

## Article 1 General Provisions

### 16-400. Definition of mark

For the purposes of this chapter, "mark" means a character or symbol which is distinguishable and noticeable to a reasonable person but which does not identify or reveal the voter in a primary, general or special election conducted by this state or any political subdivision of this state.

### 16-401. Applicability of general election law to primary elections

A. A primary election shall be held, the voters shall vote therein, the method of voting shall be followed, the votes shall be counted and canvassed, the returns shall be made, all in the same manner as provided for a general election and shall otherwise conform to the laws governing general elections except as otherwise specifically provided. All provisions of other laws governing elections not in conflict and including registrations and qualifications of voters are made applicable to and shall govern primary elections.

B. The powers and duties conferred by law upon boards and clerks of elections, registration officers, canvassing boards and other public officials in connection with general elections are conferred upon all such officers of primary elections and, unless such powers or duties are otherwise specifically conferred, shall be exercised by them in connection with primary elections.

C. Every act declared to be an offense by the general election law shall be an offense under the primary election law and the offender shall be subject to the penalties prescribed by such general election law.

### 16-402. Absence from employment for purpose of voting; application therefor; violation; classification

A. A person entitled to vote at a primary or general election held within this state may, on the day of election, absent himself for the purpose of voting from the service or employment at which he is employed if there are less than three consecutive hours between the opening of the polls and the beginning of his regular workshift or between the end of his regular workshift and the closing of the polls. In such event, he may absent himself for such length of time at the beginning or end of his workshift that, when added to the time difference between workshift hours and opening or closing of the polls, will provide a total of three consecutive hours. He shall not, because of such absence, be liable for any penalty, nor shall any deduction be made therefor from his usual salary or wages. Application shall be made for such absence prior to the day of election, and the employer may specify the hours during which the employee may absent himself.

B. A person who refuses an employee the right conferred by this section, or who subjects an employee to a penalty or reduction of wages therefor, or who directly or indirectly violates the provisions of this section, is guilty of a class 2 misdemeanor.

### 16-403. City or town elections; duties of officers

In city or town elections, the duties devolving on the secretary of state in other elections shall devolve on the mayor or similar governing officer, board or commission, and the duties prescribed in this chapter devolving on the clerk of the board of supervisors shall devolve on the city or town clerk.

### 16-404. Preparation of polling place; voting booths; ballot boxes for paper ballots

Each polling place shall be provided by the board of supervisors with a sufficient number of voting booths on which voters may conveniently mark their ballots screened from the observation of others. Each booth shall be at least three square feet in size. Each booth shall be supplied with such conveniences as will enable the voter to prepare his ballot for voting. The board of supervisors shall also furnish each polling place with ballot boxes, equipped with locks, large enough to properly receive and hold the ballots cast.

### 16-405. Preparation for elections

The board of supervisors or other authority in charge of elections shall provide voting or marking devices, voting booths, ballots, early ballots as prescribed by section 16-545, ballot boxes and other supplies as required.

#### **16-406. Public display of voting equipment**

The board of supervisors or other authority in charge of elections shall place voting equipment on public display at such times and places as it may determine for the education of voters in their use.

#### **16-407. Election officers; qualifications; certificates; certification programs; plan; exemption; election training fund.**

**A.** Except as provided in subsection E of this section, a person may not perform the duties or exercise the authority of an election officer or of the clerk of the board of supervisors or the county recorder in performance of election duties in or on behalf of any county unless the person is the holder of an election officer's certificate issued by the secretary of state before January 1 of each general election year.

**B.** The secretary of state shall provide for the examination of applicants for election officer certificates. The secretary of state may not issue a certificate to a person who has not demonstrated to the satisfaction of the secretary of state that the person is competent to perform the work of an election officer or of the clerk of the board of supervisors or the county recorder in the performance of election duties.

**C.** The secretary of state shall provide for election officer certification programs of which successful completion by a person attests to the attendance at, participation in and completion of a course of instruction in the technical, legal and administrative aspects of conducting elections within this state.

**D.** On or before December 31 of each year of a general election, the secretary of state shall submit an election officer education, training and certification plan to the president of the senate and the speaker of the house of representatives. The plan shall outline the achievements and problems of the previous two year period and specify the expected education, training and certification activities of the coming two year period.

**E.** Subsection A of this section does not apply to elected officials, clerical and secretarial personnel, counting center personnel and precinct election board members and election officials in cities or towns.

**F.** For city and town employees who work on elections, the city or town may train its own employees if the city or town training program is approved by the secretary of state or, if the city or town chooses to enroll the city or town employees in the certification program prescribed by this section, the city or town shall reimburse the secretary of state for the costs of conducting the training. An election training fund is established consisting of monies received pursuant to this subsection. The secretary of state shall administer the fund. Monies in the fund are continuously appropriated and the secretary of state shall use monies in the fund to pay the costs of training officials from cities and towns pursuant to this subsection.

#### **16-407.01. Election administration; private monies prohibited**

Notwithstanding any other law, this state and a city, town, county, school district or other public body that conducts or administers elections may not receive or expend private monies for preparing for, administering or conducting an election, including registering voters.

#### **16-407.02. Elections training classes; statement; water; registration form**

Notwithstanding any other law, rule or regulation, from and after January 1, 2011 the secretary of state's office may provide bottled water at any election training class if the election training class registration form clearly states that a portion of the registration fee will be used for hydration.

#### **16-407.03. Election deadlines; filings; violation; classification**

Except when prescribed by a court of competent jurisdiction, no officer or agent of this state, a political subdivision of this state or any other governmental entity in this state may modify or agree to modify any deadline, filing date, submittal date or other election-related date that is provided for in statute. A person who violates this section is guilty of a class 6 felony.

#### **16-408. Cost of special district elections; bond**

**A.** The cost of all special district elections provided in this title, including the preparation of ballots and signature comparison, shall be charged against the funds of the special district pursuant to law.

**B.** At the time of filing a petition for the formation of a special district, or at any time thereafter but before publication of the call of election, a bond shall be filed by the petitioners, with security approved by the board of supervisors, sufficient to pay the expenses connected with the proceedings in case the election to form the district fails.

**C.** If at any time during the proceedings the board determines the bond to be insufficient, it may order the filing of an additional bond within a fixed time.

**D.** The governing body of any election district authorized to conduct an election may contract with the board of supervisors and county recorder for election services. The contracted cost of such special elections shall be a charge against the election district.

#### **16-409. Certain cities, towns and school districts; mail ballot elections; report**

**A.** Notwithstanding section 16-558, a city, town or school district may conduct a mail ballot election. A mail ballot election shall be conducted as otherwise prescribed by article 8.1 of this chapter.

**B.** Cities, towns or school districts that conduct mail ballot elections pursuant to subsection A of this section shall report to the president of the senate and the speaker of the house of representatives by January 1 of each year immediately following a mail ballot election. The report shall include the following:

- 1.** Changes in voter turnout.
- 2.** Relative costs of mail ballot elections compared to traditional elections.
- 3.** Suggestions for improvements or refinements in the mail ballot program.
- 4.** Frequency and severity of mail ballot irregularities.
- 5.** Voter satisfaction with the election process.
- 6.** Number of nondeliverable ballots.

#### **16-410. Cancellation of certain elections; appointment to office; filling vacancies**

**A.** Notwithstanding any other law, in any election that is to be held pursuant to title 15 or 48 or section 16-822, if the total of the number of persons who file a nomination petition for a candidate and the number of persons who file a nomination paper for a write-in candidate as prescribed by chapter 3, articles 2 and 3 of this title is less than or equal to the number of positions to be filled at the election for which the nomination petition or nomination paper is filed, the county board of supervisors may cancel the election no earlier than one hundred five days before the election and appoint the person or persons who filed the nomination petition or nomination paper to fill the position for the term of office for which the candidate was nominated by the qualified electors.

**B.** A person who is appointed pursuant to subsection A of this section is fully vested with the powers and duties of the office as if elected to that office.

**C.** If no nomination petitions for a candidate and no nomination papers for a write-in candidate have been filed to fill the position for which the election was being held, the position is deemed vacant and shall be filled in accordance with laws governing the filling of those vacancies.

**D.** Canceled elections shall not appear on any ballot, but if a withdrawal or disqualification of one or more candidates results in the cancellation of an election after the ballots have been printed, the results of any vote for that office shall not be canvassed.

### **Article 2 Election Precincts and Polling Places**

#### **16-411. Designation of election precincts and polling places; voting centers; electioneering; wait times**

**A.** The board of supervisors of each county, on or before October 1 of each year preceding the year of a general election, by an order, shall establish a convenient number of election precincts in the county and define the boundaries of the precincts as follows:

**1.** The election precinct boundaries shall be established so as to be included within election districts prescribed by law for elected officers of the state and its political subdivisions, including community college district precincts, except those elected officers provided for in titles 30 and 48.

**2.** If after October 1 of the year preceding the year of a general election the board of supervisors must further adjust precinct boundaries due to the redistricting of election districts as prescribed by law and to comply with this subsection, the board of supervisors shall adjust these precinct boundaries as soon as is practicable.

**B.** At least twenty days before a general or primary election, and at least ten days before a special election, the board shall designate one polling place within each precinct where the election shall be held, except that:

**1.** On a specific finding of the board, included in the order or resolution designating polling places pursuant to this subsection, that no suitable polling place is available within a precinct, a polling place for that precinct may be designated within an adjacent precinct.

**2.** Adjacent precincts may be combined if boundaries so established are included in election districts prescribed by law for state elected officials and political subdivisions including community college districts but not including elected officials prescribed by titles 30 and 48. The officer in charge of elections may also split a precinct for administrative purposes. The polling places shall be listed in separate sections of the order or resolution.

**3.** On a specific finding of the board that the number of persons who are listed as early voters pursuant to section 16-544 and who are not expected to have their ballots tabulated at the polling place as prescribed in section 16-579.02 is likely to substantially reduce the number of voters appearing at one or more specific polling places at that election, adjacent precincts may be consolidated by combining polling places and precinct boards for that election. The board of supervisors shall ensure that a reasonable and adequate number of polling places will be designated for that election. Any consolidated polling places shall be listed in separate sections of the order or resolution of the board.

**4.** On a specific resolution of the board, the board may authorize the use of voting centers in place of or in addition to specifically designated polling places. A voting center shall allow any voter in that county to receive the appropriate ballot for that voter on election day after presenting identification as prescribed in section 16-579 and to lawfully cast the ballot. Voting centers may be established in coordination and consultation with the county recorder, at other county offices or at other locations in the county deemed appropriate.

**5.** On a specific resolution of the board of supervisors that is limited to a specific election date and that is voted on by a recorded vote, the board may authorize the county recorder or other officer in charge of elections to use emergency voting centers as follows:

**(a)** The board shall specify in the resolution the location and the hours of operation of the emergency voting centers.

**(b)** A qualified elector voting at an emergency voting center shall provide identification as prescribed in section 16-579, except that notwithstanding section 16-579, subsection A, paragraph 2, for any voting at an emergency voting center, the county recorder or other officer in charge of elections may allow a qualified elector to update the elector's voter registration information as provided for in the secretary of state's instructions and procedures manual adopted pursuant to section 16-452.

**(c)** If an emergency voting center established pursuant to this section becomes unavailable and there is not sufficient time for the board of supervisors to convene to approve an alternate location for that emergency voting center, the county recorder or other officer in charge of elections may make changes to the approved emergency voting center location and shall notify the public and the board of supervisors regarding that change as soon as practicable. The alternate emergency voting center shall be as close in proximity to the approved emergency voting center location as possible.

**C.** If the board fails to designate the place for holding the election, or if it cannot be held at or about the place designated, the justice of the peace in the precinct, two days before the election, by an order, copies of which the justice of the peace shall immediately post in three public places in the precinct, shall designate the place within the precinct for holding the election. If there is no justice of the peace in the precinct, or if the justice of the peace fails to do so, the election board of the precinct shall designate and give notice of the place within the precinct of holding the election. For any election in which there are no candidates for elected office appearing on the ballot, the board may consolidate polling places and precinct boards and may consolidate the tabulation of results for that election if all of the following apply:

1. All affected voters are notified by mail of the change at least thirty-three days before the election.
  2. Notice of the change in polling places includes notice of the new voting location, notice of the hours for voting on election day and notice of the telephone number to call for voter assistance.
  3. All affected voters receive information on early voting that includes the application used to request an early voting ballot.
- D. The board is not required to designate a polling place for special district mail ballot elections held pursuant to article 8.1 of this chapter, but the board may designate one or more sites for voters to deposit marked ballots until 7:00 p.m. on the day of the election.
- E. Except as provided in subsection F of this section, a public school shall provide sufficient space for use as a polling place for any city, county or state election when requested by the officer in charge of elections.
- F. The principal of the school may deny a request to provide space for use as a polling place for any city, county or state election if, within two weeks after a request has been made, the principal provides a written statement indicating a reason the election cannot be held in the school, including any of the following:
1. Space is not available at the school.
  2. The safety or welfare of the children would be jeopardized.
- G. Beginning in 2026, the department of administration shall coordinate with state agencies and counties to provide available and appropriate state-owned facilities for use as a voting location for any city, county or state election when requested by the officer in charge of elections.
- H. The board shall make available to the public as a public record a list of the polling places for all precincts in which the election is to be held.
- I. Except in the case of an emergency, any facility that is used as a polling place on election day or that is used as an early voting site during the period of early voting shall allow persons to electioneer and engage in other political activity outside of the seventy-five foot limit prescribed by section 16-515 in public areas and parking lots used by voters. This subsection does not allow the temporary or permanent construction of structures in public areas and parking lots or the blocking or other impairment of access to parking spaces for voters. The county recorder or other officer in charge of elections shall post on its website at least two weeks before election day a list of those polling places in which emergency conditions prevent electioneering and shall specify the reason the emergency designation was granted and the number of attempts that were made to find a polling place before granting an emergency designation. If the polling place is not on the website list of polling places with emergency designations, electioneering and other political activity shall be allowed outside of the seventy-five foot limit. If an emergency arises after the county recorder or other officer in charge of elections' initial website posting, the county recorder or other officer in charge of elections shall update the website as soon as is practicable to include any new polling places, shall highlight the polling place location on the website and shall specify the reason the emergency designation was granted and the number of attempts that were made to find a polling place before granting an emergency designation.
- J. For the purposes of this section, a county recorder or other officer in charge of elections shall designate a polling place as an emergency polling place and thus prohibit persons from electioneering and engaging in other political activity outside of the seventy-five foot limit prescribed by section 16-515 but inside the property of the facility that is hosting the polling place if any of the following occurs:
1. An act of God renders a previously set polling place as unusable.
  2. A county recorder or other officer in charge of elections has exhausted all options and there are no suitable facilities in a precinct that are willing to be a polling place unless a facility can be given an emergency designation.
- K. The secretary of state shall provide through the instructions and procedures manual adopted pursuant to section 16-452 the maximum allowable wait time for any election that is subject to section 16-204 and provide for a method to reduce voter wait time at the polls in the primary and general elections. The method shall consider at least all of the following for primary and general elections in each precinct:
1. The number of ballots voted in the prior primary and general elections.

2. The number of registered voters who voted early in the prior primary and general elections.
3. The number of registered voters and the number of registered voters who cast an early ballot for the current primary or general election.
4. The number of registered voters whose early ballots were tabulated on-site as prescribed in section 16-579.02 in the prior primary and general elections.
5. The number of election board members and clerks and the number of rosters that will reduce voter wait time at the polls.

#### 16-412. Effective date of new precincts

- A. After establishing precincts as provided in section 16-411, the board of supervisors of each county shall deliver to the county recorder a complete description of these precincts immediately after adoption.
- B. If new precinct boundaries are established as provided in section 16-411, the county recorder shall transfer all the voters who reside in a new precinct as the result of this adoption by January 2 of the year of the next general election. The county recorder shall mail the notice of the precinct change to each household containing a registered voter, unless a sample ballot containing the precinct name or number is mailed before the primary election. For the purpose of conducting any election called pursuant to the laws of this state, precincts adopted on or before October 1 of the year preceding the year of a general election under the provisions of section 16-411 become effective not later than January 2 of the year of the next general election.
- C. If redistricting requires adjustment of precinct boundaries after October 1 of the year preceding the year of a general election, the county recorder shall transfer to the new precinct within sixty days after adoption of the new precinct boundaries all voters who reside in a new precinct as the result of the adjustment of precinct boundaries. The county recorder shall mail the notice of the precinct change to each household containing a registered voter unless a sample ballot containing the precinct name or number is mailed before the primary election. For the purpose of conducting any election called pursuant to the laws of this state, precincts adopted after October 1 of the year preceding the year of a general election become effective not later than the first date for filing of nomination petitions in the year of the next general election.

#### 16-413. Precincts; special district boundaries

- A. Except as provided in subsection D of this section, the governing body of a special district, except a district organized under title 48, chapter 17, shall establish district election precincts that have the same boundaries as county election precincts pursuant to section 16-411 and designate one polling place within each precinct. In those cases where a district boundary bisects a county election precinct, that portion of the election precinct that is within the district shall be the district election precinct. The governing body may consolidate district election precincts if it deems it necessary and designate one polling place for the election precincts it consolidates.
- B. The governing body shall provide the county recorder with a description of the district election precincts no later than sixty days before an election for which signature rosters are to be prepared.
- C. In elections to establish special districts, the board of supervisors shall act as the governing body for purposes of this section.
- D. If an election is a mail ballot election, the governing body shall not designate polling places but shall determine the number and location of sites where ballots may be returned.

### Article 4 Voting Equipment

#### 16-441. Effective date of article; approval of counting equipment

Provisions of this article shall become effective and operative when electronic or electromechanical vote recording and ballot counting equipment has been satisfactorily tested and has received the approval of the secretary of state.

#### 16-442. Committee approval; adoption of vote tabulating equipment; experimental use; emergency

**A.** The secretary of state shall appoint a committee of three persons, to consist of a member of the engineering college at one of the universities, a member of the state bar of Arizona and one person familiar with voting processes in the state, no more than two of whom shall be of the same political party, and at least one of whom shall have at least five years of experience with and shall be able to render an opinion based on knowledge of, training in or education in electronic voting systems, procedures and security. The committee shall investigate and test the various types of vote recording or tabulating machines or devices that may be used under this article. The committee shall submit its recommendations to the secretary of state who shall make final adoption of the type or types, make or makes, model or models to be certified for use in this state. The committee shall serve without compensation.

**B.** Machines or devices used at any election for federal, state or county offices may only be certified for use in this state and may only be used in this state if they comply with the help America vote act of 2002 and if those machines or devices have been tested and approved by a laboratory that is accredited pursuant to the help America vote act of 2002.

**C.** After consultation with the committee prescribed by subsection A of this section, the secretary of state shall adopt standards that specify the criteria for loss of certification for equipment that was used at any election for federal, state or county offices and that was previously certified for use in this state. On loss of certification, machines or devices used at any election may not be used for any election for federal, state or county offices in this state unless recertified for use in this state.

**D.** The secretary of state may revoke the certification of any voting system or device for use in a federal, state or county election in this state or may prohibit for up to five years the purchase, lease or use of any voting system or device leased, installed or used by a person or firm in connection with a federal, state or county election in this state, or both, if either of the following occurs:

**1.** The person or firm installs, uses or permits the use of a voting system or device that is not certified for use or approved for experimental use in this state pursuant to this section.

**2.** The person or firm uses or includes hardware, firmware or software in a version that is not certified for use or approved for experimental use pursuant to this section in a certified voting system or device.

**E.** The governing body of a city or town or the board of directors of an agricultural improvement district may adopt for use in elections any kind of electronic voting system or vote tabulating device approved by the secretary of state, and thereupon the voting or marking device and vote tabulating equipment may be used at any or all elections for voting, recording and counting votes cast at an election.

**F.** The secretary of state or the governing body may provide for the experimental use of a voting system or device without a final adoption of the voting system or device, and its use at the election is as valid as if the machines had been permanently adopted.

**G.** After consultation with the committee prescribed by subsection A of this section, the secretary of state may approve for emergency use an upgrade or modification to a voting system or device that is certified for use in this state if the governing body establishes in an open meeting that the election cannot be conducted without the emergency certification. Any emergency certification shall be limited to no more than six months. At the conclusion of the certification period the voting system or device shall be decertified and unavailable for future use unless certified in accordance with this section.

#### 16-442.01. Accessible voting technology; recommendations; certification; applicability

**A.** On completion of the certification process pursuant to this section and section 16-442, the secretary of state shall require that voting systems that are used by entities that are governed by section 16-204, but not including cities and towns with a population of less than twenty thousand persons, provide persons who are blind or visually impaired with access to voting that is equivalent to that provided to persons who are not blind or visually impaired and shall provide an accessible vote by United States mail option for persons who are blind or have a visual impairment.

**B.** For the purposes of this section:

**1.** A voting system that provides the voter with the ability to cast and verify by both visual and nonvisual methods all of the selections that were made by that voter is deemed to provide equivalent access.

**2.** Nonvisual methods for casting and verifying a selection made on a voting system include the use of synthesized speech, braille and other output methods that do not require sight.

**C.** The secretary of state shall consult with and obtain recommendations regarding voting systems from nonprofit organizations that represent persons who are blind or visually impaired, persons with expertise in accessible software, hardware and other technology, county and local election officials and other persons deemed appropriate by the secretary of state. After receiving recommendations, the secretary of state shall submit to the committee established pursuant to section 16-442 one or more voting systems that provide equivalent access pursuant to this section for possible certification for use in this state.

**D.** Subsection A of this section applies to voting systems that are purchased or upgraded on or after January 1, 2006.

#### **16-443. Authorization of use at all elections**

At all state, county, city or town elections, agricultural improvement district elections and primary elections, ballots or votes may be cast, recorded and counted by voting or marking devices and vote tabulating devices as provided in this article.

#### **16-444. Definitions; applicability of general laws**

**A.** In this article, unless the context otherwise requires:

**1.** "Ballot" means a paper ballot on which votes are recorded.

**2.** "Computer program" includes all programs and documentation adequate to process the ballots at an equivalent counting center.

**3.** "Counting center" means one or more locations selected by the board of supervisors for the automatic counting of ballots.

**4.** "Electronic voting system" means a system in which votes are recorded on a paper ballot by means of marking, and such votes are subsequently counted and tabulated by vote tabulating equipment at one or more counting centers.

**5.** "E-pollbook" means an electronic system in which a voter is checked in and through which a voter's signature is recorded to indicate that the voter has voted.

**6.** "Instructions and procedures manual" means the manual prepared for use as a guide for the conduct of elections by an approved electronic voting system, including, but not limited to, detailed instructions for the performance of each task relating to the collection of ballots and the counting of votes in a manner that will provide maximum security, efficiency and accuracy.

**7.** "Vote tabulating equipment" includes apparatus necessary to automatically examine and count votes as designated on ballots and tabulate the results.

**8.** "Voting device" means an apparatus that the voter uses to record the voter's votes by marking a paper ballot, which votes are subsequently counted by electronic tabulating equipment.

**B.** The provisions of all state laws relating to elections not inconsistent with this article apply to all elections where electronic tabulating devices are used. Any provision of law that conflicts with this article does not apply to the elections in which electronic tabulating devices are used.

#### **16-445. Filing of computer election programs with secretary of state**

**A.** For any state, county, school district, special district, city or town election, including primary elections, that uses vote tabulating devices as provided in this article, there shall be filed with the secretary of state at least seventeen days before the date of the election a copy of each computer program for each election. The secretary of state shall hold all computer program software filed pursuant to this section in escrow for three years. The secretary of state shall securely destroy the software filed pursuant to this section on the expiration of the three-year period.



**B.** A copy of any subsequent revision of the computer program shall be filed in the same manner within forty-eight hours following the revision.

**C.** Any tape or disc used in the programming or operation of a vote tabulating device on which votes are counted and any tape used in compiling vote totals shall be kept under lock and seal, and if there is a retally of votes, the officer entrusted with the tapes or discs shall submit the officer's affidavit stating that they are the tapes or discs, or both, used in the election and have not been altered.

**D.** All materials submitted to the secretary of state shall be used by the secretary of state or attorney general to preclude fraud or any unlawful act under the laws of this title and title 19 and shall not be disclosed or used for any other purpose.

#### **16-446. Specifications of electronic voting system**

**A.** An electronic voting system consisting of a voting or marking device in combination with vote tabulating equipment shall provide facilities for voting for candidates at both primary and general elections.

**B.** An electronic voting system shall:

**1.** Provide for voting in secrecy when used with voting booths.

**2.** Permit each elector to vote at any election for any person for any office whether or not nominated as a candidate, to vote for as many persons for an office as the elector is entitled to vote for and to vote for or against any question on which the elector is entitled to vote, and the vote tabulating equipment shall reject choices recorded on the elector's ballot if the number of choices exceeds the number that the elector is entitled to vote for the office or on the measure.

**3.** Prevent the elector from voting for the same person more than once for the same office.

**4.** Be suitably designed for the purpose used and be of durable construction, and may be used safely, efficiently and accurately in the conduct of elections and counting ballots.

**5.** Be provided with means for sealing the voting or marking device against any further voting after the close of the polls and the last voter has voted.

**6.** When properly operated, record correctly and count accurately every vote cast.

**7.** Provide a durable paper document that visually indicates the voter's selections, that the voter may use to verify the voter's choices, that may be spoiled by the voter if it fails to reflect the voter's choices and that permits the voter to cast a new ballot. This paper document shall be used in manual audits and recounts.

**8.** To the extent practicable, provide for the ballot layout to be in the same order of arrangement, including rotation, as provided for paper ballots, except that information may be printed in vertical or horizontal rows, or in a number of separate pages or screens that are placed or displayed on the voting device. The titles of offices may be arranged in vertical columns or in a series of separate pages or screens and shall be printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected. If there are more candidates for an office than can be printed in one column or on one ballot page or screen, the ballot shall be clearly marked that the list of candidates is continued on the following column, page or screen, and to the extent practicable, the same number of names shall be printed on each column, page or screen.

**9.** Provide for a color designation for use in the primary election for each political party represented.

#### **16-447. Voting devices; inspection; specifications and number of booths**

**A.** The board of supervisors shall provide at each polling place at least one device that complies with the help America vote act of 2002 (P.L. 107-252) and that is certified by the secretary of state for use by voters with disabilities.

**B.** Before any election at which electronic voting devices are used, the board of supervisors or other authority in charge of elections shall have the voting devices prepared for the election and shall mail a notice to the chairmen of the county committees of the different political parties, stating when and where the voting devices may be inspected before they are sealed and delivered to the polling places.

**C.** The board of supervisors or other authority in charge of elections shall have delivered to each polling place a sufficient number of voting booths and voting or marking devices. The voting booths shall be durably constructed and shall be of sufficient size and so designed as to enable the voter to mark the voter's ballot in secrecy.

**D.** In any election, the election officer in charge of the election shall determine the number of voting devices to be used.

**E.** The board of supervisors shall designate a person to observe the installation and modification of any election management software or computer programming used for county election administration. The board of supervisors shall also designate a person to act as a substitute if the primary designee is unavailable. The persons designated may be county employees but may not be employed by or under the supervision of the officer in charge of elections.

#### **16-448. Write-in votes; instructions**

Whenever ballots are to be counted by electronic data processing equipment, all write-in votes for candidates, to be counted, shall be marked by the voter in the space provided opposite the names of the write-in candidates. The instructions to voters printed on the ballots shall instruct the voter that the vote will not be counted unless the voter properly marks the ballot when writing in a candidate's name.

#### **16-449. Required test of equipment and programs; notice; procedures manual**

**A.** Within the period of time before the election day prescribed by the secretary of state in the instructions and procedures manual adopted pursuant to section 16-452, the board of supervisors or other election officer in charge, or for an election involving state or federal candidates, the secretary of state, shall have the automatic tabulating equipment and programs tested to ascertain that the equipment and programs will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least forty-eight hours prior thereto by publication once in one or more daily or weekly newspapers published in the town, city or village using such equipment, if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be observed by at least two election inspectors, who shall not be of the same political party, and shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a preaudited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each measure and shall include for each office one or more ballots that have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment and programs to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment and programs are approved. A copy of a revised program shall be filed with the secretary of state within forty-eight hours after the revision is made. If the error was created by automatic tabulating equipment malfunction, a report shall be filed with the secretary of state within forty-eight hours after the correction is made, stating the cause and the corrective action taken. The test shall be repeated immediately before the start of the official count of the ballots in the same manner as set forth above. After the completion of the count, the programs used and the ballots shall be sealed, retained and disposed of as provided for paper ballots.

**B.** Electronic ballot tabulating systems shall be tested for logic and accuracy within seven days before their use for early balloting pursuant to the instructions and procedures manual for electronic voting systems that is adopted by the secretary of state as prescribed by section 16-452. The instructions and procedures manual shall include procedures for the handling of ballots, the electronic scanning of ballots and any other matters necessary to ensure the maximum degree of correctness, impartiality and uniformity in the administration of an electronic ballot tabulating system.

**C.** Notwithstanding subsections A and B of this section, if a county uses accessible voting equipment to mark ballots and that accessible voting equipment does not independently tabulate or tally votes, the secretary of state in cooperation with the county officer in charge of elections may designate a single date to test the logic and accuracy of both the accessible voting equipment and electronic ballot tabulating systems.

#### 16-450. Location and acquisition of vote tabulating devices

The vote tabulating device may be located at any place within the state approved by the board of supervisors of the county or the governing board of other political subdivisions using the device. The same device may be jointly owned, borrowed, leased or used by two or more counties, cities or other political subdivisions to tabulate ballots cast in any election.

#### 16-451. Cost; means of financing

The board of supervisors may provide for the payment of the cost of vote tabulating equipment in such manner and by such method as it may deem for the best local interests and also may for that purpose issue bonds, certificates of indebtedness or other obligations which shall be a charge on the county or city. The bonds, certificates or other obligations may be issued with or without interest, payable at such time as the authorities may determine, but shall not be issued or sold at less than par. The board of supervisors may enter into lease agreements or lease purchase agreements for the use of vote tabulating equipment.

#### 16-452. Rules; instructions and procedures manual; approval of manual; field check and review of systems; violation; classification

A. After consultation with each county board of supervisors or other officer in charge of elections, the secretary of state shall prescribe rules to achieve and maintain the maximum degree of correctness, impartiality, uniformity and efficiency on the procedures for early voting and voting, and of producing, distributing, collecting, counting, tabulating and storing ballots. The secretary of state shall also adopt rules regarding fax transmittal of unvoted ballots, ballot requests, voted ballots and other election materials to and from absent uniformed and overseas citizens and shall adopt rules regarding internet receipt of requests for federal postcard applications prescribed by section 16-543.

B. The rules shall be prescribed in an official instructions and procedures manual to be issued not later than December 31 of each odd-numbered year immediately preceding the general election. Before its issuance, the manual shall be approved by the governor and the attorney general. The secretary of state shall submit the manual to the governor and the attorney general not later than October 1 of the year before each general election.

C. A person who violates any rule adopted pursuant to this section is guilty of a class 2 misdemeanor.

D. The secretary of state shall provide personnel who are experts in electronic voting systems and procedures and in electronic voting system security to field check and review electronic voting systems and recommend needed statutory and procedural changes.

### Article 5 Ballots and Supplies; Primary

#### 16-461. Sample primary election ballots; submission to party chairmen for examination; preparation, printing and distribution of ballot

A. At least forty-five days before a primary election, the officer in charge of that election shall:

1. Prepare a proof of a sample ballot.
2. Submit the sample ballot proof of each party to the county chairman or in city or town primaries to the city or town chairman.
3. Mail a sample ballot proof to each candidate for whom a nomination paper and petitions have been filed.

B. Within two calendar days after receipt of the sample ballot, the county chairman of each political party and any candidate in that election who has submitted and confirmed an email address shall suggest to the election officer any change the chairman or candidate considers should be made in the chairman's or candidate's party ballot, and if on examination the election officer finds an error or omission on the ballot, the officer shall correct it. The election officer shall print and distribute the sample ballots as required by law, shall maintain a copy of each sample ballot and shall post a notice indicating that sample ballots are available on request. The official sample ballot shall be printed on colored paper or white paper with a different colored stripe for each party that is represented on that ballot. For voters who are not registered with a party that is entitled to continued representation on the ballot pursuant to section 16-804, the election officer may print and distribute the required sample ballots in an alternative format, including a reduced size format.

**C.** Not later than forty days before a primary election, the county chairman of a political party may request one sample primary election ballot of the chairman's party for each election precinct.

**D.** The board of supervisors shall have printed mailer-type sample ballots for a primary election and shall mail at least eleven days before the election one sample ballot of a political party to each household containing a registered voter of that political party unless that registered voter is on the active early voting list established pursuant to section 16-544. Each sample ballot shall contain the following statement: "This is a sample ballot and cannot be used as an official ballot under any circumstances". A certified claim shall be presented to the secretary of state by the board of supervisors for the actual cost of printing, labeling and postage of each sample ballot actually mailed, and the secretary of state shall direct payment of the authenticated claim from funds of the secretary of state's office.

**E.** For city and town elections, the governing body of a city or town may have printed mailer-type sample ballots for a primary election. If the city or town has printed such sample ballots, the city or town shall provide for the distribution of such ballots and shall bear the expense of printing and distributing such sample ballots.

**F.** The return address on the mailer-type sample ballots shall not contain the name of an appointed or elected public officer nor may the name of an appointed or elected public officer be used to indicate who produced the sample ballot.

**G.** The great seal of the state of Arizona shall be imprinted along with the words "official voting materials" on the mailing face of each sample ballot. In county, city or town elections the seal of such jurisdiction shall be substituted for the state seal.

#### **16-462. Form of paper ballot**

The ballots for a primary election shall be printed with a different color designation for each political party that is included on the ballot. Unless otherwise provided by law, the ballot shall be printed, "official ballot of the \_\_\_\_\_ party, primary election (date), \_\_\_\_\_ precinct, county (or city or town) of \_\_\_\_\_, state of Arizona". Below the heading shall be placed the title of each office to be voted for, and an instruction to the voter as to how many are to be voted for for the particular office, thus: "vote for not more than \_\_\_\_\_" (insert the number to be elected), under which shall be placed alphabetically and alternated, as provided by law, the names of all the party's candidates to be voted for in each precinct of the county or precinct or ward of the city or town for whom nomination papers have been filed for such office, leaving as many blank lines as there are offices under that title to be filled, followed by a place for the voter to make a mark to indicate the voter's choice either to the right or the left of the candidate's name, and of the blank line. Double or more columns may be arranged on the ballot. In other respects the ballot shall conform as nearly as possible to the ballot prescribed for general elections.

#### **16-464. Rotation of names on ballots**

**A.** When there are two or more candidates for a nomination, except in the case of precinct committeemen, the names of all candidates for the nomination shall be so alternated on the ballots used in each election precinct that the name of each candidate shall appear substantially an equal number of times at the top, at the bottom and in each intermediate place of the list or group of candidates in which they belong. When there are fewer than or the same number of candidates seeking office as the number to be elected, rotation of names is not required and the names shall be placed in alphabetical order.

**B.** The position of the names of candidates for precinct committeemen shall be alphabetical by surname for appearance on the ballot when there are more candidates than positions available.

**C.** When there are two or more precincts in a political subdivision that hold an all mail ballot election, candidate name rotation shall be the presumed method of ballot organization, unless candidate name rotation is found to be impracticable. When candidate name rotation is found to be impracticable, the position of the names of candidates shall be drawn by lot at a public meeting.

**D.** The provisions of this section do not apply where voting machines are used.

#### 16-465. Arrangement of candidates' names at primary election

A. When there are two or more candidates of the same political party on the ballot, the names of such candidates, except in the case of precinct committeemen, shall be so alternated on the ballots used in each election precinct that the name of each candidate shall appear substantially an equal number of times in each possible location. When there are fewer than or the same number of candidates seeking office as the number to be elected, rotation of names is not required and the names shall be placed in alphabetical order.

B. In a primary election where voting machines are used, names of candidates for precinct committeemen shall appear on the voting machine in alphabetical order according to the first letter of the surnames of the candidates.

#### 16-467. Method of voting on ballot

A. At primary elections there shall be provided a separate ballot for each party entitled to participate in the primary.

B. Each party ballot shall be designated by the name of the party, and for a voter who is registered as a member of a political party that is entitled to continued representation on the ballot pursuant to section 16-804, the voter shall be given by the judge of election one ballot only of the party with which the voter is affiliated as it appears in the precinct register. For a voter who is registered as independent, or no party preference or as a member of a political party that is not entitled to continued representation on the ballot pursuant to section 16-804, the voter shall designate the ballot of only one of the political parties that is entitled to continued representation on the ballot and the judge of election shall give the elector only that political party's ballot.

C. If a person is nominated on more than one ticket, the person shall promptly file with the officer in charge of the preparation of election ballots a written declaration indicating the party name under which the person's name is to be printed on the official election ballot, and the person's name shall be printed only under the party name.

D. For any political party that is entitled to continued representation on the ballot, section 16-822 applies to the election of precinct committeemen.

#### 16-468. Form of ballot; optical scanning system; sample ballots

For any ballots intended for use in an optical scanning system, the following apply:

1. As nearly as is practicable, ballots shall have material printed in the same order as provided for paper ballots, except that material may be printed in vertical or horizontal rows or on separate pages.

2. Ballots shall be printed in plain clear type in black ink, and for a general election, on clear white materials, and shall be of a size and arrangement to fit the construction of the vote tabulating equipment or other voting device. For a primary election, ballots shall have a different color indicator for each political party that is represented. Ballots may contain printed code marks that may be used for placing the ballots in the correct position for tabulating devices. The code marks shall not be printed or used in any manner that will disclose the identity of the voter who votes that ballot.

3. The titles of offices may be arranged in vertical columns or in a series of separate pages and shall be printed above or at the side of the names of candidates in order to clearly indicate the candidates for each office and the number to be elected. If there are more candidates for an office than can be printed in one column or on one ballot page, the ballot shall be clearly marked to indicate that the list of candidates is continued on the following column or page and, as nearly as is practicable, so that the same number of names is printed in each column or on each page.

4. As nearly as is practicable, in primary and nonpartisan elections, the names of candidates for each office shall appear on the ballot so that each candidate occupies each position on the ballot the same number of times. If there are fewer or the same number of candidates seeking office than the number to be elected, rotation of names is not required and the names shall be placed in alphabetical order.

5. As nearly as is practicable, in a primary election for a judicial office, if there are two or more candidates of the same political party, the candidate names shall be alternated on the ballot so that the name of each candidate appears an equal number of times in each possible location on the ballot.

6. Two sample ballots shall be provided for each polling place and shall be posted at the polling place on election day. Sample ballots may be printed on a single page or on a number of pages that are assembled together. A sample ballot shall be a facsimile copy of the official ballot.

## Article 6 Ballots and Supplies; General

### 16-501. Compliance with primary election law as prerequisite to printing name on ballot

Except as provided in chapter 3, article 5 of this title, no person shall have his name printed on the official ballot as a candidate in a general election unless he has complied fully with the provisions of law applicable to primary elections, which, for a candidate who appeared on the primary election ballot as a write-in candidate, shall include compliance with the primary election provisions of section 16-312.

### 16-502. Form and contents of ballot

A. Ballots shall be printed with black ink on white paper of sufficient thickness to prevent the printing thereon from being discernible from the back, and the same type shall be used for the names of all candidates. The ballots shall be headed "official ballot" in bold-faced plain letters, with a heavy rule above and below the heading. Immediately below shall be placed the words "type of election, (date of election)" and the name of the county and state in which the election is held. The name or number of the precinct in which the election is held shall be placed on the ballot in a uniform location for all ballots. No other matter shall be placed or printed at the head of any ballot. Instructions to the voter on marking the ballot may be printed below the heading as follows:

1. Put a mark according to the instructions next to the name of each candidate for each office for whom you wish to vote.

2. If you wish to vote for a person whose name is not printed on the ballot, write such name in the blank space provided on the ballot and put a mark according to the instructions next to the name so written.

3. Put a mark according to the instructions next to the word "yes" or "for" for each proposition or question you wish to be adopted. Put a mark according to the instructions next to the word "no" or "against" for each proposition or question you wish not to be adopted.

B. Immediately below the ballot instructions shall be placed the following:

#### Section One

#### Partisan Ballot

C. Immediately below the heading for section one there shall be placed in columns the names of the candidates of the several political parties. Next to each candidate's name there shall be printed in bold-faced letters the name of the political party. At the head of each column shall be printed the names of the offices to be filled with the name of each office being of uniform type size. At the head of each column shall be printed in the following order the names of candidates for:

1. Presidential electors, which shall be in a list and next to the list shall be printed in bold type the surname of the presidential candidate, and the surname of the vice presidential candidate who is seeking election jointly with the presidential candidate shall be listed directly below the name of the presidential candidate. The indicator for the selection of the presidential and vice presidential candidates shall be directly next to the surname of the presidential candidate, and one mark directly next to a presidential candidate's surname shall be counted as a vote for each elector in the list next to the presidential and vice presidential candidates.

2. United States senator.

3. Representatives in Congress.

4. The several state offices.

5. The several county and precinct offices.

**D.** The names of candidates for the offices of state senator and state representative along with the district number shall be placed within the heading of each column to the right of the office name for state offices and immediately below the candidates for the office of governor. The number of the supervisorial district of which a candidate is a nominee shall be printed within the heading of each column to the right of the name of the office.

**E.** The lists of the candidates of the several parties shall be arranged with the names of the parties in descending order according to the votes cast for governor for that county in the most recent general election for the office of governor, commencing with the left-hand column. In the case of political parties that did not have candidates on the ballot in the last general election, such parties shall be listed in alphabetical order below the parties that did have candidates on the ballot in the last general election. The names of all candidates nominated under section 16-341 shall be placed in a single column below that of the recognized parties. Next to the name of each candidate, in parentheses, shall be printed a three-letter abbreviation that is taken from the three words prescribed in the candidate's certificate of nomination.

**F.** Immediately below the designation of the office to be voted for shall appear the words: "Vote for not more than \_\_\_\_\_" (insert the number to be elected).

**G.** In each column at the right or left of the name of each candidate and on the same line there shall be a place for the voter to put a mark. Below the name of the last named candidate for each office there shall be as many blank lines as there are offices of the same title to be filled, with a place for the voter to put a mark. On the blank line the voter may write the name of any person for whom the voter desires to vote whose name is not printed, and next to the name so written the voter shall designate his choice by a mark as in the case of printed names.

**H.** When there are two or more candidates of the same political party for the same office, or more than one candidate for a judicial office, the names of all such candidates shall be so alternated on the ballots used in each election district that the name of each candidate shall appear substantially an equal number of times in each possible location. If there are fewer or the same number of candidates seeking office than the number to be elected, the rotation of names is not required and the names shall be placed in alphabetical order.

**I.** Immediately below section one of the ballot shall be placed the following:

#### Section Two

#### Nonpartisan Ballot

**J.** Immediately below the heading for section two shall be placed the names of the candidates for justices of the supreme court, judges of the court of appeals, judges of the superior court standing for retention or rejection pursuant to article VI, section 38, Constitution of Arizona, judges of the superior court standing for election pursuant to article VI, section 12, Constitution of Arizona, school district officials and other nonpartisan officials in a column or in columns without partisan or other designation except the title of office in an order determined by the officer in charge of the election.

**K.** Immediately below the offices listed in subsection J of this section, the ballot shall contain a separate heading of any nonpartisan office for a vacant unexpired term and shall include the expiration date of the term of the vacated office.

**L.** All proposed constitutional amendments and other propositions or questions to be submitted to the voters shall be printed immediately below the names of candidates for nonpartisan positions in such order as the secretary of state, or if a city or town election, the city or town clerk, designates. Placement of county and local charter amendments, propositions or questions shall be determined by the officer in charge of the election. Except as provided by section 19-125, each proposition or question shall be followed by the words "yes" and "no" or "for \_\_\_\_\_" and "against \_\_\_\_\_" as the nature of the proposition or question requires, and at the right or left of and next to each of such words shall be a place for the voter to put a mark according to the instructions that is similar in size to those places appearing opposite the names of the candidates, in which the voter may indicate his vote for or against such proposition or question by a mark as defined in section 16-400.

**M.** Instead of printing the official and descriptive titles or the full text of each measure or question on the official ballot, the officer in charge of elections may print phrases on the official ballot that contain all of the following:

1. The number of the measure in reverse type and at least twelve point type.
  2. The designation of the measure as prescribed by section 19-125, subsection C or as a question, proposition or charter amendment, followed by the words "relating to..." and inserting the subject.
  3. Either the statement prescribed by section 19-125, subsection D that describes the effects of a "yes" vote and a "no" vote or, for other measures, the text of the question or proposition.
  4. The words "yes" and "no" or "for" and "against", as may be appropriate and a place for the voter to put a mark.
- N. For any ballot printed pursuant to subsection M of this section, the instructions on the official ballot shall direct the voter to the full text of the official and descriptive titles and the questions and propositions as printed on the sample ballot and posted in the polling place.

#### **16-503. Duty to prepare and provide ballots; cost of printing ballots and instruction cards as public expense**

- A. The board of supervisors, and in city and town elections, the city or town clerk, shall prepare and provide ballots containing the names of all persons whose certificates of nomination have been filed with them. The ballots shall be printed and ready for inspection by the candidates and their agents at least ten days before a general election and at least five days before a city or town election.
- B. All ballots cast in elections for public office within the state, and the cards of instruction to voters, shall be printed, delivered and distributed at public expense and shall be a county charge, but when used at local elections shall be a charge against the city or town in which the local election is held.
- C. For special district elections the governing body is responsible for the duties and charges as provided in subsections A and B.

#### **16-504. Antifraud ballot paper; vendor certification; antifraud measures**

(L21, Ch. 405, sec. 5)

Notwithstanding any other statute, any vendor that provides fraud countermeasures that are contained in and on the paper used for ballots shall be ISO 27001 certified, ISO 17025 certified or ISO 9001:2015 certified. Ballot fraud countermeasures shall include the use of at least three of the following:

1. Unique, controlled-supply watermarked clearing bank specification 1 security paper.
2. Secure holographic foil that acts as a visual deterrent and anti-copy feature.
3. Branded overprint of any hologram that personalizes the hologram with customer logo.
4. Custom complex security background designs with banknote-level security.
5. Secure variable digital infill.
6. Thermochromic, tri-thermochromic, photochromic or optically variable inks.
7. Stealth numbering in ultraviolet, infrared or taggant inks.
8. Multicolored micro-numismatic invisible ultraviolet designs.
9. Unique forensic fraud detection technology that is built into security inks.
10. Unique bar code or QR code that is accessible only to the voter and that tracks the voter's ballot as it is processed.

#### **16-507. Presentation of presidential candidates on ballot**

- A. When presidential electors are to be voted for, the presidential and vice-presidential candidates therefor of each party shall be grouped and printed together, arranged in alphabetical order according to the presidential candidate's surname.



**B.** Presidential electors, which, shall be enclosed in a bracketed list and next to the bracketed list shall be printed in bold type the surname of the presidential candidate and vice-presidential candidate who is seeking election jointly with the presidential candidate shall be listed directly below the name of the presidential candidate. The indicator for the selection of the presidential and vice-presidential candidates shall be directly next to the surname of the presidential candidate, and one mark directly next to a presidential candidate's surname shall be counted as a vote for each elector in the bracketed list next to the presidential and vice-presidential candidates.

#### **16-508. Number of ballots furnished each polling place**

There shall be furnished for each precinct in which an election is to be held a number of early ballots and printed ballots exceeding by at least one per cent the number of registered voters whose names appear on the precinct register of the precinct, city, town or district for which the ballots are printed.

#### **16-509. Delivery of ballots to election officers**

The board of supervisors, city or town clerk or governing body of a special district shall deliver, by mail or other reliable method, to each voting precinct or to the inspector of each election board as determined by the officer in charge of elections one package containing the required number of ballots, at least forty-eight hours before the hour for opening the polls on election day, unless prevented by some unavoidable delay or accident which shall be established by affidavit of election officers or bearers of ballots. The official ballots shall be sent in sealed packages with marks on the outside of the package clearly designating the polling place for which they are intended and the number of ballots enclosed. Upon delivery of the package to him, the inspector shall return receipts therefor to the person from whom received.

#### **16-510. Sample ballots; preparation and distribution**

**A.** Before printing the sample ballots for the general election the board of supervisors shall send to each candidate whose name did not appear on the preceding primary election ballot and to the county chairperson of each political party a ballot proof of the sample ballot for the candidate's and chairperson's review. Within two calendar days after receipt of the sample ballot, those candidates and the county chairperson of each political party shall suggest to the election officer any change the candidate or chairperson considers should be made to the ballot, and if on examination the election officer finds an error or omission on the ballot, the officer shall correct the error or omission.

**B.** The board of supervisors shall print and distribute, for the information of voters at each polling place, a number of sample ballots as it deems necessary.

**C.** The board of supervisors shall have printed mailer-type sample ballots for a general election and shall mail at least eleven days before the election one such sample ballot to each household in the county containing a registered voter unless that registered voter is on the active early voting list established pursuant to section 16-544. Each sample ballot shall contain the following statement: "This is a sample ballot and cannot be used as an official ballot under any circumstances". A certified claim shall be presented to the secretary of state by the board of supervisors for the actual cost of printing, labeling and postage of each sample ballot actually mailed, and the secretary of state shall direct payment of the authenticated claim from funds of the secretary of state's office.

**D.** For city and town elections, the governing body of a city or town may have printed mailer-type sample ballots for a general election. If the city or town has printed such sample ballots, the city or town shall provide for the distribution of such ballots and shall bear the expense of printing and distributing such sample ballots.

**E.** For special district elections, the governing body of a special district may have printed mailer-type sample ballots. If the special district has printed such sample ballots, the special district shall provide for the distribution of such ballots and shall bear the expense of printing and distributing such sample ballots.

#### **16-511. Duty of board of supervisors to furnish election supplies to precinct officers**

**A.** If paper signature rosters are used in a polling place, the necessary printed blanks for poll lists, lists of voters, ballots, oath and returns, together with envelopes in which to enclose the returns, shall be furnished by the board of supervisors to the officers of each election precinct at the expense of the county. For those elections over which the board of supervisors has no responsibility, the governing body of each election district is responsible for furnishing the necessary supplies for elections that it calls.

**B.** If electronic poll book systems are used in a precinct, the board of supervisors shall furnish at least two electronic poll book systems for each polling place, each of which shall be capable of printing poll lists and lists of voters.

**C.** For any election that is not held under the supervision of the board of supervisors, the governing body of each election district is responsible for furnishing the necessary supplies for that election.

#### **16-512. Displaying United States flag at polls**

The board of supervisors shall provide for the display of the flag of the United States in or near every polling place on election days during the hours the polls are open. This section shall apply only to elections over which the county board of supervisors has jurisdiction.

#### **16-513. Instructions for voters and election officers; overvote notice; ballot delivery notice**

**A.** The board of supervisors shall prepare instructions for the guidance of voters and election officers at the election, according to which the election shall be conducted and which shall govern the voters and election officers as provided in the secretary of state's instructions and procedures manual. The board of supervisors shall furnish to the inspector in each election precinct at least two instruction cards, at the time and in the same manner as the printed ballots are furnished.

**B.** If the voting equipment used for the election provides for the rejection of overvoted ballots or ballots that contain other irregularities, the board of supervisors shall provide for a written notice advising the voter that if the voter chooses to override the overvoted office or measure or override any other ballot irregularity, the voter's vote for that office or measure will not be tallied. The notice shall be posted on or near the voting equipment so that the voter has a clear view of the notice.

**C.** The instructions prescribed by subsection A of this section shall also include the following information regarding section 16-1005, subsections H and I in substantially the following form:

A person may only handle or return their own ballot or the ballot of family members, household members or persons for whom they are a caregiver. It is unlawful under section 16-1005 to handle or return the ballot of any other person.

##### **16-513.01. Right to vote a provisional ballot; notice**

The board of supervisors or other officer in charge of elections shall furnish to the inspector in each election precinct at least two "right to vote a provisional ballot" notices at the time and in the same manner as the printed ballots are furnished. The "right to vote a provisional ballot" notice shall be as prescribed by the secretary of state's procedures manual.

#### **16-514. Notice to voters; form**

The board of supervisors shall furnish, to be placed in each voting booth, unless the information is printed on the sample ballot, a card or poster printed in large plain type containing the following:

Notice to Voters.

Section one of this ballot is comprised of partisan candidates. To vote for the candidates for the partisan offices, mark the ballot next to the name of the candidate for each partisan office for whom you wish to vote. If you wish to vote for a person whose name is not printed on the ballot, write such name in the blank space provided and mark the ballot next to the name according to the instructions.

Section two of this ballot is comprised of nonpartisan candidates including judicial candidates, school district candidates and initiative or referendum propositions. To vote for the candidates for the nonpartisan offices, mark the ballot opposite the name of the candidate for each nonpartisan office for which you wish to vote. If you wish to vote for a person whose name is not printed on the ballot, write such name in the blank space provided and mark the ballot next to the name according to the instructions. Mark the ballot by the word "yes" or "for" for each proposition or question that you wish to be adopted. Mark the ballot by the word "no" or "against" for each proposition or question that you wish not to be adopted.

#### 16-515. "Seventy-five foot limit" notices; posting; violation; classification

**A.** Except as prescribed in this section and section 16-580, a person shall not be allowed to remain inside the seventy-five foot limit while the polls are open, except for the purpose of voting, and except the election officials, one representative at any one time of each political party represented on the ballot who has been appointed by the county chairman of that political party and the challengers allowed by law, and no electioneering may occur within the seventy-five foot limit. Voters having cast their ballots shall promptly move outside the seventy-five foot limit.

**B.** The board of supervisors shall furnish, with the ballots for each polling place, three notices, printed in letters not less than two inches high, with the heading: "Seventy-five foot limit" and underneath that heading the following:

No person shall be allowed to remain inside these limits while the polls are open, except for the purpose of voting, and except the election officials, one representative at any one time of each political party represented on the ballot who has been appointed by the county chairman of such political party, and the challengers allowed by law. Voters having cast their ballots shall at once retire without the seventy-five foot limit. A person violating any provision of this notice is guilty of a class 2 misdemeanor.

**C.** A minor voting in a simulated election at a polling place is subject to the same seventy-five foot limit restrictions prescribed for a voter. Persons supervising or working in a simulated election in which minors vote may remain within the seventy-five foot limit of the polling place. The inspector for the polling place shall exercise authority over all election and simulated election related activities at the polling place.

**D.** For an election that is held by an Indian tribe and that is held at a polling place at the same time and on the same date as any other election, the following apply:

**1.** A person who is voting is subject to the same seventy-five foot limit restrictions prescribed for other voters.

**2.** An election official for the tribal election may remain within the seventy-five foot limit for the polling place.

**E.** With the permission of the voter, a minor may enter and remain within the seventy-five foot limit in order to accompany a voter into a polling place, an on-site early voting facility and a voting booth while the voter is voting.

**F.** Notwithstanding any other law, an election official, a representative of a political party who has been appointed by the county chairman of that political party or a challenger who is authorized by law to be within the seventy-five foot limit as prescribed by this section shall not wear, carry or display materials that identify or express support for or opposition to a candidate, a political party or organization, a ballot question or any other political issue and shall not electioneer within the seventy-five foot limit of a polling place.

**G.** Notwithstanding section 16-1018, a person may not take photographs or videos while within the seventy-five foot limit.

**H.** Any person violating this section is guilty of a class 2 misdemeanor.

**I.** For the purposes of this section, electioneering occurs when an individual knowingly, intentionally, by verbal expression and in order to induce or compel another person to vote in a particular manner or to refrain from voting expresses support for or opposition to a candidate who appears on the ballot in that election, a ballot question that appears on the ballot in that election or a political party with one or more candidates who appear on the ballot in that election.

#### 16-516. Form of poll lists

**A.** The following form of poll lists shall be kept by boards and clerks of election:

"Poll lists.

Of the election held in the precinct of \_\_\_\_\_ in the county of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, the officers of the election, were respectively sworn or affirmed, as the law directs, previous to their entering on the duties of their respective offices, and the following is the number and name of electors voting:

---

---

Register      Name  
No.

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We hereby certify that the number of electors voting at this election was

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Clerks

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Board of election."

**B.** The paper used for poll lists is exempt from the paper size restrictions prescribed by section 39-103.

**16-517. Form of tally list**

The tally list shall be in the following form:

We hereby certify the following to be a true tally of the votes for the candidates and offices shown herein cast at the election held on the day of , 20 in election precinct, county, Arizona:

Names of offices Tally of votes

and candidates: (to be tallied in blocks Total vote

of five as:) (as:)

For

representative

in Congress:

John Doe //// Ninety-nine

We further certify that the total vote set opposite the name of each candidate is the total number of votes received by that candidate in the precinct of election.

(Leaving lines with designation, for signatures of clerks and board of election or tally board.)

## Article 7 Election Boards

### 16-531. Appointment of election boards; qualifications

**A.** When an election is ordered, and not less than twenty days before a general or primary election, the board of supervisors shall appoint for each election precinct, voting center or other voting location one inspector, one marshal, two judges and as many clerks of election as deemed necessary. The inspector, marshal, judges and clerks shall be qualified voters of the precinct for which appointed, except if there is not a sufficient number of persons available to provide the number of appointments required, the inspector, marshal, judges and clerks shall be qualified voters of this state. The inspector, marshal and judges shall not have changed their political party affiliation or their no party preference affiliation since the last preceding general election, and if they are members of the two political parties that cast the highest number of votes in the state at the last preceding general election, they shall be divided equally between these two parties. There shall be an equal number of inspectors in the various precincts in the county who are members of the two largest political parties. In each precinct where the inspector is a member of one of the two largest political parties, the marshal in that precinct shall be a member of the other of the two largest political parties. Whenever possible, any person appointed as an inspector shall have had previous experience as an inspector, judge, marshal or clerk of elections. If there is no qualified person in a given precinct, the appointment of an inspector may be made from names provided by the county party chairman. If not less than ninety days before the election the chairman of the county committee of either of the parties designates qualified voters of the precinct, or of another precinct if there are not sufficient members of that party available in the precinct to provide the necessary representation on the election board as judge, such designated qualified voters shall be appointed. The judges, together with the inspector, shall constitute the board of elections. Any registered voter in the election precinct, or in another election precinct if there are not sufficient persons available in the election precinct for which the clerks are being appointed, may be appointed as clerk.

**B.** If the election precinct consists of fewer than three hundred qualified electors, the board of supervisors may appoint not fewer than one inspector and two judges. The board of supervisors shall give notice of election precincts consisting of fewer than three hundred qualified electors to the county chairmen of the two largest political parties not later than thirty days before the election. The inspector and judges shall be appointed in the same manner by party as provided in subsection A of this section.

**C.** If a nonpartisan election is ordered, not less than twenty days before the election the governing board holding the election shall appoint, without consideration for political party, a minimum of three election workers for each polling place. The election workers shall consist of at least one inspector and two judges. Whenever possible, they shall be qualified electors of the precinct located within the district, without consideration for political party.

**D.** For election boards established pursuant to subsection B of this section, the inspector and two judges shall be appointed to provide as equal as practicable representation of members of the two largest political parties on the board in the same manner as provided for the election boards prescribed by subsection A of this section. Any registered voter in the election precinct, or in another election precinct if there are not sufficient persons available in the election precinct for which the clerks are being appointed, may be appointed as clerk. No United States, state, county or precinct officer, nor a candidate for office at the election, other than a precinct committeeman or a candidate for the office of precinct committeeman, is qualified to act as judge, inspector, marshal or clerk.

**E.** If an electronic voting system is in use the write-in ballots shall be tallied by a board of elections consisting of one inspector and two judges who are appointed in the same manner by party as provided in subsection A of this section.

**F.** Notwithstanding any other law, the board of supervisors may appoint to an election board to serve as a clerk of election a person who is not eligible to vote if all of the following conditions are met:

- 1.** The person is a minor who will be at least sixteen years of age at the time of the election for which the person is named to the election board.
- 2.** The person is a citizen of the United States at the time of the election for which the person is named to the election board.
- 3.** The person is supervised by an adult who has been trained as an elections officer.

4. The person has received training provided by the officer in charge of elections.
5. The parent or guardian of the person has provided written permission for the person to serve.
- G. A school district or charter school shall not be required to reduce its average daily membership, as defined in section 15-901, for any pupil who is absent from one or more instructional programs as a result of the pupil's service on an election board pursuant to subsection F of this section.
- H. A school district or charter school shall not count any pupil's absence from one or more instructional programs as a result of the pupil's service on an election board pursuant to subsection F of this section against any mandatory attendance requirements for the pupil.
- I. This section does not prevent the board of supervisors or governing body from refusing for cause to reappoint, or from removing for cause, an election board member.

#### 16-532. Instruction of election board inspectors and judges; certificate of qualification; optional training; instruction of counting center election officials

- A. Not more than forty-five days before to an election the board of supervisors or other authority in charge of elections shall conduct a class for the instruction of inspectors and judges of the election board in their duties, which shall include instruction in the voting system to be used and the election laws applicable to such election. Each election board member receiving instructions and properly qualified shall receive a certificate of qualification. Only inspectors and judges of the election board who have received the required instruction class shall serve at any election, except as provided pursuant to sections 16-533 and 16-534. Other members of the election board may be trained at the same time.
- B. The instructor of election board members shall be qualified in election law and shall have had practical experience in the election process such person is teaching.
- C. The election authority in charge of the instructional classes may conduct multiple sessions to ensure that election board members receive adequate instruction.
- D. The board of supervisors or other officer in charge of elections may approve an alternate method of instruction and testing for election board members. Each election board member who successfully completes the instruction shall be certified as a premium board worker. This instruction may include at least eight classroom hours of instruction and shall include a written examination on election law and election procedures. Except as provided in subsection E of this section, a certified premium board worker shall not be required to receive additional instruction for at least thirty months from the date of that worker's individual certification. The board of supervisors may approve additional compensation for certified premium board workers.
- E. The board of supervisors or other authority in charge of elections may require additional training at any time for any or all election board workers, including premium board workers. The board of supervisors or other authority in charge of elections shall notify election board workers in writing of changes in the law regarding elections or changes in election procedures. This notification shall be made immediately preceding the election in which the statutory change or procedural change regarding election law becomes effective.
- F. Not more than forty-five days prior to the day of an election, the board of supervisors or other authority in charge of elections shall conduct a class for the deputized counting center election officials in their duties.

#### 16-533. Filling vacancy in election board by electors

If the board of supervisors fails to appoint the board of election, or if all members appointed do not attend at the opening of the polls on the morning of the election, the members of the election board of the precinct present at that hour may fill the board or supply the place of an absent member thereof from the list of alternate election board members supplied by the county chairman of the political party from which another election board member is needed to maintain a political party balance. Such alternate board member is not required to be a qualified elector in the precinct for which the election board is serving.

#### 16-534. Inspector as chairman of board; powers; power of board and clerks to administer oaths; oath of members

A. The inspector shall be chairman of the election board and may appoint judges, clerks and a marshal if during the election a judge, clerk or marshal fails to act, or has not been appointed, and if the list of alternate board members as specified in section 16-533 is not available.

B. The inspector, any member of the election board or clerks thereof may administer and certify oaths required in the election.

C. Before opening the polls, each member of the board and each clerk shall take an oath to faithfully perform the duties imposed on each member and clerk by law. Any elector of the precinct may administer and certify the oath.

#### 16-535. Election marshal; appointment; powers and duties

A. The board of supervisors, at the time provided in section 16-531, shall appoint a qualified voter of the precinct as election marshal.

B. The election marshal shall preserve order at the polls and permit no violation of the election laws from the opening of the polls until the count of the ballots is completed. The election marshal shall also periodically measure the length of waiting times at that polling place throughout the day, and if the waiting time is thirty minutes or more, the marshal shall inform the officer in charge of elections and shall request additional voting machines, voting booths and board workers, as appropriate. The election marshal may perform the duties of any other election board member on a relief basis.

#### 16-536. Compensation of election board officers

The compensation of the election officers shall be fixed by the board of supervisors and shall be a county charge. In no case shall an election board member be paid less than thirty dollars per day.

#### 16-537. Powers and duties of election officers with respect to special elections

The powers and duties conferred or imposed by law upon any public officer with respect to regular elections are conferred and imposed upon such officers with respect to special elections.

### Article 8 Early Voting

#### 16-541. Early voting

A. Any election called pursuant to the laws of this state shall provide for early voting, including voting by the use of an accessible vote by United States mail option for persons who are blind or have a visual impairment. Any qualified elector may vote by early ballot.

B. A qualified elector of a special district organized pursuant to title 48 shall be permitted to vote early in any special district mail ballot election as provided in article 8.1 of this chapter.

#### 16-542. Request for ballot; civil penalties; violation; classification

A. Within ninety-three days before any election called pursuant to the laws of this state, an elector may make a verbal or signed request to the county recorder, or other officer in charge of elections for the applicable political subdivision of this state in whose jurisdiction the elector is registered to vote, for an official early ballot. In addition to name and address, the requesting elector shall provide the date of birth and state or country of birth or other information that if compared to the voter registration information on file would confirm the identity of the elector. If the request indicates that the elector needs a primary election ballot and a general election ballot, the county recorder or other officer in charge of elections shall honor the request. For any partisan primary election, if the elector is not registered as a member of a political party that is entitled to continued representation on the ballot pursuant to section 16-804, the elector shall designate the ballot of only one of the political parties that is entitled to continued representation on the ballot and the elector may receive and vote the ballot of only that one political party, which also shall include any nonpartisan offices and ballot questions, or the elector shall designate the ballot for nonpartisan offices and ballot questions only and the elector may receive and vote the ballot that contains only nonpartisan offices and ballot questions. The county recorder or other officer in charge of elections shall process any request for an early ballot for a municipal election pursuant to this subsection. The county recorder may establish on-site early voting locations at the recorder's office, which shall be open and available for use beginning the same

day that a county begins to send out the early ballots. The county recorder may also establish any other early voting locations in the county the recorder deems necessary. Any on-site early voting location or other early voting location shall require each elector to present identification as prescribed in section 16-579 before receiving a ballot. Notwithstanding section 16-579, subsection A, paragraph 2, at any on-site early voting location or other early voting location the county recorder or other officer in charge of elections may provide for a qualified elector to update the elector's voter registration information as provided for in the secretary of state's instructions and procedures manual adopted pursuant to section 16-452.

**B.** Notwithstanding subsection A of this section, a request for an official early ballot from an absent uniformed services voter or overseas voter as defined in the uniformed and overseas citizens absentee voting act (P.L. 99-410; 52 United States Code section 20310) or a voter whose information is protected pursuant to section 16-153 that is received by the county recorder or other officer in charge of elections more than ninety-three days before the election is valid. If requested by the absent uniformed services or overseas voter, or a voter whose information is protected pursuant to section 16-153, the county recorder or other officer in charge of elections shall provide to the requesting voter early ballot materials through the next regularly scheduled general election for federal office immediately following receipt of the request unless a different period of time, which does not exceed the next two regularly scheduled general elections for federal office, is designated by the voter.

**C.** The county recorder or other officer in charge of elections shall mail the early ballot and the envelope for its return postage prepaid to the address provided by the requesting elector within five days after receipt of the official early ballots from the officer charged by law with the duty of preparing ballots pursuant to section 16-545, except that early ballot distribution shall not begin more than twenty-seven days before the election. If an early ballot request is received on or before the thirty-first day before the election, the early ballot shall be distributed not earlier than the twenty-seventh day before the election and not later than the twenty-fourth day before the election.

**D.** Only the elector may be in possession of that elector's unvoted early ballot. If a complete and correct request is made by the elector within twenty-seven days before the election, the mailing must be made within forty-eight hours after receipt of the request. Saturdays, Sundays and other legal holidays are excluded from the computation of the forty-eight-hour period prescribed by this subsection. If a complete and correct request is made by an absent uniformed services voter or an overseas voter before the election, the regular early ballot shall be transmitted by mail, by fax or by other electronic format approved by the secretary of state within twenty-four hours after the early ballots are delivered pursuant to section 16-545, subsection B, excluding Sundays.

**E.** In order to be complete and correct and to receive an early ballot by mail, an elector's request that an early ballot be mailed to the elector's residence or temporary address must include all of the information prescribed by subsection A of this section and must be received by the county recorder or other officer in charge of elections not later than 5:00 p.m. on the eleventh day preceding the election. An elector who appears personally not later than 7:00 p.m. on the Friday preceding the election at an on-site early voting location that is established by the county recorder or other officer in charge of elections shall be given a ballot after presenting identification as prescribed in section 16-579 and shall be allowed to vote at the on-site location. Notwithstanding section 16-579, subsection A, paragraph 2, at any on-site early voting location the county recorder or other officer in charge of elections may provide for a qualified elector to update the elector's voter registration information as provided for in the secretary of state's instructions and procedures manual adopted pursuant to section 16-452. If an elector's request to receive an early ballot is not complete and correct but complies with all other requirements of this section, the county recorder or other officer in charge of elections shall attempt to notify the elector of the deficiency of the request.

**F.** Unless an elector specifies that the address to which an early ballot is to be sent is a temporary address, the recorder may use the information from an early ballot request form to update voter registration records.

**G.** The county recorder or other officer in charge of early balloting shall provide an alphabetized list of all voters in the precinct who have requested and have been sent an early ballot to the election board of the precinct in which the voter is registered not later than the day before the election.

**H.** As a result of experiencing an emergency between 7:00 p.m. on the Friday preceding the election and 5:00 p.m. on the Monday preceding the election, qualified electors may request to vote in the manner prescribed by the board of supervisors of their respective county. Before voting pursuant to this subsection, an elector who experiences an emergency shall provide identification as prescribed in section 16-579 and shall sign a



statement under penalty of perjury that states that the person is experiencing or experienced an emergency after 7:00 p.m. on the Friday immediately preceding the election and before 5:00 p.m. on the Monday immediately preceding the election that would prevent the person from voting at the polls. Signed statements received pursuant to this subsection are not subject to inspection pursuant to title 39, chapter 1, article 2. For the purposes of this subsection, "emergency" means any unforeseen circumstances that would prevent the elector from voting at the polls.

**I.** Notwithstanding section 16-579, subsection A, paragraph 2, for any voting pursuant to subsection H of this section, the county recorder or other officer in charge of elections may allow a qualified elector to update the elector's voter registration information as provided for in the secretary of state's instructions and procedures manual adopted pursuant to section 16-452.

**J.** A candidate, political committee or other organization may distribute early ballot request forms to voters. If the early ballot request forms include a printed address for return, the addressee shall be the political subdivision that will conduct the election. Failure to use the political subdivision as the return addressee is punishable by a civil penalty of up to three times the cost of the production and distribution of the request.

**K.** All original and completed early ballot request forms that are received by a candidate, political committee or other organization shall be submitted within six business days after receipt by a candidate, political committee or other organization or eleven days before the election day, whichever is earlier, to the political subdivision that will conduct the election. Any person, political committee or other organization that fails to submit a completed early ballot request form within the prescribed time is subject to a civil penalty of up to \$25 per day for each completed form withheld from submittal. Any person who knowingly fails to submit a completed early ballot request form before the submission deadline for the election immediately following the completion of the form is guilty of a class 6 felony.

**L.** Except for a voter who is on the active early voting list prescribed by section 16-544, a voter who requests a onetime early ballot pursuant to this section or for an election conducted pursuant to section 16-409 or article 8.1 of this chapter, a county recorder, city or town clerk or other election officer may not deliver or mail an early ballot to a person who has not requested an early ballot for that election. An election officer who knowingly violates this subsection is guilty of a class 5 felony.

#### **16-543. Application for ballot; United States service; emergency procedures**

**A.** Any absent uniformed services voter or overseas voter as defined in the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; 42 United States Code section 1973ff-6), as amended by the Ronald W. Reagan national defense authorization act for fiscal year 2005 (P.L. 108-375), may request an early ballot with a federal postcard application that contains both an early voter registration application and an early ballot application. The secretary of state shall provide for a centralized system for receiving federal postcard applications by way of the internet or fax and shall provide for transmitting appropriate ballot materials in response to fax, telephone and internet requests for federal postcard applications. The absent uniformed services voter or overseas voter shall designate the means of communication for receiving voting materials, whether by way of the internet, fax transmittal or other electronic means or by mail, and the county recorder or other officer in charge of elections shall provide responses and materials in the format designated by the requesting voter. On receipt of such application, the county recorder or other officer in charge of elections shall determine whether or not the elector is registered. If the applicant is so registered, the recorder or other officer in charge of elections shall forward to the applicant an official early ballot using the means of communication designated by the voter pursuant to this section. If no means of communication is designated, the ballot shall be transmitted as provided in the instructions and procedures manual issued pursuant to section 16-452. For all requests received from registered absent uniformed services voters or overseas voters on or before the forty-eighth day before the election, the ballot shall be transmitted no later than the forty-fifth day before the election. If the applicant is not registered, and the request is for a ballot for use in a county election but the federal postcard application is complete, the recorder shall forward an official early ballot to the applicant within twenty-four hours after receipt of the request, excluding Saturdays, Sundays and other legal holidays. If the applicant is not registered to vote and the federal postcard application is not used or complete, the recorder shall forward an affidavit of registration as provided in section 16-103 and shall forward at the same time to the unregistered applicant an official early ballot and affidavit within twenty-four hours after receipt of the request, excluding Saturdays, Sundays and other legal holidays. For any voter who is sent an official early ballot by electronic means pursuant to this section, the county recorder or other officer in charge of elections is not required to send a paper ballot for the same election.

**B.** The county recorder or other officer in charge of elections shall transmit by fax or by other electronic format approved by the secretary of state early ballot request forms, unvoted ballots and ballot information to eligible absent uniformed services voters and overseas voters. The county recorder or other officer in charge of elections shall provide for receipt of completed early ballot requests and voted early ballots by fax or other electronic format as prescribed by the secretary of state in the instructions and procedures manual issued pursuant to section 16-452. The county recorder or other officer in charge of elections shall provide for a method for the voter to verify at no cost to the voter that the voter's ballot has been received.

**C.** The secretary of state shall provide in the instructions and procedures manual issued pursuant to section 16-452 for emergency procedures regarding the early balloting process for persons who are subject to the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; 42 United States Code section 1973ff), as amended by the Ronald W. Reagan national defense authorization act for fiscal year 2005 (P.L. 108-375). These emergency procedures may be implemented only on the occurrence of a national or local emergency that makes substantial compliance with the uniformed and overseas citizens absentee voting act impracticable, including occurrences of natural disasters or armed conflict or mobilization of the national guard or military reserve units of this state.

**D.** This section applies only to any absent uniformed services voter or overseas voter as defined in the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; 42 United States Code section 1973ff-6), as amended by the Ronald W. Reagan national defense authorization act for fiscal year 2005 (P.L. 108-375).

#### **16-543.02. Federal write-in early ballots; procedure; registration form**

**A.** An overseas voter as defined in the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; 42 United States Code section 1973ff-6), as amended by the Ronald W. Reagan national defense authorization act for fiscal year 2005 (P.L. 108-375), who is absent from the place of residence in this state where the voter is otherwise qualified to vote may use a federal write-in early ballot in a primary, general or special election for the offices of presidential elector and United States senator and representative in Congress if the voter applies for an early ballot by 7:00 p.m. on election day and does not receive that early ballot.

**B.** A federal write-in early ballot of an overseas voter shall not be counted if either of the following conditions is met:

**1.** The application of the overseas voter for an early ballot is received by the county recorder or other officer in charge of elections after 7:00 p.m. on election day.

**2.** An early ballot from the overseas voter is received by the county recorder or other officer in charge of elections by 7:00 p.m. on election day.

**C.** An overseas voter who completes a federal write-in early ballot may designate a candidate by writing in the name of the candidate or by writing in the name of a political party, in which case the ballot shall be counted for the candidate of that political party. In the case of the offices of president and vice-president, a vote for a named candidate or in the name of the political party shall be counted as a vote for that candidate's or party's presidential electors. Any abbreviation, misspelling or other minor variation in the form of the name of a candidate or political party shall be disregarded in determining the validity of the ballot if the intention of the voter can be ascertained.

**D.** For an overseas voter who completes a federal write-in early ballot transmission envelope with the federal write-in early ballot request, the transmission envelope shall serve as a voter registration form and the voter is registered to vote on completion and receipt of the transmission envelope and the federal write-in early ballot if all of the following apply:

**1.** The information submitted on the transmission envelope includes the information prescribed in section 16-121.01.

**2.** The voter is otherwise eligible to register and vote in this state.

**3.** The request is received by the county recorder by 7:00 p.m. on election day.

**E.** For any request received after 7:00 p.m. on election day, an otherwise valid transmission envelope constitutes a voter registration form that is valid for any subsequent election.

#### 16-544. Active early voting list; civil penalty; violation; classification; definition

**A.** Any voter may request to be included on a list of voters to receive an early ballot by mail for any election for which the county voter registration roll is used to prepare the election register. The county recorder of each county shall maintain the active early voting list as part of the voter registration roll.

**B.** In order to be included on the active early voting list, the voter shall make a written request specifically requesting that the voter's name be added to the active early voting list for all elections in which the applicant is eligible to vote. An early voter request form shall conform to requirements prescribed in the instructions and procedures manual issued pursuant to section 16-452. The application shall allow for the voter to provide the voter's name, residence address, mailing address in the voter's county of residence, date of birth and signature and shall state that the voter is attesting that the voter is a registered voter who is eligible to vote in the county of residence. The voter shall not list a mailing address that is outside of this state for the purpose of the active early voting list unless the voter is an absent uniformed services voter or overseas voter as defined in the uniformed and overseas citizens absentee voting act (P.L. 99-410; 52 United States Code section 20310). In lieu of the application, the applicant may submit a written request that contains the required information.

**C.** On receipt of a request to be included on the active early voting list, the county recorder or other officer in charge of elections shall compare the signature on the request form with the voter's signature on the voter's registration form and, if the request is from the voter, shall mark the voter's registration file as an active early ballot request.

**D.** Not less than ninety days before any polling place election scheduled in March or August, the county recorder or other officer in charge of elections shall mail to all voters who are eligible for the election and who are included on the active early voting list an election notice by nonforwardable mail that is marked with the statement required by the postmaster to receive an address correction notification. If an election is not formally called by a jurisdiction by the one hundred eightieth day before the election, the recorder or other officer in charge of elections is not required to send the election notice. The notice shall include the dates of the elections that are the subject of the notice, the dates that the voter's ballot is expected to be mailed and the address where the ballot will be mailed. If the upcoming election is a partisan open primary election and the voter is not registered as a member of one of the political parties that is recognized for purposes of that primary, the notice shall include information on the procedure for the voter to designate a political party ballot. The notice shall be delivered with return postage prepaid and shall also include a means for the voter to do any of the following:

- 1.** Change the mailing address for the voter's ballot to another location in the voter's county of residence.
- 2.** Update the voter's residence address in the voter's county of residence.
- 3.** Request that the voter not be sent a ballot for the upcoming election or elections indicated on the notice.

**E.** If the notice that is mailed to the voter is returned undeliverable by the postal service, the county recorder or other officer in charge of elections shall take the necessary steps to contact the voter at the voter's new residence address in order to update that voter's address or to move the voter to inactive status as prescribed in section 16-166, subsection A. If a voter is moved to inactive status, the voter shall be removed from the active early voting list. If the voter is removed from the active early voting list, the voter shall only be added to the active early voting list again if the voter submits a new request pursuant to this section.

**F.** Not later than the first day of early voting, the county recorder or other officer in charge of elections shall mail an early ballot to all eligible voters included on the active early voting list in the same manner prescribed in section 16-542, subsection C. If the voter has not returned the notice or otherwise notified the election officer within forty-five days before the election that the voter does not wish to receive an early ballot by mail for the election or elections indicated, the ballot shall automatically be scheduled for mailing.

**G.** If a voter who is on the active early voting list is not registered as a member of a recognized political party and fails to notify the county recorder of the voter's choice for political party ballot within forty-five days before a partisan open primary election, the following apply:

- 1.** The voter shall not automatically be sent a ballot for that partisan open primary election only and the voter's name shall remain on the active early voting list for future elections.

**2.** To receive an early ballot for the primary election, the voter shall submit the voter's choice for political party ballot to the county recorder.

**H.** After a voter has requested to be included on the active early voting list, the voter shall be sent an early ballot by mail automatically for any election at which a voter at that residence address is eligible to vote until any of the following occurs:

**1.** The voter requests in writing to be removed from the active early voting list.

**2.** The voter's registration or eligibility for registration is moved to inactive status or canceled as otherwise provided by law.

**3.** The notice sent by the county recorder or other officer in charge of elections is returned undeliverable and the county recorder or officer in charge of elections is unable to contact the voter to determine the voter's continued desire to remain on the list.

**4.** The voter fails to vote an early ballot in all elections for two consecutive election cycles. For the purposes of this paragraph, "election" means any regular primary or regular general election for which there was a federal race on the ballot or for which a city or town candidate primary or first election or city or town candidate second, general or runoff election was on the ballot. This paragraph does not apply to:

**(a)** A special taxing district that is authorized pursuant to section 16-191 to conduct its own elections.

**(b)** A special district mail ballot election that is conducted pursuant to article 8.1 of this chapter.

**I.** A voter may make a written request at any time to be removed from the active early voting list. The request shall include the voter's name, residence address, date of birth and signature. On receipt of a completed request to remove a voter from the active early voting list, the county recorder or other officer in charge of elections shall remove the voter's name from the list as soon as practicable.

**J.** An absent uniformed services voter or overseas voter as defined in the uniformed and overseas citizens absentee voting act (P.L. 99-410; 52 United States Code section 20310) is eligible to be placed on the active early voting list pursuant to this section.

**K.** A voter's failure to vote an early ballot once received does not constitute grounds to remove the voter from the active early voting list, except that a county recorder shall remove a voter from the active early voting list if both of the following apply:

**1.** The county recorder or other officer in charge of elections complies with subsection M of this section.

**2.** The voter fails to vote using an early ballot in all of the following elections for two consecutive election cycles:

**(a)** A regular primary and regular general election for which there was a federal race on the ballot.

**(b)** A city or town candidate primary or first election and a city or town candidate second, general or runoff election.

**L.** On or before January 15 of each odd-numbered year, the county recorder or other officer in charge of elections shall send a notice to each voter who is on the active early voting list and who did not vote an early ballot in all elections for two consecutive election cycles as prescribed by subsection K of this section. If the voter has provided the voter's telephone or mobile phone number or email address to the county recorder, the county recorder may additionally provide the notice to the voter by telephone call, text message or email. The notice shall inform the voter that if the voter wishes to remain on the active early voting list, the voter shall do both of the following with the notice received:

**1.** Confirm in writing the voter's desire to remain on the active early voting list.

**2.** Return the completed notice to the county recorder or other officer in charge of elections within ninety days after the notice is sent to the voter. The notice shall be signed by the voter and shall contain the voter's address and date of birth.

**M.** If a voter receives a notice as prescribed by subsection L of this section and the voter fails to respond within the ninety-day period, the county recorder or other officer in charge of elections shall remove the voter's name from the active early voting list.

**N.** A candidate, political committee or other organization may distribute active early voting list request forms to voters. If the active early voting list request forms include a printed address for return, that address shall be the political subdivision that will conduct the election. Failure to use the political subdivision as the return addressee is punishable by a civil penalty of up to three times the cost of the production and distribution of the active early voting list request.

**O.** All original and completed active early voting list request forms that are received by a candidate, political committee or other organization shall be submitted within six business days after receipt by a candidate or political committee or eleven days before the election day, whichever is earlier, to the political subdivision that will conduct the election. Any person, political committee or other organization that fails to submit a completed active early voting list request form within the prescribed time is subject to a civil penalty of up to \$25 per day for each completed form withheld from submittal. Any person who knowingly fails to submit a completed active early voting list request form before the submission deadline for the election immediately following the completion of the form is guilty of a class 6 felony.

**P.** A person who receives an early ballot at an address at which another person formerly resided, without voting the ballot or signing the envelope, shall write "not at this address" on the envelope and place the mail piece in a United States postal service collection box or other mail receptacle. On receipt the county recorder or other officer in charge of elections shall proceed in the manner prescribed in subsection E of this section.

**Q.** When the county recorder receives confirmation from another county that a person registered has registered to vote in that other county, the county recorder shall remove that person from the active early voting list.

**R.** If the county recorder receives credible information that a person has registered to vote in a different county, the county recorder shall confirm the person's voter registration with that other county and, on confirmation, shall remove that person from the county's active early voting list pursuant to subsection Q of this section.

**S.** For the purposes of this section, "election cycle" means the two-year period beginning on January 1 in the year after a statewide general election or, for cities and towns, the two-year period beginning on the first day of the calendar quarter after the calendar quarter in which the city's or town's second, runoff or general election is scheduled and ending on the last day of the calendar quarter in which the city's or town's immediately following second, runoff or general election is scheduled, however that election is designated by the city or town.

#### **16-545. Early ballot**

**A.** The early ballot shall be one prepared for use in the precinct in which the applicant resides and, if a partisan primary election, of the political party with which the applicant is affiliated as shown by the affidavit of registration. The ballot shall be identical with the regular official ballots, except that it shall have printed or stamped on it "early".

**B.** The officer charged by law with the duty of preparing ballots at any election shall:

**1.** Prepare the official early ballot and deliver a sufficient number to the recorder or other officer in charge of elections not later than the thirty-third day before the election. Except as provided in section 16-542, subsection D, regular early ballots shall not be distributed to the general public before the beginning of early voting.

**2.** Ensure that the ballot return envelopes are of a type that does not reveal the voter's selections or political party affiliation and that is tamper evident when properly sealed.

#### **16-547. Ballot affidavit; form**

**A.** The early ballot shall be accompanied by an envelope bearing on the front the name, official title and post office address of the recorder or other officer in charge of elections and on the other side a printed affidavit in substantially the following form:

I declare the following under penalty of perjury: I am a registered voter in \_\_\_\_\_ county Arizona, I have not voted and will not vote in this election in any other county or state, I understand that knowingly voting more than once in any election is a class 5 felony and I voted the enclosed ballot and signed this affidavit personally unless noted below.

If the voter was assisted by another person in marking the ballot, complete the following:

I declare the following under penalty of perjury: At the registered voter's request I assisted the voter identified in this affidavit with marking the voter's ballot, I marked the ballot as directly instructed by the voter, I provided the assistance because the voter was physically unable to mark the ballot solely due to illness, injury or physical limitation and I understand that there is no power of attorney for voting and that the voter must be able to make the voter's selection even if the voter cannot physically mark the ballot.

Name of voter assistant: \_\_\_\_\_

Address of voter assistant: \_\_\_\_\_

**B.** The face of each envelope in which a ballot is sent to a federal postcard applicant or in which a ballot is returned by the applicant to the recorder or other officer in charge of elections shall be in the form prescribed in accordance with the uniformed and overseas citizens absentee voting act (P.L. 99-410; 52 United States Code section 20301). Otherwise, the envelopes shall be the same as those used to send ballots to, or receive ballots from, other early voters.

**C.** The officer charged by law with the duty of preparing ballots at any election shall ensure that the early ballot is sent in an envelope that states substantially the following:

If the addressee does not reside at this address, mark the unopened envelope "return to sender" and deposit it in the United States mail.

**D.** The county recorder or other officer in charge of elections shall supply printed instructions to early voters that direct them to sign the affidavit, mark the ballot and return both in the enclosed self-addressed envelope that complies with section 16-545, and:

**1.** Through 2025, the instructions shall include the following statement:

In order to be valid and counted, the ballot and mail affidavit must be delivered to the office of the county recorder or other officer in charge of elections or may be deposited at any polling place in the county not later than 7:00 p.m. on election day. The ballot will not be counted without the voter's signature on the envelope.

(WARNING — It is a felony to offer or receive any compensation for a ballot.)

**2.** Beginning in 2026, the instructions shall include the following statement:

In order to be valid and counted, the mail affidavit that contains the mail ballot must have the voter's signature on the envelope and must be returned to the office of the county recorder by any one of the following methods:

**(a)** Delivering it to the office of the county recorder or other officer in charge of elections not later than 7:00 p.m. on election day.

**(b)** Depositing it at any polling place in the county not later than 7:00 p.m. on election day.

**(c)** Bringing the ballot to any polling place in the county not later than 7:00 p.m. on election day and choosing to present valid identification that complies with section 16-579, subsection A, paragraph 1, Arizona Revised Statutes.

(WARNING — It is a felony to offer or receive any compensation for a ballot.)

**E.** The printed instructions prescribed by subsection D of this section shall also include the following information regarding section 16-1005, subsections H and I in substantially the following form:

A person may only handle or return their own ballot or the ballot of family members, household members or persons for whom they are a caregiver. It is unlawful under section 16-1005 to handle or return the ballot of any other person.

#### **16-548. Preparation and transmission of ballot**

**A.** The early voter shall make and sign the affidavit and shall then mark his ballot in such a manner that his vote cannot be seen. The early voter shall fold the ballot, if a paper ballot, so as to conceal the vote and deposit the voted ballot in the envelope provided for that purpose, which shall be securely sealed and, together with the affidavit, delivered or mailed to the county recorder or other officer in charge of elections of the political subdivision in which the elector is registered or deposited by the voter or the voter's agent at any

polling place in the county. In order to be counted and valid, the ballot must be received by the county recorder or other officer in charge of elections or deposited at any polling place in the county no later than 7:00 p.m. on election day.

**B.** If the early voter is an overseas citizen, a qualified elector absent from the United States or in the United States service, a spouse or dependent residing with the early voter or a qualified elector of a special district mail ballot election as provided in article 8.1 of this chapter, the early voter may subscribe to the affidavit before and obtain the signature and military identification number or passport number, if available, of any person who is a United States citizen eighteen years of age or older.

#### **16-549. Special election boards; expenses; voting procedure for ill electors or electors with disabilities**

**A.** The county recorder or other officer in charge of elections, for the purpose of making it possible for qualified electors who are ill or have a disability to vote, may appoint such number of special election boards as needed. In a partisan election, each such board shall consist of two members, one from each of the two political parties that cast the highest number of votes in the state in the last preceding general election. The county chairman of each such party shall furnish, within sixty days before the election day, the county recorder or other officer in charge of elections with a list of names of qualified electors within the chairman's political party, and such additional lists as may be required, from which the county recorder or other officer in charge of elections shall appoint members to such special election boards. The county recorder or other officer in charge of elections may refuse for cause to appoint or may for cause remove a member of this board. A person who is a candidate for an office other than precinct committeeman is not eligible to serve on the special election board for that election.

**B.** Members of special election boards appointed under this section shall be reimbursed for travel expenses in the manner provided by law and shall also receive such compensation as the board of supervisors or the governing body prescribes, all of which shall be paid by the county or other political subdivision.

**C.** In lieu of the mailed early ballot procedure, any qualified elector who is confined as the result of a continuing illness or physical disability and is, therefore, not able to go to the polls on the day of the next election and who does not wish to vote by the mailed early ballot procedure, may make a verbal or a signed written request to the county recorder or other officer in charge of elections to have a ballot personally delivered to the elector by the special election board at the elector's place of confinement within the county or other political subdivision. The ballot shall be delivered to the elector in person by a special election board as provided in this section. Such requests must be made by 5:00 p.m. on the second Friday before the election.

**D.** Qualified electors who become ill or become a person with a disability after the second Friday before the election may nevertheless request personal ballot delivery pursuant to this section, and the county recorder or other officer in charge of elections shall when possible honor such requests up to and including the last day before the election. Qualified electors who are admitted to a hospital after 5:00 p.m. on the second Friday preceding the election and before 5:00 p.m. on election day may request the county recorder or other officer in charge of elections to provide a special election board with a ballot at the elector's place of confinement. If the county recorder or other officer in charge of elections is able to accommodate the request, the voted ballot of the elector shall be sealed in an envelope and shall be processed as a provisional ballot pursuant to section 16-584. Before receiving a ballot pursuant to this subsection, a qualified elector shall provide identification as prescribed in section 16-579 and shall sign a statement under penalty of perjury that states that the person is experiencing or experienced an emergency after 5:00 p.m. on the second Friday preceding the election and before 5:00 p.m. on the Monday immediately preceding the election that would prevent the person from voting at the polls. Signed statements received pursuant to this subsection are not subject to inspection pursuant to title 39, chapter 1, article 2.

**E.** The manner and procedure of voting shall be as provided in section 16-548, except that the marked ballot in the sealed envelope shall be handed by the elector to the special election board and shall be delivered by the board to the county recorder or other officer in charge of elections.

#### **16-550. Receipt of voter's ballot; cure period; tracking system**

**A.** Except for early ballots tabulated as prescribed in section 16-579.02 or, beginning in 2026, received at a voting location after a voter's identification is confirmed as prescribed by section 16-579, subsection A, paragraph 4, on receipt of the envelope containing the early ballot and the mail ballot affidavit, the county recorder or other officer in charge of elections shall compare the signature on the envelope with the signature of the elector on the elector's registration record as prescribed by section 16-550.01. If the signature is

inconsistent with the elector's signature on the elector's registration record, the county recorder or other officer in charge of elections shall make reasonable efforts to contact the voter, advise the voter of the inconsistent signature and allow the voter to correct or the county to confirm the inconsistent signature. The county recorder or other officer in charge of elections shall allow signatures to be corrected not later than the fifth business day after a primary, general or special election that includes a federal office or the third business day after any other election. If the election is a primary, general or special election that includes a federal office, in addition to the office's regular business hours, the county recorder's and any city or town clerks' offices that have an agreement with a county to be used as locations at which a voter may submit proof of identification shall be open during regular business hours to allow for curing signatures during the Friday and weekend before and the Friday and weekend after the election. Regular business hours include at a minimum 8:00 a.m. until 5:00 p.m. If the signature is missing, the county recorder or other officer in charge of elections shall make reasonable efforts to contact the elector, advise the elector of the missing signature and allow the elector to add the elector's signature not later than 7:00 p.m. on election day. If satisfied that the signatures correspond, the recorder or other officer in charge of elections shall hold the envelope containing the early ballot and the completed mail affidavit unopened in accordance with the rules of the secretary of state. Signatures that cannot be verified pursuant to section 16-550.01 or cured pursuant to this section shall be rejected. If the ballot is a conditional provisional ballot, the voter shall provide proof of identification to the county recorder or other officer in charge of elections not later than the fifth business day after a primary, general or special election that includes a federal office or the third business day after any other election. Beginning with the first missing or mismatched signature that is identified after the period of early voting begins through the Monday immediately preceding the election, the county recorder or other officer in charge of elections shall submit daily to the political parties that are qualified for continued representation on the state ballot an updated list of all voters whose signatures are missing or inconsistent with the voter's signature on the voter's registration record. Beginning on the Wednesday immediately following the election through the end of the signature cure period after a primary, general or special election that includes a federal office, or the third business day after the election for any other election, the county recorder or other officer in charge of elections shall submit daily to the political parties that are qualified for continued representation on the state ballot an updated list of all voters whose signatures are inconsistent with the voter's signature on the voter's registration record and all voters who voted with a conditional provisional ballot. This list of voters whose signatures require curing shall include for those voters all voter information that is provided to the political parties that are qualified for continued representation on the state ballot as prescribed by section 16-168.

**B.** The recorder or other officer in charge of elections shall thereafter safely keep the mail ballot affidavits and early ballots in the recorder's or other officer's office and may deliver them for tallying pursuant to section 16-551.

**C.** Processing and tabulation of individual ballots may begin immediately after the envelope and completed mail ballot affidavit are processed pursuant to this section and delivered to the early election board and shall continue without delay until completed. Until election day, the early election board and the county recorder or other officer in charge of elections shall:

- 1.** Not access an aggregated complete results file of early voting and vote by mail ballots that were processed and tabulated by the end of the early voting period.
- 2.** Not produce for internal or external use an aggregated results report or associated files of complete results.
- 3.** Only produce a partial results report or associated files if it is part of the internal preparation for the hand count pursuant to section 16-602 or for the logic and accuracy testing required pursuant to section 16-449.
- 4.** Not publicly release complete or partial results, whether for internal or external use, until all precincts have reported or one hour after the closing of the polls on election day, whichever is earlier.

**D.** The county recorder or other officer in charge of elections shall post on its website within forty-eight hours after all ballot tabulation is complete all system log files and other similar files from the election management system that verify compliance with subsection C of this section.

**E.** The county recorder shall send a list of all voters who were issued early ballots to the election board of the precinct in which the voter is registered.



**F.** For a county that uses early ballots, the county recorder or other officer in charge of elections shall provide an early ballot tracking system that indicates whether the voter's early ballot has been received and whether the early ballot has been verified and sent to be tabulated or rejected. The county recorder or other officer in charge of elections shall provide voters with access to the early ballot tracking system on the county's website.

**G.** This section does not apply to:

- 1.** A special taxing district that is authorized pursuant to section 16-191 to conduct its own elections.
- 2.** A special district mail ballot election that is conducted pursuant to article 8.1 of this chapter.

#### **16-550.01. Signature verification; procedures; exemption; intent; definitions**

**A.** Except for early ballots tabulated as prescribed in section 16-579.02, on receipt of the envelope containing the early ballot and the ballot affidavit, the county recorder or other officer in charge of elections shall conduct signature verification as prescribed by this section.

**B.** The evaluator shall examine all the broad characteristics of the signature. If the broad characteristics of the signature on the ballot affidavit are clearly consistent with the broad characteristics of the voter's signature in the voter's registration record, the evaluator may accept the signature as valid.

**C.** If the evaluator finds discrepancies between the signature on the ballot affidavit and the voter's signature in the voter's registration record, the evaluator shall examine the local characteristics of the signature. If the local characteristics of the signature on the ballot affidavit are clearly consistent with the local characteristics of the voter's signature in the voter's registration record, the evaluator may accept the signature as valid.

**D.** If the evaluator finds a combination of broad and local characteristic differences between the signature on the ballot affidavit and the voter's signature in the voter's registration record, the evaluator shall denote the signature for a second review that shall be conducted by an evaluator using the same standards prescribed by this section.

**E.** Electronic signatures shall be evaluated as prescribed by this section, except that electronic signatures that use a typed font shall be rejected.

**F.** The legislature intends that the illustrations of broad and local characteristics in the 2020 secretary of state's signature verification guide be used as reference.

**G.** For the purposes of this section:

**1.** "Broad characteristics" means all of the following:

- (a)** The type of writing.
- (b)** The speed of writing.
- (c)** Overall spacing.
- (d)** Overall size and proportions.
- (e)** Position of the signature.
- (f)** Spelling and punctuation.

**2.** "Evaluator" means the individual who is designated by the county recorder or officer in charge of elections and who conducts signature verification.

**3.** "Local characteristics" means all of the following:

- (a)** Internal spacing.
- (b)** The size or proportions of a letter or letter combination.
- (c)** Curves, loops and cross points.
- (d)** The presence or absence of pen lifts.
- (e)** Beginning and ending strokes.

4. "Signature verification" means the process of manually comparing the signature on a voter's affidavit envelope or ballot affidavit with the voter's signature in the voter's registration record.

H. The legislature intends by this section to codify procedures based on the 2020 secretary of state signature verification guide, provided that in the event of any conflict between the guide and this section, this section controls. This section is not intended to modify the grounds on which a party-appointed challenger may challenge an early ballot. This section does not require signature evaluators to examine broad or local characteristics one at a time. This section is not intended to require an exact match.

#### 16-551. Early election board; violation; classification

A. The board of supervisors or the governing body of the political subdivision shall appoint one or more early election boards to serve at places to be designated by the board of supervisors or the governing body to canvass and tally early election ballots. Members of early election boards shall be selected in accordance with the provisions for selecting members of regular election boards as provided in section 16-531.

B. If an electronic voting system is in use for early voting, the early election board shall consist of at least one inspector and two judges who shall perform the processing requirements in accordance with the rules issued by the secretary of state. The inspector and judges shall be appointed in the same manner by party as provided in section 16-531.

C. All early ballots received by the county recorder or other officer in charge of elections before 7:00 p.m. on election day and the original mail ballot affidavit of the voter shall be delivered to the early election boards for processing as provided in the rules of the secretary of state. Beginning in 2026, all early ballots that are delivered by a voter to a voting location without presenting identification that complies with section 16-579, subsection A, paragraph 1 must be signature verified. The office of the county recorder or other officer in charge of elections shall remain open until 7:00 p.m. on election day for the purpose of receiving early ballots. Partial or complete tallies of the early election board shall not be released or divulged before all precincts have reported or one hour after the closing of the polls on election day, whichever occurs first. Any person who unlawfully releases information regarding vote tallies or who possesses a tally sheet or summary without authorization from the recorder or officer in charge of elections is guilty of a class 6 felony.

D. The county recorder or other officer in charge of elections shall count the number of early ballots that are returned at voting locations on election day and shall post on its website those totals with the last unofficial results that are released on election night pursuant to section 16-622. Beginning with the day following the election, the county recorder or other officer in charge of elections shall enter into the county's ballot tracking system, if established, early ballots that were returned at the voting location on election day.

E. The necessary printed blanks for poll lists, tally lists, lists of voters, ballots, oaths and returns, together with envelopes in which to enclose the returns, shall be furnished by the board of supervisors or the governing body of the political subdivision to the early election board for each election precinct at the expense of the county or the political subdivision.

#### 16-552. Early ballots; processing; challenges

A. In a jurisdiction that uses optical scan ballots, the officer in charge of elections may use the procedure prescribed by this section or may request approval from the secretary of state for a different method for processing early ballots. The request shall be made in writing at least ninety days before the election for which the procedure is intended to be used. After the election official has confirmed with the secretary of state that all election equipment passes the logic and accuracy test, the election official may begin to count early ballots. No early ballot results may be released except as prescribed by section 16-551.

B. The early election board shall check the voter's mail ballot affidavit on the envelope containing the early ballot. If it is found to be sufficient, the vote shall be allowed. If the mail ballot affidavit is insufficient, the vote shall not be allowed. Beginning in 2026, for an early ballot that is received and verified as prescribed by section 16-579, subsection A, paragraph 4, additional signature verification is not required.

C. The county chairman of each political party represented on the ballot, by written appointment addressed to the early election board, may designate party representatives and alternates to act as early ballot challengers for the party. No party may have more than the number of such representatives or alternates that were mutually agreed on by each political party to be present at one time. If such agreement cannot be reached, the number of representatives shall be limited to one for each political party.

**D.** An early ballot may be challenged on any grounds set forth in section 16-591. All challenges shall be made in writing with a brief statement of the grounds before the early ballot is placed in the ballot box. A record of all challenges and resulting proceedings shall be kept in substantially the same manner as provided in section 16-594. If an early ballot is challenged, it shall be set aside and retained in the possession of the early election board or other officer in charge of early ballot processing until a time that the early election board sets for determination of the challenge, subject to the procedure in subsection E of this section, at which time the early election board shall hear the grounds for the challenge and shall decide what disposition shall be made of the early ballot by majority vote. If the early ballot is not allowed, it shall be handled pursuant to subsection G of this section.

**E.** Within twenty-four hours of receipt of a challenge, the early election board or other officer in charge of early ballot processing shall mail, by first class mail, a notice of the challenge including a copy of the written challenge, and also including the time and place at which the voter may appear to defend the challenge, to the voter at the mailing address shown on the request for an early ballot or, if none was provided, to the mailing address shown on the registration rolls. Notice shall also be mailed to the challenger at the address listed on the written challenge and provided to the county chairman of each political party represented on the ballot. The board shall meet to determine the challenge at the time specified by the notice but, in any event, not earlier than ninety-six hours after the notice is mailed, or forty-eight hours if the notifying party chooses to deliver the notice by overnight or hand delivery, and not later than 5:00 p.m. on the Monday following the election. The board shall provide the voter with an informal opportunity to make, or to submit, brief statements regarding the challenge. The board may decline to permit comments, either in person or in writing, by anyone other than the voter, the challenger and the party representatives. The burden of proof is on the challenger to show why the voter should not be permitted to vote. The fact that the voter fails to appear shall not be deemed to be an admission of the validity of the challenge. The early election board or other officer in charge of early ballot processing is not required to provide the notices described in this subsection if the written challenge fails to set forth at least one of the grounds listed in section 16-591 as a basis for the challenge. In that event, the challenge will be summarily rejected at the meeting of the board. Except for election contests pursuant to section 16-672, the board's decision is final and may not be appealed.

**F.** If the vote is allowed, the board shall open the envelope containing the ballot in such a manner that the mail ballot affidavit thereon is not destroyed, take out the ballot without unfolding it or permitting it to be opened or examined and show by the records of the election that the elector has voted.

**G.** If the vote is not allowed, the mail ballot affidavit envelope containing the early ballot shall not be opened and the board shall mark across the face of such envelope the grounds for rejection. The mail ballot affidavit envelope and its contents shall then be deposited with the opened mail ballot affidavit envelopes and shall be preserved with official returns. If the voter does not enter an appearance, the board shall send the voter a notice stating whether the early ballot was disallowed and, if disallowed, providing the grounds for the determination. The notice shall be mailed by first class mail to the voter's mailing address as shown on the registration rolls within three days after the board's determination.

**H.** Party representatives and alternates may be appointed as provided in subsection C of this section to be present and to challenge the verification of questioned ballots pursuant to section 16-584 on any grounds allowed by this section. Questioned ballots that are challenged shall be presented to the early election board for decision under the provisions of this section.

#### **Article 8.1 Optional Special District Mail Ballot Elections**

##### **16-558. Special districts; mail ballot election option; conduct**

**A.** Notwithstanding section 16-225, a special district as described in title 48 may conduct a mail ballot election if the governing board of the special district obtains approval from the board of supervisors of the county in which the special district or greater part of the special district is located before publishing the call of election as provided in section 16-227.

**B.** Except as otherwise provided in this article, special district mail ballot elections shall be conducted in accordance with the provisions of article 8 of this chapter.

#### 16-558.01. Mailing of ballots

Not more than twenty-seven days before the election and not fewer than fifteen days before the election, the county recorder or other officer in charge of elections for the special district shall send by nonforwardable mail all official ballots with printed instructions and a return envelope bearing a printed ballot affidavit as described in section 16-547 to each qualified elector entitled to vote in the election. The envelope in which the ballot is mailed shall be clearly marked with the statement required by the postmaster to receive an address correction and notification. The district governing board shall determine whether the voter or the district governing board will pay for the postage for the return of electors' marked ballots. An elector who votes in a special district mail ballot election shall return the elector's marked ballot to the recorder or other officer in charge of the election or to a designated depository site as provided in section 16-411 no later than 7:00 p.m. on the day of the election.

#### 16-558.02. Replacement ballots

**A.** The county recorder or other officer in charge of elections shall determine a central location in the district and shall provide for a ballot replacement center that is as near to that location as is practicable for electors to obtain a replacement ballot. The location shall be open from 6:00 a.m. until 7:00 p.m. of the day of the election. An elector may obtain a replacement ballot until 7:00 p.m. on the day of the election on presenting a signed, sworn statement that the ballot was lost, spoiled, destroyed or not received.

**B.** The recorder or other officer in charge of elections shall keep a record of each replacement ballot provided pursuant to this section.

**C.** If an elector to whom a replacement ballot is issued votes more than once, only the first ballot received shall be counted.

### **Article 8.2 Optional City and Town Approval Voting??**

#### **Article 9 Polling Place Procedures**

#### 16-562. Preparation and arrangement of polling place with voting booths and ballot boxes

**A.** The arrangement of the polling place shall be such that neither the ballot boxes nor the voting booths are hidden from the view of persons immediately outside the voting area.

**B.** No person other than the election officers, voters, party representatives and challengers shall be permitted within six feet of the ballot boxes or voting booths except by authority of the election officers for the purpose of keeping order and enforcing the law.

#### 16-563. Posting sample ballots, instruction cards and notice to voters before opening polls

Before opening the polls the inspector of elections shall direct the following postings:

**1.** One of the sample ballots provided for in section 16-510, one of the cards of instructions provided for in section 16-513 and one of the "right to vote a provisional ballot" notices provided for in section 16-513.01 in plain view in the room where the ballots are cast. At least one other sample ballot, card of instruction and "right to vote a provisional ballot" notice shall be posted in a conspicuous place in and around the polling place.

**2.** Three seventy-five foot limit notices approximately seventy-five feet in different directions from the main outside entrance being used by voters to enter the building in which the election is being held.

**3.** In each voting booth, a notice to voters provided in section 16-514 at general elections only.

**4.** Any notices necessary for complying with early ballot on-site tabulation procedures as prescribed in sections 16-579.01 and 16-579.02.

#### 16-564. Opening, exhibiting and locking ballot box before receipt of ballots; removal and opening of box

**A.** Before receiving any ballots the election board, in the presence of the persons assembled at the polling place, shall open, exhibit and lock the ballot box, and thereafter it shall not be removed from the polling place or presence of the bystanders until all ballots are counted, nor opened until after the polls are finally closed, except in the case of an emergency that renders the polling place unusable to the point where it can no longer function as a polling place because law enforcement or other emergency personnel have ordered that the

polling place be evacuated or as determined by the officer in charge of elections to allow voting to continue while awaiting an evacuation order from law enforcement or other emergency personnel.

**B.** If a locked ballot box must be moved from a polling place due to an emergency, at least two members of the election board from that polling place who are not members of the same political party shall accompany the locked ballot box to a new polling place designated by the officer in charge of elections, subject to the following:

**1.** If practicable and available, a law enforcement officer shall aid in the transfer of the locked ballot box.

**2.** If two members of the election board from that polling place are not available, one member of the election board and one law enforcement officer may accompany the locked ballot box to the new polling place.

**C.** If a ballot box was moved due to an emergency, two additional board members shall verify whether the locked ballot box arrived at the new polling place location and that it was not opened or damaged.

**D.** All election board members who accompanied the locked ballot box to the new location and the one or two election board members who verified the ballot box's arrival shall file a report with the officer in charge of elections that describes the actions taken by the election board members. This report shall be filed on the day of the emergency.

**E.** On the day that an emergency occurs as prescribed in subsection A, all election board members, including those who aided in the transfer and verification of the locked ballot box, shall indicate on the official documents containing their oath whether they witnessed the transfer of the ballot box and whether the ballot box remained locked.

**F.** If during the course of an election day the ballot box can no longer accommodate additional ballots, the board members may remove a sufficient number of ballots from the ballot box and shall place the removed ballots into the case that will be used for the transfer of the ballots to the officer in charge of elections. The inspector and both judges shall oversee the transfer and the following shall apply:

**1.** An immediate count of the number of ballots removed shall be made by the election board members and a sheet indicating the count and signed by the board members supervising the count shall be placed in the transfer case with the removed ballots and shall be kept sealed for the remainder of the election day.

**2.** Once the removed ballots are sealed in the transfer case, the original ballot box shall be relocked and voting may continue.

**3.** At the close of the polls, the removed ballots and the ballots in the locked ballot box shall be moved together to the tabulating place designated by the officer in charge of elections.

**G.** At the close of the polls, if a ballot box has been transferred to a new polling place or a ballot box has been opened, a report detailing those events and other pertinent information shall be made by the officer in charge of elections to the chairpersons of all recognized political parties in that county.

#### **16-565. Hours polls opened and closed; proclamation of opening and closing polls**

**A.** For any election called pursuant to the laws of this state, the polls shall be opened in every precinct at 6:00 a.m. on the day of election and shall be closed at 7:00 p.m.

**B.** Before the election board receives any ballots, it shall proclaim aloud at the place of election that the polls are open and voting may thereupon commence and continue during the time the polls remain open.

**C.** The election marshal shall proclaim the opening of the polls at 6:00 a.m. and shall proclaim the closing of the polls at one hour, at thirty minutes, at fifteen minutes and at one minute before closing and again at the moment of closing. The inspector and two judges shall determine when the hour for closing the polls has arrived.

**D.** Any qualified voter who at the moment of closing is in the line of waiting voters shall be allowed to vote.

#### **16-566. Opening and closing of polling place; unused ballots**

**A.** At least thirty minutes before the opening of the polls the precinct election officers shall arrive at the polling place and set up the voting booths so that they will be in clear view of the election officers. They shall open and check the ballots, supplies, records and forms and post the sample ballots and instructions to voters.

**B.** As soon as the polls have been closed and the last qualified voter has voted, the voting or marking devices shall be sealed against further voting. All unused ballots shall be placed in a container and sealed for return to the board of supervisors or other officer in charge of elections.

#### **16-570. Conduct of election; duties of officers; placing machines**

**A.** One election official shall attend the voting machine, and the other officers shall attend the pollbooks and perform the duties of election officials as provided by law.

**B.** The voting machine shall be so placed and protected that it is accessible to only one voter at a time and is in full view of all election officers and observers at the polling place. Any port, plug, door or other method of physical or electronic access to the voting machine or to any electronic pollbook shall be secured in a manner to prevent any unauthorized access to the voting machine or electronic pollbook. The county or other officer in charge of elections shall document and verify security procedures regarding access before a voting machine or electronic pollbook is placed into service for an election.

**C.** During elections the door or other compartment of the machine shall not be unlocked or opened or the counters exposed except for good and sufficient reasons, a statement of which shall be made and signed by the election officers and attached to the returns.

#### **16-571. Poll lists to be kept by election clerk; posting**

**A.** In precincts in which electronic poll book systems are not used, at least one election board clerk shall keep a list in duplicate of persons voting, and the name of each person who votes shall be entered thereon and numbered in the order of voting.

**B.** In precincts in which electronic poll book systems are not used, the poll list as prescribed in section 16-516 shall be written on one side only, and triplicate copies may be provided. Immediately upon the completion of each page of the poll list and if copies are available, one copy shall, upon request, be given to a representative designated by each major political party. In an election with nonpartisan candidates or ballot issues, the officer in charge of the jurisdiction that is conducting the election may designate who is to receive copies of the poll lists. For the purposes of this subsection, "major political party" means the two parties receiving the highest number of votes for governor or presidential electors at the last election.

**C.** In precincts in which electronic poll book systems are used, at least one list of persons voting shall be available by printed or electronic media. The list shall be in substantially the same format as prescribed in section 16-516 and on request shall be given to a representative designated by each major political party. The information contained in the list also may be provided electronically to a representative designated by each major political party by way of a secure electronic file transmittal format as prescribed by the secretary of state.

#### **16-572. Delivery and custody of ballots at polling place**

**A.** On opening the polls, the inspector shall produce the sealed package of official ballots and publicly open it and deliver one book or block of ballots therein contained to the judges. The other blocks or books of ballots, if any, shall be retained by the inspector until called for by the judges and required for voting.

**B.** One of the judges of election shall keep the ballots within the polling place in plain view of the public and deliver them only to qualified voters.

**C.** A person shall not take or remove a ballot from the polling place before the polls are closed.

#### **16-573. Substitution of ballots when official ballots not available**

If the official ballots at an election precinct at which a voting machine is to be used are not delivered at the time required, or if after the delivery they are lost, destroyed or stolen, the election judges shall immediately notify the clerk or other authority under whose direction the ballots are printed who shall cause other ballots to be prepared, printed or written as nearly in the form of the official ballots as practicable. The judges shall cause the substituted ballots to be used in the same manner as the official ballots.

#### 16-574. Repair or substitution of machines; use of paper ballots

**A.** If a voting machine being used at an election becomes out of order during the election, it shall be repaired if possible or another machine substituted as promptly as possible. Such repairs to the voting machines shall be made only under the scrutiny of two elections board workers who shall be members of different political parties.

**B.** If repair or substitution of a machine cannot be made, paper ballots printed or written and of any suitable form may be used for taking votes, and for that purpose the sample ballots may be employed.

#### 16-579. Procedure for obtaining ballot by elector

(Caution: 1998 Prop. 105 applies)

**A.** Every qualified elector, before receiving a ballot, shall announce the elector's name and place of residence in a clear, audible tone of voice to the election official in charge of the signature roster or present the elector's name and residence in writing. The election official in charge of the signature roster shall comply with the following and the qualified elector shall be allowed within the voting area:

**1.** The elector shall present any of the following:

**(a)** A valid form of identification that bears the photograph, name and address of the elector that reasonably appear to be the same as the name and address in the precinct register, including an Arizona driver license, an Arizona nonoperating identification license, a tribal enrollment card or other form of tribal identification or a United States federal, state or local government issued identification. Identification is deemed valid unless it can be determined on its face that it has expired.

**(b)** Two different items that contain the name and address of the elector that reasonably appear to be the same as the name and address in the precinct register, including a utility bill, a bank or credit union statement that is dated within ninety days of the date of the election, a valid Arizona vehicle registration, an Arizona vehicle insurance card, an Indian census card, tribal enrollment card or other form of tribal identification, a property tax statement, a recorder's certificate, a voter registration card, a valid United States federal, state or local government issued identification or any mailing that is labeled as "official election material". Identification is deemed valid unless it can be determined on its face that it has expired.

**(c)** A valid form of identification that bears the photograph, name and address of the elector except that if the address on the identification does not reasonably appear to be the same as the address in the precinct register or the identification is a valid United States military identification card or a valid United States passport and does not bear an address, the identification must be accompanied by one of the items listed in subdivision (b) of this paragraph.

**2.** If the elector does not present identification that complies with paragraph 1 of this subsection, the elector is only eligible to vote a provisional ballot as prescribed by section 16-584 or a conditional provisional ballot as provided for in the secretary of state's instruction and procedures manual adopted pursuant to section 16-452.

**3.** Through 2025, if the voter surrenders the early ballot to the precinct inspector and the voter is not otherwise required to be issued a provisional ballot, the voter shall be issued a standard ballot after presenting identification pursuant to this subsection. The precinct inspector shall retain the surrendered early ballot, unopened in its affidavit envelope.

**4.** Beginning in 2026, at any voting location the voter may choose to provide identification when presenting the voter's mailed early ballot, and if so the election official shall:

**(a)** Require the voter to present identification that complies with paragraph 1 of this subsection.

**(b)** Confirm that the name and address on the identification reasonably appear to be the same name and address shown on the voter's registration record.

**(c)** Stamp the signed affidavit with a stamp that reads "ID verified" and place the stamped affidavit that contains the early ballot in a secured ballot box that is labeled for early ballots. The stamped affidavit envelope is not required to be reviewed at the voting location, the voter's early ballot is deemed ready for tabulating and additional signature verification of the completed affidavit envelope as prescribed by section 16-550 is not required.

**(d)** Maintain a tally of the number of ballots that have been deposited in the secured ballot box and sign an affidavit that includes the election official's name, the polling location, the time and date, the number of early ballots deposited according to the tally maintained by the election official and a statement sufficient to record and maintain the chain of custody for those ballots.

**B.** Any qualified elector who is listed as having applied for an early ballot but who states that the elector has not voted and will not vote an early ballot for this election or surrenders the early ballot to the precinct inspector on election day shall be allowed to vote pursuant to the procedure set forth in section 16-584, except that for elections conducted using an electronic pollbook or similar system with continuous voter usage updates, the following apply:

**1.** If the electronic pollbook or other system indicates that the voter's early ballot has not been returned or accepted by the county recorder and the voter is not otherwise required to be issued a provisional ballot, the voter may be issued a standard ballot after presenting identification pursuant to subsection A of this section.

**2.** If the electronic pollbook or other system indicates that the voter's early ballot has been received or accepted by the county recorder, the voter may not be issued a standard ballot and may only be issued a provisional ballot as prescribed in section 16-584.

**C.** Each qualified elector's name shall be numbered consecutively by the clerks and in the order of applications for ballots. The judge shall give the qualified elector only one ballot and a ballot privacy folder, and the elector's name shall be immediately checked on the precinct register. Notwithstanding any provision of this subsection, an elector shall not be required to accept or use a ballot privacy folder.

**D.** For precincts in which a paper signature roster is used, each qualified elector shall sign the elector's name in the signature roster before receiving a ballot, but an inspector or judge may sign the roster for an elector who is unable to sign because of physical disability, and in that event the name of the elector shall be written with red ink, and no attestation or other proof shall be necessary. The provisions of this subsection relating to signing the signature roster do not apply to electors casting a ballot using early voting procedures.

**E.** For precincts in which an electronic poll book system is used, each qualified elector shall sign the elector's name as prescribed in the instructions and procedures manual adopted by the secretary of state pursuant to section 16-452 before receiving a ballot, but an inspector or judge may sign the roster for an elector who is unable to sign because of physical disability, and in that event the name of the elector shall be written with the inspector's or judge's attestation on the same signature line.

**F.** A person offering to vote at a special district election for which no special district register has been supplied shall sign an affidavit stating the person's address and that the person resides within the district boundaries or proposed district boundaries and swearing that the person is a qualified elector and has not already voted at the election being held.

#### **16-579.01. Early ballots; on-site tabulation**

**A.** Every county recorder or other officer in charge of elections may provide for a qualified elector who appears at that elector's designated polling location or at a voting center on election day with the elector's voted early ballot to have the elector's voted early ballot tabulated as prescribed in section 16-579.02.

**B.** The county recorder or other officer in charge of elections shall do all of the following if the on-site tabulation of early ballots is allowed:

**1.** Designate an area within a precinct or voting center for processing electors with their voted early ballots that is physically separate from the area for voters who are voting pursuant to section 16-579.

**2.** Provide adequate poll workers, election officials and equipment necessary to conduct voting pursuant to this section and section 16-579.02.

**3.** Categorize and tally separately in the official canvass and other reports electors whose voted early ballots are tabulated at the precinct or voting center. The tally shall be reported by precinct in the official canvass and other voting reports.

**4.** Reconcile for that polling place or voting center the number of electors who appear on the signature roster or e-pollbook with the number of completed early ballot affidavits and the voted early ballots tabulated on-site.



## 16-579.02. Election day early ballot on-site tabulation procedure; fund

**A.** A qualified elector who appears at a voting center or at the elector's designated polling place that allows for the on-site tabulation of early ballots with the elector's voted early ballot shall present identification as prescribed in section 16-579, subsection A, paragraph 1 and proceed as follows:

**1.** If the elector does not present identification that complies with section 16-579, subsection A, paragraph 1, the elector shall either deposit the elector's voted early ballot in its affidavit envelope in an official drop box or proceed to the area designated for election day voting to surrender the early ballot to the election board for retention and not for tabulating. The elector shall then be allowed to vote a provisional ballot as prescribed in section 16-584. An election official may not allow for the on-site tabulation of an early ballot if the elector does not present identification that complies with section 16-579, subsection A, paragraph 1.

**2.** If the elector presents sufficient identification to comply with section 16-579, subsection A, paragraph 1, the elector shall present the elector's early ballot affidavit to the election official in charge of the signature roster, and the election official shall confirm that the name and address on the completed affidavit reasonably appear to be the same as the name and address on the precinct register.

**3.** If the elector's affidavit is not complete, the election official in charge of the signature roster shall allow the elector to complete the affidavit. The election official may not allow for the on-site tabulation of an early ballot until the elector presents a completed early ballot affidavit.

**B.** If the elector's affidavit is complete, the elector's name shall be numbered consecutively by the clerk and in the order of application for early ballot tabulation.

**C.** For precincts in which a paper signature roster is used, each qualified elector shall sign the elector's name in the signature roster as prescribed in section 16-579, subsection D before proceeding to the tabulating equipment.

**D.** For precincts in which an electronic pollbook is used, each qualified elector shall sign the elector's name as prescribed in section 16-579, subsection E before proceeding to the tabulating equipment.

**E.** After signing the signature roster or electronic pollbook, the elector shall proceed to the tabulating equipment and while under the observation of an election official, remove the early ballot from the completed affidavit envelope, deposit the empty completed affidavit envelope in the secured and labeled drop box and insert the early ballot into a tabulating machine. An early ballot that has been separated from the elector's completed affidavit envelope may not be removed from the on-site early ballot tabulation area.

**F.** The drop box prescribed in subsection E of this section shall be clearly labeled to indicate that the completed affidavits are from ballots tabulated pursuant to this section and shall be secured in a manner substantially similar to other ballot boxes at that location.

**G.** Any qualified elector who lawfully brings to a polling place or voting center another elector's voted early ballot that is sealed in its affidavit envelope shall deposit the other elector's voted early ballot in the appropriate ballot drop box before entering the on-site early ballot tabulation area for purposes of tabulating the elector's own early ballot. The county recorder or other officer in charge of elections shall ensure that a voter is not in possession of another voter's ballot within the on-site early ballot tabulation area.

## 16-580. Manner of voting; assistance for certain electors

**A.** Except as prescribed by subsection E of this section, only one person per voting booth shall be permitted at any one time to sign for the receipt of a ballot and to wait for an opportunity to vote.

**B.** On receiving a ballot the voter shall promptly and without leaving the voting area retire alone, except as provided in subsection E of this section, to one of the voting booths that is not occupied, prepare the ballot in secret and vote in the manner and substantial form as required by the instruction to voters.

**C.** The voter shall deposit the ballot in the ballot box, or if the voter so requests, hand the ballot to the election board official and permit the election board official to deposit the ballot in the ballot box.

**D.** After the ballot is deposited, the voter shall then proceed outside the voting area and shall not again enter the voting area unless the voter is an authorized election official or an official observer or is assisting another voter.

**E.** Any registered voter, at the voter's option, may be accompanied by a minor who is permitted in the voting booth pursuant to section 16-515, subsection E, be accompanied and assisted by a person of the voter's own choice or be assisted by two election officials, one from each major political party, during any process relating to voting or during the actual process of voting on a paper ballot, machine or electronic voting system. A person who is a candidate for an office in that election other than the office of precinct committeeman is not eligible to assist any voter.

#### **16-581. Elderly persons; persons with disabilities; inaccessible polling places; definitions**

**A.** If the board of supervisors determines that a polling place is inaccessible to elderly persons or persons with disabilities, it shall provide for alternative voting according to procedures established by the chief election officer of the state pursuant to the voting accessibility for the elderly and handicapped act (P.L. 98-435; 98 Stat. 1678, 1984; 42 United States Code section 1973).

**B.** For the purposes of this section:

**1.** "Elderly" means sixty-five years of age or older.

**2.** "Persons with disabilities" means a person who has a temporary or permanent physical disability that substantially restricts or limits the person's access to polling places.

#### **16-583. Voter not on precinct register; inactive voter list; procedure**

**A.** On or before election day, the county recorder shall provide to each precinct the names of electors on the inactive voter list. If a person whose name is not on the precinct register appears at a polling place, an election official shall determine whether the person is on the inactive voter list. If the person is on the inactive voter list, the registrant, on affirmation by the registrant before an election official at the polling place that the registrant continues to reside at the address indicated on the inactive voter list, shall be permitted to vote at that polling place. The elector's name shall be entered on a separate signature roster page at the end of the signature roster, and voters' names shall be numbered consecutively. If the registrant indicates that the registrant lives at a new residence, the election official shall direct the registrant to the polling place for the new address.

**B.** Following the election, the county recorder shall remove from inactive status all electors who voted pursuant to subsection A, shall place the electors' names back on the general register and shall return the electors' status to active.

#### **16-584. Qualified elector not on precinct register; recorder's certificate; verified ballot; procedure**

**A.** A qualified elector whose name is not on the precinct register and who presents a certificate from the county recorder showing that the elector is entitled by law to vote in the precinct shall be entered on the signature roster on the blank following the last printed name and shall be given the next consecutive register number, and the qualified elector shall sign in the space provided.

**B.** A qualified elector whose name is not on the precinct register, on presentation of identification verifying the identity of the elector that includes the voter's given name and surname and the complete residence address that is verified by the election board to be in the precinct or on signing an affirmation that states that the elector is a registered voter in that jurisdiction and is eligible to vote in that jurisdiction, shall be allowed to vote a provisional ballot.

**C.** If a voter has moved to a new address within the county and has not notified the county recorder of the change of address before the date of an election, the voter shall be allowed to correct the voting records for purposes of voting in future elections at the appropriate polling place for the voter's new address. The voter shall be allowed to vote a provisional ballot. The voter shall present a form of identification that includes the voter's given name and surname and the voter's complete residence address. The residence address must be within the precinct in which the voter is attempting to vote, and the voter shall affirm in writing that the voter is registered in that jurisdiction and is eligible to vote in that jurisdiction.

**D.** On completion of the ballot, the election official shall place the ballot in a provisional ballot envelope and shall deposit the envelope in the ballot box. Within five calendar days after a primary, general or special election that includes an election for a federal office and within three business days after any other election or not later than the time at which challenged early voting ballots are resolved, the signature shall be compared to the precinct signature roster of the former precinct where the voter was registered. If the voter's name is not signed on the roster and if there is no indication that the voter voted an early ballot, the provisional ballot

envelope shall be opened and the ballot shall be counted. If there is information showing the person did vote, the provisional ballot shall remain unopened and shall not be counted. When provisional ballots are confirmed for counting, the county recorder shall use the information supplied on the provisional ballot envelope to correct the address record of the voter.

**E.** When a voter is allowed to vote a provisional ballot, the elector's name shall be entered on a separate signature roster page at the end of the signature roster. Voters' names shall be numbered consecutively beginning with the number V-1. The elector shall sign in the space provided. The ballot shall be placed in a separate envelope, the outside of which shall contain the precinct name or number, a sworn or attested statement of the elector that the elector resides in the precinct, is eligible to vote in the election and has not previously voted in the election, the signature of the elector and the voter registration number of the elector, if available. The ballot shall be verified for proper registration of the elector by the county recorder before being counted. The verification shall be made by the county recorder within ten calendar days after a general election that includes an election for a federal office and within five business days following any other election. Verified ballots shall be counted by depositing the ballot in the ballot box and showing on the records of the election that the elector has voted. If registration is not verified the ballot shall remain unopened and shall be retained in the same manner as voted ballots.

**F.** For any person who votes a provisional ballot, the county recorder or other officer in charge of elections shall provide for a method of notifying the provisional ballot voter at no cost to the voter whether the voter's ballot was verified and counted and, if not counted, the reason for not counting the ballot. The notification may be in the form of notice by mail to the voter, establishment of a toll-free telephone number, internet access or other similar method to allow the voter to have access to this information. The method of notification shall provide reasonable restrictions that are designed to limit transmittal of the information only to the voter.

#### **16-585. Spoiled ballots; disposition**

If a voter spoils a ballot and obtains another, the inspector and one of the judges shall write on the back of the ballot the words "spoiled" and return it to the board or persons from whom the ballots were originally received.

#### **16-590. Appointment of challengers and party representatives**

**A.** The county chairman of each party may, for each precinct, by written appointment addressed to the election board, designate a party agent or representative and alternates for a polling place in the precinct who may act as challengers for the party which appointed him.

**B.** At each voting place, one challenger for each political party may be present and act, but no challenger may enter a voting booth except to mark his ballot.

**C.** Not more than the number of party representatives for each party which were mutually agreed upon by each political party represented on the ballot shall be in the polling place at one time. If such agreement cannot be reached, the number of representatives shall be limited to one in the polling place at one time for each political party.

**D.** A challenger or party representative shall be a resident of this state and registered to vote in this state.

#### **16-591. Grounds for challenging an elector**

Any qualified elector of the county may orally challenge a person offering to vote as not qualified under section 16-121.01 or on the ground that the person has voted before at that election.

#### **16-592. Proceedings on challenge; disposition of ballot**

**A.** Upon challenge being made, if the person challenged appears to be registered, the person shall take and subscribe to the oath prescribed in the "affidavit of registration" and, if the person so elects, may be at once sworn to answer fully and truly all questions material to the challenge as are put to the person by the inspector. Any returned United States mail addressed to the person challenged or the spouse of the person challenged, or both, and to the address appearing on the precinct register or affidavit shall be considered as sufficient grounds to proceed under this section.

**B.** If after the examination on the challenge, a majority of the election board is satisfied that the challenge is not valid, the person challenged shall be permitted to vote.

**C.** If the person challenged refuses to be sworn or affirmed, or refuses to answer questions material to the challenge or if a majority of the election board finds that the challenge is valid, the person challenged shall be permitted to vote a provisional ballot pursuant to section 16-584.

#### **16-593. Rules determining residence of voter upon challenge; reading of rules upon request**

**A.** The election board, in determining the place of residence of a person, shall be governed by the following rules, so far as applicable:

**1.** The residence of a person is that place in which his habitation is fixed and to which he has the intention of returning when absent.

**2.** A person does not gain or lose his residence by reason of his presence at or absence from a place while employed in the service of the United States or of this state, or while engaged in navigation, or while a student at an institution of learning or while kept in an almshouse, asylum or prison.

**3.** A person does not lose his residence by leaving his home to go to another county, state or foreign country for merely temporary purposes, with the intention of returning.

**4.** A person does not gain a residence in any county into which he comes for merely temporary purposes, without the intention of making that county his home.

**5.** If a person removes to another state with the intention of making it his residence, he loses his residence in this state.

**6.** If a person removes to another state with the intention of remaining there for an indefinite time, and of making the place his present residence, he loses his residence in this state, even though he has an intention of returning at some future period.

**7.** The place where a person's family permanently resides is his residence, unless he is separated from his family, but if it is a place of temporary establishment for his family, or for transient purposes, it is otherwise.

**8.** If a person has a family residing in one place and he does business in another, the former is his place of residence, but a person having a family who has taken up his abode with the intention of remaining and whose family does not so reside with him shall be regarded as a resident where his abode has been taken.

**9.** A United States citizen who has never resided in the United States is eligible to vote in this state by using a federal write-in early ballot as prescribed in sections 16-103 and 16-543.02 if both of the following apply:

**(a)** A parent is a United States citizen.

**(b)** The parent is registered to vote in this state.

**10.** The mere intention of acquiring a new residence without the act of removal avails nothing and neither does the act of removal without the intention.

**B.** The term of residence shall be computed by including the day on which the person's residence commenced and by excluding the day of election.

**C.** Before administering an oath to a person touching his residence, the inspector, if requested by any person, shall read to the person challenged the rules set forth in subsection A of this section.

#### **16-594. List of challenges, grounds and rulings**

The board shall require one of the clerks to keep a list of the names of all persons challenged, the grounds of the challenge and the determination of the board upon the challenge. Copies of the list shall be kept in the office of the county recorder or other officer in charge of early ballot processing as a public record. Affidavits of challenged voters, decisions of election officials and challenge lists shall be a part of the official returns and shall be delivered to the board of supervisors.

## Article 10 Tally and Returns

### 16-602. Removal of ballots from ballot boxes; designated margin; hand counts; vote count verification committee

**A.** For any primary, special or general election in which the votes are cast on an electronic voting machine or tabulator, the election judge shall compare the number of votes cast as indicated on the machine or tabulator with the number of votes cast as indicated on the poll list and the number of provisional ballots cast and that information shall be noted in a written report prepared and submitted to the officer in charge of elections along with other tally reports.

**B.** For each countywide primary, special, general and presidential preference election, the county officer in charge of the election shall conduct a hand count at one or more secure facilities. The hand count shall be conducted as prescribed by this section and in accordance with hand count procedures established by the secretary of state in the official instructions and procedures manual adopted pursuant to section 16-452. The hand count is not subject to the live video requirements of section 16-621, subsection D, but the party representatives who are observing the hand count may bring their own video cameras in order to record the hand count. The recording shall not interfere with the conduct of the hand count and the officer in charge of the election may prohibit from recording or remove from the facility persons who are taking actions to disrupt the count. The sole act of recording the hand count does not constitute sufficient grounds for the officer in charge of the election to prohibit observers from recording or to remove them from the facility. The hand count shall be conducted in the following order:

**1.** At least two percent of the precincts in that county, or two precincts, whichever is greater, shall be selected at random from a pool consisting of every precinct in that county. The county political party chairperson for each political party that is entitled to continued representation on the state ballot or the chairperson's designee shall conduct the selection of the precincts to be hand counted. The precincts shall be selected by lot without the use of a computer, and the order of selection by the county political party chairpersons shall also be by lot. The selection of the precincts shall not begin until all ballots voted in the precinct polling places have been delivered to the central counting center. The unofficial vote totals from all precincts shall be made public before selecting the precincts to be hand counted. Only the ballots cast in the polling places and ballots from direct recording electronic machines shall be included in the hand counts conducted pursuant to this section. Provisional ballots, conditional provisional ballots and write-in votes shall not be included in the hand counts and the early ballots shall be grouped separately by the officer in charge of elections for purposes of a separate manual audit pursuant to subsection F of this section.

**2.** The races to be counted on the ballots from the precincts that were selected pursuant to paragraph 1 of this subsection for each primary, special and general election shall include up to five contested races. After the county recorder or other officer in charge of elections separates the primary ballots by political party, the races to be counted shall be determined by selecting by lot without the use of a computer from those ballots as follows:

**(a)** For a general election, one statewide ballot measure, unless there are no measures on the ballot.

**(b)** One contested statewide race for statewide office.

**(c)** One contested race for federal office, either United States senate or United States house of representatives. If the United States house of representatives race is selected, the names of the candidates may vary among the sampled precincts.

**(d)** One contested race for state legislative office, either state house of representatives or state senate. In either case, the names of the candidates may vary among the sampled precincts.

**(e)** If there are fewer than four contested races resulting from the selections made pursuant to subdivisions (a) through (d) of this paragraph and if there are additional contested federal, statewide or legislative races or ballot measures, additional contested races shall be selected by lot not using a computer until four races have been selected or until no additional contested federal, statewide or legislative races or ballot measures are available for selection.

**(f)** If there are no contested races as prescribed by this paragraph, a hand count shall not be conducted for that precinct for that election.

3. For the presidential preference election, select by lot two percent of the polling places designated and used pursuant to section 16-248 and perform the hand count of those ballots.
4. For the purposes of this section, a write-in candidacy in a race does not constitute a contested race.
5. In elections in which there are candidates for president, the presidential race shall be added to the four categories of hand counted races.
6. Each county chairperson of a political party that is entitled to continued representation on the state ballot or the chairperson's designee shall select by lot the individual races to be hand counted pursuant to this section.
7. Political party designees who are selected pursuant to this paragraph shall perform the hand count under the supervision of the county officer in charge of elections. The county officer in charge of elections shall provide compensation for those selected to perform the hand count, not to include travel, meal or lodging expenses. The hand count shall not proceed unless the political parties provide the officer in charge of elections in writing a sufficient number of persons pursuant to this paragraph by 5:00 p.m. on the Thursday preceding the election and a sufficient number of persons prescribed by this paragraph arrive to perform the hand count. Political party designees shall be selected to perform the hand count as follows:
  - (a) The county chairperson of each political party shall designate and provide to both the county officer in charge of elections and the state party chairperson the number of hand count board members as designated by the county officer in charge of elections. If the county party chairperson fails to designate a sufficient number of hand count board workers, the state party chairperson shall designate qualified electors to be hand count board workers. If the county chairpersons and the state party chairpersons fail to designate a sufficient number of hand count board workers, the highest-ranking official holding a statewide office of each political party shall designate qualified electors to be hand count board workers. For the purposes of this subdivision, the ranking of officials holding statewide office shall be governor, secretary of state, attorney general, state treasurer, superintendent of public instruction, corporation commissioners in order of seniority, mine inspector, senate majority and minority leaders and house of representatives majority and minority leaders.
  - (b) The political parties shall provide to the county officer in charge of elections in writing the names of those persons intending to participate in the hand count at the audited precincts not later than 5:00 p.m. on the second Tuesday preceding the election.
  - (c) If the total number of hand count board workers provided by all parties is less than the number designated by the county officer in charge of elections, the county officer in charge of elections shall notify the parties of the shortage not later than 9:00 a.m. on the second Wednesday preceding the election and the political parties have until 9:00 a.m. on the second Thursday preceding the election to provide the county officer in charge of elections with an additional list of qualified electors who are willing to participate in the hand count.
  - (d) The county officer in charge of elections shall distribute the list provided pursuant to subdivision (c) of this paragraph to the county chairperson and state chairperson of each recognized political party in the county and state not later than 5:00 p.m. on the second Friday preceding the election.
  - (e) The selection of persons to perform the hand count shall ensure that not more than seventy-five percent of the persons conducting the hand count are members of the same political party.
  - (f) The county recorder or county officer in charge of elections may prohibit persons from participating in the hand count if the persons are taking actions to disrupt the count or are unable to perform the duties as assigned.
8. If a political party is not represented by a designated chairperson within a county, the state chairperson for that political party, or a person designated by the state chairperson, may perform the actions required by the county chairperson as specified in this section.
- C. If the randomly selected races result in a difference in any race that is less than the designated margin when compared to the electronic tabulation of those same ballots, the results of the electronic tabulation constitute the official count for that race. If the randomly selected races result in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation of those same ballots, a second hand count of those same ballots and races shall be performed. If the second hand count results in a difference in any race that is less than the designated margin when compared to the electronic tabulation for those same ballots, the electronic tabulation constitutes the official count for that race. If the second hand count results in a difference in any race that is equal to or greater than the designated margin when **compared**

to the electronic tabulation for those same ballots, the hand count shall be expanded to include a total of twice the original number of randomly selected precincts. Those additional precincts shall be selected by lot without the use of a computer.

**D.** In any expanded count of randomly selected precincts, if the randomly selected precinct hand counts result in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation of those same ballots, the final hand count shall be extended to include the entire jurisdiction for that race. If the jurisdictional boundary for that race would include any portion of more than one county, the final hand count shall not be extended into the precincts of that race that are outside of the county that is conducting the expanded hand count. If the expanded hand count results in a difference in that race that is less than the designated margin when compared to the electronic tabulation of those same ballots, the electronic tabulation constitutes the official count for that race.

**E.** If a final hand count is performed for an entire jurisdiction for a race, the final hand count shall be repeated for that race until a hand count for that race for the entire jurisdiction results in a count that is identical to one other hand count for that race for the entire jurisdiction and that hand count constitutes the official count for that race.

**F.** After the electronic tabulation of early ballots and at one or more times selected by the chairperson of the political parties entitled to continued representation on the ballot or the chairperson's designee, the chairpersons or the chairpersons' designees shall randomly select one or more batches of early ballots that have been tabulated to include at least one batch from each machine used for tabulating early ballots and those ballots shall be securely sequestered by the county recorder or officer in charge of elections along with their unofficial tally reports for a postelection manual audit. The chairpersons or the chairpersons' designees shall randomly select from those sequestered early ballots a number equal to one percent of the total number of early ballots cast or five thousand early ballots, whichever is less. From those randomly selected early ballots, the county officer in charge of elections shall conduct a manual audit of the same races that are being hand counted pursuant to subsection B of this section. If the manual audit of the early ballots results in a difference in any race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be repeated for those same early ballots. If the second manual audit results in a difference in that race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be expanded only for that race to a number of additional early ballots equal to one percent of the total early ballots cast or an additional five thousand ballots, whichever is less, to be randomly selected from the batch or batches of sequestered early ballots. If the expanded early ballot manual audit results in a difference for that race that is equal to or greater than the designated margin when compared to any of the earlier manual counts for that race, the manual counts shall be repeated for that race until a manual count results in a difference in that race that is less than the designated margin. If at any point in the manual audit of early ballots the difference between any manual count of early ballots is less than the designated margin when compared to the electronic tabulation of those ballots, the electronic tabulation shall be included in the canvass and no further manual audit of the early ballots shall be conducted.

**G.** During any hand count of early ballots, the county officer in charge of elections and election board workers shall attempt to determine the intent of the voter in casting the ballot.

**H.** Notwithstanding any other law, the county officer in charge of elections shall retain custody of the ballots for purposes of performing any required hand counts and the officer shall provide for security for those ballots.

**I.** The hand counts prescribed by this section shall begin within twenty-four hours after the closing of the polls and shall be completed before the canvassing of the election for that county. The county shall make available on the county's website the results of those hand counts and shall provide the results to the secretary of state, who shall make those results publicly available on the secretary of state's website.

**J.** For any county in which a hand count has been expanded to all precincts in the jurisdiction, the secretary of state shall make available the escrowed source code for that county to the superior court. The superior court shall appoint a special master to review the computer software. The special master shall have expertise in software engineering, shall not be affiliated with an election software vendor nor with a candidate, shall sign and be bound by a nondisclosure agreement regarding the source code itself and shall issue a public report to the court and to the secretary of state regarding the special master's findings on the reasons for the discrepancies. The secretary of state shall consider the reports for purposes of reviewing the certification of that equipment and software for use in this state.

**K.** The vote count verification committee is established in the office of the secretary of state and all of the following apply:

**1.** At least thirty days before the 2006 primary election, the secretary of state shall appoint seven persons to the committee, not more than three of whom are members of the same political party.

**2.** Members of the committee shall have expertise in any two or more of the areas of advanced mathematics, statistics, random selection methods, systems operations or voting systems.

**3.** A person is not eligible to be a committee member if that person has been affiliated with or received any income in the preceding five years from any person or entity that provides election equipment or services in this state.

**4.** The vote count verification committee shall meet and establish one or more designated margins to be used in reviewing the hand counting of votes as required pursuant to this section. The committee shall review and consider revising the designated margins every two years for use in the applicable elections. The committee shall provide the designated margins to the secretary of state at least ten days before the primary election and at least ten days before the general election, and the secretary of state shall make that information publicly available on the secretary of state's website.

**5.** Members of the vote count verification committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2. The committee is a public body and its meetings are subject to title 38, chapter 3, article 3.1 and its reports and records are subject to title 39, chapter 1.

#### **16-603. Inspection of ballots by party representative**

A mutually agreed on number of representatives and alternates of each political party represented on the ballot by a party designation and column, appointed in the manner provided by section 16-590, may remain inside the voting area from the time the polls are closed, and, without unduly hindering or delaying the count, one representative from each party at a time may inspect the ballots, but the ballots shall at all times remain under the personal charge and keeping of the election officers and shall not be permitted to pass from their hands.

#### **16-604. Election integrity fund; purpose; exemption**

(L21, Ch. 405, sec. 6)

**A.** The election integrity fund is established consisting of legislative appropriations. The state treasurer shall administer the fund.

**B.** Monies in the fund may be used only to pay county recorders for election security, cybersecurity measures and improvements and reimbursements for postelection hand tabulations, including for additional staffing.

**C.** County recorders shall apply for monies from the fund and, on review and approval by the state treasurer, the state treasurer shall make payments from the fund.

**D.** Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

#### **16-607. Statements of tally**

**A.** In each election precinct where voting machines are used, statements of tally shall be printed to conform with the type of voting machine used. The designating number and letter on the counter for each candidate shall be printed next to the candidate's name on the statements of tally and shall provide for the entry of the number of votes for each candidate and the "yes" and "no" over each question.

**B.** The delivery of statements to stations designated by the board of supervisors shall be accomplished as is provided for ballots in section 16-608.

#### **16-608. Delivery of ballots; electronic voting system**

**A.** After the close of the polls and after compliance with section 16-602 the members of the election board shall prepare a report in duplicate of the number of voters who have voted, as indicated on the poll list, and place this report in the ballot box or metal container, in which the voted ballots have been placed, which thereupon shall be sealed with a numbered seal and delivered promptly by two members of the election board of different political parties to the central counting place or other receiving station designated by the



board of supervisors or officer in charge of elections, which shall not be more than fifty miles from the polling place from which the ballots are delivered. The person in charge of receiving ballots shall give a numbered receipt acknowledging receipt of such ballots to the person in charge who delivers such ballots.

**B.** The chairman of the county committee of each political party represented on the ballot may designate a member of his party to accompany the ballots from each polling place to the central counting place. Such party representative shall serve without compensation.

#### **16-609. Questioned legality of ballots; procedure**

**A.** Only ballots that are provided in accordance with the provisions of law shall be counted.

**B.** When a question arises as to the legality of a ballot, or a part of a ballot, the action taken on the decision of the election board as to its legality, signed by the majority voting for the action, with a concise statement of the facts giving rise to the question, shall be endorsed on the ballot and signed by a majority of the board.

#### **16-610. Uncertainty of voter's choice as cause for rejection**

If on any ballot the names of more persons are designated for the same office than are to be chosen, or if for any reason it is impossible to positively determine the voter's choice, all the names designated for that office shall be rejected.

#### **16-611. Certain defects invalidating vote for particular office**

If the voter marks more names than there are persons to be elected to an office, or if from the ballot it is impossible to determine the voter's choice for an office, his ballot shall not be counted for that office.

#### **16-612. Determination of write-in choice of voter**

**A.** When the printed name of a candidate is followed by the name of another person written on the ballot by the voter in the space provided for that purpose, and a mark as defined in section 16-400 appears in the space after either the printed or the written names, but not both, the printed name shall be rejected and the written one counted, and the action of the board shall be noted on the back of the ballot and signed by a majority of the election board.

**B.** If the name of a person appears as having been voted for two or more times for the same office, the ballot shall be counted as one vote.

**C.** If an elector writes on his ballot the name of any person who is a candidate for any office on some other ballot than that on which his name is so written, such elector shall thereby invalidate his vote for that particular office, but the vote on the remainder of the ballot shall be counted.

#### **16-614. Signing of tally lists after completion of tally**

When the votes are counted and the ballots sealed in the envelope, as required by law, the tally lists shall be signed by the members of the board and attested by the clerks.

#### **16-615. Delivery of returns**

**A.** Before it adjourns, the election board shall enclose and seal in a strong envelope provided for that purpose one of the poll lists, signed as required.

**B.** The envelope containing the poll list shall constitute the official returns of the election and, together with the envelope containing the voted ballots, shall be delivered to one of the members of the election board, previously determined by lot, unless otherwise agreed on, and such member shall by himself, or by an agent agreed on by the board and sworn by a member thereof, in the presence of the board to faithfully perform the duties of election messenger, without delay, and by the most expeditious means and route, deliver the packages and envelopes, without opening them, to the officer in charge of the election at his office, or to the nearest postmaster or sworn express agent, who shall endorse on the packages and envelopes the name of the person delivering them, and the hour and date of the delivery, and forward the packages and envelopes by the first mail or express to the officer in charge of the election at the county seat.

#### **16-616. Preparation and disposition of unofficial returns**

One of the poll lists and one of the tally lists used at the election shall be withheld by the election board from the sealed packages of ballots and other election supplies and shall be separately sealed in an envelope and returned to the officer in charge of the election in the same manner as the official returns. The officer shall, for a period of six months, keep such envelope open to the inspection of electors.

#### **16-617. Transmittal of signature roster and precinct registers after election**

The election board, at the close of the election, shall return the signature roster and copies of the precinct registers along with the other election supplies to the board of supervisors or officer in charge of elections.

#### **16-621. Proceedings at the counting center**

**A.** All proceedings at the counting center shall be under the direction of the board of supervisors or other officer in charge of elections and shall be conducted in accordance with the approved instructions and procedures manual issued pursuant to section 16-452 under the observation of representatives of each political party and the public. The proceedings at the counting center may also be observed by up to three additional people representing a candidate for nonpartisan office, or representing a political committee in support of or in opposition to a ballot measure, proposition or question. A draw by lot shall determine which three groups or candidates shall have representatives participate in the observation at the counting center. Persons representing a candidate for nonpartisan office or persons or groups representing a political committee in support of or in opposition to a ballot measure, proposition or question, who are interested in participating in the observation, shall notify the officer in charge of elections of their desire to be included in the draw not later than seventeen days before the election. After the deadline to receive submissions from the interested persons or groups, but prior to fourteen days before the election, the county officer in charge of elections shall draw by lot, from the list of those that expressed interest, three persons or groups and those selected shall be notified and allowed to observe the proceedings at the counting center. If a group is selected the group may alter who represents that group for different days of observation but on any given observation day a selected group shall not send more than one observer. A group may rotate an observer throughout the day. Only those persons who are authorized for the purpose shall touch any ballot or ballot card or return. All persons who are engaged in processing and counting of the ballots shall be qualified electors, shall be deputized in writing and shall take an oath that they will faithfully perform their assigned duties. There shall be no preferential counting of ballots for the purpose of projecting the outcome of the election. If any ballot, including any ballot received from early voting, is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged or defective ballot in the presence of witnesses and substituted for the damaged or defective ballot. All duplicate ballots created pursuant to this subsection shall be clearly labeled "duplicate" and shall bear a serial number that shall be recorded on the damaged or defective ballot.

**B.** If the counting center automatic tabulating equipment includes an electronic vote adjudication feature that has been certified for use as prescribed by section 16-442 and the board of supervisors or officer in charge of elections authorizes the use of this feature at the counting center, all of the following apply:

**1.** The electronic vote adjudication feature shall be included in the tabulation system logic and accuracy testing prescribed by section 16-449.

**2.** The board of supervisors or officer in charge of elections shall appoint an electronic vote adjudication board that consists of two judges who are overseen by an inspector, with the two judges equally divided between the two largest political parties as prescribed by section 16-531, subsection D to adjudicate and submit for tabulation a ballot that is read by the tabulation machine as blank in order to determine if voter intent is clear on a portion or all of the ballot, or any portion of any ballot as prescribed by section 16-610 or 16-611, or to tally write-in choices as prescribed by section 16-612.

**3.** The electronic vote adjudication process used by the electronic vote adjudication board shall provide for:

**(a)** A method to track and account for the original ballot and the digital duplicate of the ballot created by the electronic vote adjudication feature that includes a serial number on the digital image that can be used to track electronic vote adjudication board actions.

**(b)** The creation and retention of comprehensive logs of all digital duplication and adjudication actions performed by an electronic vote adjudication board.

**(c)** The retention of the original ballot and the digital duplicate of the ballot.

**C.** If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the officer in charge of elections may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

**D.** For any statewide, county or legislative election, the county recorder or officer in charge of elections shall provide for a live video recording of the custody of all ballots while the ballots are present in a tabulation room in the counting center. The live video recording shall include date and time indicators and shall be linked to the secretary of state's website. The secretary of state shall post links to the video coverage for viewing by the public. The county recorder or officer in charge of elections shall record the video coverage of the ballots at the counting center and shall retain those recordings as a public record for at least as long as the challenge period for the general election. If the live video feed is disrupted or disabled, the recorder or officer in charge of elections is not liable for the disruption but shall attempt to reinstate video coverage as soon as is practicable. Any disruption in video coverage shall not affect or prevent the continued tabulation of ballots. This subsection is contingent on legislative appropriation.

**E.** The county recorder or other officer in charge of elections shall maintain records that record the chain of custody for all election equipment and ballots during early voting through the completion of provisional voting tabulation.

#### **16-622. Official canvass; unofficial results**

**A.** At any time following the close of the polls, except as provided in section 16-550 and section 16-551, subsection C, unofficial returns may be released during the counting of the ballots by vote tabulating equipment, and on completion of the count the unofficial results shall be open to the public. The result printed by the vote tabulating equipment, to which have been added write-in and early votes, when certified by the board of supervisors or other officer in charge, shall constitute the official canvass of each precinct or election district.

**B.** In any election for a federal office, a statewide office or a member of the legislature or in any election for a statewide ballot measure, all unofficial returns that are released during the counting of the ballots and all unofficial results that are open to the public shall when released to the public be transmitted by telephone, by fax or by other electronic means to the secretary of state.

#### **16-623. Copy of abstract of vote of certain counties filed with secretary of state**

In those counties lying within a legislative district or a congressional district made up of areas in more than one county, the board of supervisors of each such county shall file a copy, or reasonable facsimile, of the abstract of vote with the secretary of state within forty-eight hours after the closing of the polls.

#### **16-624. Disposition of official returns and ballots**

**A.** After the canvass has been completed, the officer in charge of elections shall deposit the package or envelope containing the ballots in a secure facility managed by the county treasurer, who shall keep it unopened and unaltered for twenty-four months for elections for a federal office or for six months for all other elections, at which time he shall destroy it without opening or examining the contents.

**B.** Irregular ballots shall be preserved for six months after the election and the packages containing them may be opened and the contents examined only upon an order of court. At the expiration of such time, the ballots may be disposed of in the discretion of the officer or board having charge of them.

**C.** The officer in charge of elections shall produce the other packages or envelopes before the board of supervisors when it is in session for the purpose of canvassing the returns.

**D.** If a recount is ordered or a contest begun within six months, the county treasurer may be ordered by the court to deliver to it the packages or envelopes containing the ballots, and thereupon they shall be in the custody and control of the court.

#### 16-625. Electronic data and digital images; ballots; security

The officer in charge of elections shall ensure that electronic data from and electronic or digital images of ballots are protected from physical and electronic access, including unauthorized copying or transfer, and that all security measures are at least as protective as those prescribed for paper ballots.

### Article 11 Official Canvass

#### 16-642. Canvass of election; postponements

A. The governing body holding an election shall meet and canvass the election as follows:

1. The governing board of a county shall meet and canvass as follows:

(a) For the primary election, not later than the second Monday after the election.

(b) For the general election, not later than the third Thursday after the election.

2. The secretary of state shall canvass as follows:

(a) For the primary election, not later than the third Thursday after the election.

(b) For the general election, not later than the third Monday after the election.

3. The governing body of a city, town or special district shall meet and canvass the election not less than six days and not more than twenty days following the election.

B. The governing body of a special district as defined in title 48 shall present to the board of supervisors a certified copy of the official canvass of the election at the next regularly scheduled meeting of the board of supervisors. For purposes of contesting a special district election as described in section 16-673, the canvass is not complete until the presentation to the board of supervisors is made.

C. If, at the time of the meeting of the governing body, the returns from any polling place in the election district where the polls were opened and an election held are found to be missing, the canvass shall be postponed from day to day until all the returns are received or until six postponements have been had. The subsection does not apply to the county board of supervisors' canvass of the primary and general election.

#### 16-643. Method of canvass

The canvass of the election returns shall be made in public by opening the returns, other than the ballots, and determining the vote of the county, by polling places, for each person voted for and the vote for and against each proposed constitutional amendment and initiated or referred measure appearing upon the ballot at such election.

#### 16-644. Effect of want of form in precinct returns

No list, tally, certificates or endorsement returned from any precinct shall be set aside or rejected for want of form, or for not being strictly in accordance with the explicit provisions of this title, if they can be clearly understood, nor shall any declaration of result, commission or certificate be withheld or denied by reason of any defect or informality in making the returns of the election in any precinct, if the facts which the returns should disclose can be definitely ascertained.

#### 16-645. Canvass and return of precinct vote; declaring nominee of party; certificate of nomination; write-in candidates

A. When the board of supervisors, or the governing body of a city or town, has completed its canvass of precinct returns, the person having the largest number of votes, or if more than one candidate is necessary, those candidates to the required number who have received the largest number of votes for the nomination for an office in the political party of which the person was set forth on the ballot as a candidate for the nomination, shall be declared the nominee of the party for that office and shall be given a certificate of nomination for that office by the board or governing body, which shall entitle the person to have the person's name placed on the official ballot at the ensuing election as the nominee of the party for the office. When canvassing write-in votes the apparent intent of the voter shall be taken into consideration to the extent possible and the standard prescribed for federal write-in candidates in section 16-543.02, subsection C applies.

**B.** The board of supervisors shall deliver the official canvass by electronic means to the secretary of state within thirteen calendar days after the primary election, and the secretary of state shall on or before the third Thursday following the primary election canvass the return and issue a letter declaring nomination as provided in this section to the nominees who filed nominating petitions and papers with the secretary of state pursuant to section 16-311, subsection D. For any partisan primary election, the governing body or officer in charge of elections shall prepare and transmit to the secretary of state along with the official canvass the total by party of partisan ballots selected in that primary election by voters who registered as no party preference, as independents or as members of a political party that is not qualified for representation on the ballot.

**C.** A certificate of election shall not be issued to a write-in candidate for precinct committeeman or a write-in candidate for a nonpartisan office unless the candidate receives a number of votes equivalent to at least the same number of signatures required by section 16-322 for nominating petitions for the same office.

**D.** Except as provided in subsection C of this section, a letter declaring nomination shall not be issued to a write-in candidate of a party that has not qualified for continued representation on the official ballot pursuant to section 16-804 unless the candidate receives a plurality of the votes of the party for the office for which the candidate is a candidate.

**E.** Except as provided by subsection C of this section, a letter declaring nomination shall not be issued to a write-in candidate of a party qualified for continued representation on the official ballot unless the candidate receives a number of votes equivalent to at least the same number of signatures required by section 16-322 for nominating petitions for the same office.

**F.** A certificate of election shall not be issued to presidential electors who are pledged to a write-in candidate for president unless that candidate received the highest number of votes cast for the office of president.

#### **16-646. Statement, contents and mailing of official canvass**

**A.** When the result of the canvass is determined, a statement, known and designated as the official canvass, shall be entered on the official record of the election district that shall show:

- 1.** The number of ballots cast in each precinct and in the county.
- 2.** The number of ballots rejected in each precinct and in the county.
- 3.** The titles of the offices voted for and the names of the persons, together with the party designation, if any, of each person voted for to fill the offices.
- 4.** The number of votes by precincts and county received by each candidate.
- 5.** For each candidate race in each political subdivision prescribed by section 16-204.01, the number of ballots cast and the number of active registered voters in each political subdivision and portion of a political subdivision for which a candidate may be elected.
- 6.** The numbers and a brief title of each proposed constitutional amendment and each initiated or referred measure voted on.
- 7.** The number of votes by precincts and county for and against such proposed amendment or measure.

**B.** The certified permanent copy of the official canvass for all offices and ballot measures, except offices and ballot measures in a city or town election and nonpartisan election returns, shall be mailed immediately to the secretary of state who shall maintain and preserve it as a permanent public record.

**C.** The board of supervisors shall first mail with a postmark or other similar date and time indicator, then deliver electronically a copy of the official canvass for all offices and ballot measures in the primary and general elections to the secretary of state in a uniform electronic computer media format that shall be agreed on between the secretary of state and all county election officials. The uniform format shall be designed to facilitate the computer analysis of election results for offices and ballot measures that are statewide or are common to more than one county. The electronic copy of the official canvass from the board of supervisors is sufficient for the secretary of state to conduct and issue the statewide canvass if the electronic copy includes a scan or other similar evidence that the paper official canvass was mailed before the electronic version was sent.

**D.** The certified permanent copy of the official canvass for all offices and ballot measures in a city or town election shall be filed with the appropriate city or town clerk, or in a special district election with the clerk of the board of supervisors, who shall maintain and preserve it as a permanent public record.

#### **16-647. Declaration of election to office; delivery of certificate of election**

The board of supervisors shall declare elected the person receiving the highest number of votes cast for each office to be filled by the electors of the county or a subdivision thereof, and the clerk of the board shall, unless enjoined from so doing by an order of the court, deliver to each such person, upon compliance with the provisions imposed by law upon candidates for office as conditions precedent to the issuance of such certificates, a certificate of election, signed by the clerk and authenticated with the seal of office of the board of supervisors.

#### **16-648. Canvass for state offices, amendments and measures**

**A.** On the third Monday following a general election, the secretary of state, in the presence of the governor and the attorney general, shall canvass all offices for which the nominees filed nominating petitions and papers with the secretary of state pursuant to section 16-311, subsection E.

**B.** The secretary of state, in the presence of the governor and the chief justice of the supreme court, shall canvass all proposed constitutional amendments and initiated or referred measures, as shown by the electronic or certified copies of the official canvass received from the several counties, and forthwith certify the result to the governor.

#### **16-649. Determination of tie vote; notice to candidates; exception**

**A.** If two or more candidates receive an equal number of votes for the same office, and a higher number than any other candidate, whether upon the canvass by the secretary of state or the county board of supervisors, or upon recount by a court, the officer or board whose duty it is to declare the result shall determine by lot and in the presence of the candidates which candidate shall be declared elected.

**B.** Ten days' previous notice shall be given to candidates for state offices, and five days' previous notice shall be given to candidates for other offices, of the time and place of determining the election by lot, by the officer or board whose duty it is to declare the result of the election.

**C.** The provisions of this section shall not apply to candidates for the executive offices of the state as defined by the constitution.

**D.** A ballot issue that ends in a tie vote is deemed to have failed.

**E.** The official subject to a recall shall be certified the winner if the recall election ends in a tie vote.

#### **16-650. Declaration of election to office; delivery of certificate of election**

The secretary of state shall declare elected the person receiving the highest number of votes cast for each office for which the nominees filed nominating petitions and papers with the secretary of state pursuant to section 16-311, subsection B and shall, unless enjoined from so doing by an order of court, deliver to each such person, upon compliance with the provisions imposed by law upon candidates for office as conditions precedent to the issuance of the certificates, a certificate of election, signed by the secretary of state and authenticated with the great seal of the state.

#### **16-651. Proclamation by governor on amendments and initiated and referred measures**

Upon completion of the canvass by the secretary of state, the governor shall forthwith issue a proclamation, proclaiming the whole number of votes cast for and against each proposed constitutional amendment, and for and against each initiated or referred measure, and declaring the amendments or measures which are approved by a majority of those voting thereon to be law.

### **Article 12 Recounts**

#### **16-661. Automatic recount; requirements**

**A.** A recount of the vote is required when the canvass of returns in a primary or general election shows that the margin between the two candidates receiving the greatest number of votes for a particular office, or between the number of votes cast for and against initiated or referred measures or proposals to amend the

Constitution of Arizona, is less than or equal to one-half of one percent of the number of votes cast for both such candidates or on such measures or proposals.

**B.** Subsection A of this section does not apply to elections for precinct committeemen, school district governing boards, community college district governing boards, fire district boards or fire district chiefs or secretary-treasurers or boards of other special districts.

#### **16-662. Certification to superior court of facts requiring recount**

When the canvass shows that a recount is required, the secretary of state, within twenty-four hours after the last county canvass or the last day for county canvasses prescribed by section 16-642, whichever is earlier, shall, in the case of an office to be filled by electors of the entire state, a congressional district, a legislative district or a subdivision of the state greater than a county, initiated or referred measures or proposals to amend the constitution, certify the facts requiring the recount to the superior court in Maricopa county. In the case of an office to be filled by the electors of a county or subdivision of a county or precinct, the board of supervisors of such county or in the case of an office to be filled by the electors of a city or town, the city or town council of that city or town shall certify the facts requiring a recount to the superior court in the county in which the canvass was conducted.

#### **16-663. Recount of votes; method**

**A.** The superior court to which the facts requiring a recount are certified shall promptly make and enter an order requiring a recount of the votes cast for such office, measure or proposal. The recount shall be conducted in accordance with the laws pertaining to contests of elections.

**B.** A court-ordered recount of votes that were cast and tabulated on electronic voting equipment shall be pursuant to section 16-664. While the recount is being conducted, and for legislative, statewide and federal candidate races only, the county chairpersons of the political parties entitled to continued representation on the ballot or the chairperson's designee shall select at random without the use of a computer five percent of the precincts for the recounted race for a hand count, and if the results of that hand count when compared to the electronic tabulation of that same race are less than the designated margins calculated pursuant to section 16-602, the recount is complete and the electronic tabulation is the official result. If the hand count results in a difference that is equal to or greater than the designated margin for that race, the procedures established in section 16-602, subsections C, D, E and F apply. The hand count conducted pursuant to this section may begin before the machine tabulation of ballots for the court-ordered recount is complete.

#### **16-664. Recount of votes by automatic tabulating system**

**A.** In the event of a court-ordered recount of votes that were cast and tabulated on electronic voting equipment for a state primary, state general or state special election, the secretary of state shall order the ballots recounted on an automatic tabulating system to be furnished and programmed under the supervision of the secretary of state. In the event of a court-ordered recount for elections other than for the office of supervisor, the secretary of state may designate the county board of supervisors to perform the duties assigned to the secretary of state.

**B.** If the office of secretary of state is contested, the governor shall order the ballots recounted on an automatic tabulating system to be furnished and programmed under the supervision of the governor.

**C.** The programs to be used in the recount of votes pursuant to this section shall differ from the programs prescribed by section 16-445 and used in the initial tabulation of the votes.

**D.** The secretary of state shall conduct logic and accuracy testing on the automated tabulating system to be used in the recount of votes not more than two calendar days after the court orders a recount. Each team that is conducting a logic and accuracy test shall be supervised by a certified election officer. A person is not eligible to serve as contract staff for logic and accuracy testing on the automated tabulating system to be used in a recount of votes if that person has been affiliated with or received any income in the preceding three years from a voting system vendor for a voting system that is used in that county.

#### **16-665. Determination of results by court; distribution of copies of order of determination**

**A.** The result of the recount shall be presented to the court, and the court shall then announce the result and make and enter an order setting forth its determination.

**B.** A certified copy of the order of the court determining the result shall forthwith be delivered by the clerk of the court to the following officers:

**1.** To the governor with respect to an initiative or referendum measure, or proposal to amend the Constitution of Arizona. The governor shall forthwith issue a proclamation reciting the total number of votes cast for or against the initiative or referendum measure, or amendment to the constitution, as certified by the court, and declaring such measure or amendment as approved by a majority voting thereon, as certified by the court, to be the law.

**2.** To the secretary of state with respect to offices to be filled by electors of the entire state, a congressional district, a legislative district or a subdivision of the state greater than a county. The secretary of state shall forthwith deliver to the candidate entitled thereto, as certified by the court, the certificate of election.

**3.** To the clerk of the board of supervisors with respect to offices to be filled by electors of the county or a subdivision of a county, or a precinct, or in the case of an office to be filled by the electors of a city or town, to the city or town clerk. The clerk of the board of supervisors or the city or town clerk shall forthwith deliver to the candidate entitled thereto, as certified by the court, the certificate of election.

#### **16-666. Expenses of recount**

The expenses of the recount of the votes as provided in this article, if for an office to be filled by state electors, or if upon an initiative or referendum measure, or proposal to amend the constitution, shall be a state charge, and if for an office to be filled by the electors of a county or a subdivision of a county, or precinct, shall be a county charge. In the case of an office to be filled by the electors of a city or town, the expenses of the recount shall be a city or town charge.

#### **16-667. Supplementary nature of article**

This article is supplemental to and not in derogation of the law relating to contest of elections and, upon the initiation of such a contest, a proceeding begun under this article shall abate.

### **Article 13 Contest of Elections**

#### **16-671. Contest of primary elections**

Contests arising out of primary elections shall be brought and determined in the same manner, as nearly as possible, as provided by law for contests of general elections.

#### **16-672. Contest of state election; grounds; venue**

**A.** Any elector of the state may contest the election of any person declared elected to a state office, or declared nominated to a state office at a primary election, or the declared result of an initiated or referred measure, or a proposal to amend the Constitution of Arizona, or other question or proposal submitted to vote of the people, upon any of the following grounds:

**1.** For misconduct on the part of election boards or any members thereof in any of the counties of the state, or on the part of any officer making or participating in a canvass for a state election.

**2.** That the person whose right to the office is contested was not at the time of the election eligible to the office.

**3.** That the person whose right is contested, or any person acting for him, has given to an elector, inspector, judge or clerk of election, a bribe or reward, or has offered such bribe or reward for the purpose of procuring his election, or has committed any other offense against the elective franchise.

**4.** On account of illegal votes.

**5.** That by reason of erroneous count of votes the person declared elected or the initiative or referred measure, or proposal to amend the constitution, or other question or proposal submitted, which has been declared carried, did not in fact receive the highest number of votes for the office or a sufficient number of votes to carry the measure, amendment, question or proposal.

**B.** The contest may be brought in the superior court of the county in which the person contesting resides or in the superior court of Maricopa county.



C. In a contest of the election of a person declared elected to a state office or of an initiated or referred measure, constitutional amendment, or other question or proposal, which has been declared carried, the attorney general may intervene, and upon demand, the place of trial of the contest shall be changed to Maricopa county, if commenced in another county.

#### 16-673. Statement of contest; verification; filing

A. The elector contesting a state election shall, within five days after completion of the canvass of the election and declaration of the result thereof by the secretary of state or by the governor, file in the court in which the contest is commenced a statement in writing setting forth:

1. The name and residence of the party contesting the election, and that he is an elector of the state and county in which he resides.
2. The name of the person whose right to the office is contested, or the title of the measure, or constitutional amendment, or other proposition as it appeared upon the official ballot.
3. The office the election to which is contested.
4. The particular grounds of the contest.

B. The statement shall be verified by the affidavit of the contestor that he believes the matters and things therein contained are true.

#### 16-674. Contest of county or other election

A. An elector of a county, city, town or a political subdivision of such county, city or town, may contest the right of a person declared elected to an office to be exercised therein, or declared nominated to an office at a primary election, or a question, proposal, measure or proposition submitted to and voted on by the electors on the same grounds and in the same manner as contests of election to a state office or question, proposal, measure or proposition submitted to the vote of the electors of the state.

B. The contest may be brought in the superior court of the county in which the elector resides. If the contest involves an office voted on by the electors, the summons shall be served upon the contestee, or, if the contest involves a question, proposal, measure or proposition voted on, then the summons shall be served upon the person upon whom summons in a civil action against the county, city, town or subdivision affected is served.

#### 16-675. Summons; form; answer

A. On filing of the statement of contest, the clerk of the superior court shall issue a summons to be served on the contestee as summons in civil actions are served, except it shall require the contestee to file an answer to the statement with the clerk of the court within five days after service of the summons, exclusive of the day of service. If the answer is not filed within such period, the court shall proceed with the hearing of the contest ex parte. If the contest is on an initiative or referred measure, a proposed constitutional amendment, or other proposition or question submitted, which has been declared carried, the summons shall be served on the governor and attorney general who may appear and answer the statement of contest, or, by leave of court, an elector of the state may intervene and defend the contest.

B. If the election of a person declared elected is contested, the summons shall be in substantially the following form:

In the superior court of the state of Arizona in and for the county of

—

Contestant.

vs.

Contestee.

Summons.

To the above named contestee;

You are hereby notified that a resident of county, state of Arizona, has on this day filed in this court a statement of contest wherein he contests your election to the office of at the election held on the day of , 20 , a copy of which statement accompanies this summons.

You are therefore required to file your answer to said statement with the clerk of this court within five days after the service of this summons on you exclusive of the day of service or the court will proceed with the hearing of such contest ex parte.

Given under my hand and the seal of said court this day of , 20 .

Clerk of said court.

**C.** If the contest is on an initiative or referred measure, a proposed constitutional amendment, or other proposition or question submitted, which has been declared carried, the summons shall be in substantially the following form:

In the superior court of the state of Arizona in and for the county of .

In the matter of the contest of a certain constitutional amendment (or proposition, describing it briefly, as the case may be.)

To the honorable , governor, and the honorable , attorney general of the state of Arizona:

You are hereby notified that residing at in the county of , state of Arizona, has this day filed with the clerk of this court a statement wherein he contests the election by which the constitutional amendment (or proposition briefly describing it) was declared to have been carried. A copy of this statement is attached and served on you. You are further notified that unless an answer to this statement is filed within five days after the service of this summons on you the court will proceed with the hearing of this contest ex parte.

Given under my hand and the seal of said court this day of , 20 .

Clerk of said court.

#### **16-676. Time for hearing contest; continuance; findings of the court; judgment**

**A.** In any contest brought under the provisions of section 16-672 or 16-674, upon the filing of the answer, or if no answer is filed, upon the expiration of the time specified in the summons, the court shall set a time for the hearing of the contest, not later than ten days after the date on which the statement of contest was filed, which may be continued for not to exceed five days for good cause shown.

**B.** The court shall continue in session to hear and determine all issues arising in contested elections. After hearing the proofs and allegations of the parties, and within five days after the submission thereof, the court shall file its findings and immediately thereafter shall pronounce judgment, either confirming or annulling and setting aside the election.

**C.** If in an election contest it appears that a person other than the contestee has the highest number of legal votes, the court shall declare that person elected and that the certificate of election of the person whose office is contested is of no further legal force or effect.

#### **16-677. Inspection of ballots before trial; petition; bond; appointment of inspectors**

**A.** After the statement of contest has been filed and the action is at issue, either party may have the ballots inspected before preparing for trial.

**B.** The party applying for the inspection of ballots shall file with the clerk of the court a verified petition stating that he cannot properly prepare for trial without an inspection of the ballots and shall file with the petition a bond, approved by the clerk, with two sureties, in the principal amount of three hundred dollars, conditioned that he will pay the costs and expenses of the inspection if he fails to maintain the contest. Thereupon the court shall appoint three persons, one selected by each of the parties and one by the court, by whom the inspection shall be made. If either party fails to name a person to act in making the inspection, the court shall make the appointment.

**C.** The inspection of the ballots shall be made in the presence of the legal custodian of the ballots, and the compensation of the inspectors shall be fixed by the court and taxed as costs against the losing party.

## 16-678. Inapplicability of article to contests of election of legislators

Nothing in this article shall be deemed to affect in any manner procedures relating to contests of elections of members of the legislature.

## Article 14 Ratification of Amendments to United States Constitution by Convention

### 16-701. Applicability of election laws

Except as otherwise provided in this article, the election of delegates to the convention shall be conducted and the results ascertained and certified in the same manner as elections for state officers, and all laws of this state relative to elections, except those inconsistent with this article, are made applicable to such election.

### 16-702. Number of delegates

The number of delegates to be chosen for the convention is fifteen who shall be elected from the state at large.

### 16-703. Qualifications of candidates for delegate; nominations

- A. Candidates for the office of delegate to the convention shall be qualified electors of this state.
- B. Nominations shall be by petition signed by not less than one thousand electors of the state qualified to vote at the election and shall be filed with the secretary of state.
- C. Nominations shall be without party or political designation, but the nominating petitions shall contain a statement by the candidate to the effect that he favors ratification, or that he opposes ratification, and nominating petitions shall not be accepted unless the statement is contained therein.
- D. The only nomination petitions which shall be effective shall be those of the fifteen nominees favoring ratification whose nominating petitions were first filed with the secretary of state, and who are each residents of a county different from the other, and those of the fifteen nominees opposing ratification whose nominating petitions were first filed with the secretary of state, and who are each residents of a county different from the other.
- E. Within ten days after the petitions are filed, the secretary of state shall certify the candidates of each group to the board of supervisors of the respective counties.
- F. The petitions shall be filed with the secretary of state not less than twenty days before the proclaimed date of the election.

### 16-704. Ballots; form

- A. The election shall be by ballot, separate from any other ballots to be used at the same election. The ballot shall contain a statement of the substance of the proposed amendment, appropriate instructions to the voters and perpendicular columns of equal width, headed respectively in plain type, "favors ratification" and "opposes ratification". In the column headed "favors ratification" shall be placed the names of the candidates who favor ratification. In the column headed "opposes ratification" shall be placed the names of the candidates who oppose ratification.
- B. The voter shall indicate his choice by making one or more marks as defined in section 16-400 in the appropriate spaces provided on the ballot. The ballot shall be so arranged that the voter may, by making a single mark as defined in section 16-400, vote for the entire group of nominees whose names are comprised in any column.
- C. The ballot shall be in substantially the following form:

Proposed amendment to the Constitution  
of the United States.

The Congress has proposed an amendment to the Constitution of the United States which provides (insert here the substance of the proposed amendment).

The Congress has also proposed that the said amendment shall be ratified by conventions in the states.

## Instructions to voters

Do not vote for more than fifteen (15) candidates.

To vote for all candidates who favor ratification, or for all candidates who oppose ratification, make a mark in the circle at the head of the list of candidates for whom you wish to vote. If you do this, make no other mark.

To vote for an individual candidate make a mark in the square at the left of the name.

Favors Opposes

Ratification Ratification

( ) ( )

[ ] John Doe [ ] Charles Coe

[ ] Richard Roe [ ] Michael Moe

[ ] [ ]

### 16-705. Determination of delegates; vacancies; delegate bound to vote in accordance with pre-election statement; classification

- A. The fifteen candidates who receive the highest number of votes shall be the delegates to the convention.
- B. If there is a vacancy in the convention caused by the death or disability of a delegate, or any other cause, the vacancy shall be filled by appointment by the majority vote of the delegates comprising the group from which the delegate was elected, and if the convention contains no other delegate of that group, shall be filled by the governor.
- C. Delegates elected upon a platform or nomination petition statement as favoring or opposing ratification shall vote at the convention in accordance with that platform or nomination petition statement, and upon an intentional failure to do so any such delegate is guilty of a class 2 misdemeanor, his vote shall not be considered, and his office shall be deemed vacant to be filled as provided by this article for filling vacancies.

### 16-706. Meeting of delegates in convention

The delegates to the convention shall meet at the capitol on the twenty-eighth day after their election at ten o'clock a.m. and shall thereupon constitute a convention to consider and vote upon the question of whether or not the proposed amendment shall be ratified.

### 16-707. Organization of convention

The convention shall be the judge of the election and qualification of its members and shall elect its president, secretary and other officers and adopt rules.

### 16-708. Journal of proceedings

- A. The convention shall keep a journal of its proceedings in which shall be recorded the vote of each delegate on the question of ratification of the proposed amendment.
- B. Upon final adjournment the journal shall be filed with the secretary of state.

### 16-709. Certificate of ratification

If the convention agrees by vote of a majority of the total number of delegates to ratification of the proposed amendment, a certificate to that effect shall be executed by the president and secretary of the convention and transmitted to the secretary of state of Arizona, who shall transmit the certificate under his hand and the great seal of the state to the secretary of state of the United States.

### 16-710. Compensation and mileage of delegates

Delegates shall receive ten dollars each day they are assembled in convention and mileage one way from the place of their residence to the capitol by the shortest practical route at the rate of twenty cents per mile.

## 16-711. Congressional provisions as superseding article

If at or about the time of submitting such amendment, Congress, either in the resolution submitting the amendment or by statute, prescribes the manner in which the conventions shall be constituted, and does not except from the provisions of the statute or resolution the states which theretofore have provided for constituting such conventions, this article shall be inoperative. The convention shall in such event be constituted and shall operate as the resolution or act of Congress directs, and all officers of the state who are by the resolution or statute authorized or directed to take any action to constitute a convention for this state are authorized and directed to act thereunder and in obedience thereto with the same force and effect as if acting under a statute of this state.

### **Chapter 1 QUALIFICATION AND REGISTRATION OF ELECTORS DONE**

#### **Chapter 1.1 GENERAL PROVISIONS DONE**

Chapter 2 ELECTION DATES

Chapter 3 NOMINATING PROCEDURES

Chapter 4 CONDUCT OF ELECTIONS **Working on next**

Chapter 5 POLITICAL PARTIES

Chapter 6 CAMPAIGN CONTRIBUTIONS AND EXPENSES

Chapter 6.1 CAMPAIGN MEDIA SPENDING

Chapter 7 PENAL PROVISIONS

Chapter 8 ESTABLISHMENT OF LEGISLATIVE AND CONGRESSIONAL DISTRICTS

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