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NORTH DAKOTA ELECTION LAWS

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* DISCLAIMER *

The following excerpts of North Dakota law are from the North Dakota Century Code (NDCC) and pertain to elections and election procedures. Although every attempt has been made for accuracy, the reprint of these laws does not carry the same authority as the actual NDCC and should not be equated with the official NDCC. This compilation is only intended as a helpful resource and reference for consolidated election related laws. For official and legal purposes, the official NDCC should be used.

In addition, the following excerpts of North Dakota law do not contain the material found in the notes following the various sections contained in the NDCC. These notes found in the NDCC may contain temporary provisions and effective dates. For a more comprehensive understanding of election related changes made during the 2015 session of the Legislative Assembly, please refer to 2015 Session Laws.

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TITLE 1 GENERAL PROVISIONS

CHAPTER 1-01 – General Principles and Definitions

Election Related Excerpts

1-01-10. Quorum.

Except as otherwise provided, a majority of any board or commission shall constitute a quorum.

1-01-11. Authority of deputies.

Any duty imposed upon a ministerial officer, and any act permitted to be done by that officer, unless otherwise provided, may be performed by that officer's lawful deputy.

1-01-12. Variation from prescribed form.

If a form is prescribed, deviations therefrom not affecting the substance or calculated to mislead does not vitiate the form used.

1-01-29. Several — Definition.

The word “several” in relation to number means two or more.

1-01-33. Year — Month — Week — Definition — Fraction of day disregarded.

The word “week” means seven consecutive days and the word “month” a calendar month. The word “year” means twelve consecutive months. Fractions of a year are to be computed by the number of months; thus, half a year is six months. Fractions of a day are to be disregarded in computations which include more than one day and involve no questions of priority.

1-01-35. Singular — Definition.

Words used in the singular number include the plural and words used in the plural number include the singular, except when a contrary intention plainly appears.

1-01-44. Successive weeks construed.

Whenever in any act or statute of the state of North Dakota providing for the publication of a notice the phrase “successive weeks” is used, the word weeks must be construed to mean calendar weeks, and the publication upon any day in a week is sufficient publication for that week if at least five days intervene between such publication and the publications immediately preceding and immediately following. All publications heretofore or hereafter made in accordance with the provisions of this section are deemed legal and valid.

1-01-47. Population — Definition.

The term “population” means the number of inhabitants as determined by the last preceding state or federal census.

1-01-49. Other general definitions.

As used in this code, unless the context otherwise requires:

1. “Depose” includes every mode of written statement under oath or affirmation.
2. “Executor” includes administrator and “administrator” includes executor.
3. “Individual” means a human being.
4. “Oath” includes “affirmation”.

5. “Organization” includes a foreign or domestic association, business trust, corporation, enterprise, estate, joint venture, limited liability company, limited liability partnership, limited partnership, partnership, trust, or any legal or commercial entity.
6. “Partnership” includes a limited liability partnership registered under chapter 45-22.
7. “Penitentiary” includes any affiliated facilities.
8. “Person” means an individual, organization, government, political subdivision, or government agency or instrumentality.
9. “Personal property” includes money, goods, chattels, things in action, and evidences of debt.
10. “Preceding” and “following” when used by way of reference to a chapter or other part of a statute means the next preceding or next following chapter or other part.
11. “Process” means a writ or summons issued in the course of judicial proceedings.
12. “Property” includes property, real and personal.
13. “Real property” shall be coextensive with lands, tenements, and hereditaments.
14. “Rule” includes regulation.
15. “Signature” or “subscription” includes “mark” when the person cannot write, the person’s name being written near it and written by a person who writes that person’s own name as a witness.
16. “State” when applied to the different parts of the United States, includes the District of Columbia and the territories.
17. “Testify” includes every mode of oral statement under oath or affirmation.
18. “United States” includes the District of Columbia and the territories.
19. “Will” includes codicils.
20. “Writ” means an order or precept in writing, issued in the name of the state or of a court or judicial officer.

1-01-50. Filing or presentation of petitions — Time limit.

Whenever in this code provision is made for the filing or presentation of a petition with or to any officer or governing body or board of the state or any agency, instrumentality, or political subdivision thereof as a prerequisite to the calling of an election, or the performance or prohibition of any act, such petition must be filed with or presented to such officer or governing body or board not later than one year from the date such petition is first placed in circulation, or the date the first signature is affixed thereto, whichever date is the latest. If a petition is required by law to be filed or presented on or before a specific or certain date, the petition shall be filed or presented, and physically be in the possession of the person or office designated to receive such petition before four p.m. on such date. The provisions of this section shall not apply in any case in which the law governing a particular petition specifies a shorter or a longer period of time or a different time of day.

1-01-51. Qualified elector defined.

Unless otherwise provided, as used in this code concerning qualifications for signing petitions to governmental bodies, “qualified elector” means a citizen of the United States who is eighteen years of age or older; and is a resident of this state and of the area affected by the petition.

CHAPTER 1-02 – Rules of Interpretation

Election Related Excerpts

1-02-15. Computation of time.

The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last is a holiday, and then it also is excluded. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

1-02-36. Registered or certified mail.

Wherever the term “registered mail” appears in the laws of the state of North Dakota it means “registered or certified mail”.

CHAPTER 1-03 – Holidays

Election Related Excerpts

1-03-01. Holidays.

Holidays are as follows:

1. Every Sunday.
2. The first day of January, which is New Year's Day.
3. The third Monday of January, which is Martin Luther King Day, in recognition of the life, legacy, and dream of Martin Luther King, Jr.
4. The third Monday in February, in recognition of the birthday of George Washington.
5. The Friday next preceding Easter Sunday and commonly known as Good Friday.
6. The last Monday in May, which is Memorial Day.
7. The fourth day of July, which is the anniversary of the Declaration of Independence.
8. The first Monday in September, which is Labor Day.
9. The eleventh day of November, which is Veterans' Day.
10. The fourth Thursday in November, which is Thanksgiving Day.
11. The twenty-fifth day of December, which is Christmas Day.
12. Every day appointed by the President of the United States or by the governor of this state for a public holiday.

Nothing in this section may be construed to prevent the holding of legislative sessions or the taking of final action on any legislative matter upon any of such holidays other than Sunday. Any action heretofore taken upon any legislative matter upon any such holiday is valid and legal for all purposes.

1-03-05. Act due on Saturday or holiday performed on next day.

Whenever an act of a secular nature, other than a work of necessity or mercy, is appointed by law or contract to be performed upon a particular day, that falls upon a Saturday or a holiday, the act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.

CHAPTER 1-08 – Miscellaneous

Election Related Excerpts

1-08-09. Service of civil process within boundary of an open polling location.

During any primary, general, or special election held in this state, or in any district, county, city, or precinct, civil process may not be served on any person entitled to vote at the election within one hundred feet [30.48 meters] from the outermost entrance leading into the building or facility in which a polling place is located and open for voting.

TITLE 11 COUNTIES

CHAPTER 11-09.1 – Home Rule Counties

11-09.1-01. Methods of proposing home rule charter.

The board of county commissioners may on its own motion cause a home rule charter to be drafted and submitted for adoption to the electors of the county in the manner provided in this chapter. A home rule proposal may be initiated in a petition filed with the board of county commissioners and signed by qualified electors of the county not fewer in number than two percent of the population of the county.

11-09.1-02. Charter commission — Membership — Preparation and submission of charter — Compensation and expenses — Publication.

Within sixty days after proceedings have been initiated for a home rule charter, the board of county commissioners shall appoint a charter commission, comprised of at least five members, to draft the charter, unless a petition proposing a charter pursuant to section 11-09.1-01 prescribes the composition of the commission or the manner by which the composition of the commission is to be determined. The board shall designate one of the charter commission members as chairman of the charter commission. The board shall set the compensation and expenses of charter commission members. Actual expenses incurred by charter commission members may be reimbursed at the official reimbursement rates of the appointing authority. The board, from its general funds, may furnish the charter commission with office space, clerical help, supplies, and legal and other assistance. The charter commission shall hold at least one public hearing on the proposed charter and may use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the proposed charter. The commission shall prepare and submit the charter to the board of county commissioners within one year after appointment, unless the board allows additional time for submission of the charter. The charter must contain a list of county offices to be elected and any elected offices that will be eliminated or combined if the charter is adopted. The board of county commissioners shall publish the proposed charter once in the official newspaper of the county.

11-09.1-03. Submission of charter to electors.

At least sixty days, but no more than two years, after submission of the charter to the board of county commissioners, the proposed charter must be submitted to a vote of the qualified electors of the county at a primary or general election. If the proposed charter has been submitted to a vote of the qualified electors of the county, the board of county commissioners may call a special election to resubmit the proposed charter to a vote of the qualified electors of the county, and the special election must take place at least sixty days after the call for the special election. The board may amend the proposed charter prior to its resubmission to the electors.

11-09.1-04. Ratification by majority vote — Supersession of existing charter and conflicting state laws — Filing of copies of new charter.

If a majority of the qualified electors voting on the charter at the election vote in favor of the home rule charter, it is ratified and becomes the organic law of the county on the first day of January or July next following the election, and extends to all its county matters. The charter and the ordinances made pursuant to the charter in county matters must be liberally construed to supersede within the territorial limits and jurisdiction of the county any conflicting state law except for any state law as it applies to cities or any power of a city to govern its own affairs, without the consent of the governing body of the city. The charter may not authorize the enactment of ordinances to diminish the authority of a board of supervisors of a township or to change the

structure of township government in any organized civil township, without the consent of the board of supervisors of the township. No ordinance of a home rule county shall supersede section 49-22-16. One copy of the charter as ratified and approved must be filed with the secretary of state; one with the recorder for the county, unless the board of county commissioners designates a different official; and one with the auditor of the county to remain as a part of its permanent records. Courts shall take judicial notice of the charter.

11-09.1-04.1. Multicounty home rule.

1. Two or more counties may draft and submit for adoption a multicounty home rule charter to the electors of each county pursuant to this section. The other provisions of this chapter apply to a multicounty home rule charter, except as otherwise provided by this section.
2. The process for drafting and submitting a multicounty home rule charter may be initiated by:
   a. Separate motions by the boards of county commissioners of the participating counties;
   b. The execution of a joint powers agreement between participating counties; or
   c. A petition filed with each board of county commissioners of two or more counties and signed by ten percent or more of the total number of qualified electors of each county voting for governor at the most recent gubernatorial election.
3. Within sixty days after proceedings are initiated for a multicounty home rule charter, the boards of county commissioners shall enter into a joint powers agreement specifying the procedure for framing the charter, which may include the establishment of a single cooperative charter commission with membership representing each county. As an alternative, the boards of county commissioners in each affected county may establish a separate charter commission pursuant to section 11-09.1-02 to frame the charter in cooperative study with the charter commission of any other affected county. The charter commissions must submit a single joint report and proposed charter.
4. A charter commission, during its deliberation, may hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion on the subject of the proposed multicounty home rule charter, and may report periodically to the affected governing bodies on their progress. In preparing the charter, the charter commission may:
   a. Include any, or all, of the available powers enumerated in section 11-09.1-05, subject to the limitations of that section;
   b. Provide for adjustment of existing bonded indebtedness and other obligations in a manner that will provide for a fair and equitable burden of taxation for debt service;
   c. Provide for the transfer or other disposition of property and other rights, claims, assets, and franchises of the counties;
   d. Provide for the reorganization, abolition, or adjustment of boundaries of any existing boards, commissions, agencies, and special districts of the county government;
   e. Include provisions for transition in implementing the charter, including elements that consider the reasonable expectations of current officeholders such as delayed effective dates for implementation at the end of a current term or a future term, upon the occurrence of a vacancy, or on a date certain;
   f. Include provision for the limited application or temporary implementation of the charter, including provisions that permit implementation on an experimental or pilot basis such as the expiration of the charter on a date certain in the future, required reapproval of the charter by the electors at a future date, or a phased-in implementation of various components of the charter; and
   g. Include other provisions that the charter commission elects to include and which are consistent with state law.

5. The proposed charter or accurate summary of the charter must be published in the official newspaper of each affected county, at least once during two different weeks within the thirty-day period immediately preceding the date of election.
6. If a majority of the qualified electors voting in each county on the charter votes in favor of the multicounty home rule charter, it is ratified and becomes the organic law of the multicounty area on the first day of January following the election or other effective date specified in the charter.
7. The amendment or repeal of a multicounty home rule charter may proceed pursuant to the amendment and repeal provisions of section 11-09.1-06 on a multicounty basis. A majority vote of the qualified electors voting in each county in the election is required to adopt any amendment of a multicounty charter. A majority vote of the qualified electors of only one or more participating counties is required to repeal a multicounty charter.

11-09.1-05. Powers.

After the filing with the secretary of state of a charter approved in reasonable conformity with this chapter, the county and its citizens may, if included in the charter and implemented through ordinances:

1. Acquire, hold, operate, and dispose of property within or without the county limits, and, subject to chapter 32-15, exercise the right of eminent domain for those purposes.
2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; subject to the limitations of this section levy and collect property taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, motor vehicle fuels and special fuels taxes, motor vehicle registration fees, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law; and establish debt and mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the county at the same rate unless otherwise provided by law. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede section 11-11-55.1 relating to the sixty percent petition requirement for improvements and of section 40-22-18 relating to the barring proceeding for improvement projects. After December 31, 2005, sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes levied under this chapter:
   a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.
   b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
   c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.

d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

After December 31, 2005, any portion of a charter or any portion of an ordinance or act of a governing body of a home rule county passed pursuant to a charter which does not conform to the requirements of this subsection is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance or act of a governing body of a home rule county because it does not conform to this subsection does not affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005.

3. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter, a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. This subsection does not authorize a county to redesignate the elected offices of sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.
4. Provide for all matters pertaining to county elections, except as to qualifications of electors.
5. Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil and criminal penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare. However, this subsection does not confer any authority to regulate any industry or activity which is regulated by state law or by rules adopted by a state agency.
6. Lay out or vacate public grounds, and provide through its governing body for the construction, use, operation, designation, and regulation of a county road system.
7. Provide for zoning, planning, and subdivision of public or private property within the county limits but outside the zoning authority of any city or organized township.
8. Exercise in the conduct of its affairs all powers usually exercised by a corporation.
9. Contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.

The people of all counties coming within this chapter have the full right of self-government in all matters within the powers enumerated in this chapter. The statutes of this state, so far as applicable, continue to apply to counties, except as superseded by the charters of the counties or by ordinances passed pursuant to the charters.

11-09.1-05.1. Sales tax revenue transfer to school districts prohibited.

Notwithstanding the provisions of chapters 54-40 and 54-40.3 or any other provision of law, revenue from sales, use, or other excise taxes levied under this chapter may not be transferred to or for the primary benefit of a school district except for payment of bonded indebtedness incurred

before April 19, 2007, or for capital construction and associated costs approved by the electors of the county before April 19, 2007.

11-09.1-06. Amendment or repeal.

The home rule charter adopted by any county may be amended or repealed by a proposal by the governing body of the county or by petition of the number of electors provided in section 11-09.1-01, submitted to and ratified by the qualified electors of the county. A petition to amend or repeal a home rule charter must be submitted to the governing body of the county. Within thirty days of receipt of a valid petition or approval of a proposal to amend or repeal a home rule charter, the governing body of the county shall publish any proposed amendment or repeal of a home rule charter once in the official newspaper of the county. At least sixty days after publication, the proposed amendment or repeal must be submitted to a vote of the qualified electors of the county at the next primary or general election. The electors may accept or reject any amendment or a repeal by a majority vote of qualified electors voting on the question at the election.

11-09.1-07. Commission — Terms of office — Vacancies.

The board of county commissioners shall determine the term of office of the members of the charter commission at the time the members are appointed. The board of county commissioners shall fill any vacancy on the charter commission.

11-09.1-08. Restriction on proposals to amend or repeal.

Repealed by S.L. 1993, ch. 401, § 53.

11-09.1-09. Manner of calling and holding elections.

The elections provided for in this chapter are subject to the laws applicable to other elections of the county. All qualified electors of the county are eligible to vote at the election. The charter commission, for proposals to adopt a home rule charter, or the governing body of the county, for proposals to amend or repeal a home rule charter, shall prescribe the form of ballot so that the voter may signify whether the voter is for or against the proposed home rule charter or the amendment or repeal.

11-09.1-10. Effect of amendment or repeal on salary or term of office.

On the first day of January following repeal of a home rule charter, the county reverts to the form of government of the county immediately preceding adoption of the home rule charter. If positions to which officials were elected under the home rule charter are substantially the same as positions under the form of government to which the county reverts upon repeal, the elected officials shall continue to exercise the authority of their positions for the salary prescribed by the home rule charter until expiration of their terms of office as prescribed by the home rule charter. No amendment of a home rule charter may shorten the term for which any official was elected or reduce the salary of the official's office for that term.

11-09.1-11. General powers preserved.

All powers granted counties by general law are powers of home rule counties.

11-09.1-12. Vested property — Rights of action — Actions saved.

The adoption of any charter or amendment does not destroy any property, action, right of action, claim, or demand of any nature vested in the county. All rights of action, claims, or demands are preserved to the county and to any persons asserting any claims against the county as completely as though the charter or amendment had not been adopted. The adoption of any

charter or amendment affects neither the right of the county to collect special assessments previously levied under any law or charter for the purpose of public improvements, nor impairs the obligation of any existing contract to which the county is a party.

11-09.1-13. Enforcement of criminal penalties.

A county that has adopted a home rule charter may impose a penalty for a violation of an ordinance through a citation, a criminal complaint, or an information through the district court in the county where the offense occurred. The penalty for a violation of an ordinance may be an infraction or a class B misdemeanor.

11-09.1-14. Payment of expenses for indigent defense services.

The home rule county must pay for an attorney and those expenses necessary for the adequate defense of an indigent person prosecuted for violation of a home rule county ordinance.

CHAPTER 11-10 – General Provisions

Election Related Excerpts

11-10-02. Number and election of county officers.

Each organized county, unless it has adopted one of the optional forms of county government provided by the code or has combined or separated the functions of county offices or redesignated offices as elective or appointive pursuant to chapter 11-10.2 or 11-10.3, must have the following officers:

1. One county auditor.
2. One recorder.
3. One county treasurer.
4. One coroner.
5. A board of county commissioners consisting of three or five members as provided in this title.

In addition, unless otherwise provided in section 11-10-02.3, each county must have an elected state's attorney and an elected sheriff. In counties having a population of six thousand or less, the recorder also serves as ex officio clerk of the district court. The required officers must be chosen by the qualified electors of the respective counties at the general election in each even-numbered year, except the recorder, county auditor, treasurer, sheriff, and state's attorney, who must be chosen in 1966 and every four years thereafter, the members of the board of county commissioners, who must be chosen in the manner prescribed in section 11-11-02, and the county coroner, who must be chosen in the manner prescribed in section 11-19.1-03.

11-10-02.3. Appointment of state's attorney upon voter approval.

Upon the submission to the board of county commissioners of a petition signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election or upon resolution of the board of county commissioners, the county auditor shall place the question of appointing the state's attorney on the ballot at the next primary or general election, whichever occurs first. If a majority of the qualified electors of the county voting on the question approves the change from elective to appointive, the change is effective at the end of the term of office of the state's attorney holding office at the time of the election.

11-10-04. Officer must be qualified elector — Exceptions.

1. Except as otherwise specifically provided by the laws of this state, a county officer must be a qualified elector in the county in which the person is appointed, and a county commissioner must be a qualified elector in the district from which the commissioner is chosen.
2. Notwithstanding subsection 3, upon approval of the board of county commissioners of each affected county, a person may serve as an elected officer of more than one county and must be a qualified elector of one of the counties in which the person is elected.
3. A candidate for election to a county office must be, at the time of election, a qualified elector in the jurisdiction in which the candidate is to serve.
4. Two or more counties may appoint one person to fill the same office in each county and the person filling the office must be a qualified elector of one of the counties.
5. a. The boards of county commissioners of two or more counties may agree by resolution to elect a multicounty jurisdiction state's attorney pursuant to chapter 11-10.3. An agreement made between two or more counties according to this subsection must specify procedures for filing for office, the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the apportioning of election expenses. A candidate for election to the

office of multicounty jurisdiction state's attorney must be a qualified elector of the multicounty jurisdiction at the time of the election; or

b. The boards of county commissioners of two or more counties may agree by resolution to allow any candidate for the office of state's attorney to petition for office in each county, and to serve if elected, if the candidate is a qualified elector of one of the counties at the time of the election. To be elected to serve a county in which the candidate is not a resident, the candidate must receive the highest number of votes for the office in that county. Each county shall certify the results and issue certificates of election pursuant to chapter 16.1-15.

11-10-04.1. Board members must reside in taxing district.

Unless otherwise provided by law, an appointed member of a county board, commission, or committee that has authority to levy taxes must be a resident of the area subject to taxation by the board, commission, or committee.

11-10-05. When terms of county officers commence — When officers qualify.

Except as otherwise specifically provided by the laws of this state, the regular term of office of each county officer, when the officer is elected for a full term, shall commence on the first of January next succeeding the officer's election and each such officer shall qualify and enter upon the discharge of the officer's duties on the first of January next succeeding the date of the officer's election. If the office to which an officer is elected was vacant at the time of the officer's election or becomes vacant prior to the date fixed for the commencement of the officer's term, the officer may qualify and enter upon the duties of the office forthwith even though the officer was not elected to fill such vacancy. If an officer is elected to fill an unexpired term in an office then held by an appointee, such officer may qualify and enter upon the discharge of the duties of such office at any time after receiving a certificate of election to that office but not later than the first Monday in January next succeeding the date of the officer's election to the unexpired term of office.

11-10-05.1. When terms of county commissioners commence.

The regular term of office of each county commissioner, when the commissioner is elected for a full term, commences on the first Monday in December next succeeding the officer's election and each such commissioner shall qualify and enter upon the discharge of the commissioner's duties on or before the first Monday in December next succeeding the date of the commissioner's election or within ten days thereafter. If a commissioner is elected to fill an unexpired commission term held by an appointee, such officer may qualify and enter upon the discharge of the duties of such office at any time after receiving a certificate of election to that office but not later than the first Monday in December next succeeding the date of the commissioner's election to the unexpired term of office.

11-10-09. Oath of county officers.

Every county officer, before entering upon the discharge of the officer's duties, shall take and subscribe the oath prescribed for civil officers.

CHAPTER 11-11 – Board of County Commissioners

Election Related Excerpts

11-11-01. Number of county commissioners.

Each organized county shall have a board of county commissioners which shall consist of not less than three nor more than five members.

11-11-02. Commissioner must be resident of district — Exceptions.

Each county commissioner shall be chosen by the qualified electors of the district of which the commissioner is a resident, except as otherwise provided in section 11-07-03 or 11-07-06.

11-11-03. Term of office of commissioners.

A county commissioner shall hold office for the term of four years except as otherwise provided in this title.

11-11-37. Proceedings of board of county commissioners to be published in official newspaper — When published.

The board of county commissioners shall supply to the official newspaper of the county a full and complete report of its official proceedings at each regular and special meeting no later than seven days after the meeting at which the report is read and approved. The publisher of the official newspaper shall publish the report in the issue of the paper next succeeding the time of its reception and shall file with the county auditor an affidavit of publication executed in the proper form.

CHAPTER 12.1-14 – Official Oppression — Elections — Civil Rights

Election Related Excerpts

12.1-14-02. Interference with elections.

A person is guilty of a class A misdemeanor if, whether or not acting under color of law, the person, by force or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because the other individual is or has been voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as an election official or an election observer, in any primary, special, or general election.
2. Injures, intimidates, or interferes with another in order to prevent that individual or any other individual from voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as an election official or an election observer, in any primary, special, or general election.

12.1-14-03. Safeguarding elections.

A person is guilty of a class A misdemeanor if, in connection with any election, he:

1. Makes or induces any false voting registration;
2. Offers, gives, or agrees to give a thing of pecuniary value to another as consideration for the recipient's voting or withholding his vote or voting for or against any candidate or issue or for such conduct by another;
3. Solicits, accepts, or agrees to accept a thing of pecuniary value as consideration for conduct prohibited under subsection 1 or 2; or
4. Otherwise obstructs or interferes with the lawful conduct of such election or registration therefor.

As used in this section, "thing of pecuniary value" shall include alcoholic beverages, by the drink or in any other container.

12.1-14-05. Preventing exercise of civil rights — Hindering or preventing another aiding third person to exercise civil rights.

A person is guilty of a class B misdemeanor if, whether or not acting under color of law, he, by force or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because he is or is about to exercise his civil rights, or because he has exercised his civil rights.
2. Intimidates or prevents another from aiding a third person to exercise his civil rights.

CHAPTER 12.1-32 – Penalties and Sentencing

Election Related Excerpts

12.1-32-01. Classification of offenses — Penalties.

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.
2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of twenty thousand dollars, or both, may be imposed.
3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of twenty thousand dollars, or both, may be imposed.
4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.
5. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of three thousand dollars, or both, may be imposed.
6. Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a fine of one thousand five hundred dollars, or both, may be imposed.
7. Infraction, for which a maximum fine of one thousand dollars may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which the person was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

This section shall not be construed to forbid sentencing under section 12.1-32-09, relating to extended sentences.

CHAPTER 12.1-33 – Rights of Convicts

Election Related Excerpts

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 proceeding taken to set aside or otherwise nullify the conviction or sentence does not affect the application of this section, but if the conviction is reversed, the defendant shall be restored to any public office forfeited under this section from the time of the reversal and shall be entitled to the emoluments thereof from the time of the forfeiture.

12.1-33-02. Rights retained by convicted person.

Except as otherwise provided by law, a person convicted of a crime does not suffer civil death or corruption of blood or sustain loss of civil rights or forfeiture of estate or property, but retains all of his rights, political, personal, civil, and otherwise, including the right to hold public office or employment; to vote; to hold, receive, and transfer property; to enter into contracts; to sue and be sued; and to hold offices of private trust in accordance with law.

TITLE 15.1 ELEMENTARY AND SECONDARY EDUCATION

CHAPTER 15.1-07 – School Districts

Election Related Excerpts

15.1-07-14. Qualified elector.

1. An individual who is a qualified elector of this state may:
   a. Vote to elect board members for the school district in which the individual resides;
   b. Serve as a board member for the school district in which the individual resides; and
   c. Serve as a judge or clerk of election for the school district in which the individual resides.
2. For the purposes of elections held under this chapter, an individual residing on a military installation is deemed to be a resident of a school district if the school district admits students from the military installation pursuant to a contract and receives impact aid pursuant to Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.], as amended.

CHAPTER 15.1-09 – School Boards

Election Related Excerpts

15.1-09-01. School board membership — Size and term adjustments.

1. The board of a school district must be composed of five, seven, or nine members.
2. The size of a school board may be increased to seven or nine members or decreased to seven or five members if a petition is signed by qualified electors of the school district equal in number to at least one-third of those who voted at the most recent annual school district election and the change is approved by a majority of the qualified electors of the school district voting on the question at a special election called for that purpose.
3. If a majority of the qualified voters in a school district elect to increase the size of the school board, the additional members must be elected to the board at the next annual school district election in the same manner as other board members.
   a. If the total number of board members after approval of the increase is seven, the terms of three members extend until the first annual election, the terms of two members extend until the second annual election, and the terms of the remaining two members extend until the third annual election.
   b. If the total number of board members after approval of the increase is nine, the terms of three members extend until the first annual election, the terms of three members extend until the second annual election, and the terms of the remaining three members extend until the third annual election.
   c. The length of the terms specified in this subsection must be determined by lot.
   d. All board members shall serve for the terms specified in this subsection and until their successors are elected and qualified.
   e. The length of any term in existence before the increase in board membership and held by a board member who is duly qualified may not be modified.
   f. Terms subsequent to the first term are for the normal period of three years and extend until a successor is elected and qualified.
4. The voters of a school district shall elect school board members at large. If, however, the district has been reorganized, board members may be elected at large, by geographical area, or at large by geographical area.
5. An election on a reorganization proposal takes the place of the petition and election requirements of this section. Approval of the reorganization proposal has the same effect as if the approval were by the election provided for in this section.
6. If the qualified electors of a district approve a reduction in the size of the school board, the excess number of members will serve out existing terms until the number approved by the electors has been reached.
7. If the board of a school district has elected to convert its members' terms to four years and has also increased the number of its board members, the board by lot or by some other random selection method shall provide for a combination of initial terms of office not to exceed four years for the new members. The combination must equalize to the greatest extent possible the number and length of terms for old board members and for new members to be elected during the next three election years. The members' terms must be staggered and must expire in even-numbered years.

15.1-09-02. School boards — Terms of office.

The term of each elected member of a school board is three years, except when the member is completing the unexpired term of another. The term of office for a school board member begins at the annual meeting in July following the member's election and continues until a successor is elected and qualified.

15.1-09-03. School boards — Changes in terms of office.

1. A school board by resolution may change the terms of office for its members from three to four years. The resolution must provide that upon the expiration of each member's current three-year term, the term of office for that position on the board will become four years. The resolution may provide for the conversion of one position to a two-year term and, thereafter, to a four-year term. If the resolution so provides, the term must be chosen by lot. If as a result of an extension to four years a term would conclude in an odd-numbered year, the resolution must provide for one transitional three-year term before the four-year term commences.
2. If a school board changes its terms of office as provided for in this section:
   a. References in this title to annual elections mean biennial elections when applied to the board; and
   b. The election held pursuant to section 15.1-09-31 must be held in even-numbered years.
3. A school board that has converted the terms of its members to four years may revert to three-year terms by passing a resolution providing for the reversion. When the four-year term of each board member holding office on the date of the resolution's passage expires, the term of office for that position becomes three years.

15.1-09-04. Rural members of school board — Definitions.

1. Except as provided in subsection 2:
   a. At least two members of a school board must be rural members if a district contains six or more sections of land, has a city within its boundaries, and a district population of two thousand or fewer.
   b. At least one member of a school board must be a rural member if a district contains six or more sections of land, has within its boundaries a city of more than two thousand but fewer than fifteen thousand, and has at least twenty-five families residing on farms outside the corporate limits of the city but within the district and sending children to school in the district.
   c. If the taxable valuation of agricultural property in the rural area of a district containing a city is greater than the taxable valuation of the urban area, the majority of the members of the school board must be rural members.
   d. If the variance in population between the geographic voting areas of a school district is greater than ten percent, all qualified voters in the district may vote for each school board candidate.
2. A reorganization plan under chapter 15.1-12 may provide for school board membership requirements that are different from those in subsection 1.
3. For purposes of this section, a rural school board member is one who resides on a farm outside the corporate limits of a city or one who resides within a city that according to the latest federal census has a population of two hundred or fewer and is located within a district that has four or more incorporated cities.
4. For purposes of this section:
   a. "Agricultural property" means property located outside the limits of an incorporated city and zoned agricultural.
   b. "Rural" means outside the limits of an incorporated city.

15.1-09-05. School board — Vacancies — Appointments.

1. The business manager of a school district shall notify the county superintendent that a vacancy exists on the school board.

2. The board of a school district shall fill by appointment or special election any vacant seat on the board. The term of an individual selected by appointment or special election to fill a vacancy extends until a successor is elected and qualified at the next annual election. If a school board fails to fill a vacancy by appointment or fails to call a special election to fill a vacancy within sixty days from the time the vacancy occurred, the county superintendent shall call a special election to fill the vacancy. The election must be conducted in the same manner as the annual school district election.
3. If a vacancy reduces the membership of a school board to less than a quorum, the state board of public school education shall appoint to the school board as many individuals as necessary to achieve a quorum. The school board then shall fill the remaining vacancies. After the vacancies have been filled, any individual appointed by the state board shall resign and the school board shall fill the vacancy in accordance with this section. After resigning, the individual who had been appointed by the state board may be reappointed by the school board to fill the vacancy.
4. A vacancy may be declared for any reason set forth in section 44-02-01.
5. The business manager shall certify any appointment made under this section to the county superintendent of schools.

15.1-09-07. School district election — Conduct.

Unless otherwise provided by law, a school district election must be conducted and the votes must be canvassed in the same manner as in the election of county officers.

15.1-09-08. School district elections — Candidate filings.

An individual seeking election to the board of a school district shall prepare and sign a document stating the individual's name and the position for which that individual is a candidate. A candidate shall also file a statement of interests as required by section 16.1-09-02. Whether or not the election is held in conjunction with a statewide election, these documents must be filed with the school district business manager, or mailed to and in the possession of the business manager, by four p.m. of the sixty-fourth day before the election.

15.1-09-09. School district elections — Notice.

Thirty days before the filing deadline for candidate names to be printed on the ballot, an official notice of this deadline must be published in the official newspaper of the city or county. At least fourteen days before the date of an annual or special school district election, the school board shall publish a notice in the official newspaper of the district stating the time and place of the election and the purpose of the vote. If a school board agrees to hold the election in conjunction with a primary election, the deadline for giving notice of the school district election and the purpose of the vote must meet the publishing requirements of the county. The governing body of the city of Fargo shall publish notice with respect to Fargo school district elections.

15.1-09-10. School district elections — Form of notice.

A notice for the election of school board members must state the purpose for the election, the date of the election, and the time at which the polls will open and close.

15.1-09-11. School district elections — Preparation of ballots.

1. At least forty days before the election, the business manager shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals who have indicated their intent to be candidates by meeting the provisions of section 15.1-09-08. The business manager shall notify the candidates as to the time and place of the drawing for position on the ballot.

2. The ballot must be nonpartisan in form and include:
   a. The words “official ballot” at the top;
   b. The name of the school district;
   c. The date of the election;
   d. The number of persons to be elected to each office; and
   e. Below the list of candidates for each office, blank spaces in which names not printed on the ballot may be written.

15.1-09-12. School district elections — Poll hours.

The school board shall determine the time at which polls must open and close for school district elections. Polls may open at any time after seven a.m. and must be open by eleven a.m. Polls must remain open until seven p.m. and may remain open until eight p.m. In Fargo school district elections, polls must open and close at the times required for city elections.

15.1-09-13. Election precincts — Polling places — Election officials.

1. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible.
2. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more polling places for each precinct. The board shall locate the polling places as conveniently as possible for the voters in the precinct. Once established by the board, a polling place must remain a polling place for a precinct until it is changed by subsequent action of the board.
3. For school board elections not held in conjunction with county elections, the board shall appoint two election judges and two election clerks for each polling place. Before opening the polls, the judges and clerks shall take an affirmation or oath to perform their duties according to law and to the best of their ability. The affirmation or oath may be administered by any officer authorized to administer oaths or by any of the judges or clerks.
4. For school board elections held in conjunction with county elections, the county election boards shall administer the election in the same manner as the county or state election.

15.1-09-14. School district election — Vote tally.

Upon the closing of the polls, the judges shall count and canvass the votes for each office. At the conclusion of the canvass of votes on election night, the judges and clerks of the election shall sign the returns and file them with the business manager of the school district. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement.

15.1-09-15. School district election — Declaration of winner.

On the sixth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election.

15.1-09-16. School district election — Tie breaker.

If the election results in a tie, the business manager of the district shall notify, in writing, the candidates between whom the tie exists. Within three days after the canvass of the election by the

school board, at a time agreed upon by the candidates, the election must be decided in the presence of the judges and clerks of the election, by a drawing of names. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules of filling an office when a vacancy exists. The school district business manager shall make and keep a record of the proceedings.

15.1-09-17. Notification of elected individuals — Notice to county superintendent of schools.

Within three days after the canvass by the school board for a school district election, the business manager of the school district shall provide to each elected individual written notice of the individual's election and of the duty to take an affirmation or oath of office. Within ten days after the canvass by the school board, the business manager shall certify the individuals elected and their terms to the county superintendent of schools.

15.1-09-18. School district election — Absentee ballots — Recounts.

Absentee ballots must be available in any school district election in accordance with chapter 16.1-07. Section 16.1-16-01 applies to school district elections, except:

1. The members of the school board not subject to a recount and not disqualified under subdivision c of subsection 2 of section 16.1-05-02 shall perform the duties of the recount board;
2. The school district business manager shall perform the duties of the county auditor when the election is not combined with the county;
3. The school board takes the place of the county canvassing board; and
4. All expenses of the recount must be paid as provided in section 15.1-09-21.

15.1-09-20. Election officials — Compensation.

Election officials at school district elections are entitled to receive compensation as provided for election officials in section 16.1-05-05. The board of a school district holding the election shall provide for the compensation from school district funds.

15.1-09-21. School district elections — Expenses.

A school district is responsible for the payment of all expenses incurred as a result of a school district election.

15.1-09-22. School boards — Annual elections — Poll books.

1. The board of a school district shall hold an election each year between April first and June thirtieth to fill all vacancies, including those caused by the expiration of terms of office.
2. Upon resolution of the school board, the annual election may be held in conjunction with the regular election of a city, as required by state law or by the home rule powers of the city, provided the city is located wholly or partially within the school district. The school board may agree with the governing body of the city to share election costs and responsibilities, including those associated with election personnel, the printing of election materials, the publishing of legal notices, and the use of poll books.
3. If a school board holds its election in conjunction with a city, references in this chapter to the date of a school board election mean the date of the applicable city election.
4. If a school board holds its election in conjunction with a city and only one set of poll books is used, the set must reference the voter’s eligibility to vote in the city election, in the school district election, or both.

15.1-09-23. School boards — Special elections.

In addition to the annual election, a special election may be held at any time and for any lawful purpose, if approved by the school board.

15.1-09-24. School boards — Sharing of election expenses.

If a school district election is held in conjunction with a primary election, the board of the school district may agree with the governing body of the county or counties in which the district is located to share election costs and responsibilities, including those associated with a canvassing board, election personnel, the printing of election materials, the publishing of legal notices, and the use of poll books. Each board of a school district that enters into an agreement with the county must notify the county auditor, in writing, at least sixty-four days before the election of the offices to be filled at the election and any measures to appear on the ballot.

15.1-09-25. School board members — Affirmation or oath of office.

An individual elected as a member of or appointed to a school board shall take and file with the school district business manager an affirmation or oath of office within ten days after receiving notice of the election or appointment and before commencing duties. If the individual refuses to take the affirmation or oath of office required by this section, the individual's action is deemed to be a refusal to serve and a failure to qualify for the office pursuant to section 44-02-01.

15.1-09-26. Affirmation or oath of office — Administration.

Any member of a school board may administer an affirmation or oath of office required of school board members, required of school district personnel, or required in any school-related matter.

15.1-09-27. Organization of school board — Election of president.

At the annual meeting, school board members shall elect from among themselves a president to serve for one year.

15.1-09-28. School board president — Duties.

The president shall preside at all meetings of the school board, appoint all committees subject to approval by the board, provide authorization for the issuance of negotiable instruments, and perform other acts required by law. A vice president may be elected by the board to serve in the absence of the president at any meeting.

15.1-09-29. School board — Quorum — Majority vote.

The board of a school district consists of the members elected according to the provisions of this chapter. A majority of the board constitutes a quorum. The agreement of a majority of those members present is necessary for the transaction of any business.

TITLE 16.1 ELECTIONS

CHAPTER 16.1-01 – General Provisions

16.1-01-01. Secretary of state to supervise election procedures — County administrator of elections.

1. The secretary of state must be, ex officio, supervisor of elections and may employ additional personnel to administer this title. The secretary of state shall supervise the conduct of elections and in that supervisory capacity has, in addition to other powers conferred by law, the power to examine upon the secretary of state's request or the request of any election official, any election ballot or other material, electronic voting system or counting machine authorized by chapter 16.1-06, or device used in connection with any election, for the purpose of determining sufficient compliance with the law and established criteria and standards adopted by the secretary of state according to section 16.1-06-26. The secretary of state, upon determining that any ballot or other material, electronic voting system or counting machine, or device is not in sufficient compliance with the law or established criteria and standards, shall direct the proper changes to be made, and in the case of electronic voting systems and counting machines, may decertify the electronic voting systems and counting machines according to the rules adopted under section 16.1-06-26.
2. In addition to other duties provided elsewhere by law, the secretary of state shall:
   a. Develop and implement uniform training programs for all election officials in the state.
   b. Prepare information for voters on voting procedures.
   c. Publish and distribute an election calendar, a manual on election procedures, and a map of all legislative districts.
   d. Convene a state election conference of county auditors at the beginning of each election year and whenever deemed necessary by the secretary of state to discuss uniform implementation of state election policies.
   e. Prescribe the form of all ballots and the form and wording of ballots on state referendum questions, issues, and constitutional amendments.
   f. Investigate or cause to be investigated the nonperformance of duties or violations of election laws by election officers.
   g. Require such reports from county auditors on election matters as deemed necessary.
   h. Certify results of statewide elections.
   i. Prepare and publish reports whenever deemed necessary on the conduct and costs of voting in the state, including a tabulation of election returns and such other information and statistics as deemed appropriate.
   j. Establish standards for voting precincts and polling locations, numbering precincts, precinct maps, maintaining and updating pollbooks, and forms and supplies, including but not limited to, ballots, pollbooks, and reports.
   k. Prescribe the order in which each political subdivision will appear on an election ballot.
   l. Develop and conduct a test election for the state's voting system prior to each statewide election utilizing the votes cast within each county according to the logic and accuracy testing required in section 16.1-06-15.
3. In carrying out the secretary of state's duties and to assure uniform voting opportunities throughout the state, and for the purpose of implementing the provisions of this title and any other requirement imposed upon the state by the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15301 et seq.] not otherwise addressed in this Act, the secretary of state may from time to time issue rules the secretary of state deems necessary, which must be consistent with the provisions of this title or the Help America

Vote Act of 2002 and be adopted and published in accordance with chapter 28-32, but which need not comply with section 28-32-07.

4. In each county there must be a county administrator of elections who must be the county auditor. The county auditor is responsible to the secretary of state for the proper administration within the auditor's county of state laws, rules, and regulations concerning election procedures.
5. In addition to other statutory duties, the county auditor shall:
   a. Procure and distribute supplies required for voting in the county.
   b. Prepare and disseminate voter information as prescribed by the secretary of state.
   c. Fully comply with the test election required of this section.
   d. Carry out uniform training programs for all county and precinct election officials as prescribed by the secretary of state.
   e. Receive and handle complaints referred to the county auditor by any voter or precinct official involving circulation of petitions, challenges to voters, actions of election officials, or irregularities of any kind in voting. The county auditor shall refer complaints to the secretary of state or the proper prosecuting authority, as the county auditor deems appropriate.

   Upon completion of the duties required by this subsection, the county auditor shall certify to the secretary of state, in the manner prescribed by the secretary of state, that the duties have been completed.

16.1-01-02. Applicability of provisions of title.

The provisions of this title govern all primary, general, and special statewide and legislative elections, and all other elections, unless otherwise provided by law.

16.1-01-02.1. State policy encouraging employers to establish policy granting employees time to vote.

It is the policy of this state to encourage voting by all eligible voters at all statewide special, primary, or general elections. To this end, employers are encouraged to establish a program to grant an employee who is a qualified voter to be absent from the employee's employment for the purpose of voting when an employee's regular work schedule conflicts with voting during time when polls are open.

16.1-01-02.2. Special election — Special procedures.

Notwithstanding any other provision of law, the governor may call a special election to be held in ninety days after the call if a special session of the legislative assembly has been held, any of the ninety-day period for the submission of a referendum petition to the secretary of state with respect to any measure enacted during the special session occurs during a regular legislative session, and a referendum petition has been submitted to refer a measure or part of a measure enacted during the special session. Notwithstanding any other provision of law, the governor may call a special election to be held in ninety days after the call if a referendum petition has been submitted to refer a measure or part of a measure that establishes a legislative redistricting plan.

16.1-01-02.3. Special election costs — Reimbursement.

The state shall reimburse each county for the costs incurred by the county for conducting a statewide special election that is not held on the date of a statewide primary or general election. Each county shall submit a detailed statement to the office of the budget which lists all expenses incurred by the county in conducting the special election within forty-five days after the special election. The office of the budget shall submit a request for an appropriation to reimburse the

counties to the next regular or special session of the legislative assembly. The legislative assembly shall appropriate the funds necessary for the payment of the special election costs.

16.1-01-03. Opening and closing of the polls.

The polls at all primary, general, and special elections must be opened at nine a.m. or at such earlier hour, but not earlier than seven a.m., that may be designated for any precinct by resolution of the governing body of the city or county in which such precinct is located except that in precincts in which seventy-five or fewer votes were cast in the last general election, the governing body may direct that the polls be opened at twelve noon. They must remain open continuously until seven p.m. or such later hour, not later than nine p.m., as may be designated for a precinct by resolution of the governing body of the city or county in which the precinct is located. All electors standing in line to vote at the time the polls are set to close must be allowed to vote, but electors arriving after closing time may not be allowed to vote. The election officers present are responsible for determining who arrived in time to vote, and they shall establish appropriate procedures for making that determination. All determinations required to be made pursuant to this section relating to polling hours must be made, and the county auditor notified of them, no later than thirty days prior to an election.

16.1-01-04. Qualifications of electors – Voting requirements.

1. Every citizen of the United States who is eighteen years or older; a resident of this state; and has resided in the precinct at least thirty days next preceding any election, except as otherwise provided in regard to residency in chapter 16.1-14, is a qualified elector.
2. For the purposes of this title, every qualified elector may have only one residence, shown by an actual fixed permanent dwelling, establishment, or any other abode.
3. Except as otherwise provided in this section, an individual's residence must be determined in accordance with the rules for determining residency as provided in section 54-01-26.
4. Pursuant to section 2 of article II of the Constitution of North Dakota, voting by individuals convicted and sentenced for a felony must be limited according to chapter 12.1-33.
5. For the purposes of this title, an individual may not be deemed to have gained or lost a residence solely by reason of the individual's presence or absence while enrolled as a student at a college, university, or other postsecondary institution of learning in this state.
6. For the purposes of this title, a member of the armed forces of the United States may not be deemed to have gained or lost a residence in this state solely by reason of the member being stationed on duty in this state.
7. For the purposes of this title, an individual may not be deemed to have lost residence in the individual's precinct or in the state by reason of the individual engaging in temporary government service or private employment outside the individual's precinct or outside the state.
8. For purposes of this title, a qualified elector may not authorize an attorney in fact, guardian, or other individual to apply for any ballot or to vote in any election on behalf of or in the place of the qualified elector.
9. For purposes of this title, an elector seeking to vote in an election must meet the identification requirements specified in sections 16.1-05-07 and 16.1-07-06.

16.1-01-05. Voting by qualified elector moving from one precinct to another.

If a qualified elector moves from one precinct to another precinct within this state, the elector is entitled to vote in the precinct from which the elector moved until the elector has established a new residence pursuant to section 16.1-01-04.

16.1-01-05.1. Voter lists — Addition or transfer of names.

Through the use of the central voter file provided for in chapter 16.1-02, the secretary of state shall establish a procedure by which a county auditor may transfer a person's name from the voter list of one precinct to the voter list of another precinct in the state if that person establishes a new residence, and by which a person who establishes residence in the state may have that person's name placed on the voter list in the appropriate precinct. The procedure provided for in this section may not be used to require the registration of electors.

16.1-01-06. Highest number of votes elects.

Unless otherwise expressly provided by the laws of this state, in all elections for the choice of any officer, the person receiving the highest number of votes for any office must be deemed to have been elected to that office.

16.1-01-07. Constitutional amendments and other questions to be advertised — Notification by secretary of state — Manner of publishing.

Whenever a proposed constitutional amendment or other question is to be submitted to the people of the state for popular vote, the secretary of state shall, not less than fifty-five days before the election, certify the amendment or other question to each county auditor and each auditor shall cause notice thereof to be included in the notice required by section 16.1-13-05. Questions to be submitted to the people of a particular county must be advertised in the same manner.

The secretary of state shall, at the same time the secretary of state certifies notice to the county auditors of the submission of a constitutional amendment or other question, certify the ballot form for such questions. The ballot form must conform to the provisions of section 16.1-06-09 and must be used by all county auditors in preparing ballots for submission to the electorate of each county and in the preparation of sample ballots. Any requirements in this title that a sample ballot be published will be met by the publication of either the paper ballot or the ballot as it will appear to persons using an electronic voting system device, depending upon the method of voting used in the area involved. Absentee voter ballots may not be considered in determining which method of voting is used in an area. If both paper ballots and electronic voting system ballots are used in an area, both forms must be published as sample ballots to meet publication and notice requirements. For two consecutive weeks before the sample ballot is published, an analysis of any constitutional amendment, initiated measure, or referred measure, written by the secretary of state after consultation with the attorney general, must be published in columns to enable the electors to become familiar with the effect of the proposed constitutional amendment or initiated or referred measure.

16.1-01-08. Correcting errors on ballots — Requiring performance of duty — Correcting or prosecuting wrongful performance.

The secretary of state shall thoroughly investigate, when the matter comes to the secretary of state's attention, any of the following:

1. Any error or omission which has occurred or is about to occur in the placing of any name on an official election ballot.
2. Any error which has been or is about to be committed in printing the ballot.
3. Any wrongful act which has been or is about to be done by any judge or election clerk, county auditor, canvassing board, a canvassing board member, or any other person charged with any duty concerning the election.
4. Any neglect of duty which has occurred or is about to occur.

If required, the secretary of state shall order the officer or person charged with such error, wrong, or neglect to correct the error, desist from the wrongful act, or perform any required duty. The secretary of state may call upon any county auditor for aid in investigation and correction of the

problem. The secretary of state shall cause any person who violates the secretary of state's order to be prosecuted, if the violation constitutes an offense pursuant to this chapter. If the administrative remedies fail to correct the problem, or if the secretary of state refuses to act, any person may petition the supreme court, or the district court of the relevant county where the election of a county officer is involved, for an order compelling the correction of the error, wrong, neglect, or act.

16.1-01-09. Initiative or referendum petitions — Signature — Form — Circulation.

1. a. A request of the secretary of state for approval of a petition to initiate or refer a measure may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the measure; the printed name, signature, and address of the committee member; and notarization of the signature. The filed signature forms must be originals.
   b. Upon receipt of a petition to initiate or refer a measure, the secretary of state shall draft a short and concise statement that fairly represents the measure. The statement must be submitted to the attorney general for approval or disapproval. An approved statement must be affixed to the petition before it is circulated for signatures, must be called the "petition title", and must be placed immediately before the full text of the measure.
   c. The secretary of state and the attorney general shall complete their review of a petition in not less than five, nor more than seven, business days, excluding Saturdays.
2. An individual may not sign any initiative or referendum petition circulated pursuant to article III of the Constitution of North Dakota unless the individual is a qualified elector. An individual may not sign any petition more than once, and each signer shall also legibly print the signer's name, complete residential address or rural route or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition shall do so in the presence of the individual circulating the petition. A referendum or initiative petition must be on a form prescribed by the secretary of state containing the following information:

REFERENDUM [INITIATIVE] PETITION
TO THE SECRETARY OF STATE,
STATE OF NORTH DAKOTA

We, the undersigned, being qualified electors request [House (Senate) Bill _____ passed by the _____ Legislative Assembly] [the following initiated law] be placed on the ballot as provided by law.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Name	Address
_____(Chairperson)	_____
_____	_____

PETITION TITLE

(To be drafted by the secretary of state, approved by the attorney general, and attached to the petition before circulation.)

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

[The full text of the measure must be inserted here.]

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers shall also legibly print their name, complete residential address or rural route or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

QUALIFIED ELECTORS

	Month, Day, Year	Signed Name of Qualified Elector	Printed Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City State, Zip Code
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					

The number of signature lines on each page of a printed petition may vary if necessary to accommodate other required textual matter. In this section for referral petitions "full text of the measure" means the bill as passed by the legislative assembly excluding the session and sponsor identification. In this section for initiative petitions "full text of the measure" means an enacting clause which must be: "BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA" and the body of the bill. If the measure amends the law, all new statutory material must be underscored and all statutory material to be deleted must be overstruck by dashes. When repealing portions of the law, the measure must contain a repealer clause and, in brackets, the text of the law being repealed.

3. Each copy of any petition provided for in this section, before being filed, must have attached an affidavit executed by the circulator in substantially the following form:

State of North Dakota)
)ss.
County of _____)
(county where signed)

I, _____, being sworn, say that I am a qualified elector; that I
(circulator)
reside at _____;
(address)

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

_____
(signature of circulator)

Subscribed and sworn to before me on _____, _____, at _____, North Dakota.

(city)
(Notary Seal) _____
(signature of notary)
Notary Public
My commission expires_____

4. No petition may be circulated under the authority of article III of the Constitution of North Dakota by an individual who is less than eighteen years of age, nor may the affidavit called for by subsection 3 be executed by an individual who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety. A petition may not include a statement of intent or similar explanatory information.
5. When signed petitions are delivered to the secretary of state, the chairperson of the sponsoring committee shall submit to the secretary of state an affidavit stating that to the best of that individual's knowledge, the petitions contain at least the required number of signatures. Upon submission of the petitions to the secretary of state, the petitions are considered filed and may not be returned to the sponsoring committee for the purpose of continuing the circulation process or resubmitting the petitions at a later time. An elector's name may not be removed by the elector from a petition that has been submitted to and received by the secretary of state.
6. An initiative or referendum petition may be submitted to the secretary of state until midnight of the day designated as the deadline for submitting the petition.
7. An initiative petition may be circulated for one year from the date it is approved for circulation by the secretary of state.

16.1-01-09.1. Recall petitions — Signature — Form — Circulation.

1. A request of the secretary of state for approval of a petition to recall an elected official or appointed official of a vacated elected office may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the recall; the printed name, signature, and address of the committee member; and notarization of the signature. The filed signature forms must be originals. The secretary of state shall complete the review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays.
2. An individual may not sign a recall petition circulated pursuant to article III of the Constitution of North Dakota or section 44-08-21 unless the individual is a qualified elector. An individual may not sign a petition more than once, and each signer shall also legibly print the signer's name, complete residential, rural route, or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition. A petition must be in substantially the following form:

RECALL PETITION

We, the undersigned, being qualified electors request that _____(name of the individual being recalled) the_____(office of individual being recalled) be recalled for the reason or reasons of_____.

RECALL SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota and the political subdivision who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Complete Residential,
Rural Route,

Name		or General Delivery Address
1. _____	(Chairperson)	_____
2. _____		_____
3. _____		_____
4. _____		_____
5. _____		_____

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota for thirty days, and you are a United States citizen. All signers shall also legibly print their name, complete residential, rural route, or general delivery address, and date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

QUALIFIED ELECTORS

Month, Day, Year	Signed Name of Qualified Elector	Printed Name of Qualified Elector	Complete Residential, Rural Route, or General Delivery Address	City State, Zip Code
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				

The number of signature lines on each page of a printed petition may vary if necessary to accommodate other required textual matter.

3. Each copy of a petition provided for in this section, before being filed, must have attached an affidavit executed by the circulator in substantially the following form:

State of North Dakota)
)ss.
County of_____)
(county where signed)

I,_____, being sworn, say that I am a qualified elector; that I
(circulator's name)
reside at_____;
(address)
that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

_____
(signature of circulator)

Subscribed and sworn to before me on_____, _____, at
_____, North Dakota.
(city)
(Notary Seal) _____
(signature of notary)

Notary Public
My commission expires_____

4. A petition for recall must include, before the signature lines for the qualified electors as provided in subsection 2, the name of the individual being recalled, the office from which that individual is being recalled, and a list of the names and addresses of not less than five qualified electors of the state, political subdivision, or district in which the official is to be recalled who are sponsoring the recall.
5. For the recall of an elected official under article III of the Constitution of North Dakota, circulators have one year to gather the required number of signatures of qualified electors on the recall petition from the date the secretary of state approves the recall petition for circulation. For the recall of an elected official under section 44-08-21, circulators have ninety days from the date the secretary of state approves the recall petition for circulation to submit the recall petition to the appropriate filing officer.
6. A petition may not be circulated under the authority of article III of the Constitution of North Dakota or section 44-08-21 by an individual who is less than eighteen years of age, nor may the affidavit called for by subsection 3 be executed by an individual who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety.
7. When recall petitions are delivered to the secretary of state or other filing officer with whom a petition for nomination to the office in question is filed, the chairman of the sponsoring committee shall submit to the secretary of state or other filing officer an affidavit stating that to the best of that individual's knowledge, the petitions contain at least the required number of signatures. Upon submission of the petitions to the appropriate filing officer, the petitions are considered filed and may not be returned to the chairman of the sponsoring committee for the purpose of continuing the circulation process or resubmitting the petitions at a later time. An elector's name may not be removed by the elector from a recall petition that has been submitted to and received by the appropriate filing officer.
8. The filing officer has a reasonable period, not to exceed thirty days, in which to pass upon the sufficiency of a recall petition. The filing officer may conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information-gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined by the filing officer to be invalid may not be counted and all violations of law discovered by the filing officer must be reported to the state's attorney for possible prosecution.
9. The filing officer shall call a special recall election to be held no sooner than ninety-five days nor later than one hundred five days following the date the filing officer certifies the petition valid and sufficient. No special recall election may be called if that date would be within ninety-five days of the next scheduled election.
10. A notice of the recall election must be posted in the official newspaper thirty days before the candidate filing deadline, which is by four p.m. on the sixty-fourth day before the election. The official notice must include the necessary information for a candidate to file and have the candidate's name included on the ballot.
11. An official may not be recalled if the recall special election would be held during the same year in which the official's office would be included on the ballot.

16.1-01-10. Secretary of state to pass upon sufficiency of petitions — Method — Time limit.

The secretary of state shall have a reasonable period, not to exceed thirty-five days, in which to pass upon the sufficiency of any petition mentioned in section 16.1-01-09. The secretary of

state shall conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information-gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined by the secretary of state to be invalid may not be counted and all violations of law discovered by the secretary of state must be reported to the attorney general for prosecution.

16.1-01-11. Certain questions not to be voted upon for three months.

1. Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter may not again be submitted to a vote until a period of at least three months has expired.
2. a. More than two elections on the same general matter may not be held within twelve consecutive calendar months.
   b. If the matter to be placed before the electors for a third or subsequent time involves authorization for a school construction bond issuance in accordance with chapter 21-03, the board of the school district shall resubmit its school constructin proposal to the superintendent of public instruction for the purpose of obtaining the superintendent's approval, in the same manner as required for an initial approval in accordance with section 15.1-36-01.

16.1-01-12. Election offenses — Penalty.

1. It is unlawful for an individual, measure committee as described in section 16.1-08.1-01, or other organization to:
   a. Fraudulently alter another individual's ballot or substitute one ballot for another or to otherwise defraud a voter of that voter's vote.
   b. Obstruct a qualified elector on the way to a polling place.
   c. Vote or offer to vote more than once in any election.
   d. Knowingly vote in the wrong election precinct or district.
   e. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
   f. Knowingly exclude a qualified elector from voting or knowingly allow an unqualified person to vote.
   g. Knowingly vote when not qualified to do so.
   h. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
   i. Circulate an initiative, referendum, recall, or any other election petition not in its entirety or circulate such a petition when unqualified to do so.
   j. Pay or offer to pay any individual, measure committee, or other organization, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained for circulating an initiative, referendum, or recall petition. This subsection does not prohibit the payment of salary and expenses for circulation of the petition on a basis not related to the number of signatures obtained, as long as the circulators file their intent to remunerate prior to submitting the petitions and, in the case of initiative and referendum petitions, fully disclose all contributions received pursuant to chapter 16.1-08.1 to the secretary of state upon submission of the petitions. The disclosure of contributions received under this section does not affect the requirement to file a preelection report by individuals or organizations soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly under chapter 16.1-08.1. Any signature obtained in violation of this subdivision is void and may not be counted.

k. Willfully fail to perform any duty of an election officer after having accepted the responsibility of being an election officer by taking the oath as prescribed in this title.
l. Willfully violate any rule adopted by the secretary of state pursuant to this title.
m. Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the same to be false, or willfully deface, destroy, or conceal any statement or certificate entrusted to the individual's or organization's care.
n. Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law.
o. Sign a name other than that individual's own name to an initiative, referendum, recall, or any other election petition.

2. a. A violation of subdivisions a through l of subsection 1 is a class A misdemeanor.
b. A violation of subdivision m of subsection 1 is a class C felony.
c. A violation of subdivision n of subsection 1 occurring after an election but before the final canvass, or during an election, is a class C felony, and in other cases is a class A misdemeanor.
d. A violation of subdivision o of subsection 1 is a class A misdemeanor if an individual signs one or two names other than the individual's own name to a petition and is a class C felony if an individual signs more than two names other than the individual's own name to a petition.
e. An organization, as defined in section 12.1-03-04, that violates this section is subject to the organizational fines in section 12.1-32-01.1. The court in which the conviction is entered shall notify the secretary of state of the conviction and shall order the secretary of state to revoke the certificate of authority of any convicted organization or limited liability company. The organization may not reapply to the secretary of state for authorization to do business under any name for one year upon conviction of a class A misdemeanor and for five years upon conviction of a class C felony under this section.
f. An individual who is a member of an organization may be convicted of a violation as an accomplice under section 12.1-03-01.

3. Every act which by this chapter is made criminal when committed with reference to the election of a candidate is equally criminal when committed with reference to the determination of a question submitted to qualified electors to be decided by votes cast at an election.

16.1-01-13. Term limits for United States senators and representatives in Congress.

A person is permanently ineligible to have that person’s name placed on the ballot at any election for the office of United States senator or representative in Congress if, by the start of the term for which the election is being held, that person will have served as a United States senator or a representative in Congress, or in any combination of those offices, for at least twelve years.

16.1-01-13.1. (See note for contingent effective date) Term limits for United States senators and representatives in Congress.

A person is ineligible to have that person’s name placed on the ballot at any election for the office of United States senator or representative in Congress if, by the start of the term for which the election is being held, that person will have served as a United States senator or a representative in Congress, or in any combination of those offices, for at least twelve years. However, if that person is still otherwise eligible to hold the office, the disqualification imposed by this section ceases after two years have elapsed since the disqualification last affected that person’s eligibility for placement on the ballot.

16.1-01-14. Statement of intent.

In enacting this measure, the people of North Dakota:

1. Recognize that, along with the rest of the people of the United States, we have bestowed certain powers on the state and federal governments, and the governmental power flows ultimately from the people, not to them.
2. Do so in the partial exercise of our duty to elect representatives in Congress, under article I, section 2 of the Constitution of the United States, and our duty to elect United States senators, under the seventeenth amendment to the Constitution of the United States.
3. Recognize that the United States Supreme Court has never held that the people of a state do not have the constitutional power to establish term limits for federal legislators from their state.
4. Recognize that certain restrictions are placed on our ability to choose federal legislators, such that we could not, for example, elect a person twenty-eight years old to the senate or require a religious test for a federal legislator.
5. Assert that, aside from the requirements explicitly imposed by the Constitution of the United States, our power with respect to election of federal legislators is plenary.
6. Note that, under the Constitution of the United States, we have certain rights to control suffrage in elections, regulating such matters as residency, ballot access, and voting methods. As the possessors of the power to regulate suffrage, we also have the power to regulate certain qualifications of the agents we appoint by exercising our suffrage.
7. Exercise the legislative power we reserved to ourselves in section 1 of article III of the Constitution of North Dakota.
8. Recognize that, just as the federal Hatch Act [5 U.S.C. 7324 et seq.] restricts the candidacies of otherwise eligible persons from holding elected office, we have the same salutary purpose as does the Hatch Act, namely preventing an incumbent party from using government power to entrench itself permanently into government office.
9. Are mindful of the United States Supreme Court's statement, in Garcia v. San Antonio Metro Transit Authority, 469 U.S. 528, 551 (1985), that state control of the election process is supposed to be a protection of the state peoples from the national government.
10. Recognize that increased concentration of power in the hands of incumbents has made this state's electoral system less free, less competitive, and most importantly, less representative.
11. Recognize that our interests are best served by having our United States senators and representatives in Congress be mindful of their origins and return to our ranks whence they came.
12. Make the following declarations and historical findings:
    a. James Madison, in No. 57 of The Federalist Papers, predicted that the house of representatives would always be responsive to the will of the people because that house would be bound by the same laws they impose on the people. President Madison's prediction was wrong and Congress has arrogated to itself powers not granted to the people, a recent notorious example being the bank of the house of representatives in which members were allowed to kite checks. President Madison's prediction was wrong in that Congress has oppressed the people with laws from which it exempts itself, recent examples including minimum wage, discrimination, occupational safety, and other laws.
    b. The appearance of corruption and the lack of competitiveness for entrenched incumbency seats has lessened voter participation and that is counterproductive to the purposes of a representative republic.

c. Our vital interests in maintaining the integrity of the political process have been harmed by these and other factors. Therefore, term limitation is the best method by which we can ensure that our vital interests are guarded.

13. Believe this measure is constitutional and intend it to be so. Therefore, even if a court holds any portion of this measure unconstitutional, thereby substituting its own judgment for that we have expressed in enacting this measure, the legislative council shall require the publisher of the North Dakota Century Code to include the text of this measure, in the manner as if not so held but with appropriate annotation, to stand as a testament to our expressed will, and as a memorial to the defiance of that will by whatever court holds this measure unconstitutional. Furthermore, if any part of this measure is held unconstitutional, we intend that the rest of it be deemed effective, to the maximum extent permitted under section 1-02-20.

16.1-01-15. Secretary of state to establish and maintain an election fund.

The secretary of state shall establish and maintain a fund, known as the election fund, in the state treasury for the purpose of depositing payments and grants made to the state under the provisions of sections 101, 101(c), and 906, and title III of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15301, 42 U.S.C. 15545, 42 U.S.C. 15481-15502] and funds appropriated by the state. The moneys in the election fund and any interest earnings on the election fund must be used for the exclusive purpose of carrying out activities of the Help America Vote Act of 2002 and are subject to chapter 54-16.

16.1-01-16. Secretary of state to establish a uniform state-based administrative complaint procedure.

The secretary of state shall establish a uniform state-based administrative complaint procedure to remedy grievances according to section 402 of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15512]. The complaint procedure must be uniform and nondiscriminatory and address complaints of violations of any provision of title III of the Help America Vote Act of 2002, including a violation that has occurred, is occurring, or is about to occur. A complaint filed under the complaint procedure must be in writing, notarized, and be signed and sworn by the person filing the complaint. The secretary of state is authorized to consolidate complaints. At the request of a complainant, the secretary of state shall establish a procedure for providing a review on the record. If the secretary of state determines there is a violation of a provision of title III of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15481-15502], the secretary of state shall determine and provide an appropriate remedy. If the secretary of state determines that a violation of title III of the Help America Vote Act of 2002 has not occurred, the secretary of state shall dismiss the complaint and publish the results of the review. The secretary of state shall make a final determination with respect to a complaint within ninety days of the date the complaint is filed with the secretary of state, unless the complainant consents to a longer period of time for the secretary of state to make a determination. If the secretary of state fails to meet the ninety-day deadline for determining a complaint, the complaint must be resolved within sixty days under an alternative dispute resolution procedure.

16.1-01-17. Estimated fiscal impact of an initiated measure.

At least ninety days before a statewide election at which an initiated measure will be voted upon, the legislative council shall coordinate the determination of the estimated fiscal impact of the initiated measure. Upon notification from the secretary of state that signed petitions have been submitted for placement of an initiated measure on the ballot, the legislative management shall hold hearings, receive public testimony, and gather information on the estimated fiscal impact of the measure. Each agency, institution, or department shall provide information requested in the

format and timeframe prescribed by the legislative council for identifying the estimated fiscal impact of an initiated measure. At least thirty days before the public vote on the measure, the legislative council shall submit a statement of the estimated fiscal impact of the measure to the secretary of state. Upon receipt, the secretary of state shall include a notice within the analysis required by section 16.1-01-07 specifying where copies of the statement of the estimated fiscal impact can be obtained. Within thirty days of the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the legislative management under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated measure and a comparison to the estimates provided to the legislative management under this section and the legislative council shall issue a report of the actual fiscal impact of the initiated measure.

CHAPTER 16.1-02 – Central Voter File

16.1-02-01. Permanent central voter file.

A permanent, centralized electronic database of voters, to be known as the central voter file, is established with the offices of the secretary of state and county auditors linked together by a centralized statewide system. The county auditor is chief custodian of the central voter file records in each county. The secretary of state shall maintain the central voter file. The central voter file must be accessible by the secretary of state and all county auditors for purposes of preventing and determining voter fraud, making changes and updates, and generating information, including pollbooks, reports, inquiries, forms, and voter lists.

16.1-02-02. Costs of creating and maintaining a central voter file.

The creation of the central voter file and its maintenance through June 30, 2011, must be paid for with funds from the state's election fund, provided the election fund contains adequate funding to create and maintain the central voter file. The creation of the central voter file and its maintenance through June 30, 2011, may not be paid for from funds in the secretary of state's budget, the state's general fund, or from county funds. Beginning July 1, 2011, the offices required to perform the functions and duties of this chapter shall bear the costs incurred in performing those duties and the secretary of state shall pay the costs of operating and maintaining the central voter file. As used in this section, costs of maintaining the central voter file mean costs of annual software licenses, hosting costs for the software in the state data center, costs of necessary enhancements to the software, and the costs for implementing the duties and responsibilities of the secretary of state's office relating to the central voter file.

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 2008, 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 must be assigned a unique identifier. An individual's unique identifier must be randomly generated and assigned to the individual.
4. When establishing the initial central voter file from the records maintained by the department of transportation and the pollbooks from the general elections in the two previous election years, the secretary of state and county auditors shall attempt to correct address errors and misspellings of names.

16.1-02-04. Precinct boundaries changed — Change to the central voter file.

When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the central voter file to accurately reflect those changes. The county auditor shall provide to the secretary of state all materials requested for existing precincts or to assist in making or verifying the required changes.

16.1-02-05. Entry of new voters into the central voter file — Query of the central voter file for double voting — Postelection verification.

1. Within forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as “inactive” in the central voter file.

16.1-02-06. Reporting deceased individuals and changes of names — Changes to records in the central voter file.

1. The state health officer shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older who has died while maintaining residence in this state since the last report. Within thirty days after receiving a report, the secretary of state shall designate each individual included in the report as “deceased” in the central voter file. The secretary of state shall prepare and distribute a list of individuals designated as “deceased” to each county auditor.
2. The state health officer shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by marriage since the last report. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

3. After receiving notice of death of an individual who has died outside the county, the county auditor shall designate that individual as “deceased” in the central voter file. Notice must be in the form of a printed obituary or a written statement signed by an individual having knowledge of the death of the individual.

16.1-02-07. Reporting changes of names — Changes to records in the central voter file.

The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by divorce or any order or decree of the court since the last report. The secretary of state shall prepare and distribute a list of those individuals to each county auditor. Any individual who has obtained a protection order under section 14-07.1-03 or who is protected by a disorderly conduct restraining order under section 12.1-31.2-01 must be listed in the central voter file with a “secured active” designation. A “secured active” designation means a record maintained as an active voter for pollbook purposes, but otherwise is an exempt record. The state court administrator or the bureau of criminal investigation shall make available upon request of the secretary of state the name of each individual who has obtained such an order.

16.1-02-08. Reporting incarcerations — Changes to records in the central voter file.

Repealed by S.L. 2005, ch. 181, § 7.

16.1-02-08.1. Reporting incarcerations – Changes to records in the central voter file.

1. The director of the department of corrections and rehabilitation shall provide a report to the secretary of state, including the name, address, date of birth, date of sentence, effective date of the sentence, and county in which the conviction occurred, if available, of each individual who has been convicted of a felony and incarcerated under the legal and physical custody of the department of corrections and rehabilitation since the last report. The report must be provided every Monday morning. The secretary of state shall designate each individual in the report with an ineligible voter status in the central voter file.
2. The director of the department of corrections and rehabilitation shall provide a report to the secretary of state, including the name, address, and date of birth, if available, of each individual previously convicted of and incarcerated for a felony whose civil rights have been restored as provided in chapter 12.1-33 since the last report. The report must be provided every Monday morning. The secretary of state shall change the ineligible voter status of the individual in the central voter file to the appropriate status.
3. An individual who has been convicted of and incarcerated for a felony and whose civil rights have been restored as provided under chapter 12.1-33 must be allowed to vote if the individual meets the qualifications of an elector under section 16.1-01-04. The county auditor shall change the status of the individual’s record in the central voter file as necessary.

16.1-02-09. Department of transportation to report updates to the secretary of state — Changes to records in the central voter file.

1. The department of transportation shall report regularly to the secretary of state any relevant changes and updates to records maintained by the department of transportation which may require changes and updates to be made to records of individuals contained in the central voter file.
2. The county auditor may change the designation of individuals contained in the central voter file whose change of address can be confirmed by the United States postal service.

The secretary of state may provide each county auditor with periodic reports on any individual whose change of address can be confirmed by the United States postal service.

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”.

16.1-02-10. Posting voting history — Failure to vote — Individuals designated inactive.

Within seventy-five days after each election, each county auditor shall post the voting history for each individual who voted in the election. After the close of each even-numbered calendar year, the secretary of state shall determine if any individual has not voted during the preceding four years and shall change the status of each such individual to “inactive” in the central voter file. The secretary of state shall prepare a report to each county auditor which contains the name of each individual who has been designated as “inactive” in the central voter file. Although not counted in an election, a late absentee ballot from an individual may not be used to designate an individual as “inactive” in the central voter file.

16.1-02-11. Secretary of state to adopt rules for the purpose of maintaining the central voter file.

The secretary of state shall adopt rules and procedures according to subsection 3 of section 16.1-01-01 for the purpose of implementing this chapter and for updating and maintaining the central voter file. The rules must:

1. Provide for the establishment and maintenance of a central voter file.
2. Provide for the generation and assignment of a unique identifier to each individual contained in the central voter file.
3. Provide procedures for entering data into the central voter file.
4. Provide for any additional information to be requested of and obtained from an individual which is to be maintained in the central voter file, not already provided by law, but necessary for the proper administration of the central voter file.
5. Provide for the exchange of records maintained by the appropriate state and county agencies and officials for receiving regular reports regarding individuals and records of individuals contained in the central voter file.
6. Allow each county auditor and the secretary of state to add, modify, and delete information from the central voter file to ensure accurate and up-to-date records.
7. Allow each county auditor and the secretary of state to have access to the central voter file for review, search, and inquiry capabilities.
8. Provide security and protection of all information contained in the central voter file and to ensure that unauthorized access and entry is prohibited.
9. Provide a system for each county to identify the precinct to which an individual should be assigned for voting purposes.

16.1-02-12. Information contained and maintained in the central voter file.

The central voter file must contain the following information for each individual included in the file:

1. The complete legal name of the individual.
2. The complete residential address of the individual.
3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.

5. A designation showing whether the individual's ability to vote in a precinct has been inactivated as a result of death or because the individual is no longer a resident of the precinct according to section 16.1-01-04.
6. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides.
7. Beginning in 2008, four years of an individual's voting history, if applicable.
8. Date of birth.
9. The individual's driver's license or nondriver identification card number issued by the department of transportation.
10. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the central voter file.

16.1-02-13. Information contained in pollbooks generated from the central voter file.

The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the day before an election. With the exception of a record designated “secured active” and the voter's birth date and driver's license or nondriver identification card number issued by the department of transportation, which are exempt records, the precinct pollbooks are open records under section 44-04-18. The secretary of state shall prescribe procedures for generating pollbooks and for transporting the pollbooks to the election judges for use on election day. Pollbooks generated from the central voter file must contain the following information for each individual contained therein:

1. The complete legal name of the individual.
2. The complete residential address of the individual.
3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.
5. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides. A ballot-style code identifying this information may be used in place of the information required by this subsection.
6. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the pollbook.

16.1-02-14. Voter lists and reports to be made available for jury management.

1. By February first of each year, the secretary of state shall transmit information from the central voter file to the state court administrator for the purpose of compiling the master list of jurors under chapter 27-09.1.
2. After each general election at which the president of the United States is elected, the secretary of state shall transmit information from the central voter file to the jury administrator for the federal court in North Dakota.

16.1-02-15. Voter lists and reports may be made available for election-related purposes — Funds received.

Except as otherwise provided by law, a voter list or a report generated from the central voter file may be made available to a candidate, political party, or a political committee for election-related purposes. Any information obtained by a candidate, political party, or political committee for election-related purposes from a list or report generated from the central voter file may not be sold or distributed for a purpose that is not election-related. Except for information identified in the central voter file under subsections 1, 2, 3, 4, 5, 6, 7, and 10 of section 16.1-02-12, which may be made available to a candidate, political party, or political committee for

election-related purposes, information in the central voter file is an exempt record. An individual's record that is designated as “secured active” is an exempt record and is not available to any candidate, political party, or political committee for any purpose. Any funds received by the secretary of state to pay the cost of producing a report or list of voters contained in the central voter file must be deposited in the secretary of state's general services operating fund.

16.1-02-16. Violations — Penalties.

1. An individual may not intentionally:
   a. Remove an individual from the central voter file or change a record of an individual contained in the central voter file in a manner or for a purpose not authorized by law; or
   b. Add a name of an individual to the central voter file or add a record of an individual contained in the central voter file in a manner or for a purpose not authorized by law.
2. A deputy, clerk, employee, or other subordinate of a county auditor who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the county auditor, except if the suspected violation may have been committed by the county auditor, in which case the report must be immediately transmitted to the state’s attorney, together with any evidence of the violation. A county auditor who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the state’s attorney of the county where the violation is believed to have occurred, together with any evidence of the violation. The county auditor shall also immediately send a copy of the report to the secretary of state.
3. An individual who intentionally violates any provision of this chapter is guilty of a class A misdemeanor, unless a different penalty is specifically provided by law.

CHAPTER 16.1-03 – Party Committee Organization

16.1-03-01. Precinct caucus to elect precinct committeemen — Time and manner of holding — Caucus call — Notice.

1. Each legislative district party shall organize in conformance with the state legislative district boundaries as established by the legislative assembly and as set forth under chapter 54-03.
2. On or before May fifteenth following the last preceding general election, a party caucus must be held by every election precinct at a site within or reasonably close to the precinct in the manner provided in sections 16.1-03-01 through 16.1-03-03.
3. The legislative district chairman of each party shall set the date and time for the precinct caucus. If there is not a district chairman in a legislative district, the state party executive committee may issue the call for the precinct caucus. The call must contain the following:
   a. Name of party.
   b. Legislative district and precinct number or name.
   c. Date of caucus.
   d. Place of caucus.
   e. Hours of caucus.
   f. A statement of the business to be conducted, including the election of precinct committeemen and such other individuals as may be provided by state law and district party bylaws.
   g. The name of the district chairman or, if there is not a district chairman, the member of the state party executive committee issuing the call.
4. The district chairman or, if there is not a district chairman, the state party executive committee shall provide ten days' published notice in the official newspaper in circulation within each precinct in the district. The notices must contain that information set forth in subsection 3. The information required by this section for all precincts in the district may be included in one notice for publishing purposes.

16.1-03-02. Who may participate in and vote at caucus.

1. Only those individuals who are qualified electors under section 16.1-01-04 may vote or be elected as committeemen or officers at the precinct caucus.
2. In case the right of an individual to participate at the caucus is challenged, the question of the individual's right to participate must be decided by a vote of the whole caucus. An individual so challenged may not vote on the question of the individual's right to participate in the caucus, and a two-thirds vote of the whole caucus is required to exclude an individual from participation.
3. An individual may not vote or participate at more than one precinct caucus in any one year.

16.1-03-03. Political parties entitled to elect committeemen.

1. A political organization is entitled to elect a precinct committeeman at its precinct caucus if:
   a. The organization nominated and had printed on the ballot at the last preceding general election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor, attorney general, or secretary of state; and
   b. The candidates provided for in subdivision a received at least five percent of the total vote cast for presidential electors or for governor, attorney general, or secretary of state within this state at that election.

2. Each political party in each voting precinct of this state, otherwise qualifying under subsection 1, is entitled to elect one precinct committeeman for each two hundred fifty votes, or majority of a fraction thereof, cast for the party's presidential electors, governor, attorney general, or secretary of state in the precinct in the last general election. Each precinct is entitled to at least one precinct committeeman for each party which qualifies under subsection 1. Each precinct committeeman must be an elector of the precinct in which the committeeman resides and must be elected for a two-year term.
3. If a political organization desires to organize under this chapter but has not qualified as provided in subsection 1, the organization may elect one precinct committeeman for each precinct in the district.

16.1-03-04. Candidates elected at caucus — Tie vote — Canvassing vote.

Repealed by S.L. 1997, ch. 189, § 12.

16.1-03-05. Vacancies in office of precinct committeeman — Filling.

A vacancy in the office of precinct committeeman, which occurs after the organization of the district committee, may be filled by appointment, as authorized by the district party by-laws.

16.1-03-06. District committee of political party — How constituted.

Repealed by S.L. 1997, ch. 189, § 12.

16.1-03-07. Meeting of district committee — Organization.

1. In every odd-numbered year, the district committee of each party shall meet within fifteen days after the precinct caucus provided for in section 16.1-03-01. The day, hour, and site must be set by the existing district committee chairman. Any incumbent members of the legislative assembly from the party, the precinct committeemen of a party, selected as provided by this chapter, and any other individual provided for by the district committee's bylaws constitute the district committee of the party. The district committee of a party must be organized to coincide with the geographical boundary lines of state legislative districts. Each member of any committee provided for in this chapter must be a qualified elector.
2. The precinct committeemen and the party's incumbent members of the legislative assembly from the district shall select the officers of the district committee. The officers selected, as provided by the district party bylaws, need not be precinct committeemen; however, all the officers must be voting members of the district committee. The district committee shall forward to the state committee the name and contact information of the district committee chairman. The district committee may appoint an executive committee consistent with the bylaws of the district committee. That party's nominees for and members of the legislative assembly shall serve as members of the executive committee.
3. If the office of chairman becomes vacant, the vacancy may be filled as provided by the district party bylaws.
4. The bylaws of the state committee or state party may not include any requirement providing directives or procedures for the method of the organization of district committees nor may the state committee or state party take any action or impose any requirement regarding district party organization which is not consistent with this chapter.

16.1-03-08. State committee — Membership.

The state committee of each party consists of the chairman of each of the district committees of the party and any individual provided for in the bylaws of the state committee.

16.1-03-09. Proxies permissible — Exception.

Repealed by S.L. 1997, ch. 189, § 12.

16.1-03-10. Member of committee to be qualified elector — Term of member.

Repealed by S.L. 1997, ch. 189, § 12.

16.1-03-11. State committee — Meetings — Organization.

The state committee shall meet on or before July first of each odd-numbered year. The committee shall organize by selecting officers as provided for by the state committee bylaws and by adopting rules and modes of procedure, including rules and procedures regarding the selection of state convention delegates. Within thirty days following the state committee's organization, the newly elected chairman shall notify the secretary of state of the names of the party officers selected.

16.1-03-12. Meeting of district committee to elect delegates to state party convention — Optional precinct caucus — Proxies.

Repealed by S.L. 2013, ch. 168, § 16.

16.1-03-13. When state party convention held.

Repealed by S.L. 1997, ch. 189, § 12.

16.1-03-14. State party convention.

1. The party state committee shall set the place and time of the state party convention to be held in each general election year. Subject to party rules and bylaws, the state party convention may:
   a. Nominate the legal number of qualified electors for its party for the offices of presidential electors.
   b. Elect the required number of delegates and alternates to the national party convention.
   c. Endorse candidates as provided under subsection 2.
2. The candidate or candidates for endorsement or election must be declared endorsed or elected under the rules of the party, and the chairman and secretary of the convention shall issue certificates of endorsement as provided in section 16.1-11-06 or certificates of election. The names of the qualified electors nominated for presidential electors the party wishes to place on the general election ballot must be certified by the chairman and secretary of the convention to the secretary of state by four p.m. on the sixty-fourth day before the general election to be placed upon the general election ballot as provided in section 16.1-06-07.1.

16.1-03-15. Expenses of delegates to national conventions.

Repealed by S.L. 1987, ch. 247, § 1.

16.1-03-16. Filling vacancy occurring in office of national committeeman or committeewoman.

Repealed by S.L. 1997, ch. 189, § 12.

16.1-03-17. Political party reorganization after redistricting.

If redistricting of the legislative assembly becomes effective after the organization of political parties as provided in this chapter and before the primary or the general election, the political parties, in the newly established precincts and districts, shall proceed to reorganize as closely as

possible in conformance with this chapter to assure compliance with primary election filing deadlines.

16.1-03-18. Unfair and corrupt election practices applicable to chapter.

Repealed by S.L. 1997, ch. 189, § 12.

16.1-03-19. Organizations allowed to nominate statewide and legislative candidates.

Repealed by S.L. 2013, ch. 168, § 16.

16.1-03-20. Political parties may conduct presidential preference caucuses.

Repealed by S.L. 2009, ch. 181, § 1.

16.1-03-21. Organizations allowed to nominate statewide and legislative candidates.

A political organization may not endorse candidates or have candidates petition for president, vice president, Congress, statewide office, or legislative office as set forth in chapter 16.1-11, unless the organization:

1. Organized according to all requirements of this chapter;
2. Had printed on the ballot at the last preceding general election the names of a set of presidential electors pledged to the election of the party's candidate for president and vice president, a candidate for governor, a candidate for attorney general, or a candidate for secretary of state and those candidates for presidential electors, governor, attorney general, or secretary of state received at least five percent of the total vote cast for presidential electors, the office of governor, attorney general, or secretary of state within this state at that election and organized according to all requirements of this chapter; or
3. Filed a petition with the secretary of state signed by the number of electors required under section 16.1-11-30 to qualify to endorse candidates or to have candidates petition to be included on the primary election ballot in a consolidated column or on a special election ballot.

CHAPTER 16.1-04 – Precincts and Voting Places

16.1-04-01. Precincts — Duties and responsibilities of the board of county commissioners or the governing body of the city.

1. The board of county commissioners of each county:
   a. Shall divide the county into precincts and establish the precinct boundaries, except that within the boundaries of any incorporated city, the governing body of the city shall divide the city into precincts and establish their boundaries pursuant to title 40. Any number of townships or parts of townships may be joined into a single precinct provided that no precinct may encompass more than one legislative district.
   b. May alter the number and size of precincts within the county by combining or dividing precincts. However, the governing body of any incorporated city has the authority to alter the number and size of precincts located within its boundaries. The board of county commissioners may relinquish the jurisdiction provided under subdivision a over all or any portion of a township or townships under its jurisdiction to a city for the purpose of establishing a voting precinct if a majority of the governing body of the city agrees to assume such jurisdiction. The governing body of a city, by majority vote, may return jurisdiction granted herein to the county and the county shall accept that jurisdiction.
2. When establishing precincts under subsection 1, a board of county commissioners, in cooperation with the county auditor, or a city governing body shall consult with and seek input regarding the size, number, and proposed boundaries of the precincts from representatives of the political parties organized within the county. Upon the request of the district chairman of a political party, a board of county commissioners, in consultation with the county auditor, or the governing body of a city shall consider proposals to change precinct boundaries.

16.1-04-02. Voting places — Duties and responsibilities of the board of county commissioners or the governing body of the city.

The board of county commissioners of each county:

1. Shall designate one or more voting places for each precinct and may alter the voting places when there is a good and sufficient reason. However, the voting places for precincts located within the boundaries of any incorporated city must be designated, and altered if required, by the governing body of the city.
2. Shall provide that all voting places are accessible to the elderly and the physically disabled.
3. May utilize vote centers that contain all of the precincts in a county so that any qualified elector of the county may choose to cast a ballot in that polling location. Qualified electors may vote early at early voting precincts, by absentee ballot, at a polling location of their residential precinct, or at a county vote center. Vote center polling places must serve as a designated polling place for at least one precinct in the county in addition to serving as the site where any county voter may cast a ballot. An individual voting or attempting to vote more than once in any single election is guilty of a class A misdemeanor.

16.1-04-03. Time limitations.

The authority granted by this chapter must be exercised by the respective governing bodies no later than December thirty-first of the year immediately preceding an election cycle and no later than seventy days before a special election. If legislative reapportionment occurs, the authority granted by this chapter must be exercised, as it relates to the establishment or reestablishment of voting precincts that may be required because of any change in legislative districts, within thirty-five days after the effective date of the reapportionment.

CHAPTER 16.1-05 – Election Officers

16.1-05-01. Election officers.

At each primary, general, and special statewide or legislative district election, and at county elections, each polling place must have an election board in attendance. The election board must consist of an election inspector and at least two election judges. Counties utilizing polling places containing more than one precinct may choose to use one election board to supervise all precincts even if the precincts are within different legislative districts so long as each district chairman of each qualified political party is given the opportunity to have representation on the election board if desired.

1. The election inspector must be selected in the following manner:
   a. Except as provided in subdivision b, in all precincts established by the governing body of an incorporated city pursuant to chapter 16.1-04, the governing body shall appoint the election inspectors for those precincts and fill all vacancies occurring in those offices.
   b. In all multiprecinct polling locations containing both rural and city precincts, the county auditor, with the approval of the majority of the board of county commissioners, shall appoint the election inspectors and fill all vacancies occurring in those offices. The selection must be made on the basis of the inspector's knowledge of the election procedure.
   c. The election inspector shall serve until a successor is named. If an inspector fails to appear for any training session without excuse, the office is deemed vacant and the auditor shall appoint an individual to fill the vacancy.

   All appointments required to be made under this section must be made at least forty days preceding an election.
2. The election judges must be appointed in the following manner:
   a. Except as provided in subdivision b:
      (1) The election judges for each polling place must be appointed in writing by the district chairs representing the two parties that cast the largest number of votes in the state at the last general election. In polling places in which over one thousand votes are cast in any election, the county auditor may request each district party chair to appoint an additional election judge.
      (2) The district party chair shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges at least forty days before the primary, general, or special election. If this notice is not received within the time specified in this section, the county auditor shall appoint the judges. If the county auditor has exhausted all practicable means to select judges from within the boundaries of the precincts within the polling place and vacancies still remain, the county auditor may select election judges who reside outside of the voting precinct but who reside within the polling place's legislative districts. If vacancies still remain, the county auditor may select election judges who reside outside of the legislative districts but who reside within the county.
   b. For special elections involving only no-party offices, the election official responsible for the administration of the election with the approval of the majority of the members of the applicable governing body shall appoint the election judges for each polling location.
3. If at any time before or during an election, it appears to an election inspector, by the affidavit of two or more qualified electors of the precinct, that any election judge is disqualified under this chapter, the inspector shall remove that judge at once and shall fill the vacancy by appointing a qualified individual of the same political party as that of the judge removed. If the disqualified judge had taken the oath of office as prescribed in this

chapter, the inspector shall place the oath or affidavit before the state's attorney of the county.

4. The election official responsible for the administration of the election, with the approval of the majority of the members of the applicable governing body, shall appoint the poll clerks for each polling place. However, no fewer than two poll clerks must be appointed for each polling place. Poll clerks must be appointed based on their knowledge of election matters, attention to detail, and on any necessary technical knowledge.

16.1-05-02. Qualifications of members of the board of election — Oath of office.

1. a. Except as provided in subdivisions b and d, every member of the election board and each poll clerk must be a qualified elector of a precinct within the polling place boundaries in which the individual is assigned to work and must be eligible to vote at the polling place to which the individual is assigned unless the county auditor has exhausted all means to appoint election judges and clerks from within the voting precinct under subsection 2 of section 16.1-05-01.
   b. A student enrolled in a high school or college in this state who has attained the age of sixteen is eligible to be appointed as a poll clerk if the student possesses the following qualifications:
      (1) Is a United States citizen or will be a citizen at the time of the election at which the student will be serving as a member of an election board;
      (2) Is a resident of this state and has resided in the precinct at least thirty days before the election; and
      (3) Is a student in good standing attending a secondary or higher education institution.
   c. A student appointed as a poll clerk may be excused from school attendance during the hours that the student is serving as a poll clerk, including training sessions, if the student submits a written request to be absent from school signed and approved by the student's parent or guardian and by the school administrator and a certification from the county auditor stating the hours during which the student will serve. A student excused from school attendance under this subdivision may not be recorded as being absent on any date for which the excuse is operative. No more than two students may serve as poll clerks on an election board.
   d. An individual who has attained the age of sixteen and has graduated from high school or obtained a general education degree from an accredited educational institution is eligible to be appointed as a poll clerk if the individual meets the qualifications of paragraphs 1 and 2 of subdivision b.
2. An individual may not serve as a member of the election board or as a poll clerk if the individual:
   a. Has anything of value bet or wagered on the result of an election.
   b. Is a candidate in that election.
   c. Is the 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 in that election.
3. Before assuming the duties, each member of the election board and each poll clerk severally shall take and subscribe an oath in substantially the following form:

   I do solemnly swear (or affirm as the case may be), that I will perform the duties of inspector, judge, or clerk (as the case may be) according to law and to the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same.

   The oath may be taken before any officer authorized by law to administer oaths, and in case no such officer is present at the opening of the polls, the inspector or election judges

shall administer the oath to each other and to the poll clerks. The individual administering the oath shall cause an entry thereof to be made and subscribed by that individual and prefixed to each pollbook.

4. An individual serving as a member of the election board, before each election, shall attend a period of instruction conducted by the county auditor or the county auditor's designated representative, provided that the period of instruction has been conducted since the appointment of the election judges or election inspector.
5. If any member of the election board fails to appear at the hour appointed for the opening of the polls, the remainder of the board shall select an individual to serve in the absent individual's place. In filling a vacancy in the office of election judge, the remainder of the board shall select an individual of the absent individual's political party if such an individual is reasonably available. The office of election inspector or clerk may be filled by any qualified individual without regard to political affiliation. If no members of the election board appear at the hour appointed for opening the polls, the qualified electors present shall call the county auditor, city auditor, or school business manager, as appropriate, for instructions and then orally elect a board as nearly as possible in conformity with this

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.

16.1-05-04. Duties of the members of the election board during polling hours.

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.

2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
5. All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
6. Each member of the election board shall maintain order in the polling place.

16.1-05-05. Compensation of election officers.

The county auditors shall pay at least the state minimum wage to the relevant election officials. Members of the election board and poll clerks who attend the training sessions provided by section 16.1-05-03 must be paid at least the state minimum wage for the hours in attendance in the session in addition to necessary expenses and mileage. State, county, or other election officials who are required to incur expenses while performing duties in the election process may be reimbursed only for their actual and necessary expenses and mileage in the performance of those duties, in accordance with sections 11-10-15, 44-08-04, and 54-06-09. Other persons performing election duties must also be paid for expenses and mileage in like manner and amounts. Members of election boards who attend the training sessions provided by section 16.1-05-03 must be paid at least twenty-five percent more than the state minimum wage during the time spent in the performance of their election duties.

16.1-05-06. Challenging right to vote — Identification or affidavit required — Penalty for false swearing — Optional poll checkers.

Repealed by S.L. 2013, ch. 167, § 8.

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
   d. For a uniformed service member or a qualifying family member temporarily stationed away from the individual’s residence in the state or a qualified elector temporarily living outside the country, a current military identification card or passport if the individual does not possess an official form of identification provided for under subdivision a or b.
2. a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.

b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.

3. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct or who does not meet the thirty-day residency requirement to the proper precinct and voting location.

16.1-05-08. County auditor to provide election board members with precinct maps or precinct finder.

The county auditor shall provide each precinct election board with an accurate precinct map or precinct finder to assist the election board member in determining whether an address is located in that precinct and for determining which precinct and polling location to which to direct an individual who may be attempting to vote incorrectly in that precinct.

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.
2. 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 ballot or hinder or prevent the performance of the duties of any election official.

CHAPTER 16.1-06 – Ballots — Voting Machines — Electronic Voting Systems

16.1-06-01. Ballots furnished at public expense — Exceptions.

Except for local elections, election ballots must be printed and distributed at county expense. For a local election, the expense must be a charge against the local subdivision in which the election is held. For the purpose of this chapter, local elections include elections in townships, school districts, cities, and park districts.

16.1-06-02. Ballots prepared by county auditor or local official.

For a local election, the ballots must be printed and distributed under the direction of the auditor or clerk of the local subdivision. For all other elections, ballots must be printed and distributed under the direction of the county auditor, subject to the supervision and approval of the secretary of state as to the legal sufficiency of the form, style, wording, and contents of the ballots.

16.1-06-03. Official ballots only to be used.

The official ballot prepared by the county auditor or the local auditor or clerk must contain the name of each candidate whose name has been certified to or filed with such auditor or clerk in the manner provided in this title. Ballots other than official ballots prepared by the county auditor or local auditor or clerk may not be cast or counted in any election governed by this title. The list of officers and candidates and the statements of measures and questions to be submitted to the voters must be deemed an official ballot in precincts in which electronic voting systems are used.

16.1-06-04. Form and quality of ballots generally.

All official ballots prepared under this title must:

1. Be printed on uniform quality and color of paper in an ink color suitable to make the ballot clearly legible and compatible with the electronic voting system requirements necessary to tabulate the votes.
2. Be of sufficient length to contain the names of all candidates to be voted for at that election.
3. Have the language “Vote for no more than _____ name (or names)” placed immediately under the name of each office.
4. Have printed thereon “To vote for the candidate of your choice, you must darken the oval next to the name of that candidate. To vote for a person whose name is not printed on the ballot, you must darken the oval next to the blank line provided and write that person's name on the blank line.”
5. Leave sufficient space for each office to write a name, or names, as the case may be, in lieu of those printed on the ballot.
6. Immediately preceding and on the same line as the name of each candidate must be printed an oval in which the voter is to mark the voter’s choice by darkening the oval next to the name of the candidate chosen.
7. Provide text boxes at the bottom of the first side of the ballot. The text box at the bottom of the first column is to contain the words “Official Ballot, the name of the county, the name or number of the precinct, and the date of the election”. The text box is to contain the words “All ballots, other than those used to vote absentee, must first be initialed by appropriate election officials in order to be counted”. The text box at the bottom of the third column is to contain the word “initials” preceded by a blank line where the judge or inspector shall initial the ballot.

Any precinct that uses an electronic counting machine may require the use of a particular writing instrument to mark the ballot so the ballots may be properly counted.

The ballot must contain the names of all candidates, the contents of measures as required by section 16.1-06-09, and the statements of questions to be submitted to the voters. The ballot must be arranged in a manner and form approximating as far as possible the requirements of this section.

16.1-06-05. Form of general election ballot.

The official ballots provided for in this title for partisan election at general elections must be prepared as follows:

1. The ballots must be of sufficient length and width to contain a continuous listing of the designation of all the offices to be voted for.
2. On the top left-hand side of such ballot must begin a continuous listing of the designation of each office to be voted for, and under the designation of each office all of the names of the candidates duly nominated for that office must be printed.
3. The names of candidates nominated for each office must appear under the designation of that office, and under each candidate's name must appear, in smaller type, the appropriate party designation for each candidate. If a candidate has been nominated by petition, the designation under that candidate's name, in smaller type, must be "independent nomination".
4. The names of candidates under the designation of each office must be alternated in the printing of the official ballot in the same manner as is provided for the primary election ballot.
5. The size of type must be as specified by the secretary of state.

The list of offices and candidates and the statements of measures and questions to be submitted to the voters must be arranged on the ballot in a manner and form approximating as far as possible the requirements of this section.

16.1-06-06. General election ballots for persons authorized to vote for presidential electors only — Prepared separately — General law governs.

In addition to the ballots prepared pursuant to section 16.1-06-05, ballots must be prepared containing only the names of duly certified candidates for presidential electors for use by persons authorized to vote for those offices by law. The provisions of this title regarding the preparation, form, arrangement of names, and delivering of ballots must govern in regard to the general election ballot prepared pursuant to this section. The ballots prepared pursuant to this section must be delivered to electors who qualify only to vote for presidential electors pursuant to sections 16.1-14-18 and 16.1-14-19.

16.1-06-07. Arrangement of names on ballot for presidential electors.

Repealed by S.L. 1981, ch. 230, § 8; 1981, ch. 240, § 3.

16.1-06-07.1. Arrangement of names on ballot — Presidential electors.

In presidential election years the ballot provided for in section 16.1-06-05 must include the designation of the office of president and vice president as the first listing of the continuous listing of the designation of each office to be voted for. The names of presidential electors, presented in one certificate of nomination, must be arranged in a group enclosed in brackets under the designation of the office of president and vice president on the right side of the ballot column. To the left and opposite the center of each group of electors' names must be printed in bold type the surname of the presidential candidate represented and in line with such surname must be placed a single oval. A mark within such oval by the voter must be designated as a vote for all the electors. The appropriate party designation must appear, in smaller type, under the surname of the presidential candidate represented.

16.1-06-08. No-party ballot at general elections — Contents — Delivered to elector.

There must be a separate no-party ballot at the general election upon which must be placed the names of all candidates who have been nominated on the no-party primary ballot at the primary election. Such ballots must be in the same form as the no-party primary ballot and must be delivered to each elector by the proper election official. The separate ballot may be on the same paper or electronic ballot, but the list of offices and candidates must be entitled “no-party ballot” in a manner to clearly indicate the separation of the no-party list of offices and candidates from the party list of offices and candidates.

16.1-06-09. Constitutional amendments and initiated and referred measures — Manner of stating question — Explanation of effect of vote — Order of listing.

Constitutional amendments or measures, initiated measures, and referred measures, duly certified to the county auditor by the secretary of state, or any other question or measure to be voted on, except the election of public officers at any primary, general, or special election including officers subject to a recall petition, must, unless otherwise determined by the secretary of state, be stated in full in a legible manner on the ballot. If the secretary of state concludes the amendment or measure is too long to make it practicable to print in full, the secretary of state in consultation with the attorney general shall cause to be printed a short, concise summary, which must fairly represent the substance of the constitutional amendment or initiated or referred measure. After the foregoing statement, the secretary of state shall cause to be printed another short, concise statement of the effect of an affirmative or negative vote on the constitutional amendment or initiated or referred measure. This explanatory statement must be drafted by the secretary of state in consultation with the attorney general. The words “Yes” and “No” must be printed on the ballot at the close of the statement regarding the effect of an affirmative or negative vote, in separate lines with an oval before each statement in which the voter is to indicate how the voter desires to vote on the question by darkening the oval. If two or more amendments or questions are to be voted on, they must be printed on the same ballot.

The measures to be submitted to the electors must be grouped and classified as constitutional measures, initiated statutes, or referred statutes and must be placed within such groups or classifications by the secretary of state in the order received, for the purpose of placing them on the ballot. Measures submitted by the legislative assembly must be placed first on the ballot within their classification in the order approved by the legislative assembly. Constitutional measures shall be placed first on the ballot, initiated statutes second, and referred statutes third. After all the measures have been placed within the appropriate group or classification, all measures must be numbered consecutively, without regard to the various groups or classifications.

16.1-06-09.1. Constitutional amendments — Statement of intent.

Repealed by S.L. 1995, ch. 206, § 5.

16.1-06-10. Voting machines authorized.

Repealed by S.L. 2003, ch. 171, § 33.

16.1-06-10.1. Electronic counting machines authorized — Sharing of machines.

The use of electronic counting machines is authorized in any election precinct upon finding and declaration by resolution of the city governing body, and also of the board of county commissioners of the county in which the election precinct is located, that the use is advisable or necessary in that precinct. Thereafter, electronic counting machines may be procured, on a temporary or permanent basis, under terms and conditions, including assumption and division of cost of acquisition and maintenance by the city and county, agreed upon by the respective governing bodies, provided the machines being procured have been certified for procurement and

use in the state by the secretary of state according to section 16.1-06-26. Two or more counties may enter an agreement concerning the shared use and transport between counties of electronic counting machines and apportioning of expenses. Any electronic counting machine used in an election must be so constructed that when properly operated it registers or records correctly and accurately every vote cast.

16.1-06-11. Electronic voting systems authorized.

The use of electronic voting systems in accordance with the provisions of this chapter is hereby authorized in any election precinct upon finding and declaration by resolution of the city governing body, and also of the board of county commissioners of the county in which such election precinct is located, that such use is advisable or necessary in that precinct. Thereafter, a system or systems may be procured, on a temporary or permanent basis, under terms and conditions, including assumption and division of cost of acquisition and maintenance by the city and county, agreed upon by the respective governing bodies, provided the system or systems being procured have been approved and certified for procurement and use in the state by the secretary of state according to section 16.1-06-26. The system or systems may then be used in any state, county, city, or district election in that precinct or other voting area of which that precinct is a part.

16.1-06-12. Definitions.

As used in this title with regard to electronic voting systems:

1. “Automatic tabulating equipment” means an apparatus which automatically tabulates and counts votes recorded on ballots or entered directly into a computer or other electronic device by means of a touchscreen or other data entry device and data processing machines which can be used for counting votes and tabulating results.
2. “Ballot” means a handcount paper ballot or for an electronic voting system includes a tabulating paper ballot, recorded by optical scan reader, containing the names of offices and candidates and the questions to be voted on, which is used in conjunction with the marking device and on which votes may be recorded. For direct recording electronic voting systems, ballot means the ballot display provided by electro-optical devices showing the names and candidates and the questions to be voted on that allows a voter to directly enter choices into electronic storage with the use of a touchscreen or other data entry device.
3. “Counting center” means the location or locations designated by the county auditor for the automatic tabulating and counting of ballots.
4. “Direct-recording electronic voting system” means a voting system that records votes by means of a ballot display provided by electro-optical devices that allows a voter to directly enter choices into electronic storage with the use of a touchscreen or other data entry device. An alphabetic keyboard may be employed as an entry device to facilitate voting for write-in candidates. A voter’s choices are stored in the direct-recording electronic voting system’s internal memory devices and added to the choices of all other voters.
5. “Electronic voting system” means a system, or the combination of electronic voting systems and devices authorized under this chapter, that may employ a marking device in conjunction with ballots or the use of a touchscreen or other data entry device and automatic tabulating equipment for the recording, tabulating, and counting of votes in an election.
6. “Electronic voting system device” means a single unit of an electronic voting system.
7. “Marking device” means a device for marking ballots with ink or other substance, or any other method for recording votes on ballots in a manner that the votes may be tabulated and counted by automatic tabulating equipment.

8. “Optical scan” means a procedure in which votes cast on a paper ballot are tabulated by means of examining marks made in voting response locations on the ballot with an optical reader.

16.1-06-13. Requirements for voting machines.

Repealed by S.L. 2003, ch. 171, § 33.

16.1-06-14. Requirements for electronic voting systems.

Any electronic voting system used in an election in this state must:

1. Provide facilities for voting for nominated candidates, for persons not in nomination, and upon questions or measures submitted to the voters.
2. Permit each voter to vote for as many persons for any office as the voter is entitled to vote for, and must allow each voter to vote in primary elections for candidates for nomination by the political party of the voter’s choice, but it must preclude each voter from voting for more persons for any office than the voter is entitled to vote for, from voting more than once for the same candidate or upon the same measure or question submitted to the voters, or voting the ballot of more than one political party in any primary election.
3. Permit each voter, insofar as is possible, by the replacement of spoiled ballots, to change the voter’s vote for any candidate, or upon any measure or question submitted to the voters, up to the time the voter begins the final operation to register the voter’s vote.
4. Permit and require voting in absolute secrecy, and must be so constructed and controlled that no person can see or know for whom any other elector has voted or is voting, except a voter whom the person has assisted or is assisting in voting, as prescribed by law, and that no person may see or know the number of votes registered for any candidate or tamper with any mechanism.
5. Be provided with a procedure by the use of which, immediately after the polls are closed, all voting is absolutely prevented.
6. Be so constructed that when properly operated it shall register or record correctly and accurately every vote cast.
7. Be so constructed that a voter may readily learn the method of operating it.
8. Permit voting by ballot or by entering directly into a computer or other electronic device by means of a touchscreen or other data entry device.
9. Permit voting for presidential electors by making only one mark.
10. Permit write-in voting and absentee voting.
11. Permit the rotation of names of candidates on ballots as required by this title.
12. In the case of electronic systems procured after August 1, 2003, be capable of notifying a voter that the voter has overvoted, undervoted, and in the case of a primary election, cross-party voted before the voter casts a ballot.
13. In the case of direct-recording electronic voting systems, be capable of preventing a voter from overvoting and cross-party voting before the voter casts a ballot.
14. In the case of direct-recording electronic voting systems, be capable of producing in random order a paper copy of each ballot cast on the system.
15. Ensure that any direct-recording electronic voting system procured or used in the state may not transmit uncounted votes or ballots through the internet.
16. Fulfill the criteria and standards established by the secretary of state according to section 16.1-06-26.

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. This test is to be conducted before the meeting of the county canvassing board.

16.1-06-16. County auditor to provide and distribute ballots — Other election supplies delivered at same time.

For each election precinct in the county, the county auditor shall provide the number of ballots the auditor determines to be necessary. Each county auditor shall:

1. Have the ballots printed at least fifteen days before the election and available for public inspection at the auditor’s office.
2. Deliver to the inspector in each precinct or cause to be delivered in a secure manner to the polling location no later than the day before the election the number of ballots, pollbooks, ballot boxes, voting equipment, forms of oaths, and other election supplies as the county auditor determines necessary.

16.1-06-17. County auditor to provide ballots and other electronic voting system supplies.

At the same time as other election supplies are provided and distributed, the county auditor shall provide to each precinct in the county using an electronic voting system:

1. A sufficient number of electronic voting system devices and ballots if the electronic voting system employs ballots.

2. One facsimile diagram of the entire face of the electronic voting system device as it will appear on election day.
3. Appropriate instruction material for the use of the electronic voting system devices.
4. All other materials required to carry out the election process through the use of electronic voting systems.

16.1-06-18. Delivery of ballots.

County auditors shall deliver, or cause to be delivered, by mail or other reliable method, to the inspector of elections in each precinct the official ballots, if available. The ballots must be delivered in sealed packages marked plainly with the precinct for which the ballots are intended. The county auditor also shall deliver or cause to be delivered a suitable seal for the purpose of sealing the wrapper containing the ballots as provided in section 16.1-15-08.

16.1-06-19. Instructions, advertisements, maps, and ballots posted in polling places.

Each county auditor shall have posters printed, in large type, containing full instructions to electors on obtaining and voting ballots and a copy of section 16.1-01-12, any federal laws regarding prohibitions on acts of fraud and misrepresentations, and general information on voting rights under applicable federal and state laws, including instructions on how to contact the appropriate officials if these rights are alleged to have been violated. The county auditor shall furnish at least one such poster to the election inspector in each election polling place who, before the opening of the polls, shall conspicuously post at least one poster in the polling place. The county auditor, at the time of delivering the ballots to the inspector of elections in each polling place, shall deliver at least five copies of the newspaper publication or other copy of the complete text of any constitutional amendment or initiated or referred measure to such inspector of elections. One of the newspaper publications or copies must be posted conspicuously in the polling place on the morning of the election. Each county auditor shall furnish the election inspector in each polling place with four copies of a map showing the election precinct's boundaries and information regarding the date of the election and the hours during which polling places will be open. The inspector shall, before the opening of the polls, post the maps and information regarding the date of the election and the hours during which polling places will be open at the entry to and in other conspicuous places around the polling place.

16.1-06-20. Election inspector and judges to display material and provide instruction.

In addition to other duties provided by law, the election inspector and judges shall provide adequate instruction on the use of the electronic voting device to each voter before the voter enters the voting booth.

16.1-06-21. Pollbooks delivered by county auditor — Contents — Inspector of elections to deliver.

The county auditor shall see that one paper or electronic pollbook is delivered to the election inspector in each election precinct or polling place in the county.

The election inspector shall deliver the pollbook, or cause the pollbook to be delivered, to the clerks of election in the inspector's polling place on election day before the opening of the polls.

16.1-06-22. County to provide ballot boxes.

The board of county commissioners, at the expense of the county, shall provide suitable ballot boxes for each election polling place in the county.

16.1-06-23. Secretary of state to send instructions to county auditor to make returns.

The secretary of state shall send instructions for generating reports for all returns of votes required to be made to the secretary of state's office.

16.1-06-24. Voting machines — Violations — Penalty.

Repealed by S.L. 2003, ch. 171, § 33.

16.1-06-25. Electronic voting systems — Violations — Penalty.

Any person who violates any of the provisions of this chapter relating to electronic voting systems, who tampers with or injures any electronic voting system or device to be used or being used in any election, or who prevents the correct operation of any such system or device to be used or being used in any election is guilty of a class A misdemeanor.

16.1-06-26. Secretary of state to adopt rules for the purpose of certifying and decertifying electronic voting systems and electronic counting machines.

The secretary of state may adopt rules according to subsection 3 of section 16.1-01-01 for certifying and decertifying electronic counting machines authorized in section 16.1-06-10.1 and electronic voting systems authorized in section 16.1-06-11, including any software, hardware, and firmware components used as a part of an electronic voting system or electronic counting machine for use and procurement in the state. The rules may:

1. Establish criteria and standards with which all electronic voting systems and electronic counting machines must comply.
2. Describe the procedures for electronic voting systems and electronic counting machines, any single device of an electronic voting system and electronic counting machine, and any update and enhancement made to them, to be certified and decertified for procurement and use in the state.
3. Define what constitutes a vote on each electronic voting system and electronic counting machine which has been certified for procurement in the state.
4. Describe the procedures for the secretary of state to follow when defining what constitutes a vote on any new electronic voting system and electronic counting machine, any single device of an electronic voting system and electronic counting machine, and any update and enhancement made to them.

An electronic voting system and electronic counting machine, a single device of an electronic voting system and electronic counting machine, and an update and enhancement made to them, in use by a county prior to August 1, 2003, must be reviewed by the secretary of state according to rules adopted under this section by April 1, 2004, and must meet the requirements of the rules, or must be replaced by another electronic voting system and electronic counting machine, a single device of an electronic voting system and electronic counting machine, and an update and enhancement made to them, that meets the requirements of the rules by January 1, 2006.

CHAPTER 16.1-07 – Absent Voters' Ballots and Absentee Voting

16.1-07-01. Absent voter.

Any qualified elector of this state may vote an absent voter's ballot at any general, special, or primary state election, any county election, or any city or school district election. An elector who votes by absentee ballot may not vote in person at the same election.

16.1-07-02. Elector may vote before leaving — No voting in person upon return.

Repealed by S.L. 1997, ch. 192, § 5.

16.1-07-03. Preparation and printing of ballots.

Repealed by S.L. 2011, ch. 154, § 19.

16.1-07-04. When ballots furnished proper officials.

The county auditor, or any other officer required by law to prepare any general, special, or primary state election ballots or any county election ballots, shall prepare, have printed, and deliver to the county auditor at least forty days before the holding of any general, special, or primary state election a sufficient number of absent voter ballots for the use of all voters likely to require such ballots for that election. In city or school elections, the auditor or clerk of the city, the business manager of the school district, or any other officer required by law to prepare city or school election ballots shall prepare and have printed and available for distribution to the public at least forty days before the holding of any city or school election a sufficient number of absent voter's ballots for the use of all voters likely to require such ballots for that election. Officers authorized to distribute absent voter's ballots under this chapter shall ensure all ballots used as absent voter's ballots are secure at all times and accessible only to those persons under the officer's supervision for distribution. If an election official personally distributes and collects an absent voter's ballot outside the election official's office, appointed election judges from an election board shall accompany the election official along with the ballot to and from the voter's location and be present while the voter is marking the ballot.

16.1-07-05. Time for applying for ballot — Emergency situations — Sufficient time for application and ballot return.

1. At any time in an election year, any qualified elector may apply to the county auditor, the auditor or clerk of the city, or the business manager of the school district, as the case may be, by personal delivery, facsimile, electronic mail or otherwise, for an official ballot to be voted at that election. A voter may obtain an application form approved by the secretary of state, for an absent voter's ballot for a general, special, primary, county, city, or school election from the secretary of state, a county or city auditor, a candidate, a political party, or a political committee. The application form must include a space for the applicant to indicate whether the application is for all statewide elections in the calendar year or only for the election that is immediately after the date of the application.
2. No auditor or clerk may issue ballots for absentee voters on the day of the election except to individuals prevented from voting in person on the day of the election due to an emergency. An individual requesting an absentee ballot on the day of the election due to an emergency must do so through an agent as set forth in this chapter. An agent may represent only one individual. The absentee ballot must be returned to the county auditor's office by four p.m. on the day of the election.
3. A completed application must be submitted to the appropriate election official in a timely manner so as to allow the applicant to receive, complete, and mail the absent voter's ballot before the day of the election.

16.1-07-06. Application form.

1. Application for an absent voter's ballot must be made on a form, prescribed by the secretary of state, to be furnished by the proper officer of the county, city, or school district in which the applicant is an elector, on any form, approved by the secretary of state, or any blank containing the following:
   a. The applicant's name.
   b. The applicant's current or most recent North Dakota residential address.
   c. The applicant's mailing address.
   d. The applicant's current contact telephone number.
   e. The election for which the ballot is being requested.
   f. The date of the request.
   g. An affirmation that the applicant has resided, or will reside, in the precinct for at least thirty days next preceding the election and will be a qualified elector of the precinct.
   h. The applicant's signature.
   i. A space for the voter to indicate the voter's status as a citizen living outside the United States, a uniformed service member living away from the voter's North Dakota residence, or a family member of the uniformed service member living away from the voter's North Dakota residence.
   j. The applicant's birth date and year.
   k. As provided in subsection 1 of section 16.1-05-07, the identification number from one of the applicant's valid forms of identification or a copy of the applicant's long-term care certificate.
2. If the applicant is unable to sign the applicant's name to the application, the applicant shall mark (X) or use the applicant's signature stamp on the application in the presence of a disinterested individual. The disinterested individual shall print the name of the individual marking the X or using the signature stamp below the X or signature stamp and shall sign the disinterested individual's own name following the printed name together with the notation "witness to the mark".
3. If the applicant does not possess or cannot secure an approved form of identification as provided for under subsection 1 of section 16.1-05-07 due to a disability with which the individual lives and which prevents the individual from traveling to obtain, the application also must be signed by another qualified elector who, by signing, certifies that the applicant is a qualified elector. The secretary of state shall prescribe the form of the certification required under this subsection. An individual may not certify the qualifications of more than four applicants in an election.
4. The application for a qualified elector serving on active duty as a uniformed service member or a family member who is a qualified elector and stationed at a location other than that individual's voting residential address must include the following additional information if the voter desires to vote by facsimile or electronic mail:
   a. Facsimile telephone number; or
   b. Electronic mail address.
5. The application for a qualified elector living outside the United States must include a facsimile telephone number or electronic mail address if the voter desires to vote by facsimile or electronic mail.
6. Except for the applicant's date of birth and motor vehicle driver's license or nondriver identification card number, the application is an open record under section 44-04-18.

16.1-07-07. Delivering application form for ballot.

The officers specified in section 16.1-07-05, upon request, shall mail an application form for an absent voter's ballot to the voter or may deliver the application form to the voter upon a

personal application made at the officer's office. The officers may also make available or distribute the applications, prescribed by the secretary of state, to the public without any specific request being made for the applications.

16.1-07-08. Delivering ballots — Envelopes accompanying — Affidavit on envelope — Challenging electors voting by absentee ballot — Inability of elector to sign name.

1. Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, city auditor, or business manager of the school district, as the case may be, shall send to the absent voter by mail, at the expense of the political subdivision conducting the election, one official ballot, or personally deliver the ballot to the applicant or the applicant's agent, which agent may not, at that time, be a candidate for any office to be voted upon by the absent voter. The agent shall sign the agent's name before receiving the ballot and deposit with the auditor or business manager of the school district, as the case may be, authorization in writing from the applicant to receive the ballot or according to requirements set forth for signature by mark. The auditor or business manager of the school district, as the case may be, may not provide an absent voter's ballot to a person acting as an agent who cannot provide a signed, written authorization from an applicant. No person may receive compensation, including money, goods, or services, for acting as an agent for an elector, nor may a person act as an agent for more than four electors in any one election. A voter voting by absentee ballot may not require the political subdivision providing the ballot to bear the expense of the return postage for an absentee ballot.
2. If there is more than one ballot to be voted by an elector of the precinct, one of each kind must be included and a secrecy envelope and a return envelope must be enclosed with the ballot or ballots. The front of the return envelope must bear the official title and post-office address of the officer supplying the voter with the ballot and upon the other side a printed voter's affidavit in substantially the following form:

   Precinct _____
   Name _____
   Residential Address _____
   City _____ ND Zip Code _____
   Under penalty of possible criminal prosecution for making a false statement, I swear that I reside at the residential address provided above, that I have resided in my precinct for at least thirty days next preceding the election, and this is the only ballot I will cast in this election.
   Applicant's Signature _____
   Date _____

   If the absent voter is unable to sign the voter's name, the voter shall mark (X) or use the applicant's signature stamp on the affidavit in the presence of a disinterested individual. The disinterested individual shall print the name of the individual marking the X or using the signature stamp below the X or signature stamp and shall sign the disinterested individual's own name following the printed name together with the notation "witness to the mark".
3. Each individual requesting an absent voter's ballot under this chapter must be provided a set of instructions, prescribed by the secretary of state, sufficient to describe the process of voting by absent voter's ballot. The voting instructions must contain a statement informing the individual that the individual is entitled to complete the absent voter's ballot in secrecy.

4. Each individual requesting an absent voter's ballot under this chapter who cannot read the English language or who because of blindness or other disability is unable to mark the voter's ballot, upon request, may receive the assistance of any individual of the voter's choice, other than the voter's employer, an officer or agent of the voter's union, a candidate running in that election, or a relative of a candidate as described in subsection 2 of section 16.1-05-02, in marking the voter's ballot.

16.1-07-08.1. Procedures for voting with special write-in or federal write-in absentee ballot.

Repealed by S.L. 2011, ch. 154, § 19.

16.1-07-09. Canvassing of mailed absent voter's ballots received late.

In the case of congressional, state, county, city, or school district elections, if an envelope postmarked or otherwise officially marked by the United States postal service or other mail delivery system before the date of election and containing an absent voter's ballot is received by the officer too late to be forwarded to a polling place of the proper voting precinct in time to be tabulated, the ballot must be tallied by the canvassing board of the county, the governing body of the city, or the school board of the school district, as the case may be, at the time the returns are canvassed. Any envelope without a postmark or other official marking by the United States postal service or other mail delivery system or with an illegible postmark or other official marking and containing an absentee voter's ballot must be received by mail by the proper officer prior to the meeting of the canvassing board. An absent voter may personally deliver the absent voter's ballot to the appropriate officer's office at any time before five p.m. on the day before the election. Any envelope containing an absent voter's ballot with a postmark or official date stamp on the day of election or thereafter may not be tallied with the ballots timely submitted for the election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding the ballot shall print the date of receipt on the envelope. Upon receipt, the canvassing board shall determine that the elector was qualified to vote in that precinct, that the elector did not previously vote in that precinct on the date of the election, and that the signatures on the absentee ballot application and the voter's affidavit were signed by the same person before allowing the ballot to be tallied.

16.1-07-10. Care and custody of ballot – Submitted ballot may not be returned.

Upon receipt of an envelope containing the absent voter's ballot, the proper officer immediately shall attach the application of the absent voter and file the ballot with other absentee ballots from the same precinct. After submission to the appropriate election officer, a marked absent voter’s ballot may not be returned to the voter for any reason other than to complete any missing information required on the affidavit on the back of the return envelope. Before delivering the absentee ballots to a polling place of the proper precinct, the proper officer shall package the ballots in a manner so the ballots are sealed securely. The package must be endorsed with the name of the proper voting precinct, the name and official title of the officer, and the words “This package contains an absent voter's ballot and must be opened only according to the processing provisions of section 16.1-07-12.” The officer shall keep the package safely in the officer's office until it is delivered by the officer as provided in this chapter.

16.1-07-11. Submitting ballot to inspector of elections.

If the envelope containing the absent voter's ballot is received by the county auditor, auditor or clerk of the city, or business manager of the school district, as the case may be, prior to that individual's delivery of the sealed package containing the official ballots to the inspector of elections of a polling place of the precinct in which the absent voter resides, the ballot, after

having been enclosed with the application in an envelope as required by section 16.1-07-10, must be enclosed in the package and delivered to the inspector of the polling place. If the official ballots for the precinct have been delivered to the election inspector at the time of receipt by the proper officer of the absent voter's ballot, the officer or the officer's designee shall personally deliver it to the inspector prior to the close of the polls on election day. Any absent voter's ballot sent to the wrong polling place by the official whose duty it is to forward the ballots, or any absent voter's ballot received by the inspector from the appropriate officer too late to be counted at the polling place, must be returned to the official by the election inspector, and must be tallied by the county canvassing board, the governing body of the city, or the school board, as the case may be, with other absent voters' ballots received too late to be counted on election day.

16.1-07-12. Opening ballot — Voting or rejecting — Depositing in ballot box — Preserving.

At any time beginning on the day before election day and the closing of the polls on election day, the election clerks and board members of the relevant polling place first shall compare the signature on the application for an absent voter's ballot with the signature on the voter's affidavit provided for in section 16.1-07-08 to ensure the signatures correspond. If the applicant is then a duly qualified elector of the precinct and has not voted at the election, they shall open the absent voter's envelope in a manner as not to destroy the affidavit thereon. They shall take out the secrecy envelope with the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined and indicate in the pollbook of the election that the elector has voted. The election board members not participating in the comparing of signatures and entering voters into the pollbook shall remove the ballot or ballots from the secrecy envelope, unfold and initial the same, and deposit in the proper ballot box for tabulation. The votes from these cast ballots may not be tallied and the tabulation reports may not be generated until the polls have closed on election day. If the affidavit on the outer envelope of a returned absentee ballot is found to be insufficient, or that the signatures on the application and affidavit do not correspond, or that the applicant is not then a duly qualified elector of the precinct, the vote may not be allowed, but without opening the absent voter's envelope, the election inspector or election judge shall mark across the face thereof “rejected as defective” or “rejected as not an elector”, as the case may be. These rejected ballots are then turned over to the county canvassing board for final determination of eligibility. The subsequent death of an absentee voter after having voted by absentee ballot does not constitute grounds for rejecting the ballot.

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 16.1-05-01, 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.

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 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. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12, as applicable.

16.1-07-13. Registration of absent voters' ballots on electronic voting systems.

At polling places using electronic voting systems, absent voters' ballots, if any, must be entered in secrecy by the two election judges. The absentee electronic voting system ballots prepared pursuant to this section must be deposited in the ballot boxes and counted as other ballots. If the electronic voting system in use so provides, the actual electronic voting system ballot may be used as the absentee ballot.

16.1-07-14. Penalty.

Any person who violates any of the provisions of this chapter is guilty of a class A misdemeanor.

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 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:
   (1) The pollbooks and access to any electronically maintained pollbooks.
   (2) The ballot boxes containing voted ballots.
   (3) Any void, spoiled, and unvoted ballots.
e. Ballot boxes containing ballots cast at an early voting location 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 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.

16.1-07-16. Secretary of state to provide information regarding absentee voting for military and overseas voters.

The secretary of state is designated as the official responsible for providing information regarding absentee voting by military and overseas citizens eligible to vote in the state according to section 702 of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 1973ff-1]. The secretary of state shall develop and provide uniform procedures for county auditors to follow when transmitting and receiving applications for absentee ballots to and from military and overseas voters.

16.1-07-17. Notification of rejected absentee ballots cast by military and overseas voters.

The secretary of state shall establish a uniform procedure for county auditors to follow when notifying a military or overseas voter that the voter’s absentee ballot was rejected. The procedure must provide that the notice include the reason why the voter’s absentee ballot was rejected as provided by section 707 of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 1973ff-1].

16.1-07-18. Definitions.

In sections 16.1-07-18 through 16.1-07-33:

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.

16.1-07-19. Elections covered.

The voting procedures in sections 16.1-07-18 through 16.1-07-33 apply to:
1. A general, special, or primary election for federal office.
2. A general, special, or primary election for statewide or state legislative office or state ballot measure.
3. A general, special, or primary election for political subdivision office or political subdivision ballot measure.

16.1-07-20. Role of secretary of state.

1. The secretary of state is responsible for implementing sections 16.1-07-18 through 16.1-07-33 and the state's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff et seq.].
2. The secretary of state shall make available to covered voters information regarding procedures for casting military-overseas ballots.

3. The secretary of state shall establish an electronic transmission system through which covered voters may apply for and receive documents and other information under sections 16.1-07-18 through 16.1-07-33.
4. The secretary of state shall develop standardized absentee-voting materials, including privacy and transmission envelopes and electronic equivalents, authentication materials, and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in this state and, to the extent reasonably possible, shall do so in coordination with other states.
5. The secretary of state shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of an overseas-military ballot. The declaration must be based on the declaration prescribed to accompany a federal write-in absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act [103, 42 U.S.C. 1973ff-2], as modified to be consistent with sections 16.1-07-18 through 16.1-07-33. The secretary of state shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

16.1-07-21. Methods of applying for military-overseas ballot.

1. A covered voter may apply for a military-overseas ballot using either the absentee ballot application under this chapter or the federal postcard application, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff(b)(2)] or the application's electronic equivalent if approved under guidelines established by the secretary of state.
2. The secretary of state shall ensure that the electronic transmission system described in section 16.1-07-20 is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official. The voter may use the electronic transmission system or any other method approved under guidelines established by the secretary of state to apply for a military-overseas ballot.
3. A covered voter may use the declaration accompanying the federal write-in absentee ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff-2] as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by midnight on the day before the election.
4. To receive the benefits of sections 16.1-07-18 through 16.1-07-33, a covered voter must inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:
   a. The use of a federal postcard application or federal write-in absentee ballot;
   b. The use of an overseas address on a ballot application; and
   c. The inclusion on a ballot application of other information sufficient to identify the voter as a covered voter.

16.1-07-22. Timeliness and scope of application for military-overseas ballot.

An application for a military-overseas ballot is timely if received by the appropriate election official before the close of business on the day before the election. An application for a military-overseas ballot for a primary election, whether or not timely, is effective as an application for a military-overseas ballot for the general election.

16.1-07-23. Transmission of unvoted ballots.

1. For all covered elections for which this state has not received a waiver under the Military and Overseas Voter Empowerment Act [42 U.S.C. 1973ff-1(g)(2)] not later than forty-five days before the election or, if the forty-fifth day before the election is a weekend or holiday, not later than the business day preceding the forty-fifth day, the appropriate election official shall transmit ballots and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.
2. A covered voter who requests a ballot and balloting materials be sent to the voter by electronic transmission may choose facsimile transmission, electronic mail, or other electronic delivery approved by the secretary of state. The election official charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.
3. If a ballot application from a covered voter arrives after the election official begins transmitting ballots and balloting materials to voters, the official shall transmit them to the voter not later than two business days after the application arrives.

16.1-07-24. Timely casting of ballot.

To be valid, a military-overseas ballot must be submitted for mailing or other authorized means of delivery not later than 11:59 p.m. on the day before the election at the place where the voter completes the ballot. A military-overseas ballot must be received by the appropriate election official before the canvassing board meeting.

16.1-07-25. Federal write-in absentee ballot.

A covered voter may use the federal write-in absentee ballot, in accordance with the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff-2], to vote for all offices and ballot measures in a covered election.

16.1-07-26. Receipt of voted ballot.

1. A valid military-overseas ballot cast in accordance with section 16.1-07-24 must be counted if it is delivered before the canvassing board meets to canvas the returns.
2. If, at the time of completing a military-overseas ballot and balloting materials, the voter has affirmed under penalty of perjury under section 16.1-07-27 that the ballot was timely submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark.

16.1-07-27. Declaration.

Each military-overseas ballot must include or be accompanied by a declaration signed by the voter declaring that a material misstatement of fact in completing the document may be grounds for a conviction of perjury under the laws of the United States or this state.

16.1-07-28. Confirmation of receipt of application and voted ballot.

The secretary of state, in coordination with local election officials, shall implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or internet access whether:

1. The voter's military-overseas ballot application has been received and accepted; and
2. The voter's military-overseas ballot has been received and the current status of the ballot.

16.1-07-29. Use of voter's electronic mail address.

1. A covered voter who provides an electronic mail address to a local election official may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December thirty-first of the year following the calendar year of the date of the application or another shorter period the voter specifies. An election official shall provide a military-overseas ballot to a voter who makes a request for each election to which the request is applicable. A covered voter entitled to receive a military-overseas ballot for a primary election under this subsection also is entitled to receive a military-overseas ballot for the general election.
2. An electronic mail address provided by a covered voter is a confidential record. An election official may use the address only to communicate with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission, and verifying the voter's mailing address and physical location, as needed.

16.1-07-30. Publication of election notice.

1. Not later than one hundred days before a regularly scheduled election to which sections 16.1-07-18 through 16.1-07-33 apply, and as soon as practicable in the case of a special election, the secretary of state and each local election official charged with printing and distributing ballots and balloting materials for that election shall prepare an election notice, to be used in conjunction with the federal write-in absentee ballot described in section 16.1-07-25. The election notice must contain a list of all of the ballot measures and federal, state, and local offices that as of that date the secretary of state and the local election official expect to be on the ballot on the date of the election. The notice also must contain specific instructions for how a voter is to indicate on the federal write-in absentee ballot the voter's choice for each office to be filled and for each ballot measure to be contested. Upon publication of the election notice, the secretary of state shall provide the local election officials of the state with the location of the notice on the secretary of state’s website.
2. A covered voter may request a copy of an election notice. The officials charged with preparing the election notice shall send the notice to the voter by facsimile, electronic mail, or regular mail, as the voter requests if the voter is not able to obtain that same notice from the secretary of state's website.
3. At least fifty-five days before an election, the officials charged with preparing the election notice shall update the notice with the certified candidates for each office and ballot measure questions and make the updated notice publicly available.
4. A local election official who maintains an internet website shall make updated versions of its election notices regularly available on the website.

16.1-07-31. Prohibition of nonessential requirements.

1. If a voter's mistake or omission in the completion of a document under sections 16.1-07-18 through 16.1-07-33 does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document. Failure to satisfy a nonessential requirement, such as using paper or envelopes of a specified size or weight, does not invalidate a document submitted under this chapter. In any write-in ballot authorized by law, if the intention of the voter is discernable, as provided under the Help America Vote Act [42 U.S.C. 15481(a)(6)], an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party must be accepted as a valid vote.

2. Notarization is not required for the execution of a document under sections 16.1-07-18 through 16.1-07-33. An authentication, other than the declaration specified in section 16.1-07-27 or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under sections 16.1-07-18 through 16.1-07-33. The declaration and any information in the declaration may be compared against information on file to ascertain the validity of the document.

16.1-07-32. Issuance of injunction or other equitable relief.

A court may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with, or enforce, sections 16.1-07-18 through 16.1-07-33 on application by:

1. A covered voter alleging a grievance under sections 16.1-07-18 through 16.1-07-33; or
2. An election official in this state.

16.1-07-33. Relation to Electronic Signatures in Global and National Commerce Act.

Sections 16.1-07-18 through 16.1-07-33 modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act [15 U.S.C. 7001 et seq.] but do not modify, limit, or supersede section 101(c) of that Act [15 U.S.C. 7001(c)] or authorized electronic delivery of any of the notices described in section 103(b) of that Act [15 U.S.C. 7003(b)].

16.1-07-34. Emergency procedures to facilitate absentee voting.

If an international, national, state, or local disaster or emergency or other situation arises which makes substantial compliance with the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff et seq.] impossible or impracticable, as confirmed by the existence of armed conflict involving the armed forces of the United States or the mobilization of those forces, including national guard and reserve component members of this state, by the occurrence of a natural disaster or the existence of a state of emergency, civil unrest, war, or other exigency in a foreign country, or by an official declaration by the governor that a state of disaster or emergency exists, the secretary of state may prescribe special procedures or requirements as may be necessary to facilitate absentee voting by those absent uniformed services voters or overseas voters directly affected and who are eligible to vote in this state.

CHAPTER 16.1-08 – Campaign Contributions

[Repealed by S.L. 1995, ch. 207, § 20]

CHAPTER 16.1-08.1 – Campaign Contribution Statements

16.1-08.1-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Affiliate" means an organization that controls, is controlled by, or is under common control with another organization. For purposes of this definition, control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an organization, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if an organization, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing fifty percent or more of the voting securities of any other organization.
2. "Association" means any club, association, union, brotherhood, fraternity, organization, or group of any kind of two or more persons, including labor unions, trade associations, professional associations, or governmental associations, which is united for any purpose, business, or object and which assesses any dues, membership fees, or license fees in any amount, or which maintains a treasury fund in any amount. The term does not include corporations, cooperative corporations, limited liability companies, political committees, or political parties.
3. "Candidate" means an individual who seeks nomination for election or election to public office, and includes:
   a. An individual holding public office;
   b. An individual who has publicly declared that individual's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;
   c. An individual who has formed a campaign or other committee for that individual's candidacy for public office;
   d. An individual who has circulated a nominating petition to have that individual's name placed on the ballot; and
   e. An individual who has, in any manner, solicited or received a contribution for that individual's candidacy for public office, whether before or after the election for that office.
4. "Conduit" means a person that is not a political party, political committee, or candidate and which receives a contribution of money and transfers the contribution to a candidate, political party, or political committee when the contribution is designated specifically for the candidate, political party, or political committee and the person has no discretion as to the recipient and the amount transferred. The term includes a transactional intermediary, including a credit card company or a money transfer service that pays or transfers money to a candidate on behalf of another person.
5. "Contribution" means a gift, transfer, conveyance, provision, receipt, subscription, loan, advance, deposit of money, or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to public office or aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any of the above purposes. The term includes funds received by a candidate for public office or a political party or committee which are transferred or signed over to that candidate, party, or committee from another

candidate, party, or political committee or other source including a conduit. The term "anything of value" includes any good or service of more than a nominal value. The term "nominal value" means the cost, price, or worth of the good or service is trivial, token, or of no appreciable value. The term "contribution" does not include:

a. A loan of money from a bank or other lending institution made in the regular course of business.
b. Time spent by volunteer campaign or political party workers.
c. Money spent by a candidate on the candidate's own behalf.
d. Money or anything of value received for commercial transactions, including rents, advertising, or sponsorships made as a part of a fair market value bargained-for exchange.
e. Money or anything of value received by a candidate in that person's personal capacity, including pursuant to a contract or agreement made for personal or private employment purposes, and not received for a political purpose or to influence the performance of that person's official duty.
f. Contributions of products or services for which the actual cost or fair market value are reimbursed by a payment of money.
g. An independent expenditure.

6. "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code, and for purposes of this chapter "corporations" includes nonprofit corporations. However, if a political committee, the only purpose of which is accepting contributions and making expenditures for a political purpose, incorporates for liability purposes only, the committee is not considered a corporation for the purposes of this chapter.
7. "Expenditure" means:
   a. A gift, transfer, conveyance, provision, loan, advance, payment, distribution, disbursement, outlay, or deposit of money or anything of value, except a loan of money from a bank or other lending institution made in the regular course of business, made for a political purpose or for the purpose of influencing the passage or defeat of a measure.
   b. A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure.
   c. The transfer of funds by a political committee to another political committee.
   d. An independent expenditure.
8. "Incidental committee" means a committee, club, association, or other group of persons that makes a contribution or expenditure, but for which making contributions and expenditures for political purposes is not its primary purpose.
9. "Independent expenditure" means an expenditure made for a political purpose or for the purpose of influencing the passage or defeat of a measure if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or a candidate committee or measure committee.
10. "Patron" means a person who owns equity interest in the form of stock, shares, or membership or maintains similar financial rights in a cooperative corporation.
11. "Person" means an individual, partnership, political committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.
12. "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures for political purposes and includes the following:

a. A political action committee, derived from a corporation, cooperative corporation, limited liability company, or an association that is prohibited from making a contribution for political purposes under section 16.1-08.1-03.5, and which solicits or receives contributions or makes expenditures for political purposes;
b. A candidate committee, established to support an individual candidate seeking statewide, judicial, or legislative office, which solicits or receives contributions for political purposes;
c. A political organization governed by the Internal Revenue Code and registered with the federal election commission, which solicits or receives contributions or makes expenditures for political purposes;
d. A multicandidate political committee, established to support multiple groups or slates of candidates seeking public office, that solicits or receives contributions for political purposes;
e. A measure committee, including an initiative or referendum sponsoring committee at any stage of its organization, which solicits or receives contributions or makes expenditures for the purpose of aiding or opposing a measure sought to be voted upon by the voters of the state, including any activities undertaken for the purpose of drafting an initiative or referendum petition, seeking approval of the secretary of state for the circulation of a petition, or seeking approval of the submitted petitions; and
f. An incidental committee.

13. "Political party" means any association, committee, or organization which nominates a candidate for election to any office which may be filled by a vote of the electors of this state or any of its political subdivisions and whose name appears on the election ballot as the candidate of such association, committee, or organization.
14. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity is undertaken by a candidate, a political committee, a political party, or any person. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of a duty of a state office or any position taken in any bona fide news story, commentary, or editorial.
15. "Public office" means every office to which an individual can be elected by vote of the people under the laws of this state.
16. "Subsidiary" means an affiliate of a corporation under the control of the corporation directly or indirectly through one or more intermediaries.

16.1-08.1-02. Contributions statement required of candidate committees, candidates, and candidates for legislative office.

1. Any candidate committee, as described in section 16.1-08.1-01, or candidate for statewide office who does not have a candidate committee, and any candidate for legislative office soliciting or accepting contributions for any political purpose shall make and file a statement in accordance with this section.
2. The candidate committee, or candidate for statewide office who does not have a candidate committee, and any candidate for legislative office shall include in the statement the name and mailing address of all contributors who contributed in excess of two hundred dollars in the aggregate during the reporting period to the candidate committee, or candidate for statewide office who does not have a candidate committee, and any candidate for legislative office, the aggregated amount of the reportable contributions from

each contributor and the date the last reportable contribution from each contributor was received.

3. The candidate committee, or candidate for statewide office who does not have a candidate committee, and any candidate for legislative office shall file the statement in the office of the secretary of state no later than the thirty-second day before the date of the election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes complete from the beginning of that calendar year through the fortieth day before the date of the election. Every candidate committee, or candidate for statewide office who does not have a candidate committee, and every candidate for legislative office shall file a complete statement for each calendar year no later than the thirty-first day of January of the following year, regardless of whether the candidate sought election during that calendar year.
4. Even if the candidate committee, or candidate for statewide office who does not have a candidate committee, or the candidate for legislative office has not received any contributions in excess of two hundred dollars during the reporting period, the candidate committee, or candidate for statewide office who does not have a candidate committee, or the candidate for legislative office shall file a statement as required by this chapter. A statement filed according to this section by a candidate committee or candidate for statewide office who does not have a candidate committee during the reporting period must show the following:
   a. The gross total of all contributions received in excess of two hundred dollars;
   b. The gross total of all contributions received of two hundred dollars, or less; and
   c. The cash on hand in the filer’s account at the start and close of the reporting period.
5. A candidate committee, or candidate for statewide office who does not have a candidate committee, and any candidate for legislative office shall report the occupation, employer, and principal place of business of each person, or the political committee if not already registered according to state or federal law, who contributed five thousand dollars or more in the aggregate during the reporting period.

16.1-08.1-02.1. State political party convention revenue and expense statement required.

1. State political parties shall establish separate and segregated accounts for the management of state nominating conventions. All revenue obtained and expenditures made for the planning and running of a state convention must be accounted for in these accounts.
2. A postconvention statement must be filed with the secretary of state sixty days after the close of the state nominating convention. The reporting period for the postconvention statement begins on the first day of January of the reporting year and ends thirty days after the close of the state nominating convention.
3. A year-end statement covering the entire calendar year must be filed with the secretary of state no later than the thirty-first day of January of the following year even if no convention revenue was received or expenditures made within the calendar year.
4. The statement filed according to this section must show the following:
   a. The cash on hand in the filer's convention accounts at the start and close of the reporting period;
   b. The gross total of all revenue received and expenditures made of two hundred dollars, or less;
   c. The gross total of all revenue received and expenditures made in excess of two hundred dollars;
   d. The aggregated totals of all revenue received from a single person or entity in excess of two hundred dollars, the name of each person or entity, the mailing address of each

person or entity, the date of the most recent receipt of revenue from each person or entity, and the purpose or purposes for which the aggregated revenue total was received from each person or entity;

e. The aggregated totals of all expenditures made to a single person or entity in excess of two hundred dollars, the name of each person or entity, the mailing address of each person or entity, the date of the most recent expense made to each person or entity, and the purpose or purposes for which the aggregated expenditure total was disbursed to each person or entity; and

f. A political party shall report the occupation, employer, and principal place of business of each person from whom five thousand dollars or more of revenue was received in the aggregate during the reporting period.

5. For the purposes of this section, the term entity is defined as any group consisting of or representing more than one person.
6. If a net gain from the convention is transferred to the accounts established for the support of the nomination or election of candidates, the total transferred must be reported as a contribution in the statements required by section 16.1-08.1-03.
7. If a net loss from the convention is covered by a transfer from the accounts established for the support of the nomination or election of candidates, the total transferred must be reported as an expenditure in the statements required by section 16.1-08.1-03.

16.1-08.1-03. Contributions statement required of political parties.

1. Any political party that receives contributions in excess of two hundred dollars in the aggregate during the reporting period shall file a statement containing the aggregated total of all contributions received from a person or political committee which exceed two hundred dollars in amount. The statement must include the name and mailing address of all contributors listed. For each contributor listed, the statement must include the aggregated amount of the reportable contributions and the date the last reportable contribution was received. For a state political party, the statement must include a list of the name and mailing address of each recipient of an expenditure exceeding two hundred dollars in the aggregate. For each expenditure recipient listed, the list must include the aggregated amount of the reportable expenditures and the date the last expenditure was made.
2. A year-end statement covering the entire calendar year must be filed with the secretary of state no later than the thirty-first day of January of the following year. A preelection statement must be filed no later than the thirty-second day before any election at which the party has endorsed or will nominate a candidate and must be complete from the beginning of that calendar year through the fortieth day before the election.
3. Even if the political party has not received any contributions in excess of two hundred dollars during the reporting period, the political party shall file a statement as required by this chapter. A statement filed by a state political party according to this section during the reporting period must show the following:
   a. The gross total of all contributions received and expenditures made in excess of two hundred dollars;
   b. The gross total of all contributions received and expenditures made of two hundred dollars, or less; and
   c. The cash on hand in the filer's account at the start and close of the reporting period.
4. A political party shall report the occupation, employer, and principal place of business of each person, or the political committee if not already registered according to state or federal law, who contributed five thousand dollars or more in the aggregate during the reporting period.

16.1-08.1-03.1. Contributions statement required of persons and measure committees circulating or promoting passage or defeat of initiated or referred measure.

1. Any person or measure committee, as described in section 16.1-08.1-01, that is soliciting or accepting a contribution for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly at any election shall file a statement in accordance with this subsection if the person has received any contribution in excess of one hundred dollars. The statement must include the name and mailing address of each person that contributed in excess of one hundred dollars to the person, the amount of each reportable contribution, and the date each reportable contribution was received. The statement must include the name and mailing address of each recipient of an expenditure exceeding one hundred dollars in the aggregate, the amount of each reportable expenditure, and the date the expenditure was made.
2. A person or measure committee as described in section 16.1-08.1-01 which is soliciting or accepting a contribution for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly may not accept a contribution of more than one hundred dollars from an out-of-state person or political committee unless the contribution is accompanied by a certified statement from the contributor listing the name, address, and amount contributed by each person that contributed more than one hundred dollars of the contribution. The statement must indicate if no person contributed in excess of one hundred dollars of the out-of-state person's or political committee's overall contribution. The certified statement must also list the occupation, employer, and principal place of business for each individual who contributed more than one hundred dollars of the contribution. The person soliciting or accepting a contribution for the purpose of aiding the circulation of a statewide initiative or referendum petition or of promoting passage or defeat of a statewide initiated or referred measure shall include this statement with the contribution statement required to be filed under subsection 1.
3. The statement required of a person or measure committee under subsection 1 must be filed with the secretary of state no later than the thirty-second day before the date of the election in which the measure appears or would have appeared on the ballot complete from the beginning of that calendar year through the fortieth day before the date of the election. A complete statement for the entire calendar year for each statement required to be filed under this section must be filed no later than the thirty-first day of January of the following year. Even if a person required to report according to this section has not received any contributions in excess of one hundred dollars during the reporting period, the person shall file a statement as required by this chapter. A statement filed according to this section during the reporting period must show the following:
   a. The gross total of all contributions received and expenditures made in excess of one hundred dollars;
   b. The gross total of all contributions received and expenditures made of one hundred dollars, or less; and
   c. The cash on hand in the filer's account at the start and close of the reporting period.

16.1-08.1-03.2. Political committee and candidate registration.

1. A political committee as defined in section 16.1-08.1-01 shall register its name and contact information, its agent's name and contact information, and a designation as to whether the committee is incorporated solely for the purpose of liability protection, with the secretary of state. A candidate who does not have a candidate committee shall register the candidate’s name and contact information and, if the candidate has an agent the agent’s name and

contact information with the secretary of state. The registration required under this section for a candidate or political committee that has not previously registered with the secretary of state must be submitted within fifteen business days of the receipt of any contribution or expenditure made.

2. A candidate or political committee required to be registered under this section must register with the secretary of state each year during which the candidate holds public office or during which the political committee receives contributions or makes expenditures for political purposes. An individual who no longer holds public office or an individual who no longer seeks public office must register with the secretary of state each year in which contibutions are received or expenditures are made for political purposes.
3. A political committee that organizes and registers according to federal law and makes an independent expenditure or makes a disbursement in excess of two hundred dollars to a nonfederal candidate seeking public office, a political party, or political committee in this state is not required to register as a political committee according to this section if the political committee reports according to section 16.1-08.1-03.7.
4. An incidental political committee is required to register under this section only as a result of making a reportable expenditure or contribution in the aggregate during any reporting period, but the registration under this section does not change the nature of business for the organization.
5. Registration by a political committee under this section does not reserve the name for exclusive use nor does it constitute registration of a trade name under chapter 47-25.

16.1-08.1-03.3. Campaign contributions by corporations, cooperative corporations, limited liability companies, and associations — Violation — Penalty — Political action committees authorized.

1. A corporation, cooperative corporation, limited liability company, or association may establish, administer, and solicit contributions to a separate and segregated fund to be utilized for political purposes by the corporation, cooperative corporation, limited liability company, or association. It is unlawful for:
   a. The person or persons controlling the fund to make contributions or expenditures utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of them; or utilize money from dues, fees, treasury funds, or other money required as a condition of membership in an association, or as a condition of employment; or utilize money obtained in any commercial transaction. Moneys from fees, dues, treasury funds, or money obtained in a commercial transaction may, however, be used to pay costs of administration of the fund.
   b. Any person soliciting an employee, stockholder, patron, board member or member for a contribution to the fund to fail to inform the employee or member of the political purposes of the fund at the time of the solicitation or of the general political philosophy intended to be advanced through committee activities.
   c. Any person soliciting an employee or member for a contribution to the fund to fail to inform the employee or member at the time of the solicitation of the right to refuse to contribute without any reprisal.
   d. Any contribution to be accepted without keeping an accurate record of the contributor and amount contributed and of amounts expended for political purposes.
   e. Any contribution to be accepted from any person who is not an employee, a stockholder, a patron, a board member or a member of the corporation, cooperative corporation, limited liability company, or association maintaining the political action committee, except a corporation may accept a contribution from an employee, a stockholder, a patron, a board member, or a member of an affiliate or a subsidiary of the corporation.

f. Any expenditure made for political purposes to be reported under this section before control of the expenditure has been released by the political action committee except if there is a contract, a promise, or an agreement, expressed or implied, to make such expenditure.

2. All political action committees, as described in section 16.1-08.1-01, formed for the purpose of administering the segregated fund provided for in this section shall file a statement showing the name and mailing address of each contributor of an amount in excess of two hundred dollars in the aggregate for the reporting period and a listing of all expenditures of an amount in excess of two hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date it was received and the amount of each reportable expenditure and the date it was made. A year-end statement covering the entire calendar year must be filed no later than the thirty-first day of January of the following year. A preelection statement must be filed no later than the thirty-second day before any primary, special, or general election and must be complete from the beginning of the calendar year through the fortieth day before the election. Even if a political action committee has not received any contributions or made any expenditures in excess of two hundred dollars during the reporting period, the political action committee shall file a statement as required by this chapter. A statement filed according to this section during the reporting period must show the following:
   a. The gross total of all contributions received and expenditures made in excess of two hundred dollars;
   b. The gross total of all contributions received and expenditures made of two hundred dollars, or less; and
   c. The cash on hand in the filer's account at the start and close of the reporting period.
3. A political action committee shall report the occupation, employer, and principal place of business of each person, or the political committee if not already registered according to state or federal law, who contributed five thousand dollars or more in the aggregate during the reporting period.
4. A person may not make a payment of that person's money or of another person's money to any other person for a political purpose in any name other than that of the person who supplies the money and a person may not knowingly receive the payment nor enter nor cause the payment to be entered in that person's account or record in any name other than that of the person by whom it actually was furnished.
5. If an officer, employee, agent, attorney, or other representative of a corporation, cooperative corporation, limited liability company, or association makes any contribution prohibited by this section out of corporate, cooperative corporation, limited liability company, or association funds or otherwise violates this section, it is prima facie evidence of a violation by the corporation, cooperative corporation, limited liability company, or association.
6. A violation of this section may be prosecuted in the county where the contribution is made or in any county in which it has been paid or distributed.
7. It is a class A misdemeanor for an officer, director, stockholder, manager, governor, member, attorney, agent, or representative of any corporation, cooperative corporation, limited liability company, or association to violate this section or to counsel or consent to any violation. Any person who solicits or knowingly receives any contribution in violation of this section is guilty of a class A misdemeanor.
8. Any officer, director, stockholder, manager, governor, member, attorney, agent, or representative who makes, counsels, or consents to the making of a contribution in violation of this section is liable to the company, corporation, limited liability company, or association for the amount so contributed.

16.1-08.1-03.4. Person not excused from testifying as to violation — Prosecution or penalty waived upon testifying.

No person may be excused from attending and testifying or producing any books, papers, or other documents before any court upon any investigation, proceeding, or trial for a violation of any of the provisions of this chapter, upon the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate or degrade the person. No person may be prosecuted nor subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person may testify or produce evidence, documentary or otherwise, and no testimony so given or produced may be used against the person in any criminal investigation or proceeding.

16.1-08.1-03.5. Corporate contributions and expenditures — Report required.

1. Corporations, cooperative corporations, limited liability companies, and associations may make expenditures and contributions for promoting any general political philosophy or belief deemed in the best interest of the employees, stockholders, patrons, or members of the corporation, cooperative corporation, limited liability company, or association other than a "political purpose" as defined by this chapter. A corporation, cooperative corporation, limited liability company, or association may not make a contribution for a political purpose.
2. A corporation, cooperative corporation, limited liability company, or association may make a donation of property or money to a state political party or nonprofit entity affiliated with or under the control of a state political party for deposit in a separate and segregated fund. Money in the fund must be used exclusively by the state political party or nonprofit entity affiliated with or under the control of a state political party for purchasing, maintaining, or renovating a building and for the purchase of fixtures for the building. A state political party or nonprofit entity affiliated with or under the control of a state political party receiving a donation under this subsection shall file a statement with the secretary of state no later than the thirty-first day of January of each calendar year. The statement must include the name and mailing address of each donor, the amount of each donation, the date each donation was received, all expenditures made from the fund during the previous calendar year, and cash on hand in the fund at the start and close of the reporting period. Any income and financial gain generated from a building purchased, maintained, or renovated from donations authorized under this subsection and not otherwise authorized by law must be deposited in the building fund and must be reported when the political party or nonprofit entity files the statement required under this subsection.
3. A corporation, cooperative corporation, limited liability company, or association may make an expenditure to a measure committee as described in section 16.1-08.1-01 for the purpose of promoting the passage or defeat of an initiated or referred measure or petition or make an expenditure to any other person that makes an independent expenditure. A corporation, cooperative corporation, limited liability company, or association may make an independent expenditure for a political purpose or for the purpose of promoting passage or defeat of initiated or referred measures or petitions. The corporation, cooperative corporation, limited liability company, or association shall file a statement disclosing any expenditure made under this subsection with the secretary of state within forty-eight hours after making the expenditure. The statement must include:
   a. The full name of the corporation, cooperative corporation, limited liability company, or association;
   b. The complete address of the corporation, cooperative corporation, limited liability company, or association;
   c. The name of the recipient of the expenditure;

d. If the expenditure is related to a measure or petition, the title of the measure or petition and whether the expenditure is made in support of or opposition to the measure or petition;
e. If the expenditure is related to a measure, the election date on which the measure either will appear or did appear on the ballot;
f. The amount of the expenditure;
g. The cumulative total amount of expenditures since the beginning of the calendar year which are required to be reported under this subsection;
h. The telephone number and the printed name and signature of the individual completing the statement, attesting to the statement being true, complete, and correct; and
i. The date on which the statement was signed.

16.1-08.1-03.6. Contributions from federal campaign committee accounts or from contributions made to other candidates or former candidates limited.

Repealed by S.L. 2001, ch. 202, § 7.

16.1-08.1-03.7. Political committees that organize and register according to federal law that make independent expenditures or disbursements to nonfederal candidates, political parties, and political committees.

A political committee that organizes and registers according to federal law and makes an independent expenditure or makes a disbursement in excess of two hundred dollars to a nonfederal candidate seeking public office or to a political party or political committee in this state shall file a copy of that portion of the committee's federal report detailing the independent expenditure or the disbursement made. The political committee shall file a copy of the committee's federal report with the secretary of state at the time of filing the report with the applicable federal agency. The report must include:

1. The name, mailing address, and treasurer of the political committee;
2. The recipient's name and mailing address; and
3. The date and amount of the independent expenditure or disbursement.

16.1-08.1-03.8. Contributions statement required of multicandidate political committees.

1. A multicandidate political committee, as described in section 16.1-08.1-01, that solicits or accepts contributions for any political purpose shall file statements as required by this section.
2. A multicandidate political committee shall file a statement containing the aggregated total of all contributions showing the name and mailing address of each contributor who contributed in excess of two hundred dollars in the aggregate to the committee during a reporting period, the aggregated amount of the reportable contributions in excess of two hundred dollars, and the date the last reportable contribution was received.
3. A multicandidate political committee required to file a statement under this section shall file the statement in the office of the secretary of state no later than the thirty-second day before the date of any primary, special, or general election. The statement must be complete from the beginning of that calendar year through the fortieth day before the date of the primary, special, or general election. The political committee shall file a complete statement for the entire calendar year no later than the thirty-first day of January of the following year in which the political committee received a reportable contribution.
4. Even if a multicandidate political committee has not received any contribution in excess of two hundred dollars during the reporting period, the political committee shall file a

statement as required by this chapter. A statement filed according to this section during the reporting period must show the following:
   a. The gross total of all contributions received in excess of two hundred dollars;
   b. The gross total of all contributions received of two hundred dollars, or less; and
   c. The cash on hand in the filer's account at the start and close of the reporting period.
5. A multicandidate political committee shall report the occupation, employer, and principal place of business of each person, or the political committee if not already registered according to state or federal law, who contributed five thousand dollars or more in the aggregate during the reporting period.

16.1-08.1-03.9. Contribution statements of judicial district candidates or a candidate committee for a judicial district candidate.

1. A judicial district candidate or a candidate committee for a judicial district candidate shall make and file a statement in accordance with this section. The candidate or candidate committee shall include in the statement:
   a. The name and mailing address of all contributors who made contributions in excess of two hundred dollars in the aggregate for the purpose of influencing the nomination for election, or election, of the candidate;
   b. The aggregated amount of the contributions from each listed contributor;
   c. The date the last contribution was received from each listed contributor;
   d. The gross total of all contributions received in excess of two hundred dollars;
   e. The gross total of all contributions received of two hundred dollars, or less; and
   f. The cash on hand in the filer's account at the start and close of the reporting period.
2. A candidate or a candidate committee described in this section shall file a statement with the secretary of state no later than the thirty-second day before the date of the election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes. The reporting period for each of these statements is from the beginning of that calendar year through the fortieth day before the date of the election.
3. A candidate or a candidate committee described in this section shall also be required to file a complete year-end statement with the secretary of state no later than the thirty-first day of January in the year immediately following the date of the election in which the candidate's name appeared on the ballot or in which the candidate sought election through write-in votes. Even if the candidate or candidate committee has not received any contributions in excess of two hundred dollars during the reporting period, the candidate or candidate committee shall file a statement as required by this section.
4. A candidate or a candidate committee described in this section shall be required to file a year-end statement with the secretary of state, regardless of whether the candidate sought election during that calendar year.

16.1-08.1-03.10. Contribution statements of county office candidates or a candidate committee for a county office candidate.

1. A county office candidate or a candidate committee for a county office candidate shall make and file a statement in accordance with this section. The candidate or candidate committee shall include in the statement:
   a. The name and mailing address of all contributors who made contributions in excess of two hundred dollars in the aggregate for the purpose of influencing the nomination for election, or election, of the candidate;
   b. The aggregated amount of the contributions from each listed contributor; and
   c. The date the last contribution was received from each listed contributor.

2. A candidate or a candidate committee described in this section shall file a statement with the county auditor no later than the thirty-second day before the date of the election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes. The reporting period for each of these statements is from the beginning of that calendar year through the fortieth day before the date of the election.
3. A candidate or a candidate committee described in this section shall also be required to file a complete year-end statement with the county auditor no later than the thirty-first day of January in the year immediately following the date of the election in which the candidate's name appeared on the ballot or in which the candidate sought election through write-in votes. Even if the candidate or candidate committee has not received any contributions in excess of two hundred dollars during the reporting period, the candidate or candidate committee shall file a statement as required by this section.
4. A candidate or a candidate committee described in this section shall be required to file a year-end statement with the county auditor for any year in which a contribution was received, regardless of whether the candidate sought election during that calendar year.
5. A statement required by this section to be filed with the county auditor must be:
   a. Deemed properly filed when deposited with or delivered to the county auditor within the prescribed time. A statement that is mailed is deemed properly filed when it is postmarked and directed to the county auditor within the prescribed time. If the county auditor does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the county auditor of its nonreceipt.
   b. Preserved by the county auditor for a period of four years from the date of filing. The statement is to be considered a part of the public records of the county auditor and must be open to public inspection.

16.1-08.1-03.11. Contribution statements of city office candidates or a candidate committee for a city office candidate in cities with a resident population of five thousand or more as determined by the last federal decennial census.

1. A city office candidate or a candidate committee for a city office candidate in cities with a resident population of five thousand or more as determined by the last federal decennial census shall make and file a statement in accordance with this section. The candidate or candidate committee shall include in the statement:
   a. The name and mailing address of all contributors who made contributions in excess of two hundred dollars in the aggregate for the purpose of influencing the nomination for election, or election, of the candidate;
   b. The aggregated amount of the contributions from each listed contributor; and
   c. The date the last contribution was received from each listed contributor.
2. A candidate or a candidate committee described in this section shall file a statement with the city auditor no later than the thirty-second day before the date of any election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes. The reporting period for each of these statements is from the beginning of that calendar year through the fortieth day before the date of the election.
3. A candidate or a candidate committee described in this section shall also be required to file a complete year-end statement with the city auditor no later than the thirty-first day of January in the year immediately following the date of the election in which the candidate's name appeared on the ballot or in which the candidate sought election through write-in votes. Even if the candidate or candidate committee has not received any contributions in excess of two hundred dollars during the reporting period, the candidate or candidate committee shall file a statement as required by this section.

4. A candidate or a candidate committee described in this section shall be required to file a year-end statement with the city auditor for any year in which a contribution was received, regardless of whether the candidate sought election during that calendar year.
5. A statement required by this section to be filed with the city auditor must be:
   a. Deemed properly filed when deposited with or delivered to the city auditor within the prescribed time. A statement that is mailed is deemed properly filed when it is postmarked and directed to the city auditor within the prescribed time. If the city auditor does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the city auditor of its nonreceipt.
   b. Preserved by the city auditor for a period of four years from the date of filing. The statement is to be considered a part of the public records of the city auditor and must be open to public inspection.

16.1-08.1-03.12. Contribution statements of incidental committees and other political committees.

1. An incidental committee or political committee not otherwise covered by another section of this chapter may make an expenditure to a measure committee as described in section 16.1-08.1-01 for the purpose of promoting the passage or defeat of an initiated or referred measure or petition or make an expenditure to any other person that makes an independent expenditure. The incidental committee or political committee may make an independent expenditure for a political purpose or for the purpose of promoting passage or defeat of initiated or referred measures or petitions. The incidental committee or political committee shall file a statement disclosing an expenditure for a political purpose or an independent expenditure made under this subsection with the secretary of state within forty-eight hours after making the expenditure or independent expenditure. The statement filed under this subsection must include:
   a. The full name of the incidental committee or political committee;
   b. The complete address of the incidental committee or political committee;
   c. The name of the recipient of the expenditure;
   d. If the expenditure is related to a measure or petition, the title of the measure or petition and whether the expenditure is made in support of or opposition to the measure or petition;
   e. If the expenditure is related to a measure, the election date on which the measure appeared or will appear on the ballot;
   f. The amount of the expenditure made to a recipient in this state;
   g. The cumulative total of expenditures since the beginning of the calendar year made to recipients in this state;
   h. The telephone number, printed name, and signature of the individual completing the statement, attesting to the statement being true, complete, and correct; and
   i. The date on which the statement was signed.
2. An incidental committee that solicits or accepts contributions for any political purpose shall file a statement in the office of the secretary of state no later than the thirty-second day before the date of any primary, special, or general election. The statement must be complete from the beginning of that calendar year through the fortieth day before the date of the primary, special, or general election. The committee shall file a complete statement for the entire calendar year no later than the thirty-first day of January of the following year in which the committee received a reportable contribution. Even if an incidental committee has not received any contributions in excess of two hundred dollars during the reporting period, the committee shall file a statement as required under this chapter. A statement filed under this subsection during the reporting period must show the following:
   a. The gross total of all contributions received in excess of two hundred dollars;

b. The name and mailing address of each contributor that contributed in excess of two hundred dollars in the aggregate to the committee during a reporting period;
c. The gross total of all contributions received of two hundred dollars or less;
d. The date the last reportable contribution was received;
e. The cash on hand in the filer's account at the start and close of the reporting period; and
f. The occupation, employer, and principal place of business of each person, or the political committee if not already registered according to state or federal law, which contributed five thousand dollars or more in the aggregate during the reporting period.

16.1-08.1-03.13. Contribution statements required of initiated or referendum petition sponsoring committees – Statement of petition sponsors.

1. At the time the sponsoring committee for an initiated or referendum petition requests approval of the secretary of state to circulate petitions for the purpose of placing a measure on the ballot, the committee also shall submit a statement disclosing the contributions received and the expenditures made relating to the petition.
2. At the time the sponsoring committee for an initiated or referendum petition submits signed petitions to the secretary of state, the committee also shall submit a complete statement disclosing the contributions received and expenditures made relating to the petition.
3. If December thirty-first falls between the date the secretary of state approves the petition for circulation and the date the signed petitions are submitted to the secretary of state, a complete statement for the calendar year shall be filed no later than the thirty-first day of January of the following year.
4. The sponsoring committee also shall file a complete statement for the calendar year in which the measure or referendum appeared or was to appear on the ballot and any other calendar year not covered by this section in which a contribution was received or an expenditure was made. This statement shall be filed no later than the thirty-first day of January of the following year.
5. A sponsoring committee may not accept a contribution of more than one hundred dollars from an out-of-state person or political committee unless the contribution is accompanied by a statement from the contributor listing the name, address, and amount contributed by each person that contributed more than one hundred dollars of the contribution. The statement must indicate if no person contributed in excess of one hundred dollars of the out-of-state person's or political committee's overall contribution. The statement must also list the occupation, employer, and principal place of business for each individual who contributed more than one hundred dollars of the contribution.
6. The statements required of this section must include:
   a. The gross total of all contributions received and expenditures made in excess of one hundred dollars;
   b. The gross total of all contributions received and expenditures made of one hundred dollars or less;
   c. The cash on hand in the filer's account at the start and close of the reporting period;
   d. The name and mailing address of each person that contributed in excess of one hundred dollars to the sponsoring committee;
   e. The amount of each reportable contribution;
   f. The date each reportable contribution was received;
   g. The name and mailing address of each recipient of an expenditure exceeding one hundred dollars in the aggregate;
   h. The amount of each reportable expenditure; and
   i. The date the expenditure was made.

7. Within one hundred eighty days after the approval of a petition to initiate or refer a measure or to recall an official or after the submission of a petition to convene a grand jury as provided under section 29-10.1-02, the sponsoring committee or the individual responsible for submission of the petition shall file a statement with the secretary of state which discloses whether petition circulators have been or will be paid for the circulation of petitions and which lists the total amount of money paid or which is expected to be paid to circulators.

16.1-08.1-03.14. Conduit required to provide detailed contribution information to recipient.

A conduit that transfers any contribution to a candidate, political party, or political committee shall provide the recipient of the contribution a detailed statement that lists the name and address of each individual contributor, the amount of each contribution, and the date each contribution was received. The conduit also shall include on the statement the occupation, employer, and principal place of business of each contributor, or the political committee if not already registered according to state or federal law, which contributed five thousand dollars or more in the aggregate during a reporting period applicable to the candidate, political party, or political committee. The conduit shall provide the statement to the candidate, political party, or political committee in a manner to allow the candidate, political party, or political committee to file any statement required to be filed under this chapter.

16.1-08.1-04. Supplemental statement required on large contributions received after original statement — Filing time.

If any candidate, political party, or political committee receives contributions in excess of five hundred dollars in the aggregate within the thirty-nine days immediately preceding any election from any individual contributor, that candidate, political party, political committee, or person shall make and file a supplemental statement in the same form as required by section 16.1-08.1-02, 16.1-08.1-03, 16.1-08.1-03.1, 16.1-08.1-03.3, 16.1-08.1-03.8, 16.1-08.1-03.9, 16.1-08.1-03.10, 16.1-08.1-03.11, or 16.1-08.1-03.12 stating the name and street address of the contributor and the aggregated amount of the contribution and file the statement in the appropriate office within forty-eight hours of the receipt of the contribution.

16.1-08.1-05. Audit by secretary of state — Requested audits — Reports.

1. If a substantial irregularity is evident or reasonably alleged, the secretary of state may arrange an audit of any statement filed pursuant to this chapter, to be performed by a certified public accountant of the filer's choice, subject to approval by the secretary of state. If an audit of a statement arranged by the secretary of state under this subsection reveals a violation of this chapter, the candidate, political party, political committee, or other person filing the statement shall pay a fine to the secretary of state equal to two hundred percent of the aggregate of contributions and expenditures found to be in violation or an amount sufficient to pay the cost of the audit, whichever is greater. If an audit of a statement arranged by the secretary of state under this subsection does not reveal a violation of this chapter, the cost of the audit must be paid for by the secretary of state.
2. If a substantial irregularity is reasonably alleged, the secretary of state may arrange an audit of any statement filed pursuant to this chapter, performed by a certified public accountant of the filer's choice, subject to approval by the secretary of state, upon written request by any interested party made to the secretary of state within thirty days following receipt of a statement by the secretary of state. The request must be made in writing, recite a substantial irregularity and a lawful reason for requesting an audit, and be

accompanied by a bond in an amount established by the secretary of state sufficient to pay the cost of the audit. If an audit of a statement arranged by the secretary of state under this subsection reveals a violation of this chapter, the candidate, political party, or political committee filing the statement shall pay a fine to the secretary of state equal to two hundred percent of the aggregate of contributions and expenditures found to be in violation or an amount sufficient to pay the cost of the audit, whichever is greater, and the bond shall be returned to the person submitting it. If an audit of a statement arranged by the secretary of state under this subsection does not reveal a violation of this chapter, the cost of the audit must be satisfied from the bond filed with the secretary of state.

3. An audit may not be made or requested of a statement for the sole reason that it was not timely filed with the secretary of state. An audit made or arranged according to this section must audit only those items required to be included in any statement, registration, or report filed with the secretary of state according to this chapter. The secretary of state may collect any payment obligation arising out of this section by civil action or by assignment to a collection agency, with any costs of collection to be added to the amount owed and to be paid by the delinquent filer. Any remaining moneys collected by the secretary of state after an audit is paid for under this section must be deposited in the state's general fund. This section does not apply to statements filed according to sections 16.1-08.1-03.10 and 16.1-08.1-03.11.

16.1-08.1-06. Contributions and expenditure statement requirements.

1. Any statement required by this chapter to be filed with the secretary of state must be:
   a. Filed electronically with the secretary of state and must be within the prescribed time and in the format established by the secretary of state. If the secretary of state does not receive a statement, an electronic duplicate of the statement must be promptly filed upon notice by the secretary of state of its nonreceipt. After a statement has been filed, the secretary of state may request or accept written clarification along with an amended statement from a candidate, political party, or political committee filing the statement when discrepancies, errors, or omissions on the statement are discovered by the secretary of state, the candidate, political party, or political committee filing the statement, or by any interested party reciting a lawful reason for requesting clarification and an amendment be made. When requesting an amended statement, the secretary of state shall establish a reasonable period of time, not to exceed ten days, agreed to by the candidate, political party, or political committee, for filing the amended statement with the secretary of state.
   b. Preserved by the secretary of state for a period of ten years from the date of filing. The statement is to be considered a part of the public records of the secretary of state's office and must be open to public inspection on the internet.
2. In determining the amount of individual contributions from any contributor, all amounts received from the same contributor during the reporting period must be aggregated to report an overall total contribution for the purposes of the statements required by this chapter. Aggregate contributions must reference the date of the most recent contribution. Contributions made separately by different persons from joint accounts are considered separate contributions for reporting purposes.
3. In reporting a contribution received through a conduit, a candidate, political party, or political committee shall list each reportable contribution identifying the person that submitted the contribution to the conduit and provide the required information regarding the contribution from that person rather than identifying the conduit as the contributor.
4. Any statement and data filed with the secretary of state must be made available on the internet to the public free of charge within twenty-four hours after filing.

16.1-08.1-06.1. Filing officer to charge and collect fees for late filing.

1. If a statement or report required to be filed according to this chapter is not filed within the prescribed time, the filing officer to whom the report was to be filed is authorized to charge and collect a late fee as follows:
   a. Within six days after the prescribed time, twenty-five dollars;
   b. Within eleven days after the prescribed time, fifty dollars; and
   c. Thereafter, one hundred dollars.
2. A filing officer may require an amendment to be filed for any statement or report that is incorrect or incomplete. The amendment must be filed with the filing officer within ten business days after the amendment has been requested in writing. If an amendment is not filed within the prescribed time, the filing officer is authorized to charge and collect a late fee as follows:
   a. Within six days after the date the amendment was due, fifty dollars;
   b. Within eleven days after the date the amendment was due, one hundred dollars; and
   c. Thereafter, two hundred dollars.
3. The filing officer may collect any payment obligation arising out of this section by civil action or by assignment to a collection agency, with any costs of collection to be added to the amount owed and to be paid by the delinquent filer.

16.1-08.1-06.2. Secretary of state to provide instructions and conduct training.

The secretary of state shall provide instructions and conduct training for the purpose of promoting uniform application of campaign finance and disclosure requirements and the uniform filing of statements, registrations, or reports according to this chapter.

16.1-08.1-07. Penalty.

Except as otherwise provided, any person who willfully violates any provision of this chapter is guilty of a class A misdemeanor.

CHAPTER 16.1-09 – Statement of Interests

16.1-09-01. Declaration of policy.

The legislative assembly declares that public office is a public trust, and in order to continue the faith and confidence of the people of the state in that trust and in their government, the people have a right to be assured that the interest of holders of or candidates for public office present no conflict with the public trust.

16.1-09-02. Statement of interests to be filed.

Every candidate for elective office shall sign and file the statement of interests as required by this chapter. In a year when a president and vice president of the United States are to be chosen, presidential and vice presidential candidates shall file with the secretary of state either a statement of interests as required by this chapter or a copy of the personal disclosure statement that is required by the federal election commission. Candidates for elective office who are required to file such statements shall do so with the filing officer for that election at the time of filing a certificate of nomination, a certificate of endorsement, a petition of nomination, or a certificate of write-in candidacy, pursuant to chapter 16.1-11, 16.1-12, or 40-21, as is appropriate. An individual who has filed a statement as the result of candidacy in a primary election need not refile before running in the following general election. A write-in candidate who is not required to file a certificate of write-in candidacy shall file the statement of interests after the candidate's election at the time of filing the required oath of office. Every individual who is appointed by the governor to a state agency, board, bureau, commission, department, or occupational or professional licensing board shall file a statement of interests as required by this chapter with the secretary of state simultaneously with announcement of the appointment. A filing officer may not include a candidate's name on the ballot if an error is discovered on the statement and the candidate is unable to or refuses to make the necessary correction before the sixty-fourth day before the election.

16.1-09-03. Contents of statement of interests.

The statement of interests required to be filed under this chapter applies to the candidate or appointee and that person's spouse and must include:

1. The name of the business or employer and an identification of the principal source of income, defined in the state income tax return as "principal occupation", of both the candidate or appointee and that person's spouse.
2. The name of each business or trust, not the principal source of income, in which the person making the statement, and that person's spouse, have a financial interest.
3. A list of the associations or institutions with which the person making the statement, and that person's spouse, are closely associated, or for which they serve as a director or officer, and which may be affected by legislative action, in the case of a statement submitted by a legislative candidate, or action by the candidate or appointee in that person's capacity as an officeholder.
4. The identity by name of all business offices, business directorships, and fiduciary relationships the person making the statement, and that person's spouse, have held in the preceding calendar year.

16.1-09-04. Powers and duties of the secretary of state.

The secretary of state shall:

1. Prescribe the forms for statements of interests required to be filed under this chapter and furnish such forms, on request, to persons subject to this chapter.

2. Prepare and publish guidelines setting forth recommended uniform methods of reporting for use by persons required to file statements under this chapter.
3. Adopt such rules and regulations, in the manner prescribed by chapter 28-32, as may be appropriate to effectuate the purposes of this chapter.

16.1-09-05. Powers and duties of the secretary of state and county and city auditors.

The secretary of state, or the county or city auditor, when appropriate shall:

1. Accept and file any statement submitted pursuant to this chapter.
2. Make statements filed available for public inspection and copying during regular office hours. A reasonable fee may be charged to cover the cost of copying. Proceeds from any fees charged must be deposited in the general fund of the appropriate governmental entity.
3. Preserve statements filed under this chapter for the term of office to which the person making disclosure is elected or appointed or until a new statement is filed and preserve statements filed pursuant to this chapter by those candidates who are not elected or appointed for a period of one year after the date of receipt.

16.1-09-06. Procedure for enforcement — Investigation by attorney general or state's attorney.

Upon a complaint, signed under penalty of perjury, by any person, or upon the motion of the attorney general or a state's attorney, the attorney general or state's attorney shall investigate any alleged violation of this chapter. The investigation and its proceedings are confidential until a determination has been reached by the investigating officer that enough incriminating evidence exists to bring an action and such action is commenced in the appropriate district court.

16.1-09-07. Effect of intentional violation of chapter — Penalty.

Any person who intentionally violates a provision of this chapter is guilty of a class B misdemeanor and that person's appointment, nomination, or election, as the case may be, must be declared void. Any vacancy that may result from the intentional violation of this chapter must be filled in the manner provided by law. This section does not remove from office a person who is already in office and who has entered upon the discharge of the person's duties where such office is subject to the impeachment provisions of the Constitution of North Dakota.

CHAPTER 16.1-10 – Corrupt Practices

16.1-10-01. Corrupt practice — What constitutes.

A person is guilty of corrupt practice within the meaning of this chapter if the person willfully engages in any of the following:

1. Expends any money for election purposes contrary to the provisions of this chapter.
2. Engages in any of the practices prohibited by section 12.1-14-02 or 12.1-14-03.
3. Is guilty of the use of state services or property or the services or property of a political subdivision of the state for political purposes.

16.1-10-02. Use of state or political subdivision services or property for political purposes.

1. No person may use any property belonging to or leased by, or any service which is provided to or carried on by, either directly or by contract, the state or any agency, department, bureau, board, commission, or political subdivision thereof, for any political purpose.

2. The following definitions must be used for the purposes of this section:

a. "Political purpose" means any activity undertaken in support of or in opposition to a statewide initiated or referred measure, a constitutional amendment or measure, a political subdivision ballot measure, or the election or nomination of a candidate to public office and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity is undertaken by a candidate, a political committee, a political party, or any person. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of public office or a position taken in any bona fide news story, commentary, or editorial. Factual information may be presented regarding a ballot question solely for the purpose of educating voters if the information does not advocate for or against or otherwise reflect a position on the adoption or rejection of the ballot question.

b. "Property" includes motor vehicles, telephones, typewriters, adding machines, postage or postage meters, funds of money, and buildings. However, nothing in this section may be construed to prohibit any candidate, political party, committee, or organization from using any public building for such political meetings as may be required by law, or to prohibit such candidate, party, committee, or organization from hiring the use of any public building for any political purpose if such lease or hiring is otherwise permitted by law.

c. "Services" includes the use of employees during regular working hours for which such employees have not taken annual or sick leave or other compensatory leave.

16.1-10-03. Political badge, button, or insignia at elections.

No individual may buy, sell, give, or provide any political badge, button, or any insignia within a polling place or within one hundred feet [30.48 meters] from the entrance to the room containing the polling place while it is open for voting. No such political badge, button, or insignia may be worn within that same area while a polling place is open for voting.

16.1-10-04. Publication of false information in political advertisements — Penalty.

A person is guilty of a class A misdemeanor if that person knowingly, or with reckless disregard for its truth or falsity, publishes any political advertisement or news release that contains any assertion, representation, or statement of fact, including information concerning a candidate's prior public record, which is untrue, deceptive, or misleading, whether on behalf of or in opposition to any candidate for public office, initiated measure, referred measure, constitutional amendment, or any other issue, question, or proposal on an election ballot, and whether the publication is by radio, television, newspaper, pamphlet, folder, display cards, signs, posters, billboard advertisements, websites, electronic transmission, or by any other public means. This section does not apply to a newspaper, television or radio station, or other commercial medium that is not the source of the political advertisement or news release.

16.1-10-04.1. Certain political advertisements to disclose name of sponsor — Name disclosure requirements.

Every political advertisement by newspaper, pamphlet or folder, display card, sign, poster, or billboard, website, or by any other similar public means, on behalf of or in opposition to any candidate for public office, designed to assist, injure, or defeat the candidate by reflecting upon the candidate's personal character or political action, or by a measure committee as described in section 16.1-08.1-01, or a corporation making an independent expenditure either for or against a measure, must disclose on the advertisement the name of the person, as defined in section 16.1-08.1-01, or political party paying for the advertisement. If the name of a political party, association, or partnership is used, the disclaimer must also include the name of the chairman or other responsible individual from the political party, association, or partnership. The name of the person paying for any radio or television broadcast containing any advertising announcement for or against any candidate for public office must be announced at the close of the broadcast. If the name of a political party, association, or partnership is used, the disclaimer must also include the name of the chairman or other responsible individual from the political party, association, or partnership. In every political advertisement in which the name of the person paying for the advertisement is disclosed, the first and last name of any named individual must be disclosed. An advertisement paid for by an individual candidate or group of candidates must disclose that the advertisement was paid for by the individual candidate or group of candidates. The first and last name or names of the candidates paying for the advertisement are not required to be disclosed. This section does not apply to campaign buttons.

16.1-10-05. Paying owner, editor, publisher, or agent of newspaper to advocate or oppose candidate editorially prohibited.

No person may pay or give anything of value to the owner, editor, publisher, or agent of any newspaper or other periodical, or radio or television station, to induce the person to advocate editorially or to oppose any candidate for nomination or election, and no such owner, editor, publisher, or agent may accept such inducement.

16.1-10-06. Electioneering within boundary of an open polling location.

1. An individual may not ask, solicit, or in any manner try to induce or persuade, any voter within a polling place or within one hundred feet [30.48 meters] from the entrance to the room containing a polling place while it is open for voting to vote or refrain from voting for any candidate or the candidates or ticket of any political party or organization, or any measure submitted to the people. The display upon motor vehicles of adhesive signs which are not readily removable and which promote the candidacy of any individual, any political party, or a vote upon any measure, and political advertisements promoting the candidacy of any individual, political party, or a vote upon any measure which are

displayed on fixed permanent billboards, may not, however, be deemed a violation of this section.

2. A vehicle or movable sign of any type containing a political message as described in subsection 1 may be allowed to remain within the restricted area only for the period of time necessary for the owner or operator of the vehicle or sign to complete the act of voting.
3. Except as provided in subsection 1, a sign placed on private property which displays a political message may not be restricted by a political subdivision, including a home rule city or county, unless the political subdivision demonstrates a burden to the public safety.

16.1-10-06.1. Paying for certain election-related activities prohibited.

No person may pay any individual for:

1. Any loss or damage due to attendance at the polls;
2. Registering;
3. The expense of transportation to or from the polls; or
4. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

16.1-10-06.2. Sale or distribution at polling place.

A person may not approach a person attempting to enter a polling place, or who is in a polling place, for the purpose of selling, soliciting for sale, advertising for sale, or distributing any merchandise, product, literature, or service. A person may not approach a person attempting to enter a polling place, who is in a polling place, or who is leaving a polling place for the purpose of gathering signatures for any reason. These prohibitions apply in any polling place or within one hundred feet [30.48 meters] from any entrance leading into a polling place while it is open for voting.

16.1-10-07. Candidate guilty of corrupt practice to vacate nomination of office.

If any person is found guilty of any corrupt practice, the person must be punished by being deprived of the person's government job, or the person's nomination or election must be declared void, as the case may be. This section does not remove from office a person who is already in office and who has entered upon the discharge of the person's duties when such office is subject to the impeachment provisions of the Constitution of North Dakota.

16.1-10-08. Penalty for violation of chapter.

Any person violating any provision of this chapter, for which another penalty is not specifically provided, is guilty of a class A misdemeanor.

CHAPTER 16.1-11 – Nominations for Office — Primary Election

16.1-11-01. Primary election — When held — Nomination of candidates — Nomination for special elections.

On the second Tuesday in June of every general election year, a primary election must be held for the nomination of candidates for the following offices in the years of their regular election: United States senators, member of the United States house of representatives, members of the legislative assembly, elected state officials, judges of the supreme court and district court, county officers, and county commissioners. In special elections the nominations for the officers enumerated in this section must be made as provided in this title.

16.1-11-02. Presidential preference contest — Time for holding.

Repealed by S.L. 2003, ch. 174, § 6.

16.1-11-02.1. Presidential preference contest conduct — Mail ballot election.

Repealed by S.L. 2003, ch. 174, § 6.

16.1-11-02.2. Presidential preference contest — Requirements.

Expired under S.L. 1995, ch. 209, § 13.

16.1-11-02.3. Presidential preference contest — Rules.

Repealed by S.L. 2003, ch. 174, § 6.

16.1-11-03. Political parties authorized to conduct presidential preference contest.

Repealed by S.L. 2003, ch. 174, § 6.

16.1-11-03.1. 2000 presidential caucus.

Expired pursuant to S.L. 1999, ch. 207, § 6.

16.1-11-04. Presidential preference contest.

Repealed by S.L. 2003, ch. 174, § 6.

16.1-11-05. Secretary of state to give notice to county auditor of officers to be nominated.

Repealed by S.L. 2015, ch. 158, §5.

16.1-11-05.1. Participation in endorsements for nomination.

No person may participate directly or indirectly in the endorsement for nomination of more than one person for each office to be filled, except a person may sign a petition for placement of a candidate's name on the primary ballot:

1. For more than one person for each office for an office not under party designation.
2. For more than one person for each office for an office under party designation only if all the candidates for whom the person signs a petition for an office are running under the same party designation.

Except for persons allowed to seek nomination to more than one office pursuant to section 16.1-12-03, no person may accept endorsement for nomination by certificate or petition to more than one office. No political party is entitled to endorse for nomination by certificate more than one set of nominees.

16.1-11-06. State candidate's petition or political party certificate of endorsement required to get name on ballot — Contents — Filing.

1. Every candidate for United States senator, United States representative, a state office, including the office of state senator or state representative, and judges of the supreme and district courts shall present to the secretary of state, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixty-fourth day before any primary election, either:
   a. The certificate of endorsement signed by the state chairman of any legally recognized political party containing the candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, and the party which the candidate represents; or
   b. The nominating petition containing the following:
      (1) The candidate's name, post-office address, and telephone number, and the title of the office to which the candidate aspires, the appropriate district judgeship number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
      (2) The name of the party the candidate represents if the petition is for an office under party designation.
      (3) The signatures of qualified electors, the number of which must be determined as follows:
         (a) If the office is under party designation, the signatures of three percent of the total vote cast for the candidates of the party with which the candidate affiliates for the same position at the last general election. However, no more than three hundred signatures may be required.
         (b) If there was no candidate of a party for a position at the preceding general election, at least three hundred signatures.
         (c) If the office is under the no-party designation, at least three hundred signatures.
         (d) If the office is a legislative office, the signatures of at least one percent of the total resident population of the legislative district as determined by the most recent federal decennial census.
      (4) The mailing address and the date of signing for each signer.
2. If the petition or certificate of endorsement is for the office of governor and lieutenant governor, the petition or certificate must contain the names and other information required of candidates for both those offices. If the petition or certificate of endorsement is mailed, it must be in the possession of the secretary of state before four p.m. of the sixty-fourth day before the primary election.

16.1-11-07. Presidential candidates on ballot — Filing time.

Repealed by S.L. 2007, ch. 197, § 9.

16.1-11-08. Reference to party affiliation in petition and affidavit prohibited for certain offices.

No reference may be made to a party ballot or to the party affiliation of a candidate in a petition and affidavit filed by or on behalf of a candidate for nomination in the primary election to an elective county office, the office of judge of the supreme court, judge of the district court, or superintendent of public instruction.

16.1-11-09. Form of certificate of endorsement.

A certificate of endorsement filed with the proper officer as provided in this chapter must be in substantially the following form:

CERTIFICATE OF ENDORSEMENT

I, _____, do certify that I am the state (district) chairman of the _____ political party of the _____ legislative district (if appropriate) of the state of North Dakota and that _____ (insert name of endorsee), residing at _____, was duly endorsed for nomination to the office of _____ on the _____ day of _____, by the _____ political party of the _____ legislative district (if appropriate), duly convened and organized in accordance with the bylaws of the _____ political party and the laws of this state, and do hereby request _____ name be printed upon the ballot as a candidate for nomination to the office of _____ at the forthcoming primary election to be held on _____ of this year.

Dated this _____ day of _____.

_____

(signature of state or district chairman)

16.1-11-10. Applicant's name placed upon ballot — Affidavit to accompany petition.

Upon receipt by the secretary of state of the petition or certificate of endorsement provided for in section 16.1-11-06 accompanied by the following affidavit, the secretary of state shall place the applicant's name upon the primary election ballot in the columns of the applicant's party as hereinafter provided. The affidavit must be substantially as follows:

State of North Dakota)
)ss.
County of _____)

I, _____, being sworn, say that I reside at _____, in the city of _____, in the county of _____ of North Dakota; and zip code of _____; that I am a candidate for nomination to the office of _____ to be chosen at the primary election to be held on _____, _____, and I request that my name be printed upon the primary election ballot as provided by law, as a candidate of the _____ party for said office. I am requesting that my name be listed on the ballot as I have identified my ballot name below. I understand that nicknames are allowed as part of my ballot name, but titles and campaign slogans are not permissible. I have reviewed the requirements to hold office and I certify that I am qualified to serve if elected.

_____

Ballot name requested

_____

Candidate's signature

Subscribed and sworn to before me on _____, _____.

_____

Notary Public

NOTARY SEAL My Commission Expires _____

16.1-11-11. County candidates' petitions — Filing — Contents.

Every candidate for a county office shall present, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixty-fourth day before any primary election, to the county auditor of the county in which the candidate resides, a petition containing the following:

1. The candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, the appropriate district number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
2. The signatures of qualified electors, the number of which must be determined as follows:
a. If the office is a county office, the signatures of not less than two percent of the total vote cast for the office at the most recent general election at which the office was voted upon.
   b. If the office is a county office and multiple candidates were elected to the office at the preceding general election at which the office was voted upon, the signatures of not less than two percent of the votes cast for all candidates divided by the number of candidates that were to be elected to that office.
   c. If the office is a county office and no candidate was elected or no votes were cast for the office at any general election, the number of signers equal to the percentage as provided in paragraph 1 applied to the total average vote cast for the offices of sheriff and county auditor at the most recent general election at which those officers were elected in the petitioner's county. This average must be determined by dividing by two the total vote cast for those offices.
   d. In no case may more than three hundred signatures be required.
3. The residential address, mailing address (if different from residential address), and date of signing for each signer. A post office box does not qualify as a residential address. In those areas of the state where street addresses are not available, a description of where the residential address is located shall be used.

If the petition or certificate of endorsement is mailed, it must be in the possession of the county auditor before four p.m. on the sixty-fourth day before the primary election.

16.1-11-11.1. Deadline for placing county and city measures on primary, general, or special election ballots.

Notwithstanding any other provision of law, a county may not submit a measure for consideration of the voters at a primary, general, or special statewide, district, or county election after four p.m. on the sixty-fourth day before the election. A city that has combined its regular or a special election with a primary, general, or special county election, according to the provisions set forth in section 40-21-02, may not submit a measure for consideration of the voters at that election after four p.m. on the sixty-fourth day before the election.

16.1-11-12. County auditor to place applicant’s name on ballot.

Upon receipt of the petition or certificate of endorsement provided for in section 16.1-11-11 by the county auditor and when accompanied by an affidavit as provided in section 16.1-11-10, the county auditor shall place the name of the applicant upon the primary election ballot in the party or appropriate column, as the case may be.

16.1-11-13. Filing petition or certificate of endorsement when legislative district composed of more than one county — Certificate of county auditor.

Repealed by S.L. 2013, ch. 175, § 11.

16.1-11-14. Application by other persons to place name on ballot — Petition — Affidavit.

Repealed by S.L. 1995, ch. 207, § 20.

16.1-11-15. Nominating petition not to be circulated prior to January first — Special election.

No nominating petition provided for in sections 16.1-11-06 and 16.1-11-11 may be circulated or signed prior to January first preceding the primary election. Any signatures to a petition secured before that time may not be counted. A nominating petition for a special election may not be circulated or signed more than thirty days before the time when a petition for the special election must be filed.

16.1-11-16. Form of nominating petitions.

1. Each nominating petition circulated by candidates for any state, district, county, or other political subdivision office must include or have attached the following information, which must be made available to each signer at the time of signing:
   a. The candidate's name, address, and telephone number and the title of the office to which the candidate aspires, including the appropriate district number if applicable, or whether the petition is intended for an unexpired term of office if applicable.
   b. The name of the party the candidate represents if the petition is for an office under party designation.
   c. The date of the election at which the candidate is seeking nomination or election.
2. Only qualified electors of the state, district, county, or other political subdivision, as the case may be, may sign nominating petitions. In addition to signing the person's name, petition signers shall include the following information:
   a. The date of signing.
   b. Complete residential address. A post office box does not qualify as a residential address. In those areas of the state where street addresses are not available, a description of where the residential address is located shall be used.
   c. Complete mailing address if different from residential address.
3. Incomplete signatures or accompanying information of petition signers which do not meet the requirements of this section invalidate such signatures. The use of ditto marks to indicate that the information contained on the previous signature line carries over does not invalidate a signature. Signatures that are not accompanied by a complete date are not invalid if the signatures are preceded and followed by a signature that is accompanied by a complete date.

16.1-11-17. Filling vacancy in party primary election ballot permissible — Petition — Affidavit.

Repealed by S.L. 1995, ch. 207, § 20.

16.1-11-18. Party committees to fill vacancy occurring in nomination for party office.

1. If a vacancy occurs in any party certificate of endorsement at the primary election for any state or legislative district office, the proper state or district executive committee of the political party may fill the vacancy by filing another certificate of endorsement with the proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
2. If no party endorsement has been made by certificate and a vacancy occurs in a slate of candidates seeking party nomination by petition at the primary election, the proper state or district executive committee may fill the vacancy by filing a certificate of endorsement with the proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
3. If party endorsements by certificate have been made for any state or district office and a vacancy occurs in the slate of persons seeking nomination at the primary election because of the unavailability of the person who is seeking nomination by petition, that vacancy may not be filled except by petition.

4. If a vacancy occurs in a slate of statewide candidates after the candidates have been nominated at the primary election, the proper state executive committee may fill any vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When such a certificate is filed, the secretary of state shall certify the new nomination and the name of the person who has been nominated to fill the vacancy in place of the original nominee to the various auditors. If the secretary of state already has forwarded the certificate, the secretary of state forthwith shall certify to the auditors the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.
5. If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the proper district executive committee may fill the vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When the certificate is filed, the secretary of state shall certify the new nomination to the various county auditors affected by the change by forwarding to them the name of the person who has been nominated to fill the vacancy in place of the original nominee. The certification must include the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.
6. A vacancy in a nomination following a primary election may not be filled according to subsection 4 or 5 unless the nominated candidate:
   a. Dies;
   b. Would be unable to serve, if elected, as a result of a debilitating illness;
   c. Ceases to be a resident of the state or an individual nominated for legislative office will not be a resident of the legislative district at the time of the election; or
   d. Ceases to be qualified to serve, if elected, as otherwise provided by law.

Vacancies to be filled according to the provisions of this section may be filled not later than the sixty-fourth day prior to the election.

16.1-11-19. Filling vacancy existing on no-party ballot — Petition required — Time of filing.

If a vacancy exists on a no-party ballot for a state office or for judge of a district court, the vacancy may be filled by filing with the secretary of state, before four p.m. on the sixty-fourth day prior to the primary election, a written petition as provided in section 16.1-11-06, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it must be in the possession of the secretary of state before four p.m. on the sixty-fourth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for governor at the most recent general election in the state or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.

If a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor, before four p.m. of the sixty-fourth day prior to the primary election, a written petition as provided in section 16.1-11-11, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it must be in the possession of the county auditor before four p.m. on the sixty-fourth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors as provided in subdivision c of subsection 2 of section 16.1-11-11. A vacancy in the no-party ballot must be deemed to exist when a candidate who was qualified by filing a petition pursuant to section 16.1-11-06 or 16.1-11-11 dies, resigns, or otherwise becomes disqualified to have the candidate's name printed on the ballot.

16.1-11-20. Certified list of nominees transmitted to county auditor by secretary of state.

At least fifty-five days before any primary election, the secretary of state shall electronically transmit to each county auditor a certified list containing the names and post-office addresses of each person for whom nomination papers have been filed in the secretary of state's office and who are entitled to be voted for at the primary election. A designation of the office for which each is a candidate, and if applicable, the party or principle represented by each must be included.

16.1-11-21. County auditor to publish sample primary election ballot and notice of time and place of election.

The county auditor shall publish in the official county newspaper, and if no newspaper is published in the county then in a newspaper published in an adjoining county in the state, the following:

1. A copy of the sample ballot of the primary election, as arranged by order and direction of the county auditor. The form of the sample ballot must conform in all respects to the form prescribed for the sample primary ballot by the secretary of state. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in the county. Absent voters' ballots may not be considered in determining which form of voting is used. Candidates from each legislative district that falls within the boundaries of the county must be listed in a separate box or category within the sample ballot by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district.
2. The date of the primary election.
3. The hours during which the polls will be open.
4. The statement that the primary election balloting will be held in the regular polling place in each precinct.

The notice must be published in the official county newspaper once each week for two consecutive weeks before the primary election and include a statement in substantially the following format:

> The arrangement of candidate names appearing on ballots in your precinct may vary from the published sample ballots, depending upon the precinct and legislative district in which you reside.

16.1-11-22. Primary election ballot — Form — Voters to vote for candidates of only one political party.

At the primary election there may be only one ballot for all parties or principles. The ballot must be in the following form:

1. The ballot must be entitled the “consolidated primary election ballot”.

2. Each political party or principle having candidates at the primary election must have a separate section on the ballot.
3. At the head of each column must be printed the name of the political party or principle which it represents.
4. Spanning the columns containing the political party ballot and prior to the party names or principle titles must be printed: “In a Political Party Primary Election, you may only vote for the candidates of one political party. This ballot contains the number of political parties or principles and a description of where the political parties or principles are to be found in the columns below. If you vote in more than one political party's section, your Political Party Ballot will be rejected; however, all votes on the No Party and Measure Ballots will still be counted.”
5. Immediately below the warning against voting for candidates of more than one political party must be printed: “To vote for the candidate of your choice, you must darken the oval next to the name of that candidate. To vote for a person whose name is not printed on the ballot, you must darken the oval next to the blank line provided and write that person's name on the blank line.”
6. The offices specified in section 16.1-11-26 must be arranged in each section with the name of each office in the center of each political party section at the head of the names of all the aspirants for the office.
7. Immediately under the name of each office must be printed: “Vote for no more than _____ name (or names).”
8. Immediately preceding and on the same line as the name of each aspirant must be printed an oval in which the voter is to mark the voter's choice by darkening the oval next to the name of the candidate chosen.
9. The political party or principle which cast the largest vote for governor at the most recent primary election at which the office of governor was voted upon must have the first section, and the political party or principle casting the next largest vote must have the second section, and so on.

The judges and the inspector of elections shall inform each elector at the primary, before voting, that if the voter votes for candidates of more than one political party the voter's political party ballot will be rejected.

16.1-11-23. Presidential preference contest ballots.

Repealed by S.L. 2005, ch. 185, § 18.

16.1-11-24. No-party primary ballot — Contents.

There must be a separate ballot at all primary elections which must be entitled “no-party primary ballot”. The names of aspirants for nomination to each office must be arranged on the no-party primary ballot in separate groups in their order. The separate ballot may be on the same paper or electronic ballot, but the list of offices and candidates must be entitled “no-party primary ballot” in a manner to indicate clearly the separation of the no-party list of offices and candidates from the party list of offices and candidates. The names of all candidates for any of the offices mentioned in section 16.1-11-08 must be placed on the ballot without party designation. Immediately under the name of each office must be placed the language: “Vote for no more than _____ name (or names).” The number inserted must be the number to be elected to the office at the next succeeding general election.

16.1-11-25. Preparation, printing, distributing, canvassing, and returning of no-party ballot.

The no-party ballot must be prepared, printed, distributed, canvassed, and returned in the same manner provided for other primary election ballots.

16.1-11-26. Order in which names of offices shall appear on ballot.

The primary election ballot for party nominations shall contain the following offices in the following order under each party column:

1. Congressional:
   United States senator
   representative in Congress
2. Legislative:
   state senator _____ district
   state representative _____ district
3. State offices:
   governor and lieutenant governor
   secretary of state
   state auditor
   state treasurer
   attorney general
   insurance commissioner
   agriculture commissioner
   public service commissioner
   tax commissioner

16.1-11-27. Arrangement of names on ballots.

Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for governor at the last general election at which the office of governor was filled. In the event that this determination is no longer possible due to changes in precinct boundaries, the precincts are to be ordered according to the precincts with the greatest voting age population to the least. This information is to be provided by the North Dakota state data center or based on the best available data as determined by the county auditor. On the official ballot used at the election, including electronic voting system ballots, the names of candidates beside or under headings designating each office to be voted for must be alternated in the following manner:

1. The ballot must first be arranged with all the names for each office on the ballot in an order determined by lot by the county auditor and prepared by the county auditor for all state, district, and county offices. The position of names that require alternating under the provisions of this section must be alternated by an algorithm approved by the secretary of state designed to ensure to the extent possible that each name on the ballot for an office is listed in each position order on an equal number of precinct ballots spread across the county. There must be a different alternation sequence for each of the following, based on the geographical area by which the office is filled:
   a. Offices to be filled by the electors of the state, the entire county, or any district which includes the entire county.
   b. Offices to be filled by the electors of districts smaller than the county, with a different rotation for each of those districts.
2. Although the names are to be alternated within the offices on the ballot, the name order for an office is to be the same for all ballots within a precinct.

16.1-11-28. Piling, cutting, and blocking ballots.

Repealed by S.L. 1999, ch. 209, § 2.

16.1-11-29. Preparation of ballot.

Unless otherwise provided in this chapter, the primary election ballot must be prepared as provided in chapter 16.1-06.

16.1-11-30. Separate section on primary election ballot required for each political party.

Any party that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election; any party that had printed on the ballot at the last preceding nonpresidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election; or any party that has organized according to all the requirements of chapter 16.1-03 must be provided with a separate section on primary election ballots.

Any other political organization is entitled to endorse candidates or have candidates petition to be included on the primary ballot in a separate section of the consolidated primary election ballot, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixty-fourth day before a primary or special election, naming the political organization, stating the platform principles of the party, and requesting the names of its candidates to be included on the state's primary ballot in a separate section. Political organizations that are granted ballot access under this section are allowed ballot access only for those offices for which the organization has identified candidates. Regardless of the means by which the petition is delivered, the original must be in the possession of the secretary of state before four p.m. on the sixty-fourth day prior to a primary or special election. Candidates of that party are entitled to the same rights and privileges as those of other parties. Petitions circulated according to this section must be filed with the secretary of state in accordance with section 1-01-50.

A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election, and any political organization that has printed on the ballot at the last preceding nonpresidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election are entitled to organize according to the requirements of chapter 16.1-03.

16.1-11-31. Precinct election reports.

Optical scan ballot tabulation machines must print reports detailing the election results from the precinct after the close of the polls.

16.1-11-32. Poll lists kept by clerks of elections.

The clerks of primary elections shall keep either one paper or one electronic list of the names of all persons voting at each primary election. The clerks must return the list, which must be a part of the records and filed with other election returns. Only one complete list of voters may be kept whether or not a special election is held simultaneously with the primary election.

16.1-11-33. Judges of election to run report of primary election — Contents.

The judges of a primary election in each precinct shall run a separate report for each political party or principle, containing the names of all persons voted for at the primary election, the number of votes cast for each candidate, and for what office. The report must be subscribed by the election judges and must be filed with the returns in the office of the county auditor.

16.1-11-34. Counting and canvassing of votes in presidential preference contest.

Repealed by S.L. 2005, ch. 185, § 18.

16.1-11-35. Nominations by write-in.

The provisions of this title do not prevent any elector from writing on the paper ballot, or in the case of direct-recording electronic voting system devices, entering by touchscreen or other data entry device, the name of any person for whom the elector desires to vote, and such vote must be counted according to the provisions for the counting of write-in votes found in section 16.1-12-02.2.

16.1-11-36. Vote required at primary election for nomination.

A person may not be deemed nominated as a candidate for any office at any primary election unless that person receives a number of votes equal to the number of signatures required, or which would have been required had the person not had the person's name placed on the ballot through a certificate of endorsement, on a petition to have a candidate's name for that office placed on the primary ballot.

16.1-11-37. Vote required for nomination on no-party ballot — Partisan nominations prohibited.

The number of persons to be nominated as candidates for any one no-party office must be that number of persons who receive the highest number of votes and who total twice the number of available positions for the office if that many persons are candidates for nomination. Provided, however, that a person may not be deemed nominated as a candidate for any no-party office at any primary election unless the number of votes received by the person equals the number of signatures of qualified electors required to be obtained on a petition to have a candidate's name for the office placed on the primary ballot. No partisan nominations may be made for any of the offices mentioned in section 16.1-11-08.

16.1-11-38. Tie vote determination.

In case of a tie vote the nominee or nominees must be determined by a drawing of names in the presence of the candidates upon at least five days' notice to each candidate, by the canvassing board or boards concerned, at a time and place designated by the board. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules of filling an office when a vacancy exists.

16.1-11-39. Persons nominated in accordance with provisions of chapter eligible as candidates in general election.

All persons nominated in accordance with the provisions of this chapter are eligible as candidates to be voted for at the ensuing general election.

16.1-11-40. Primary election and ballot governed by general election provisions.

Except as otherwise provided in this chapter, the primary election ballot must be arranged, and the primary election must be provided for, conducted, and the expenses thereof paid as in the case of a general election.

CHAPTER 16.1-11.1 – Mail Ballot Elections

16.1-11.1-01. Counties may conduct mail ballot elections — Polling places — Records.

1. The board of county commissioners of a county may conduct an election by mail ballot. The mail ballot election must include city elections administered by the county auditor and may include any other election administered by the county auditor pursuant to an agreement with the governing body of a political subdivision within the county. The board shall designate one or more polling places in the county to be open on the day of the election for voting in the usual manner. The county auditor shall place a notice at all polling places in the county used at the last statewide election which states the location of the polling places open for the election. The county auditor shall keep a record of each mail ballot provided to qualified electors and provide to the election board at each polling place open on the day of the election a list of every person who applied for a mail ballot.
2. The board of county commissioners of a county may conduct an election partially by mail ballot. If the board of county commissioners chooses to conduct an election partially by mail ballot, the commission may use mail ballots for any precinct in which fewer than four hundred votes were cast for the office of governor at the last general election at which that office was on the ballot.

16.1-11.1-02. Application for mail ballots.

The county auditor shall mail an application form for a mail ballot to each individual listed in the central voter file for the county on one date no sooner than the fiftieth day before the election and no later than the fortieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the form provided in section 16.1-07-06.

16.1-11.1-03. Mail ballot distribution.

The county auditor shall mail an official mail ballot with a return identification envelope, voter's affidavit, and instructions according to section 16.1-07-08.

16.1-11.1-04. Voting by electors.

Upon receipt of a mail ballot, an elector shall mark it, sign the return identification envelope, and comply with the instructions provided with the ballot. The elector may return the completed ballot to the county auditor by mail or, before five p.m. on the day before the election, to any other place of deposit designated by the auditor. If the elector returns the ballot by mail, the elector shall provide the postage, and the ballot must be postmarked no later than the day before the election.

16.1-11.1-05. Replacement ballots.

An elector may obtain a replacement ballot if a mail ballot is destroyed, spoiled, lost, or not received by the elector. The elector seeking a replacement ballot shall make the elector's request of the county auditor or appropriate election officer no later than four p.m. on the day before the election. After submission to the appropriate election officer, a voter’s marked mail ballot may not be returned to the voter for any reason other than to complete any missing information required on the affidavit on the back of the return envelope.

16.1-11.1-06. Canvass of votes — Mail ballot precinct.

The county auditor shall appoint a mail ballot precinct election board for the purpose of counting mail ballots in the same manner as prescribed in section 16.1-07-12.1. The board may

begin scanning the ballots at any time beginning on the day before election day and the closing of the polls on election day. Results from the mail ballot 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. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12 as applicable. A county conducting a mail ballot election constitutes one voting area, and ballots need not be sorted according to precinct or ward unless necessary for the administration of the election.

16.1-11.1-07. Counting of mail ballots.

A mail ballot may be counted only if:

1. The ballot is returned in the return identification envelope with a postmark or official date stamp of at least the day before the election and received prior to the meeting of the canvassing board;
2. The envelope is signed by the elector to whom the ballot is issued; and
3. The signature has been verified by the election board with the signature on the elector's mail ballot application form.

16.1-11.1-08. Election laws applicable.

When applicable, all election procedures provided in this title must be followed.

CHAPTER 16.1-12 – Certificates of Nomination — Vacancies

16.1-12-01. Certificate of nomination — Party and independent.

A certificate of nomination must be either:

1. The certificate of nomination required to be executed by the state or a county canvassing board pursuant to sections 16.1-15-40 and 16.1-15-21, respectively, for party nominations.
2. The certificate of nomination by petition for independent nominations provided for by this chapter.

16.1-12-02. Certificates of nomination by petition — Form and contents.

Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. Except for nominees for president of the United States, names of nominees so nominated must appear on the ballot as independent nominations. The names of nominees for president of the United States may appear on the ballot with a designation, not to exceed five words, that names the organization or political party to which the presidential candidate affiliates. The designation may not falsely indicate an affiliation with or the support of any political party organized in accordance with this title or include any substantive word or phrase that is profane or that is already included in or resembles the name of a political party entitled to a separate column under section 16.1-11-30. Except for candidates for the office of president of the United States, each certificate of nomination by petition must meet the specifications for nominating petitions set forth in section 16.1-11-16. A political party or organization desiring to submit to the secretary of state the name of a qualified candidate for the office of the president of the United States may begin gathering the signatures for the certificate of nomination on the first day of January of a presidential election year and shall submit the petition to the secretary of state before four p.m. on the sixty-fourth day before the general election. The signatures on the petition must be in the following number:

1. Except as provided in subsection 3, if the nomination is for an office to be filled by the qualified electors of the entire state, there must be no fewer than one thousand signatures.
2. If the nomination is for an office to be filled by the qualified electors of a district less than the entire state, the number of signatures must be at least two percent of the resident population of the district as determined by the most recent federal decennial census, but in no case may more than three hundred signatures be required.
3. If the nomination is for the office of president, there must be no fewer than four thousand signatures and the petition must contain the names of the presidential and vice presidential candidates along with the names of the North Dakota presidential electors selected from the qualified electors of North Dakota.
4. If the petition is for the office of governor or lieutenant governor, it must contain the names and other required information of candidates for both those offices.

16.1-12-02.1. Applicant's name placed upon ballot — Affidavit to accompany petition.

Upon receipt by the secretary of state of the certificate of nomination provided for in section 16.1-12-02 accompanied by the following affidavit, the secretary of state shall place the applicant's name upon the general election ballot. The affidavit must be substantially as follows:

State of North Dakota)
)ss.
County of _____)

I, _____, being sworn, say that I reside at _____, in the city of _____, in the county of_____, state of North Dakota; and zip

code of_____; that I am a candidate for nomination to the office of _____ to be chosen at the general election to be held on _____, ____, and I request that my name be printed upon the general election ballot as provided by law, as a candidate of _____ party for said office. I am requesting that my name be listed on the ballot as I have identified my ballot name below. I understand that nicknames are allowed as part of my ballot name, but titles and campaign slogans are not permissible. I have reviewed the requirements to hold office and I certify that I am qualified to serve if elected.

_____
Ballot name requested

Date _____ _____
Candidate's signature

Subscribed and sworn to before me on _____, _____.

_____
Notary Public

NOTARY SEAL My Commission Expires _____

16.1-12-02.2. Counting of write-in votes — Certificate of candidacy by write-in candidates.

1. An election board or canvassing board may not count or be required to officially report any write-in vote for any:
   a. Individual who is required to file a certificate of write-in candidacy under this section but who has not filed a certificate of candidacy and been certified as a write-in candidate.
   b. Fictitious person or individual clearly not eligible to qualify for the office for which the vote was cast.
   c. Statement concerning the candidates.
   d. Name written or printed by the voter for an office that did not also include the darkening of the oval next to the write-in line, except that a write-in candidate for a nonfederal office may make a timely written demand to a county canvassing board to identify and preserve any write-in vote cast for the office sought by the write-in candidate for canvass by the board. The candidate shall deliver the demand to the county auditor and a copy to the county recorder no later than thirty-six hours before the time the county canvassing board is scheduled to meet. A demand only may be made if the unofficial election results maintained by the county auditor demonstrate that the write-in candidate's known vote total is within the pertinent percentage limits provided in subsection 1 or 2 of section 16.1-16-01 and a statement to that effect is included in the demand. After delivery of the ballots as provided by section 16.1-15-08, the canvassing board shall review the ballots to identify any ballot that contains a write-in vote. The county canvassing board shall tally and canvass any write-in vote in the same manner as lawful or qualifying write-in votes if the canvassing board is able to clearly ascertain the intent of the voter from examining the ballot because the write-in candidate's name has been written on the ballot opposite the office to be voted for or because of any other cogent evidence of intent.
   e. Write-in votes which constitute five percent or less of the votes cast by the voters for the candidate receiving the most votes for that 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. This percentage is to be calculated based on the total number

of write-in votes tabulated by the voting equipment in the precincts of the county in which that office was on the ballot.

f. Candidate receiving fewer than three write-in votes unless the number of votes received qualifies the candidate to be nominated or elected.

2. Write-in votes that do not need to be individually canvassed based on the requirements of ~~this~~ subsection 1 must be listed on the official canvass report as “scattered write-ins”.
3. An individual who intends to be a write-in candidate for president of the United States or for statewide or judicial district office at any election shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the election. The certificate must contain the name and address of the candidate and be signed by the candidate. Before the thirteenth day before the election, the secretary of state shall certify the names of the candidates to each county auditor as write-in candidates.
4. An individual who intends to be a write-in candidate at the general election for president of the United States shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the general election. The certificate must contain the names and addresses of the candidates for presidential electors for that presidential candidate and a certification of acceptance signed by each candidate for elector. The candidate shall sign the certificate. The certificate may also include the name and address of a candidate for vice president of the United States and a certification of acceptance signed by that candidate. The secretary of state shall prescribe the form of the certificate of write-in candidacy and the certification of acceptance. Before the thirteenth day before the election, the secretary of state shall certify the names of the presidential candidates and the presidential electors to each county auditor as write-in candidates.
5. An individual who intends to be a write-in candidate for any legislative district office shall file a certificate of write-in candidacy with the secretary of state. The certificate must contain the name, address, and signature of the candidate. Certificates must be filed by four p.m. on the fourth day before the election. When the candidate files a certificate, the candidate also shall file the contribution statement provided for under section 16.1-08.1-02 complete through the day of the filing of the certificate.
6. A certificate under this section is not required when:
   a. No names will appear on the ballot for an office;
   b. The number of candidates appearing on the ballot for an office is less than the number to be elected; or
   c. The number of candidates appearing on the ballot for a party office is less than the number of nominations a party is entitled to make.
7. An individual required to file a certificate of write-in candidacy may not seek more than one office appearing on the primary and general election ballots.

16.1-12-02.3. Nominating petition for an independent candidate not to be circulated more than one hundred fifty days before filing time — Special election.

A petition provided for in this chapter may not be circulated or signed more than one hundred fifty days before the date when any petition must be filed under this chapter. Any signatures to a petition obtained more than one hundred fifty days before that date may not be counted. A nominating petition for a special election may not be circulated or signed more than thirty days before the date when the petition must be filed.

16.1-12-03. Certificate of nomination to contain only one name — Person to participate in only one nomination — Exception.

No certificate of nomination provided for by this chapter, except in the case of presidential electors, may contain the name of more than one nominee for each office to be filled. A person elected or appointed to an office appearing on the no-party ballot or seeking nomination and election to a no-party office may also seek nomination to legislative office and may serve in the legislative assembly, unless the no-party office is the office of district court judge, or a statewide elective office. Except as may be permitted in this section, no person may participate directly or indirectly in the nomination of more than one person for each office to be filled on the general election ballot, except a person may sign a certificate of nomination by petition for more than one person for each office, and no person may accept a nomination to more than one office on the general election ballot. No political party is entitled to more than one set of nominees on the official general election ballot.

16.1-12-04. Certificates of nomination — Time and place of filing.

1. Certificates of nomination for nominees for offices to be filled by the qualified electors of the entire state must be filed with the secretary of state. Not less than fifty-five days before any general or special election to fill any statewide office, the secretary of state shall electronically transmit a certified list to each county auditor the names and addresses of the persons nominated for statewide office according to this chapter as shown on the certificates of nomination filed in the secretary of state's office.
2. Certificates of nomination for nominees for county offices must be filed with the county auditor of the county in which the candidate resides.
3. Certificates of nomination must, without regard to the means of delivery, be filed and in the actual possession of the appropriate officer not later than four p.m. on the sixty-fourth day prior to the day of election.
4. The secretary of state and the county auditors shall keep on file for six months all certificates of nomination filed with them under this chapter and all certificates of nomination must be open to public inspection during regular business hours.

16.1-12-05. Secretary of state to certify nominations to county auditor — Duty of county auditor.

Repealed by S.L. 1997, ch. 200, § 4.

16.1-12-06. Person nominated by more than one party — Column in which name placed.

When one person has been nominated for the same office by more than one body of electors qualified to make nominations for public office, the nominee shall file with the secretary of state or before the last day fixed by law for filing certificates of nomination for the office, a signed statement designating the column on the official ballot in which the nominee desires the nominee's name to appear. The column so designated must be the column allotted to one of the bodies of electors by whom the person was nominated. In the absence of a timely written designation as provided by this section, the secretary of state shall place the person's name in the column allotted to the body of electors from which was first received notice of the person's nomination.

16.1-12-07. If nominee declines — Certificate void.

Any person intending to decline a nomination shall do so by filing written notice of that intention with the officer with whom the certificate nominating the person is filed. If the written notice is filed with the appropriate officer before four p.m. on the sixty-fourth day before the

election, the nomination is void. If written notice is mailed, it must be in the physical possession of the appropriate officer before four p.m. on the sixty-fourth day before the election.

16.1-12-08. Vacancy occurring on ballot before election day but after ballots are printed — Stickers used.

Repealed by S.L. 2001, ch. 203, § 9.

16.1-12-09. Filling vacancy existing on no-party ballot — Petition required — Time of filing.

Whenever a vacancy exists on a no-party ballot for a state office or for judge of a district court, such vacancy may be filled by filing with the secretary of state, before four p.m. on the sixty-fourth day, a written petition as provided in section 16.1-11-06, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. If the petition is mailed, it must be in the physical possession of the secretary of state before four p.m. on the sixty-fourth day prior to the general election. The petition for the nomination of any person to fill such vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for the office of governor in the state or district, at the most recent general election at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.

Whenever a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor before four p.m. of the sixty-fourth day a written petition as provided in section 16.1-11-11, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. If such petition is mailed or otherwise delivered, it must be in the possession of the county auditor before four p.m. on the sixty-fourth day prior to the general election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors equal in number to at least thirty percent of the total vote cast for the office of governor at the most recent general election in the county or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.

A vacancy in the no-party ballot must be deemed to exist when:

1. A candidate nominated at the primary election dies, resigns, or otherwise becomes disqualified to have the candidate's name printed on the ballot at the general election.
2. No candidates were nominated at the primary election because the office did not yet exist.
3. The timing of the vacancy in an office makes it impossible to have it placed on the primary ballot.

CHAPTER 16.1-13 – General Elections

16.1-13-01. Date of general election.

The general election must be held in all the election districts of this state on the first Tuesday after the first Monday in November of each even-numbered year.

16.1-13-02. Officers to be elected at general election.

All elective state, district, and county officers, and the United States senators, and the members of the United States house of representatives, must be elected at the general election next preceding the expiration of the term of each such officer. In a year when a president and vice president of the United States are to be chosen, a number of presidential electors equal to the number of senators and representatives to which this state is entitled in the Congress of the United States must be elected at such general election.

16.1-13-03. Secretary of state to give notice to county auditor of officers to be elected.

Repealed by S.L. 2015, ch. 158, § 5.

16.1-13-04. Candidates' names placed on official general election ballot.

The names of all candidates of each political party or principle or no-party designation, who are shown to have been nominated for the several offices in accordance with the certificates of nomination filed in the secretary of state's office, must be placed by the secretary of state on the official ballot to be voted for at the next general election.

16.1-13-05. Notice of election — Contents — Publication with sample ballot.

Notice of all general elections must be published by the county auditor in the official county newspaper at the same time as, and as a part of, the publication of the sample ballot preceding the election. The notice must be substantially as follows:

Notice is given that on Tuesday, November _____, ___, at the polling places in the various precincts in the county of _____, an election will be held for the election of state, district, and county officers, which election will be opened at _____ a.m. and will continue open until _____ p.m. of that day with the following exceptions:

_____

_____

Dated _____, _____

Signed _____

County Auditor

The county auditor shall publish a copy of the sample ballot of the general election once each week for two consecutive weeks before the election in the official county newspaper. If no newspaper is published in the county, the publication must be in a newspaper published in an adjoining county in the state. The form of the sample ballot as ordered and arranged by the county auditor must conform in all respects to the form prescribed by the secretary of state for the sample general election ballot. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in the county. Absentee voter ballots may not be considered in determining which form of voting is used. Candidates from each legislative district which falls within the boundaries of the county must be listed in a separate box or category within the sample ballot by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest total

vote for governor at the last general election at which the office of governor was filled. The notice must include a statement in substantially the following format:

The arrangement of candidate names appearing on ballots in your precinct may vary from the published sample ballots, depending upon the precinct and legislative district in which you reside.

16.1-13-06. Defeated primary candidate ineligible to have name printed on general ballot — Exception.

Except to fill a vacancy occurring on the ballot, an individual who was a candidate for nomination by any party or a candidate for a no-party office at any primary election in any year and who was defeated for the nomination may not have that individual's name printed upon the official ballot at the ensuing general election for the same office.

16.1-13-07. Preparation, printing, distributing, canvassing, and returning of no-party ballot.

The no-party ballot must be prepared, printed, distributed, canvassed, and returned in the same manner provided for other general election ballots.

16.1-13-08. Filling vacancy in office of United States senator.

When a vacancy occurs in the office of United States senator from this state, the governor shall call a special election to be held within ninety-five days to fill the vacancy. If the vacancy occurs within ninety-five days of the expiration of the term of office for that office, no election may be held to fill the vacancy.

16.1-13-08.1. Special election to fill a vacancy in the United States House of Representatives due to a catastrophic circumstance.

If a vacancy occurs in the office of representative in Congress due to a catastrophic circumstance in which one hundred or more representatives across the United States are no longer able to serve and the next regular or special election is more than seventy-five days in the future, the governor shall immediately issue a writ of election calling a special election to fill the vacancy. The date of the election shall be forty-nine days from the date of the proclamation and the following deadlines shall apply:

1. Certificate of endorsement as described in section 16.1-11-09, affidavits of candidacy described in section 16.1-11-10, and statements of interest described in section 16.1-09-03 for those candidates nominated by political parties currently established in the state shall be filed with the secretary of state by four p.m. on the fortieth day before the election.
2. If the election occurs in an election year, the precincts previously established by the county shall be utilized.
3. If the election occurs in a year without a scheduled election, the board of county commissioners must establish the precinct boundaries by the fortieth day before the election.
4. The secretary of state shall certify to the county auditors the names of the candidates for the election on the thirty-ninth day before the election.
5. Absentee ballots shall be made available to qualified electors by the thirtieth day before the election.

16.1-13-09. Resignation of members of legislative assembly after certificate of election.

Any person who receives a certificate of election as a member of the legislative assembly may resign such office although the person may not have entered upon the execution of the duties thereof nor taken the requisite oath of office.

16.1-13-10. Vacancy existing in office of member of legislative assembly.

1. If a vacancy in the office of a member of the legislative assembly occurs, the county auditor of the county in which the former member resides or resided shall notify the chairman of the legislative management of the vacancy. The county auditor need not notify the chairman of the legislative management of the resignation of a member of the legislative assembly when the resignation was made under section 44-02-02. Upon receiving notification of a vacancy, the chairman of the legislative management shall notify the district committee of the political party that the former member represented in the district in which the vacancy exists. The district committee shall hold a meeting within twenty-one days after receiving the notification and select an individual to fill the vacancy. If the former member was elected as an independent candidate or if the district committee does not make an appointment within twenty-one days after receiving the notice from the chairman of the legislative management, the chairman of the legislative management shall appoint a resident of the district to fill the vacancy. Except as provided in subsection 2, if eight hundred twenty-eight days or more remain until the expiration of the term of office for that office, the individual appointed to fill the vacancy shall serve until a successor is elected at and qualified following the next general election or special election called by the governor according to subsection 2 to serve for the remainder of the term of office for that office.
2. The qualified electors of a legislative district in which a vacancy in the legislative assembly occurs may petition for a special election to be called by the governor to fill the vacancy. The petition must include the signatures of qualified electors equal in number to four percent of the resident population of the legislative district as determined by the last federal decennial census and must be presented to the secretary of state within thirty days following an appointment being made according to subsection 1. If the secretary of state determines the petition contains the required number of signatures of qualified electors of the affected legislative district, the secretary of state shall notify the governor that a special election is required to be called to fill the vacancy. Upon receiving such notice, the governor shall issue a writ of election directed to the county auditor of each affected county commanding the county auditor to hold a special election to fill the vacancy at a time designated by the governor. A special election under this section must conform to the applicable election deadlines found in this title and may be called to coincide with a regularly scheduled primary or general election provided the special election is called by the fifteenth day before the deadline for candidates to file for office before a regularly scheduled primary or general election. A special election under this section may not be scheduled to occur during the time from a general election through eighty days following the adjournment of the next ensuing regular session of the legislative assembly.
3. The secretary of state must be notified of an appointment made by a district committee or the chairman of the legislative management according to this section. Upon notification, the secretary of state shall issue the appointee a certificate of appointment and an oath of office for the appointee to complete and file with the secretary of state.

16.1-13-11. Vacancy occurring in legislative assembly during session — Duty of governor.

Repealed by S.L. 2001, ch. 209, § 3.

16.1-13-12. Notice of special election.

A notice of a special election and the copy of the sample ballot must be issued and published in substantially the form and manner prescribed by section 16.1-13-05.

16.1-13-13. Canvassing and returning votes cast at elections to fill vacancies.

Votes cast at special elections must be canvassed and returned as provided for primary and general elections, and the county auditor within eight days shall forward to the secretary of state the abstracts of the same.

16.1-13-14. Special election to fill vacancies — Party committee to call convention to nominate — Individual nominations.

If a special election is called to fill a vacancy in any office for which a party nomination may be made, the proper party committee shall call a convention to make a party nomination for such office, and the precinct committeemen of the district must be duly convened and shall elect the required number of delegates to such convention. Individual nominations for special elections must be made in accordance with the provisions of chapter 16.1-12.

16.1-13-15. Notice of holding convention for special election — Manner of giving.

Public notice of such a nominating convention must be given at least six days before the holding of the convention by publication in the official newspaper in the county or counties in which the election will be held. Such nomination must be made by delivering to and leaving with the officer charged with directing the printing of the ballots upon which the name is to be placed, within the time prescribed in this title, a certificate of nomination for each candidate.

16.1-13-16. Basis of representation at convention — How determined.

The basis of representation of delegates to a convention, unless otherwise provided by law, must be fixed and determined by the authorized district or state committee of each political party entitled by law to make nominations for office by delegate convention.

16.1-13-17. Certificate of nomination by convention — Contents — Delivery.

All nominations made by a convention as provided in this chapter must be certified. The certificates of nomination must be in writing and must contain all of the following:

1. The name of each person nominated, that person's post-office address, telephone number, the office for which that person is nominated, the legislative district number if applicable, and whether the certificate is intended for an unexpired term of office if applicable.
2. A designation in not more than five words of the party or principle which the convention represents.
3. The signature, post-office address, and verification of the presiding officer and secretary of the convention.

The certificate as prescribed in this section must be delivered by the secretary or president of the convention by registered or certified mail or in person, without charge, to the secretary of state or the county auditor, as the case may be.

16.1-13-18. Two or more organizations filing certificates representing same party — Secretary of state to determine authorized organization — Review of determination.

If two or more organizations claiming or purporting to represent the same political party shall file certificates of nomination under the same party designation, or if the certificates indicate that the nominations were made by any person or organization representing the same political party, the secretary of state, within the time prescribed by law for certifying state nominations to the county auditor, shall determine from the best available sources of information which organization filing the certificates is the legally authorized representative of the party. The decision of the secretary of state in determining which organization is the legally authorized representative of the party is subject to review by the district court in a proper action instituted for such purpose.

16.1-13-19. Election not to be held in room where alcoholic beverages sold.

No election may be held in a room in which alcoholic beverages commonly are sold.

16.1-13-20. Examination of ballot box before opening of polls — Regulations for ballot box while polls are open.

Before declaring the polls open, the inspector and the election judges shall inspect the ballot box to assure that it is empty. The ballot box must then be locked. While the polls are open, the ballot box must remain locked except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box to make room for additional ballots.

16.1-13-21. Producing, opening, and delivering ballots on election day.

Upon arrival at the poll of all election board members, or at the latest, upon the opening of the poll, the inspector of election shall produce the sealed package of official ballots and publicly open them.

16.1-13-22. Delivering ballot to elector — Initialing.

The inspector or one of the election judges shall deliver ballots to the qualified electors. The inspector or judge delivering the paper ballot shall inform each elector that if the ballot is not initialed by an election official it will be invalidated and to protect the elector's right to vote the elector should verify that the ballot has been initialed. Before delivering any paper ballot to an elector, the inspector or judge shall initial the ballot. Failure to initial a paper ballot in the proper place does not invalidate the ballot, but a complete failure to initial a paper ballot does invalidate the 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 cast as is and may not be returned to the voter even if errors exist causing certain votes not to be counted.

16.1-13-24. Voting on electronic voting system devices.

Except as provided in this section, voting procedures for electronic voting systems must be similar or as close as practicable to regular paper ballot voting. Voting procedures on direct-recording electronic voting system devices must follow as close as practicable the procedures for voting by paper ballot, with the exception of voting on a ballot display provided by electro-optical devices which shows the names and candidates and the questions to be voted on and which allows a voter to directly enter choices into electronic storage with the use of a touchscreen or other data entry device.

16.1-13-25. Elector may write name on ballot — Counting.

The provisions of this title do not prevent any elector from writing on the paper ballot, or in the case of direct-recording electronic voting system devices, entering by touchscreen or other data entry device, the name of any person for whom the elector desires to vote, and such vote must be counted according to the provisions for the counting of write-in votes found in section 16.1-12-02.2.

16.1-13-26. Name written or pasted on ballot evidence of vote without marking X.

Repealed by S.L. 2005, ch. 184, § 18.

16.1-13-27. Assistance to elector — Polling place accessibility.

Any elector may receive the assistance of any person of the elector's choice, other than the elector's employer, officer or agent of the elector's union, a candidate running in that election, or a relative of a candidate as provided in subsection 2 of section 16.1-05-02, in marking the elector's ballot. If the elector requests the assistance of a member of the election board, however, the elector shall receive the assistance of both election judges in the marking of the elector's ballot. No one assisting any elector in marking a ballot under this chapter may give information regarding the ballot. No elector, other than one who requests assistance, may divulge to anyone within the polling place the name of any candidate for whom the elector intends to vote, nor ask, nor receive the assistance of any person within the polling place to mark the elector's ballot. Parking facilities at polling places must be accessible to the elderly and the physically disabled and must be clearly marked.

16.1-13-28. Penalty for requesting voter to vote in certain manner.

Any person chosen to assist a voter who shall request the voter the person is assisting to vote for or against any person or any issue is guilty of a class B misdemeanor.

16.1-13-29. Election booths or compartments — Number required — Expense.

The inspector of elections shall provide a sufficient number of voting booths or compartments in the inspector’s polling place, which must be designed to enable the elector to mark, or in the case of direct-recording electronic voting system devices, enter by touchscreen or other data entry device, the elector’s ballot screened from observation. The number of booths or compartments in precincts may not be less than one for each one hundred fifty electors or fraction thereof in the precinct. The expense of providing the booths or compartments must be paid in the same manner as other election expenses. One electronic voting system device must be provided in each precinct.

16.1-13-30. One person to occupy booth — Time limit in booth.

Not more than one person may be permitted to occupy any one voting booth or compartment at one time except when providing lawful assistance. A person may not remain in or occupy a booth or compartment longer than necessary to prepare the person’s ballot.

16.1-13-31. Removal of ballot from polling place before closing of polls — Prohibited.

No person may take or remove any ballot from the polling place before the close of the polls.

16.1-13-32. Securing new ballot upon spoiling of others.

If any elector spoils a ballot before casting the ballot in the ballot box, 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.

16.1-13-33. Electronic voting systems — Election laws apply.

All provisions of law relating to the conduct of elections apply as closely as possible to elections at which electronic voting systems are used.

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.

CHAPTER 16.1-14 – Presidential Electors

16.1-14-01. Canvassing votes for presidential electors — Tie vote.

The state canvassing board in examining and making a statement of the votes for, and in determining and certifying the persons chosen as, presidential electors shall proceed in the manner prescribed in this title for the canvass of votes for state officers. The secretary of state likewise shall file and record such statement and determination. In canvassing the returns for presidential electors, the group of electors having the greatest number of votes is to be declared elected. If two or more groups of electors are found to have an equal and the greatest number of votes, the election of one group must be determined by a drawing of names, with the governor drawing the names in the presence of the other members of the state canvassing board.

16.1-14-02. Secretary of state to prepare certificates of election.

The secretary of state shall prepare certificates of election for each presidential elector chosen at the election. Each certificate must be signed by the governor and the secretary of state and the great seal of the state must be affixed thereto. One certificate must be delivered to each of the electors chosen.

16.1-14-03. Proclamation of result by governor — Publishing — Certificate of election.

Within ten days after the state canvassing board completes the canvass of the votes cast for presidential electors, as certified by the auditors of the respective counties, the governor shall declare by proclamation, to be printed in the official county newspaper printed and published at the seat of government, the names of the persons who have received the highest number of votes returned for such office. If the election of such persons has not been contested by notice of contest having been filed with the governor within ten days after the date of such proclamation, then such persons must be deemed elected, and the governor shall transmit to each person so chosen a certificate of election.

16.1-14-04. Meeting of presidential electors.

Presidential electors shall meet at one p.m. in the office of the governor in the state capitol on the first Monday after the second Wednesday in December next following their appointments by election for the purpose of casting their ballots as members of the electoral college. The secretary of state shall notify the electors of the date of the meeting.

16.1-14-05. Filling of vacancy existing in office of presidential elector.

If a vacancy exists in the office of an elector for any reason, the electors present at the meeting provided for in section 16.1-14-04 shall first proceed to fill such vacancy by ballot by a plurality of the votes. When all the electors appear, or the vacancies have been filled as provided in this section, they shall proceed to perform the duties required of them by the constitution and laws of the United States.

16.1-14-06. Compensation of presidential electors.

The electors provided for in this chapter shall receive the same per diem and the same mileage as members of the legislative assembly.

16.1-14-07. Board for trial of contest of presidential electors — How constituted — Oath.

The board for the trial of contests of elections for presidential electors shall consist of the chief justice of the supreme court, who must be president of the board, and two judges of the district

court designated by the governor. If the chief justice is unable to attend at such trial, the next senior judge on the supreme court shall preside in place of the chief justice. The secretary of state must be the clerk of the board, or in the secretary of state's absence or inability to act, the clerk of the supreme court must be the clerk. Each member of the board, before entering upon the discharge of the member's duties, shall take an oath, before the secretary of state or some other officer qualified to administer oaths, that without fear, favor, affection, or hope of reward, the member will, to the best of the member's knowledge and ability, administer justice according to law and the facts of the case.

16.1-14-08. Contestant may apply to board.

A group of electors appearing, by the proclamation of the governor, to have received not less than one-fifth of the votes cast at an election for presidential electors, may apply to the board provided for in section 16.1-14-07 for a declaration of election as presidential electors.

16.1-14-09. Application to state grounds of contest.

The application provided for in section 16.1-14-08 must be made by petition in writing to be filed in the office of the secretary of state within ten days from the date of the proclamation provided for in section 16.1-14-03. The petition, regardless of its mode of delivery, must be in the possession of the secretary of state before four p.m. on the tenth day as provided in this section, and the secretary of state shall convene the board forthwith. The petition must set forth the names of the persons whose election is contested and the ground for such contest. The petitioner, before any proceedings are had upon the petition, except the convening of the board, shall file a bond to this state in a sum and with such surety as the board shall order, conditioned for the payment of all costs incurred in the prosecution of such contest in the case the contestants do not prevail.

16.1-14-10. Notice to persons contested.

Upon the filing of the petition and bond as provided in section 16.1-14-09, the board for the trial of an election contest shall order written notice of the petition to be given to the governor and to the persons whose election is contested. Notice must also be published in a newspaper as the board shall order. Notices provided for by this section must contain a concise statement of the facts alleged in the petition and a designation of the time and place fixed by the board for the hearing, which must be not less than three nor more than fifteen days from the filing of the petition.

16.1-14-11. Appearance by parties to contest.

At the time fixed for the hearing, the petitioners shall appear and produce their evidence, and the persons whose election is contested may appear and produce evidence in their behalf. Any party to the contest proceedings may appear in person or by attorney, and no other person is entitled to be made a party to the proceedings or to be heard personally or by counsel therein. If more than one petition is pending, the board, in its discretion, may order the contests to be heard together.

16.1-14-12. Hearing — How conducted.

The board shall hear the contest and decide all questions of law and fact involved. The burden of proof in each case must be upon the petitioners, and the hearing must be confined to the grounds stated in the petition, but the board in its discretion may allow the petition to be amended. No ex parte affidavits shall be competent evidence at the hearing. A person may not be excused from testifying or from producing papers or documents at the hearing on the grounds that such testimony will tend to incriminate the person, but no person so testifying may be subject to any suit or prosecution, civil or criminal, for any matter or cause in respect to which the person is examined or to which the person's testimony relates. The board has the same power to compel the

attendance of witnesses as the district courts of this state possess, and nothing contained in this chapter may be held to limit the power of the board to make such regulations as to the conduct of the proceedings as it may deem proper, not inconsistent with the provisions of this chapter. The board has all powers necessary to the complete performance of the duties and authority conferred upon it by this chapter.

16.1-14-13. Certification of determination of board.

The board shall determine in each case which of the parties to the proceedings are entitled to the office of elector, and shall cause its determination to be entered of record in a manner and form as it shall direct, and shall certify the same to the governor and secretary of state. The certified determination is final and conclusive that the persons stated therein are duly elected. The governor shall transmit to such persons their certificates of election, and every such certificate must recite that it is issued pursuant to a determination under the provisions of this chapter.

16.1-14-14. Failure of petitioners to appear — Effect.

If any petitioners fail to appear and prosecute their petition against the persons who have been made respondents thereto, according to the requirements of this chapter and of any rules made by the board, the board shall determine that they have failed, and shall cause the determination to be entered of record in such manner and form as it shall direct, and forthwith shall certify the determination to the governor and secretary of state. The determination is a final and conclusive bar to the claim of the petitioners against such respondents as fully and completely as if the claim had been heard and determined on its merits, and the governor shall issue certificates of election as provided in section 16.1-14-13.

16.1-14-15. Costs — Taxation.

The costs of an election contest under the provisions of this chapter must be taxed under the direction of the board. If two or more cases are heard together, the costs must be apportioned as the board shall direct. In each case in which the petitioners do not prevail, the costs must be paid by them, and in each case in which the petitioners prevail, the costs must be paid by the state. If the costs are required to be paid by the state, the board shall certify the costs to the office of management and budget, which shall issue a warrant upon the state treasurer in payment of the same.

16.1-14-16. Determination of final hearing.

The final hearing and determination under the provisions of this chapter must be by a majority of the board, but any single member may exercise any of the other powers given to the board by this chapter.

16.1-14-17. Mileage and per diem of board members.

The members of the board trying the presidential election contest must be compensated in the same manner as state officers pursuant to sections 44-08-04 and 54-06-09.

16.1-14-18. Eligibility of new residents to vote.

Each citizen of the United States who, immediately prior to the citizen's removal to this state, was a citizen of another state and who has been a resident of the precinct for less than thirty days prior to a presidential election, is entitled to vote for presidential electors at that election, but for no other offices, if:

1. The citizen otherwise possesses the substantive qualifications to vote in this state, except requirement of residence; and
2. The citizen complies with the provisions of sections 16.1-14-18 through 16.1-14-28.

16.1-14-19. Eligibility of former residents to vote.

Each citizen of the United States who was a qualified elector in this state immediately prior to establishing residence in another state and who has not qualified for voting purposes due to the residency requirement of that state may vote in North Dakota for president and vice president only, by applying for a separate ballot at least one day before the election in accordance with sections 16.1-14-20, 16.1-14-23, 16.1-14-24, 16.1-14-25, 16.1-14-26, and 16.1-14-27, provided the statements relative to new residents contained therein must, for this purpose, be changed by the county auditor and inspector of elections to comply with the provisions of this section.

16.1-14-20. Application for presidential ballot by new residents.

A person desiring to qualify to vote for presidential electors is not required to register but, not less than ten days in advance of the election, shall make an application in the form of an affidavit executed in duplicate in the presence of the county auditor substantially as follows:

16.1-14-21. Mailing duplicate application.

The county auditor shall immediately mail to the appropriate official of the state in which the applicant last resided the duplicate of the application.

16.1-14-22. Filing and indexing information from other states.

The county auditor shall file each duplicate application or other official information received by the county auditor from another state indicating that a former resident of this state has made application to vote at a presidential election in another state and shall maintain an alphabetical index thereof for a period of four months after the election.

16.1-14-23. Delivery of ballot to applicant.

If satisfied that the application is proper and that the applicant is qualified to vote at the presidential election, the county auditor shall deliver to the applicant a ballot for presidential electors no sooner than thirty days nor later than one day prior to the next presidential election.

16.1-14-24. Voting by new residents.

1. The applicant, upon receiving the ballot for presidential electors, shall immediately mark the ballot in the presence of the county auditor but in a manner that the official cannot know how the ballot is marked. The applicant shall then fold the ballot in the county auditor's presence to conceal the markings and deposit and seal it in an envelope furnished by the county auditor.
2. The voter shall enclose the envelope containing the ballot in a carrier envelope which must be securely sealed. There must be imprinted on the outside of the carrier envelope a statement substantially as follows:

   CERTIFICATION OF NEW RESIDENT VOTER

   I have qualified as a new resident voter in this state to vote for presidential electors. I have not applied nor do I intend to apply for an absent voter's ballot from the state from which I have removed. I have not voted and I will not vote otherwise than by this ballot.

   Dated _____
   Witness _____
   County Auditor

   _____
   (Signature of Voter)

   The voter shall sign the certification upon the carrier envelope as set forth above and shall then deliver the sealed carrier envelope to the county auditor who shall keep the carrier

envelope in the county auditor's office until delivered by the county auditor to the inspector of elections of the precinct in which the applicant resides.

16.1-14-25. List of applicants open for public inspection.

The county auditor shall keep open to public inspection a list of all persons who have applied to vote as new residents with their names, addresses, and application dates for a period of two years.

16.1-14-26. Delivery and processing of presidential elector ballots.

1. The county auditor shall deliver the ballots for new residents to the inspector of elections in the manner prescribed by law for absentee ballots. The ballots must be processed in accordance therewith.
2. The inspector of elections shall record the new resident voter's name with a notation designating the person as a new resident voting for presidential electors only.

16.1-14-27. Application of other statutes.

Except as provided in sections 16.1-14-18 through 16.1-14-27, the provisions of law relating to absent voters' ballots apply also to the casting and counting of ballots of new residents, the furnishing of election supplies, ballots, canvassing of ballots, and making proper returns of the results of the election.

16.1-14-28. Definition of state.

As used in sections 16.1-14-18 through 16.1-14-27, "state" includes the District of Columbia.

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 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.

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 shall immediately generate the canvass report from the electronic 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 shall continue without adjournment until completed and must be open to the public. 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 other location must be in the same precinct and the removal must be approved by the election board. In no case may the ballots be removed to another location prior to generating the canvass report after the ballot boxes have been opened. 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.

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.

16.1-15-09. Electronic voting systems — Electronic counting machines — Returns.

1. Election officers shall generate reports of votes cast upon electronic voting systems and counted on electronic counting machines for all candidates and for any measures or questions in the same manner as now or hereafter provided by law or rule insofar as such provisions of law or rule are applicable.
2. Within the ability of an electronic counting machine to accurately do so, all votes are to 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 established in section 16.1-12-02.2, the county canvassing board shall canvass the votes for the write-in names for that office to determine final election results.
3. Votes cast upon a direct-recording electronic voting system must be tabulated from the voter's choices stored in the system's internal memory devices that are added to the choices of all other voters.
4. The county auditor shall designate the public place or places where electronic voting system ballots and ballots to be counted on electronic counting machines must be delivered by the election inspector and the two election judges to be counted in the presence of the election inspector and the two election judges. The county auditor shall designate the public place or places where votes cast upon direct-recording electronic voting systems are to be counted.
5. All counting centers used for counting votes cast upon electronic voting systems shall have tabulating equipment that has an element that generates a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate position and each question and the public counter are all set at zero. The tabulating equipment must also be equipped with an element that generates a printed record at the end of its operation 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 the two election judges must certify both printed records.
6. If any electronic voting system ballot or a ballot counted by an electronic counting machine is damaged or defective so that it cannot be properly counted by the automatic tabulating or electronic counting equipment, 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 clearly labeled duplicate, 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 automatic tabulating or electronic counting equipment — Counting by alternate method.

If the automatic tabulating or electronic counting equipment used as part of any electronic voting system, any electronic voting system device, or any electronic machine 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 properly arranged in the order of the precinct number in boxes that shall be 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. With the exception of the ballots containing lawful write-in votes that may be counted at the meeting of the county canvassing board, 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 such 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 county is composed of more than one legislative district and the election does not involve any legislative or statewide office, the county canvassing board must be composed of the county recorder, county auditor, chairman of the board of county commissioners, and one representative as appointed by the state chairman for 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.

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 sixth 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 — Write-in votes canvassed — Votes from unestablished precincts 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. Pursuant to section 16.1-12-02.2, the board shall canvass all qualifying write-in votes. The board may not count votes polled in any place except at established precincts. The county canvassing board is authorized to initial all absentee ballots cast pursuant to section 16.1-07-09 that were not considered or counted by election boards and to make a final determination of eligibility for all ballots which were rejected at the various precincts in the county for the reasons provided in sections 16.1-07-11 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 said officers and the provision of law is capable of correction by the election board, the county canvassing board may issue its subpoenas to the election board officers of the precinct wherein the defect occurs. The subpoenas must require the election board officers to appear forthwith 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 person 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 person 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. The abstract 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 persons or candidates of each political party or principle who receive the highest number of votes for the respective offices. If more than one person 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 persons 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.

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.

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 eighth 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.

Within eight days and before four p.m. on the eighth 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 persons are not elected to the state senate or house of representatives 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, if the legislative district in question is within one county, shall notify the secretary of state. The secretary of state shall notify the persons 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 by the county auditor. On the date fixed, the persons 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 person elected a certificate of election as provided in this chapter. If the legislative district in question is within the boundaries of more than one county, the county auditor of the county which cast the greater number of votes for the office of governor at the last election at which a governor was elected shall proceed in accordance with this section.

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, it shall examine the certified abstracts of the county canvassing boards and verify the computed final results as provided in section 16.1-15-33 and if it appears that:

1. Any material mistake has been made in the computation of votes cast for any person; or
2. The county canvassing board in any county has failed to canvass the votes or any part thereof cast in any precinct in its 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 thereto 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 persons have been duly elected to the offices and shall prepare and subscribe on each statement a certificate of that determination and shall deliver the same to the secretary of state. The candidate or candidates to be elected for each office receiving the highest number of votes must be duly elected to the office. A person who was entitled to have the person’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 that person receives a number of votes equal to or more than the number of signatures which would have been required to have that person’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 persons 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 person elected to a state or a district office. 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 _____, ___.

The certificate must be signed by the governor and the secretary of state, and must have the great seal of the state affixed, and must be attested by at least one of the other members of the state canvassing board.

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 person 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.

CHAPTER 16.1-16 – Recounts and Contest of Elections

16.1-16-01. Election recounts.

A recount of any primary, special, or general election for nomination or election to a congressional, state, district, legislative, county, or city office, or for the approval or disapproval of any measure, question, or bond issue submitted to the qualified electors of this state or one of its political subdivisions must be conducted according to guidelines established by the secretary of state and as follows:

1. A recount must be conducted when:
   a. Any individual failed to be nominated in a primary election by one percent or less of the highest vote cast for a candidate for the office sought.
   b. Any individual failed to be elected in a general or special election by one-half of one percent or less of the highest vote cast for a candidate for that office.
   c. A question, measure, or bond issue submitted to the qualified electors has been decided by a margin not exceeding one-fourth of one percent of the total vote cast for and against the question at any election.
2. A demand for a recount may be made by any of the following:
   a. Any individual who failed to be nominated in a primary election by more than one percent and less than two percent of the highest vote cast for a candidate for the office sought.
   b. Any individual who failed to be elected in a general or special election by more than one-half of one percent and less than two percent of the highest vote cast for a candidate for that office.
3. A demand for a recount must be made within three days after the canvass of the votes by the county canvassing board in the case of county elections and city elections that are combined with the county and by the state canvassing board in the case of presidential, congressional, state, judicial district, multicounty district, or legislative elections. The demand must be in writing, must recite one of the conditions in subsection 2 as a basis for the recount, must contain a bond in an amount previously established by the auditor or auditors doing the recount sufficient to pay the cost of the recount, and must be filed with:
   a. The secretary of state when the recount is for a congressional, state, district, or legislative office.
   b. The county auditor when the recount is for a county office or city office when a city election is combined with the county.
4. Within four days after the canvass of the votes by the state canvassing board in the case of presidential, congressional, state, judicial district, multicounty district, or legislative elections, the secretary of state shall notify all the county auditors to conduct recounts as required by subsection 1 and, when a timely recount demand is received and it is in proper form, as required by subsection 2. The secretary of state shall fix the date or dates of the recounts of legislative contests to be held within seven days after giving notice to the affected auditors that recounts must be conducted. The secretary of state shall fix the date or dates of the recounts of statewide races to be held within fourteen days after giving notice to the auditors that recounts must be conducted. Within four days after the canvass of votes by the county canvassing board or other political subdivision canvassing board, the county auditor or other political subdivision election official shall fix the date for recounts limited to the county, those cities within the county which combined the election with the county, or other political subdivision. The date must be within eight days after the canvass. In all recount proceedings, the county auditor or other election official, as appropriate, shall send notice of the date, place, and time of the recount to all candidates and petitioners involved by certified mail.

5. For recounts conducted by counties of federal, state, district, and county offices, measures, and questions, the county auditor must conduct the recount and may employ up to four qualified electors of the county to assist in the recount. The county auditor shall review all paper and electronic voting system ballots and associated records, whether the ballots were counted at the precinct or the county canvass, and all absentee ballots cast pursuant to section 16.1-07-09 to determine which ballots were cast and counted according to the law, including that the ballots were properly initialed and that the initials found on the ballots are verified as those of the precinct election board members. The county auditor shall check the precinct count and the count of the county canvassing board. If the county auditor is a candidate involved in the recount, the county auditor is disqualified from acting thereon, and the county recorder shall perform the duties required of the county auditor by this section. For recounts conducted by political subdivisions other than counties of local offices, measures, and questions, the election officer in a political subdivision shall administer a recount in the same manner as is required under this subsection for counties with respect to political subdivision ballot measures, questions, or bond issues.
6. a. The individuals entitled to participate at the recount are:
   (1) Each candidate involved in the recount, either personally or by a representative.
   (2) A qualified elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.
   b. The individuals allowed to participate may challenge the acceptance or exclusion of any ballot. The individual challenging a ballot must state the reason for the challenge based upon the law, and the county auditor or other political subdivision election official shall count the challenged ballot as the auditor or election official determines proper and then shall set the ballot aside with a notation that it was challenged and how it was counted.
7. At the conclusion of the recount, the county auditor or other election official shall submit all challenged ballots to the recount board for decision. Except for political subdivision recounts other than counties, the recount board must be composed of the state's attorney of the county, the chairman of the board of county commissioners, and the county recorder. Unless otherwise specified by law, for a political subdivision other than a county, the governing body of the political subdivision shall appoint the recount board. An individual may not serve on the recount board if the individual has anything of value bet or wagered on the result of the election, is a candidate for the office being recounted, or is the 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 involved in the recount. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the board of county commissioners or other political subdivision governing body who would be qualified to serve on the board shall appoint disinterested qualified electors of the county or other political subdivision to serve as alternates. The recount board shall review all challenged ballots and on majority vote shall decide how those ballots are counted. The recount board is authorized to initial all absentee ballots cast under section 16.1-07-09 that were not considered or counted at the various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12 or by the county canvassing boards as provided in section 16.1-15-19. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter. If during the recount a recess is called, the county auditor or other political subdivision election official shall take appropriate steps to safeguard the ballots.
8. The county auditor or other election official shall certify the results of the recount no later than three days after the recount. The recount result is the official result of the election in

the county or other political subdivision. The county auditor or other election official shall prepare a corrected abstract of the votes. In a recount limited to the county, city, or other political subdivision, if the corrected abstract shows no change in the outcome of the election, no further action may be taken. If the corrected abstract changes the outcome of the election, the county auditor or other election official shall issue certificates of nomination or election accordingly and shall certify the new result of a question submitted to the qualified electors. In the case of a city election that is combined with a county election, the county auditor shall certify the new results of the election to the city auditor who is responsible for issuing new certificates of election if applicable.

9. In presidential, congressional, statewide, judicial district, multicounty district, or legislative recounts, the county auditor, no later than three days after the recount, shall send by certified mail a certified copy of the corrected abstract to the secretary of state. The secretary of state immediately shall assemble the state canvassing board, who shall canvass the corrected abstracts and certify the election results. The secretary of state shall issue certificates of election or nomination or record the approval or disapproval of a question submitted to the qualified electors accordingly.
10. The expenses incurred in a recount of a county election must be paid by the county on a warrant by the county auditor. The expenses incurred in a recount of a political subdivision other than a county election must be paid by that political subdivision. The expenses incurred in a recount of a city election must be paid by the city on a warrant by the city auditor. The expenses incurred in a recount of a presidential, congressional, state, judicial district, multicounty district, or legislative election must be paid by the state from the general fund upon approval by the secretary of state of a statement of expenses received from the county auditors. The expenses incurred in a recount demanded under subsection 2 of section 16.1-16-01 must be paid by the secretary of state or county auditor from the bond submitted by the individual requesting the recount.
11. This section also applies to city elections that are not combined with the county except the city auditor, to the extent applicable, shall perform the duties of the county auditor.

16.1-16-02. Who may contest election.

A defeated candidate or ten qualified electors may contest the nomination or election of any person or the approval or rejection of any question or proposition submitted to a vote of the electorate, pursuant to chapters 16.1-04, 16.1-05, 16.1-06, 16.1-07, 16.1-08.1, 16.1-09, 16.1-10, and 16.1-11. In a county election to change the county seat or to change the boundaries of the county, the complaint must be filed against the board of county commissioners, who shall appear and defend the contest action.

16.1-16-03. Commencement of action — Parties — Status of contestee.

An action to contest an election must be commenced by service of a summons and verified complaint. The party instituting the action must be known as the contestant, and the party against whom the action is instituted must be known as the contestee. In a contest of an election, the person holding the certificate of election shall take possession and discharge the duties of the office until the contest action is finally decided.

16.1-16-04. Time for commencement of action.

Any action to contest an election must be commenced and the complaint must be filed in the district court of the contestee's county of residence within five days after final certification of a recount by the appropriate canvassing board or within fourteen days after the final certification by the appropriate canvassing board if no recount is to be conducted. However, if the grounds for the action are the illegal payment of money or other valuable thing subsequent to the filing of any

statement of expenses required by this title or if the contestee does not or cannot meet the qualifications to hold the office as required by law, the action may be commenced at any time. The contestee shall serve and file an answer within fourteen days after service of the contest summons and complaint.

16.1-16-05. Grounds for election contest.

An election contest may be commenced for any of the following causes:

1. If the contestee does not or cannot meet the qualifications to hold the office as required by law.
2. Because of illegal votes or erroneous or fraudulent voting, count, canvass, or recount of votes.

16.1-16-06. Election contest to be tried as civil action — Precedence on court calendar.

Election contest actions must be tried as civil actions to the court without a jury. The district court shall set the hearing on the contest action not more than ten days after the filing of the contest answer. Election contests must take precedence over regular court business so elections are determined as soon as practicable. The district court judge shall order a special term of the court if no term is in progress when the election contest complaint is filed.

16.1-16-07. Contest involving irregularity of ballots — Preservation of ballots.

Either the contestant or the contestee, within the time provided by this title for the preservation of ballots, may give notice by certified mail to the county recorder of any county where the contestant or the contestee desires the ballots preserved, that an election contest is pending in a designated court. Thereupon, it is the duty of the county recorder to preserve all the paper ballots and electronic voting system ballots and associated records until the contest has been finally determined.

16.1-16-08. Judgment in election contest action.

1. The judge in an election contest action shall pronounce judgment on which candidate was elected or nominated and whether any question or proposition was approved or rejected.
2. The appropriate officer shall issue a certificate to the person declared elected or nominated in accordance with the judgment. Any certificate of nomination or election previously issued that is in conflict with the judgment is annulled by the court's judgment.
3. If the court declares that the election resulted in a tie, the election must be determined by law.
4. If the court declares that no one was elected or nominated and sets aside the election, the office must be deemed vacant and any certificate of election or nomination previously issued is annulled. The vacancy must be filled according to law. This subsection does not apply if an incumbent is in office and is entitled to serve until a successor is duly elected and qualified, in which event the incumbent may only be removed by impeachment.
5. In the discretion of the court, court costs may be awarded on the following bases:
   a. If the contest action is dismissed for insufficient evidence or want of prosecution, or if the court confirms the election results, judgment for costs must be for the contestee and against the contestant.
   b. If an election is annulled for errors or malfeasance of any election official during any part of the election procedure, the costs must be a charge against the state or political subdivision in which the election was held.
   c. When an election is annulled on any other ground or when the contestant is declared elected, judgment for costs must be for the contestant and against the contestee.

6. Nothing in this chapter may be construed to authorize a nomination or election to be set aside because of illegal votes unless either of the following is shown, that:
   a. The contestee had knowledge of or connived in the illegal votes.
   b. If the number of illegal votes is taken from the contestee, it would reduce the number of the contestee's legal votes below the number of votes cast for some other person for the same nomination or election, after deducting any illegal votes from the other person.

16.1-16-09. Appeal of election contest judgment.

An appeal to the supreme court of the judgment in an election contest action may be had by filing a notice of appeal with the clerk of the trial court within ten days of the date of the service of notice of entry of the judgment. Appeals of election contest actions must be conducted in the manner provided by the North Dakota Rules of Appellate Procedure. Election contest appeals must take precedence over regular court business so election results can be determined as soon as practicable. An appeal may be brought on for hearing before the supreme court at any time upon ten days' notice by either party and must be determined in a summary manner.

16.1-16-10. Legislative contest of election.

Legislative election contests must be determined in court as provided in this chapter for other contests. No legislative election may be contested before either house of the legislative assembly.

6.1-16-11. Answer to legislative statement of contest.

Repealed by S.L. 1987, ch. 259, § 15.

16.1-16-12. Depositions — Subpoenas — Time limits.

Repealed by S.L. 1987, ch. 259, § 15.

16.1-16-13. Preservation of ballots.

Repealed by S.L. 1987, ch. 259, § 15.

16.1-16-14. Testimony and records filed with secretary of state — Secretary of state to deliver to presiding officer.

Repealed by S.L. 1987, ch. 259, § 15.

16.1-16-15. Determination of contest — Certificate of election.

Repealed by S.L. 1987, ch. 259, § 15.

16.1-16-16. Fees of officers and witnesses.

Repealed by S.L. 1987, ch. 259, § 15.

16.1-16-17. Payment for prosecuting or defending legislative election contest prohibited.

Repealed by S.L. 1987, ch. 259, § 15.

TITLE 25 MENTAL AND PHYSICAL ILLNESS OR DISABILITY

CHAPTER 25-01.2 – Developmental Disability

Election Related Excerpts

25-01.2-03. Presumption of incompetence prohibited — Discrimination prohibited — Deprivation of constitutional, civil, or legal rights prohibited.

An individual with a developmental disability may not be presumed to be incompetent and may not be deprived of any constitutional, civil, or legal right solely because of admission to or residence at an institution or facility or solely because of receipt of services for individuals with a developmental disability. However, nothing in this section may be construed to limit or modify section 16.1-01-04. The constitutional, civil, or legal rights which may not be varied or modified under the provisions of this section include:

1. The right to vote at elections;
2. The free exercise of religion;
3. The right of reasonable opportunities to interact with members of the opposite sex; and
4. The right to confidential handling of personal and medical records.

TITLE 39 MOTOR VEHICLES

CHAPTER 39-01 – Definitions and General Provisions

Election Related Excerpts

39-01-03. Motor vehicle owned by the state, North Dakota art museum, or an international peace garden not to be used for private use or in political activities.

A person, officer, or employee of the state or of any department, board, bureau, commission, institution, industry, or other agency of the state, or person, officer, or employee of the North Dakota art museum, or of any entity located upon the international boundary line between the United States of America and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States of America and Canada and to further international peace among the nations of the world, may not use or drive any motor vehicle belonging to the state or to any department, board, bureau, commission, institution, industry, or other agency of the state, or person, officer, or employee of the North Dakota art museum, or of any entity located upon the international boundary line between the United States of America and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States of America and Canada and to further international peace among the nations of the world, for private use, or while engaged in any political activity.

39-01-04. Political activity defined.

The term “political activity” as used in this chapter includes any form of campaigning or electioneering, such as attending or arranging for political meetings; transporting candidates or workers engaged in campaigning or electioneering; distributing campaign literature, political guide cards, or placards; soliciting or canvassing for campaign funds; transporting electors to the polls on election day; and any other form of political work usually and ordinarily engaged in by state officers and employees during primary and general election campaigns.

39-01-05. Expenses not to be collected by state officers or employees engaged in political activity.

A state officer or employee who uses or drives any privately owned motor vehicle while engaged in political activity may not collect or receive from this state any expense moneys for the use or operation of the motor vehicle while engaged in the political activity. A state officer or employee may not collect or receive any traveling expense reimbursement from this state for any time spent engaging in any political activity.

39-01-06. Collecting or receiving expense money wrongfully — Civil action for recovery — Liability of bond.

Any officer or employee who collects or receives any expense moneys in violation of section 39-01-05 is subject to a suit for the recovery of the funds wrongfully collected or received by that person, and if that person’s office or position is bonded by the state bonding fund, such fund also is liable therefor.

39-01-07. Penalty for violation of chapter.

Any person violating any provision of this chapter for which another penalty is not specifically provided is guilty of a class A misdemeanor.

TITLE 40 MUNICIPAL GOVERNMENT

CHAPTER 40-01 – General Provisions

Election Related Excerpts

40-01-09.1. Publication of city government proceedings — Electorate to decide.

Beginning with the 1996 biennial municipal elections, and every four years thereafter, all cities in North Dakota, regardless of their form of government, must put on the ballot the question of whether the minutes of its governing body shall be published in its official newspaper. If voters approve publication, the governing body shall, within seven days after each of its meetings, give its official newspaper, for publication, the complete minutes, or a complete summary showing the substantive actions taken at the meeting.

Roll call votes must be published, but may be indicated as “unanimous” when appropriate. A list of the individual checks written by the city and approved by the governing body, showing the payee and the amount of each check, must be published. However, employee salary checks need not be published if the governing body elects to publish an annual salary schedule for each employee. When applicable, these minutes may be labeled as being published subject to the governing body’s review and revision. The minutes shall continue to be published until disapproved at a succeeding quadrennial election.

CHAPTER 40-04.1 – Modern Council Form of Government

40-04.1-01. City council — Membership — Terms.

The governing body of a city operating under the modern council form of government is the city council, which is composed of not less than four members, one of whom is the mayor, all elected at large or by wards. Candidates for the council shall run for either mayor or council member but not both at the same time. The terms of members of the council shall be four years, or until their successors are elected and qualified. However, the council shall establish by ordinance a procedure whereby one-half of all council members, as nearly as is practicable, are elected biennially. The number of council members may be increased or decreased pursuant to section 40-06-09.

40-04.1-02. Compensation of council members.

The members of the council are entitled to receive such compensation for their services as is fixed by ordinance.

40-04.1-03. Vacancies on city council — How filled.

If a vacancy occurs in the office of councilman by death, resignation, or otherwise, the city may call a special election to fill such vacancy for the unexpired term or may after fifteen days of the date of such vacancy appoint a person from the ward or city at large by which the councilman previously holding was elected or appointed to fill such vacancy until the next city election, at which election the unexpired term shall be filled.

40-04.1-04. Restrictions on council member.

A city council member is not eligible for any other office the salary of which is payable out of the city treasury and may not hold any other office under the city government.

40-04.1-05. Meetings — Regular, special, and for organization.

The city council shall hold its regular meetings at least once a month and may prescribe by ordinance the manner in which special meetings may be called. The city council shall establish by resolution or ordinance the date of its regular meetings. The first meeting for the organization of the city council must be held on the fourth Tuesday in June of each even-numbered year.

40-04.1-06. Mayor.

The mayor shall preside at meetings of the council, and be the recognized head of the city for all ceremonial purposes and by the governor for purposes of military law. The mayor continues to have all the rights and privileges as a member of the council. If a vacancy occurs in the office of mayor or if the incumbent is absent or disabled, a mayor pro tempore shall be selected by the council from among their number to act for the unexpired term or during continuance of the absence or disability.

40-04.1-07. Council — Duties and powers.

The council shall perform all duties prescribed by law or by city ordinances and shall see that the laws and ordinances are faithfully executed.

CHAPTER 40-05.1 – Home Rule in Cities

40-05.1-00.1. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "City officers" means the elected and appointed officers of the city and includes the governing body of the city and its members.
2. "Executive officer" means the chief officer in whom resides the power to execute the laws of the city.
3. "Governing body" means the body which performs the legislative functions of the city.

40-05.1-01. Enabling clause.

Any city may frame, adopt, amend, or repeal home rule charters as provided in this chapter.

40-05.1-02. Methods of proposing home rule charter.

The governing body of any city may on its own motion cause a home rule charter to be framed and submitted for adoption to the qualified electors of the city in the manner provided in this chapter, or such proposal may be made in a petition filed with the governing body and signed by not less than fifteen percent of the qualified electors of the city voting in the last city election.

40-05.1-03. Charter commission — Membership — Preparation and submission of charter — Compensation and expenses — Publication or distribution.

Within sixty days after proceedings have been initiated for a home rule charter, the governing body of the city shall appoint a charter commission, composed of at least five members, to frame the charter, unless a petition proposing a charter pursuant to section 40-05.1-02 prescribes the composition of the commission or the manner by which the composition of the commission is to be determined. The chairman of the charter commission shall be designated by the governing body and shall be a charter commission member. Compensation and expenses of commission members shall be as determined by the governing body. The governing body may furnish the charter commission with office space, clerical help, legal and other assistance, and supplies, and may appropriate and pay for same out of its general funds. The charter commission shall hold at least one public hearing on the proposed charter, and may use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the proposed charter. The commission shall prepare and submit the charter within one year after appointment, unless the governing body allows additional time for submission of the charter. The proposed charter shall then be published once in the city's official newspaper as provided in section 40-01-09. However, cities with a population of one thousand or less may, in lieu of publishing the charter in a newspaper, distribute copies of the charter door-to-door and have them posted and available at prominent locations in the city. In the event a city does not publish the charter in a newspaper, it must still publish a notice of the election.

40-05.1-04. Submission of charter to electors.

At least sixty days, but no more than two years, after submission of the charter to the governing body of the city, the proposed charter must be submitted to a vote of the qualified electors of the city at a regular or special city election, or at any statewide election that is held within that time, or at a special city election held concurrently with any statewide election. If the proposed charter has been submitted to a vote of the qualified electors of the city, the governing body of the city may call a special election to resubmit the proposed charter to a vote of the qualified electors of the city, and the special election must take place at least sixty days after the call for the special election. The governing body may amend the proposed charter prior to its resubmission to the electors.

40-05.1-05. Ratification by majority vote — Supersession of existing charter and state laws in conflict therewith — Filing of copies of new charter.

If a majority of the qualified voters voting on the charter at the election vote in favor of the home rule charter, the charter is ratified and is the organic law of the city, and extends to all its local and city matters. The charter and the ordinances made pursuant to the charter in such matters supersede within the territorial limits and other jurisdiction of the city any law of the state in conflict with the charter and ordinances and must be liberally construed for such purposes. One copy of the charter ratified and approved must be filed with the secretary of state and one with the auditor of the city to remain as a part of its permanent records. Thereupon the courts shall take judicial notice of the new charter.

40-05.1-05.1. Multicity home rule.

1. Two or more cities may draft and submit for adoption a multicity home rule charter to the electors of each city pursuant to this section. The other provisions of this chapter apply to a multicity home rule charter, except as otherwise provided by this section.
2. The process for drafting and submitting a multicity home rule charter may be initiated by:
   a. Separate motions by the governing bodies of the participating cities;
   b. The execution of a joint powers agreement between participating cities; or
   c. A petition filed with each governing body of two or more cities and signed by ten percent or more of the total number of qualified electors of each city voting for governor at the most recent gubernatorial election.
3. Within sixty days after proceedings are initiated for a multicity home rule charter, the boards of governing bodies shall enter into a joint powers agreement specifying the procedure for framing the charter, which may include the establishment of a single cooperative charter commission with membership representing each city. As an alternative, the governing bodies in each affected city may establish a separate charter commission pursuant to section 40-05.1-03 to frame the charter in cooperative study with the charter commission of any other affected city. The charter commissions must submit a single joint report and proposed charter.
4. The charter commission, during its deliberation, may hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion on the subject of the proposed multicity home rule charter, and may report periodically to the affected governing bodies on their progress. In preparing the charter, the charter commission may:
   a. Include any of the available powers enumerated in section 40-05.1-06;
   b. Provide for adjustment of existing bonded indebtedness and other obligations in a manner which will provide for a fair and equitable burden of taxation for debt service;
   c. Provide for the transfer or other disposition of property and other rights, claims, assets, and franchises of the cities;
   d. Provide for the reorganization, abolition, or adjustment of boundaries of any existing boards, commissions, agencies, and special districts of the city governments, including city park districts;
   e. Include provisions for transition in implementing the charter, including elements that consider the reasonable expectations of current officeholders or personnel such as delayed effective dates for implementation at the end of a current term or a future term, upon the occurrence of a vacancy, or on a date certain;
   f. Include provision for the limited application or temporary implementation of the charter, including provisions that permit implementation on an experimental or pilot basis such as the expiration of the charter on a date certain in the future, required

reapproval of the charter by the electors at a future date, or a phased-in implementation of various aspects of the charter; and

g. Include other provisions that the charter commission elects to include and which are consistent with state law.

5. The proposed charter or accurate summary of the charter must be published in the official newspaper of each affected city, at the expense of each city, at least once during two different weeks within the thirty-day period immediately preceding the date of election. However, a city with a population of one thousand or less may, instead of publishing the charter in a newspaper, distribute copies of the charter door-to-door and have them posted and available at prominent locations in the city.
6. If a majority of the qualified electors voting in each city on the charter vote in favor of the multicity home rule charter, it is ratified and becomes the organic law of the cities on the first day of January following the election or other effective date specified in the charter.
7. The amendment or repeal of a multicity home rule charter may proceed pursuant to the amendment and repeal provisions of section 40-05.1-07 on a multicity basis. A majority vote of the qualified electors voting in each city in the election is required to adopt any amendment of a multicity charter. A majority vote of the qualified electors of only one or more participating cities is required to repeal a multicity charter.

40-05.1-06. Powers.

From and after the filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this chapter, such city, and the citizens thereof, shall, if included in the charter and implemented through ordinances, have the following powers set out in this chapter:

1. To acquire, hold, operate, and dispose of property within or without the corporate limits, and, subject to chapter 32-15, exercise the right of eminent domain for such purposes.
2. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; to levy and collect taxes, excises, fees, charges, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; to contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; to establish charges for any city or other services; and to establish debt and mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the city at the same rate unless otherwise provided by law. The authority to levy taxes under this subsection does not include authority to impose income taxes.
3. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
4. To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications, and compensation. To provide for change, selection, or creation of its form and structure of government, including its governing body, executive officer, and city officers.
5. To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.
6. To provide for all matters pertaining to city elections, except as to qualifications of electors.
7. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.

8. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.
9. To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.
10. To engage in any utility, business, or enterprise permitted by the constitution or not prohibited by statute or to grant and regulate franchises therefor to a private person, firm, corporation, or limited liability company.
11. To provide for zoning, planning, and subdivision of public or private property within the city limits. To provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law.
12. To levy and collect franchise and license taxes for revenue purposes.
13. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
14. To fix the boundary limits of said city and the annexation and deannexation of territory adjacent to said city except that such power shall be subject to, and shall conform with the state law made and provided.
15. To contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.
16. To impose registration fees on motor vehicles, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, or sales and use taxes in addition to any other taxes imposed by law. After December 31, 2005, sales and use taxes and gross receipts taxes levied under this chapter:
    a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.
    b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
    c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.
    d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.It is the intention of this chapter to grant and confirm to the people of all cities coming within its provisions the full right of self-government in both local and city matters within the powers enumerated herein. The statutes of the state of North Dakota, so far as applicable, shall continue to apply to home rule cities, except insofar as superseded by the charters of such cities or by ordinance passed pursuant to such charters.After December 31, 2005, any portion of a charter or any portion of an ordinance passed pursuant to a charter which does not conform to the requirements of subsection 16 is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance because it does not conform to subsection 16 does not affect the validity of any other portion of the charter or ordinance or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for

agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005.

40-05.1-06.1. Sales tax revenue transfer to school districts prohibited.

Notwithstanding the provisions of chapters 54-40 and 54-40.3 or any other provision of law, revenue from sales, use, or other excise taxes levied under this chapter may not be transferred to or for the primary benefit of a school district except for payment of bonded indebtedness incurred before April 19, 2007, or for capital construction and associated costs approved by the electors of the city before April 19, 2007.

40-05.1-07. Amendment or repeal.

The home rule charter adopted by any city may be amended or repealed by proposals submitted to and ratified by the qualified electors of the city in the same general manner provided in section 40-05.1-02 and section 40-05.1-04 for the adoption of the charter. Amendments may be proposed by the governing body of the city or by petition of the number of electors provided in section 40-05.1-02 and submitted to the voters at the same election. The voters may at their option accept or reject any or all of the amendments by a majority vote of qualified electors voting on the question at the election. A proposal to repeal a home rule charter that has been adopted must likewise be submitted to the electors of the city as set forth in this section. One copy of a ratified amendment or a repeal of a home rule charter must be filed with the secretary of state and one with the city auditor. Upon proper filing of the amendment or repeal, the courts shall take judicial notice of the amendment or repeal.

40-05.1-08. Commission — Terms of office — Vacancies.

The terms of office of the members of the charter commission shall be four years. Any vacancy on said commission shall be filled by the governing body of the city.

40-05.1-09. Restriction on proposals to amend or repeal.

Repealed by S.L. 1993, ch. 401, § 53.

40-05.1-10. Manner of calling and holding elections.

The elections provided for in this chapter shall be called and held in the same manner as is provided for the calling and holding of city elections except that all qualified voters of the city shall be eligible to vote at such elections. The form of ballot shall be prescribed by the charter commission so that the voter may signify whether the voter is for or against the proposed home rule charter or the amendment or repeal, as the case may be.

40-05.1-11. Effect of amendment or repeal on salary or term of office.

Repeal of a home rule charter shall cause the city affected by such repeal to revert to the form of government of such city immediately preceding adoption of the home rule charter and when positions to which officials were elected under the home rule charter are substantially the same as positions under the form of government to which the city reverts upon repeal, such elected officials shall continue to exercise the authority of such position for the salary prescribed by the home rule charter until expiration of their terms of office as prescribed by the home rule charter. No amendment of a home rule charter shall shorten the term for which any official was elected or reduce the salary of the official's office for that term.

40-05.1-12. Former powers preserved.

All powers heretofore granted any city by general law are hereby preserved to each home rule city, respectively, and the powers so conferred upon said cities by general law, are hereby granted to home rule cities.

40-05.1-13. Vested property — Claims for relief — Actions saved.

The adoption of any charter hereunder or any amendment thereof shall never be construed to destroy any property, action, claims for relief, claims, and demands of any nature or kind whatever vested in the city under and by virtue of any charter theretofore existing or otherwise accruing to the city, but all such claims for relief, claims, or demands vest in and inure to the city and to any persons asserting any such claims against the city as fully and completely as though the said charter or amendment had not been adopted hereunder. The adoption of any charter or amendment hereunder shall never be construed to affect the right of the city to collect by special assessment any special assessment theretofore levied under any law or charter for the purpose of public improvements, nor affect any right of any contract or obligation existing between the city and any person, firm, corporation, or limited liability company for the making of any such improvements and for the purpose of collecting any such special assessments and carrying out of any such contract.

CHAPTER 40-08 – Governing Body and Executive Officer in Council Cities

40-08-01. City council — Who constitutes.

The governing body of a city operating under the council form of government is the city council, which is composed of the mayor and council members.

40-08-02. Governing body is judge of election and qualifications of members.

The city council shall be judge of the election and qualifications of its own members.

40-08-03. Number of council members.

The number of council members is not less than three. The number of council members may be increased or decreased pursuant to section 40-06-09.

40-08-03.1. Change to ten council members and mayor — Petition required.

Repealed by S.L. 1993, ch. 401, § 53.

40-08-03.2. City auditor to pass on sufficiency of petition requesting change to ten council members and mayor.

Repealed by S.L. 1993, ch. 401, § 53.

40-08-04. Election of council members.

In cities containing six hundred inhabitants or less, the council members must be elected at large. Except as provided in section 40-08-04.2, in all other cities operating under the council form of government, the council members must be elected by wards.

40-08-04.1. Procedure when petition to change to ten council members and mayor is filed — Special election — Ballot.

Repealed by S.L. 1993, ch. 401, § 53.

40-08-04.2. Election at large of council members from wards — Option.

Notwithstanding any other provision of law, the governing body of a city having a population not exceeding five thousand and which is operating under the council form of government may provide by ordinance for the election of all council members at large. If the council members are elected at large pursuant to this section, the governing body of the city may establish wards in accordance with section 40-08-04 and require that the council members elected from each ward must be residents of the ward.

40-08-05. Qualifications of council members.

An individual is not eligible to the office of council member if the individual is not a qualified elector of and resident within the ward for which the individual was elected, except that in cities where council members are elected at large and not required to be a resident of the ward for which the individual is elected pursuant to section 40-08-04.2, the individual must be a qualified elector of and a resident within the city.

40-08-06. Term of office of council members — Staggered terms provided for in cities where other than ten council members elected.

Council members shall hold office for four years and until their successors are elected and qualified. Terms of council members must be arranged so that one-half of the council members in any city, as nearly as practicable, are elected in any one election. When a city first adopts the

council form of government or changes the number of council members, or when a city that has adopted the commission system of government returns to the city council form of government as provided by section 40-04-08, the alternation of the terms of the council members must be perfected as follows: of the council members elected in each ward, the one receiving the greater number of votes shall serve until the fourth Tuesday in June following the second succeeding biennial election and the one receiving the lesser number of votes shall serve until the fourth Tuesday in June following the biennial election succeeding the council member's election; if the city is not divided into wards, the one-half of the council members elected in the entire city receiving the greater number of votes shall serve until the fourth Tuesday in June following the second succeeding biennial election and the one-half of the council members elected in the entire city receiving the lesser number of votes shall serve until the fourth Tuesday in June following the biennial election succeeding their election. Whenever, for any reason, vacancies exist on the council which require an unexpired term to be filled by election, the unexpired term must be designated on the ballot separate from any other regular term or terms that may also appear on the ballot. Candidates seeking nomination to an unexpired term are required to indicate whether or not they are seeking a regular term of office or an unexpired term of office on their nominating petitions as set forth in section 40-21-07.

40-08-06.1. Terms of office under ten council members — Staggered terms provided for — Nominating petition requirements.

Repealed by S.L. 1993, ch. 401, § 53.

40-08-07. Compensation of council members.

Each council member is entitled to receive compensation for services as established by ordinance.

40-08-08. Vacancies on council — How filled.

If a vacancy occurs in a city council office by death, resignation, or otherwise, the city council may call a special city election to fill the vacancy for the unexpired term, or may, after fifteen days of the date of the vacancy appoint a person from the ward in which the council member previously holding was elected or appointed to fill the vacancy until the next city election, at which election the unexpired term must be filled. Upon petition of five percent of the qualified electors of the ward, as determined by the total number of votes cast in that ward in the last city general election, the council shall call a special election to fill a vacancy occurring more than six months before the next city election, if the petition has been submitted within fifteen days and before four p.m. of the fifteenth day of the date of the vacancy or of the vacancy being filled by appointment. If the petition is mailed, it must be in the possession of the council or its representative before four p.m. on the fifteenth day after the vacancy occurs or after the vacancy was filled by appointment.

40-08-09. Restrictions on members of council.

1. Except as provided in subsection 2, no member of the city council shall:
   a. Be eligible to any other office the salary of which is payable out of the city treasury;
   b. Hold any other office under the city government; or
   c. Hold a position of remuneration in the employment of the city.
2. A member of the city council may serve as an ambulance crew member employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls.

40-08-10. Meetings of council — Regular, special, and for organization.

The city council shall hold its regular meetings at least once a month on a date certain established by resolution or ordinance of the council, and may prescribe by ordinance the manner in which special meetings may be called as well as the establishment of any additional regular meetings desired. If a regular meeting falls upon a holiday, the meeting must be held upon the next business day with the same effect as if conducted upon the day appointed. All regular and special meetings must be held at a time and place designated by the city council. The first meeting for the organization of the city council must be held on the fourth Tuesday in June of each even-numbered year.

40-08-11. When president and vice president of council elected.

At the organization meeting in each even-numbered year, the members of the city council shall proceed to elect from their number a president and a vice president who shall hold their respective offices until their successors are elected at the organization meeting following the next biennial election.

40-08-12. Publication of proceedings.

Repealed by I.M. approved November 8, 1994, S.L. 1995, ch. 637, § 2.

40-08-13. Presiding officer of council in absence or disability of mayor — President of council.

The president of the city council shall be the presiding officer of the council in the absence or temporary disability of the mayor. In the absence or disability of the mayor and president of the city council, the vice president shall be the presiding officer.

40-08-14. Mayor — Qualifications — Term.

The chief executive officer of the city is the mayor. The mayor shall be a qualified elector within the city and shall hold office for four years and until a successor is elected and qualified.

40-08-15. Compensation of mayor.

The mayor shall receive such compensation as the city council may direct by ordinance.

40-08-16. Vacancy in office of mayor — Filled by election or by council — President of council to be acting mayor.

If a vacancy occurs in the office of mayor, the city council may call a special city election to fill such vacancy for the unexpired term or may, after fifteen days from the date of such vacancy, elect one of its members to act as mayor. The member so elected shall possess all the rights and powers of the mayor until the next election and until a mayor is elected and qualified. Upon petition of five percent of the qualified electors, as determined by the total number of votes cast in the city in the last city general election, the council shall call a special election to fill a vacancy occurring more than six months prior to the next city election, provided such petition is submitted within fifteen days of the date of such vacancy. During the interim between the date when a vacancy occurs in the office of mayor and election and qualification of a successor, the president of the city council shall be the acting mayor.

40-08-17. Absence or disability of mayor — Acting mayor.

During the absence of the mayor from the city or during the mayor's temporary disability, the president of the city council shall be the acting mayor and shall possess all the powers of the

mayor. In the absence or disability of the mayor and president of the city council, the vice president of the city council shall be the acting mayor.

40-08-18. Mayor to preside at council meetings — Voting power of mayor.

The mayor shall preside at all meetings of the city council, but shall not vote except in case of a tie, when the mayor shall cast the deciding vote.

40-08-19. Mayor may remove appointive officers — Reasons for removal to be given.

The mayor may remove any officer appointed by the mayor whenever the mayor is of the opinion that the interests of the city demand such removal, but the mayor shall report the reasons for such removal to the council at its next regular meeting.

40-08-20. Mayor may suppress disorder and keep peace.

The mayor may exercise within the city limits the powers conferred upon a sheriff to suppress disorder and keep the peace.

40-08-21. Release of prisoners by mayor — Report to council.

Repealed by S.L. 1987, ch. 375, § 16.

40-08-22. Mayor to perform duties prescribed by law — Enforce laws and ordinances.

The mayor shall perform all duties prescribed by law or by the city ordinances and shall see that the laws and ordinances are faithfully executed.

40-08-23. Inspection of books, records, and papers of city by mayor.

The mayor, at any time, may examine and inspect the books, records, and papers of any agent, employee, or officer of the city.

40-08-24. Ordinance or resolution signed or vetoed by mayor.

The mayor shall sign or veto each ordinance or resolution passed by the council. Any action vetoed by the mayor may be overridden by the city council as provided under section 40-11-05.

40-08-25. Messages to council.

The mayor annually and from time to time shall give the council information relative to the affairs of the city and shall recommend for its consideration such measures as the mayor may deem expedient.

40-08-26. Mayor may call on residents to aid in enforcing ordinances.

When necessary, the mayor may call on each resident of the city over the age of eighteen years to aid in enforcing the laws and ordinances of the city.

40-08-27. Police chief and police officers appointed by mayor.

The mayor may appoint any number of police officers the mayor and the city council deem necessary to preserve the peace of the city and the mayor shall appoint one of the number as chief of police. Such appointment shall be subject to the approval of the council.

40-08-28. Mayor may administer oaths.

The mayor of each city may administer oaths and affirmations.

CHAPTER 40-09 – Governing Body and Executive Officer in Commission Cities

40-09-01. Board of city commissioners — Composition.

The governing body of a city operating under the commission system of government is the board of city commissioners which is composed of the president of the board of city commissioners and not less than three city commissioners. The number of city commissioners may be increased or decreased pursuant to section 40-06-09.

40-09-02. Governing body is judge of election and qualifications of members.

The board of city commissioners shall be the judge of the election and qualifications of its own members.

40-09-03. Regulations governing election of commissioners.

The members of the board of city commissioners must be elected at large and not by wards. Each voter may vote for one of the candidates for the office of president of the board of city commissioners and for as many candidates for the office of city commissioner as there are commissioners to be elected. Candidates for the city commission may run for either the office of city commissioner or the office of president of the board of city commissioners but not both in the same election. A candidate may run for only one office in a city at any given election.

40-09-04. Commissioners — Terms — Resignations.

Each commissioner and the president of the board of city commissioners shall hold office for four years commencing on the fourth Tuesday in June of the year in which the officer was elected and until a successor has been duly elected and qualified. The commission shall establish by ordinance a procedure whereby one-half of all commissioners, as nearly as practicable, are elected biennially. The president or any other member of the board may resign from office by filing a written resignation with the city auditor, who shall submit the resignation to the board of city commissioners at its next regular meeting or at a special meeting called for consideration of the resignation. The resignation is effective upon its acceptance by the board.

40-09-05. President and board of commissioners succeed to powers and duties of mayor and council.

If the city previously was organized under the council form of government, the first president and the other members of the first board of city commissioners elected after a city has incorporated under the city commission system of government are the successors of the mayor and council members of the city. Upon the qualification of the president and other members of the board, all the powers, rights, and duties of the mayor and council of the city cease. Whenever the city previously, under the decree or judgment of any court or under any law, ordinance, or resolution, has been entitled to representation through the mayor of the city and one or more of the council members of the city, on the board of directors of any incorporated company in which the city may own stock or be interested, it must be represented on the board of directors by the president of the board of city commissioners and by two other members of the board to be selected by the board.

40-09-06. Style of board — Oath and salary of commissioners.

The commissioners and the president of the board constitute the board of city commissioners and shall take an oath faithfully to perform the duties of their respective offices. The monthly salary of each city commissioner must be fixed by ordinance. The president of a commission may receive a salary of up to fifty percent more than the level set for each commissioner upon resolution by the board of city commissioners.

40-09-07. Bond and oath of commissioner.

Repealed by S.L. 2011, ch. 294, § 5.

40-09-08. President of board as executive officer — Duties — No veto power.

The president of the board of city commissioners shall be the executive officer of the city and shall see that all the laws of the city are enforced. The president shall have the right to vote as a member of the board but shall have no veto power.

40-09-09. Vice president and acting president of board — Powers to act.

At the first meeting of the board after each biennial election, one of its own members shall be elected vice president. The vice president shall perform all the duties of the office of president in the absence or disability of the president to act. In the absence or disability to act of both the president and the vice president, the board shall elect one of its members as acting president, who shall have all the powers and perform all the duties of the president during the absence or disability.

40-09-10. Filling vacancies in board.

If a vacancy occurs in the office of a city commissioner or president of the board of city commissioners, the board may call a special city election to fill such vacancy for the unexpired term, or may, after fifteen days from the date of such vacancy appoint a person to fill such vacancy until the next city election, at which election the unexpired term shall be filled. Upon petition of five percent of the qualified electors, as determined by the total number of votes cast in the city in the last city general election, the commission shall call a special city election to fill a vacancy occurring more than six months prior to the next city election, provided such petition has been submitted within fifteen days of the date of such vacancy.

40-09-11. Meetings of board — Regular and special — Action on departmental matters.

The board of city commissioners shall meet in regular meeting at least once a month and at such additional times as the board, by ordinance, may establish. All regular meetings shall be held at a time and place to be designated by the board. No action of the board shall be effective unless upon a vote of a majority of a quorum of the members of such board. No final action shall be taken in any matter concerning the special department of any absent commissioner unless such business has been made a special order of the day or such action is taken at a regular meeting of the board. Special meetings may be called at any time by the president or any two members of the board to consider matters mentioned in the call of such meeting. Written notice of any special meeting shall be given to each member of the board.

40-09-12. Departments of administration of city divided among commissioners — Duties.

The board of city commissioners, by a majority vote of all the members thereof, shall designate from among its members:

1. A police and fire commissioner who shall have under that commissioner's special charge the enforcement of all police regulations of the city and the general supervision of the fire department of the city.
2. A commissioner of streets and improvements who shall have under that commissioner's special charge the supervision of the streets and alleys of the city and who shall be charged with responsibility for the lighting, cleaning, and sanitary condition of the streets and alleys and with the enforcement of all rules and regulations relating thereto, and with the preservation of the health of the inhabitants of the city. That commissioner shall have under that commissioner's special charge the supervision of all public improvements and

shall see that all contracts for such improvements and the conditions of all grants of franchises or privileges are complied with faithfully and performed.

3. A waterworks and sewerage commissioner who shall have under that commissioner's special charge the waterworks and sewerage department of the city and who shall see to the enforcement of all regulations with respect to those departments and all revenue pertaining to those departments.
4. A commissioner of finance and revenue who shall have under that commissioner's special charge the enforcement of all laws for the assessment and collection of taxes of every kind and the collection of all revenues belonging to the city, from whatever source the same may be derived, and who shall examine into and keep informed as to the finances of the city.

The duties assigned to the various members of the board by this section may be otherwise distributed by a majority vote of the board's members.

40-09-13. Accounts — Audited by respective commissioners — Approved by board.

The commissioner who is the head of each department shall audit all accounts against it, but before payment the accounts shall be acted upon and approved by at least three members of the board of city commissioners. Approval by at least three members of the board of city commissioners shall be recorded in the record of the board and this shall be sufficient to indicate approval without requiring the approving members to sign or initial the voucher or order for payment of the account.

40-09-14. Rules and regulations governing departments and agencies of city made by board.

The board of city commissioners shall have the sole authority to pass and adopt rules and regulations concerning the organization, management, and operation of all the departments of the city and the other agencies created by it for the administration of the city's affairs.

40-09-15. Special police — President of board may call — Powers.

Repealed by S.L. 1975, ch. 106, § 673.

40-09-16. Board may summon and compel attendance of witnesses and books — Punish for contempt — Process.

Whenever it is necessary for the more effective discharge of its duties, the board of city commissioners may summon and compel the attendance of witnesses and the production of books and papers before it. The board may punish for contempt of the board with the same fines and penalties as a district judge may inflict for contempt of the district court. All process necessary to enforce the powers conferred by this section must be signed by the president of the board, attested by the city auditor, and served by any member of the police force of the city.

40-09-17. Restrictions on members of board.

1. Except as provided in subsection 2, a member of the board of city commissioners may not:
   a. Be eligible to any other office the salary of which is payable out of the city treasury;
   b. Hold any other office under the city government; and
   c. Hold a position of remuneration in the employment of the city.
2. A member of a board of city commissioners may serve as an ambulance crew member employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls.

CHAPTER 40-12 – Initiative and Referendum

40-12-01. Initiative and referendum apply only in commission and modern council cities.

The provisions of this chapter relative to the initiating and referring of municipal ordinances shall apply only in cities operating under the commission and modern council system of government.

40-12-02. Submission of proposed ordinance by petition — Filed with city auditor — Request in petition.

Any proposed ordinance may be submitted to the governing body of the municipality by a petition signed by qualified electors thereof equal in number to fifteen percent of the votes cast for all candidates for the executive officer at the preceding regular municipal election. The petition must be filed in the city auditor's office and must contain a request that the ordinance set out in the petition be submitted to a vote of the qualified electors of the city if it is not passed by the governing body of the municipality.

40-12-03. Requirements of petitions for initiative and referendum.

Only qualified electors of the city may sign petitions provided for in this chapter. Each petition, in addition to the names of the petitioners, must contain the name of the street upon, and the number of the house in, which each petitioner resides. It must also be accompanied by the affidavit of one or more qualified electors of the city stating that the signers were qualified electors of the city at the time of signing and the number of signers upon the petition at the time when the affidavit was made.

40-12-04. Signatures to petition — Requirements — Oath — Withdrawal.

The signatures to a petition to initiate or refer an ordinance need not all be appended to one paper. One of the signers of each paper shall make an oath before an officer competent to administer oaths that the person believes the statements in the paper to be true and that each signature to the paper is the genuine signature of the person whose name it purports to be. Any petitioner may withdraw that petitioner's name from a petition within five days after the date of the filing of the petition with the city auditor.

40-12-05. City auditor to determine sufficiency of initiative petition — Certificate attached to petition.

Within ten days after the filing of a petition to initiate an ordinance, the city auditor shall examine the petition and ascertain from the voters' register whether or not the petition is signed by the requisite number of qualified electors. The governing body of the municipality shall allow such extra help for the examination of the petition as it deems necessary. The city auditor shall attach to the petition the city auditor's certificate showing the result of the examination and if the petition is insufficient, the city auditor shall state in the city auditor's certificate the reasons therefor. If the city auditor's certificate shows the petition to be insufficient, it may be amended within ten days from the date of the certificate. Within ten days after any such amendment, the city auditor shall make an examination of the amended petition, and if the city auditor's certificate attached thereto shall show the amended petition to be insufficient, it shall be returned to the person filing the same without prejudice to the filing of a new petition to the same effect. If the petition is sufficient, the city auditor shall submit it to the governing body of the municipality without delay.

40-12-06. Duty of governing body after receiving petition for proposed ordinance.

After receiving the petition for the initiation of a proposed ordinance, the governing body of the municipality shall:

1. Pass the ordinance without alteration within twenty days after the attachment of the auditor's certificate to the accompanying petition;
2. Call a special election, unless a general city election is fixed within ninety days thereafter, and submit to the vote of the qualified electors of the municipality the initiated ordinance without alteration; or
3. If the petition is signed by not less than twenty-five percent of the qualified electors as defined in section 40-12-02, pass the ordinance without change within twenty days after the filing of the petition or submit the initiated ordinance at the next general municipal election, if the election occurs not more than thirty days after the city auditor's certificate of sufficiency is attached to the petition, and if no general municipal election is to be held within thirty days after the city auditor's certificate of sufficiency is attached to the petition, it shall call a special election.

40-12-07. Adoption of proposed ordinance — Effect — Repeal or amendment of initiated ordinance.

If a majority of the qualified electors voting on an initiated ordinance vote in favor thereof, it shall become a valid and binding ordinance of the municipality. Any ordinance proposed by a petition and adopted by a vote of the people cannot be repealed or amended except by a vote of the people so long as the municipality remains under the commission system of government.

40-12-08. Petition to refer ordinance — Suspension of ordinance — Requirements of petition.

An ordinance which has been adopted by the governing body of a municipality may be referred to the qualified electors of the municipality by a petition protesting against such ordinance. Such petition shall be signed by qualified electors of the municipality equal to at least ten percent of the entire vote cast for all candidates for executive officer of the municipality at the preceding regular municipal election and shall be presented to the governing body of the municipality within ten days and before four p.m. on the tenth day after the ordinance described in the petition became effective. If a petition is mailed to the governing body of the municipality, it shall be in the possession of such body before four p.m. on the tenth day after the ordinance became effective. Unless the ordinance protested against was passed by a four-fifths vote of the members of the governing body of the municipality for the immediate preservation of the public peace, health, and safety and contains a statement of its urgency, it shall be suspended upon the filing of the petition. The petition provided for in this section shall be in all respects in accordance with the provisions of sections 40-12-02, 40-12-03, and 40-12-04, except as to the number of signers required, and shall be examined and certified by the city auditor in all respects as provided in section 40-12-05.

40-12-09. Referred measure — Submission — Result of election.

When a referendum petition is filed, the governing body of the municipality shall reconsider the ordinance described therein, and if it is not entirely repealed, the governing body shall submit it to the vote of the qualified electors of the municipality at the next regular municipal election or at a special election to be called for that purpose as provided in section 40-12-06. The ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. If the referred ordinance was not suspended by the filing of the referendum petition, it no longer shall be effective if it is disapproved by a majority vote of the qualified electors voting on the same.

40-12-10. No limitation on number of ordinances that may be voted on at one election — Limitation on special elections.

Any number of proposed or referred ordinances may be voted on at the same election in accordance with the provisions of this chapter. There shall be not more than one special election in any period of six months for such purposes.

40-12-11. Publication of proposed or referred ordinance or proposition before election.

The city auditor shall cause any ordinance or proposition to be submitted to the electors under this chapter to be published once in each newspaper published in the municipality. The publication shall be made not more than twenty days nor less than five days before the submission of the ordinance or proposition to a vote.

40-12-12. Form of ballots to be used in voting on initiated or referred ordinance.

The ballot to be used in voting upon an initiated ordinance shall be in substantially the following form:

Shall an initiated ordinance relating to _____ (stating the nature of the proposed ordinance) be adopted?

Yes ☐

No ☐

The ballot to be used in voting upon a referred ordinance shall be in substantially the following form:

Shall ordinance no. _____ relating to _____ (stating the nature of the proposed ordinance) approved by the board of city commissioners be approved?

Yes ☐

No ☐

40-12-13. Propositions submitted for repeal or amendment to initiated or referred ordinance — Election — Vote required.

The governing body of the municipality may submit a proposition for the repeal of or an amendment to an ordinance adopted under the provisions of this chapter. The proposition shall be voted upon at any succeeding regular municipal election. If the proposition submitted receives a majority of the votes cast thereon at such election, the ordinance shall be repealed or amended, as the case may be.

CHAPTER 40-13 – General Provisions Governing Officers in Municipalities

Election Related Excerpts

40-13-01. Qualifications of elective and appointive officers.

A person is not eligible to hold an elective municipal office unless that person is a qualified elector of the municipality and has been a resident of the municipality for at least nine months preceding the election. A person is not eligible to hold an appointive office unless that person is a citizen of the United States. A person in default to the municipality is not eligible to any office.

40-13-03. Oaths of municipal officers.

Every person elected or appointed to any municipal office, before the person enters upon the discharge of the duties thereof, shall take and subscribe the oath of office prescribed for civil officers, and, except in the case of the auditor, shall file the same with the city auditor within ten days after notice of the election or appointment has been given. The oath of the city auditor shall be filed in the office of the auditor of the county in which the municipality is located. Refusal to take the oath of office, as required by this section, shall also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to section 44-02-01.

40-13-07. Office deemed vacant on removal from municipality or failure to qualify.

When any officer removes from a municipality or refuses or neglects for ten days after official notification of that person's appointment to qualify and enter upon the discharge of the duties of the office, the office shall be deemed vacant.

40-13-08. Vacancy existing in appointive office — How filled.

Whenever a vacancy occurs in an appointive office, the same proceedings shall be had to fill such vacancy as are provided for in case of an appointment in the first instance.

40-13-09. Vacancies to be filled for unexpired term.

Unless otherwise specifically provided in this title, every person elected or appointed to fill a vacancy in a municipal office shall hold the office and discharge the duties thereof for the unexpired term.

40-13-13. Nepotism by city officials restricted.

The head of an executive or administrative department of a city may not appoint that individual's spouse, son, daughter, brother, or sister to any position under the control or direction of that individual, unless the appointment has previously been approved by the governing body of the city.

CHAPTER 40-14 – Officers in Council Cities, General

40-14-01. Officers to be elected in council cities.

The following officers must be elected in each city operating under the council form of government:

1. A mayor.
2. The council members required under sections 40-08-03 and 40-08-04.

Each city operating under the council form of government may choose to have a municipal judge who is elected.

40-14-02. Terms of elective officers.

The terms of office of the mayor and council members are provided in chapter 40-08. All other elective officers in a city operating under the council form of government shall hold their respective offices for four years and until their successors are elected and qualified.

40-14-03. When term of elective officer begins.

Under the city council form of government, the term of each elective officer commences on the fourth Tuesday of June of the year in which the officer is elected.

40-14-04. Appointive officers in council cities — Appointment of more than one assessor.

1. The mayor, with the approval of the city council, shall appoint the following officers:
   a. A city auditor;
   b. A city assessor;
   c. A city attorney;
   d. A city engineer; and
   e. Such other officers as the city council deems necessary and expedient.
2. The city assessor shall be appointed at the first meeting of the city council in September of each odd-numbered year. If the city council of a city containing five thousand or more inhabitants shall declare, by resolution, that it is necessary to appoint more than one assessor, the mayor, with the approval of the council, may appoint one or two additional city assessors.
3. The city council, including a city council under the modern council form of government, by a majority vote may dispense with any appointive office and provide that the duties of that office be performed by other officers.

40-14-05. Term of appointive officers.

The term of all appointive officers of a city operating under the council form of government commences on the first day of July succeeding their appointment unless otherwise provided by ordinance, and the officers shall hold their respective offices for two years, and until their successors are appointed and qualified.

40-14-06. Officers commissioned by warrant — City auditor to receive certificate of appointment.

All officers elected or appointed, except the city auditor, council members, and mayor, must be commissioned by warrant signed by the auditor and the mayor or president of the city council. The mayor shall issue a certificate of appointment to the auditor.

40-14-07. Holding of other offices by city auditor prohibited.

Repealed by S.L. 1975, ch. 372, § 1.

CHAPTER 40-15 – Officers in Commission Cities, General

40-15-01. Officers to be elected in commission cities.

The following officers shall be elected in each city operating under the commission system of government:

1. A president of the board of city commissioners.
2. Four city commissioners.

Each city operating under the commission system of government may choose to have a municipal judge who shall be elected.

40-15-02. Terms of elective officers.

The terms of office of the president of the board of city commissioners and of each commissioner shall be as provided in chapter 40-09. The municipal judge shall hold office for four years and until the judge's successor is elected and qualified.

40-15-03. When term of elective officers begins.

The term of each elective officer in a city operating under the commission system of government commences on the fourth Tuesday in June of the year in which the officer is elected.

40-15-04. Extension of terms of officers in commission cities elected to terms expiring in 1943 and 1945.

Repealed by omission from this code.

40-15-05. Appointive officers in commission cities — Right to dispense with offices.

At the first meeting after the qualification of its members, or as soon thereafter as possible, the board of city commissioners shall appoint the following officers:

1. A treasurer;
2. An auditor;
3. An attorney;
4. One or more assessors;
5. A city health officer who shall be a physician;
6. A street commissioner;
7. A chief of the fire department;
8. A chief of police;
9. One or more police officers;
10. A city engineer;
11. A board of public works; and
12. Such other officers or boards as the board of city commissioners may deem necessary.

The board of city commissioners by a majority vote may dispense with any appointive office and provide that the duties thereof shall be performed by other officers or boards, by the board of city commissioners, or by a committee or committees thereof.

40-15-06. Term of appointive officers.

The terms of all appointive officers of a city operating under the commission system of government commences on the first day of July succeeding their appointment unless otherwise provided by ordinance, and the officers shall hold their respective offices for the term provided by ordinance, and until their respective successors are qualified.

40-15-07. Appointive officers — Removal upon hearing — Suspension — Appointment and removal of temporary officer.

Any person appointed to any office of a city operating under the commission system of government and any employee of the city may be removed by a majority vote of all the members of the board of city commissioners, but no officer or employee shall be removed except for cause and unless charges are preferred against the person and the person is accorded an opportunity to be heard in the person's own defense. Within ten days after charges are filed against any such person in the office of the city auditor, the board shall proceed to hear and determine the case upon its merits. The president of the board of city commissioners, or the board, by a majority vote of its members, may suspend any officer or employee against whom charges have been preferred until the disposition of the charges. The president may appoint a person to fill any vacancy temporarily until charges against the incumbent of such office have been disposed of. Any person appointed by the president without confirmation may be removed by the president when the president deems it is for the best interests of the city.

CHAPTER 40-21 Municipal Elections

40-21-01. Qualified electors in municipal election — Restrictions.

Every resident of a municipality who is qualified to vote therein at general elections may vote at all municipal elections held therein. When elections are held by wards or precincts, a person may not vote in any place other than the ward or precinct of which the person is a resident.

40-21-02. City elections — When held — Notice — Polls — Agreements with counties — Judges and inspectors.

Biennial municipal elections must be held on the second Tuesday in June in each even-numbered year.

1. Thirty days before the filing deadline for candidate names to be printed on the ballot, an official notice of this deadline along with a list of the offices to appear on the ballot must be published in the official newspaper of the city as provided by section 40-01-09.
2. Ten days' notice of the time and place of the election and of the offices to be filled at the election must be given by the city auditor by publication in the official newspaper of the city as provided by section 40-01-09.
3. The governing body of a city shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the apportioning of election expenses.
4. For city elections that are not held under an agreement with any county, the governing body of the city shall appoint one inspector and two judges of election for each polling place in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. In voting precincts in which over three hundred votes are cast in any previous election, the governing body may appoint two election clerks for each polling place. For a city election that is not held under an agreement with any county in a precinct in which seventy-five or fewer votes were cast in the last city election, the governing body of the city may appoint one inspector and one judge for each polling place.
5. When a city enters into an agreement with the county to hold the city election in conjunction with the county election, the deadline for giving notice of the city election along with the offices to be filled at the election may be adjusted in order to meet the publishing requirements of the county. Each city governing body that enters into an agreement with the county must notify the county auditor, in writing, immediately after the candidate filing deadline on the sixty-fourth day before the election of the offices to be filled at the election and any measures to appear on the ballot.

40-21-03. Elections in council cities — Polling places — Polls open — Notice — Judges, clerks, and inspectors — Agreements with counties.

Repealed by S.L. 1995, ch. 390, § 3.

40-21-03.1. Designation of polling places for municipal elections.

The governing body of any city at the time of calling any general or special municipal election, or prior to the time of registration for said election, if such registration is required by law, when officers of said city are not to be elected by wards or districts, may by resolution designate such voting precincts and polling places for said election as it may deem necessary for the conduct of the same and shall in giving notice of said election designate such voting precincts and polling places.

40-21-04. Annual election held in villages — Board of trustees to be inspectors.

Repealed by S.L. 1967, ch. 323, § 285.

40-21-05. Compensation of inspectors, judges, and clerks at municipal elections.

Each inspector, judge, or clerk of any regular or special municipal election shall receive compensation as determined for election officials in section 16.1-05-05. The amounts determined to be due election officials at municipal elections shall be paid from the funds of the municipality holding the election. In the event a special municipal election is held on the same date as a statewide, districtwide, or countywide election, and if the same election officials perform services for both elections, the city shall not be required to pay the election officials, except for any extra officials necessary for such special municipal election.

40-21-06. Reference to party ballot or affiliation in petition of candidate for municipal office prohibited.

No reference may be made to a party ballot nor to the party affiliation of a candidate in a petition to be filed by or in behalf of a candidate for nomination to a public office in any incorporated city in this state.

40-21-07. Petition for nomination of elective official in cities — Signatures required — Withdrawal of petition — Contents.

A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, before four p.m. on the sixty-fourth day before the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. A candidate shall also file a statement of interests as required by section 16.1-09-02. If multiple candidates were elected to the office at the preceding city election at which the office was voted upon, the number of signatures must equal at least ten percent of the total votes cast for all candidates divided by the number of candidates that were to be elected to that office at that election. Qualified electors who sign a petition must reside within the ward or precinct in and for which that officer is to be elected, if the election is by wards, or within the corporate limits of the city, if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the qualified electors at large residing within the city. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the sixty-fourth day before the holding of the election. However, no more than three hundred signatures may be required and the signatures may be on separate sheets of paper. Petitions must meet the specifications of nominating petitions pursuant to section 16.1-11-16. If a city election is not combined with a state or county election according to section 40-21-02, a candidate may be nominated by filing the required petition with the city auditor before four p.m. on the sixty-fourth day before the holding of the election. A candidate may withdraw the candidate's nominating petition at any time before the applicable deadlines for filing nominating petitions provided for in this section. Nominating petitions required by this section may not be circulated or signed prior to January first preceding the election. Any signatures to a nominating petition obtained before that date may not be counted. A nominating petition for a special election may not be circulated or signed more than thirty days before the time when a petition for a special election must be filed. A candidate for city council may run for either the office of mayor or council member but not both in the same election. A candidate for the city commission may run for either the office of city commissioner or the office of president of the board of city commissioners but not both in the same election. A candidate may run for only one office in a city at any given election.

40-21-08. Ballots in municipalities — Arrangement.

The auditor of the city shall place only the names of the persons nominated upon the ballot. The auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The auditor shall determine the arrangement of the names of the candidates upon the ballot by conducting a drawing immediately after the candidate filing deadline on the sixty-fourth day before the election. The city auditor shall set the date, time, and location for conducting the drawing and shall give advance notice of the drawing to the candidates involved.

40-21-09. Election districts in council cities — Division and consolidation by ordinance — Ballots to be kept separate by wards.

Each city operating under the council form of government in which council members are elected at large constitutes an election district or voting precinct, and in all other cities each ward constitutes an election district or voting precinct. Whenever the number of electors in any two or more contiguous wards does not exceed one hundred as determined by the number of votes cast at the last city election, the council, by ordinance, may consolidate those two or more wards into one precinct for voting purposes. In any city containing less than four hundred electors as determined by the number of votes cast at the last city election, the council, by ordinance, may consolidate all the wards of the city into one precinct for voting purposes. An ordinance dividing or consolidating wards must be passed and takes effect before the time of giving notice of the election. Wards and precincts established under this section constitute election districts for all state, county, and city elections. In city elections, separate ballot boxes and pollbooks must be provided and kept for each precinct. The terms “wards”, “precincts”, and “election districts” have the same meaning except where two or more wards are consolidated into one precinct for voting purposes or where one ward is divided into more than one precinct for voting purposes. This section does not prohibit the use of one building as the election polling place for more than one ward or the installation of electronic voting systems from separate wards in one building.

40-21-10. Registration of voters.

The governing body of any city may require the registration of voters in any election held or conducted within the municipality at such time and place or places as the governing body may designate.

40-21-11. Clerks appointed to fill vacancies — Oath, powers, and duties of judges and clerks of municipal elections.

When necessary, the judges of election at a municipal election shall appoint clerks to fill vacancies. The judges and clerks of a municipal election shall take the same oath and have the same powers and authority as judges and clerks of general state elections.

40-21-12. Counting ballots — Returns — Canvass of returns by governing body of municipality.

Repealed by S.L. 2005, ch. 185, § 18.

40-21-13. Municipal elections to be governed by rules applicable to county elections — Absent voting.

The manner of conducting, voting at, keeping poll lists, and canvassing votes at municipal elections, recounts, and contests of the results of the elections is governed, as nearly as possible and except as otherwise provided in this chapter, by the laws of this state applicable to elections and contests in the case of county officers. Absent voters’ ballots must be available in municipal elections in accordance with chapter 16.1-07.

40-21-14. City auditor to notify of election or appointments.

The city auditor, within five days after the result of an election is declared or the appointment of an officer is made within the municipality, shall notify each person elected or appointed to municipal office of that person's election or appointment. Within the same period of time, the city auditor shall also notify the state supreme court of the election or the appointment of any municipal judge or alternate judge.

40-21-15. New election upon failure to elect.

If there is a failure to elect an officer required to be elected, the governing body of the municipality may order a new election.

40-21-16. Special elections conducted in same manner as general elections.

Special municipal elections to fill vacancies or for any other purpose must be held and conducted by the inspectors and judges of election of the several polling places in the same manner and the returns must be made in the same form and manner as at regular municipal elections.

40-21-16.1. City canvassing board — Composition.

For any city election not held in conjunction with a county election, the city canvassing board must be composed of the city auditor, city attorney, mayor or commission president, and two members of the city commission or council, or appointed replacements for any of these officials. An individual who served on an election board during the election may not serve as a representative on the canvassing board for that same election. The city canvassing board must be comprised of at least five members.

40-21-17. Highest number of votes elects in municipal election — Procedure on tie vote.

The person having the highest number of votes for any municipal office shall be declared elected to such office. In case of a tie vote in the election of any municipal officer, a recount must be conducted pursuant to section 16.1-16-01. If a recount results in a tie vote, the choice must be determined by a drawing of names in the presence of the governing body of the municipality and in a manner it directs. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules for filling an office when a vacancy exists.

TITLE 44 OFFICES AND OFFICERS

CHAPTER 44-01 – Eligibility and Qualifications of Officers

Election Related Excerpts

44-01-01. Eligibility to office.

Every elector is eligible to the office for which that person is an elector, except when otherwise specially provided. No person is eligible who is not such an elector.

44-01-03. When state and district officers shall qualify.

Except when otherwise specially provided, all state and district officers shall qualify on the first day of January next succeeding their election and on said first day of January shall enter upon the discharge of the duties of their respective offices, provided that when a person is elected to fill an unexpired term in a district office then vacant or then held by an appointee, such person may qualify and enter upon the discharge of the duties of such office at any time after receiving a certificate of election to that office but not later than the first day of January next succeeding the date of election to the unexpired term of office.

44-01-04. State, district, and county officers — Failure to qualify — Vacancy.

If any person elected to any state, district, county, or other political subdivision office fails to qualify and enter upon the duties of such office within the time fixed by law, such office must be deemed vacant and must be filled by appointment as provided by law. If there is a contest for such office or if the person elected to such office is prevented or obstructed in any manner from entering upon the duties thereof, the time above prescribed does not govern and the person must be allowed twenty days after the day such contest is determined or such obstruction removed in which to qualify.

44-01-05. Oath of civil officers.

Each civil officer in this state before entering upon the duties of that individual's office shall take and subscribe the oath prescribed in section 4 of article XI of the Constitution of North Dakota. The oath must be endorsed upon the back of, or attached to, the commission, appointment, or certificate of election. The term civil officer includes every elected official and any individual appointed by such elected official; any individual appointed by the governor and required by section 16.1-09-02 to file a statement of interests with the secretary of state; appointed member of any state authority, board, bureau, commission, and council; and the appointed head of any state agency and agency division, whether the individual serves with or without compensation. Except for an individual appointed to fill a vacancy existing in the legislative assembly, the term does not include any individual receiving a legislative appointment. For purposes of this chapter and chapter 44-05, the term civil officer has the same meaning as public officer.

44-01-05.1. Failure to file oath.

The appointment of any civil officer may be rescinded by the appointing authority if the appointed civil officer fails to file an oath of office at the place of filing required by section 44-05-04.

CHAPTER 44-02 – Vacancies in Office

44-02-01. Vacancies — Causes thereof.

An office becomes vacant if the incumbent shall:

1. Die in office;
2. Be adjudged mentally ill;
3. Resign from office;
4. Be removed from office;
5. Fail to discharge the duties of office, when the failure has continued for sixty consecutive days, except when prevented from discharging the duties by reason of the person's service in the armed forces of the United States, by sickness, or by other unavoidable cause. However, as to any office which under the law the vacancy must be filled by the governor, the governor for good cause shown may extend the period, which the incumbent may be absent, for an additional period of sixty days. No remuneration on account of such office may be paid to an absentee officeholder during that person's absence, and the office in all cases becomes vacant upon the termination of the term for which the person was elected or appointed;
6. Fail to qualify as provided by law, which includes taking the designated oath of office prescribed by law;
7. Cease to be a resident of the state, district, county, or other political subdivision in which the duties of the office are to be discharged, or for which the person may have been elected;
8. Be convicted of a felony or any offense involving moral turpitude or a violation of the person's official oath;
9. Cease to possess any of the qualifications of office prescribed by law; or
10. Have the person's election or appointment declared void by a competent tribunal.

44-02-02. Resignations of officers — To whom made.

The resignation of an officer must be in writing and must be made as follows:

1. The governor and lieutenant governor, to the legislative assembly, if it is in session, and if not, to the secretary of state.
2. Any other state or district officer, to the governor.
3. A member of the legislative assembly, to the presiding officer of the branch of which the individual is a member, when in session, and when not in session, to the chairman of the legislative management. When made to the presiding officer, the presiding officer at once shall notify the chairman of the legislative management of the resignation.
4. An officer of the legislative assembly, to the branch of which the individual is an officer.
5. An elective county officer, by filing or depositing the resignation in the office of the county auditor, except that the resignation of the county auditor must be filed or deposited with the board of county commissioners. Any resignation under this subsection, unless a different time is fixed therein, takes effect upon the filing or deposit.
6. An officer of a civil township, to the board of supervisors of the township, except that a member of the board shall submit the member's resignation to the township clerk, and the township clerk forthwith shall give to the county auditor notice of the resignation of all officers whose bonds are filed with that officer.
7. Any officer holding office by appointment, to the body, board, court, or officer which appointed the officer.

44-02-03. Vacancy in state or district office — How filled.

Any vacancy in a state or district office, except in the office of a member of the legislative assembly, must be filled by appointment by the governor. A vacancy in the office of a supreme court justice or district court judge must be filled as provided in chapter 27-25. If during a vacancy in the office of governor, the lieutenant governor and the secretary of state are impeached, displaced, resign, or die, or from mental or physical disease or otherwise become incapable of performing the duties of the office of governor as provided by sections 2 and 7 of article V of the Constitution of North Dakota, then the succession to the office of governor is the speaker of the house, president pro tem of the senate, attorney general, in the order named. Each succeeding person named shall hold the office of governor until the vacancy is filled by election or until any disability of the preceding person in the line of succession is removed.

44-02-04. Vacancy in county office — Appointment.

A vacancy in any county office, other than that of county commissioner, must be filled by the board of county commissioners, with the exception that if a vacancy has occurred in the office of state's attorney by reason of removal under section 44-11-01, the appointment must be made by the board of county commissioners by and with the advice and consent of the governor. The board of county commissioners may declare a county office to be vacant whenever the officeholder is unable to perform the duties of the office for six months or more. However, if within one year the officeholder should become able to perform the officeholder's duties, the county commissioners may, for good cause shown, reinstate the officeholder.

44-02-05. Vacancy in board of county commissioners — How filled.

When a vacancy occurs in the board of county commissioners, the remaining members of the board immediately shall appoint some suitable person to fill the vacancy from the district in which the vacancy occurred. If a majority of the officers fails to agree upon a person to fill the vacancy, the county treasurer or, if the county does not have an elected treasurer, another elective county officer must be called in and shall act as an additional member of the board to fill the vacancy. The appointee holds office until the appointee's successor is elected at the next general election that occurs at least sixty days after the vacancy and the successor has qualified.

44-02-06. Vacancy in township office — How filled.

Repealed by S.L. 1955, ch. 342, § 2.

44-02-07. Brief vacancy not to be filled — Exception.

If a vacancy occurs within sixty days previous to an election at which it may be filled, no appointment may be made unless it is necessary to carry out such election and the canvass of the same according to law. In such case an appointment may be made at any time previous to such election to hold until after such election or until the appointee's successor is elected and qualified.

44-02-08. Appointment to be made in writing — Term.

Any appointment to fill a vacancy under this chapter must be made in writing, and, except as otherwise expressly provided by law, continues in force until the first general election that occurs at least sixty days after the vacancy, when the vacancy will be filled by election, and thereafter until the appointee's successor by election is qualified.

44-02-09. Appointment — How qualified.

A person appointed to office as provided in this chapter shall qualify within the time and in the manner required of a person elected or appointed to such office for a full term.

44-02-10. Vacancy due to military service — How office is filled.

When the incumbent of any elective office in this state is unable to discharge the duties of the incumbent's office by reason of service in the armed forces of the United States, an acting official who shall have the powers of the incumbent must be appointed in the same manner that an appointment would be made in case of a vacancy in office, the appointment being made from a list of three names which must be submitted by the incumbent to the appointing body or officer within thirty days after leaving for the service. Provided, however, in the office of state's attorney the names of practicing attorneys residing in adjoining counties may be included if there are less than three practicing attorneys residing in such county in which the appointment is to be made. If the incumbent has already entered the military service the incumbent shall, within ten days after the passage and approval of this section, file a list of three names with the appointing body or officer. If the incumbent fails to submit a list of names, the appointing body or officer shall make the appointment of the acting official without regard to the incumbent's wishes; provided, however, that in the filling of such vacancy in the office of state's attorney, a practicing attorney from an adjoining county may be named to fill such vacancy if there are less than three practicing attorneys residing in the county where such vacancy is to be filled. Provided, further, the acting official shall serve, and the acting official's tenure of office must be terminated immediately upon the incumbent filing a "notice of return" with the secretary of state in instances in which it is a state official, or with the county auditor when the incumbent is an official of the county or any of its subdivisions. This section is hereby declared to be retroactive and all appointments to vacancies heretofore made in the manner herein provided are hereby validated.

CHAPTER 44-05 – Administration of Oaths

44-05-01. Officers authorized to administer oaths.

The following officers are authorized to administer oaths:

1. Each justice of the supreme court, each judge of the district court, the clerk of the supreme court, and the clerk's deputy.
2. The clerk of the district court, county auditor, recorder, and the deputy of each such officer within that officer's county.
3. Each county commissioner and public administrator within that officer's county.
4. Notary public anywhere in the state.
5. Each city auditor, municipal judge, and township clerk, within that officer's own city or township.
6. Each sheriff and the deputy sheriff within the sheriff's county in the cases prescribed by law.
7. Other officers in the cases prescribed by law or by rule of the supreme court.

44-05-02. Person may affirm.

A person conscientiously opposed to swearing may affirm and is subject to the penalties of perjury as in case of swearing.

44-05-03. Fee for taking acknowledgment and administering an oath.

Any officer authorized by law to take and certify acknowledgment of a deed or other instrument is entitled to charge and receive not more than five dollars.

44-05-04. Place of filing oath of office.

Unless otherwise provided by law, any civil or public officer required by section 44-01-05 or any other provision of law to take an oath of office must file the original oath as follows:

1. If a state official or member of a state board, with the secretary of state.
2. If a county official or member of a county board, with the county auditor.
3. If a city official or member of a city board, with the city auditor.
4. If a member of a district or political subdivision that is larger than a county, with the secretary of state.

CHAPTER 44-08 – Miscellaneous Provisions

Election Related Excerpts

44-08-19. Political activities by public employees prohibited while on duty — Definition.

1. No public employee may engage in political activities while on duty or in uniform. Although nothing in this section prevents any such employee from becoming or continuing to be a member or officer of a political club or organization, from attendance at a political meeting, from contributing to or otherwise supporting candidates of the employee's choice, from enjoying entire freedom from all interference in casting a vote or favoring candidates, or from seeking or accepting election or appointment to public office, the governing body of any political subdivision may adopt appropriate ordinances prohibiting public employees from engaging in political activities while such employees are on duty or in uniform.
2. For the purposes of this section, "political activities" means those activities defined by section 39-01-04.

44-08-20.1. Law enforcement officer job application.

Every applicant for a position as a law enforcement officer for any state or political subdivision agency must be asked in any written application for that position whether that applicant has ever pled or been found guilty of a felony including a felony charge that was later dismissed under a deferred imposition of sentence.

Source. S.L. 1999, ch. 121, § 2.

44-08-21. Recall of elected officials of political subdivisions.

1. An elected official of a political subdivision, except an official subject to recall under section 10 of article III of the Constitution of North Dakota, is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the official sought to be recalled was on the ballot, not including other recall elections. An official who was appointed to fill a vacancy is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections. The provisions of section 16.1-01-09.1, as they relate to signing and circulating recall petitions, apply to petitions under this section.
2. A recall petition must include a stated reason for the recall and be approved as to form before circulation by the secretary of state. The secretary of state shall complete the review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays. To be effective, a recall petition must be submitted to the appropriate filing officer within ninety days after the date the recall petition is approved for circulation by the secretary of state.
3. Once circulated, the recall petition must be filed with the filing officer with whom a petition for nomination to the office in question is filed unless that filing officer is the individual subject to recall, in which case the petition must be filed with the secretary of state. The filing officer with whom the petition is filed shall pass on the sufficiency of a petition pursuant to section 16.1-01-09.1. Except as otherwise provided in this section, the filing officer shall call a special election to be held not sooner than ninety-five days nor later than one hundred five days following the date the filing officer certifies the petition valid and sufficient. No special election may be called if that date would be within ninety-five days of the next scheduled election. An elector's name may not be removed from a recall petition that has been submitted to and received by the appropriate filing officer.

4. The name of the oficial to be recalled must be placed on the ballot unless the official resigns within ten days after the filing officer certifies the petition is valid and sufficient. Other candidates for the office may be nominated in a manner provided by law and shall file nominating papers with the appropriate filing officer by the sixty-fourth day before the scheduled recall election. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint an individual to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term. No official is subject to recall twice during the term for which the official was elected. An official whose office is on the ballot at a regularly scheduled election occurring within one year is not subject to recall.

TITLE 46 PRINTING LAWS

CHAPTER 46-06 – Official Newspaper

46-06-01. Selection of official newspaper.

At the general election starting with the year 1978 and every four years thereafter, in accordance with section 46-06-06, the qualified electors in each county shall select one newspaper in the county, or if there is no newspaper published in the county, then a newspaper published in an adjoining county with general circulation in the first county, to be the official newspaper within such county.

46-06-02. Qualifications required of an official newspaper.

A newspaper is qualified to serve as an official newspaper if it meets all the requirements of a legal newspaper set forth in section 46-05-01 and maintains its principal editorial office within the county in which it is a candidate for official newspaper. In a county in which no newspaper maintains its principal editorial office, a newspaper published in an adjoining county with general circulation in the first county is qualified to serve as that county's official newspaper.

46-06-03. Application to place name on ballot at primary election.

The county auditor shall place the name of a newspaper upon the primary election ballot if the newspaper is qualified to serve as the official newspaper within the county and if, before four p.m. of the sixty-fourth day prior to the primary election, an application asking that the name of the newspaper be placed upon the ballot to be voted upon for nomination as official newspaper of the county and an affidavit indicating the newspaper meets all of the requirements of an official newspaper pursuant to sections 46-05-01 and 46-06-02 are filed with the county auditor by a person, partnership, corporation, or limited liability company owning or operating the newspaper. The county auditor shall endorse upon the application the name of the newspaper and the date upon which the application is filed.

46-06-04. Where name of newspaper placed on ballot.

The county auditor shall place the names of all newspapers to be voted upon for nomination as official newspaper of the county at the bottom of the ballot upon which appear the names of the candidates for county offices. The names of the newspapers must be rotated as is required for the names of candidates on the primary election ballot.

46-06-05. Names of two papers receiving highest number of votes to be placed on general election ballot.

The county auditor shall place the names of the two newspapers receiving the highest number of votes at the primary election on the general election ballot upon which appear the names of candidates for county offices. The names must appear in the same place and in the same manner as on the primary election ballot.

46-06-06. Newspaper receiving highest number of votes elected — Canvass.

The newspaper receiving the highest number of votes at the general election must be declared elected. The county auditor, upon the canvass and return of the vote by the county canvassing board, shall issue a certificate of election to such newspaper, and it shall become the official newspaper beginning on the first Monday in January following the election, and shall act as the official newspaper for a period of four years and until a successor is chosen and takes office. The canvass of the votes for the official newspaper must be made by the county canvassing board at the time other election returns are canvassed.

46-06-07. Bond of official newspaper.

Repealed by S.L. 1987, ch. 551, § 1.

46-06-08. Vacancy — How filled.

If a newspaper elected as the official newspaper suspends publication or ceases to possess the qualifications prescribed in section 46-06-02, a vacancy must be deemed to exist. The board of county commissioners at once shall designate another newspaper having the required qualifications to act as the official newspaper of the county until a successor is elected and takes office.

46-06-09. Publications required to be made in official newspaper.

There must be published in the official newspaper:

1. All official proceedings of the board of county commissioners of the county in which it is elected.
2. All notices and publications which are required by law to be published by any county officer.
3. All publications of every nature which are required to be published within the county in which the newspaper is elected by any elective or appointive state officer.

46-06-10. When publication null and void.

A legal publication of any kind or character described in section 46-06-09 which is not published in the duly elected official newspaper is null and void.

TITLE 54 STATE GOVERNMENT

CHAPTER 54-01 Sovereignty and Jurisdiction of State

Election Related Excerpts

54-01-20. The people defined.

The people, as a political body, consist of:
1. Citizens who are electors; and
2. Citizens not electors.

54-01-21. Citizens defined.

The citizens of the state are all persons who are citizens of the United States of America and who are bona fide residents of the state of North Dakota.

54-01-22. Persons not citizens.

Persons in this state who are not its citizens are either:
1. Citizens of other states; or
2. Aliens.

54-01-23. Duty of citizens — Allegiance defined — How renounced.

Allegiance is the obligation of fidelity and obedience which every citizen owes to the state. Allegiance may be renounced by a change of residence.

54-01-24. Rights and duties of citizens not electors.

An elector has no rights or duties beyond those of a citizen not an elector, except the right and duty of holding and electing to office.

54-01-25. Rights and duties of citizens of other states.

A citizen of the United States who is not a citizen of this state has the same rights and duties as a citizen of this state who is not an elector.

54-01-26. Residence — Rules for determining.

Every person has in law a residence. In determining the place of residence, the following rules must be observed:
1. It is the place where one remains when not called elsewhere for labor or other special or temporary purpose and to which the person returns in seasons of repose.
2. There can be only one residence.
3. A residence cannot be lost until another is gained.
4. The residence of the supporting parent during the supporting parent's life, and after the supporting parent's death, the residence of the other parent is the residence of the unmarried minor children.
5. An individual's residence does not automatically change upon marriage, but changes in accordance with subsection 7. The residence of either party to a marriage is not presumptive evidence of the other party's residence.
6. The residence of an unmarried minor who has a parent living cannot be changed by either that minor's own act or that of that minor's guardian.
7. The residence can be changed only by the union of act and intent.

CHAPTER 54-02 State Emblems, Synbols, and Awards

54-02-01. Great seal — Permitted uses — Penalty for commercial use.

1. The great seal of the state is that prescribed in section 2 of article XI of the Constitution of North Dakota. A description in writing of such seal must be deposited and recorded in the office of the secretary of state and must remain a public record. A reproduction of the great seal may be placed on any official form, document, or stationery of any agency, authority, board, body, branch, bureau, commission, committee, council, department, division, industry, institution, or instrumentality of the state or of any elected or appointed official of the state. A reproduction of the great seal may be placed on business calling cards produced for the use of an elected or appointed state official or state employee regardless of whether the cards are purchased by the official or employee or by the state. Any use of the great seal on any other object or thing by any of the foregoing state entities or officials is prohibited unless approved by the secretary of state; provided, however, that the state historical society and the parks and recreation department may, with the concurrence of the secretary of state, reproduce the great seal on any objects they offer for sale as souvenirs.
2. It is a class B misdemeanor for any person to:
   a. Place or cause to be placed the great seal, or any reproduction of the great seal, on any political badge, button, insignia, pamphlet, folder, display card, sign, poster, billboard, or on any other public advertisement, or to otherwise use the great seal for any political purpose, as defined in section 16.1-10-02.
   b. Place or cause to be placed on the great seal, or any reproduction thereof, any advertisement.
   c. Expose the great seal, or any reproduction thereof, to public view with any advertisement attached thereto.
   d. Utilize the great seal, or a copy or reproduction thereof, for any commercial purpose or except as provided in subsection 1, to utilize or place a copy or reproduction of the great seal on any stationery or business calling card of any person.

As used in this subsection, “advertisement” means any printed matter, device, picture, or symbol, no matter how presented to the senses, which informs the public that a good or service is available; and “commercial purpose” means with intent to produce a pecuniary gain through sale of a good or service. Notwithstanding any other provision of law, the secretary of state may grant a written request by a private vendor to reproduce official state forms and documents, containing a reproduction of the great seal, for resale to persons intending to submit the forms or documents to any state entity in the regular course of business. The secretary of state may also grant a written request by a publisher, educational institution, or author to reproduce the great seal in any research, reference, or educational publication containing a compilation of the great seals of other states.

TITLE 58 TOWNSHIPS

CHAPTER 58-04 – Township Meetings and Elections

58-04-01. Annual township meeting — When held — Change in meeting place — Notice.

The electors of each township annually shall assemble and hold a township meeting on the third Tuesday in March at such place in the township or in an adjacent township as the board of township supervisors thereof shall designate. Notice of the time and place of holding the meeting must be given by the township clerk at least ten days prior to the meeting by publication in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper. Before a change in the place of holding the annual township meeting is made, notice of the contemplated change may be given by any member of the board of township supervisors to the township clerk, who shall have such change published if time allows. Otherwise, the township clerk shall post notice of the change. Where an incorporated city is wholly or partially within the boundaries of the township or an adjacent township, all township meetings may be held in such place within such incorporated city, as the board of township supervisors thereof may designate.

58-04-02. Special meetings — When held.

A special township meeting may be held for the purpose of electing township officers to fill vacancies that occur, to authorize expansion of the board of township supervisors from three to five members, or for the purpose of transacting other lawful township business whenever the supervisors or township clerk, or any two of them, or twenty percent of the freeholders of the township, shall file in the office of the township clerk a written statement that a special meeting is necessary or whenever a special meeting is required by any other provision of the laws of this state.

58-04-02.1. Expansion of membership of the board of township supervisors.

At the annual township meeting or a special meeting, the electors of the township may approve expansion of the board of township supervisors from three to five members. At the first annual meeting after a special meeting at which the expansion is authorized, or at the annual meeting at which the expansion is authorized, the electors of the township shall elect three members of the board of township supervisors. Two of the members of the board elected under this section must be elected for three-year terms and one supervisor must be elected for a two-year term. Thereafter, terms of office of members of the board of township supervisors will be as provided in section 58-05-02.

58-04-03. Clerk to give notice of special meeting.

Each township clerk with whom a statement provided for in section 58-04-02 is filed shall record the same and shall cause notice of the special meeting to be published at least ten days before the meeting in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper.

58-04-04. What notice of special meeting must specify — Business transacted at meeting limited.

Each notice given for a special meeting must specify the purpose for which it is to be held. No business other than that specified in the notice may be transacted at such meeting. If vacancies in office are to be filled at the meeting, the notice must specify in what offices the vacancies exist, how they occurred, who was the last incumbent, and when the term of each office expires.

58-04-05. Organization of annual or special meetings.

The qualified electors present on the day of the annual or special meeting must be called to order by the township clerk, or, if the township clerk is not present, the qualified electors may elect by acclamation one of their number to act as chairman for the purpose of calling the meeting to order and to act as clerk after the selection of a moderator. The qualified electors shall elect by acclamation three of their number as judges, and such judges must be sworn and shall act as the judges of the qualifications of the qualified electors of the township. The qualified electors shall proceed to choose one of their number to preside as moderator of the meeting. The township clerk, if present, or in the township clerk's absence, the clerk of the meeting, shall keep full minutes of its proceedings in which must be entered at length every order, direction, rule, and regulation made by the meeting. Meeting and voting hours of an annual or special meeting are optional with the township board, provided proper notice is given under the provisions of this chapter. The positions of moderator, clerk, and the three judges must be separate and distinct positions and no such positions may be held by the same person. The moderator, clerk, and the three judges each may be entitled to a salary of no more than fifteen dollars per day for each day actually expended in the performance of their duties. Such salary must be paid out of township funds made available for such purpose. However, in those townships in which the offices of township clerk and treasurer have been merged, the person holding such office shall receive compensation as provided by law as township treasurer only and may not receive additional compensation for duties as clerk.

58-04-06. Duty of moderator — Reconsideration of vote — Majority vote required.

At the opening of each meeting, the moderator shall state the business to be transacted and the order in which it must be entertained. A proposition to vote a tax may not be acted on out of the order of business as stated by the moderator. A proposition to reconsider a vote may not be entertained at any meeting unless the proposition is made within one hour from the time the vote was taken or unless the motion for the reconsideration is sustained by a number of electors equal to a majority of all the names entered upon the poll list at the election up to the time the motion is made. All questions upon motions made at township meetings must be determined by a majority of the electors voting. The moderator shall ascertain and declare the result of the vote on each question.

58-04-07. Proclamation of opening and closing polls.

Before the electors proceed to elect any township officer, the moderator shall proclaim the opening of the polls, and proclamation in like manner must be made of any adjournment and of the opening and closing of the polls until the election is ended.

58-04-08. Who are voters at township meetings.

A person may not vote at any township meeting unless that person is qualified to vote at general elections therein.

58-04-09. Challenge to voter — Duty of judges.

Repealed by S.L. 2013, ch. 167, § 8.

58-04-10. Officers to be elected by ballot.

The supervisors, treasurer, and clerk in each township must be elected by ballot. All other officers, if not otherwise provided by law, must be chosen either by yeas and nays or by a division as the electors determine.

58-04-11. Names of all candidates to be on one ballot.

When the electors vote by ballot, all the candidates voted for must be named on one ballot, which must contain, written or printed or partly written and partly printed, the names of the persons voted for and the offices to which such persons are intended to be chosen.

58-04-12. Judges to deposit ballots.

When the election is by ballot, the marked ballot must be delivered to one of the judges so folded as to conceal its contents, and the judges shall deposit the ballots in a box provided for that purpose.

58-04-13. Poll list kept by clerk.

When the election is by ballot, a poll list on which must be entered the name of each person whose vote is received shall be kept by the clerk of the meeting.

58-04-14. Judges to canvass the votes — Manner of canvassing — Declaration of election.

At the close of every election by ballot, the judges shall proceed publicly to canvass the votes, which canvass when commenced must continue without adjournment or interruption until the same is completed. The canvass must be conducted by taking one ballot at a time from the ballot box and counting until the number of ballots is equal to the number of names on the poll list, and if there are any left in the box, they must be destroyed immediately. If on the opening of the ballots, two or more ballots are found to be so folded that it is apparent that the same person voted them, the board shall destroy such unlawful ballots immediately. The person having the greatest number of votes for an office must be declared elected.

58-04-15. Tie vote — How determined.

If two or more persons have an equal and the highest number of votes for an office, the judges of election, immediately and publicly, shall determine by a drawing of names who of such persons shall be declared elected. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules for filling an office when a vacancy exists.

58-04-16. Result of canvass to be announced — Notice to voters.

When the canvass is completed, the clerk shall enter at length in the minutes of the meeting kept by the clerk, as required in section 58-04-05, a statement of the result of the election which must be read publicly by the clerk to the meeting, and such reading must be deemed notice of the result of the election to every person whose name is entered on the poll list as a voter.

58-04-17. Minutes to be filed.

The minutes of the proceedings of each township meeting, subscribed by the clerk and judges of the meeting, must be filed in the office of the township clerk within two days after the meeting.

58-04-18. Township clerk to notify officers elected.

The clerk of the township meeting, immediately after the votes are canvassed, shall transmit a notice of election to each person elected to any township office.

58-04-19. Special meeting when officers not elected at annual meeting.

If a township meeting is not held for the purpose of organizing and electing its officers at the time fixed by law for holding the annual township meeting, a special township meeting for that purpose must be called by the township clerk. Such meeting must be held within the township or in an adjacent township. If notice of such meeting is not given by the clerk within ten days, any three electors of the township may call such meeting. Notices setting forth the time, place, and object of the meeting must be published at least five days prior to the meeting in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper. The electors, when assembled by virtue of such notice, shall possess all the powers conferred upon electors at the regular annual township meeting.

58-04-20. When board of county commissioners may designate township officers — Powers and duties of appointed officers.

If notice of a township meeting is not given under section 58-04-19 within thirty days after the time set by law for the holding of the annual township meeting, the board of county commissioners of the county in which the township is located shall appoint the necessary township officers. Such appointment must be made upon the filing in the office of the county auditor of an affidavit of a freeholder of the township setting forth the facts. The persons appointed by the board shall hold their respective offices until their successors are elected and qualified.

CHAPTER 58-05 – Township Officers Generally

58-05-01. Voter is eligible to office.

Every person qualified to vote at a township meeting is eligible to any township office.

58-05-02. Officers of a township — Terms of office.

The elected officers of a civil township must be:

1. Three or five supervisors.
2. One township clerk.
3. One assessor except as herein provided.
4. One treasurer.

In townships with three-member boards of township supervisors, one supervisor must be elected at each annual township meeting and shall hold office for a term of three years. In townships with five-member boards of supervisors, the number of members of the board of supervisors whose terms have expired must be elected at each annual township meeting and shall hold office for a term of three years. The other elective officers must be elected every two years and shall hold their respective offices for a term of two years. Each officer shall serve until that officer's successor is elected and qualified. The same person may hold the offices of township clerk and treasurer if a majority of the electors present vote in favor of the merging of such offices at the annual township meeting. The person elected to fill the merged office shall perform all of the duties required of both the township clerk and treasurer except as otherwise specifically provided by law. If a majority of the electors present and voting at an annual township meeting vote in favor of making the office of assessor appointive, the board of township supervisors shall appoint a township assessor for a four-year term of office, the first term commencing on January 1, 1974. In lieu of electing or appointing a township assessor, the board of township supervisors, if authorized by a majority of the electors present and voting at an annual township meeting, may on behalf of the township contract with the county in which the township is located or with any other political subdivision or with any individual to perform the duties of and have the powers of the township assessor. The length and terms of such a contract must be negotiated by the board of township supervisors with the governing body of the county or other political subdivision or with the individual, as the case may be, and the township is hereby authorized to make such payments as may be provided for in the contract. The electors of any township in which the office of township assessor was abolished prior to July 1, 1973, shall, at the next annual township meeting, elect a township assessor or authorize the board of township supervisors to appoint a township assessor or to contract for the making of the assessment as hereinbefore provided. The township electors may, by majority vote of those present and voting at an annual township meeting, change the previously adopted method of providing for the assessment to either of the other two methods authorized in this section, but such change does not become effective until expiration of the term of office of the assessor or until a vacancy occurs in the office of assessor or until expiration of the contract for making the assessments, whichever is applicable according to the method of providing for the assessment that was previously adopted.

58-05-03. When term of office begins.

Repealed by S.L. 1951, ch. 333, § 1.

58-05-03.1. Elected assessor — Commencement of term of office.

In any township in which an assessor is elected at the annual township meeting, the term of office of the assessor elected at such meeting commences on the first Monday in January next succeeding that election.

58-05-04. Election of supervisors and other officers in newly organized townships.

At the first meeting of a newly organized township, officers must be elected as follows: one supervisor to serve until the first annual township meeting; one supervisor to serve until the second annual meeting; and one supervisor to serve until the third annual meeting. All the other township officers must be elected to serve until the annual township meeting in an even-numbered year.

58-05-05. Bonds of officers.

Each person elected or appointed to the office of township clerk, assessor, or treasurer, within ten days after the person is notified of the person's election or appointment, and before entering upon the duties of the person's office, must be bonded for the faithful discharge of the person's duties in the same manner as other civil officers are bonded and in the following amounts:

1. The bond of the township clerk must be in such amount as may be determined by the board of township supervisors.
2. The bond of the treasurer must be in such amount as may be determined by the board of township supervisors and must be not less than the maximum amount of money that shall be subject to such treasurer's control at any one time.
3. The bond of the assessor must be in the amount of one thousand dollars.

Such bonds, or the certificates issued in lieu thereof, must be filed in the office of the township clerk.

58-05-06. Bonds of township officers — Premiums.

All bonds required by this title for any township officer must be obtained from the North Dakota state bonding fund or from a corporate surety company authorized to do business in this state. Personal sureties may not be accepted on any such bond. The premiums for bonds of the North Dakota state bonding fund must be paid by the township, and the township may not pay the premium upon any other bond except such as is procured to replace a bond canceled by the state bonding fund.

58-05-07. Officers to take oath.

Each person elected or appointed to the office of supervisor, township clerk, assessor, treasurer, or township overseer of highways, within ten days after the person is notified of the person's election or appointment, shall take and subscribe the oath prescribed in section 4 of article XI of the Constitution of North Dakota. If the oath is administered by the township clerk, no fee may be charged therefor.

58-05-08. Certificate of oath to be filed.

The person taking the oath described in section 58-05-07, immediately and before entering upon the duties of the person's office, shall file the certificate of such oath in the office of the township clerk.

58-05-09. Penalty for neglect to take oath.

If any township officer who is required by law to take an oath of office enters upon the duties of the office before taking such oath, the person shall forfeit to the township the sum of fifty dollars.

58-05-10. Neglect to qualify deemed refusal to serve.

If any person elected or appointed to a township office, of whom an oath or bond is required, neglects to file the same within the time prescribed by law, such neglect must be deemed a refusal to serve in such office.

58-05-11. Poundmaster to file acceptance — Neglect deemed refusal to serve.

Each person appointed to the office of poundmaster, before entering upon the duties of the office and within ten days after being notified of the election or appointment, shall file a notice signifying acceptance of such office in the office of the township clerk. A neglect to file such notice must be deemed a refusal to serve.

58-05-12. Officers interested in contracts of township.

Except as otherwise provided by this section, no township officer may become a party to or be interested, directly or indirectly, in any contract made by the board of which the officer is a member. Every contract or payment voted for or made contrary to this section is void. Any violation of this section constitutes malfeasance in office which subjects the offending officer to removal from office. A township officer may become a party to or be interested, directly or indirectly, in any contract made by the board if:

1. The officer is qualified to undertake the contract.
2. The board, when possible, has requested bids or offers from at least two persons.
3. The board gives due consideration to all reasonable bids or offers to provide the same service to the township.
4. The officer having an interest in the contract is a supervisor, that supervisor does not vote on the contract, and the other members of the board of supervisors vote unanimously in favor of the contract.
5. The officer having an interest in the contract is not a supervisor, all members of the board of supervisors vote unanimously in favor of the contract.

58-05-13. Records to be delivered.

Upon going out of office, each supervisor, township clerk, or assessor shall deliver, upon demand of the person's successor and upon oath administered by the latter, all records, books, and papers in the person's possession or under the person's control belonging to the office. The successor shall make such demand immediately upon assuming the office.

58-05-14. Successor to demand records in case of death.

Upon the death of a supervisor, township clerk, or assessor, the successor of such officer shall make such demand as is provided in section 58-05-13 of the personal representative of such deceased officer. The personal representative shall deliver upon oath all records, books, papers, or moneys in the personal representative's possession or under the personal representative's control belonging to the office held by the personal representative's testator or intestate.

58-05-15. Board may accept resignations.

The board of township supervisors, for sufficient cause shown to it, may accept the resignation of any officer in its township. Whenever the board accepts a resignation, it shall give notice thereof to the township clerk.

58-05-16. Vacancies — How filled — Term of office — Powers of person appointed.

If the electors of a township fail to elect the proper number of officers, or a person elected to a township office fails to qualify, or a vacancy happens in any such office from death, resignation, removal from the township, or other cause, the board of township supervisors, or a majority of them, shall fill the vacancy by appointment, and the person so appointed shall hold that office until the next annual meeting and until the person's successor is elected and qualified.

58-05-17. Vacancies in appointing board.

Repealed by omission from this code.

58-05-18. When county auditor to appoint township assessor.

If a township assessor is elected or appointed and fails or refuses to qualify or to discharge the duties of the office, or if the electors of a township have provided that the assessor must be elected but fail for any reason to elect an assessor, and the board of township supervisors and the board of county commissioners fail or refuse to appoint such officer for the township on or before the fifteenth day of February of the year for which the assessor is to serve or if the electors of a township have authorized the assessment to be contracted for as provided in section 58-05-02 and the board of township supervisors fails or refuses to enter into such a contract by the fifteenth day of February, the county auditor shall appoint an assessor for the township.