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.

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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 Additionally, if a law was repealed in full, please answer "repealed in full" in the box.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:

State law provides the definition below for vote counting systems, which in practice is the same as how overvotes are determined when they are counted by hand.
13-15-206. Counting votes -- uniformity -- rulemaking -- definitions. . . .
(9) For purposes of this section, "overvote" means an elector's vote that has been interpreted by the voting system as an elector casting more votes than allowable for a particular office or ballot issue.

2016 Response:

b) Under-vote

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

2014 Response:

State law does not specifically define under-votes, but they are generally understood as follows: undervote means an elector's vote that has been interpreted by a voting system or a counting board as a nonvote.

2016 Response:

c) Blank ballot

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

2014 Response:

State law does not specifically define blank ballots, but in a hand count they are generally understood to be ballots without any discernible votes cast and in a voting system count they are subject to the provision below. Unvoted blank ballots processed by a voting system are reviewed manually. "13-15-206(3)(b) If the voting system cannot process the ballot because of the ballot's condition or if the voting system registers an unvoted ballot or an overvote, which must be considered a questionable vote, the entire ballot must be set aside and the votes on the ballot must be counted as provided in subsection (4)."

2016 Response:

d) Void/Spoiled ballot

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

2014 Response:

State law does not specifically define spoiled ballots, but by law, 13-13-117(b), "An elector who spoils the elector's ballot must be provided with another ballot in place of the spoiled ballot." If an elector determines that the elector has spoiled the elector's ballot, the elector is provided with a new one.

2016 Response:

e) Provisional/Challenged ballot

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

2014 Response:

(26) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

2016 Response:

f) Absentee

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

2014 Response:

The law is not specific on the definition of an absentee ballot, but in general an absentee ballot is one that is cast by an elector who is not voting at the elector's assigned polling place and/or that is processed as an absentee ballot rather than as a polling place ballot.
In some cases, if an election office is also a polling place, all electors voting there prior to election day would be voting absentee, and if the elector is voting on election day, the elector would be voting absentee if the elector does not vote using normal polling place procedures but is instead issued absentee voting materials.

2016 Response:

g) Early voting

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

2014 Response:

Montana does not have early voting as it is often defined – casting a ballot that is counted before election day or that is cast at a satellite voting location. However, the law below provides for voting a ballot in the election administrator's office as soon as ballots are available.
"13-13-222. Marking ballot before election day. (1) As soon as the official ballots are available pursuant to 13-13-205, the election administrator shall permit an elector to apply for, receive, and mark an absentee ballot before election day by appearing in person at the office of the election administrator and marking the ballot in a voting station area designated by the election administrator.
(2) The provisions of this chapter apply to voting under this section.

2016 Response:

Montana does not have early voting as it is often defined – casting a ballot that is counted before election day. However, certain counties in Montana do have satellite voting locations, each of which are available before and on election day, and the law below provides for voting a ballot in the election administrator's office as soon as ballots are available.
"13-13-222. Marking ballot before election day. (1) As soon as the official ballots are available pursuant to 13-13-205, the election administrator shall permit an elector to apply for, receive, and mark an absentee ballot before election day by appearing in person at the office of the election administrator and marking the ballot in a voting station area designated by the election administrator.
(2) The provisions of this chapter apply to voting under this section.

h) Active Voter

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

2014 Response:

The law below is understood to mean that an active elector is one who has not been inactivated; i.e., the elector retains the status under which they originally registered and has not been inactivated for failure to respond to certain confirmation mailings.
(1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

2016 Response:

i) Inactive Voter

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

2014 Response:

The law below is understood to mean that an inactive elector is one who has been inactivated; i.e., the elector's active status under which they originally registered has been changed to inactive due to failure to respond to certain confirmation mailings.
(14) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

2016 Response:

j) Other terms (please specify) _____

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

2014 Response:

See Appendix A

2016 Response:

13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:
(1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.
(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.
(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.
(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, is submitted to the election administrator, and contains voter registration information subject to verification as provided by law.
(5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.
(6) (a) "Ballot issue" or "issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment, recall question, school levy question, bond issue

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:

Legislation passed in 2015:

HB 209 allows for agents, designated by people with disabilities, to provide any assistance to the elector throughout the registration and voting process, and specifies that allowance of the use of such an agent by a person with a disability is a reasonable accommodation.

HB 400 allows the use of an electronic ballot for voters with disabilities.

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:

Our system is probably best described as a hybrid, since the county election administrators upload information into it and the information is available immediately, in real time. The servers are housed at the state level and county election officials access the system through an Internet-based Citrix portal.

2016 Response:

We believe that our system is best described as top down, since the information in it is not uploaded from information retained at the local level and compiled at regular intervals.

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:

Immediately, in real time.

2016 Response:

Not applicable.

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:

Normally, counties send out notices to people who have not voted in the last federal general election and if those notices are not returned completed by the electors or are returned undeliverable, the electors are put on the inactive list.
This is also true if they do not vote in mail ballot elections and do not respond to a confirmation mailing sent after the mail ballot election. They can reactivate under the procedures of 13-2-222, MCA (see below).
UOCAVA voters are not subject to initiation of inactivation procedures until the completion of the process of receiving ballots automatically.

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:

Our cancellation procedures, including but not limited to those for failing to respond to confirmation mailings and then failing to vote in two consecutive federal general elections after the mailings, are below. For UOCAVA voters, see above under B2. Otherwise, the procedures below apply to them.
13-2-402. Reasons for cancellation. The election administrator shall cancel the registration of an elector if:
(1) the elector submits a written request for cancellation;
(2) a certificate of the death of the elector is filed or if the elector is reported to the election administrator as deceased by the department of public health and human services in the department's reports submitted to the county under 50-15-409 or through a newspaper obituary;
(3) the elector is of unsound mind as established by a court;
(4) the incarceration of the elector in a penal institution for a felony conviction is legally established;
(5) a certified copy of a court order directing the cancellation is filed with the election administrator;
(6) a notice is received from the secretary of state or from another county or state that the elector has registered in

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:

Yes, the state voter registration database shares information electronically with the state driver's license agency. We also have a link to the SSA database. Election officials can verify a person's driver's license number through a link with the Motor Vehicle Division and can verify the person's Social Security number through a portal that is outside the database but which is easily accessed. We also have links to the Department of Public Health and Human Services and to the Department of Corrections.

2016 Response:

The state voter registration database links electronically with the state driver's license agency for the purpose of voter ID verification. We also have a link to the SSA database through the state driver's license agency. Election officials can verify a person's driver's license number through a link with the Motor Vehicle Division and can verify the person's Social Security number through a portal that is outside the database but which is easily accessed. We also have links to the Department of Public Health and Human Services and to the Department of Corrections.

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:

County election officials are wary about the use of the NCOA due to the high mobility of the state's population. Often, people move out of state or into the state in the summer and then return to their place of residence in the fall, so their address on file with the USPS may not be the same as their residence address within a period of a few weeks. A county official who checks the NCOA on September 1 and finds an elector apparently absent from the state may find that by September 15 the same elector is now residing in the state according to updated NCOA files or information supplied by the elector. Counties who consider use of the NCOA are cautioned to follow up with a confirmation mailing to the elector.

2016 Response:

County election officials are wary about the use of the NCOA due to the high mobility of the state's population. Often, people move out of state or into the state in the summer and then return to their place of residence in the fall, so their address on file with the USPS may not be the same as their residence address within a period of a few weeks. A county official who checks the NCOA on September 1 and finds an elector apparently absent from the state may find that by September 15 the same elector is now residing in the state according to updated NCOA files or information supplied by the elector. Counties who consider use of the NCOA are cautioned to follow up with a confirmation mailing to the elector, and no changes are made to a voter's record without the voter's confirmation.

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:

Convicted felons are not allowed to vote while incarcerated in a penal institution. Our state Department of Corrections has determined that pre-release centers are not penal institutions. Voting rights are restored once the elector is no longer incarcerated, but such an individual needs to re-register. An individual who is no longer incarcerated would just need to provide identifying information in order to register but an election official might need to resolve the incarceration issue if the elector registers by mail.

2016 Response:

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:

Montana is implementing online pre-voter registration, whereby applicants for voter registration may enter and their registration information online, and the information will upload to the statewide voter registration system. The applicant still must sign a paper copy of the application before they are legally registered.
Additionally, Montana has a fillable PDF registration card available online for completing, printing and sending.
The state has also increased the functionality of the My Voter Page (MVP) service; people can use the service to find out if they are registered to vote, where they are registered to vote, the location and directions to their polling place, the status of their absentee ballot, and to view a sample ballot. The service is now available as a mobile application.
For UOCAVA voters, counties are allowed to accept voter registration applications electronically over the Internet. UOCAVA voters may also use the state's Electronic Absentee System (EAS), which provides UOCAVA voters the ability to seamlessly fill out and submit voter registration forms and application for absentee ballot forms, as well as to

2016 Response:

Montana implemented online pre-voter registration, whereby applicants for voter registration may enter and their registration information online, and the information will upload to the statewide voter registration system. The applicant still must sign a paper copy of the application before they are legally registered.
Additionally, Montana has a fillable PDF registration card available online for completing, printing and sending.
The state has also increased the functionality of the My Voter Page (MVP) service; people can use the service to find out if they are registered to vote, where they are registered to vote, the location and directions to their polling place, the status of their absentee ballot, and to view a sample ballot. The service is now available as a mobile application.
For UOCAVA voters, counties are allowed to accept voter registration applications electronically via email. UOCAVA voters may also use the state's Electronic Absentee System (EAS), which provides UOCAVA voters the ability to seamlessly fill out and submit voter registration forms and application for absentee ballot forms, as well as to vote a ballot and submit it to the county election office by email.

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:

The procedures vary between counties. In some counties, county election officials provide these ballots to the polling place precincts, and in other counties they count such ballots centrally.

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:

The ballots that are centrally tabulated are not redirected to the precinct if they are centrally tabulated, since the counties can track and report the totals centrally.

2016 Response:

Ballots that are centrally tabulated are not physically brought back to the precinct if they are centrally tabulated, since the counties can track and report the totals centrally. However, even when ballots are centrally tabulated, the votes are reported by precinct in the canvass.

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:

This varies. Counties are not required to separate out their absentee totals although in practice they often do. Also, not all counties separate out their absentee and other ballots' totals by precinct.

2016 Response:

Although on election night many counties report their absentee totals first, counties, absentee votes are not reported on the canvass separately by precinct -- they are added to the in-precinct canvass results and reported as a single number.

d. How are UOCAVA ballots counted and reported?

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

2014 Response:

We are not aware of any counties that count and report their UOCAVA ballots separately. They are added in with other absentee ballots (see above counting and reporting procedures for absentee ballots). This helps to ensure the secrecy of their ballots since in many counties there are few UOCAVA voters.

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:

Montana does not require a reason for voting absentee – we statutorily allow no excuse absentee voting.

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:

Montana does not have early voting as it is often defined. In Montana, in-person absentee ballots submitted before election day are not counted until election day. In Montana, as soon as the ballots are available, an elector can come in and vote an absentee ballot in the county election office. However, the ballot is not counted until election day.

2016 Response:

Montana does not have early voting as it is often defined. In Montana, in-person absentee ballots submitted before election day are not counted until election day. In Montana, as soon as the ballots are available, an elector can come in and vote an absentee ballot in the county election office. However, the ballot is not counted until election day and is considered an absentee ballot.

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:

We do not have any jurisdictions that are permitted to use a vote-by-mail system to replace at-the-precinct voting in federal primary or federal general elections, but counties and schools can and often do choose to hold their municipal, special district (such as water and sewer and fire, etc.) and school elections by all mail ballot.

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:

See Appendix A

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:

HAVA indicates that an ". . . individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is-- (A) a registered voter in the jurisdiction in which the individual desires to vote; and (B) eligible to vote in that election."
If an individual casting a provisional ballot (in a jurisdiction in which the elector is apparently not registered) is determined not to be a registered voter in the jurisdiction in which the individual desires to vote, the elector's provisional ballot is not counted unless the reason why the individual is not registered in the jurisdiction is due to administrative error.
The statutory process for handling provisional ballots is below.
13-15-107. Handling and counting provisional and challenged ballots.
(1) To verify eligibility to vote, a provisionally registered elector who casts a provisional ballot has until 5 p.m. on the day after the election to provide valid identification or eligibility information either in person, by facsimile, by electronic means, or by mail postmarked no later than the day after the election.
(2) (a) If a legally registered elector casts a provisional ballot because the elector failed to provide sufficient identification as required pursuant to 13-13-114(1)(a), the election administrator shall compare the signature of the elector or the elector's agent designated pursuant to 13-1-116 on the affirmation required under 13-13-601 to the signature on the elector's voter registration card or the agent's designation form.
(b) If the signatures match, the election administrator shall handle the ballot as provided in subsection (5).
(c) If the signatures do not match and the elector or the elector's agent fails to provide valid identification information by the deadline, the ballot must be rejected and handled as provided in 13-15-108.
(3) A provisional ballot must be counted if the election administrator verifies the elector's identity or eligibility pursuant to rules adopted under 13-13-603. However, if the election administrator cannot verify the elector's identity or eligibility under the rules, the elector's provisional ballot must be rejected and handled as provided in 13-15-108. If the ballot is provisional because of a challenge and the challenge was made on the grounds that the elector is of unsound mind or serving a felony sentence in a penal institution, the elector's provisional ballot must be counted unless the challenger provides documentation by 5 p.m. on the day after

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:

Starting with the 2010 primary election, MT counties conduct post election audits of one federal office, one statewide office, one legislative office, and one ballot issue, if applicable to the election. The precincts and contests involved are chosen at the state level after the election, and county audit boards manually count. If a discrepancy results in an expanded audit, additional precincts are audited. The results of the hand audit are definitive for the purposes of the canvass.

2016 Response:

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

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

2014 Response:

The applicable law is below.
13-4-203. Instruction of judges -- training materials. (1) Before each election, all election judges who do not possess a current certificate of instruction obtained pursuant to 13-1-203(3) must be instructed by the election administrator. In precincts where voting systems are used, instructions must cover both how to operate the voting system and how to manually process any paper ballots.
(2) Chief election judges may be required to attend the training session before each election, as well as a special session that may be held for chief election judges only, even if they possess a current certificate of instruction.
(3) Any individual willing to be appointed as an election judge may attend an instruction session by registering with the election administrator. However, the individual may not be paid for attendance unless the individual is appointed as an election judge.
(4) Each election judge completing a training session under this section must be given a certificate of completion. An individual may not serve as an election judge without a valid certificate obtained under 13-1-203(3) or this section. However, this requirement does not apply to individuals filling vacancies in emergencies.
(5) All election judges shall obtain a certificate of instruction or be recertified before the primary election in even-numbered years.
(6) Notice of the place and time of instruction must be given by the election administrator to the presiding officers of the political parties in the county. State-produced poll working training materials were sent to each county and each county was required, at a minimum, to use the state-produced training or to incorporate the information into their own training.

2016 Response:

The applicable law is below.
13-4-203. Instruction of judges -- training materials. (1) Before each election, all election judges must be instructed by the election administrator. In precincts where voting systems are used, instructions must cover both how to operate the voting system and how to manually process any paper ballots.
(2) An election administrator may require a chief election judge to attend the training session before each election, as well as a special session that the election administrator may hold for chief election judges only, even if the chief election judge possesses a current certificate of completion pursuant to 13-1-203(5)(b).
(3) Any individual willing to be appointed as an election judge may attend an instruction session by registering with the election administrator. However, the individual may not be paid for attendance unless the individual is appointed as an election judge.
(4) Each election judge completing a training session under this section must be given a certificate of completion. An individual may not serve as an election judge without a current certificate. However, this requirement does not apply to individuals filling vacancies in emergencies.
(5) A certificate of completion is current if the certificate is obtained before the primary election in an even-numbered year.
(6) Notice of the place and time of instruction must be given by the election administrator to the presiding officers of the political parties in the county.

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:

The state and counties do not have a special process for capturing these counts. Counties' election management software often captures these numbers, however.

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:

We do not require identification of applicants when they register to vote, but under 13-2-110, MCA, the applicant needs to provide the applicant's driver's license number; or if the applicant does not have a driver's license, the applicant shall provide the last four digits of the applicant's social security number.
If an applicant does not have a driver's license or social security number: an applicant appearing in person before the election administrator shall provide: current and valid photo identification, including but not limited to a school district or postsecondary education photo identification or a tribal photo identification, with the individual's name; or a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address. An applicant who does not have a driver's license number or Social Security number who is applying by mail to register shall also enclose a copy of: a current and

2016 Response:

b. casting an in-person ballot;

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

2014 Response:

Section 13-13-114(1)(a), MCA provides that "Before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge a current photo identification showing the elector's name.
If the elector does not present photo identification, including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address."

2016 Response:

c. casting a mail-in or absentee vote;

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

2014 Response:

In Montana, the county election administrator sends to mail-ballot and absentee electors a government document to the elector with the elector's name and current address on it. The elector confirms in writing the information on the document and sends the government document back to the county election administrator.

2016 Response:

d. casting a ballot under UOCAVA;

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

2014 Response:

Section 13-21-202, referenced in the 2012 Statutory Overview was repealed during the 2013 Legislative session, but the process of casting a ballot under UOCAVA has not materially changed.

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:

This is not applicable in Montana.

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:

Our laws are below. They allow for one poll watcher from each political party and for other poll watchers if the number of poll watchers at the polling place will not interfere with the election procedures, as determined by the election administrator.
13-13-120. Poll watchers -- announcement of elector's name. The election judges shall permit one poll watcher from each political party to be stationed close to the poll lists in a location that does not interfere with the election procedures. At the time when each elector signs the elector's name, one of the election judges shall pronounce the name loud enough to be heard by the poll watchers. A poll watcher who does not understand the pronunciation has the right to request that the judge repeat the name. Poll watchers must also be permitted to observe all of the vote counting procedures of the judges after the closing of the polls and all entries of the results of the elections.
13-13-121. Additional poll watchers. A candidate, a group of candidates, or any group having an interest in the election may request the election administrator to allow additional poll watchers at any precinct. The election administrator shall grant such requests if the number of poll watchers at the polling place will not interfere with the election procedures.
13-13-122. Preventing obstructions. An election officer, sheriff, constable, or other peace officer may clear the passageway, prevent any obstruction, or arrest any individual obstructing the passageway to a polling place.

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:	2016 Response:
See Appendix A	

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:	2016 Response:
We do not have any additional comments or information at this time.	

* 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

Appendix A – Montana 2014 Responses

A1j. Other terms

The main definition section of law is below. If it is not relevant, feel free to disregard it.

13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(7) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

(8) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(9) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(10) "Elector" means an individual qualified to vote under state law.

(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(14) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

(16) "Individual" means a human being.

(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission

by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(18) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(20) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(21) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under

Title 13, chapter 19.

(22) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(23) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(24) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

(25) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(26) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

(27) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

(28) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(29) "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

(30) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(31) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(32) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(33) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

(34) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(35) "Voted ballot" means a ballot that is:

(a) deposited in the ballot box at a polling place;

(b) received at the election administrator's office; or

(c) returned to a place of deposit.

(36) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot.

C5. Name not in official register and not erroneously omitted

13-13-114. Voter identification and marking precinct register book before elector votes -- provisional voting. (1) (a) Before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge a current photo identification showing the elector's name. If the elector does not present photo identification, including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address. …

(2) If the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in 13-13-601.

Register indicates provisionally registered, which was not resolved

13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply: . . .

(26) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

(27) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

Elector claims registration with Motor Vehicle Division or other government agency, which could not be confirmed

13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply: . . .

(26) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

13-13-114. Voter identification and marking precinct register book before elector votes -- provisional voting. (1) (a) Before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge a current photo identification showing the elector's name. If the elector does not present photo identification, including but not limited to a valid driver's license, a school district or

postsecondary education photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address. …

(2) If the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in 13-13-601.

Elector's identification was insufficient

13-13-114. Voter identification and marking precinct register book before elector votes -- provisional voting. (1) (a) Before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge a current photo identification showing the elector's name. If the elector does not present photo identification, including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address. …

(2) If the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in 13-13-601.

Elector failed to sign register

13-13-114. Voter identification and marking precinct register book before elector votes -- provisional voting. … (3) If the elector fails or refuses to sign the elector's name or if the elector is disabled and a fingerprint, an identifying mark, or a signature by a person authorized to sign for the elector pursuant to 13-1-116 is not provided, the elector may cast a provisional ballot as provided in 13-13-601.

Elector's right to vote was challenged

13-13-301. Challenges. (1) An elector's right to vote may be challenged at any time by any registered elector by the challenger filling out and signing an affidavit stating the grounds of the challenge and providing any evidence supporting the challenge to the election administrator or, on election day, to an election judge.

(2) A challenge may be made on the grounds that the elector:

(a) is of unsound mind, as determined by a court;

(b) has voted before in that election;

(c) has been convicted of a felony and is serving a sentence in a penal institution;

(d) is not registered as required by law;

(e) is not 18 years of age or older;

(f) has not been, for at least 30 days, a resident of the county in which the elector is offering to vote, except as provided in 13-2-514;

(g) is a provisionally registered elector whose status has not been changed to a legally registered voter; or

(h) does not meet another requirement provided in the constitution or by law.

(3) When a challenge has been made under this section, unless the election administrator determines that the challenge is insufficient, then without the need for further information:

(a) prior to the close of registration under 13-2-301, the election administrator shall question the challenger and the challenged elector and may question other persons to determine whether the challenge is sufficient or insufficient to cancel the elector's registration under 13-2-402; or

(b) after the close of registration or on election day, the election administrator or, on election day, the election judge shall allow the challenged elector to cast a provisional paper ballot, which must be handled as provided in 13-15-107.

(4) (a) In response to a challenge, the challenged elector may fill out and sign an affidavit to refute the challenge and swear that the elector is eligible to vote.

(b) If the challenge was not made in the presence of the elector being challenged, the election administrator or election judge shall notify the challenged elector of who made the challenge and the grounds of the challenge and explain what information the elector may provide to respond to the challenge. The notification must be made:

(i) within 5 days of the filing of the challenge if the election is more than 5 days away; or

(ii) on or before election day if the election is less than 5 days away.

(c) The election administrator or, on election day, the election judge shall also provide to the challenged elector a copy of the challenger's affidavit and any supporting evidence provided.

(5) The secretary of state shall adopt rules to implement the provisions of this section and shall provide standardized affidavit forms for challengers and challenged electors.

County-to-County late registration in election office

After the registers are printed, county-to-county election-day late registrants are made provisional in order to ensure that they do not vote more than once. Their eligibility to vote has not yet been verified, but is verified when the county they were registered in before confirms that the person did not vote in the old county in the same election. This is completed as soon as possible after election day.

13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply: . . .

(23) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law. . . .

Precinct-to-precinct late registration in election office

Again, after the registers are printed, precinct-to-precinct election-day late registrants are provisional in order to ensure that they do not vote more than once. Their eligibility to vote has not yet been verified, but is verified when the county election administrator confirms that the person did not vote at the polls in their old precinct in the same election. This is completed as soon as possible after election day.

13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply: . . .

(26) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

Absentee signature missing or unable to be verified

13-13-245. Notice to elector -- opportunity to resolve questions. (1) As soon as possible after receipt of an elector's absentee ballot application or return envelope, the election administrator shall give notice to

the elector by the most expedient method available if the election administrator has not received or is unable to verify the elector's or agent's signature under 13-13-213 or 13-13-241.

(2) The election administrator shall inform the elector that, prior to 8 p.m. on election day, the elector may:

(a) by mail, facsimile, electronic means, or in person, verify the elector's or agent's signature or provide a signature, after proof of identification, by affirming that the signature is in fact the elector's, by completing a new registration card containing the elector's current signature, or by providing a new agent designation form; or

(b) if necessary, request and receive a replacement ballot pursuant to 13-13-204.

(3) The ballot of an elector who fails to provide information pursuant to subsection (2) must be handled as a provisional ballot pursuant to 13-15-107. …

E1. Our administrative complaint procedures are below.

ADMINISTRATIVE COMPLAINT PROCEDURES

(1) The procedures in this rule shall be uniform and nondiscriminatory.

(2) Under this rule, any individual who believes that there is a violation of any provision of Title III of the Help America Vote Act of 2002 (hereinafter referred to as Title III) , or 13-13-601 , 13-13-602 , or 13-13-114 , MCA, including a violation which has occurred, is occurring, or is about to occur, may file a complaint.

(3) Any complaint filed under this rule shall be in writing and notarized, and signed and sworn by the individual filing the complaint, and include the full name, telephone number, and mailing address of the complainant.

(4) The Secretary of State may consolidate complaints filed under this rule.

(5) The Secretary of State shall designate a presiding officer for any complaint under this rule. The Secretary of State may, upon agreement of all the parties, resolve the complaint informally, and issue a final determination without a formal proceeding.

(6) At the request of the complaint, there shall be a hearing on the record. If a hearing shall be held at a date and time and place determined by the presiding officer and at the officer's discretion, the hearing may be conducted by telephone or upon written documentation. If the hearing is on consolidated complaints, then the complainants shall designate a single representative party to advocate for the consolidated complaint. If the presiding officer permits witnesses to testify, then they must be sworn in prior to their testimony being given. If a complainant fails to pursue a complaint, then the complaint shall be dismissed with prejudice.

(7) If, under this rule, the presiding officer determines that there is a violation of any provision of Title III or 13-13-601 , 13-13-602 , or 13-13-114 , MCA, the Secretary of State shall provide an informal opinion.

(8) If, under this rule, the Secretary of State determines that there is no violation, or that the complainant did not follow the above procedures in filing the complaint, or the complaint does not on its face allege a violation of Title III with regard to a federal election, or a violation of 13-13-601 , 13-13-602 , or 13-13-114, MCA, with regard to a federal or state election, the Secretary of State shall dismiss the complaint and publish the results of the procedures.

(9) The Secretary of State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period that begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination.

(10) If the Secretary of State fails to meet the deadline applicable under this rule, the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this rule. The record and other materials from any proceedings conducted under the complaint procedures established under this rule shall be made available for use under the alternative dispute resolution procedures.

(11) At any time before, during or prior to this process the complainant retains the right to file an action in any court of appropriate jurisdiction or to withdraw the complaint. No exhaustion of this administrative remedy is required.

History: 13-1-202, MCA, Public Law 107-252; IMP , 13-1-202, MCA, Public Law 107-252; NEW , 2004 MAR p. 93, Eff. 1/16/04; AMD , 2006 MAR p. 2671, Eff. 10/27/06.