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	John Arnold
Title	Director of Elections
Office/Agency Name	North Dakota Secretary of State
Address 1	600 E Boulevard Avenue Dept 108
Address 2	
City	Bismarck
State	North Dakota
Zip Code	58505-0500
E-mail Address	jarnold@nd.gov
Telephone (area Code and number)	701-328-7321
Fax Number (area code and number)	701-328-3413

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:

(Beginning note: Please be aware that every voter in North Dakota votes on a paper ballot. The voter is required to darken the oval on the ballot next to the candidate or measure response for which they intend to cast a vote. In the event of a recount, however, voter intent, as far as it can be determined, is taken into account for the final vote tally. Every voter casting their ballot at a polling location does so by inserting their ballot into a polling place optical scan tabulator. Absentee ballots are counted by optical scan tabulators, but the voter is not present when the votes are read by the voting system. Knowing these things from the start should shed significant light on the answers given.) Over-Vote: This term is not specifically defined in state law, but it is understood as the voter indicating more choices than are allowed for a particular contest on the ballot so that it is impossible to determine the voter's selection. The state's optical scan tabulators are programmed to notify the voter if an over-vote is detected to see if they voter would like a second chance to mark a ballot in a manner that will allow

2016 Response:

b) Under-vote

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

2014 Response:

This term is not specifically defined in state law, but it is understood as the voter indicating fewer choices than are allowed for a particular contest on the ballot. The state's optical scan tabulators may be programmed to notify the voter if an under-vote exists, but this is not the general practice since the voter is not required to vote for a certain number of candidates or measure responses. The voter instructions limit the voter to whatever the "Vote For" language is printed on the ballot in connection with a contest. This language can be found in 16.1-06-04 (3). 16.1-06-04 did not change as it pertains to this question, but the updated language is being provided.

2016 Response:

c) Blank ballot

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

2014 Response:

This phrase is also not specifically defined in state law, but it is understood as a ballot deposited by a voter into the ballot box without votes marked for any candidate or measure response in every contest on the ballot. The state's optical scan tabulators are programmed to notify the voter if a blank ballot is detected. The voter does have the right to cast a blank ballot, but we have the tabulator question the voter for the slight chance that the voter didn't follow the instructions on the ballot to mark their choices properly.

2016 Response:

d) Void/Spoiled ballot

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

2014 Response:

See Appendix A

2016 Response:

Although the definition has not changed, two of the sections referenced in Appendix A were amended in 2015. The updated language is included here, but again, the amendment does not change the meaning of a void or spoiled ballot.

16.1-13-23. Preparation of ballot by elector - Depositing - Second-chance voting.
Upon receipt of a ballot within the provided secrecy sleeve, the elector, forthwith and without leaving the polling place, shall retire alone to one of the voting booths or compartments to prepare the elector's ballot by darkening the oval opposite the name of each individual for whom the elector wishes to vote. In the case of a ballot containing a constitutional amendment, an initiated or referred measure, or any other question to be submitted to a vote of the people, the elector shall darken the oval opposite the word or words expressing the elector's wish. After preparing the ballot, the elector shall place the ballot back in the provided secrecy sleeve so it is concealed and so the endorsement of the inspector or election judge may be seen. The elector then shall deposit the ballot in the optical scanning device and wait to determine if the ballot is deposited into the ballot box or if the optical scanning device has indicated a possibility for a second-chance voting condition. If a second-chance voting condition is indicated, a voter may spoil and receive up to two additional ballots. The voter's third ballot must be

e) Provisional/Challenged ballot

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

2014 Response:

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

2016 Response:

f) Absentee

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

2014 Response:

Any qualified elector of North Dakota may vote an absent voter's ballot prior to any election without need of a reason. A voter may obtain and cast their absent voter's ballot by either of the following ways:
1. Mail their absentee ballot application to the county election official, receive the ballot by mail, vote the ballot, and return it by mail to the county office where it will be accounted for in the Central Voter File and secured until it is processed on Election Day.
2. Whenever the ballots are ready for distribution from the county, which must be at least 40 days prior to the election, a voter may walk-in to the county office, request their ballot, vote, and return the ballot to the county office where it will be accounted for in the Central Voter File and secured until it is processed on Election Day.
UOCAVA voters have additional rights in that their ballot can be sent and returned electronically if they so desire. These ballots for UOCAVA voters are available 46 days prior to the election. (see page 20 for expansion of absentee)
16.1-07-01. Absent voter – Who may vote.
Any qualified elector of this state may vote an absent voter's

2016 Response:

g) Early voting

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

2014 Response:

A county may operate Early Voting Precincts for the entire county during the 15 days prior to Election Day. These polling locations have the same look and feel as Election Day voting at a polling place. The 2013 Legislature amended 16.1-07-15 to change the date by which a county commission can establish an early voting precinct to reflect another change in the law changing the filing deadline for candidates from the sixtieth to the sixty-fourth day before the election. This may be found in 16.1-07-15 (1)

2016 Response:

h) Active Voter

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

2014 Response:

Any qualified elector who voted in an election during the time between and including the last two General Elections.
16.1-02-03. Secretary of state to establish the central voter file with department of transportation and county auditors.
1. Not later than the primary election in 2010, the secretary of state shall establish the central voter file in cooperation with the department of transportation and county auditors.
2. The secretary of state shall establish the initial central voter file from records maintained by the department of transportation. Each county auditor shall compare the initial central voter file against all precinct pollbooks used in the auditor's county during and created from the general elections in the two previous election years and any reasonably reliable updates made by the county auditor since the general elections in the two previous election years. Any individual contained in the initial central voter file who voted at either of the general elections in the two previous election years must be designated as "active" in the initial central voter file. Any individual contained in the initial central voter file who did not vote at either of the general elections in the two previous election years must be designated as "inactive" in the initial central voter file.
3. Each individual contained in the initial central voter file

2016 Response:

i) Inactive Voter

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

2014 Response:

Any qualified elector who has not voted in an election during the time between and including the last two General Elections.
16.1-02-03. Secretary of state to establish the central voter file with department of transportation and county auditors.
1. Not later than the primary election in 2010, the secretary of state shall establish the central voter file in cooperation with the department of transportation and county auditors.
2. The secretary of state shall establish the initial central voter file from records maintained by the department of transportation. Each county auditor shall compare the initial central voter file against all precinct pollbooks used in the auditor's county during and created from the general elections in the two previous election years and any reasonably reliable updates made by the county auditor since the general elections in the two previous election years.
Any individual contained in the initial central voter file who voted at either of the general elections in the two previous election years must be designated as "active" in the initial central voter file. Any individual contained in the initial

2016 Response:

j) Other terms (please specify) _____

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

2014 Response:

See Appendix A

2016 Response:

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:

There were three major changes that were made by the 2013 Legislature.
First was a reworking of the states ID requirements. These sections of code that were changed are 16.1-02-12, 16.1-02-13, 16.1-05-07, 16.1-07-06, and 39-06-03.1 (3).
The second change was establishing the date of the canvassing board for political subdivisions to the sixth day after the election to allow for a maximum amount of time for UOCAVA ballots postmarked by the day before the election the be received and counted. The sections of code are 15.1-09-14, 15.1-09-15, and 16.1-15-17.
The third significant change was moving the candidate filing deadline from the sixtieth day to the sixty-fourth day before the election. This allows for additional time to ensure that ballots are available on the UOCAVA 45th day deadline. Sections impacted by this date change include: 15.1-09-08, 15.1-09-24, 16.1-01-09.1 (10), 16.1-03-12, 16.1-03-14, 16.1-07-15 (1), 16.1-09-02, 16.1-11-06, 16.1-11-11, 16.1-11-11.1, 16.1-11-15, 16.1-11-18, 16.1-11-19, 16.1-11-30, 16.1-12-02, 16.1-12-02.3, 16.1-12-04 (3), 16.1-12-07, 16.1-12-09, 27-25-04, 40-21-02, 40-21-07, 40-21-08, 40-57.3-01.1, 44-08-21(4), 46-06-03, 61-24-03, 61-24.5-06, and 61-24.5-07.

2016 Response:

The 2015 Legislature only made a couple of changes impacting the administration of elections. They are:
1) Voter ID requirements were reworked in sections 16.1-01-04, 16.1-05-07, and 16.1-07-06.
2) Clarifying that once an elector has submitted a ballot, whether by absentee or at the polls, the ballot may not be returned to the voter. Sections affected were 16.1-07-10, 16.1-11.1-05, 16.1-13-23, and 16.1-13-32.

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:

North Dakota is the only state without any form of voter registration. I will answer these questions, but it must be remembered that my answers must be seen in light of the fact that we do not register voters!
We do, however, maintain a statewide list of everyone who has voted. This list has nothing to do with who can vote at an election, it is simply for the purposes of election administration efficiency, to help the electors of the state discover their precincts and polling places, to track voting history and other important statistical information, to determine if any voter is trying to commit voter fraud, and the means by which candidates, political parties, and political committees can obtain lists of voters in order to stay in touch with constituents and encourage people to get out and vote. This list of voters would be considered a "top-down" system. The chapter of North Dakota law governing the Central Voter

2016 Response:

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:

Not Applicable in North Dakota.

2016 Response:

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:

When a voter votes, they are considered an “active” voter within the Central Voter File. If a voter does not vote in an election for two General Elections, they are considered “inactive,” but this “inactive” status does not keep a resident of the state from voting if they so desire.
The process is the same for UOCAVA voters.
Addendum to 2010 response: Qualified electors can also make formal written requests of the county auditor to be added to the Central Voter File. See…
16.1-02-09. Department of transportation to report updates to the secretary of state - Changes to records in the central voter file.
3. If a qualified elector makes a written request to the county auditor for inclusion in the central voter file, the county auditor shall collect the required information from the individual and add the individual's name to the central voter file with the designation of "active".

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:

Voters may be placed in a removable status for reasons that they have deceased or upon receipt of a notice that the voter has registered to vote in another state or US territory.
State law does not require us to send any notices or confirmations since even a status of removable for reason of deceased doesn’t keep a living resident of this state from casting a ballot. Mistakes can happen, but a mistake in processing the record of a voter doesn’t get in the way of that voter’s ability to vote.

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:

The North Dakota Central Voter File has a system connection with the software systems of the Department of Transportation, Vital Records, North Dakota Association of Counties, and the State Courts.
Every voter with a driver's license has that license number attached to their record in the Central Voter File as well. This allows us to match any changes the DOT might receive from a driver with the correct voter record. Since we do not have voter registration, we are allowed to make changes to a voter's record without the voter's specific request to do so. Our systems communicate once each week.
Vital Records software system communicates with the Central Voter File once each month to transfer the names and other matching information of the people of ND who have died in the previous month. Our system uses name, birth date, and address for matching criteria to associate the death record to the correct voter maintained in the Central Voter File. When an automatic match doesn't exist, the death record is

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:

North Dakota has not utilized NCOA to this point.

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:

A convicted felon is not allowed to vote while they are incarcerated. Upon release, their voting rights are restored.
12.1-33-01. Rights lost.
1. A person sentenced for a felony to a term of imprisonment, during the term of actual incarceration under such sentence, may not:
a. Vote in an election; or
b. Become a candidate for or hold public office.
2. A public office, other than an office held by one subject to impeachment, held at the time of sentence is forfeited as of the date of the sentence if the sentence is in this state, or, if the sentence is in another state or in a federal court, as of the date a certification of the sentence from the sentencing court is filed in the office of the secretary of state who shall receive and file it as a public document. An appeal or other

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:

Not Applicable in North Dakota.

2016 Response:

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:

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

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

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:

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

2016 Response:

d. How are UOCAVA ballots counted and reported?

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

2014 Response:

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

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:

North Dakota has 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:

See Appendix A

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:

Twenty-six counties are running their elections as vote by mail.
In North Dakota, vote by mail is simply a modification of the absentee voting process. Between forty and fifty days prior to the election, every active voter of a county is sent an absentee ballot application. The individual then needs to take the initiative to complete the application and return it to the county auditor's office. Upon receipt of the completed and signed application, the county will send a ballot to the voter who then can vote the ballot and return it along with the voter's affidavit to the county auditor. When the voted ballot is received by the county auditor, the receipt of the ballot is marked in the voter's record in the Central Voter File and it is securely stored until it is processed on Election Day.
Every county running vote by mail elections is required to have at least one polling place open on Election Day for those voters desiring to cast their ballot at a polling place. Chapter 16.1-11.1 covers vote-by-mail.

2016 Response:

Thirty-one counties are running their elections as vote by mail.
In North Dakota, vote by mail is simply a modification of the absentee voting process. Between forty and fifty days prior to the election, every active voter of a county is sent an absentee ballot application. The individual then needs to take the initiative to complete the application and return it to the county auditor's office. Upon receipt of the completed and signed application, the county will send a ballot to the voter who then can vote the ballot and return it along with the voter's affidavit to the county auditor. When the voted ballot is received by the county auditor, the receipt of the ballot is marked in the voter's record in the Central Voter File and it is securely stored until it is processed on Election Day.
Every county running vote by mail elections is required to have at least one polling place open on Election Day for those voters desiring to cast their ballot at a polling place. Chapter 16.1-11.1 covers vote-by-mail.

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:

Provisional ballots are extremely rare in North Dakota.
We've never had one in fact.
16.1-13-34. Voters casting ballots after regular poll closings – Provisional ballots.
An individual who votes after the regular poll closing time in an election in which a federal office appears as a result of a federal or state court order or any other order extending the time established for closing the polls under state law in effect ten days before the date of that election may only vote in that election by casting a provisional ballot. The ballot must be marked as a provisional ballot and must be separated and held apart from other ballots cast by those not affected by the order. The secretary of state shall approve the form of any provisional ballot and may prescribe any procedures the secretary of state determines to be necessary to facilitate the casting, secrecy, and counting of provisional ballots.

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:

Not applicable in North Dakota.

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:

16.1-06-15. Mandatory testing of electronic voting systems before each election and after tabulation of ballots.
1. All electronic voting systems used in this state must be tested according to guidelines established by the secretary of state and as follows to ascertain whether the automatic tabulating equipment will accurately count the votes cast for all offices and measures. The testing must be conducted prior to each election at which the system will be used. The testing must be done by the county auditor or county auditor's designee, and after each test, the testing materials and any preaudited ballots used during the test must be sealed and retained in the same manner as election materials after an election.
2. The test of an electronic voting system employing paper ballots must be conducted by processing a preaudited group of ballots on which are recorded a predetermined number of valid votes for each candidate and measure and must include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. During the test a different number of valid votes must be assigned to each candidate for an office and for and against each measure. If an error is detected, the cause of it must be ascertained and corrected, and an errorless count must be secured and filed as provided in this section.
3. The test must be conducted at least one week before the election. One week before the test is conducted, the county auditor must send the district chairman of each political party having a candidate on the ballot a notice of the test. The notice must state the time, place, and date of the test or tests and that the district chairman or district chairman's designee may attend.
4. At the conclusion of the test, the programming for each electronic voting device must be sealed within the device with a unique numbered seal that must be verified by the election inspector before the opening of the polls to make sure the programming has not been removed from the device.
5. After each election, the secretary of state shall order a random testing of the voting system programming for one precinct in each county of the state according to logic and accuracy testing procedures detailed in subsection 2 and as may be further defined by the secretary of state in writing.

2016 Response:

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

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

2014 Response:

16.1-05-03. Secretary of state and county auditors to distribute election information – County auditor to provide instruction.
1. Not less than thirty days before any primary, general, or special election, the secretary of state shall provide an instruction manual approved by the attorney general, which in layman's terms presents in detail the responsibilities of each election official. The secretary of state shall forward sufficient copies of this manual to each county auditor who shall distribute the manuals to each member of all the election boards in the county.
2. Before each primary and general election, each county auditor or the auditor's designated representative shall conduct training sessions on election laws and election procedures for election officials in the county and may conduct training sessions before any special statewide or legislative district election. The session or sessions must be conducted at such place or places throughout the county as the county auditor determines to be necessary. Attendance at the session is mandatory for members of the election board and for poll clerks. The county auditor shall notify the members of the election boards, poll clerks, and the state's attorney of the time and place of the session. The state's attorney shall attend all sessions to give advice on election laws. The county auditor shall invite the district chairman in that county representing any political party casting at least five percent of the total votes cast for governor at the last election to attend the session at the chairman's own expense. On the date of the course or courses, the county auditor may deliver to all election inspectors at the meeting the official ballots and all other materials as provided in chapter 16.1-06. Except as otherwise provided in this section, each person attending the course or courses must be compensated as provided in section 16.1-05-05.
3. An election official, at the option of the county auditor, may be excused from attending a third training session on election laws within a twelve-month period. If an election official has attended a training session within the six months preceding a special election, the election official must be compensated at the pay appropriate for those having attended a training session, as provided in section 16.1-05-05, for that election.

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:

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

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:

Not applicable in North Dakota.

2016 Response:

b. casting an in-person ballot;

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

2014 Response:

Every voter is asked to show identification when checking in to vote. Eligible forms of identification are a North Dakota driver's license, North Dakota non-drivers identification, tribal ID, student identification certificate, and long-term care identification certificate.
16.1-05-07. Poll clerks to check identification and verify eligibility — Poll clerks to request, correct, and update incorrect information contained in the pollbook.
1. Before delivering a ballot to an individual according to section 16.1-13-22, the poll clerks shall require the individual to show identification, which includes the individual's residential address and date of birth. The identification may include:
a. A driver's license or nondriver identification card issued by the department of transportation or other official form of identification issued by the state;
b. An official form of identification issued by a tribal government;
c. An alternative form of identification prescribed by the secretary of state, if the individual does not possess an official form of identification provided for under subdivision a or b; or
d. A combination of any of the forms of identification under

2016 Response:

Every voter is asked to show identification when checking in to vote. Eligible forms of identification are a North Dakota driver's license, North Dakota non-drivers identification, tribal ID, student identification certificate, and long-term care identification certificate.
16.1-05-07. Poll clerks to check identification and verify eligibility — Poll clerks to request, correct, and update incorrect information contained in the pollbook.
1. Before delivering a ballot to an individual according to section 16.1-13-22, the poll
clerks shall require the individual to show identification, which includes the individual's
residential address and date of birth. The valid forms of identification are:
a. A current driver's license or nondriver identification card issued by the department
of transportation;
b. An official form of identification issued by a tribal government;
c. A long-term care certificate prescribed by the secretary of state, if the individual
does not possess an official form of identification provided for under subdivision a
or b; or

c. casting a mail-in or absentee vote;

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

2014 Response:

The voter must provide either the identification number from a driver's license, nondriver's identification; submit their student identification certificate or long-term care identification certificate; or vote using an attester. The voter is also required to sign a voter's affidavit upon return of the ballot. This is covered in 16.1-07-06.

2016 Response:

d. casting a ballot under UOCAVA;

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

2014 Response:

UOCAVA voters can supply the same forms of identification that domestic absentee voters may use or can supply their passport or military ID number. The voter is also required to sign a voter's affidavit upon return of their ballot.

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.

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:

In state law the term "Election Observer" is understood to apply to someone representing an organization. The Secretary of State has always maintained, though, that elections are an open process and any individual who wants to observe the process on their own may do so on their own accord.
16.1-05-09. Election observers.
1. Election observers must be allowed uniform and nondiscriminatory access to all stages of the election process, including the certification of election technologies, early voting, absentee voting, voter appeals, vote tabulation, and recounts.
An election observer must wear a badge with the name of the individual and the name of the organization the individual is representing. An election observer may not wear any campaign material advocating voting for or against a candidate or for or against any position on a question on the ballot. An election observer may not interfere with any voter in the preparation or casting of the voter's

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:

No changes.

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:

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

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

Appendix A – North Dakota 2014 Responses

A1d. These are two separate terms with different meanings under North Dakota law. Void Ballot is a ballot from which votes cannot be counted for the following reasons:

1. The ballot was used as a sample ballot for display purposes in the polling location

2. The ballot is missing the initials of an election judge

3. The law does grant us the authority to not count a ballot that is blank or one in which it is impossible to determine any of the voter's choices, but we have elected to count these ballots since they were actually cast by a voter.

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

1. In the canvass of the votes at any election, a ballot is void and may not be counted if:

a. It is not endorsed with the initials as provided in this title; or

b. It is impossible to determine the elector's choice from the ballot or parts of a ballot, and in the case of electronic voting systems, based upon the criteria established by the secretary of state for counting votes on each electronic voting system authorized for procurement and use in the state according to section 16.1-06-26.

2. With the exception that a voter must, for paper ballots, darken the oval next to the preprinted name of a candidate or the name of a write-in candidate written on the ballot, if a ballot is marked so only a part of the voter's intention can be determined, the election judges shall count such part. If an elector votes for more than the number of persons to be elected to any office, the elector's ballot may be invalidated only insofar as the elector's vote for such office is concerned, and the balance of the elector's ballot, if otherwise proper, may not be invalidated. However, at primary elections only, a party ballot is void if the elector votes for candidates of more than one party. A Spoiled Ballot is referenced in state law, but not specifically defined. In general it is used for the circumstance when a voter makes a mistake on their ballot and would like a new one to mark their selections correctly.

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

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

16.1-15-08. Wrapping and returning of ballots to county recorder. After generating the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the election board shall

cause the ballots containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. The ballots and wrappers must then be tightly secured at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the names or numbers of the precincts and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the county auditor so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person to the county recorder. At the meeting of the county canvassing board, the county recorder shall deliver the ballots containing lawful write-in votes from all the precincts within the county if these votes were not canvassed by the polling place election board on election night according to section 16.1-12-02.2. At the meeting of the county canvassing board, the county recorder shall deliver each ballot that may contain a write-in vote referenced in a demand made under subsection 1 of section 16.1-12-02.2. Ballots used with any electronic voting system or counted by an electronic counting machine must be sealed and returned as provided in this section.

A1j. Other terms

Absentee Ballot Precinct:

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

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may create a special precinct, known as an absentee ballot precinct, for the purpose of counting all absentee ballots cast in an election in that county. The election board of the absentee ballot precinct must be known as the absentee ballot counting board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.

2. If the board of county commissioners chooses to establish an absentee ballot precinct according to this section, the following provisions apply:

a. The county auditor shall appoint the absentee ballot counting board that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set forth in section 16.105-01, to act as judges. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-05.

b. The county auditor shall have the absentee ballots delivered to the inspector of the absentee ballot counting board with the election supplies, or if received later, then prior to the closing of the polls.

c. The absentee ballot counting board shall occupy a location designated by the county auditor which must be open to any individual for the purpose of observing the counting process.

d. The absentee ballots must be opened and handled as required in section 16.1-07-12. The absentee ballot counting board may commence counting the absentee ballots at the same time as any precinct within the county, city, or legislative district opens its polls. As soon as all the polls in the county, city, or legislative district close and the count is completed, the inspector shall announce publicly the results. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12, as applicable.

16.1-07 ABSENT VOTERS' BALLOTS & ABSENTEE VOTERS

16.1-07-18 Definitions

1. "**Covered voter**" means:

a. A uniformed-service voter whose voting residence is in this state;

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

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

d. Any other overseas voter who was born outside the United States and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:

1. The last place where a parent or legal guardian of the voter was, or under this Act would have been, eligible to vote before leaving the United States is within this state; and

2. The voter has not previously registered to vote or voted in any other state.

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

3. "**Military-overseas ballot**" means:

a. A federal write-in absentee ballot described in the Uniformed and Overseas Citizens Absentee Voting Act [103, 42 U.S.C. 1973ff-2];

b. A ballot specifically prepared or distributed for use by a covered voter in accordance with sections 16.1-07-19 through 16.1-07-33; or

c. A ballot cast by a covered voter in accordance with sections 16.1-07-19 through 16.1-07-33.

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

5. "**State**" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

6. "**Uniformed service**" means:

a. Active and reserve components of the army, navy, air force, marine corps, and coast guard of the United States;

b. The merchant marine, the commissioned corps of the public health service, and the commissioned corps of the national oceanic and atmospheric administration of the United States; and

c. The national guard and state militia units.

7. "**Uniformed-service voter**" means an individual who is qualified to vote and is:

a. A member of the active or reserve components of the army, navy, air force, marine corps, or coast guard of the United States who is on active duty;

b. A member of the merchant marine, the commissioned corps of the public health service, or the commissioned corps of the national oceanic and atmospheric administration of the United States;

c. A member of the national guard or state militia unit who is on activated status; or

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

C3. Early voting is a precinct that may be open to the public in the fifteen days prior to an election. It is run just like an Election Day precinct in that there is an election board present and the votes are tabulated as the ballots are cast.

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

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may, before the sixty-fourth day before the day of the election, create a special precinct, known as an early voting precinct, to facilitate the conduct of early voting in that county according to chapters 16.1-13 and 16.1-15. At the determination of the county auditor, more than one voting location may be utilized for the purposes of operating the early voting precinct. The election board of the early voting precinct must be known as the early voting precinct election board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.

2. If the board of county commissioners establishes an early voting precinct according to this section, the following provisions apply:

a. Early voting must be authorized during the fifteen days immediately before the day of the election. The county auditor shall designate the business days and times during which the early voting election precinct will be open and publish notice of the early voting center locations dates and times in the official county newspaper once each week for three consecutive weeks immediately before the day of the election.

b. The county auditor shall appoint the early voting precinct election board for each voting location that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set out in section 16.1-05-01, to act as judges. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-

05.

c. The county auditor, with the consent of the board of county commissioners, shall designate each early voting location a space in a public facility, accessible to the elderly and the physically disabled as provided in section 16.1-04-02. With respect to polling places at early voting precincts, “election day” as used in sections 16.1-10-03 and 16.1-10-06.2 includes any time an early voting precinct polling place is open.

d. At the close of each day of early voting, the inspector, along with a judge from each political party represented on the board, shall secure all election related materials, including:

a. The pollbooks and access to any electronically maintained pollbooks.

b. The ballot boxes containing voted ballots.

c. Any void, spoiled, and unvoted ballots.

e. Ballot boxes containing ballots cast at an early voting precinct may not be opened until the day of the election except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box in order to make room for additional ballots.

f. Each early voting location may be closed, as provided in chapter 16.1-15, at the end of the last business day designated for early voting in the county. Results from the early voting precinct may be counted, canvassed, or released under chapter 16.1-15 as soon as any precinct within the county, city, or legislative district closes its polls on the day of the election. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing.

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