

# U.S. ELECTION ASSISTANCE COMMISSION



## *2012 Election Administration & Voting Survey*

### **North Dakota**

## *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 EAC to better understand the quantitative data relating to the 2012 general election that we are collecting from all U.S. states and territories.

EAC understands 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). Prior to beginning the Statutory Overview, please ensure that "track changes" is turned on; this will provide a record of all changes that are made including insertions, deletions, and formatting changes. To turn on track changes hold down "Control" and "Shift" and "E" at the same time. For additional assistance in working with "track changes" please contact your Technical Assistance point of contact at ICF International.

We have provided you with your answers to the 2010 Statutory Overview. If there has not been a change in your State's laws or legal citation in the response to a question, please mark No Change Since 2010 with an "X" as shown below:

**X** **No Change Since 2010**

If the response has changed since 2010, please mark Changed Since 2010 with an "X" and modify the answer as needed using track changes. If you need to replace the entire answer, please delete the 2010 response and record your 2012 response between the red bracketed text lines, as described below.

**X** **Changed Since 2010**

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 statutory reference 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, or executive decision, please specify.

Please keep 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**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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**

       No Change Since 2010        X   Changed Since 2010

**2010 Response:**

[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 recorder.

**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 if these votes were not canvassed by the polling place election board on election night according to section 16.1-12-02.2. 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**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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**

       No Change Since 2010      X   Changed Since 2010

**2010 Response:**

[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. These ballots for UOCAVA voters are available 46 days prior to the election. (see page 20 for expansion of absentee)

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

Any qualified elector of this state may vote an absent voter's ballot at any general, special, or primary state election, county election, or any city or school district election. An elector who votes by absentee ballot may not vote in person at the same election.

- 1.

[End definition (f) above this line.]

**g. Early voting**

  X   No Change Since 2010           Changed Since 2010

**2010 Response:**

[Begin definition (g) below this line.]



A county may operate Early Voting Precincts for the entire county during the 15 days prior to Election Day. These polling locations have 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. At the determination of the county auditor, more than one voting location may be utilized for the purposes of operating the early voting precinct. 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 early voting center locations, 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 for each voting location 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 each early voting location in a public facility, accessible to the elderly and the physically disabled as provided in section 16.1-04-02. With respect to polling places at early voting precincts, “election day” as used in sections 16.1-10-03 and 16.1-10-06.2 includes any time an early voting precinct polling place is open.
  - 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 location 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. Each early voting location 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**

       No Change Since 2010        X   Changed Since 2010

#### **2010 Response:**

[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 2010, 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 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**

       No Change Since 2010        X   Changed Since 2010

**2010 Response:**

[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 2010, 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 randomly generated and assigned to the individual.
4. 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.

**16.1-02-10. Posting voting history – Failure to vote – Individuals designated inactive.** Within seventy-five 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 each even-numbered 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) \_\_\_\_\_

\_\_\_\_\_ No Change Since 2010      X   Changed Since 2010

**2010 Response:**

[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. The absentee ballot counting board shall occupy a location designated by the county auditor which must be open to any individual 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.

#### 16.1-07 ABSENT VOTERS' BALLOTS & ABSENTEE VOTERS

##### 16.1-07-18 Definitions

1. **"Covered voter"** means:
  - a. A uniformed-service voter whose voting residence is in this state;
  - b. 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;
  - c. 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; or
  - d. Any other overseas voter who was born outside the United States 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 Act 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 or voted in any other state.
2. "**Dependent**" means an individual recognized as a dependent by the applicable uniformed service.
3. "**Military-overseas ballot**" means:
  - a. A federal write-in absentee ballot described in the Uniformed and Overseas Citizens Absentee Voting Act [103, 42 U.S.C. 1973ff-2];
  - b. A ballot specifically prepared or distributed for use by a covered voter in accordance with sections 16.1-07-19 through 16.1-07-33; or
  - c. A ballot cast by a covered voter in accordance with sections 16.1-07-19 through 16.1-07-33.
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:
  - 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; and
  - c. The national guard and state militia units.
7. "**Uniformed-service voter**" means an individual who is qualified to vote and is:
  - 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; or
  - d. A spouse or dependent of a member referred to in this subsection.

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

#### 16.1-08.1-01 Definitions

5. "**Direct expenditure**" means an expenditure made by a corporation, cooperative corporation, limited liability company, or association for the specific purpose of promoting passage or defeat of an initiated or referred measure without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of a measure committee.

**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. “Significant” does not include routine or technical changes (such as changes to election district boundaries or polling place changes). However, EAC 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.**

       No Change Since 2010                        X   Changed Since 2010

**2010 Response:**

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

**4-22-21. Regular election of district - When held - Regulations governing.** The regular election of soil conservation districts must be held at the same time, and at the same place, as the general election is held. All qualified electors in the district may vote in any regular election of the district. Any land occupier living in the district desiring to be a candidate for the office of supervisor at a district election and who has failed to file a nominating petition may campaign and be elected as a write-in candidate for the office .

**15.1-09-13. Election precincts - Polling places - Election officials.**

3. For school board elections not held in conjunction with county elections, the board shall appoint two election judges and two election clerks for each precinct. Before opening the polls, the judges and clerks shall take an affirmation or oath to perform their duties according to law and to the best of their ability. The affirmation or oath may be administered by any officer authorized to administer oaths or by any of the judges or clerks.

4. For school board elections held in conjunction with county elections, the county election boards shall administer the election in the same manner as the county or state election.

**16.1-01-01. Secretary of state to supervise election procedures – County administrator of elections.**

2. In addition to other duties provided elsewhere by law, the secretary of state shall:

1. Develop and conduct a test election for the state's voting system prior to each statewide election utilizing the votes cast within each county according to the logic and accuracy testing required in section 16.1-06-15.

5. In addition to other statutory duties, the county auditor shall:

c. Fully comply with the test election required of this section.

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

3. Each individual contained in the initial central voter file must be assigned a unique identifier. An individual's unique identifier must be randomly generated and assigned to the individual.

4.



**16.1-02-04. Precinct boundaries changed - Change to the central voter file.**

When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the central voter file to accurately reflect those changes. The county auditor shall provide to the secretary of state all materials requested for existing precincts or to assist in making or verifying the required changes.

**16.1-02-12. Information contained and maintained in the central voter file.** The central voter file must contain the following information for each individual included in the file:

The central voter file must contain the following information for each individual included in the file:

1. The complete legal name of the individual.
2. The complete residential address of the individual.
3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.
5. A designation showing whether the individual's ability to vote in a precinct has been inactivated as a result of death or because the individual is no longer a resident of the precinct according to section 16.1-01-04.
6. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides.
7. Beginning in 2008, four years of an individual's voting history, if applicable.
8. Date of birth.
9. The identification number and state of any state-issued identification regardless of the state in which the identification was issued, if available.
10. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the central voter file.

**16.1-02-13. Information contained in pollbooks generated from the central voter file.**

The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the day before an election. With the exception of a record designated "secured active" and the voter's birth date and identification number of any state-issued identification regardless of the state in which the identification was issued, which are exempt records, the precinct pollbooks are open records under section 44-04-18.

**16.1-05-09. Election observers.**

1. Election observers must be allowed uniform and nondiscriminatory access to all stages of the election process, including the certification of election technologies, early voting, absentee voting, voter appeals, vote tabulation and recounts.
2. An election observer may not wear any campaign material advocacy voting for or against a candidate or for or against any position on a question on the ballot. An election observer may not interfere with any voter in the preparation or casting



of the voter's ballot or hinder or prevent the performance of the duties of any election official.

**16.1-07-05. Time for applying for ballot – Emergency situations – Sufficient time for application and ballot return.**

1. At any time in an election year, any qualified elector may apply to the county auditor, the auditor or clerk of the city, or the business manager of the school district, as the case may be, by personal delivery, facsimile, electronic email or otherwise, for an official ballot to be voted at that election. A voter may obtain an application form approved of the secretary of state, for an absent voter's ballot for a general, special, primary, county, city, or school election from the secretary of state a county or city auditor, a candidate, a political party, or a political committee. The application form must include a space for the applicant to indicate whether the application is for all statewide elections in the calendar year or only for the election that is immediately after the date of the application.
2. No auditor or clerk may issue ballots for absentee voters on the day of the election except to individuals prevented from voting in person on the day of the election due to an emergency. An individual requesting an absentee ballot on the day of the election due to an emergency must do so through an agent as set forth in this chapter. An agent may represent only one individual. The absentee ballot must be returned to the county auditor's office by four p.m. on the day of the election.
3. A completed application must be submitted to the appropriate election official in a timely manner so as to allow the applicant to receive, complete, and mail the absent voter's ballot before the day of the election.

**16.1-07-09. Canvassing of mailed absent voter's ballots received late.** In the case of congressional, state, county, city, or school district elections, if an envelope postmarked or otherwise officially marked by the United States postal service or other mail delivery system before the date of election and containing an absent voter's ballot is received by the officer too late to be forwarded to the proper voting precinct in time to be tabulated, the ballot must be tallied by the canvassing board of the county, the governing body of the city, or the school board of the school district, as the case may be, at the time the returns are canvassed. Any envelope without a postmark or other official marking by the United States postal service or other mail delivery system or with an illegible postmark or other official marking and containing an absentee voter's ballot must be received by mail by the proper officer prior to the meeting of the canvassing board. An absent voter may personally deliver the absent voter's ballot to the appropriate officer's office at any time before five p.m. on the day before the election. Any envelope containing an absent voter's ballot with a postmark or official date stamp on the day of the election or thereafter may not be tallied with the ballots timely submitted for the election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding the ballot shall print the date of receipt on the envelope. Upon receipt, the canvassing board shall determine that the elector was qualified to vote in that precinct, that the elector did not previously vote in that precinct on the date of the

election, and that the signatures on the absentee ballot application and the voter's affidavit were signed by the same person before allowing the ballot to be tallied.

**16.1-07-10. Care and custody of ballot.** Upon receipt of an envelope containing the absent voter's ballot, the proper officer immediately shall attach the application of the absent voter and file the ballot with other absentee ballots from the same precinct. Before delivering the absentee ballots to the precinct, the proper officer shall package the ballots in a manner so the ballots are sealed securely. The package must be endorsed with the name of the proper voting precinct, the name and official title of the officer, and the words "This package contains an absent voter's ballot and must be opened only according to the processing provisions of section 16.1-07-12." The officer shall keep the package safely in the officer's office until it is delivered by the officer as provided in this chapter

**16.1-07-11. Submitting ballot to inspector of elections.** If the envelope containing the absent voter's ballot is received by the county auditor, auditor or clerk of the city, or business manager of the school district, as the case may be, prior to that person's delivery of the sealed package containing the official ballots to the inspector of elections of the precinct in which such absent voter resides, such ballot, after having been enclosed with the application in an envelope as required by section 16.1-07-10, must be enclosed in such package and delivered therewith to the inspector of the precinct. If the official ballots for the precinct have been delivered to the election inspector at the time of receipt by the proper officer of the absent voter's ballot, then the officer or the officer's designee shall personally deliver it to the inspector prior to the close of the polls on election day. Any absent voter's ballot sent to the wrong precinct by the official whose duty it is to forward such ballots to the precincts, or any absent voter's ballot received by the inspector from the appropriate officer too late to be counted at the precinct, must be returned to the official by the election inspector, and must be tallied by the county canvassing board, the governing body of the city, or the school board, as the case may be, with other absent voters' ballots received too late to be counted on election day.

**16.1-07-12. Opening ballot – Voting or rejecting – Depositing in ballot box – Preserving.** At any time beginning on the day before election day and the closing of the polls on election day, the election clerks and board members of the relevant precinct first shall compare the signature on the application for an absent voter's ballot with the signature on the voter's affidavit provided for in section 16.1-07-08 to ensure the signatures correspond. If the applicant is then a duly qualified elector of the precinct and has not voted at the election, they shall open the absent voter's envelope in a manner as not to destroy the affidavit thereon. They shall take out the secrecy envelope with the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined, and indicate in the pollbook of the election that the elector has voted. The election board members not participating in the comparing of signatures and entering voters into the pollbook shall remove the ballot or ballots from the secrecy envelope, unfold and initial the same, and deposit in the proper ballot box for tabulation. The votes from these cast ballots may not be tallied and the tabulation reports may not be generated until the polls have closed on election day. If the affidavit on the outer envelope of a returned absentee ballot is found to be insufficient, or that the signatures on the application and affidavit do not correspond, or that

the applicant is not then a duly qualified elector of the precinct, the vote may not be allowed, but without opening the absent voter's envelope, the election inspector or election judge shall mark across the face thereof "rejected as defective" or "rejected as not an elector", as the case may be. These rejected ballots are then turned over to the county canvassing board for final determination of eligibility. The subsequent death of an absentee voter after having voted by absentee ballot does not constitute grounds for rejecting such ballot.

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

d. The absentee ballots must be opened and handled as required in section 16.1-07-12. 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. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12, as applicable.

**16.1-07-18. Definitions.**

In sections 16.1-07-18 through 16.1-07-33:

8. "Covered voter" means:
  - e. A uniformed-service voter whose voting residence is in this state;
  - f. 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;
  - g. 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; or
  - h. Any other overseas voter who was born outside the United States and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:
    3. The last place where a parent or legal guardian of the voter was, or under this Act would have been, eligible to vote before leaving the United States is within this state; and
    4. The voter has not previously registered to vote or voted in any other state.
9. "Dependent" means an individual recognized as a dependent by the applicable uniformed service.
10. "Military-overseas ballot" means:
  - d. A federal write-in absentee ballot described in the Uniformed and Overseas Citizens Absentee Voting Act [103, 42 U.S.C. 1973ff-2];
  - e. A ballot specifically prepared or distributed for use by a covered voter in accordance with sections 16.1-07-19 through 16.1-07-33; or

- f. A ballot cast by a covered voter in accordance with sections 16.1-07-19 through 16.1-07-33.
- 11. "Overseas voter" means a United States citizen who is outside the United States.
- 12. "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.
- 13. "Uniformed service" means:
  - d. Active and reserve components of the army, navy, air force, marine corps, and coast guard of the United States;
  - e. 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; and
  - f. The national guard and state militia units.
- 14. "Uniformed-service voter" means an individual who is qualified to vote and is:
  - e. 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;
  - f. 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;
  - g. A member of the national guard or state militia unit who is on activated status; or
  - h. A spouse or dependent of a member referred to in this subsection.

#### **16.1-07-19. Elections covered.**

The voting procedures in sections 16.1-07-18 through 16.1-07-33 apply to:

- 1. A general, special, or primary election for federal office.
- 2. A general, special, or primary election for statewide or state legislative office or state ballot measure.
- 3. A general, special, or primary election for political subdivision office or political subdivision ballot measure.

#### **16.1-07-20. Role of secretary of state.**

- 1. The secretary of state is responsible for implementing sections 16.1-07-18 through 16.1-07-33 and the state's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff et seq.].
- 2. The secretary of state shall make available to covered voters information regarding procedures for casting military-overseas ballots.

3. The secretary of state shall establish an electronic transmission system through which covered voters may apply for and receive documents and other information under sections 16.1-07-18 through 16.1-07-33.
4. The secretary of state shall develop standardized absentee-voting materials, including privacy and transmission envelopes and 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.
5. The secretary of state 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 must be based on the declaration prescribed to accompany a federal write-in absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act [103, 42 U.S.C. 1973ff-2], as modified to be consistent with sections 16.1-07-18 through 16.1-07-33. The secretary of state 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.

**16.1-07-21. Methods of applying for military-overseas ballot.**

1. A covered voter may apply for a military-overseas ballot using either the absentee ballot application under this chapter or the federal postcard application, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff (b) (2)] or the application's electronic equivalent if approved under guidelines established by the secretary of state.
2. The secretary of state shall ensure that the electronic transmission system described in section 16.1-07-20 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 method approved under guidelines established by the secretary of state to apply for a military-overseas ballot.
3. 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 [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 by midnight on the day before the election.
4. To receive the benefits of sections 16.1-07-18 through 16.1-07-33, a covered voter must 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:
  - a. The use of a federal postcard application or federal write-in absentee ballot;

- b. The use of an overseas address on a ballot application; and
- c. The inclusion on a ballot application of other information sufficient to identify the voter as a covered voter.

**16.1-07-22. 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 before the close of business on the day before the election. An application for a military-overseas ballot for a primary election, whether or not timely, is effective as an application for a military-overseas ballot for the general election.

**16.1-07-23. Transmission of unvoted ballots.**

1. For all covered elections for which this state has not received a waiver under the Military and Overseas Voter Empowerment Act [42 U.S.C. 1973ff-1(g)(2)] not later than forty-five days before the election or, if the forty-fifth day before the election is a weekend or holiday, not later than the business day preceding the forty-fifth day, the appropriate election official shall transmit ballots and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.
2. A covered voter who requests a ballot and balloting materials be sent to the voter by electronic transmission may choose facsimile transmission, electronic mail, or other electronic delivery approved by the secretary of state. The election official 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.
3. If a ballot application from a covered voter arrives after the election official begins transmitting ballots and balloting materials to voters, the official shall transmit them to the voter not later than two business days after the application arrives.

**16.1-07-24. Timely casting of ballot.**

To be valid, a military-overseas ballot must be submitted for mailing or other authorized means of delivery not later than 11:59 p.m. on the day before the election at the place where the voter completes the ballot. A military-overseas ballot must be received by the appropriate election official before the canvassing board meeting.

**16.1-07-25. 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 [42 U.S.C. 1973ff-2], to vote for all offices and ballot measures in a covered election.

**16.1-07-26. Receipt of voted ballot.**

1. A valid military-overseas ballot cast in accordance with section 16.1-07-24 must be counted if it is delivered before the canvassing board meets to canvas the returns.
2. If, at the time of completing a military-overseas ballot and balloting materials, the voter has affirmed under penalty of perjury under section 16.1-07-27 that the ballot was timely submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark.

**16.1-07-27. Declaration.**

Each military-overseas ballot must 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.

**16.1-07-28. Confirmation of receipt of application and voted ballot.**

The secretary of state, 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 access whether:

1. The voter's 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.

**16.1-07-29. Use of voter's electronic mail address.**

1. A covered voter who provides an electronic mail address to a local election official 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 thirty-first of the year following the calendar year of the date of the application or another shorter period the voter specifies. 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 also is entitled to receive a military-overseas ballot for the general election.
2. An electronic mail address provided by a covered voter is a confidential record. An election official may use the address only to communicate 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.



**16.1-07-30. Publication of election notice.**

1. Not later than one hundred days before a regularly scheduled election to which sections 16.1-07-18 through 16.1-07-33 apply, and as soon as practicable in the case of a special election, the secretary of state and each local election official charged with printing and distributing ballots and balloting materials for that election shall prepare an election notice, to be used in conjunction with the federal write-in absentee ballot described in section 16.1-07-25. The election notice must contain a list of all of the ballot measures and federal, state, and local offices that as of that date the secretary of state and the local election official expect to be on the ballot on the date of the election. The notice also must 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.
2. A covered voter may request a copy of an election notice. The officials charged with preparing the election notice shall send the notice to the voter by facsimile, electronic mail, or regular mail, as the voter requests if the voter is not able to obtain that same notice from the secretary of state's website.
3. At least fifty-five days before an election, the officials charged with preparing the election notice shall update the notice with the certified candidates for each office and ballot measure questions and make the updated notice publicly available.
4. A local election official who maintains an internet website shall make updated versions of its election notices regularly available on the website.

**16.1-07-31. Prohibition of nonessential requirements.**

1. If a voter's mistake or omission in the completion of a document under sections 16.1-07-18 through 16.1-07-33 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 chapter. In any write-in ballot authorized by law, if the intention of the voter is discernable, as provided under 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 must be accepted as a valid vote.
2. Notarization is not required for the execution of a document under sections 16.1-07-18 through 16.1-07-33. An authentication, other than the declaration specified in section 16.1-07-27 or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under sections 16.1-07-18 through 16.1-07-33. The declaration and any information in the declaration may be compared against information on file to ascertain the validity of the document.



**16.1-07-32. 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, sections 16.1-07-18 through 16.1-07-33 on application by:

1. A covered voter alleging a grievance under sections 16.1-07-18 through 16.1-07-33; or
2. An election official in this state.

**16.1-07-33. Relation to Electronic Signatures in Global and National Commerce Act.**

Sections 16.1-07-18 through 16.1-07-33 modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act [15 U.S.C. 7001 et seq.] but do not modify, limit, or supersede section 101(c) of that Act [15 U.S.C. 7001(c)] or authorized electronic delivery of any of the notices described in section 103(b) of that Act [15 U.S.C. 7003(b)].

**16.1-08.1-03.1. Contributions statement required of persons and measure committees circulating or promoting passage or defeat of initiated or referred measure.**

1. At the time the sponsoring committee for an initiated measure petition submits signed petitions to the secretary of state, the committee also shall submit a statement disclosing the total amount of contributions received by the committee to aid the committee in drafting and circulating the petition, the name and mailing address of each person that contributed more than one hundred dollars in the aggregate to the sponsoring committee, the date each such contribution was received, and the total amount of expenditures made by the committee to aid in the drafting and circulation of the petition.

**16.1-08.1-03.5. Allowable corporate contributions and expenditures – Report required.**

- 3 A corporation, cooperative corporation, limited liability company, or association may make a direct expenditure for the purpose of promoting passage or defeat of initiated or referred measures. A direct expenditure statement must be filed with the secretary of state within forty-eight hours after making the expenditure. The statement must include:
  - a. The full name of the corporation, cooperative corporation, limited liability company, or association;
  - b. The complete address of the corporation, cooperative corporation, limited liability company, or association;
  - c. The name and telephone number of the person completing the report;
  - d. The title of the measure and whether the expenditure is made in support of or opposition to the measure;
  - e. The election date on which the measure either will appear or did appear on the ballot;

- f. The amount of the expenditure;
- g. The cumulative total amount of expenditures since the beginning of the calendar year in support of or opposition to the measure;
- h. The printed name and signature of the person completing the report, attesting to the report being true, complete, and correct; and
- i. The date on which the report was signed.

**16.1-10-03. Political badge, button, or insignia at elections.**

No individual may buy, sell, give, or provide any political badge, button, or any insignia within a polling place or within one hundred feet [30.48 meters] from the entrance to the room containing the polling place while it is open for voting. No such political badge, button, or insignia may be worn within that same area while a polling place is open for voting.

**16.1-11.1-01. Counties may conduct mail ballot elections - Polling places - Records.**

2. The board of county commissioners of a county may conduct an election partially by mail ballot. If the board of county commissioners chooses to conduct an election partially by mail ballot, the commission may use mail ballots for any precinct in which fewer than four hundred votes were cast for the office of governor at the last general election at which that office was on the ballot.

**16.1-11.1-03. Mail ballot distribution.**

The county auditor shall mail an official mail ballot with a return identification envelope, voter's affidavit, and instructions according to section 16.1-07-08 .

**16.1-11.1-06. Canvass of votes - Mail ballot precinct.**

The county auditor shall appoint a special mail ballot precinct election board for the purpose of counting mail ballots in the same manner as prescribed in section 16.1-07-12.1. The board may begin scanning the ballots at any time beginning on the day before election day and the closing of the polls on election day. Results from the mail ballot 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. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12 as applicable. 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.

**16.1-15-04. Three canvass reports prepared by election board - One for county auditor and one for each political party.**

The election board shall generate at least three canvass reports from the electronic voting system. The ballots may not be sealed, nor may the three canvass reports be signed, by the election board or poll clerk until the counts in the poll clerks' books and in the canvass reports all show the same totals for ballots cast. A signed canvass report is to be given to each judge so that the political parties have a record of the votes cast.

In the case of the absentee ballot precinct as authorized in section 16.1-07-12.1, early voting precincts as authorized in section 16.1-07-15, and mail ballot precinct as authorized in section 16.1-11.1-06, if the work of the election board is completed prior to close of the polls on election day, the election board shall create and sign a statement consisting of a reconciliation of the number of voters recorded in the pollbook and the number of ballots processed through the tabulators. The voting system shall then be secured in a manner prescribed by the county auditor that will protect the system and ballots from tampering. Prior to generating the canvass reports from one of these three types of precincts, an election judge representing each political party, or two election judges in the case of an election that does not include a political party contest, shall verify that the system and ballots remain secure and the statement created by the election board is still accurate.

**16.1-15-21. Primary election statement prepared by county canvassing board - Contents.**

The county canvassing board, upon canvassing the returns of a primary election, shall prepare an abstract signed by the members of the board and filed in the office of the county auditor. The abstract must contain all of the following:

1. The names of all candidates voted for at the primary election with the number of votes received by each and for what office. The abstract must be made separately for each political party or principle.
2. The names of the persons or candidates of each political party or principle who receive the highest number of votes for the respective offices. If more than one person is required to be elected to a given office at the next ensuing general election, there must be included in the abstract the names of so many of the candidates of the party receiving the next highest number of votes for that office as there are persons to be elected to the office at said ensuing general election. The abstract must be made separately for each political party.
3. The total number of ballots cast at the primary election. A separate abstract of the votes cast must be transmitted to the secretary of state according to reporting instructions specified by the secretary of state.

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

## SECTION B: VOTER REGISTRATION

**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.)**

  X   No Change Since 2010             Changed Since 2010

### 2010 Response:

[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 uses a bottom-up or hybrid system, how often do local jurisdictions transmit registration information to the state list?**

  X   No Change Since 2010             Changed Since 2010

### 2010 Response:

[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?**

     No Change Since 2010        X   Changed Since 2010

**2010 Response:**

[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.

**Addendum to 2010 response:** Qualified electors can also make formal written requests of the county auditor to be added to the Central Voter File. See...

**16.1-02-09. Department of transportation to report updates to the secretary of state - Changes to records in the central voter file.**

3. If a qualified elector makes a written request to the county auditor for inclusion in the central voter file, the county auditor shall collect the required information from the individual and add the individual's name to the central voter file with the designation of "active".

[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?**

  X   No Change Since 2010           Changed Since 2010

**2010 Response:**

[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 driver's 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.**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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 NCOA?**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

[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?)**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

[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.).**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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?**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

[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?**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

[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?**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

[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?**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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.)**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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?**

  X   No Change Since 2010             Changed Since 2010

## 2010 Response:

[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. At the determination of the county auditor, more than one voting location may be utilized for the purposes of operating the early voting precinct. 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 early voting center locations 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 for each voting location 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 each early voting location a space in a public facility, accessible to the elderly and the physically disabled as provided in section 16.1-04-02. With respect to polling places at early voting precincts, “election day” as used in sections 16.1-10-03 and 16.1-10-06.2 includes any time an early voting precinct polling place is open.
  - 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. Each early voting location 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?**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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.**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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.**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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. A post-election audit refers to hand-counting votes on paper records and comparing those counts to the corresponding vote counts originally reported, as a check on the accuracy of election results, and resolving discrepancies using accurate hand counts of the paper records as the benchmark.**

**If your state has post-election auditing, consider including in your response information such as the unit being audited (e.g., precincts, machines); the sampling method (e.g., fixed percentages); whether there is a specific trigger for the audit; the location of the random selection (e.g., state, county); and the races that can be audited.**

  X   No (Significant) Change Since 2010             Changed Since 2010

**2010 Response:**

[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 according to guidelines established by the secretary of state and as follows 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.**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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.**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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;**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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;**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[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.
- b. 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.
- c. 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;**

  X   **No Change Since 2010**             **Changed Since 2010**

**2010 Response:**

[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;**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

[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).**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

[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.**

☐ **No Change Since 2010**      ☒ **Changed Since 2010**

**2010 Response:**

[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).

**16.1-05-09. Election observers.**

1. Election observers must be allowed uniform and nondiscriminatory access to all stages of the election process, including the certification of election technologies, early voting, absentee voting, voter appeals, vote tabulation and recounts.

2. An election observer may not wear any campaign material advocating voting for or against a candidate or for or against any position on a question on the ballot. An election observer may not interfere with any voter in the preparation or casting of the voter's ballot or hinder or prevent the performance of the duties of any election official.

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

## SECTION E: OTHER

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

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

[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.**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

[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](http://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 5/31/2013). 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 – 2012 Election Administration and Voting Survey, 1201 New York Avenue, Suite 300, Washington, DC 20005.