CHAPTER 16.1-15
CANVASS OF VOTES - CANVASSING BOARDS

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 voting systems, based upon the criteria established by the secretary of state for determining what constitutes a vote under 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.

16.1-15-01.1. Counting write-in votes.

1. A canvassing board may not be required to list in the official abstract of votes:
   a. The number of write-in votes for an individual required to file a certificate of write-in candidacy under section 16.1-12-02.2 but who has failed to file a certificate of candidacy and be certified as a write-in candidate;
   b. The number of write-in votes for a fictitious person or individual clearly not eligible to qualify for the office for which the vote was cast;
   c. A statement concerning a candidate under this subsection;
   d. The number of write-in votes for a candidate for office if the total number of write-in votes cast for the contest constitutes ten percent or less of the votes cast by the voters for the candidate receiving the most votes for the office or political party's nomination of a candidate for the office, except in the case of a primary election in which enough votes were cast as write-in votes to qualify a name for the general election ballot; or
   e. The number of write-in votes for a candidate receiving fewer than three write-in votes unless the number of votes received qualifies the candidate to be nominated or elected.
2. A write-in vote for a candidate whose name is printed on the ballot will be tallied as a vote for the candidate if the voter has not voted for more candidates than allowed for the contest or voted for the same candidate more than once in that contest.
3. A write-in vote that does not need to be canvassed individually based on the requirements of subsection 1 must be listed on the official canvass report as "scattered write-ins".

16.1-15-02. Board of election to generate canvass reports - Location - Public may attend.

After the polls are closed, the inspector of elections and the judges immediately shall generate the canvass report from the voting system. The ballots counted by the machine must be equal in number with the names on the poll clerks' lists. If the numbers are not equal, the pollbooks are to be rechecked to find the discrepancy. The canvass must continue without adjournment until completed and must be open to the public. Ballots may not be removed to another location before the canvass report is generated after the ballot boxes have been opened. Except in unusual and compelling circumstances, the canvass shall occur at the polling place. If good and substantial reasons exist for the removal of the ballots and election records to another location for canvass, the removal must be approved by the election board. Upon approval of a change of location by the election board as provided in this section, the

approximate time and location of the canvass must be prominently posted on the main entrance to the polling place, the ballots and records must be moved in the presence of the election board, and the canvass as provided in this chapter must proceed immediately upon arrival at the alternate location.

16.1-15-02.1. Alternative method for canvassing election for counties using or sharing electronic voting systems or electronic counting machines - County resolution board.

Repealed by S.L. 2005, ch. 191, § 28.

16.1-15-03. Manner of canvassing election.

Repealed by S.L. 2005, ch. 191, § 28.

16.1-15-04. Canvass report prepared by election board for county auditor.

The election board shall generate at least one canvass report from the electronic voting system. The ballots may not be sealed, nor may the canvass report be signed, by the election board or poll clerk until the counts in the poll clerks' books and in the canvass report shows the same totals for ballots cast.

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

16.1-15-05. Oath required of members of election board upon completion of canvass - Contents.

At the conclusion of the canvass of the votes, each member of the election board shall sign an affidavit to the effect that the ballots have been counted and the votes canvassed as provided in this chapter and that the returns as disclosed by the canvass report agree with the number of ballots cast and are true and correct of the member's own knowledge.

16.1-15-06. Canvass report and pollbooks sent to county auditor - Compensation for making returns.

Immediately following the canvass, except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by the inspector of elections, personally shall deliver the signed canvass report provided for in section 16.1-15-04 to the county auditor. The report, carefully sealed under cover, accompanied by the pollbook provided for in sections 16.1-02-13 and 16.1-06-21 with the oaths of the inspector and poll clerks affixed thereto, must be delivered properly to the county auditor. The individual making the return is entitled to receive compensation therefor in accordance with section 16.1-05-05. The compensation and mileage must be paid out of the county treasury on a warrant of the county auditor and is full compensation for returning all used or voided ballots to the proper official.

16.1-15-07. County auditor not to refuse election returns if delivered in undirected manner - Informality in holding election.

A county auditor may not refuse any election returns because they may have been returned or delivered to the auditor in a manner other than that directed by this chapter, nor may the auditor refuse to include any returns because of any informality in holding an election or in making returns thereof.

16.1-15-08. Wrapping and returning of ballots to county recorder - Ballots set aside to election official administering the election.

1. 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 wrap all ballots. The ballots and wrappers then must be secured tightly 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 secured separately 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 polling places, the precincts served by the polling places, 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 auditor shall deliver the report of the ballots containing lawful write-in votes from all the precincts within the county if these votes are required to be canvassed according to section 16.1-15-01.1.
2. Each ballot within a sealed envelope set aside for an individual as outlined in subsections 5 and 6 of section 16.1-01-04.1 must be delivered to the election official responsible for the administration of the election so the envelope containing the ballot is available if the individual for whom the ballot was set aside appears in the official's office to verify the individual's eligibility as an elector. The verified and unverified ballots set aside must be delivered to the members of the canvassing board for proper inclusion in or exclusion from the canvass of votes.

16.1-15-09. Voting systems - Returns.

1. Election officers shall generate reports of votes cast and counted by voting systems for all candidates and for any measures or questions as provided by law or rule.
2. Within the ability of a tabulation device to accurately do so, all votes must be counted by the machine. After the election results have been accumulated centrally in the county auditor's office, if the number or percentage of write-in votes for an office meet the criteria in section 16.1-15-01.1, the county canvassing board shall review and approve the canvass of the votes for the write-in names for that office conducted by the county auditor's office to determine final election results.
3. The county auditor shall designate the public places where absentee and mail ballots must be delivered and counted in the presence of the election inspector and at least two election judges.
4. Each voting system must generate a printed record at the beginning of the system's operation which verifies the tabulating elements for each candidate position and each question and the public counter are all set at zero. The voting system also must be equipped with an element that generates, at the end of the system's operation, a printed record of the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate on the ballot, and the total number of votes cast for or against any measure appearing on the ballot. The election inspector and election judges shall certify both printed records.
5. If any ballot is damaged or defective so the ballot cannot be counted properly by the voting system, a true duplicate copy must be made by election officials of opposed interests and substituted for the damaged or defective ballot. All duplicate ballots must be labeled duplicate clearly, must bear a serial number that must be recorded on the damaged or defective ballot, and must be wrapped and delivered with other ballots to the county recorder.

16.1-15-10. Failure of voting system - Counting by alternate method.

If the voting system fails to operate during the ballot count at any election, the ballots must be counted by an alternate method.

16.1-15-11. Locking and examination of voting machines - Tally of voting machine votes - Certification to district judge or clerk of district court.

Repealed by S.L. 2003, ch. 171, § 33.

16.1-15-12. Care and custody of ballot boxes and voting machines.

Ballot boxes and voting machines are to be under the care and custody of the county auditor and assigned staff members.

16.1-15-13. County recorder to keep ballots - Exception - Use of ballots as evidence.

Immediately upon receiving the ballots as provided in section 16.1-15-08, the county recorder shall give a receipt to the election judges and shall place the ballots in boxes that are securely locked. The boxes must be placed in a fireproof vault and must be kept securely for forty-five days if the ballots do not contain federal offices and twenty-two months if the ballots contain federal offices. The ballots may not be opened nor inspected, except upon court order in a contested election, when it is necessary to produce them at a trial for any offense committed at an election, or to permit election officials to complete their duties. Either forty-five days or twenty-two months after the election dependent upon the retention schedule outlined in this section, upon determination by the county recorder that no contest is pending, the ballots must be destroyed. If any contest of the election of any officer voted for at the election or a prosecution under the provisions of this title is pending at the expiration of the time, the ballots may not be destroyed until the contest or prosecution is finally determined. The ballots returned to the county recorder as provided in this section must be received in evidence without introducing further foundation.

16.1-15-14. Failure to comply with formalities not to invalidate election - Evidence of compliance.

Failure by election board officers to comply with any of the formalities required by this chapter as to the return of the ballots does not invalidate any election nor cause any ballot otherwise regular to be disregarded. Any omission or irregularity in the manner of identifying or returning the ballots of any precinct may be obviated by proof under the ordinary rules of evidence.

16.1-15-15. County canvassing board - Composition.

The county canvassing board must be composed of the county recorder, county auditor, chairman of the board of county commissioners, and a representative of each of the two political parties that received the highest number of votes cast for governor at the most recent general election at which a governor was elected. An individual who served on an election board during the election may not serve as a political party representative on the canvassing board for that same election. The district chairmen of the political parties from each legislative district within the county shall appoint the respective political party representative. The county canvassing board must be comprised of at least five members, and both political parties must be represented. Each political party from each legislative district within a county may request representation on the canvassing board if there is equal representation from each of the political parties. For any special county election when the election does not involve any legislative or statewide office, the county canvassing board must be composed of the county recorder, county auditor, and chairman of the board of county commissioners.

16.1-15-16. Qualifications of members of canvassing board - Replacements - Quorum.

A member of the county canvassing board who has anything of value bet or wagered on the result of the election may not serve on the board. When a member of the county canvassing board is a candidate or husband, wife, father, mother, father-in-law, mother-in-law, son,

daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate for any office for which that member canvasses the votes, the member must be removed from that portion of the canvass. If any of the members of the board other than the representatives of the two political parties are disqualified or cannot serve for any other reason, the county commissioners who would be qualified to serve on the board shall appoint alternates to serve in the place of those members of the board who are disqualified. If any of the representatives of the district committees of the two parties are disqualified or cannot serve for any other reason and if the party wishes to have representation, the district chairmen shall appoint an alternate from their respective district committees to act as a member of the county canvassing board. A majority of the confirmed members of the board or their duly appointed alternates constitute a quorum and may make the canvass provided for in this chapter and certify the results thereof.

16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass.

On the thirteenth day following each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section must be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results.

16.1-15-18. Compensation as members of board.

Each member of the county canvassing board who is not a paid official of the county, while serving as a member of the county canvassing board, shall receive compensation in accordance with section 16.1-05-05. The compensation and mileage must be audited, allowed, and paid by the board of county commissioners in each county.

16.1-15-19. County canvassing board to disregard technicalities, misspelling, and abbreviations - Ballots set aside - Write-in votes canvassed - Votes from unestablished polling places disregarded.

In canvassing the election returns, the county canvassing board shall disregard technicalities, misspelling, and the use of initial letters or abbreviations of the name of any candidate for office if it can be ascertained for whom the vote was intended. Under section 16.1-01-04.1, the board shall include in the canvass the votes from any ballot set aside and subsequently verified by the individual who marked the ballot, and review each envelope containing an unverified ballot forwarded to the board from the polling place election officials. The envelopes for all ballots set aside along with the envelopes containing uncounted ballots from unverified individuals must be kept with all other election materials for the required retention period under section 16.1-15-13. Under section 16.1-15-01.1, the board shall review and approve the canvass report of all qualifying write-in votes. The board may not count votes polled in any place except at established polling places. The county canvassing board is authorized to initial all absentee ballots cast pursuant to section 16.1-07-09 which were not considered or counted by the absentee ballot precinct election board and to make a final determination of eligibility for all ballots that were rejected for the reasons provided in sections 16.1-07-10 and 16.1-07-12.

16.1-15-20. County canvassing board may subpoena members of election board to correct errors - Failure to obey subpoena is a contempt.

When the returns of the election board officers are made to the county canvassing board, if any provision of law relative to the duties of the election board officers has not been complied

with by the officers and the provision of law is capable of correction by the election board, the county canvassing board may issue subpoenas to the election board officers of the polling place in which the defect occurs. The subpoenas must require the election board officers to appear as soon as possible before the county canvassing board to correct any omission or mistake according to the facts. The amended or corrected returns then must be acted upon by the board. If any election board officer, subpoenaed as provided in this section, neglects or refuses to obey the subpoena, the individual so neglecting or refusing must be arrested upon a bench warrant issued out of the office of the clerk of the district court in the county where the proceedings occur. The individual arrested must be brought before the county canvassing board and shall make the necessary correction. A refusal on the part of an election board officer to make a correction must be deemed a contempt of the district court.

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

The county canvassing board, upon canvassing the returns of a primary election, shall prepare an abstract signed by the members of the board and filed in the office of the county auditor. A separate abstract of the votes cast must be transmitted to the secretary of state according to reporting instructions specified by the secretary of state. The abstract filed in the office of the county auditor must contain all of the following:

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

16.1-15-22. County auditor to transmit abstract of votes to secretary of state after primary election.

The county auditor of each county shall provide to the secretary of state the certified abstract detailed in section 16.1-15-21, under separate political designation or principle, or no-party designation, as the case may be, of the total number of votes cast in the auditor's county and the votes cast for every candidate for nomination according to reporting instructions specified by the secretary of state. The abstract must also include the total number of votes cast for initiated or referred measures and constitutional amendments. The certified abstract must be in the possession of the secretary of state before four p.m. on the thirteenth day after the primary election.

16.1-15-23. Notice of nomination given candidate for county office by county auditor - Publication of findings of canvassing board.

Upon the completion of the canvass of the returns of a primary election by the county canvassing board, the county auditor shall mail or deliver in person to each candidate nominated for any county office a certificate of the candidate's nomination and notice that the candidate's name will be placed on the official ballot. If the election results indicate that any candidate is entitled to a recount or to demand a recount pursuant to section 16.1-16-01, the county auditor may not prepare or deliver the certificate of nomination until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later. Nomination notices for other than county offices must be given by the secretary of state pursuant to section 16.1-15-40. The county auditor shall cause a copy of the findings of the canvassing board to be published in the official newspaper of the county.

16.1-15-24. Abstracts of votes of general election made by county canvassing board - Contents.

The county canvassing board, when canvassing the returns of a general election, shall make abstracts of votes from the certified reports of the inspectors of elections according to the reporting instructions specified by the secretary of state.

16.1-15-25. County auditor to forward abstract of votes of general election to secretary of state - Contents - Abstract for presidential electors.

Before four p.m. on the thirteenth day following any general election, the county auditor of each county shall provide to the secretary of state a certified abstract of the votes cast in the county at the election according to the reporting instructions specified by the secretary of state.

16.1-15-26. Notification of date of receiving returns in secretary of state's office.

An electronic notification of the date of reception of all returns of votes in the secretary of state's office must be made to each county auditor.

16.1-15-27. Abstract of votes - Secretary of state to record - Failure of county auditor to send - Messenger dispatched.

Upon receipt of the certified abstract of votes from the county auditors as provided in section 16.1-15-25, the secretary of state shall record the result of the election by counties and shall file and carefully preserve the certified abstracts received from the county auditors. If no certified abstract is received by the secretary of state from the county auditor of any county prior to the time specified for the meeting of the state canvassing board, the secretary of state shall dispatch a special messenger to obtain the abstract at the expense of the county. Upon demand, the county auditor shall make and deliver the required abstract to the special messenger who shall deliver it to the secretary of state to be recorded and filed as provided in this section. The messenger shall receive the same mileage expense as other state officers and employees. The state treasurer shall present a bill for the amount audited against the county failing to send returns as provided in this section, and the bill must be audited by the board of county commissioners of the county and paid by the county treasurer to the state treasurer.

16.1-15-28. Certificate of election for officers elected in county at general election.

Immediately after the canvass of the general election returns by the county canvassing board, the county auditor shall prepare a certificate of election for each of the persons having the highest number of votes for county offices and shall deliver the certificate to the person entitled thereto on the person's making application to the county auditor therefor. If the election results indicate that any candidate is entitled to a recount or to demand a recount pursuant to section 16.1-16-01, the county auditor may not prepare or deliver the certificate of election until the time to demand a recount has expired or the recount results have been determined and the winner declared, whichever is later.

16.1-15-29. Determining tie vote in county offices.

If the requisite number of county officers are not elected because two or more persons have equal and the highest number of votes for one and the same office, a recount must be done pursuant to section 16.1-16-01. If a recount results in a tie vote, the county auditor shall give notice to the persons to appear at the county auditor's office at a time appointed by the county auditor. The persons then shall publicly decide by a drawing of names which of them must be declared elected. The county auditor shall prepare and deliver to the person elected an election certificate as provided in this chapter.

16.1-15-30. Determining tie vote for legislative assembly.

If the requisite number of individuals is not elected to the state senate or house of representatives because two or more individuals have equal and the highest number of votes for one and the same office, a recount must be done pursuant to section 16.1-16-01. If a recount results in a tie vote, the secretary of state shall notify the individuals with equal and the

highest number of votes to appear in the office of the secretary of state at a time fixed by the secretary of state. The time fixed may not be more than five days from the date the tie is determined. On the date fixed, the individuals notified to appear shall publicly decide by a drawing of names which of them must be declared elected, and the secretary of state shall prepare and deliver to the individual elected a certificate of election as provided in this chapter.

16.1-15-31. County auditor to make certificate for payment of election officials - Payment.

Upon receipt of the returns of any election, the county auditor shall prepare the county auditor's certificate stating the compensation to which the inspectors, judges, and clerks of election are entitled for their services. The county auditor shall deliver the certificate to the board of county commissioners at its next session and the board shall order the compensation to be paid out of the county treasury.

16.1-15-32. County auditor to publish returns of election.

The county auditor shall cause to be published in tabular form in the official county newspaper the vote by precincts for each officer and each proposition voted for at any primary, special, or general election. The publication must be paid for at a rate not to exceed the rate paid for publishing the proceedings of the board of county commissioners.

16.1-15-33. State canvassing board - Membership - Oath - Quorum - Compensation.

The clerk of the supreme court, the secretary of state, the state treasurer, and the chairman, or chairman's designee, of the state committee of the two political parties which cast the highest vote for governor at the last general election at which a governor was elected shall constitute the state canvassing board. The duties of the state canvassing board consist of examining the returns of votes cast at the elections received from the various counties, verifying the computed final results in any reasonable manner adopted by the board and which may incorporate the use of any electronic technology or system approved by the secretary of state, and certifying the results on the basis of the canvass. After taking the oath required of civil officers, the board shall proceed to canvass publicly the election returns made by the county auditors. Three members of the board constitute a quorum and may make the canvass provided for in this chapter and certify to the result thereof. If less than a quorum attend on the day appointed for a meeting of the board, the members attending may summon other state officers until there is a sufficient number to constitute a quorum. Any other state officer, upon being notified by the members of the board, shall attend without delay and act as a member of the board. Members of the board may be compensated only for their expenses incurred in attending meetings in accordance with sections 44-08-04 and 54-06-09. The compensation must be paid from the appropriation to the secretary of state.

16.1-15-34. Member of state canvassing board - When disqualified.

A member of the state canvassing board who has anything of value bet or wagered on the result of the election may not serve on the board. When a member of the state canvassing board is a candidate or husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate for any office for which that member canvasses the votes, the member must be removed from that portion of the canvass. If a quorum still exists, the remaining members shall canvass the votes for that office. If a quorum does not exist, another state officer, summoned according to the authorization granted the state canvassing board in section 16.1-15-33, shall canvass the votes for that office.

16.1-15-35. Meeting of state canvassing board.

Not later than seventeen days next following a primary, general, or special election, the state canvassing board shall meet at the office of the secretary of state for the purpose of canvassing and ascertaining the result of the election. The secretary of state shall notify the members of the board of the date and time of the meeting.

16.1-15-36. Returns to be canvassed by state canvassing board.

The state canvassing board, in canvassing to ascertain the result of any election, shall canvass only the regular returns made by the county canvassing board as provided in this chapter.

16.1-15-37. Examination of abstracts by state canvassing board - Messenger dispatched to county when error discovered.

After the state canvassing board is formed, the board shall examine the certified abstracts of the county canvassing boards and verify the computed final results as provided in section 16.1-15-33. If it appears that any material mistake has been made in the computation of votes cast for any individual, or the county canvassing board in any county has failed to canvass the votes or any part of the votes cast in any precinct in the county, the board may dispatch a messenger to the county auditor of the county, at the expense of the county, with the board's requirement in writing to the county auditor to certify the fact concerning the mistake or the reason why the votes were not canvassed. The county auditor, to whom the requirement is delivered, shall make a true and full answer to the board under the county auditor's hand and official seal and shall deliver the answer with all convenient dispatch to the secretary of state.

16.1-15-38. Adjournment of state canvassing board.

The state canvassing board may adjourn from day to day, not exceeding three days in all, except that the board may adjourn for the time necessary to await the return of a messenger dispatched as provided in section 16.1-15-37.

16.1-15-39. Disagreements in canvassing returns by canvassing board - Disregarding technicalities, misspelled words, and abbreviations.

In canvassing the returns and verifying the computed final results received from the various counties, a majority of the members of the state canvassing board shall decide all matters of disagreement. The board shall disregard all technicalities, misspelling, the use of initial letters, and the abbreviations of the names of candidates if it can be ascertained from the returns for whom the votes were intended.

16.1-15-40. Abstract prepared by state canvassing board for primary election - Contents - Signing - Candidate notified of nomination.

The state canvassing board shall prepare the certified abstract required by subsections 1, 2, and 3 of section 16.1-15-21 for primary elections. The certificate must be signed by the members of the board and filed in the office of the secretary of state. Upon completion of the canvass, the secretary of state shall mail to each candidate nominated a notice of the candidate's nomination stating that the candidate's name will be placed upon the official ballot to be voted for at the ensuing general election. If the election results indicate that any candidate is entitled to a recount or to demand a recount pursuant to section 16.1-16-01, the secretary of state may not prepare or deliver the notice of nomination until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later. The secretary of state shall file a copy of the findings of the board and shall publish those findings in a newspaper printed in Burleigh County.

16.1-15-41. Statements of general or special election prepared by state canvassing board - Contents.

Upon receiving the certified abstracts on file with the secretary of state, the state canvassing board shall proceed publicly to examine and make statements of the whole number of votes cast at any general or special election for all state or district offices. The statements must show the names of the individuals for whom the votes were cast for the offices and the whole number of votes for each, distinguishing the several districts and counties in which they were cast.

16.1-15-42. Certificate of result of general or special election by state canvassing board - Secretary of state to receive.

The statements provided for in section 16.1-15-41 must be certified by the members of the state canvassing board who shall subscribe their names to the statements. The board then shall determine what individuals have been duly elected to the offices, shall prepare and subscribe on each statement a certificate of that determination, and shall deliver the statement to the secretary of state. The candidate to be elected for each office receiving the highest number of votes must be duly elected to the office. An individual who was entitled to have the individual's name appear on the primary election ballot, but whose name was not placed on the primary election ballot, may not be elected to a no-party office as a write-in candidate unless the individual receives a number of votes equal to or more than the number of signatures that would have been required to have the individual's name placed on the primary election ballot.

16.1-15-43. When special election ordered.

If a certificate of election cannot be issued for a judicial district office or a state office because any two or more individuals have equal and the highest number of votes, the governor, by proclamation, shall order a new election.

16.1-15-44. Secretary of state to record statement of general or special election, prepare certificates of election, publish abstract.

After receiving each certified statement and determination made by the state canvassing board, the secretary of state shall record the same in the secretary of state's office and shall prepare, and transmit to each of the individuals declared to be elected, a certificate of election as provided in this chapter. If the election results indicate that any candidate is entitled to a recount or to demand a recount pursuant to section 16.1-16-01, the secretary of state may not prepare or deliver the certificate of election until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later. The secretary of state shall cause a copy of the certified abstract and determination to be published in the official newspaper of Burleigh County.

16.1-15-45. Form of certificate of election for state officers - Signatures.

A certificate of election must be prepared by the secretary of state for each individual elected to a state or a district office. The certificate must be signed by the governor and the secretary of state, have the great seal of the state affixed, and be attested by at least one of the other members of the state canvassing board. The certificate, in substance, must be in the following form:

At an election held on _____, ___, _____ was elected to the office of _____ of this state for the term of _____ years from _____, _____, (or, if to fill a vacancy, for the residue of the term ending on _____, ___), and until a successor is duly elected and qualified.

Given at Bismarck on _____, ___.

16.1-15-46. Members of legislative assembly to receive certificates of election.

At the time election certificates are issued to state and district officers, the secretary of state shall issue certificates of election to all members of the legislative assembly.

16.1-15-47. Certificate of election to member of Congress - Signing - Delivering.

The certificate of election to a member of Congress must be signed by the governor with the great seal affixed and must be countersigned by the secretary of state. The governor shall cause the certificate to be delivered to the individual elected.

16.1-15-48. Canvassing returns of constitutional amendment or other proposition - Certified abstract of result - Contents.

For the purpose of canvassing and ascertaining the result of the votes cast at any election upon any proposed amendment to the constitution, or any other proposition submitted to a vote

of the people, the state canvassing board shall proceed to examine the abstracts received by the secretary of state from the county auditors to ascertain and determine the result. The board shall certify a statement of the whole number of votes cast for and the whole number of votes cast against an amendment or proposition, and it shall determine whether the amendment or proposition has been approved and ratified by a majority of the electors voting thereon, and a certificate of that determination must be prepared and subscribed on the statement.

16.1-15-49. Certified statement and determination of results of constitutional amendments and propositions recorded by secretary of state - Publishing.

The certified statement and determination provided for in section 16.1-15-48 must be recorded by the secretary of state. If it appears that a constitutional amendment or other proposition has been approved, ratified, or adopted, the secretary of state shall arrange for the text of the amendment or proposition and a record of the votes cast for and against it to be published in the session laws published after the next succeeding session of the legislative assembly.