

## Section B

### U.S. ELECTION ASSISTANCE COMMISSION



#### 2008 Election Administration & Voting Survey

## Statutory Overview

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

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

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## DIRECTIONS AND EXAMPLE

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

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

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

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

### Example:

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

- a. Over-vote

[Begin definition (a) below this line.]

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

*There is no limit to the length of your response.*

[End definition (a) above this line.]

## SECTION A: GENERAL

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

a. Over-vote

[Begin definition (a) below this line.]

Utah Administration Code R623-2-3 (F)

"Overvote" means a race, question or issue which contains votes for more than the maximum number of candidates or responses for a ballot question or issue allowed.

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

Utah Administration Code R623-2-3 (J)

"Undervote" means a race, question or issue which contains no votes or when more than one choice is available, less than the maximum number of votes allowed.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

Utah Administration Code R623-2-3 (A)

"Blank Ballot" means a ballot on which the voter has made no marks in any voting position, or has been marked with an unreadable marker, or is one which has been consistently marked outside of the "read" area of the scanner.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

Utah Code 20A-1-102 (69)

"Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

Utah Code 20A-1-102 (54)

"Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

No legal definition

Utah Code 20A-3-301(1) Any person who is registered to vote may vote by absentee.

Utah Code 20A-3-304:

Application for absentee ballot -- Time for filing and voting.

(1) Any registered voter who wishes to vote an absentee ballot may either:

(a) file an absentee ballot application with the appropriate election officer for an official absentee ballot as provided in this section; or

(b) vote in person at the office of the appropriate election officer as provided in Section 20A-3-306.

(2) (a) Except as provided in Subsection (2)(b), each election officer shall prepare blank applications for absentee ballot applications in substantially the following form:

"I, \_\_\_\_\_, a qualified elector, residing at \_\_\_\_\_ Street, \_\_\_\_\_ City, \_\_\_\_\_ County, Utah apply for an official absentee ballot to be voted by me at the election.

Date \_\_\_\_\_ (month\day\year) Signed \_\_\_\_\_  
Voter"

(b) Each election officer shall prepare blank applications for absentee ballot applications for regular primary elections and for the Western States Presidential Primary in substantially the following form:

"I, \_\_\_\_\_, a qualified elector, residing at \_\_\_\_\_ Street, \_\_\_\_\_ City, \_\_\_\_\_ County, Utah apply for an official absentee ballot for the \_\_\_\_\_ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request.

Dated \_\_\_\_\_ (month\day\year) \_\_\_\_\_ Signed

\_\_\_\_\_  
Voter"

(c) If requested by the applicant, the election officer shall:

(i) mail or fax the application blank to the absentee voter; or

(ii) deliver the application blank to any voter who personally applies for it at the office of the election officer.

(3) (a) (i) Except as provided in Subsections (3)(a)(ii) and (iii), the voters shall file the application for an absentee ballot with the appropriate election officer no later than the Friday before election day.

(ii) Overseas applicants shall file their applications with the appropriate election officer no later than 20 days before the day of election.

(iii) Voters applying for an absentee ballot for the Western States Presidential Primary shall file the application for an absentee ballot with the appropriate election officer not later than the Tuesday before election day.

(b) Persons voting an absentee ballot at the office of the election officer shall apply for and cast their ballot no later than the day before the election.

(4) (a) A county clerk may establish a permanent absentee voter list.

(b) The clerk shall place on the list the name of any person who:

(i) requests permanent absentee voter status; and

(ii) meets the requirements of this section.

(c) (i) Each year, the clerk shall mail a questionnaire to each person whose name is on the absentee voter list.

(ii) The questionnaire shall allow the absentee person to verify the voter's residence.

(iii) The clerk may remove the names of any voter from the absentee voter registration list if:

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(A) the voter is no longer listed in the official register; or

(B) the voter fails to verify the voter's residence and absentee status.

(d) The clerk shall provide a copy of the permanent absentee voter list to election officers for use in elections.

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

No legal definition

Utah Code 20A-3-601. Early voting.

(1) A person who is registered to vote may vote before the election date in accordance with this section.

(2) (a) The early voting period shall begin on the date that is 14 days before the date of the election.

(b) Early voting shall continue through:

(i) the Friday before the election if the election date is a Tuesday; or

(ii) the date that is two regular business days before the date of the election if the election date is a day other than Tuesday.

(c) During the early voting period, the election officer:

(i) for local special elections, municipal primary elections, and municipal general elections:

(A) shall conduct early voting on a minimum of four days during each week of the early voting period; and

(B) shall conduct early voting on the last day of the early voting period; and

(ii) for all other elections:

(A) shall conduct early voting on each weekday; and

(B) may elect to conduct early voting on Saturdays, Sundays, or holidays.

(3) Except as specifically provided in this Part 6, Early Voting, early voting shall be administered according to the requirements of this title.

**20A-3-602. Hours for early voting.**

(1) The election officer shall determine the times for opening and closing the polls for each day of early voting provided that:

(a) voting is open for a minimum of four hours during each day that polls are open during the early voting period; and

(b) polls shall close at 5 p.m. on the last day of the early voting period.

(2) Every registered voter who arrives at the polls before the time scheduled for closing of the polls shall be allowed to vote.

**20A-3-603. Early voting polling places.**

(1) The election officer shall designate one or more polling places for early voting, provided that:

(a) except as provided in Subsection (3), at least one polling place is open on each day that polls are open during the early voting period;

(b) each polling place meets the requirements for polling places under Chapter 5, Election Administration;

(c) for all elections other than local special elections, municipal primary elections, and municipal general elections, at least 10% of the voting devices at a polling place are accessible for individuals with disabilities in accordance with Public Law 107-252, the Help America Vote Act of 2002; and

(d) each polling place is located in a government building or office, unless the election officer determines that, in the area designated by the election officer, there is no government building or office available that:

(i) can be scheduled for use during early voting hours;

(ii) has the physical facilities necessary to accommodate early voting requirements;

(iii) has adequate space for voting equipment, poll workers, and voters; and

(iv) has adequate security, public accessibility, and parking.

(2) (a) In the event the election officer determines that the number of early voting polling places is insufficient due to the number of registered voters who are voting, the election officer may designate additional polling places during the early voting period.

(b) If an additional early voting polling place is designated, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of the additional polling place by:

(i) publishing the notice in one issue of a newspaper of general circulation in the county; and

(ii) posting the notice at the additional polling place.

(3) For each regular general election and regular primary election, counties of the first class shall ensure that:

(a) at least one polling place is located within each Utah State Senate district that is located wholly or partially within the county; and

(b) at least one polling place located within each district is open on each day that polls are open during the early voting period.

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

Utah Code 20A-1-102 (1)

"Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

Utah Code 20A-1-102 (31)

"Inactive voter" means a registered voter who has been sent the notice required by Section 20A-2-306 and who has failed to respond to that notice.

Section 20A-2-306 says: (1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).....

[End definition (i) above this line.]

j. Other terms (please specify) \_\_\_\_\_

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

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

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

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

[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.)

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

Our office developed and maintains a statewide voter registration database called Voter System & Tracking Application (VISTA). The county clerks provide real time information and are the only ones who can add, delete, or make any changes to any particular registrant's information, not the state.

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

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

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

Real time, live data.

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

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

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

A voter is placed on the inactive list when the county clerk has obtained evidence that the voter's residence has changed, has been mailed notice asking for an updated address, and has not responded to the notice.

If a voter responds to the notice or votes within two general election following the date of the notice, the voter will be placed on the active list.

The process is not different for UOCAVA voters.

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

B3. Please describe your state's process for removing voters from the voter registration rolls (not merely moving them from active to inactive). Please include information regarding notices and confirmations. Are these procedures the same for UOCAVA voters?

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

### **Utah Code 20A-2-305**

The county clerk may remove a voter's name from the official register only when:

- (a) the voter dies and the requirements of Subsection (3) are met;
- (b) the county clerk, after complying with the requirements of Section 20A-2-306, receives written confirmation from the voter that the voter no longer resides within the



county clerk's county;

(c) the county clerk has obtained evidence that the voter's residence has changed, has mailed notice to the voter as required by Section 20A-2-306 and received no response from the voter, and the voter has failed to vote or appear to vote in either of the next two regular general elections following the date of the notice;

(d) the voter requests, in writing, that his name be removed from the official register; or

(e) the county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter.

(3) The county clerk may remove a voter's name from the registration list upon the annual receipt of a listing of all deceased residents from the Department of Health's Bureau of Vital Records.

### **Utah Code 20A-2-306**

Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

#### **"VOTER REGISTRATION NOTICE**

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

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Street                      City                      County                      State                      Zip

If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk no later than 30 days before the date of the election. If you fail to

return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or
- if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

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Signature of Voter"

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

(i) the voter requests, in writing, that his name be removed; or

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(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the clerk may list that voter as inactive.

(ii) An inactive voter must be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iii) A county is not required to send routine mailings to inactive voters and is not required to count inactive voters when dividing precincts and preparing supplies.

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

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

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

Yes our voter registration system (VISTA) shares information electronically with driver license agency. Our system also shares information with the Social Security Office.

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

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

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

N/A

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

B6. Please describe your state's voting eligibility requirements as they relate to individuals with a felony conviction. (For example, are convicted felons allowed to vote

while in prison or while on parole or probation? Are voting rights automatically restored or does the individual have to apply for a pardon, certificate of eligibility or other similar certificate? Does an individual whose voting rights have been restored have to produce documentation of his/her status when registering to vote?)

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

**Utah Code 20A-2-101.5**

Convicted felons -- Restoration of right to vote and right to hold office

(1) As used in this section, "convicted felon" means a person convicted of a felony in any state or federal court of the United States.

(2) Each convicted felon's right to register to vote and to vote in an election is restored when:

(a) the felon is sentenced to probation;

(b) the felon is granted parole; or

(c) the felon has successfully completed the term of incarceration to which the felon was sentenced.

(3) Each convicted felon's right to hold elective office is restored when:

(a) all of the felon's felony convictions have been expunged; or

(b) (i) ten years have passed since the date of the felon's most recent felony conviction;

(ii) the felon has paid all court-ordered restitution and fines; and

(iii) for each felony conviction that has not been expunged, the felon has:

(A) completed probation in relation to the felony;

(B) been granted parole in relation to the felony; or

(C) successfully completed the term of incarceration associated with the felony.

Voting rights are automatically restored and no documentation is required to register to vote.

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

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

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

No

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

## SECTION C: ELECTION ADMINISTRATION

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

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

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

Votes are counted at a central location

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

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

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

Yes

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

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

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

Absentee, mail, etc., votes are reported separately for each precinct

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

d. How are UOCAVA ballots counted and reported?

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

Ballots are counts the same as response to question c, and are reported through our voter database, VISTA.

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

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

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

Our state has no-excuse absentee voting

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

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

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

**20A-3-601. Early voting.**

(1) A person who is registered to vote may vote before the election date in accordance with this section.

(2) (a) The early voting period shall begin on the date that is 14 days before the date of the election.

(b) Early voting shall continue through:

(i) the Friday before the election if the election date is a Tuesday; or

(ii) the date that is two regular business days before the date of the election if the election date is a day other than Tuesday.

(c) During the early voting period, the election officer:

(i) for local special elections, municipal primary elections, and municipal general elections:

(A) shall conduct early voting on a minimum of four days during each week of the early voting period; and

(B) shall conduct early voting on the last day of the early voting period; and

(ii) for all other elections:

(A) shall conduct early voting on each weekday; and

(B) may elect to conduct early voting on Saturdays, Sundays, or holidays.

(3) Except as specifically provided in this Part 6, Early Voting, early voting shall be administered according to the requirements of this title.

**20A-3-602. Hours for early voting.**

(1) The election officer shall determine the times for opening and closing the polls for each day of early voting provided that:

(a) voting is open for a minimum of four hours during each day that polls are open during the early voting period; and

(b) polls shall close at 5 p.m. on the last day of the early voting period.

(2) Every registered voter who arrives at the polls before the time scheduled for closing of the polls shall be allowed to vote.

**20A-3-603. Early voting polling places.**

(1) The election officer shall designate one or more polling places for early voting, provided that:

(a) except as provided in Subsection (3), at least one polling place is open on each day that polls are open during the early voting period;

(b) each polling place meets the requirements for polling places under Chapter 5, Election Administration;

(c) for all elections other than local special elections, municipal primary elections, and municipal general elections, at least 10% of the voting devices at a polling place are accessible for individuals with disabilities in accordance with Public Law 107-252, the Help America Vote Act of 2002; and

(d) each polling place is located in a government building or office, unless the election officer determines that, in the area designated by the election officer, there is no government building or office available that:

- (i) can be scheduled for use during early voting hours;
- (ii) has the physical facilities necessary to accommodate early voting requirements;
- (iii) has adequate space for voting equipment, poll workers, and voters; and
- (iv) has adequate security, public accessibility, and parking.

(2) (a) In the event the election officer determines that the number of early voting polling places is insufficient due to the number of registered voters who are voting, the election officer may designate additional polling places during the early voting period.

(b) If an additional early voting polling place is designated, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of the additional polling place by:

- (i) publishing the notice in one issue of a newspaper of general circulation in the county; and
- (ii) posting the notice at the additional polling place.

(3) For each regular general election and regular primary election, counties of the first class shall ensure that:

- (a) at least one polling place is located within each Utah State Senate district that is located wholly or partially within the county; and
- (b) at least one polling place located within each district is open on each day that polls are open during the early voting period.

Votes are usually reported right after the poll close on election. They can not be report before the polls close on election day

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

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

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

Yes

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

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

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

**Utah Code 20A-3-105.5. Manner of voting -- Provisional ballot.**

(1) The poll workers shall follow the procedures and requirements of this section when:

- (a) the person's right to vote is challenged as provided in Section **20A-3-202**;
- (b) the person's name is not found on the official register; or
- (c) the poll worker is not satisfied that the voter has provided valid voter identification.

(2) When faced with one of the circumstances outlined in Subsection (1)(a) or (1)(b), the poll worker shall:

- (a) request that the person provide valid voter identification; and
  - (b) review the identification provided by the person.
- (3) If the poll worker is satisfied that the person has provided valid voter identification

that establishes the person's identity and residence in the voting precinct:

(a) the poll worker in charge of the official register shall:

(i) record in the official register the type of identification that established the person's identity and place of residence;

(ii) write the provisional ballot envelope number opposite the name of the voter in the official register; and

(iii) direct the voter to sign his name in the election column in the official register;

(b) another poll worker shall list the ballot number and voter's name in the pollbook; and

(c) the poll worker having charge of the ballots shall:

(i) endorse his initials on the stub;

(ii) check the name of the voter on the pollbook list with the number of the stub;

(iii) give the voter a ballot and a provisional ballot envelope; and

(iv) allow the voter to enter the voting booth.

(4) If the poll worker is not satisfied that the voter has provided valid voter identification that establishes the person's identity and residence in the voting precinct:

(a) the poll worker in charge of the official register shall:

(i) record in the official register that the voter did not provide valid voter identification;

(ii) record in the official register the type of identification that was provided by the voter, if any;

(iii) write the provisional ballot envelope number opposite the name of the voter in the official register; and

(iv) direct the voter to sign his name in the election column in the official register;

(b) another poll worker shall list the ballot number and voter's name in the pollbook; and

(c) the poll worker having charge of the ballots shall:

(i) endorse his initials on the stub;

(ii) check the name of the voter on the pollbook list with the number of the stub;

(iii) give the voter a ballot and a provisional ballot envelope; and

(iv) allow the voter to enter the voting booth.

(5) Whenever the election officer is required to furnish more than one kind of official ballot to a voting precinct, the poll workers of that voting precinct shall give the registered voter the kind of ballot that the voter is qualified to vote.

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

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

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

Our state will count provisional ballots of voters who are registered in a different precinct if that person provides valid voter identification that he is now a permanent resident in the precinct he is now voting in.



If a voter votes in the wrong precinct but their ballot would be the same had they voted in their registered precinct, their vote will be count.

**20A-4-107. Review and disposition of provisional ballot envelopes.**

- (1) As used in this section, a voter is "legally entitled to vote" if:
  - (a) the voter:
    - (i) is registered to vote in the state;
    - (ii) resides within the voting precinct where the voter seeks to vote; and
    - (iii) provided valid voter identification to the poll worker as indicated by a notation in the official register;
  - (b) the voter:
    - (i) is registered to vote in the state; and
    - (ii) did not vote in the voter's precinct of residence, but the ballot that the voter voted is identical to the ballot voted in the voter's precinct of residence; or
  - (c) the voter:
    - (i) is registered to vote in the state;
    - (ii) the poll worker recorded in the official register that the voter either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate; and
    - (iii) the county clerk verifies the voter's identity and residence through some other means.
- (2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review the affirmation on the face of each provisional ballot envelope and determine if the person signing the affirmation is a registered voter and legally entitled to vote the ballot that the voter voted.
  - (b) If the election officer determines that the person is not a registered voter or is not legally entitled to vote the ballot that the voter voted, the election officer shall retain the ballot envelope, unopened, for the period specified in Section **20A-4-202** unless ordered by a court to produce or count it.
  - (c) If the election officer determines that the person is a registered voter and is legally entitled to vote the ballot that the voter voted, the election officer shall remove the ballot from the provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass.
  - (d) The election officer may not count, or allow to be counted a provisional ballot unless the voter's identity and residence is established by a preponderance of the evidence.
- (3) If the election officer determines that the person is a registered voter, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot envelope.
- (4) If the election officer determines that the person is not a registered voter and the information on the provisional ballot envelope is complete, the election officer shall:
  - (a) consider the provisional ballot envelope a voter registration form; and
  - (b) register the voter.

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

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



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

STATE OF UTAH  
OFFICE OF THE LIEUTENANT GOVERNOR  
Election Policy  
Adopted October 17, 2006

Pursuant to the general supervisory authority over all elections and direct authority over the conduct of elections for federal, state, and multi-county officers and statewide or multi-county ballot propositions and any recounts involving those races granted to the lieutenant governor by statute, all election officials shall maintain the following minimum standards and implement the following basic procedures when conducting an election using Diebold AccuVote TSx or AccuVote OS voting machines in the State of Utah:

1. Authority: Utah Code section 67-1a-2 and Utah Constitution Article VII, sections 1 and 14 authorize the lieutenant governor to issue this policy.
2. Purpose: This policy establishes minimum standards and basic procedures for conducting elections using Diebold AccuVote TSx or AccuVote OS voting machines in the State of Utah.
3. Definitions: Unless otherwise defined in this policy, terms shall have the same meanings established in Utah Code Title 20A.
  - 3.1. Audit means a comparison of machine counted totals of votes recorded on a voting machine with the hand counted totals of votes recorded on the corresponding permanent paper record.
  - 3.2. Ballot proposition does not include judicial retention questions for purposes of this policy.
  - 3.3. Random number generator means a verified statistical algorithm to produce pseudo random numbers available in commercial statistical software packages.
4. System Security: Prior to any election, the election officer shall assign both a new and unique "Security Key" and a new and unique "Authorization PIN" for that election in the Global Election Management Software (GEMS) system.
5. Permanent Paper Record:
  - 5.1. Utah Code section 20A-5-302 requires that automated voting systems produce a permanent paper record that is available for the voter to inspect before leaving the polling place.
  - 5.2. For Diebold AccuVote OS voting equipment, the optical scan ballot sheet is the permanent paper record.
  - 5.3. For Diebold AccuVote TSx voting machines:
    - 5.3.1. The journal tape is the permanent paper record.
    - 5.3.2. Upon inserting a journal take-up canister into the Diebold AccuFeed printer module, at least two election officials shall:
      - 5.3.2.1. Affix at least one tamper evident tape seal to the canister.

- 5.3.2.2. Record the jurisdiction, date, polling place, AccuVote TSx serial number, and canister number within the series of canisters assigned to the voting machine for that election.
- 5.3.2.3. Sign the beginning of the journal tape. These signatures may follow the zero totals report.
- 5.3.3. Upon removing a journal take-up canister from the Diebold AccuFeed printer module, at least two election officials shall:
  - 5.3.3.1. Sign the end of the journal tape. These signatures may follow the summary totals report.
  - 5.3.3.2. Compare the AccuVote TSx serial number recorded for that canister with the serial number on the voting machine.
  - 5.3.3.3. Record any difference between the two numbers on the log provided by the election officer for that purpose.
  - 5.3.3.4. Ascertain the reasons for any difference between the two numbers and record the reasons on the log provided by the election officer for the purpose.
  - 5.3.3.5. Examine the tamper evident tape seal.
  - 5.3.3.6. Record any evidence of tampering on the log provided by the election officer for that purpose.
  - 5.3.3.7. Ascertain the reasons for any evidence of tampering and record the reasons on a log provided by the election officer for that purpose.
- 5.3.4. Except as directed in sections six and seven of this policy, election officers shall:
  - 5.3.4.1. If an election contest is pending, follow the directions in Utah Code subsection 20A-4-202(4).
  - 5.3.4.2. Until the period for initiating an election contest defined in Utah Code section 20A-4-403 expires, store all journal take-up canisters used in an election with the tamper evident tape seals intact.
  - 5.3.4.3. After the period for initiating an election contest defined in Utah Code section 20A-4-403 has expired:
    - 5.3.4.3.1. Remove the tamper evident tape seals from the canisters.
    - 5.3.4.3.2. Remove the journal tapes from their spindles and place the journal tapes in long-term storage containers.
    - 5.3.4.3.3. Store and then destroy the journal tapes with all other election returns as directed in Utah Code section 20A-4-202.
- 5.4. Each election officer shall make the tamper evident tape seal logs available for inspection by the board of canvassers.
- 5.5. Each election officer shall store the tamper evident tape seal logs with all other election returns as directed in Utah Code section 20A-4-202.
- 5.6. Each election officer shall transmit a summary of all tamper evident tape seal logs to the lieutenant governor with the canvassers' report required by Utah Code section 20A-4-304.
- 6. Audits:
  - 6.1. No later than noon on Election Day, each election officer shall submit to the lieutenant governor a list of AccuVote TSx and precinct-count AccuVote OS

- 6.2. Using the following procedure, the lieutenant governor shall select at least one percent of the total number of AccuVote TSx and precinct-count AccuVote OS voting machines used statewide in the election to be audited:
  - 6.2.1. For each Utah House of Representatives district:
    - 6.2.1.1. Beginning with one and increasing by one until all machines deployed in the district are numbered; assign a sequential number to each voting machine.
    - 6.2.1.2. If a voting machine will record votes for more than one district, assign a number for each of the districts.
  - 6.2.2. Using a random number generator, identify for audit one voting machine in each Utah House of Representative district.
  - 6.2.3. If a machine previously identified for audit in one district is identified for audit in a subsequent district, repeat the procedure in subsection 6.2.2 until a machine not previously identified for audit is selected.
  - 6.2.4. If one percent of the total number of voting machines used statewide in the election is greater than the total number of Utah House of Representative districts:
    - 6.2.4.1. Using a random number generator, identify one of the districts for an additional audit.
    - 6.2.4.2. If a district previously identified in subsection 6.2.4.1 is subsequently identified before all districts have been identified for additional audit, repeat the procedure in 6.2.4.1 until a district not previously identified for additional audit is selected.
    - 6.2.4.3. Using a random number generator, identify one voting machine in the district identified for an additional audit.
    - 6.2.4.4. If a previously identified machine is subsequently identified for an additional audit, repeat the procedure in subsection 6.2.4.3 until a machine not previously identified is selected.
    - 6.2.4.5. Repeat the procedures in subsections 6.2.4.1 through 6.2.4.4 until one percent of the total voting machines used statewide in the election are identified for audit.
- 6.3. After the polls close on Election Day but no later than noon the next day, the lieutenant governor shall inform the appropriate election officers of the machines identified for audit.
- 6.4. Each election officer who will conduct an audit shall:
  - 6.4.1. Provide notice of the time and place of the audit by publishing the notice at least two days before the audit in a newspaper of general circulation common to the area in which the election was held. This notice may be included in the notice required by Utah Code subsection 20A-5-101(3).
  - 6.4.2. Permit counting poll watchers, as defined and regulated in Utah Code section 20A-3-201, to observe the audit.
  - 6.4.3. Include in the audit log copies of the pre-election and post-election logic and accuracy test reports produced for all central-count AccuVote OS voting machines used in the election.

- 6.4.4. Preserve precinct-count optical scan ballots in segregated groups according to the polling place where the ballots were cast.
- 6.5. Between the closing of the polls on Election Day and the meeting of the jurisdiction's board of canvassers, each election officer shall, for each machine identified for audit, direct that at least two election officials:
  - 6.5.1. Print a total report for the memory card.
  - 6.5.2. For precinct-count optical scan ballots:
    - 6.5.2.1. Hand count the votes recorded on each ballot for each ballot proposition and partisan office.
    - 6.5.2.2. Record the total number of votes hand-counted for each ballot proposition and partisan office on a log provided by the election officer for that purpose.
  - 6.5.3. For each journal tape take-up canister:
    - 6.5.3.1. Examine the tamper evident tape seal.
    - 6.5.3.2. Note any evidence of tampering on a log provided by the election officer for that purpose.
    - 6.5.3.3. Ascertain the reasons for any evidence of tampering and record the reasons on a log provided by the election officer for that purpose.
    - 6.5.3.4. Remove the tamper evident tape seal.
    - 6.5.3.5. Hand count the votes recorded on the journal tape for each ballot proposition and partisan office.
    - 6.5.3.6. Record the total number of votes hand-counted for each ballot proposition and partisan office on a log provided by the election officer for that purpose.
  - 6.5.4. For each ballot proposition and partisan office, compare the hand-counted results with the results on the machine total report printed under subsection 6.5.1.
  - 6.5.5. Note any differences between the hand-counted results and the machine total report results on a log provided by the election officer for that purpose.
  - 6.5.6. Ascertain the reasons for any differences between the hand-counted and the machine total report results and record the reasons on a log provided by the election officer for that purpose.
  - 6.5.7. If applicable, note on a log provided by the election officer for that purpose that an audited machine was used both in early voting and on Election Day.
- 6.6. If a machine identified for audit failed on Election Day and was replaced by another machine, the election officer shall audit both the replacement machine and, to the extent possible, the failed machine.
- 6.7. Each election officer shall make the audit logs available for inspection by the board of canvassers.
- 6.8. Each election officer shall store the audit logs with all other election returns as directed in Utah Code section 20A-4-202.
- 6.9. Each election officer shall transmit a summary the audit logs to the lieutenant governor with the canvassers' reports required by Utah Code section 20A-4-304.

7. Recounts:

- 7.1. Utah Code section 20A-4-401 permits recounts under certain circumstances.
- 7.2. Election officers who receive recount requests under Utah Code section 20A-4-401 shall:
  - 7.2.1. Provide not less than 24 hours notice of the time and place of the recount by posting a written notice at the election officer's principal office and providing notice to at least one newspaper of general circulation within the election officer's geographic jurisdiction or a local media correspondent.
  - 7.2.2. Permit counting poll watchers, as defined and regulated in Utah Code section 20A-3-201, to observe the recount.
  - 7.2.3. Conduct an audit of voting machines used to record votes in the recount race as directed in subsection 7.3.
  - 7.2.4. Follow the procedures outlined in Utah Code section 20A-4-401 for recounting absentee ballots.
  - 7.2.5. Upload the recounted absentee ballot information into a new Global Election Management Software (GEMS) database.
  - 7.2.6. Upload into the database created in subsection 7.2.5 all memory cards on which votes cast in the recount race are recorded.
  - 7.2.7. Declare the winner as directed in Utah Code section 20A-4-401
- 7.3. Audits of recount races:
  - 7.3.1. If the recount race is a statewide ballot proposition or partisan office race, the audit performed under section 6 satisfies the recount audit requirement.
  - 7.3.2. If the recount race is a U.S. House of Representatives race, the lieutenant governor shall use the procedure in subsection 7.3.7 to identify for audit at least three percent of the machines used to record votes in that race.
  - 7.3.3. If a the recount race is a multi-county ballot proposition, partisan office race or non-partisan office race, the lieutenant governor shall use the procedure in subsection 7.3.7 to identify for audit:
    - 7.3.3.1. In a district with a population greater than 125,000, at least three percent of the machines used to record votes in that race.
    - 7.3.3.2. In a district with a population equal to or less than 125,000, at least five percent of the machines used to record votes in that race.
  - 7.3.4. If the recount race is a county-wide ballot proposition, partisan office race or non-partisan office race, the county clerk shall use the procedure in 7.3.7 to identify for audit:
    - 7.3.4.1. In counties of the first class, at least one percent of the machines used to record votes in that race.
    - 7.3.4.2. In counties of the second or third class at least three percent of the machines used to record votes in that race.
    - 7.3.4.3. In counties of the fourth, fifth, or sixth class, at least five percent of the machines used to record vote in that race.
  - 7.3.5. If the recount race is a ballot proposition, partisan office race or non-partisan office race for which the district population is greater than 125,000, the county clerk shall use the procedure in 7.3.7 to identify for audit three percent of the machines used to record votes in that race.
  - 7.3.6. If the recount race is any other ballot proposition, partisan office race or non-partisan office race, the county clerk shall use the procedure in

- 7.3.7. Identifying machines to be audited:
  - 7.3.7.1. In multi-county races
    - 7.3.7.1.1. For each county, beginning with one and increasing by one until all machines deployed in the county have been numbered; assign a sequential number to each voting machine.
    - 7.3.7.1.2. Using a random number generator, identify for audit one voting machine in each county.
    - 7.3.7.1.3. If the required percentage of the total number of voting machines used in the recount race is greater than the total number of counties:
      - 7.3.7.1.3.1. Using a random number generator, identify one of the counties for an additional audit.
      - 7.3.7.1.3.2. If a county previously identified in subsection 7.3.7.1.3.1 is subsequently identified before all counties have been identified for additional audit, repeat the procedure in 7.3.7.1.3.1 until a county not previously identified for additional audit is selected.
      - 7.3.7.1.3.3. Using a random number generator, identify one voting machine in the county identified for an additional audit.
      - 7.3.7.1.3.4. If a previously identified machine is subsequently identified for an additional audit, repeat the procedure in subsection 7.3.7.1.3.3 until a machine not previously identified is selected.
      - 7.3.7.1.3.5. Repeat the procedures in subsections 7.3.7.1.3.1 through 7.3.7.1.3.4 until the required percentage of the total voting machines used in the recount race have been identified for audit.
  - 7.3.7.2. In all other races:
    - 7.3.7.2.1. Beginning with one and increasing by one until all machines used to record recount race votes are numbered; assign a sequential number to each voting machine.
    - 7.3.7.2.2. Using a random number generator, identify for audit the required number of voting machines.
  - 7.3.7.3. Provided that the recount race was included in the audit prior to the canvass, if a machine identified for a recount audit was audited prior to the canvass, the results of the audit prior to the canvass may be used instead of conducting a recount audit on that machine.
- 7.3.8. For each voting machine identified for audit, direct that at least two election officials:
  - 7.3.8.1. Print a total report for the memory card.
  - 7.3.8.2. For precinct-count optical scan ballots:
    - 7.3.8.2.1. Hand count the votes recorded on each ballot for the race to be recounted.

- 7.3.8.2.2. Record the total number of votes hand-counted for the race to be recounted on a log provided by the election officer for that purpose.
- 7.3.8.3. For each journal tape take-up canister used in the machine:
  - 7.3.8.3.1. Examine the tamper evident tape seal.
  - 7.3.8.3.2. Note any evidence of tampering on a log provided by the election officer for that purpose.
  - 7.3.8.3.3. Ascertain the reasons for any evidence of tampering and record the reasons on a log provided by the election officer for that purpose.
  - 7.3.8.3.4. Remove the tamper evident tape seal.
  - 7.3.8.3.5. Hand count the votes recorded on the journal tape for the recount race.
  - 7.3.8.3.6. Record the total number of votes hand-counted for the recount race on a log provided by the election officer for that purpose.
- 7.3.8.4. For the recount race, compare the hand-counted results with the results on the machine total report printed under subsection 7.3.8.1.
- 7.3.8.5. Note any differences between the hand-counted results and the machine total report results on a log provided by the election officer for that purpose.
- 7.3.8.6. Ascertain the reasons for any differences between the hand-counted and the machine total report results and record the reasons on a log provided by the election officer for that purpose.
- 7.4. Each election officer shall make the recount logs available for inspection by the board of canvassers.
- 7.5. Each election officer shall store the recount logs with all other election returns as directed in Utah Code section 20A-4-202.
- 7.6. Each election officer shall transmit a summary of all recount logs to the lieutenant governor with the canvassers' reports required by Utah Code section 20A-4-304.

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

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

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

No state required training.

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



## SECTION D: ELECTION DAY ACTIVITIES

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

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

Utah Administration Code R623-2-4

A. A correctly voted optical scan ballot occurs when a voter, using a readable marker, fills in or connects at least one of the ovals/arrows per race, question, or issue, not to exceed the maximum allowable votes per race, question or issue, in accordance with the ballot marking instructions.

B. Optical scan equipment shall be set to consistent and uniform sensitivity standards for each system type.

C. Pre-election testing shall be performed by the designated election official in accordance with Utah Code Section 20A-4-104(1).

D. Election day count machine settings shall be set to sort blank ballots, overvotes, and write-in votes.

E. When a precinct optical scan counter is used in the precinct the procedure is as follows:

1. A zero tape shall be run indicating no votes cast or counted before the machine is used.

2. Voters whose ballots are rejected or sorted by the precinct counter as a blank, overvoted or undervoted ballot shall be given the opportunity to correct their ballot.

3. Ballots sorted to a write-in bin shall be tallied at the conclusion of the voting and delivered to the central counting center in a secure container.

F. When using a central count optical scan counter, the procedure is as follows:

1. A zero tape shall be run indicating no votes cast or counted before the counting begins.

2. Official ballots shall be processed through the optical scanner, with write in votes tallied. If there are no legally qualified write-in candidates, the write-in sort option shall not be utilized.

3. The optical scanner shall be tested again by tabulating the test deck at the conclusion of the count.

G. Resolution of optical scan ballots shall be as follows:

1. Damaged or defective ballots shall be repaired, if possible, to be accepted by the optical scan equipment. If the ballot is damaged beyond repair, the ballot shall be



duplicated utilizing the ballot duplication procedures established in Utah Code Section 20A-4-104(3).

2. Blank ballots shall be examined by the resolution board to determine if the ballot is a true blank ballot or one that has been marked with a non-detected device. The resolution board may clarify a non-detected mark in such a manner that the original voter mark is preserved, such as making a detectable line through the non-detected mark, placing a removable label over the non-detected mark and marking with the proper device, or placing cellophane tape over the mark and a marked removable label to properly reflect the voter's intent. The election officer must initial the clarification in a non-readable area on the ballot next to the clarification. The election official may also choose to make a true duplicate copy of the ballot utilizing the ballot duplication procedures. If a ballot is truly blank, it shall be sent back for the resolution pass through the scanner, and the ballot tabulated with no races, issues or questions voted.

3. Overvoted ballots shall be inspected by the resolution board. Any marks that are clearly identified as unintentional but register as an overvote on the scanner may be clarified by the election officer by the placement of a removable adhesive sticker over the unintentional mark to properly reflect the voter's intent. The election officer must initial next to the clarification in a non-readable portion of the ballot. The election officer may also choose to make a true duplicate copy of the ballot utilizing the procedures for duplication of ballots.

4. Write-in votes sorted by the optical scan equipment on election day shall be designated for hand counting. In order to be counted, the oval must be darkened or the arrow connected according to the appropriate voting instructions.

#### H. Recount Procedures for Optical Scan.

1. Optical scan equipment shall be set to consistent sensitivity standards for each system type, shall be tested prior to the recount, and shall be programmed to sort undervotes for the individuals race(s), issue(s) or question(s) being recounted.

2. Recounts will include a visual inspection of all ballots cast for write-in candidates in the contested race(s) to determine voter intent.

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

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

a. registering to vote;

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

Required to show a valid voter identification

"Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

- (A) the state;
- (B) a local government within the state; or
- (C) a branch, department, or agency of the United States;
- (iii) an identification card that is issued by an employer for an employee;
- (iv) a currently valid identification card that is issued by a college, university, technical school, or professional school that is located within the state;
- (v) a currently valid Utah permit to carry a concealed weapon;
- (vi) a currently valid United States passport; or
- (vii) a valid tribal identification card; or
- (b) two forms of identification that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:
  - (i) a voter identification card;
  - (ii) a current utility bill or a legible copy thereof;
  - (iii) a bank or other financial account statement, or a legible copy thereof;
  - (iv) a certified birth certificate;
  - (v) a valid Social Security card;
  - (vi) a check issued by the state or the federal government or a legible copy thereof;
  - (vii) a paycheck from the voter's employer, or a legible copy thereof;
  - (viii) a currently valid Utah hunting or fishing license;
  - (ix) a currently valid United States military identification card;
  - (x) certified naturalization documentation;
  - (xi) a currently valid license issued by an authorized agency of the United States;
  - (xii) a certified copy of court records showing the voter's adoption or name change;
  - (xiii) a Bureau of Indian Affairs card;
  - (xiv) a tribal treaty card;
  - (xv) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card; or
  - (xvi) a form of identification listed in Subsection (76)(a) that does not contain a photograph, but establishes the name of the voter and provides evidence that the voter resides in the voting precinct.

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

b. casting an in-person ballot;

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

Same as a.

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

c. casting a mail-in or absentee vote;

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

If the voter did not show valid voter identification when registering, they will be required to show it.

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

d. casting a ballot under UOCAVA;

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

If the voter did not show valid voter identification when registering, they will be required to show it.

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

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

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

Same as a.

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

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

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

Utah Code 20A-3-201

**Watchers.**

(1) (a) (i) For each regular general election or statewide special election, and for each regular primary and Western States Presidential Primary, each registered political party and any person interested in a ballot proposition appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots, another person to act as a counting poll watcher to observe the counting of ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages.

(ii) Each party poll watcher shall be designated, and his selection made known to the poll workers, by an affidavit made by the county chair of each of the parties.

(iii) Each issue poll watcher shall be designated, and his selection made known to the poll workers, by an affidavit made by the individual appointing him.

(b) (i) For each municipal general election, municipal primary, local special election, or bond election that uses paper ballots, each candidate and any person interested in an issue appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots, another person to act as a counting poll watcher to observe the counting of ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages.

(ii) For each municipal general election, municipal primary, local special election, or bond election that uses ballot sheets, each candidate and any person interested in an issue appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots, another person to act as a counting poll watcher to observe the counting of ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages.

(iii) Each candidate poll watcher shall be designated, and his selection made known to the poll workers, by an affidavit made by the candidate appointing him.

(iv) Each issue poll watcher shall be designated, and his selection made known to the poll workers, by an affidavit made by the individual appointing him.

(2) If an appointed poll watcher is temporarily absent for meals, or is sick or otherwise absent, that poll watcher may substitute some other watcher of similar political beliefs by informing the poll workers of the substitution by affidavit.

(3) Voting poll watchers may watch and observe the voting process, and may make a written memorandum, but they may not interfere in any way with the process of voting except to challenge a voter as provided in this part.

(4) The counting poll watcher shall remain in the counting room, except in the case of necessity, until the close of the polls and may not divulge the progress of the count until the count is completed.

(5) (a) It is unlawful for a counting poll watcher to communicate in any manner, directly or indirectly, by word or sign, the progress of the count, the result so far, or any other information about the count.

- (b) Any person who violates this subsection is guilty of a third degree felony.
- (6) The inspecting poll watcher may be present in the office of the clerk or recorder to whom ballots are delivered after elections to:
  - (a) inspect the condition of the packages containing the ballots upon their arrival; and
  - (b) observe the placement of these packages in a safe and secure place.
- (7) (a) Prior to each election in which a ballot sheet or electronic ballot is used, any interested person may act as a testing watcher to observe a demonstration of logic and accuracy testing of the voting devices prior to the commencement of voting.
  - (b) The election officer shall give prior notice of the logic and accuracy testing demonstration at least two days prior to the date of the demonstration by publishing notice of the date, time, and location of the demonstration in at least one newspaper of general circulation in the jurisdiction holding the election.
  - (c) An election official shall provide, upon request, a copy of testing results to a testing watcher.

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

## SECTION E: OTHER

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

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

No

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

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

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

[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 3/31/09). The time required to complete this information collection is estimated to average 59 hours per state response. This estimate includes the time for reviewing the instructions, gathering information, and completing the form. Comments regarding this burden estimate should be sent the U.S. Election Assistance Commission – 2008 Election Administration and Voting Survey, 1225 New York Avenue, Suite 1100, Washington, DC 20005.