

**History:** En. Sec. 16, Ch. 591, L. 1991; amd. Sec. 62, Ch. 414, L. 2003.  
**Compiler's Comments**  
 2003 Amendment: Chapter 414 in first sentence near middle after "sealed" inserted "paper". Amendment effective October 1, 2003.

### Part 5 Tie Votes

**13-16-501. Tie vote after recount.** (1) If the recount shows a tie vote for any office and it cannot be determined who has been nominated by the primary election, the election officer with whom the candidates' nominating declarations or petitions were filed shall determine by lot which candidate shall be nominated. Written notice of the time and place of the drawing shall be given to each candidate involved.

(2) If the recount after a general election shows a tie vote and it cannot be determined who has been elected, the office or position shall be filled as provided by 13-16-502 through 13-16-506.

**History:** En. Sec. 208, Ch. 368, L. 1969; R.C.M. 1947, 23-4119; amd. Sec. 187, Ch. 571, L. 1979.

**13-16-502. Tie vote in election for United States congress.** If there is a tie vote for United States representative or senator, the secretary of state shall send a certified statement to the governor showing the votes cast and the governor shall order a special election.

**History:** En. Sec. 209, Ch. 368, L. 1969; R.C.M. 1947, 23-4120(1); amd. Sec. 188, Ch. 571, L. 1979.

#### Cross-References

Special election defined, 13-1-101.  
 Notice of special election, 13-1-108.

**13-16-503. Tie vote in election for supreme court justice, district court judge, or state legislator.** If there is a tie vote for justice of the supreme court, judge of a district court, or member of the legislature, the secretary of state shall send a certified statement to the governor showing the votes cast for each individual and the governor shall appoint one of those candidates to the office.

**History:** En. Sec. 209, Ch. 368, L. 1969; R.C.M. 1947, 23-4120(2); amd. Sec. 189, Ch. 571, L. 1979.

**13-16-504. Tie vote in election for state executive officers.** If there is a tie vote for governor and lieutenant governor, secretary of state, attorney general, state auditor, clerk of the supreme court, superintendent of public instruction, or any other state executive officer, the secretary of state shall transmit a certified copy of the statement to the legislature showing the votes cast for the two or more candidates having an equal and the highest number of votes. The legislature, at its next regular session, shall elect one of these candidates to fill the office by joint ballot of the two houses.

**History:** En. Sec. 210, Ch. 368, L. 1969; amd. Sec. 50, Ch. 365, L. 1977; amd. Sec. 3, Ch. 468, L. 1977; R.C.M. 1947, 23-4121(1), (4); amd. Sec. 190, Ch. 571, L. 1979.

#### Cross-References

Time of regular legislative session, 5-2-103.

**13-16-505. Tie vote in election for county commissioner.** If there is a tie vote for commissioner, the senior district judge shall appoint one of the candidates who tied to fill the office as in other cases of vacancy.

**History:** En. Sec. 210, Ch. 368, L. 1969; amd. Sec. 50, Ch. 365, L. 1977; amd. Sec. 3, Ch. 468, L. 1977; R.C.M. 1947, 23-4121(3); amd. Sec. 191, Ch. 571, L. 1979.

#### Cross-References

Vacancy on Board of County Commissioners, 7-4-2106.

**13-16-506. Tie vote in election for other county officers.** If there is a tie vote for clerk of the district court, county attorney, or any county officer except county commissioner, the commissioners shall appoint one of the candidates who tied to fill the office as in other cases of vacancy.

**History:** En. Sec. 210, Ch. 368, L. 1969; amd. Sec. 50, Ch. 365, L. 1977; amd. Sec. 3, Ch. 468, L. 1977; R.C.M. 1947, 23-4121(2); amd. Sec. 192, Ch. 571, L. 1979.

#### Cross-References

Vacancies of county offices, 7-4-2206.

**13-16-507. Tie vote in election for officers of nonspecified political subdivision.** If there is a tie vote for an officer of any political subdivision not specifically provided for in this

part, the governing body of that jurisdiction shall appoint one of the candidates who tied to fill the office as in other cases of vacancy.

**History:** En. Sec. 193, Ch. 571, L. 1979.

#### Cross-References

Vacancies of offices of political subdivisions generally, Title 7, ch. 4, part 22.