U.S. ELECTION ASSISTANCE COMMISSION

2016 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 EAC to better understand the quantitative data relating to the 2016 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.

Information Supplied By	
Name	Edgardo Cortes
Title	Commissioner
Office/Agency Name	Virginia Department of Elections
Address 1	1100 Bank Street
Address 2	1st Floor
City	Richmond
State	Virginia
Zip Code	2321
E-mail Address	edgardo.cortes@elections.virginia.gov
Telephone (area Code and number)	804-864-8901
Fax Number (area code and number)	804-371-0194

DIRECTIONS AND EXAMPLE

As appropriate, please provide your state's legal citation for the responses to the questions beginning on the following page.

Please answer each question to the best of your ability. If a term or concept is ambiguous, please explain why. If a question is not applicable to your state, please explain why. If a definition or term lacks statutory reference in your state but is widely used in practice, please explain. If election procedures vary at the local level within your state, please explain these variations to the best of your ability.

The Statutory Overview data collection document has two columns below each question.

- On the left, we have provided you with the answer your state provided for the 2014 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 the box labeled **No Change since 2014** at the top of the left column.

- If the response has changed since 2014 – or your state has not answered this question previously for some reason— please mark the box labeled **Changed since 2014** at the top of the right column and then provide the new answer in the text box provided. If your response is too long to fit in the box, please make a note in the text box and place your response in the "Notes" page at the end of the document. Additionally, if a law was repealed in full, please answer "repealed in full" in the box.

If any of your state laws are currently enjoined or otherwise blocked from enforcement by a state or federal court or by executive decision, please specify.

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

☒ **No Change since 2014** ☐ **Changed since 2014**

State code 1.11 - An attempt to vote for a larger number of candidates than is allowed.

b) Under-vote

☐ **No Change since 2014** ☒ **Changed since 2014**

This term has no legal definition.

State code 1.12 - An attempt to vote for a smaller number of candidates than is allowed.

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Va. Code § 24.2-802(I): "'Overvote' means a ballot on which a voter casts a vote for a greater number of candidates or positions than the number for which he was lawfully entitled to vote and no vote shall be counted with respect to that office or issue."

2016 Response:

b) Under-vote

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Va. Code § 24.2-802(I): "'Undervote' means a ballot on which a voter casts a vote for a lesser number of candidates or positions than the number for which he was lawfully entitled to vote."

2016 Response:

c) Blank ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Not defined by statute.

2016 Response:

d) Void/Spoiled ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

e) Provisional/Challenged ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

The Code of Virginia does not have a specific definition for a provisional ballot. Instead, Va. Code §§ 24.2-611(E), 24.2-643(B), 24.2-646.1 24.2-651.1, 24.2-653, 24.2-653.1, 24.2-701(B)(1), 24.2-706, and 24.2-708 set the procedures for casting a provisional ballot.

2016 Response:

f) Absentee

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

In 2012, Virginia enacted the Uniform Military and Overseas Voters Act (UMOVA) as Chapter 4.1 of Title 24.2. Section 24.2-452(5) defines "military-overseas ballot:"
§ 24.2-452. Definitions.
As used in this chapter, unless the context requires a different meaning: …
5. "Military-overseas ballot" means:
a. A federal write-in absentee ballot;
b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this title; or
c. A ballot cast by a covered voter in accordance with this title.
The Code of Virginia does not otherwise have a specific definition for an absentee ballot. Requirements for absentee voting are set by Title 24.2, Chapters 4.1 and 7. Of specific interest might be Va. Code § 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting equipment.

2016 Response:

g) Early voting

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Virginia has excuse-only, in-person, absentee voting. We distinguish this from early voting which is no-excuse, in-person, absentee voting.

2016 Response:

h) Active Voter

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

All voters in Virginia are active voters unless otherwise stated. A voter can change their status to an active voter by taking some action to affirm address before two federal elections have passed. Va. Code § 24.2-428.2. Return of registered voter to active status.

2016 Response:

i) Inactive Voter

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Voters in Virginia are placed on inactive status according to Va. Code § 24.2-428. Regular periodic review of registration records; notice to voters identified as having moved; placement on inactive status for failure to respond to notice …
E. The general registrar shall correct his registration records from the information obtained from the return card. If the information indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the general registrar shall transfer the registration record, along with the return card, to the appropriate general registrar who shall treat the request for a change of address as a request for transfer and shall send a voter registration card as confirmation of the transfer to the voter pursuant to § 24.2-424. If the general registrar does not receive the return card provided for in subsection C of this section within thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive status. A registered voter's failure to receive the notice shall not affect the validity of the inactivation.

2016 Response:

j) Other terms (please specify) _____

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

2016 Response:

See Appendix A

Added definition of "general registrar." Removed references to § 24.2-702 (repealed).

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 2014** ☐ **Changed since 2014**

2014 Response:	2016 Response:
No significant legislation affecting voters and/or voting has been passed since the previous Federal election.	

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.)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:	2016 Response:
Top down.	

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:	2016 Response:
N/a.	

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 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

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?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

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.

☐ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

The agency's 2014 Annual Report on Voter Registration List Maintenance Activities on pages 10 and following discuss the NCOA and other list maintenance activities. Please see this link for further reporting:
http://leg2.state.va.us/DLS/h&sdocs.nsf/5c7ff392dd0ce64d85256ec400674ecb/35827a0d9bd8c87985257b4e0054448e?OpenDocument
Va. Code § 24.2-428. Regular periodic review of registration records; notice to voters identified as having moved; placement on inactive status for failure to respond to notice.
A. The State Board shall establish a voter list maintenance program using the change of address information supplied by the United States Postal Service through its licensees or by other reliable sources to identify voters whose addresses may have changed. Any such program shall be regular and periodic and shall be conducted at least annually. The program shall be completed not later than ninety days prior to the date of a federal primary or federal general election.
B. If it appears from information provided by the Postal

2016 Response:

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 2014** ☒ **Changed since 2014**

2014 Response:

According to the Constitution and Code of Virginia, convicted felons in Virginia lose their right to vote. (See Va. Const. Art. II, § 1; Va. Code § 24.2-427.)
Voting rights are not automatically restored in Virginia. A person with a felony conviction may apply for a restoration of their rights through the Secretary of the Commonwealth. Under Article V, Section 12, of the Virginia Constitution and §§ 53.1-229 through 53.1-231 of the Code of Virginia, all clemency authority is vested solely in the Governor. Clemency is not guaranteed and if a petition is denied, the petitioner has no right of appeal. Recent Governors have worked to streamline the process and make it more automatic for nonviolent felonies.
https://commonwealth.virginia.gov/judicial-system/restoration-of-rights/

2016 Response:

While the state Constitutional requirements regarding restoration of rights have not changed, Governor McAuliffe has made significant improvements to the individualized review process for restoration of voting rights. An application is no longer required; outstanding court fines and fees are no longer required to be fully paid before restoration of rights is granted; no distinction is made based on types of offenses; and the waiting period for restoration has been removed. The current restoration of rights policy is available at
https://commonwealth.virginia.gov/media/6733/restoration-of-rights-policy-memo-82216.pdf

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.).

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

2013 legislation allows electronic application for registration.

§ 24.2-416.7. Application for voter registration by electronic means.
A. Notwithstanding any other provision of law, a person who is qualified to register to vote may apply to register to vote by electronic means as authorized by the State Board by completing an electronic registration application.
B. Notwithstanding any other provision of law, a registered voter may satisfy the requirements of §§ 24.2-423 and 24.2-424 to notify the general registrar of a change of legal name or place of residence within the Commonwealth by electronic means as authorized by the State Board by completing an electronic registration application.
C. An electronic registration application completed pursuant to this article shall require that an applicant:
1. Provide the information as required under § 24.2-418;
2. Have a Virginia driver's license or special identification card issued by the Department of Motor Vehicles;
3. Provide a social security number and Department of Motor

2016 Response:

The Department of Motor Vehicles integrated online voter registration into online DMV transactions in July 2016. This allows online DMV customers to completely submit a registration paperlessly through a secure online process.

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 2014** ☐ **Changed since 2014**

2014 Response:

Localities have both options for absentee ballots cast before election day. (Compare Va. Code § 24.2-710 with Va. Code § 24.2-712.) Ballots cast on election day are counted at the precinct unless provisional.
§ 24.2-710. Further duties of electoral board and general registrar; absentee voter applicant lists.
Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot containers to, and

2016 Response:

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

No, they are reported in a separate "central absentee precinct" (CAP).

2016 Response:

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 2014** ☐ **Changed since 2014**

2014 Response:

Localities have both options for absentee ballots. (Compare Va. Code § 24.2-710 with Va. Code § 24.2-712.) See answer to question C1(a).

2016 Response:

d. How are UOCAVA ballots counted and reported?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

They are treated the same as any other absentee ballot for counting and reporting purposes.

2016 Response:

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.)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

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?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Virginia allows excuse-only, in-person, absentee voting. In-person absentee voting can start as soon as ballots are ready: 45 days before all elections for federal office and most other elections.

§ 24.2-612. List of offices and candidates filed with State Board and checked for accuracy; when ballots printed; number required.
…The general registrar shall make printed ballots available for absentee voting not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application, whichever is later. In the case of a special election, excluding for federal offices, if time is insufficient to meet the applicable deadline established herein, then the general registrar shall make

2016 Response:

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?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

No.

2016 Response:

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Virginia specifies reasons for voting provisionally:
1. Electronic pollbooks fail and officers of election have no other means of determining elegibility, Va. Code §24.2-611 (E).
2. Voter issued absentee ballot goes to the polls after having surrendered his unused or spoiled ballot before election day. Va. Code §24.2-708.
3. Voter is shown on pollbook as having already voted. Va. Code §24.2-651.1.
4. Voter is voting after the normal poll closing time due to a court order extending the time established by state law for closing the polls. (Va. Code § 24.2-653(C))
5. Voter requested an absentee ballot but did not receive it or lost the ballot. (Va. Code §§ 24.2-653.1 and 24.2-708.)
6. Voter voting in person did not provide acceptable photo identification. §§ 24.2- 643(B) and 24.2-701(B)
7. Voter subject to HAVA identification requirements voting by mail in a federal election did not include a copy of HAVA ID. (Va Code § 24.2-706.)
8. Voter's name mistakenly was omitted from pollbook. (Va. Code § 24.2-653.) This includes persons who submitted a voter registration application at an NVRA agency but whose application was lost before being processed by the general

2016 Response:

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.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

No, these provisional ballots are rejected.
Process for Determining Provisional Ballots Cast for Reasons other than Lack of Photo Identification
According to our General Registrar and Electoral Board handbook, Chapter 17, pages 437-439:
17.4.1 Reasons # 1 or # 2 - Voter's name not on pollbook; Voter says he/she is registered to vote in that precinct:
-If the name of a voter does not appear on the precinct pollbook, the voter must be given a provisional ballot to vote if the general registrar cannot be reached, or the general registrar is unable to determine that a voter is registered to vote, AND the voter states he or she is a registered voter in the precinct.
-An officer of election should ask the voter for correct spelling of name or if there has been a recent name change.
-An officer of election should check for the voter's name at the end of the alphabetical section or on any separate listing provided by the registrar.
-An officer of election should ask when and where the voter registered to vote and last voted. If the voter advises he or she registered at a DMV or other NVRA agency, ask if he or she knows the date, or approximate date, and location of the DMV or NVRA agency. This information may be used by the registrar to help locate the citizen's registration documents. § 24.2-444. Contact SBE's Voter Registration Coordinator if help is needed to identify NVRA agencies.
-An officer of election should obtain the voter's full legal name, address, and social security number before calling the registrar's office. The officer should explain that providing the information is optional and requested in order to look up the voter's record.
-An officer of election should check the street file records, alpha roster, electronic pollbooks, other such materials provided, or information from the general registrar to determine if the voter is in the correct precinct. If the voter is found to be in the incorrect precinct, advise him or her of the correct precinct in which he or she is registered and advise that he or she can only vote in that precinct in order to have his or her ballot counted.
Exception: If proof is found that the person attempted to register (or transfer/update his or her registration) at DMV or another NVRA agency before the registration deadline, and the person completes a voter registration form at the polls, that application will be accepted or rejected as if it had been received on time. If the voter is found qualified to be registered, the provisional ballot must have been cast in the precinct in which the voter would have been registered.
-The chief officer of election (or an officer designated by the chief) must take the voter aside and contact the general

2016 Response:

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.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Virginia's law was changed in 2008 to allow post-election audits.
§ 24.2-671.1. Pilot programs for audits of optical scan tabulators.
A. The State Board shall be authorized to provide for pilot programs conduct a post-election audit of one or more ballot scanner machines in one or more precincts in one or more localities with respect to an election in which the margin between the top two candidates for each office on the ballot exceeds 10 percent, with the consent of the electoral board of the locality, to notwithstanding any other provision of law to the contrary. The purposes of the audits shall be to study the accuracy of the ballot scanner machines.
B. No audit conducted shall commence until after the election has been certified and the period to initiate a recount has expired without the initiation of a recount, unless such audit is being conducted as part of voting system certification. An audit shall have no effect on the election results.
C. All audits shall be performed in accordance with the procedures prescribed by the State Board under the supervision of the local electoral board. The procedures established by the State Board shall include its procedures for conducting hand counts of ballots. Candidates and political parties may have representatives observe the audits.
D. At the conclusion of each audit, the local electoral board shall announce publicly the results of the audit of the machines in its jurisdiction. The announcement shall include a comparison of the audited election results and the initial tally for each machine audited, and an analysis of any detected discrepancies.

2016 Response:

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

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

§ 24.2-103. Powers and duties in general.
B. The State Board, through the Department of Elections, shall ensure that the members of the electoral boards and general registrars are properly trained to carry out their duties by offering training annually, or more often, as it deems appropriate, and without charging any fees to the electoral boards and general registrars for the training. The State Board shall set the training standards for the officers of election and shall develop standardized training programs for the officers of election to be conducted by the local electoral boards and the general registrars. Training of the officers of election shall be conducted and certified as provided by § 24.2-115.2. The State Board shall provide standardized training materials for such training and shall also offer on the Department of Elections website a training course for officers of election. The content of the online training course shall be consistent with the standardized training programs developed pursuant to this section. The State Board shall review the standardized training materials and the content of the online training course every two years in the year immediately following a general election for federal office.

§ 24.2-115.2 Officers of election; required training.
A. Each officer of election shall receive training consistent with the standards set by the State Board pursuant to § 24.2-103. This training shall be conducted by the electoral boards and general registrars, using the standardized training programs and materials developed by the State Board for this purpose. However, any electoral board and general registrar may instead require that the officers of election complete the online training course provided by the State Board pursuant to subsection B of § 24.2-103. Each officer of election shall receive such training, or complete the online training course, before the first election in which he will be serving as an officer of election. Such requirement shall apply to each term for which the officer of election is appointed.
[...]
C. Following any training conducted pursuant to this section, the electoral boards shall certify to the State Board that the officers of election in its jurisdiction have received the required training. Such certification shall include the dates of each completed training.

2016 Response:

SECTION D: ELECTION DAY ACTIVITIES

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Over-votes and under-votes statistics are not tracked at the state level.

2016 Response:

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

a. registering to vote;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Identification is not required for voter registration. However, first-time voters in federal election who register by mail are encouraged to enclose a copy of their identification. If voting absentee by mail when eligible, their ballot cannot be counted unless a copy of identification meeting HAVA standards is provided to be received by the electoral board no later than noon three days after the election.

2016 Response:

b. casting an in-person ballot;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification.
A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.
B. An officer of election shall ask the voter for his full name and current residence address and the voter may give such information orally or in writing. The officer of election shall repeat, in a voice audible to party and candidate representatives present, the full name and address provided by the voter. The officer shall ask the voter to present any one of the following forms of identification: his valid Virginia driver's license, his valid United States passport, or any other photo identification issued by the Commonwealth, one of its political subdivisions, or the United States; any valid student identification card containing a photograph of the voter and issued by any institution of higher education located in the Commonwealth or any private school located in the Commonwealth; or any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's

2016 Response:

c. casting a mail-in or absentee vote;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Va. Code § 24.2-701(B) requires photo identification when voting absentee in person.
Section 24.2-706 requires when a voter subject to HAVA identification is voting absentee by mail for the first time in a federal election, the absentee ballot will not count unless a copy of identification is included with the ballot or provided to the electoral board by Friday noon following the election.
§ 24.2-706. Duty of general registrar and electoral board on receipt of application; statement of voter
…For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with his ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as a provisional ballot under the

2016 Response:

d. casting a ballot under UOCAVA;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

UOCAVA voters are exempt from the vote-in-person requirement of Va. Code § 24.2-416.1. They are also exempt from the HAVA identification requirement for first time voters registering by mail. 52 USC 21083(b)(3)(C), Va. Code §24.2-706. Otherwise, they are subject to the same identification requirements as other Virginia voters.

2016 Response:

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

None. Though, Virginia requires certain persons who apply to register to vote by mail to vote in person their first time voting. See Va. Code § 24.2-416.1.
§ 24.2-416.1. Voter registration by mail.
A. A person may apply to register to vote by mail by completing and returning a mail voter registration application form in the manner and time provided by law.
B. Any person, who applies to register to vote by mail pursuant to this article and who has not previously voted in the county or city, in which he registers to vote, shall be required to vote in person, either at the polls on election day or in-person absentee. However, this requirement to vote in person shall not apply to a person so long as he (i) is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff-1 et seq.); (ii) is provided the right to vote otherwise than in person under § 3 (b) (2) (B) (ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee-1 (b) (2) (B) (ii)), including any disabled voter and any voter age 65 or older who is otherwise qualified to vote absentee under § 24.2-700; (iii) is entitled to vote otherwise than in person under other federal law; (iv) is a full-time student in an

2016 Response:

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 2014** ☒ **Changed since 2014**

2014 Response:

Virginia allows up to three authorized representatives per party or independent candidate to observe elections. The observer must be a qualified voter with a signed authorization from the party or candidate. Observers may use cell phones and electronic devices but not take pictures or cause disruption. Following Virginia Attorney General Opinion 11-028 holding that local electoral boards and officers of election may not restrict the movement of authorized representatives at the polling place, legislation was enacted in 2012 to clarify that (1) observation cannot interfere with ballot secrecy and orderly process of the election; and (2) attendance at meeting considering provisional ballots is limited to authorized representatives, the provisional voter and his legal counsel, staff and legal counsel to the electoral board. The State Board of Elections provides a guidance document for authorized representatives titled Dos and Don'ts on Election Day. Implementing administrative regulations address electronic devices: 1VAC20-60-30. Electronic Devices in Polling Place.
§ 24.2-604. Prohibited activities at polls; notice of prohibited area; presence of representatives of parties or candidates; simulated elections; penalties; neutral observers;
C. The officers of election shall permit one authorized representative of each political party or independent candidate in a general or special election, or one authorized representative of each candidate in a primary election, to remain in the room in which the election is being conducted at all times. A representative may serve part of the day and be replaced by successive representatives. The officers of election shall have discretion to permit up to three authorized representatives of each political party or independent candidate in a general or special election, or up to three authorized representatives of each candidate in a primary election, to remain in the room in which the election is being conducted. The officers shall permit one such representative for each pollbook station. However, no more than one such representative for each pollbook station or three representatives of any political party or independent candidate, whichever number is larger, shall be permitted in the room at any one time. Each authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each representative shall present to the officers of election a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. If the county or city chairman is unavailable to sign such a written designation, such a designation may be made by the state or

2016 Response:

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 2014** ☐ **Changed since 2014**

2014 Response:

In 2012, Virginia streamlined and simplified its administrative complaint procedures and form consistent with HAVA to provide for alternative dispute resolution after 90 days. The updated complaint form is available in Spanish.

2016 Response:

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 2014** ☐ **Changed since 2014**

2014 Response:

Two significant law changes effective July 1, 2014, are noted to inform EAC's interpretation:
(1) Virginia's new photo identification requirement; and (2) agency reorganization so that the agency head is no longer a member of the governing board. See Va. Code §§ 24.2-103 and 24.2-643. General registrars are authorized to provide free photo identification services to voters lacking photo ID; training and preparation for this new service and outreach to voters involve a significant commitment of agency time and resources. Agency leadership changed effective July 1, 2014, and new Board members will be appointed in early 2015.

2016 Response:

* The information collection associated with the Election Administration and Voting Survey is required for the EAC to meet its statutory requirements under the Help America Vote Act (HAVA) of 2002 (42 U.S.C. 15301), the National Voter Registration Act (NVRA) (42 U.S.C. 1973gg-1 et seq.), and the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) (42 U.S.C. 1973ff-1). Respondent's obligation to reply to this information collection is mandatory as required under NVRA (42 U.S.C. 1973gg-1 et seq.) and UOCAVA (42 U.S.C. 1973ff-1). This part of the information collection is being requested to help the EAC to better understand state laws governing Federal elections. Respondents include the fifty states, the District of Columbia, and the U.S. Territories. This information will be made publicly available on the EAC website (www.eac.gov). According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB Control No. 3265-0006 (expires 04/30/2017). 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 – 2014 Election Administration and Voting Survey, 1335 East West Highway, Suite 4300, Silver Spring MD, 20910.

NOTES – please place longer responses below

A1d. Void/Spoiled ballot

If a printed ballot is found to have been voted for a greater number of names for any one office than the number of persons required to fill the office, or if the title of the office is erased, the ballot shall be considered void as to all the names designated to fill such office, but no further, and the ballot shall be counted for the other offices on the ballot. In the case of a ballot scanner machine, an election official is authorized to cause the ballot scanner to receive the ballot and count it in accordance with this section. No ballot shall be void for having been voted for fewer names than authorized. If any person votes, either in person or absentee, more than one time in an election, all ballots received from such person shall be void and, if possible, not counted. If one such ballot has already been cast, any additional ballots received from such person shall be void and not counted.

Also, See § 24.2-648. Write-in votes on voting equipment.

Write-in votes may be cast on voting equipment for any person whose name does not appear on the ballot as a candidate for the office being voted, subject to this section and the provisions of § 24.2-644 not in conflict with this section. Each write-in vote shall be entered in the receptacle or area designated on the machine for the office being elected. A write-in vote shall be cast in its appropriate place, in accordance with the instructions for that equipment, or it shall be void and not counted. Except on machines that provide a means to enter a name electronically, each write-in vote shall be entered by the voter in his own handwriting or hand printing.

See § 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting equipment. On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646 without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the electoral board, and (e) seal that envelope and mail it to the office of the electoral board or deliver it personally to the electoral board or the general registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 and 24.2-705.

An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth above except that he may complete the procedure in person in the office of the general registrar or secretary of the electoral board, or at another location or locations in the county or city approved by the electoral board, before a registrar or a member of the electoral board, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and un-voted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for

Department of Motor Vehicles facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar or secretary of the electoral board for the purpose of completing the application for an absentee ballot in person pursuant to §§ 24.2-701 and 24.2-706. On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar or the secretary may send the items set forth in subdivisions 1 through 4 of §24.2-706 to the applicant by mail, obtaining a certificate of mailing. Failure to follow the procedures set forth above shall render the applicant's ballot void….

See § 24.2-709. Ballot to be returned in manner prescribed by law.

A. Any [absentee] ballot returned to the office of the electoral board or general registrar in any manner except as prescribed by law, shall be void. Absentee ballots shall be returned to the electoral board or general registrar before the closing of the polls. The board member or registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery. For all ballots returned by the general registrar to the electoral board, the board shall give to the general registrar a receipt showing the time and date of the return. No returned absentee ballot shall be deemed void because the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed….

A1j. Other terms

Other pertinent definitions can all be found in Va. Code §§ 24.2-101 and 24.2-452. The following may be of interest:

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. "Candidate" shall include a person who seeks the nomination of a political party or who, by reason of receiving the nomination of a political party for election to an office, is referred to as its nominee. For the purposes of Chapters 8 (§ 24.2-800 et seq.), 9.3 (§ 24.2-945 et seq.), and 9.5 (§ 24.2-955 et seq.), "candidate" shall include any write-in candidate. However, no write-in candidate who has received less than 15 percent of the votes cast for the office shall be eligible to initiate an election contest pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8. For the purposes of Chapters 9.3 (§ 24.2-945 et seq.) and 9.5 (§24.2-955 et seq.), "candidate" shall include any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, excluding federal offices, or one of its governmental units in a party nomination process or general, primary, or special election; and such person shall be considered a candidate until a final report is filed pursuant to Article 3 (§ 24.2-947 et seq.) of Chapter 9.3.

"Central absentee voter precinct" means a precinct established by a county or city pursuant to § 24.2-712 for the processing of absentee ballots for the county or city or any combination of precincts within the county or city.

"Constitutional office" or "constitutional officer" means a county or city office or officer referred to in Article VII, Section 4 of the Constitution of Virginia: clerk of the circuit court, attorney for the Commonwealth, sheriff, commissioner of the revenue, and treasurer. "Department of Elections" means the state agency headed by the Commissioner of Elections.

"Direct recording electronic machine" or "DRE" means the electronic voting machine on which a voter touches areas of a computer screen, or uses other control features, to mark a ballot and his vote is recorded electronically.

"Election" means a general, primary, or special election.

"Election district" means the territory designated by proper authority or by law which is represented by an official elected by the people, including the Commonwealth, a congressional district, a General Assembly district, or a district for the election of an official of a county, city, town, or other governmental unit.

"Electoral board" or "local electoral board" means a board appointed pursuant to § 24.2-106 to administer elections for a county or city. The electoral board of the county in which a town or the greater part of a town is located shall administer the town's elections.

"General election" means an election held in the Commonwealth on the Tuesday after the first Monday in November or on the first Tuesday in May for the purpose of filling offices regularly scheduled by law to be filled at those times.

"Machine-readable ballot" means a tangible ballot that is marked by a voter or by a system or device operated by a voter and then fed into and scanned by a counting machine capable of reading ballots and tabulating results.

"Officer of election" means a person appointed by an electoral board pursuant to § 24.2-115 to serve at a polling place for any election.

"Paper ballot" means a tangible ballot that is marked by a voter and then manually counted.

"Party" or "political party" means an organization of citizens of the Commonwealth which, at either of the two preceding statewide general elections, received at least 10 percent of the total vote cast for any statewide office filled in that election. The organization shall have a state central committee and an office of elected state chairman which have been continually in existence for the six months preceding the filing of a nominee for any office.

"Person with a disability" means a person with a disability as defined by the Virginians with Disabilities Act (§ 51.5-1 et seq.).

"Polling place" means the structure that contains the one place provided for each precinct at which the qualified voters who are residents of the precinct may vote.

"Precinct" means the territory designated by the governing body of a county, city, or town to be served by one polling place.

"Primary" or "primary election" means an election held for the purpose of selecting a candidate to be the nominee of a political party for election to office.

"Printed ballot" means a tangible ballot that is printed on paper and includes both machinereadable ballots and paper ballots.

"Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and who is (i) 18 years of age on or before the day of the election or qualified pursuant to § 24.2-403 or subsection D of § 24.2-544, (ii) a resident of the Commonwealth and of the precinct in which he offers to vote, and (iii) a registered voter. No person who has been convicted of a felony shall be a qualified voter unless his civil rights have been restored by the Governor or other appropriate authority. No person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law. Whether a signature should be counted towards satisfying the signature requirement of any petition shall be determined based on the signer of the petition's qualification to vote….

"Qualified voter in a town" means a person who is a resident within the corporate boundaries of the town in which he offers to vote, duly registered in the county of his residence, and otherwise a qualified voter.

"Referendum" means any election held pursuant to law to submit a question to the voters for approval or rejection.

"Registered voter" means any person who is maintained on the Virginia voter registration system. All registered voters shall be maintained on the Virginia voter registration system with active status unless

assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.). For purposes of applying the precinct size requirements of §24.2-307, calculating election machine requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6, mailing notices of local election district, precinct or polling place changes as required by subdivision 13 of § 24.2-114 and § 24.2-306, and determining the number of signatures required for candidate and voter petitions, "registered voter" shall include only persons maintained on the Virginia voter registration system with active status….

"Registration records" means all official records concerning the registration of qualified voters and shall include all records, lists, applications, and files, whether maintained in books, on cards, on automated data bases, or by any other legally permitted record-keeping method.

"Residence" or "resident," for all purposes of qualification to register and vote, means and requires both domicile and a place of abode. To establish domicile, a person must live in a particular locality with the intention to remain. A place of abode is the physical place where a person dwells. In determining domicile, consideration may be given to a person's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the person, motor vehicle and other personal property registration, and other factors reasonably necessary to determine the qualification of a person to register or vote.(amended 2009).

"Special election" means any election that is held pursuant to law to fill a vacancy in office or to hold a referendum.

"Voting system" means the electronic voting and counting machines used at elections. This term includes direct recording electronic machines (DRE) and ballot scanner machines.

§ 24.2-452. Definitions.

As used in this chapter, unless the context requires a different meaning:

1. "Covered voter" means:

a. A uniformed-service voter or an overseas voter who is registered to vote in this state;

b. A uniformed-service voter defined in subdivision 9 a whose voting residence is in this state and who otherwise satisfies this state's voter eligibility requirements, including subdivision 2 of § 24.2-700;

c. An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;

d. An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or

e. An overseas voter who was born outside the United States, is not described in subdivision

c or d, 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 chapter would have been, eligible to vote before leaving the United States is within this state; and

(2) The voter has not previously registered to vote in any other state.

2. "Dependent" means an individual recognized as a dependent by a uniformed service.

3. "Federal postcard application" means the application prescribed under § 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff(b)(2).

4. "Federal write-in absentee ballot" means the ballot described in § 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff-2, that may be used in all elections in which the voter is eligible to vote as provided in § 24.2-702.1.

5. "Military-overseas ballot" means:

a. A federal write-in absentee ballot;

b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this title, including an early ballot authorized in § 24.2-702; or

c. A ballot cast by a covered voter in accordance with this title.

6. "Overseas voter" means a United States citizen who is outside the United States.

7. "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.

8. "Uniformed service" means:

a. Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;

b. 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; or

c. The Virginia National Guard.

9. "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 on activated status of the National Guard; or

d. A spouse or dependent of a member referred to in this definition.

10. "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

A2. Since 2012, Virginia has enacted about two dozen significant changes affecting election administration.

2014 Legislation

HB 669 Absentee ballot date requirement

(§§24.2-707, 711)

Date no longer considered material for Envelope B. Implementing Administrative Regulations: 1VAC20-70-20. Material Omissions from Absentee Ballots

HB 670, SB 33 Absentee ballot name requirement

(§§24.2-707, 711)

Middle name or initial no longer material for Envelope B so long as full first and last names provided. Implementing Administrative Regulations: 1VAC20-70-20. Material Omissions from Absentee Ballots

HB 838 Absentee ballot inner envelope requirement

(§24.2-709)

Sealing Envelope B not material if mailing envelope arrives sealed. Similar rule for FWABs. Implementing Administrative Regulations: 1VAC20-70-20. Material Omissions from Absentee Ballots; 1VAC20-45-40. Material Omissions from Federal Write-In Absentee Ballots.

HB 759, SB 11 Secure return of uniformed services ballots

(§24.2-706)

SBE to convene a working group to develop procedures and coordinate with localities on best practices. SBE must provide regulations for secure electronic return of voted militaryoverseas ballots. Provision for secure return must be reenacted in 2015 to be effective in 2016.

HB 1197 Return of unused or defaced ballots

(§24.2-708)

Confirmed returned ballot unused or defaced allows voting normally on equipment. If an election officer cannot confirm, the voter may cast a provisional ballot.

HB 679, SB 456 Voting equipment

§§ 24.2-101, 24.2-531, 24.2-603.1, 24.2-609, 24.2-612, 24.2-613, 24.2-623, 24.2-625, 24.2-626, 24.2-627, 24.2-629, 24.2-633, 24.2-634, 24.2-638, 24.2-639, 24.2-641, 24.2-642, 24.2-645, 24.2-646, 24.2-647, 24.2-648, 24.2-649, 24.2-653, 24.2-653.1, 24.2-654, 24.2-657, 24.2-658, 24.2-659, 24.2-663, 24.2-671.1, 24.2-712, 24.2-801, 24.2-801.1, and 24.2-802; repeal §§24.2-628, 24.2-640) Technical amendments to reflect updates in voting technology. No physical diverter is required if the voter's selection can still be determined. No need for separate ballot containers in dual primaries. Department is authorized to conduct audits of ballot scanning machines. Emergency clause made effective in April 2014.

SB 361 Electoral Board meeting after election

(§§24.2-653, 24.2-671)

Strikes "from day to day" to allow the board to adjourn, for example, from Wednesday to Friday for the review of provisional ballots. Present law would only allow the board to adjourn, for example, from Wednesday to Thursday, then from Thursday to Friday, etc. for up to seven days. Also allows provisional voters to request an extension without limiting it to "the following day."

HB 104 Nonpartisan election officers

(§24.2-115)

Chief and assistant chief election officers may be non-partisan if a representative of one or both major political parties is unavailable. Representatives of both parties must be given notice ten days prior to the election to provide additional candidates for election officers.

HB 1024 Special election for vacancies

(§24.2-226)

Specifies the dates on which a court is to order a special election in the case of a vacancy in a constitutional or local elected office.

HB 512 Clarification of ballot language

(§24.2-613)

Clarifies the ballot language when a voter is only to vote for one candidate to read “vote for only one” instead of “vote for not more than…”

SB 315 State Board Annual Report

(§24.2-404)

The State Board must submit a report every year to the Committee on Privileges and Elections on the Voter Registration system list maintenance activities.

2013 Legislation

SB 1256 Voter identification requirements; photo ID

(§§ 24.2-404, 24.2-411.1, 24.2-643, 24.2-701)

Requires photo ID at the polls by eliminating all forms of identification that do not contain a photograph of the voter from the list of forms of identification any one of which a voter must present in order to be allowed to vote. The bill also adds a valid United States passport to the list and requires that a student identification card issued by an institution of higher education in the Commonwealth contain a photograph in order to be used by a voter. The bill does not affect the right of a voter who does not present one of the required forms of identification to cast a provisional ballot. The bill also provides that the State Board shall provide free voter registration cards that contain a voter's photograph and signature if the voter does not possess other satisfactory photo ID. The bill has a delayed effective date of **July 1, 2014**, and its provisions are contingent upon funding being included in a general appropriation act passed by the 2013 Session of the General Assembly. Implementing administrative regulations: 1VAC20-40-90. Voter Photo Identification Cards. Definitions: 1VAC20-40-10. Definitions. (valid, voter photo identification card)

SB 1229 State Board of Elections; Director of Elections

(§§ 24.2-101, 24.2-102, 24.2-103, 24.2-404.1, 24.2-411.2, 24.2-455, 24.2-464, 24.2-502, 24.2-644, 24.2-713, 24.2-946.4, 24.2-953.4, 64.2-2014) Changes the name of the State Board of Elections (the agency that administers election law) to the Department of Elections. The three-member board appointed by the Governor that is also known as the State Board of Elections retains its name. The bill also provides that instead of the Governor designating one member of the three-member State Board of Elections as the Secretary who then acts as the agency head, the Governor will appoint a Commissioner of Elections to act as agency head. The bill has a delayed effective date of **July 1, 2014.**

SB 967 Application for absentee ballot

(§ 24.2-701)

Eliminates certain additional information that a person applying for an absentee ballot must submit regarding the reason the applicant will be absent or cannot vote at his polling place on the day of the election, including (i) in the case of a person, or the spouse or dependent of a person, who is on active duty in the military, the person's or his spouse's rank, grade, or rate, and service identification number; (ii) in the case of a student, the address of his school; (iii) in the case of a person with a disability or who is ill or pregnant, the nature of the disability, illness, or pregnancy; (iv) in the case of a person confined awaiting trial, the address of the institution of confinement; (v) in the case of a person caring for an ill or disabled family member, the name of the ill or disabled family member and the nature of the disability or illness; (vi) in the case of a person with a religious obligation, his religion; (vii) in the case of a person who will be at work for 11 or more hours when the polls are open, the address of his place of work; and (viii) in the case of a person designated as a poll watcher, the name of the party chairman or candidate who designated him.

HB 1346 Presidential elections and primaries; petition requirements

(§§ 24.2-543, 24.2-545)

Reduces the number of signatures required for groups other than the major parties to gain access to the presidential election ballot from 10,000 to 5,000 signatures in the Commonwealth and from 400 to 200 signatures in each congressional district. The bill makes similar reductions to 5,000 and 200 in the number of signatures required for a person to qualify for a presidential primary ballot. The bill also provides a method for substituting persons listed as electors for presidential candidates for groups other than the major parties in the event such persons die or become incapacitated.

SB 690 Presidential elections and primaries; petition requirements

(§§ 24.2-543, 24.2-545)

Reduces the number of signatures required for groups other than the major parties to gain access to the presidential election ballot from 10,000 to 5,000 signatures in the Commonwealth and from 400 to 200 signatures in each congressional district. The bill makes similar reductions to 5,000 and 200 in the number of signatures required for a person to qualify for a presidential primary ballot.

SB 1049 Candidate petitions; qualifications to have candidate's name appear on the ballot

(§§ 24.2-101, 24.2-424, 24.2-506, 24.2-543, 24.2-612)

Provides that the signatures of qualified voters who have been assigned inactive status shall be deemed valid for purposes of candidate petitions. The bill also requires the State Board of Elections to develop standards and procedures for determining whether petition signatures are valid and an appeal procedure from a determination by the electoral board or the State Board that the number of valid signatures is insufficient. Implementing administrative regulations: 1VAC20-50-20. Material Omissions from Candidate Petitions and Petition Signature Qualifications; 1VAC20-50-30. Appeals of Petition Signature Insufficiency.

HB 2147 Primaries; candidate petition signatures, certification by party chairman

(§§ 24.2-522, 24.2-527, 24.2-545)

Provides that in furnishing to the State Board of Elections or local electoral boards the names of candidates for nomination in a primary, including a presidential primary, the party chairman shall certify that a review of the candidate petitions found the required minimum number of signatures of qualified voters for the particular office to have been met. The bill also provides that the State Board shall transmit declarations of candidacy, petitions, and receipts for the payment of filing fees filed with the State Board to the state chairman of the party of the candidate filing such materials within 72 hours of the filing and not later than the seventy-fourth day before a primary. Currently, the State Board must transmit such materials on the seventy-fourth day before a primary.

HB 1764 State Board of Elections; Virginia Voter Registration System

(§ 24.2-404)

Directs the State Board to cooperate with other states to develop systems to compare voters and registration lists in order to ensure accuracy of voter registration rolls, prevent duplicate registration, and determine eligibility of individuals to vote.

HB 2022 Voter Registration Exchange

(§ 24.2-404.4)

Directs the State Board of Elections to request voter registration information and lists of persons voting at primaries and elections, if available, from the states that border the Commonwealth in order to identify duplicate registrations, voters who no longer reside in the Commonwealth, and other persons no longer

entitled to be registered to vote. The State Board shall report annually to the Committees on Privileges and Elections on its progress, including the number of duplicate registrations discovered and the steps taken by the Board to eliminate duplicate registrations.

SB 1008 Voter registration; registration activities by third parties

(§§ 24.2-416.3, 24.2-416.6, 24.2-418, 24.2-1002.01)

Requires individuals and groups conducting voter registration drives, when obtaining 25 or more voter registration applications from the State Board of Elections or local offices, to register with the State Board or local offices, provide information as required by the State Board, receive training, and execute a sworn affidavit that they will abide by all Virginia voter registration laws and rules. The bill also prohibits pre-populating registration applications with information unless directed by the applicant to do so. Finally, the bill reduces the time limit for mailing or delivering such completed applications from 15 to 10 days.

SB 1077 Registered voters; citizenship; SAVE Program

(§§ 24.2-404, 24.2-427, 24.2-328.1)

Authorizes the State Board of Elections to apply to participate in the Systematic Alien Verification for Entitlements Program (SAVE Program) operated by the U.S. Citizenship and Immigration Services of the U.S. Department of Homeland Security. The SAVE Program enables access to immigration status and citizenship status information possessed by the U.S. Department of Homeland Security. If the application is approved, the State Board will utilize the SAVE Program for the purposes of verifying that voters listed in the Virginia Voter Registration System are United States citizens and shall promulgate rules and regulations governing the use of the immigration status and citizenship status information received from the SAVE Program. The bill also requires that when a person applying for a license, permit, or identification card from the Department of Motor Vehicles presents a document to prove legal presence other than citizenship, the Department shall record the applicant's document number and provide this number on the monthly list of noncitizens submitted by the Department to the State Board.

HB 2341 Electronic transmission of voter registration information

(§§ 24.2-423, 24.2-424, 24.2-416.7)

Provides that a person who is qualified to register to vote may apply to register to vote by electronic means authorized by the State Board of Elections.

SB 958 Voter registration; final day of registration and mail registration application

(§ 24.2-416.4)

Provides that the principal office of the registrar shall close for registration purposes at 5:00 p.m. on the final day for registration before an election. The same deadline shall apply to receiving mail registration, other than applications returned through the United States Postal Service.

SB 1027 Voting; overvoted ballots

(§ 24.2-663)

Provides, in the case of ballots that are inserted into an electronic counting device, that if a ballot is found to have voted for a greater number of names for one office than the number of persons required to fill the office, the ballot shall be considered void only for that office and the votes for other offices on the ballot are to be counted. In the case of an electronic counting device, an election official is authorized to cause the device to receive the ballot. Paper ballots already are handled in this manner. Implementing administrative regulation: 1VAC20-60-40. When Ballot Cast.

HB 2331 Election laws; enforcement and prosecution

(§ 24.2-104)

Gives the Attorney General the independent authority to enforce and prosecute violations of election laws in addition to the existing authority granted to the Attorney General pursuant to a unanimous vote of all members of the Board of Elections requesting the Attorney General to assist an attorney for the Commonwealth.

SB 802

(§§ 24.2-103, 24.2-107)

Provides that a telephone call between two members of an electoral board or a telephone call between two members of the State Board of Elections in preparation for a meeting shall not constitute a meeting for Virginia Freedom of Information Act purposes if the discussion otherwise would not constitute a meeting.

B2. The process is the same for all voters.

§ 24.2-428. Regular periodic review of registration records; notice to voters identified as having moved; placement on inactive status for failure to respond to notice.

A. The State Board shall establish a voter list maintenance program using the change of address information supplied by the United States Postal Service through its licensees or by other reliable sources to identify voters whose addresses may have changed. Any such program shall be regular and periodic and shall be conducted at least annually. The program shall be completed not later than ninety days prior to the date of a federal primary or federal general election.

B. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address in the same county or city in which the voter is currently registered, the State Board of Elections shall provide to the general registrar the information necessary to change the registration records to show the new address, and the State Board of Elections or the general registrar shall send to the new address of the voter by forwardable mail, a notice of the change, along with a postage prepaid, pre-addressed return card by which the voter may verify or correct the address information.

C. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address not in the same county or city, the State Board of Elections or the general registrar shall send to the last known address of the voter by forwardable mail, a notice on a form prescribed by the State Board, along with a postage prepaid and pre-addressed return card on which the voter may state his current address.

D. The registered voter shall complete and sign the return card subject to felony penalties for making false statements pursuant to § 24.2-1016.

E. The general registrar shall correct his registration records from the information obtained from the return card. If the information indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the general registrar shall transfer the registration record, along with the return card, to the appropriate general registrar who shall treat the request for a change of address as a request for transfer and shall send a voter registration card as confirmation of the transfer to the voter pursuant to § 24.2-424. If the general registrar does not receive the return card provided for in subsection C of this section within thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive status. A registered voter's failure to receive the notice shall not affect the validity of the inactivation.

§ 24.2-428.1. Other procedures for assigning registered voters to inactive status.

In addition to the voter list maintenance program provided for in § 24.2-428, the general registrar and the registered voter shall follow the confirmation notification procedures set forth in subsections C through E of § 24.2-428 if a voter provides an address on a candidate or referendum petition that differs from the address for the voter on the voter registration system or if any of the following documents sent to the registered voter are returned by the Postal Service as undeliverable:

1. An acknowledgment of registration;

2. An acknowledgment of transfer to a new address;

3. An absentee ballot or application for an absentee ballot sent or provided in accordance with Chapter 7 (§ 24.2-700 et seq.);

4. Notification to a voter after a precinct reassignment;

5. Notification of a change of address sent to a voter in accordance with subsection B of § 24.2-428; or

6. Any official voter registration or election mail.

§ 24.2-428.2. Return of registered voter to active status.

A registered voter shall be returned to active status from inactive status if, during the period beginning on the date the voter was assigned to inactive status and ending on the day of the second general election for federal office thereafter, the voter:

1. Notifies the general registrar of a change of address within the county or city;

2. Responds to a confirmation notice with information that the voter continues to reside at the registration address;

3. Votes or attempts to vote in a primary or a special or general election and, if necessary, corrects the registration record; or

4. Transfers his registration to another county or city within the Commonwealth, pursuant to § 24.2-424 or subsection E of §24.2-428.

If the registered voter fails to take such action on or before the day of the second general election for federal office after the voter was placed on inactive status, the general registrar shall cancel the person's voter registration. The general registrar shall post at the courthouse or have published in a newspaper of general circulation in his county or city a list of names of persons whose registration has been cancelled pursuant to this section. He shall deliver or mail, obtaining a certificate of mailing, a certified copy of the list to the chairman of each political party in his county or city.

B3. The state utilizes VERIS (our statewide, computerized, voter registration and election management system) to add, change and cancel voter registrations. The Department of Elections receives data from numerous sources and it is matched against the voter registration data. Possible matches are then communicated to local registrars who have the capability and authority to add, change and cancel voter registrations. The same procedures apply to UOCAVA voters.

The data sources used for matches include: death records from the Virginia Department of Health (See Va. Code § 24.2- 408); felony records from the Virginia State Police (See Va. Code § 24.2-409); felony records from the United States Attorneys (See Va. Code § 24.2-409.1); lists of persons declared mentally incompetent (adjudicated incapacitated) from circuit courts (See Va. Code § 24.2-410); and lists of persons who indicate they are a noncitizen in a transaction with the Department of Motor Vehicles (See Va. Code § 24.2-410.1). Recent legislation has increased the nature and sources of information the Department of Elections must review and provide to registrars to include:

 a comprehensive annual list of all persons ever convicted of a felony from Virginia's Central Criminal Records Exchange (CCRE) (2013 HB 1765);

 duplicate registrations identified from comparing bordering states' registration and voting information with annual reporting1 to the General Assembly (2013 HB 2022);

 information exchanges with other state election officials (2013 HB 1764);

 the federal SAVE database to supplement existing detection of noncitizens through DMV reports (2013 SB 1077).

VERIS uses a confidence factor to determine and communicate possible matches. More detailed information about matching records is available on request. The legal requirements for cancellation are found in Va. Code § 24.2-427.

§ 24.2-427. Cancellation of registration by voter or for persons known to be deceased or disqualified to vote.

A. Any registered voter may cancel his registration and have his name removed from the central registration records by signing an authorization for cancellation and mailing or otherwise submitting the signed authorization to the general registrar. When submitted by any means other than when notarized or in person, such cancellation must be made at least 22 days prior to an election in order to be valid in that election. The general registrar shall acknowledge receipt of the authorization and advise the voter in person or by first-class mail that his registration has been canceled within 10 days of receipt of such authorization.

B. The general registrar shall cancel the registration of (i) all persons known by him to be deceased or disqualified to vote by reason of a felony conviction or adjudication of incapacity; (ii) all persons known by him not to be United States citizens by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1 or from the State Board based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E of § 24.2-404 and in accordance with the requirements of subsection B1; (iii) all persons for whom a notice has been received, signed by the voter or from the registration official of another jurisdiction, that the voter has moved from the Commonwealth; and (iv) all persons for whom a notice has been received, signed by the voter or from the registration official of another jurisdiction, that the voter has registered to vote outside the Commonwealth, subsequent to his registration in Virginia. The notice received in clauses (iii) and (iv) shall be considered as a written request from the voter to have his registration cancelled. A voter's registration may be cancelled at any time during the year in which the general registrar discovers that the person is no longer entitled to be registered. The general registrar shall mail notice of any cancellation to the person whose registration is cancelled.

B1. The general registrar shall mail notice promptly to all persons known by him not to be United States citizens by reason of a report from the Department of Motor Vehicles pursuant to § 24.2-410.1 or from the State Board based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E of § 24.2-404 prior to cancelling their registrations. The notice shall inform the person of the report from the Department of Motor Vehicles and allow the person to submit his sworn statement that he is a United States citizen within 14 days of the date that the notice was mailed. The general registrar shall cancel the registrations of such persons who do not respond within 14 days to the notice that they have been reported not to be United States citizens.

B2. The general registrar shall (i) process the State Board's most recent list of persons convicted of felonies within 21 to 14 days before any primary or general election, (ii) cancel the registration of any registered voter shown to have been convicted of a felony who has not provided evidence that his right to vote has been restored, and (iii) send prompt notice to the person of the cancellation of his registration. If it appears that any registered voter has made a false statement on his registration application with respect

to his having been convicted of a felony, the general registrar shall report the fact to the attorney for the Commonwealth for prosecution under § 24.2-1016 for a false statement made on his registration application.

C. The general registrar may cancel the registration of any person for whom a notice has been submitted to the Department of Motor Vehicles in accordance with the Driver License Compact set out in Article 18 (§ 46.2-483 et seq.) of Chapter 3 of Title 46.2 and forwarded to the general registrar, that the voter has moved from the Commonwealth; provided that the registrar shall mail notice of such cancellation to the person at both his new address, as reported to the Department of Motor Vehicles, and the address at which he had most recently been registered in Virginia. No general registrar may cancel registrations under this authority while the registration records are closed pursuant to § 24.2-416. No registrar may cancel the registration under this authority of any person entitled to register under the provisions of subsection A of § 24.2-420.1, and shall reinstate the registration of any otherwise qualified voter covered by subsection A of § 24.2-420.1 who applies to vote within four years of the date of cancellation.

B4. 2013 legislation authorizes electronic application for voter registration, name and address changes, following on 2012 legislation directing interagency cooperation to facilitate electronic data interchange and communication to local general registrars. Data sources used for matches include: death records from the Virginia Department of Health (See Va. Code § 24.2- 408); felony records from the Virginia State Police (See Va. Code § 24.2-409); felony records from the United States Attorneys (See Va. Code § 24.2-409.1); lists of persons declared mentally incompetent (adjudicated incapacitated) from circuit courts (See Va. Code § 24.2-410); lists of persons who indicate they are a non-citizen in a transaction with the Department of Motor Vehicles), and information from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E of § 24.2-404. (See Va. Code § 24.2-410.1)

In addition, we receive reports of deaths from Virginia's Bureau of Vital Statistics, the Social Security Administration, lists of streets from the United States Postal Service (via Semaphore, a third party vendor), and verify social security numbers for certain voters through the Virginia Department of Motor Vehicles.

The Code of Virginia was changed in 2011 to allow us to share our voter lists with other states for the purpose of database matching. (SB 1196, §24.2-404(A)(9)) Virginia is a member of the Electronic Registration Information Center (ERIC) to facilitate interstate comparison of voter registration records. 2013 legislation mandates comparing voter history lists with bordering states. Va. Code § 24.2-404.4.

§ 24.2-405. Persons who may obtain lists of registered voters.

A. The State Board shall furnish, at a reasonable price, lists of registered voters for their districts to (i) courts of the Commonwealth and the United States for jury selection purposes, (ii) candidates for election or political party nomination to further their candidacy, (iii) political party committees or officials thereof for political purposes only, (iv) political action committees that have filed a current statement of organization with the State Board pursuant to § 24.2-949.2, or with the Federal Elections Commission pursuant to federal law, for political purposes only, (v) incumbent officeholders to report to their constituents, and (vi) nonprofit organizations that promote voter participation and registration for that purpose only. The lists shall be furnished to no one else and used for no other purpose. However, the State Board is authorized to furnish information from the voter registration system to general registrars for their official use and to the Department of Motor Vehicles and other appropriate state agencies for maintenance of the voter registration system, and to the Chief Election Officers of other states for maintenance of voter registration systems.

B. The State Board shall furnish, at a reasonable price, lists of the addresses of registered voters for their localities to local government census liaisons and their staffs for the sole purpose of providing address information to the United States Bureau of the Census. The State Board shall also furnish, at a reasonable price, such lists to the Clerk of the Senate and the Clerk of the House of Delegates for the sole purpose of maintaining a database of constituent addresses for the General Assembly. The information authorized under this subsection shall be furnished to no other person and used for no other purpose. No list furnished under this subsection shall contain the name of any registered voter. For the purpose of this subsection, the term "census liaison" shall have the meaning provided in 13 U.S.C. § 16.

C. In no event shall any list furnished under this section contain the social security number, or any part thereof, of any registered voter except a list furnished to a court of the Commonwealth or of the United States for jury selection purposes, or to the Chief Election Officer of another state permitted to use social security numbers, or any parts thereof, that provides for the use of such numbers on applications for voter registration in accordance with federal law, for maintenance of voter registration systems.

D. Any list furnished under subsection A of this section shall contain the post office box address in lieu of the residence street address for any active or retired law-enforcement officer, as defined in § 9.1-101 and in 5 U.S.C. § 8331(20) but excluding officers whose duties relate to detention as defined in paragraphs (A) through (D) of § 8331(20), who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address located in the Commonwealth for use on such lists.

E. Any list furnished under subsection A of this section shall contain the post office box address in lieu of the residence street address for any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia, who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address located in the Commonwealth for use on such lists.

F. Any list furnished under subsection A shall contain the post office box address in lieu of the residence street address for any party who has furnished at the time of registration or subsequently, (i) in addition to his street address, a post office box address located in the Commonwealth for use on such lists and (ii) a signed written statement by the party that he is in fear for his personal safety from another person who has threatened or stalked him accompanied by evidence that he has filed a complaint with a magistrate or law-enforcement official against such other person. The statement furnished pursuant to clause (ii) of this subsection shall be subject to felony penalties for false statements pursuant to § 24.2-1016. (Emphasis added.)

§ 24.2-406. Persons who may obtain lists of persons voting at primaries and elections.

Persons who may obtain lists of persons voting at primaries and elections.

A. The State Board shall furnish, at a reasonable price, lists of persons who voted at any primary, special, or general election held in the four preceding years to (i) candidates for election or political party nomination to further their candidacy, (ii) political party committees or officials thereof for political purposes only, (iii) political action committees that have filed a current statement of organization with the State Board pursuant to § 24.2-949.2 or with the Federal Elections Commission pursuant to federal law, for political purposes only, (iv) incumbent officeholders to report to their constituents, and (v) members of the public or a nonprofit organization seeking to promote voter participation and registration by means of a communication or mailing without intimidation or pressure exerted on the recipient, for that purpose only. Such lists shall be furnished to no one else and shall be used only for campaign and political purposes and for reporting to constituents. Unless such lists are not available due to a pending recount or election contest, the electoral board shall submit the list of persons who voted to the State Board of Elections within 60 days after each election. The State Board shall make available such lists no later than seven days after receiving them from the electoral board.

B. The State Board shall furnish to the Chief Election Officer of another state, on request and at a reasonable price, lists of persons who voted at any primary, special, or general election held for the four preceding years. Such lists shall be used only for the purpose of maintenance of voter registration systems and shall be transmitted in accordance with security policies approved by the State Board of Elections.

C. In no event shall any list furnished under this section contain the social security number, or any part thereof, of any registered voter, except for a list furnished to the Chief Election Officer of another state permitted to use social security numbers, or any parts thereof, that provides for the use of such numbers on applications for voter registration in accordance with federal law, for maintenance of voter registration systems.

D. Any list furnished under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

C2. Outside of federal requirements, Virginia requires a reason to vote absentee. (See Va. Code § 24.2-700.) This has not changed, but there have been slight adjustments as to what constitutes a valid reason to vote absentee and the supporting information required on the application. 2012 SB 565 added to the provisions for military and overseas voters eligible to vote absentee under UOCAVA.

§ 24.2-452. Definitions.

As used in this chapter, unless the context requires a different meaning:

1. "Covered voter" means:

a. A uniformed-service voter or an overseas voter who is registered to vote in this state;

b. A uniformed-service voter defined in subdivision 9 a whose voting residence is in this state and who otherwise satisfies this state's voter eligibility requirements, including subdivision 2 of § 24.2-700;

c. An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;

d. An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or

e. An overseas voter who was born outside the United States, is not described in subdivision c or d, 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 chapter would have been, eligible to vote before leaving the United States is within this state; and

(2) The voter has not previously registered to vote in any other state.

2. "Dependent" means an individual recognized as a dependent by a uniformed service.

3. "Federal postcard application" means the application prescribed under § 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff(b)(2).

4. "Federal write-in absentee ballot" means the ballot described in § 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff-2, that may be used in all elections in which the voter is eligible to vote as provided in § 24.2-702.1.

5. "Military-overseas ballot" means:

a. A federal write-in absentee ballot;

b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this title, including an early ballot authorized in § 24.2-702; or

c. A ballot cast by a covered voter in accordance with this title.

6. "Overseas voter" means a United States citizen who is outside the United States.

7. "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.

8. "Uniformed service" means:

a. Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;

b. 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; or

c. The Virginia National Guard.

9. "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 on activated status of the National Guard; or

d. A spouse or dependent of a member referred to in this definition.

10. "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

§ 24.2-453. Restriction of ballot eligibility.

To be eligible to vote in state and local elections, the application of an overseas voter who has given up his place of abode in Virginia must show that the applicant is employed overseas or the spouse or dependent of a person employed overseas.

§ 24.2-458. Methods of applying for military-overseas ballot.

A. A covered voter who is registered to vote in this state may apply for a military-overseas ballot using either the regular absentee ballot application in use in the voter's jurisdiction under Chapter 7 (§ 24.2-700 et seq.) or the federal postcard application.

B. A covered voter who is not registered to vote in this state may use a federal postcard application to apply simultaneously to register to vote under § 24.2-457 and for a military-overseas ballot.

C. The electoral board shall ensure that the system described in subsection C of § 24.2-455 is capable of accepting the submission of both a federal postcard application and any other approved military-overseas ballot application sent to the appropriate election official. The voter may use the system or any other approved method to apply for a military-overseas ballot.

D. A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot.

E. To receive the benefits of this chapter, 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:

1. The use of a federal postcard application or federal write-in absentee ballot;

2. The use of an overseas address on an approved voter registration application or ballot application; and

3. The inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.

F. This chapter does not preclude a covered voter from voting under Chapter 7 (§ 24.2-700 et

seq.).

§ 24.2-700. Persons entitled to vote by absentee ballot.

The following registered voters may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

1. Any person who, in the regular and orderly course of his business, profession, or occupation or while on personal business or vacation, will be absent from the county or city in which he is entitled to vote;

2. Any person who is (i) a member of a uniformed service , as defined in § 24.2-452, on active duty, (ii)temporarily residing outside of the United States, or (iii) the spouse or dependent residing with any person listed in clause (i) or (ii), and who will be absent on the day of the election from the county or city in which he is entitled to vote;

3. Any student attending a school or institution of learning, or his spouse, who will be absent on the day of election from the county or city in which he is entitled to vote;

4. Any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of election because of his disability, illness, or pregnancy;

5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor, provided that the trial or release date is scheduled on or after the third day preceding the election. Any person who is awaiting trial and is a resident of the county or city where he is confined shall, on his request, be taken to the polls to vote on election day if his trial date is postponed and he did not have an opportunity to vote absentee;

6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of voting equipment;

7. Any duly registered person who is unable to go in person to the polls on the day of the election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home;

8. Any duly registered person who is unable to go in person to the polls on the day of the election because of an obligation occasioned by his religion;

9. Any person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603;

10. Any person who is a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1; or

11. Any person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639.