections

Chapter 16.1-11.1 – Mail Ballot Elections

16.1-11.1-01. Counties may conduct mail ballot elections – Polling places – Records. The board of county commissioners of a county may conduct an election by mail ballot. The mail ballot election must include city elections administered by the county auditor and may include any other election administered by the county auditor pursuant to an agreement with the governing body of a political subdivision within the

county. The board shall designate at least one polling place in the county to be open on the day of the election for voting in the usual manner. The county auditor shall place a notice at all polling places in the county used at the last statewide election which states the location of the polling places open for the election. The county auditor shall keep a record of each mail ballot provided to qualified electors and provide to the election board at each polling place open on the day of the election a list of every person who applied for a mail ballot.

16.1-11.1-02. Application for mail ballots. The county auditor shall mail an application form for a mail ballot to each person listed in the central voter file for the county on one date no sooner than the forty-fifth day before the election and no later than the thirtieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the following form:

I, _____, am or will be a qualified elector

(please print name)

and to my best knowledge and belief am or will be entitled to vote at the election. I apply for an official mail ballot to be voted by me at that election. I understand that it is a criminal offense to knowingly vote when not qualified to do so.

I have or will have resided at the below address for at least thirty days before the election. My telephone number is _____.

Dated _____, _____.

(Signature of Applicant)

(Mailing Address)

_____, North Dakota_____
(City) (Zip Code)

16.1-11.1-03. Mail ballot distribution. The county auditor shall mail an official mail ballot with a return identification envelope and instructions sufficient to describe the voting process to each qualified elector who returns a properly completed application form to the auditor by five p.m. on the fourth day before the election. The voting instructions must contain a statement informing the elector that the elector is entitled to complete the mail ballot in secrecy. The auditor shall mail the ballot by first-class mail, addressed to the address of the elector completing and returning a mail ballot application, and placed in an envelope that is prominently marked "Do Not Forward". The return

identification envelope must contain the following form:

I, _____, under penalty of possible criminal prosecution
(please print name)

for making a false statement, certify that I am or will be a qualified elector for the election and have not and will not vote more than one ballot in this election. I also understand that failure to complete the information below will invalidate my ballot.

(Signature of voter)

(Mailing Address)

_____, North Dakota _____
(City) (Zip Code)

16.1-11.1-04. Voting by electors. Upon receipt of a mail ballot, an elector shall mark it, sign the return identification envelope, and comply with the instructions provided with the ballot. The elector may return the completed ballot to the county auditor by mail or, before five p.m. on the day before the election, to any other place of deposit designated by the auditor. If the elector returns the ballot by mail, the elector shall provide the postage, and the ballot must be postmarked no later than the day before the election.

16.1-11.1-05. Replacement ballots. An elector may obtain a replacement ballot if a mail ballot is destroyed, spoiled, lost, or not received by the elector. The elector seeking a replacement ballot shall sign a sworn statement that the ballot was destroyed, spoiled, lost, or not received and shall present the statement to the county auditor no later than four p.m. on the day before the election.

16.1-11.1-06. Canvass of votes – Special election board. The county auditor shall appoint a special election board for the purpose of counting mail ballots. The board may begin scanning the ballots after the polls open on the day of the election but may not total the results until the closing time of the polls. A county conducting a mail ballot election constitutes one voting area, and ballots need not be sorted according to precinct or ward unless necessary for the administration of the election.

16.1-11.1-07. Counting of mail ballots. A mail ballot may be counted only if:

1. The ballot is returned in the return identification envelope;
2. The envelope is signed by the elector to whom the ballot is issued; and
3. The signature has been verified by the election board with the signature on the elector's mail ballot application form.

16.1-11.1-08. Election laws applicable. When applicable, all election procedures provided in this title must be followed.

Removal of Voter Disability Declaration in order to Receive Assistance

16.1-13-27. Assistance to elector – Polling place accessibility. Any elector may receive the assistance of any person of the elector's choice, other than the elector's employer, officer or agent of the elector's union, a candidate running in that election, or a relative of a candidate as provided in subsection 2 of section 16.1-05-02, in marking the elector's ballot. If the elector requests the assistance of a member of the election board, however, the elector shall receive the assistance of both election judges in the marking of the elector's ballot. No one assisting any elector in marking a ballot under this chapter may give information regarding the ballot. No elector, other than one who requests assistance, may divulge to anyone within the polling place the name of any candidate for whom the elector intends to vote, nor ask, nor receive the assistance of any person within the polling place to mark the elector's ballot. Parking facilities at polling places must be accessible to the elderly and the physically disabled and must be clearly marked.

[End response to above question (A2) above this line.]

SECTION B: VOTER REGISTRATION FILES

B1. Is your state's voter ~~registration~~ database system best described as a bottom-up, a top-down, or a hybrid? (Note: A bottom-up system generally uploads information retained at the local level and compiled at regular intervals to form the statewide voter ~~registration~~ list. A top-down system is hosted on a single, central platform/mainframe and is generally maintained by the state with information supplied by local jurisdictions. A hybrid is some combination of both systems described above.)

[Begin response to above question (B1) below this line.]

North Dakota is the only state without any form of voter registration. I will answer these questions, but it must be remembered that my answers must be seen in light of the fact that we do not register voters!

We do, however, maintain a statewide list of everyone who has voted. This list has nothing to do with who can vote at an election, it is simply for the purposes of election administration efficiency, to help the electors of the state discover their precincts and polling places, to track voting history and other important statistical information, to determine if any voter is trying to commit voter fraud, and the means by which candidates, political parties, and political committees can obtain lists of voters in order to stay in touch with constituents and encourage people to get out and vote.

This list of voters would be considered a "top-down" system. The chapter of North Dakota law governing the Central Voter File is 16.1-02.

[End response to above question (B1) above this line.]

If your state has a bottom-up or hybrid system, how often do local jurisdictions transmit ~~registration~~ information to the state list?

[Begin response to above clarification question to B1 below this line.]

Not Applicable in North Dakota.

[End response to above clarification question to B1 above this line.]

B2. Please describe the process used in your state to move voters from the active list to the inactive list, and from the inactive list to the active list. Is a different process used for UOCAVA voters?

[Begin response to above question (B2) below this line.]

When a voter votes, they are considered an "active" voter within the Central Voter File. If a voter does not vote in an election for two General Elections, they are considered "inactive," but this "inactive" status does not keep a resident of the state from voting if they so desire.

The process is the same for UOCAVA voters.

[End response to above question (B2) above this line.]

B3. Please describe your state's process for removing voters from the voter ~~registration~~ rolls (not merely moving them from active to inactive). Please include information

regarding notices and confirmations. Are these procedures the same for UOCAVA voters?

[Begin response to above question (B3) below this line.]

Voters may be placed in a removable status for reasons that they have deceased or upon receipt of a notice that the voter has registered to vote in another state or US territory.

State law does not require us to send any notices or confirmations since even a status of removable for reason of deceased doesn't keep a living resident of this state from casting a ballot. Mistakes can happen, but a mistake in processing the record of a voter doesn't get in the way of that voter's ability to vote.

[End response to above question (B3) above this line.]

B4. Can your state's voter ~~registration~~ database (or equivalent) share information electronically with your state's drivers license agency (for example, to match records or trace changes in address)? Can your voter ~~registration~~ database be similarly linked with databases in any other state or federal agencies? Please describe these links, including any use of database matching to verify voter ~~registration applications~~ files.

[Begin response to above question (B4) below this line.]

The North Dakota Central Voter File has a system connection with the software systems of the Department of Transportation, Vital Records, North Dakota Association of Counties, and the State Courts.

Every voter with a driver's license has that license number attached to their record in the Central Voter File as well. This allows us to match any changes the DOT might receive from a driver with the correct voter record. Since we do not have voter registration, we are allowed to make changes to a voter's record without the voter's specific request to do so. Our systems communicate once each week.

Vital Records software system communicates with the Central Voter File once each month to transfer the names and other matching information of the people of ND who have died in the previous month. Our system uses name, birth date, and address for matching criteria to associate the death record to the correct voter maintained in the Central Voter File. When an automatic match doesn't exist, the death record is processed either by the state Central Voter File Manager or by the county local election official.

North Dakota Association of Counties created a program for the counties to use to maintain marriage records within the state through which we receive monthly updates regarding name changes. Similar matching criteria are for this as with Vital Records.

The State Court system has a monthly connection to the Central Voter File to inform us of name changes that take place through action of the courts and to inform us of those voters who have protection orders so that they can be designated as "secured active" voters. Anyone who is designated as secured active in the Central Voter File will not have their information transferred to anyone, even to those eligible to buy voter lists.

The Central Voter File system is not currently connected to any federal agency databases and there are no plans to create any connections at this time.

[End response to above question (B4) above this line.]

B5. Please describe how your state uses National Change of Address (NCOA). What has been your state's experience with using NCOA?

[Begin response to above question (B5) below this line.]

North Dakota has not utilized NCOA to this point. We are still trying to determine if this is the best method to keep track of address changes.

[End response to above question (B5) above this line.]

B6. Please describe your state's voting eligibility requirements as they relate to individuals with a felony conviction. (For example, are convicted felons allowed to vote while in prison or while on parole or probation? Are voting rights automatically restored or does the individual have to apply for a pardon, certificate of eligibility or other similar certificate? Does an individual whose voting rights have been restored have to produce documentation of his/her status when ~~registering~~ to vote?)

[Begin response to above question (B6) below this line.]

A convicted felon is not allowed to vote while they are incarcerated. Upon release, their voting rights are restored.

12.1-33-01. Rights lost.

1. A person sentenced for a felony to a term of imprisonment, during the term of actual incarceration under such sentence, may not:
 - a. Vote in an election; or
 - b. Become a candidate for or hold public office.
2. A public office, other than an office held by one subject to impeachment, held at the time of sentence is forfeited as of the date of the sentence if the sentence is in this state, or, if the sentence is in another state or in a federal court, as of the date a certification of the sentence from the sentencing court is filed in the office of the secretary of state who shall receive and file it as a public document. An appeal or other proceeding taken to set aside or otherwise nullify the conviction or sentence does not affect the application of this section, but if the conviction is reversed, the defendant shall be restored to any public office forfeited under this section from the time of the reversal and shall be entitled to the emoluments thereof from the time of the forfeiture.

12.1-33-02. Rights retained by convicted person. Except as otherwise provided by law, a person convicted of a crime does not suffer civil death or corruption of blood or sustain loss of civil rights or forfeiture of estate or property, but retains all of his rights, political, personal, civil, and otherwise, including the right to hold public office or employment; to vote; to hold, receive, and transfer property; to enter into contracts; to

sue and be sued; and to hold offices of private trust in accordance with law.

[End response to above question (B6) above this line.]

B7. Does your state currently use the Internet in any way to facilitate voter registration? If yes, please describe how your state allows voters to use the Internet in the registration process (e.g., entire registration completed online; completed online but then must be printed, signed, and mailed by voter, etc.).

[Begin response to above question (B7) below this line.]

Not Applicable in North Dakota.

[End response to above question (B7) above this line.]

SECTION C: ELECTION ADMINISTRATION

C1. Please describe how all votes cast at a place other than the voter's precinct of registration are tabulated (for example, please include descriptions of such votes as absentee ballots, mail-in ballots, votes cast at vote centers, provisional ballots, early voting locations, etc.).

a. Are the votes counted centrally or at the precincts?

[Begin response to above question (a) below this line.]

Absentee ballots may be counted centrally or at the precincts. It is a county decision to make.

Any ballot cast where an election board is in place (Election Day polling locations, early voting precincts, or vote centers) is counted at that polling location. The only time this would not be true is in the circumstance where an extended length power outage or machine malfunction would require voters to place their ballots in the emergency ballot boxes.

North Dakota has never had a provisional ballot cast.

[End response to above question (a) above this line.]

b. If centrally tabulated, are the votes redirected to the appropriate precinct for reporting in the canvass?

[Begin response to above question (b) below this line.]

The votes cast by every voter are associated with the voter's precinct whether they are counted centrally or at the polling place.

[End response to above question (b) above this line.]

c. Are the absentee, mail, etc., votes reported separately for each precinct, or are they added to the in-precinct results and reported as just a single number?

[Begin response to above question (c) below this line.]

North Dakota counties have all been given the authority to separate the votes from the ballots cast into their appropriate groups. They have also been given the tools in the voting system to do this. Whether they do this or not has been granted as a county decision. The reason is that some counties could easily have only one ballot cast from a voter in a sub-group of the election totals and reporting the results by group would reveal how that voter voted. If the counties wish to separate the votes into groups, the state recommends the following groups for ballots cast in:

- Absentee
- Early Voting
- Election Day
- Canvassing

[End response to above question (c) above this line.]

d. How are UOCAVA ballots counted and reported?

[Begin response to above question (d) below this line.]

They are reported as a part of the election totals, but they could be a part of the absentee group if the county uses groups within their tabulation database.

[End response to above question (d) above this line.]

C2. Does your state require a reason for voting absentee, or does your state allow no-excuse absentee voting? (If a reason is required, please provide the legal citation.)

[Begin response to above question (C2) below this line.]

North Dakota has no excuse absentee voting.

[End response to above question (C2) above this line.]

C3. Does your state provide for in-person early voting? If so, how is early voting defined? When early voting is used, are the ballots counted at the precinct or at a central location? How are these votes reported?

[Begin response to above question (C3) below this line.]

Early voting is a precinct that may be open to the public in the fifteen days prior to an election. It is run just like an Election Day precinct in that there is an election board present and the votes are tabulated as the ballots are cast.

16.1-07-15. Early voting precinct – Election board appointment – Closing and canvassing.

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may, before the sixtieth day before the day of the election, create a special precinct, known as an early voting precinct, to facilitate the conduct of early voting in that county according to chapters 16.1-13 and 16.1-15. The election board of the early voting precinct must be known as the early voting precinct election board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.
2. If the board of county commissioners establishes an early voting precinct according to this section, the following provisions apply:
 - a. Early voting must be authorized during the fifteen days immediately before the day of the election. The county auditor shall designate the business days and times during which the early voting election precinct will be open and publish notice of the dates and times in the official county newspaper once each week for three consecutive weeks immediately before the day of the election.
 - b. The county auditor shall appoint the early voting precinct election board that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set out in section 16.1-05-01, to act as judges. Each official of the board shall take the oath required by section

- c. The county auditor, with the consent of the board of county commissioners, shall designate a space in a public facility, accessible to the elderly and the physically disabled as provided in section 16.1-04-02, to locate the early voting precinct.
- d. At the close of each day of early voting, the inspector, along with a judge from each political party represented on the board, shall secure all election-related materials, including:
 - a. The pollbooks and access to any electronically maintained pollbooks.
 - b. The ballot boxes containing voted ballots.
 - c. Any void, spoiled, and unvoted ballots.
- e. Ballot boxes containing ballots cast at an early voting precinct may not be opened until the day of the election except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box in order to make room for additional ballots.
- f. The early voting precinct may be closed, as provided in chapter 16.1-15, at the end of the last business day designated for early voting in the county. Results from the early voting precinct may be counted, canvassed, or released under chapter 16.1-15 as soon as any precinct within the county, city, or legislative district closes its polls on the day of the election. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing.
- g. The early voting precinct election board shall comply with the requirements of chapters 16.1-05, 16.1-13, and 16.1-15, as applicable.

[End response to above question (C3) above this line.]

C4. Do any jurisdictions in your state use a vote-by-mail system to replace (and not merely supplement) at-the-precinct voting in any elections?

[Begin response to above question (C4) below this line.]

Twenty-three counties are running their elections as vote by mail. I included the entire chapter on vote by mail elections earlier in this document since it is a new initiative allowed by law this year. But I also included it because vote by mail in North Dakota is different from how it is run in every other jurisdiction.

In North Dakota, vote by mail is simply a modification of the absentee voting process. Forty-five days prior to the election, every elector of a county is sent an absentee ballot application. The individual then needs to take the initiative to complete the application and return it to the county auditor's office. Upon receipt of the completed and signed application, the county will send a ballot to the voter who then can vote the ballot and return it along with the voter's affidavit to the county auditor. When the voted ballot is received by the county auditor, the receipt of the ballot is marked in the voter's record in the Central Voter File and it is securely stored until it is processed on Election Day.

Every county running vote by mail elections is required to have at least one polling place open on Election Day for those voters desiring to cast their ballot at a polling place.

This is different from other vote by mail elections because no person is automatically sent a ballot. Every voter must request a ballot in North Dakota.

[End response to above question (C4) above this line.]

C5. Please list each of the situations that require a provisional ballot in your state. Please provide the relevant legal citation for each situation.

[Begin response to above question (C5) below this line.]

Provisional ballots are extremely rare in North Dakota. We've never had one in fact.

16.1-13-34. Voters casting ballots after regular poll closings – Provisional ballots. An individual who votes after the regular poll closing time in an election in which a federal office appears as a result of a federal or state court order or any other order extending the time established for closing the polls under state law in effect ten days before the date of that election may only vote in that election by casting a provisional ballot. The ballot must be marked as a provisional ballot and must be separated and held apart from other ballots cast by those not affected by the order. The secretary of state shall approve the form of any provisional ballot and may prescribe any procedures the secretary of state determines to be necessary to facilitate the casting, secrecy, and counting of provisional ballots.

[End response to above question (C5) above this line.]

C6. Does your state count provisional ballots of voters who are registered in different precincts, or are those ballots automatically rejected? Please describe the process used by local election officials in determining whether to count a provisional ballot.

[Begin response to above question (C6) below this line.]

Not applicable in North Dakota.

[End response to above question (C6) above this line.]

C7. Please describe your state's laws regarding post-election audits, if any.

[Begin response to above question (C7) below this line.]

16.1-06-15. Mandatory testing of electronic voting systems before each election and after tabulation of ballots.

1. All electronic voting systems used in this state must be tested to ascertain whether the automatic tabulating equipment will accurately count the votes cast for all offices and measures. The testing must be conducted prior to each election at which the system will be used. The testing must be done by the county auditor or county auditor's designee, and after each test, the testing materials and any preaudited ballots used during the test must be sealed and retained in the same manner as election materials after an election.
2. The test of an electronic voting system employing paper ballots must be conducted by processing a preaudited group of ballots on which are recorded a predetermined number of valid votes for each candidate and measure and must include for each office one or more ballots which have votes in excess

of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. During the test a different number of valid votes must be assigned to each candidate for an office and for and against each measure. If an error is detected, the cause of it must be ascertained and corrected, and an errorless count must be secured and filed as provided in this section.

3. The test must be conducted at least one week before the election. One week before the test is conducted, the county auditor must send the district chairman of each political party having a candidate on the ballot a notice of the test. The notice must state the time, place, and date of the test or tests and that the district chairman or district chairman's designee may attend.
4. At the conclusion of the test, the programming for each electronic voting device must be sealed within the device with a unique numbered seal that must be verified by the election inspector before the opening of the polls to make sure the programming has not been removed from the device.
5. After each election, the secretary of state shall order a random testing of the voting system programming for one precinct in each county of the state according to logic and accuracy testing procedures detailed in subsection 2 and as may be further defined by the secretary of state in writing. This test is to be conducted before the meeting of the county canvassing board.

[End response to above question (C7) above this line.]

C8. Please describe any state requirements for poll worker training.

[Begin response to above question (C8) below this line.]

16.1-05-03. Secretary of state and county auditors to distribute election information – County auditor to provide instruction.

1. Not less than thirty days before any primary, general, or special election, the secretary of state shall provide an instruction manual approved by the attorney general, which in layman's terms presents in detail the responsibilities of each election official. The secretary of state shall forward sufficient copies of this manual to each county auditor who shall distribute the manuals to each member of all the election boards in the county.
2. Before each primary and general election, each county auditor or the auditor's designated representative shall conduct training sessions on election laws and election procedures for election officials in the county and may conduct training sessions before any special statewide or legislative district election. The session or sessions must be conducted at such place or places throughout the county as the county auditor determines to be necessary. Attendance at the session is mandatory for members of the election board and for poll clerks. The county auditor shall notify the members of the election boards, poll clerks, and the state's attorney of the time and place of the session. The state's

attorney shall attend all sessions to give advice on election laws. The county auditor shall invite the district chairman in that county representing any political party casting at least five percent of the total votes cast for governor at the last election to attend the session at the chairman's own expense. On the date of the course or courses, the county auditor may deliver to all election inspectors at the meeting the official ballots and all other materials as provided in chapter 16.1-06. Except as otherwise provided in this section, each person attending the course or courses must be compensated as provided in section 16.1-05-05.

3. An election official, at the option of the county auditor, may be excused from attending a third training session on election laws within a twelve-month period. If an election official has attended a training session within the six months preceding a special election, the election official must be compensated at the pay appropriate for those having attended a training session, as provided in section 16.1-05-05, for that election.

[End response to above question (C8) above this line.]

SECTION D: ELECTION DAY ACTIVITIES

D1. Please describe your state's process for capturing "over-vote" and "under-vote" counts.

[Begin response to above question (D1) below this line.]

The state's optical scan tabulators are programmed to record every over-vote and under-vote cast on a ballot.

[End response to above question (D1) above this line.]

D2. What identification does your state require from voters in the following situations:

- a. registering to vote;

[Begin response to above question (a) below this line.]

Not applicable in North Dakota.

[End response to above question (a) above this line.]

- b. casting an in-person ballot;

[Begin response to above question (b) below this line.]

Every voter is asked to show identification when checking in to vote, however, if the voter does not have or will not show their identification, the voter may be allowed to vote if a poll worker knows the voter to be a qualified elector of the precinct or if the voter is willing to complete a voter's affidavit.

16.1-05-07. Poll clerks to check identification and verify eligibility – Poll clerks to request, correct, and update incorrect information contained in the pollbook.

1. Before delivering a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show identification, which includes the individual's residential address and date of birth. The identification may include:
 - b. An official form of identification issued by the state;
 - c. An official form of identification issued by a tribal government;
 - d. A form of identification prescribed by the secretary of state; or
 - e. A combination of any of the forms of identification under subdivisions a through c.
2. If an individual offering to vote does not have or refuses to show an appropriate form of identification, the individual may be allowed to vote without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct.

3. If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.
4.
 - a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
 - c. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
 - d. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
5. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.

[End response to above question (b) above this line.]

- c. casting a mail-in or absentee vote;

[Begin response to above question (c) below this line.]

The voter is required to sign a voter's affidavit.

[End response to above question (c) above this line.]

- d. casting a ballot under UOCAVA;

[Begin response to above question (d) below this line.]

The voter is required to sign a voter's affidavit.

[End response to above question (d) above this line.]

- e. any other stage in registration or voting process in which identification is required (please specify).

[Begin response to above question (e) below this line.]

None.

[End response to above question (e) above this line.]

D3. Please describe your state's laws regarding access to the polling place for election observers. Election observers are people allowed inside the polling place who are not poll workers, election officials or voters. If decisions on access to observers are left to local jurisdictions, please explain.

[Begin response to above question (D3) below this line.]

The following section of state law describes many things including the types of allowed observers. (see highlights)

16.1-05-06. Challenging right of person to vote – Identification or affidavit required – Penalty for false swearing – Optional poll checkers.

1. One poll challenger appointed by the district chairman of each political party represented on the election board is entitled to be in attendance at each polling place. Individual poll challengers may be replaced at any time during the hours of voting, but no more than one poll challenger from each political party is entitled to be in attendance at each polling place at any one time.
2. Any member of the election board may challenge the right of an individual to vote if the election board member has knowledge or has reason to believe the individual is not a qualified elector. A poll challenger may request members of the election board to challenge the right of an individual to vote if the poll challenger has knowledge or has reason to believe the individual is not a qualified elector of the precinct. A challenge may be based upon any one of the following:
 - a. The individual offering to vote does not meet the age or citizenship requirements.
 - b. The individual offering to vote has never voted in the precinct before, the name of the individual offering to vote does not appear in the pollbook generated from the central voter file, and the individual fails to provide reasonable evidence of residency in the precinct.
 - c. Except as provided in section 16.1-01-05, the individual offering to vote physically resides outside of the precinct.
 - d. The individual offering to vote does not meet the residency requirements provided in section 16.1-01-04.
 - e. The individual offering to vote fails or refuses to provide an appropriate form of identification as requested under subsection 3.
3. If after an election board member has requested that the individual offering to vote provide an appropriate form of identification to address any of the voting eligibility concerns listed in subsection 2 and the identification is not provided or does not adequately confirm the eligibility of the challenged individual, the challenged individual may not vote unless the challenged individual executes an affidavit, acknowledged before the election inspector, that the challenged individual is a legally qualified elector of the precinct.
4. The affidavit must include:
 - a. The name, present address, and any contact telephone number of the affiant and the address of the affiant at the time the affiant last voted.
 - b. The previous last name of the affiant if it was different when the affiant

- c. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
 - d. Notice of the penalty for making a false affidavit and that the county auditor may verify the affidavit.
 - e. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
5. Written notice of the penalty for making a false affidavit and that the county auditor shall verify the affidavits must also be prominently displayed at the polling place in a form prescribed by the secretary of state. An individual who falsely swears in order to vote is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.
6. In addition to the poll challenger, not more than two poll checkers appointed by the district chairman of each political party represented on the election board may be in attendance at each polling place, provided the poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties. The poll challengers and poll checkers must be qualified electors of the district in which they are assigned.
7. No poll challenger or checker may be a member of the election board.
8. The district chairman shall notify the county auditor of each county contained in the legislative district before the third day before the day of the election of the names of individuals whom the district chairman has appointed to serve as poll challengers and poll checkers in the precincts in the legislative district.

[End response to above question (D3) above this line.]

SECTION E: OTHER

E1. Under HAVA, Section 402, states are required to have in place administrative complaint procedures to remedy grievances. Has your state revised its administrative complaint procedures since they were first implemented? If so, how?

[Begin response to above question (E1) below this line.]

No changes.

[End response to above question (E1) above this line.]

E2. Please add any additional comments or information about your state's election administration processes that would help to inform the EAC's interpretation of your data.

[Begin response to above question (E2) below this line.]

Ending notes: Please be aware that every voter in North Dakota votes on a paper ballot. The voter is required to darken the oval on the ballot next to the candidate or measure response for which they intend to cast a vote. In the event of a recount, however, voter intent, as far as it can be determined, is taken into account for the final vote tally. Every voter casting their ballot at a polling location does so by inserting their ballot into a polling place optical scan tabulator. Absentee ballots are counted by optical scan tabulators, but the voter is not present when the votes are read by the voting system. Knowing these things should shed significant light on the answers given.

North Dakota is the only state without any form of voter registration. I answered the questions in the voter registration section as best I could based our method of election administration, but it must be remembered that my answers must be seen in light of the fact that we do not register voters!

[End response to above question (E2) above this line.]

* The information collection associated with the Election Administration and Voting Survey is required for the EAC to meet its statutory requirements under the Help America Vote Act (HAVA) of 2002 (42 U.S.C. 15301), the National Voter Registration Act (NVRA) (42 U.S.C. 1973gg-1 et seq.), and the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) (42 U.S.C. 1973ff-1). Respondent's obligation to reply to this information collection is mandatory as required under NVRA (42 U.S.C. 1973gg-1 et seq.) and UOCAVA (42 U.S.C. 1973ff-1). This part of the information collection is being requested to help the EAC to better understand state laws governing federal elections. Respondents include the fifty states, the District of Columbia, and the U.S. Territories. This information will be made publicly available on the EAC website (www.eac.gov). According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB Control No. 3265-0006 (expires 3/31/09). The time required to complete this information collection is estimated to average 59 hours per state response. This estimate includes the time for reviewing the instructions, gathering information, and completing the form. Comments regarding this burden estimate should be sent the U.S. Election Assistance Commission – 2008 Election Administration and Voting Survey, 1225 New York Avenue, Suite 1100, Washington, DC 20005.