

University of Denver

Digital Commons @ DU

All Publications (Colorado Legislative Council)

Colorado Legislative Council Research
Publications

12-1962

0065 Revision of Colorado General Election Law

Colorado Legislative Council

Follow this and additional works at: https://digitalcommons.du.edu/colc_all

Recommended Citation

Colorado Legislative Council, "0065 Revision of Colorado General Election Law" (1962). *All Publications (Colorado Legislative Council)*. 73.

https://digitalcommons.du.edu/colc_all/73

This Article is brought to you for free and open access by the Colorado Legislative Council Research Publications at Digital Commons @ DU. It has been accepted for inclusion in All Publications (Colorado Legislative Council) by an authorized administrator of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

0065 Revision of Colorado General Election Law

Report to the Colorado General Assembly:

REVISION OF COLORADO GENERAL ELECTION LAW



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 65

DECEMBER 1962

LEGISLATIVE COUNCIL
OF THE
COLORADO GENERAL ASSEMBLY

Senators

James E. Donnelly, Chairman
Charles E. Bennett
L. T. Skiffington
Floyd Oliver
Ranger Rogers
Robert L. Knous, Lt. Governor

Representatives

Guy Poe, Vice Chairman
Ruth B. Clark
John L. Kane
C. P. Lamb
Albert J. Tomsic
M. R. Douglass
Elmer A. Johnson

Lyle C. Kyle, Director

* * * * *

The Legislative Council, which is composed of five Senators, six Representatives, and the presiding officers of the two houses, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

Stacks
S2
COLO.6
NO.65

REVISION OF COLORADO
GENERAL ELECTION LAW

Legislative Council
Report to The
Colorado General Assembly

Research Publication No. 65
December, 1962

COLORADO GENERAL ASSEMBLY



OFFICERS
JAMES E. DONNELLY
CHAIRMAN
GUY POE
VICE CHAIRMAN

STAFF
LYLE C. KYLE
DIRECTOR
HARRY O. LAWSON
SENIOR ANALYST
PHILLIP E. JONES
SENIOR ANALYST
DAVID F. MORRISSEY
RESEARCH ASSISTANT
MYRAN H. SCHLECHTE
RESEARCH ASSISTANT

MEMBERS
LT. GOV. ROBERT L. KHOUSS
SEN. CHARLES E. BENNETT
SEN. JAMES E. DONNELLY
SEN. FLOYD OLIVER
SEN. RANGER ROGERS
SEN. L. T. SKIFFINGTON

LEGISLATIVE COUNCIL

ROOM 341, STATE CAPITOL
DENVER 2, COLORADO
ACOMA 2-9911 - EXTENSION 2285

SPEAKER ALBERT J. TOMSIC
REP. RUTH B. CLARK
REP. M. R. DOUGLASS
REP. ELMER A. JOHNSON
REP. JOHN L. KANE
REP. C. P. LAMB
REP. GUY POE

December 3, 1962

To Members of the Forty-fourth Colorado General Assembly:

In accordance with the directives of House Joint Resolution No. 23, 1961 regular session, the Legislative Council submits the accompanying report and recommendations prepared by its committee appointed to consider a general revision of the election laws of this state.

This report was reviewed by the Legislative Council at its meeting on November 30, and it voted at that time to transmit the committee's report to the members of the Forty-fourth General Assembly.

Respectfully submitted,

James E. Donnelly
Chairman

COLORADO GENERAL ASSEMBLY



OFFICERS
JAMES E. DONNELLY
CHAIRMAN
GUY POE
VICE CHAIRMAN

STAFF
LYLE C. KYLE
DIRECTOR
HARRY O. LAWSON
SENIOR ANALYST
PHILLIP E. JONES
SENIOR ANALYST
DAVID F. MORRISSEY
RESEARCH ASSISTANT
MYRAN M. SCHLECHTE
RESEARCH ASSISTANT

MEMBERS
LT. GOV. ROBERT L. KNOUS
SEN. CHARLES E. BENNETT
SEN. JAMES E. DONNELLY
SEN. FLOYD OLIVER
SEN. RANGER ROGERS
SEN. L. T. SKIFFINGTON

LEGISLATIVE COUNCIL

ROOM 341, STATE CAPITOL
DENVER 2, COLORADO
ACOMA 2-9911 - EXTENSION 2285

November 29, 1962

SPEAKER ALBERT J. TOMSIC
REP. RUTH B. CLARK
REP. M. R. DOUGLASS
REP. ELMER A. JOHNSON
REP. JOHN L. KANE
REP. C. P. LAMB
REP. GUY POE

Senator James E. Donnelly, Chairman
Colorado Legislative Council
Room 341, State Capitol
Denver 2, Colorado

Dear Mr. Chairman:

Your Committee on Election Laws has completed its consideration of a revision of Colorado's general election laws and submits the accompanying report and recommendations, including proposed drafts of legislation.

The committee's report summarizes its activities over the past two years while it was engaged in this undertaking, as well as a summary of its conclusions and recommendations. The major result of the committee's work is represented by the bill to revise the general election laws of this state, or Articles 1 through 20 of Chapter 49, Colorado Revised Statutes 1953.

Respectfully submitted,

Senator Ranger Rogers, Chairman
Committee on Election Laws

FOREWORD

The Legislative Council was directed by House Joint Resolution No. 23, 1961 regular session, to prepare a general revision of Colorado's election laws. To carry out this assignment, the following committee was appointed: Senator Ranger Rogers, chairman; Senator James W. Mowbray, vice chairman; Senators Robert E. Allen and Earl Wolvington; and Representatives Jean K. Bain, Raymond H. Black, Charles D. Byrne, Ben Klein, Vincent Massari, M. H. Morgan, and Albert J. Tomsic.

As directed by H.J.R. No. 23, the committee submitted a progress report prior to the 1962 session. The recommendation included therein to amend the state's constitution to authorize less than one year's residence for persons voting for president and vice president was adopted by the members of the Forty-third General Assembly and, on November 6, 1962, was approved by Colorado voters.

The committee's proposal for a revision of the general election laws of this state resulted from an extensive and detailed analysis of the present laws on the part of the committee members themselves. Assisting the committee were the members of the Legislative Committee of the Colorado County Clerks' Association; Mr. Don Nicholson of the Denver Election Commission; Mr. Ken Russell of the Secretary of State's Office; and Assistant Attorney General Jim Wilson of the Legislative Reference Office. Mr. Phillip E. Jones and Miss Janet Wilson of the Legislative Council staff also provided services to the committee.

December 3, 1962

Lyle C. Kyle
Director

TABLE OF CONTENTS

	<u>Page</u>
LETTERS OF TRANSMITTAL	iii
FOREWORD	vii
TABLE OF CONTENTS	ix
COMMITTEE FINDINGS AND RECOMMENDATIONS	xvii
1961 Progress Report and Legislative Action	xvii
1962 Committee Procedure and Activity	xvii
SUMMARY OF ELECTION LAW REVISION	xviii
SUMMARY OF ALTERNATIVE PROPOSALS	xxi
CONCLUDING COMMITTEE RECOMMENDATIONS	xxii
A BILL FOR AN ACT RELATING TO GENERAL, PRIMARY, AND SPECIAL ELECTIONS	1
<u>Article 1. Definitions and General Provisions</u>	1
Sec. 1. Definitions	1
(1) General election	1
(2) Primary election	1
(3) Special election	1
(4) Elector or qualified elector	2
(5) Registered elector	2
(6) Taxpaying elector or qualified taxpaying elector	2
(7) County	2
(8) Population	2
(9) Election official	2
(10) Watcher	2
(11) Political organization	3
(12) Political party	3
(13) Major political party	3
(14) Minor political party	3
(15) Precinct caucus	3
(16) Assembly	4
(17) Convention	4
(18) Majority of the registration committee	4
(19) Minority member of the registration committee	4
(20) Minority judge of election	4
(21) Registration sheet	5
(22) Registration book	5
(23) Poll book	5
2. Male includes female	5
3. Computation of time	5
4. Powers of county clerk and deputy	5
5. Powers and duties of election commission	6
6. Copies of election laws and manual provided	6
7. Forms prescribed	6

	<u>Page</u>
<u>Article 2. General Elections</u>	6
8. Time of holding general election	6
9. State and district officers	6
10. Presidential electors	7
11. United States senators	7
12. Representatives in congress	7
13. County commissioners	7
14. Other county officers	8
15. Justice precinct officers	8
16. Commencement of terms	8
<u>Article 3. Qualifications of Electors</u>	9
17. Basic qualifications	9
18. Disfranchisement of prisoners--insane	9
19. Rules for determining residence	10
20. Military service--students--inmates	10
21. Only electors eligible to office	11
<u>Article 4. Registration of Electors</u>	11
22. Registration required	11
23. Registration by county clerk	11
24. Branch registration	12
25. Precinct registration	13
26. Registration committee	14
27. Oath of registration committee	14
28. Registration book delivered to registration committee	15
29. Supplies for precinct registration	15
30. Notice of precinct registration	15
31. Conduct of precinct registration	16
32. Certification by registration committee	17
33. Return of registration book	17
34. Compensation of registration committee	18
35. Affidavit registration	18
36. Registration by federal post card application	19
37. Form for registration sheets and registration books	20
38. Questions answered by elector	20
39. Oath taken by elector	21
40. Change of residence	21
41. Change of name	22
42. Names transferred when precinct boundaries changed	22
43. Purging registration book	22
44. Registration receipt	23
45. Fees to county clerk's office	23
46. Registration for special elections	24
47. Custody and preservation of records	24
<u>Article 5. Nominations; Political Party Organization; Primary Elections</u>	25
48. Methods of nomination	25
49. Party nominations to be made by primary election	25
50. Methods of placing names on primary ballot	26
51. Designation of candidates by assembly	26

	<u>Page</u>
52. Delegates to party assemblies	27
53. Nominations for precinct committeeman and committee- woman	28
54. Designation of party candidates by petition	29
55. Filing of petitions and certificates of designation by assembly	31
56. Order of names on primary ballot	31
57. Party affiliation required	31
58. Declaration of party affiliation	32
59. Changing or withdrawing declaration of party affiliation	32
60. Loss of party affiliation	32
61. Transfer of party affiliation	33
62. Errors in recording of party affiliation	33
63. Notice of primary election	34
64. Primary election ballots	35
65. Judges and clerks at primary elections	37
66. Watchers at primary elections	37
67. Registration book furnished to primary election officials	37
68. Voting at primary election	38
69. Count and certification	39
70. Tally sheets	39
71. Party nominees	40
72. Defeated candidate ineligible	40
73. Party nominations to be made by convention	40
74. Party committees	41
75. Control of party controversies	46
76. Powers of central committees	46
77. Party platforms	47
78. Petitions for nominating independent candidates	47
79. Documents are public records	49
80. Withdrawal from nominations	50
81. Vacancies in designations or nominations	50
82. Objections to nominations	52
 <u>Article 6. Judges and Clerks</u>	 53
83. Appointment of election judges	53
84. Number of judges in precincts which use paper ballots	53
85. Number of judges in precincts where voting machines are used	54
86. Party affiliation of election judges	54
87. List furnished by precinct committee members	55
88. Recommendations by county chairmen	55
89. Certificates of appointment	56
90. Acceptances	56
91. Vacancies	56
92. County chairman may request removal of election judge	57
93. Appointment of clerks of election	57
94. Oath of judges and clerks	58
95. Oath of watchers	58
96. Compensation of judges and clerks	59
97. Compensation for delivery of election returns and other election papers	59
98. Judges for new or changed precincts	60

	<u>Page</u>
<u>Article 7. Call and Notice</u>	60
99. Secretary of state to notify county clerk	60
100. County clerk to give notice	61
101. Publication of proposed constitutional amendments and initiated and referred bills	62
<u>Article 8. Preparation for Elections -- Polling Places, Registration Books, Ballots and Ballot Boxes</u>	62
102. Establishing precincts and polling places	62
103. Judges may change polling place	63
104. Number of voting booths or voting machines	63
105. Arrangement of voting machines or voting booths and ballot boxes	64
106. Original registration book to be used at the polls	65
107. Ballot boxes for non-machine voting	66
108. Ballots for general and special elections	66
109. Arrangement of names on ballots for non-machine voting in general or special elections	69
110. Single cross mark for party slate not permitted	69
111. Ballots changed if candidate dies	69
112. Printing and distribution of ballots	70
113. Substitute ballots	70
114. Cards of instruction	71
115. Election expenses to be paid by county	71
<u>Article 9. Conduct of Elections</u>	72
116. Hours of voting	72
117. Employee entitled to vote	72
118. Judges open ballot box first	73
119. Clerks to keep poll books	73
120. Preparing to vote	73
121. Manner of voting in precincts which use paper ballots	74
122. Disabled voter--assistance	75
123. Spoiled ballots	76
124. Watchers at general and special elections	76
125. Counting by counting judges	76
126. Counting by receiving judges	77
127. Method of counting paper ballots	78
128. Clerks to keep tally sheets	78
129. Defective ballots	79
130. Judges' certificate and statement	79
131. Delivery of election returns, ballot boxes, and other election papers	81
132. Judges to post returns	81
133. Ballots preserved	81
<u>Article 10. Challenge</u>	82
134. No voting unless registered	82
135. Right to vote may be challenged	82
136. Challenge to be made by written oath	83
137. Challenge questions asked voter	83
138. Oath of challenged voter	84
139. Refusal to answer questions or take oath	85

	<u>Page</u>
<u>Article 11. Absentee Voting</u>	85
140. When absent registered electors may vote	85
141. Application for absent voter's ballot	85
142. Delivery of absent voter's ballot	86
143. Absent voters' registration book	87
144. Affidavit on return envelope	88
145. Manner of absentee voting by paper ballot	89
146. Absent voters' polling place	89
147. Appointment of receiving judges and clerks for absent voters' polling place	90
148. Appointment of counting judges and clerks for absent voters' polling place	90
149. Casting absent voter's ballot on voting machine	91
150. Hours absent voters' polling place open for receiving and counting absent voters' ballots	92
151. Delivery to minority receiving judge	92
152. Casting and counting absent voters' paper ballots	93
153. Challenges--rejections	95
154. Preservation of rejected absent voters' ballots	95
155. Record of absent voters' ballots	95
156. Certificate of absentee votes cast--canvass	96
157. Return of absent voters' registration book	96
158. Watchers at absent voters' polling places	96
159. Oaths	96
160. Supplies for absentee voting	97
<u>Article 12. Voting Machines</u>	97
161. Use of voting machines	97
162. Requirements for voting machines	97
163. Adoption and payment for voting machines	99
164. Experimental use	99
165. Judges to inspect machines	100
166. Sample ballots and ballot labels--delivery of voting machines	100
167. Instructions to voters	100
168. Judge to watch voting machine	101
169. Seal on voting machine	101
170. Arrangement of names on voting machine ballot in general elections	102
171. Close of polls and count--seals	103
172. Other laws apply--paper ballots permitted for absentee voting	103
<u>Article 13. Canvass of Votes</u>	104
173. County board of canvassers--appointment, fees, oaths	104
174. Preliminary abstracts	105
175. Certificates of election for county, justice precinct, and precinct officers	105
176. Recount for county, justice precinct, and precinct officers	105
177. Copy of preliminary abstracts to secretary of state	107
178. Recounts for congressional, state and district offices	107

	<u>Page</u>
179. Official abstracts--copy filed with secretary of state	109
180. Canvass of votes at general election for state officers	109
181. Canvass by state board of canvassers	110
182. Certificates of election for national, state, and district officers	112
183. List of general assembly furnished	112
184. Lists of presidential electors	112
185. Imperfect returns--corrections	113
<u>Article 14. Election Contests</u>	113
186. Causes of contest	113
187. Contests for presidential elector and supreme court justice	114
188. Contests for district and county judges and district attorneys	114
189. Contests for state officers	115
190. Evidence in contests for state officers	116
191. Rules in conducting contests for state officers	116
192. Contests for state senator or representative	117
193. Depositions in contests for state senator or representative	118
194. Secretary of state to transmit papers in contests for state senator or representative	119
195. Contests for county officers	120
196. Trial and appeals in contests for county officers	121
197. Recount in contests for county officers	122
198. Judgment in contests for county officers	122
199. Contests for justice precinct officers	122
200. Contests arising out of primary election	123
<u>Article 15. Other Judicial Proceedings</u>	124
201. Challenge of illegal or fraudulent registration	124
202. Removal of election judges	125
203. Correction of errors	127
204. Neglect of duty and wrongful acts	127
205. Controversies	128
<u>Article 16. Vacancies</u>	128
206. Vacancies in office of representative in congress	128
207. Vacancies in office of United States senator	129
208. Vacancies in general assembly	129
209. Vacancies in state, district, and county offices	130
210. Vacancies in county and justice precinct offices	130
211. Unexpired terms less than ninety days	130
212. Term of appointee	130
<u>Article 17. Election of President and Vice-President</u>	131
213. Presidential electors	131
214. Fees	132

Article 18. Election Offenses

		132
215.	District attorney or attorney general to prosecute	132
216.	Sufficiency of complaint--judicial notice	132
217.	Immunity of witness from prosecution	133
218.	Penalties for election offenses	133
219.	Fines go into county general fund	134
220.	Perjury	134
221.	Forgery	134
222.	Interfering with or impeding registration	134
223.	Interfering with election official	135
224.	Interfering with watcher	135
225.	Violation of duty	135
226.	Fraud at precinct caucus, assembly, or convention	136
227.	Unlawful qualification as taxpaying elector	136
228.	Procuring false registration	136
229.	County clerk or registration committee signing wrongful registration	137
230.	Signature on registration sheet is proof of oath	137
231.	Adding names after registration closed	137
232.	Disposition of affidavit registration forms	137
233.	Fraudulent voting in precinct caucus, assembly, or convention	138
234.	Offenses at precinct caucus, assembly, or convention	138
235.	Bribery of petition signers	139
236.	Unlawful giving or promising money	139
237.	Unlawful receipt of money	140
238.	Employer's unlawful acts	140
239.	Intimidation	142
240.	Wagers with electors	142
241.	Electioneering	143
242.	Liquor in or near polls	143
243.	Tampering with nomination papers	143
244.	Tampering with notices or supplies	143
245.	Tampering with registration book or poll book	144
246.	Tampering with voting machine	144
247.	Inducing defective ballot	144
248.	Unlawful refusing or permitting to vote	144
249.	Voting in wrong precinct	145
250.	Personating elector	145
251.	Voting twice	145
252.	Interference with voter while voting	145
253.	Delivering and receiving ballots at polls	145
254.	Disclosing or identifying vote	146
255.	Destroying, removing, or delaying delivery of ballots and other election papers	146
256.	Custody and delivery of ballots and other election papers	146
257.	Revealing how elector voted	147
258.	Release of information concerning count	147
259.	Mailing other materials with absent voter's ballot	147
260.	Absent voter applications and deliveries outside county clerk's office	148
261.	Breaking seal on absent voter's ballot	148
262.	Offenses relating to absentee voting	148

	<u>Page</u>
263. Defacing or removing abstract of votes	148
264. Anonymous statements concerning candidates	148
265. Reporting campaign expenses	149
<u>Other</u>	150
266. Act liberally construed	150
267. Applicability	150
268. Repeal	150
269. Severability	150
270. Effective date	151
271. Safety clause	151
A BILL FOR AN ACT RELATING TO THE USE OF VOTING MACHINES IN MUNICIPAL ELECTIONS	152
APPENDIX A -- ALTERNATIVE PROVISIONS TO COMMITTEE'S REVISION OF COLORADO ELECTION LAWS	153
Primary Election Moved to Second Tuesday of August	153
Ballots Printed One Week Earlier	153
Affidavit Registration Limited to Cases of Illness or Physical Disability	156
Elimination of Preliminary Abstract of Votes and Automatic Recount	156
Judicial Review of Party Controversies	157
County Boundary Changes Due to Annexation	159
Electronic Data Processing	159
APPENDIX B -- MEMORIAL TO CONGRESS TO INCLUDE ADDITIONAL INFORMATION ON THE FEDERAL POST CARD APPLICATION FORM	161

REVISION OF COLORADO GENERAL ELECTION LAW

Committee Findings and Recommendations

House Joint Resolution No. 23 of the 1961 Colorado legislative session, which authorized the study of Colorado's election laws, permitted wide discretion in planning the scope of the study and the areas of emphasis. The resolution directed the Legislative Council "to make a thorough study of the election laws, including any laws not specifically relating to elections but which are affected thereby, with a view to improving and revising all of said laws." Further, the resolution provided that the Legislative Council should report so much of its findings and recommendations as it may have completed to the Second Regular Session of the Forty-third General Assembly, including proposed legislation with a final report to be submitted to the Forty-fourth General Assembly in 1963.

1961 Progress Report and Legislative Action

In accordance with the directives of H.J.R. 23, the committee appointed by the Legislative Council to carry out the study submitted a progress report in November, 1961, including therein some suggested changes in the law as well as a proposed amendment to the constitution.¹ Following its acceptance by the Legislative Council, this report was transmitted to the members of the Forty-third General Assembly for their consideration during the 1962 session.

The constitutional amendment recommended by the committee in its 1961 report would provide that residence requirements for persons voting for President and Vice President of the United States be established by law rather than the present constitutional provision which states that an elector in Colorado must "have resided in the state twelve months immediately preceding the election at which he offers to vote, and in the county, city, town, ward, or precinct, such time as may be prescribed by law." The General Assembly agreed with the committee's recommendation and such a proposed amendment was approved for submission to the people to vote upon in the general election on November 6, 1962.

The committee also recommended several statutory changes, but since the Governor declined to include the committee's suggestions among the items for legislative consideration in the 1962 session, no action was taken on these matters.

1962 Committee Procedure and Activity

In view of its assignment, the Committee on Election Laws decided to concentrate its efforts in 1962 on an intensive study of the state's general, primary, and special election laws and not attempt to undertake consideration of the related laws governing municipal, school district, and special district elections. The committee's decision is

1. Progress Report on Colorado Election Law Revision, Research Publication No. 57, Colorado Legislative Council, December, 1961.

in no way meant to imply that these other laws do not need legislative review; rather, the committee based its decision on the number of problems which are being encountered under the present general, primary, and special election laws, and the time available to give proper review to these laws.

Many of these problems result from the fact that a complete revision has never been made of these election laws and the committee found not only outmoded provisions but also ambiguous and even conflicting provisions in these statutes. This situation has resulted in the need for continuous interpretations by the Attorney General as well as by the Secretary of State and the county clerks who administer these provisions. Moreover, notwithstanding these interpretations, there have been numerous misunderstandings and differences in administration in some cases because of the lack of clarity and order in the present statutes.

Most of the committee's activity in 1962 was directed to a section-by-section review of various changes proposed in the state's general, primary, and special election laws. Starting in April, 1962, the committee spent a total of eight days reviewing and revising these provisions. The election laws committee worked closely with the legislative committee of the county clerks throughout this period in order to receive the benefit of the thinking of the officials who are called upon to administer these laws at the local level.

Summary of Election Law Revision

The results of the committee's activity are contained in the accompanying draft of a bill to carry out its findings and recommendations regarding general, primary, and special elections. It may be noted that "comments" are included in the bill in order to indicate whether a provision is new material and, if so, the changes which have been made. In this connection, no comment is included if no substantive change has been made in the revision other than a reference to the section or sections in the present law upon which the provision is based.

The committee's revision is directed toward accomplishing these five main objectives: (1) uniform definitions and use of terms; (2) clarity of language; (3) simplification of election procedures; (4) ease or flexibility of administration; and (5) modernization of provisions. The committee's efforts to achieve these objectives may be viewed in detail in the provisions and comments in the accompanying bill.

On a general basis, it should be noted first that the committee's revision is limited to general, primary, and special elections. This means that no change is intended in the present operation of elections for municipalities, school districts, and special districts.

In regard to some of the other effects of the revision, the basic definitions applicable to the remainder of the bill are grouped in one article and are used uniformly throughout the various articles. A single definition of a "watcher" has been included to clear up present misconceptions about the rights and duties of this person. Article

I also contains a provision to give more administrative authority and discretion to the county clerks. Further, direction is given to the Secretary of State to provide a simplified manual for use by the judges and clerks of election in order to assist them in the performance of their duties. At present only a booklet containing the election laws is provided these people.

On the whole, provisions relating to the qualifications of electors are unchanged by the revision. In recognition of the registration process, however, the revision lists the constitutional and statutory qualifications as prerequisites for an elector "to register to vote" rather than qualifications in order "to vote."

Several changes are proposed by the committee to the article pertaining to registration of electors. In response to a request by the county clerks that the present law should be changed in order to provide more time between the close of registration and election day, the revision would place the deadline on registration 20 days prior to election instead of 15 days prior. Unlike the present law, precinct registration would be made optional for all counties before a primary election and would be optional in all counties except Denver before a general election, the option to be exercised by the board of county commissioners or election commission. As with the time for closing general registrations, the date of holding precinct registration and the deadline for filing affidavit registrations has been moved back five days -- from 20 days to 25 days prior to the day of election. The revision also would add the requirement that the county clerk or election commission provide a list of the electors purged from the registration book to the county chairmen of the two major political parties at least 90 days prior to the primary election.

One of the changes contained in Article V in the revision specifies that proof of party membership or affiliation for at least the previous 12 months would be determined by the registration book in the office of the county clerk. Similarly, a specific exception to the requirement of party affiliation for at least the preceding 12 months is provided for persons attaining 21 years of age and persons becoming naturalized citizens during this period in order to allow greater participation in party matters for these people.

The present law does not provide for classifying registered electors other than by political parties. That is, there is no official or uniform classification for those electors who do not declare an affiliation with a political party. In order to provide an administrative classification for these cases, the committee's revision establishes an "unaffiliated" designation to be included on each elector's registration sheet who does not declare a party affiliation.

Further, under the proposed revision an elector could change from a party affiliation to an unaffiliated status the same as is now provided for changing his registration from one party to another. At present the only way an elector can withdraw his party affiliation without changing to another party is to be purged from the registration book, i.e., not to vote in a general election.

Another means to encourage greater participation in political party affairs is proposed by the committee in allowing the transfer of party affiliation when changing registration from one county to another county in this state through use of a certificate issued by the county clerk. This provision would not apply, however, in the case of transfers of party registration from another state into Colorado.

Another change proposed in Article V would revise the posting and publication provisions for the primary election to conform with those for the general election.

The committee considered the problem of more information being needed by the county clerks than is provided under the Federal Voting Assistance Act of 1955, such as physical characteristics of the persons requesting registration. As this involves a federal act, however, the committee is not proposing any revision of the Colorado election law in this respect but has prepared a memorial to the Congress on this matter, a copy of which is included in the Appendix of this report.

Under Article VI in the revision, relating to judges and clerks, the emphasis is shifted from the appointment of a precinct registration committee whose members also serve as judges of election to the appointment of judges of election who may also serve as members of the precinct registration committee. The provision is also added that precinct residency may be waived, if necessary, for the appointment of judges and clerks of election.

The changes contained in Article VIII, concerning preparation for elections, are designed to provide greater administrative flexibility as well as ease of administration and improved procedures for conduct of elections at the polling places. For instance, there is less detail in the revision relating to such things as requirements for the construction of voting booths, and the deadline for the printing of ballots has been changed from 30 days to 20 days prior to election in order to reduce the administrative difficulties encountered now. Also, references to the "guard rail" have been deleted, and an "immediate voting area" is defined instead which would serve the same general purpose. Under the revision, however, watchers would not be allowed within the immediate voting area whereas they are now permitted to be inside the guard rail.

The major change relating to challenges, which is contained in the committee's revision (Article VIII), would specify that all challenges be made by written oath and turned over to the district attorney for investigation and appropriate action. This provision was added to encourage challenges for which there is good cause and to avoid capricious challenges. Also, the revision clarifies the present law by providing that no one may vote unless his name is in the registration book or unless he has a registration receipt from the county clerk.

Several revisions are proposed in Article XI concerning absentee voting. One of these would move the deadline for applying to the county clerk or election commission for an absentee ballot from

Saturday noon to the close of business on the Friday preceding the day of election; this change would be particularly helpful to the county clerks in the mountainous counties who must release the registration books to some precincts earlier than in other counties because of the geographical situation, especially when weather conditions are threatening.

Another change would require that the names of those electors voting absentee be listed and inserted in the back of the precinct registration book so that confusion as to registrations may be avoided at the polling places on election day. A provision has been added to authorize the counting of absentee ballots on the day before election in counties using electronic data processing equipment along with safeguards for secrecy as to the count under such an arrangement.

In regard to voting machines (Article XII), the revision would amend the requirements in the law to include the type of voting machine recently purchased by El Paso County which lists the candidates in perpendicular lines (as on a paper ballot) rather than horizontal lines. While the officials in El Paso County acted after consultation with the Attorney General, the committee believes that these requirements should be written into the law.

Under the revision, the two members of the county board of canvassers other than the county clerk would be compensated for their services at the rate of from five dollars to ten dollars per day whereas the present law establishes a flat rate of five dollars per day.

In Article XV, "Other Judicial Proceedings," the initial determination in cases of disputed registrations would be made by the county clerk, with subsequent appeal allowed to the courts, rather than these disputes being taken directly to courts as at present. The revision also removes the authority of precinct registration committees to rule on challenged registrations and to strike names from the registration books.

As a final note on the committee's revision, all of the offenses have been grouped together in one article instead of being scattered throughout the several articles. Among the changes contained in the committee's proposal is the establishment of uniform penalties for misdemeanors and felonies in connection with election offenses. Another difference is that there would be no statutory limit on primary campaign expenses but the reporting of all primary election expenses would be required the same as it is now for general election campaign expenses. A new offense would be added -- tampering with voting machines -- which is not now a specific election offense.

Summary of Alternative Proposals

In conducting its study of the general election laws, the committee agreed to include as proposed changes in its revision only those measures which received unanimous support of the members. In addition, however, the committee decided to include in its report, as an appendix to the revision, those proposals which received approval

by a majority of the committee members, although not unanimously. These alternative proposals would:

- (1) Move primary election day to second Tuesday of August;
- (2) Require ballots to be printed one week earlier than at present;
- (3) Limit use of affidavit registration to cases of illness or physical disability only;
- (4) Eliminate the preliminary abstract of votes and automatic recount;
- (5) Provide for judicial review of party controversies;
- (6) Make provision for transfers of registrations in cases of annexation where county boundaries change, as well as establishment of precinct boundaries less than five months prior to an election in such areas; and
- (7) Permit the use of electronic data processing equipment to prepare a "certified registration book" to be used at precinct polling places in lieu of the original registration book.

Concluding Committee Recommendations

The committee believes that the state's laws relating to general, primary, and special elections need substantial revision and has prepared the accompanying bill to carry out this conclusion. However, as mentioned previously, corrective revisions along similar lines are needed for the laws pertaining to municipal, school district, and special district elections. With the start made by this study, the committee suggests that the General Assembly consider future legislative review in this area with a view towards comparable revisions for the remaining election laws.

TEXT

FIRST REGULAR SESSION
FORTY-FOURTH GENERAL ASSEMBLY
STATE OF COLORADO

_____BILL NO._____

A Bill for an Act

RELATING TO GENERAL, PRIMARY, AND SPECIAL ELECTIONS.

Be It Enacted by the General Assembly of the State of Colorado:

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

SECTION 1. Definitions. As used in this act:

(1) "General election" means the election held on the Tuesday succeeding the first Monday of November in each even-numbered year.

(2) "Primary election" means the election held on the second Tuesday of September in each even-numbered year.

(3) "Special election" means an election held at a time other than the general election for the purpose of filling a vacancy to an unexpired term of representative in congress.

COMMENTS

Title limits the applicability of this bill to general, primary, and special elections only, as defined in section 1.

New article.

Based on present 49-1-1, although Article VII, Section 7, of the state constitution requires an annual "general" election. As the constitution does not define "general" election, the committee believed it best to continue the statutory "general" election the same as it is in 49-1-1.

Based on present 49-4-3. Eliminates use of term "direct" primary election.

New definition designed to limit special election to its only purpose under the bill, namely the election of representatives to fill vacancies in congress, as all other vacancies are now filled by appointment.

TEXT

(4) "Elector" or "qualified elector" means a person who is legally qualified to register to vote in this state.

(5) "Registered elector" means an elector who has complied with the registration provisions of this act.

(6) Unless otherwise provided by law, "taxpaying elector" or "qualified taxpaying elector" means a person who is a registered elector of the town, city, county, or district wherein his vote is offered and who in the calendar year last preceding the election at which his vote is offered shall have paid a tax upon property assessed to him in such town, city, county, or district, exclusive of specific ownership tax.

(7) "County" includes a city and county.

(8) "Population" means population as determined by the latest federal decennial census.

(9) "Election official" means any county clerk, judge of election, clerk of election, canvassing board, or board of county commissioners engaged in the performance of election duties as required by this act.

(10) "Watcher" means a person whose name has been certified by the county clerk to serve at a polling place with the right to remain inside the polling place from at least fifteen minutes prior to the opening of the polls until after the completion of the count of votes cast at the election and the certification of the count by the election judges. Each watcher shall also have the right to maintain a list of voters, to witness and verify each step in the conduct of the election from prior to the opening of the polls through the completion of the count and announcement of the results, and, in case of discrepancies, to assist in the correction thereof.

COMMENTS

New definition based on Article VII, Section 1, of the state constitution, and present 49-3-1.

New definition.

This definition has been revised to conform to the constitution, Article XI, Section 6. Present 49-3-6 includes an elector who owns property subject to tax at the time of the election as well as an elector who paid property taxes in the calendar year last preceding the election.

Included for simplification of drafting.

Based on present 49-6-2 (4).

New definition.

New definition based on combining various separate provisions in present law, including 49-4-18, 49-6-30, 49-7-6, and 49-11-12.

TEXT

(11) "Political organization" means any group of qualified electors who, by petition for nomination of an independent candidate as provided in section 78 of this act, shall place upon the official general election ballot nominees for public office.

(12) "Political party" means any political organization, as defined in subsection (11) of this section, which at the last preceding gubernatorial election was represented on the official ballot either by regular party candidates or by individual nominees only, if it cast for its gubernatorial candidate at least ten per cent of the total gubernatorial vote cast in the state at such election.

(13) "Major political party" means one of the two political parties whose candidate for governor at the last preceding gubernatorial election received the first and second greatest number of votes.

(14) "Minor political party" means a political party other than a major political party.

(15) "Precinct caucus" means a meeting of electors of a precinct who are eligible to participate in accordance with the provisions of section 57 of this act, with the meeting being organized in accordance with the rules and regulations of such political party. A precinct caucus may be held for the purpose of electing delegates to county assemblies and designating candidates for precinct committeeman and precinct committeewoman or for the purpose of electing delegates to county conventions.

COMMENTS

Before qualifying as a "political party," an organization of electors first becomes a "political organization." This provision is based in part on present 49-4-2 and on the supreme court's decision in Election Commission of Denver v. People ex. rel. Lee (1914) 58 C.105, 143 P. 834.

Based in part on present 49-4-2. Because of change in term of office for governor to four years, a political organization may qualify to become a political party only once every four years rather than every two years.

Based on part of present 49-9-2 (1) and (2). No change made in definition.

Based on part of present 49-9-2 (1) and (2). No change made in definition.

New definition based on parts of present 49-4-4. No change made in functions of precinct caucus.

TEXT

(16) "Assembly" means a meeting of delegates of a political party, organized in accordance with the rules and regulations of such political party, held for the purpose of designating candidates for nominations at a primary election. The county assembly shall designate candidates for nominations for county offices and shall select delegates to congressional, district, and state assemblies. Congressional, district, and state assemblies shall designate candidates for nominations for congressional, district, and state offices, respectively.

(17) "Convention" means a meeting of delegates of a political party, organized in accordance with the rules and regulations of such political party, held for the purpose of selecting delegates to other political conventions, including national conventions, making nominations for presidential electors, nominating candidates to fill vacancies to unexpired terms of representatives in congress, or for other political functions not otherwise covered in this act. A committee appointed by any such convention may perform any of the aforementioned functions when authorized to do so by the convention.

(18) "Majority of the registration committee" means two members of the registration committee representing opposite political parties.

(19) "Minority member of the registration committee" means the member of the registration committee representing the political party entitled to only one of the three members thereof in the precinct.

(20) (a) In precincts which have an odd number of receiving judges, "minority judge of election" means one of the receiving judges of election representing the political party not entitled to the additional judge in the precinct under the provisions of section 86 of this act.

(b) In precincts which have an even number of receiving judges the political party entitled to select the "minority judge of election" shall be chosen by lot.

COMMENTS

New definition based on parts of present 49-4-2 and 49-4-4. No change made in functions.

Based on present 49-5-1. No change made in functions.

Based on present 49-6-2 (1) in part. No change made in definition.

New definition added to clarify law.

New definition added to clarify law.

TEXT

(21) "Registration sheet" means the record on which is entered the official registration and identification of an individual elector and a list of the elections at which he has voted since the date of registration.

(22) "Registration book" means all of the registration sheets for each precinct arranged alphabetically according to surnames and bound together in book form.

(23) "Poll book" means the list of voters to whom ballots are delivered, or who are permitted to enter a voting machine for the purpose of casting their votes, at a general, primary, or special election. Names shall be entered in the poll book in the order in which the ballots are delivered at the polls or in the order in which voters are permitted to enter a voting machine for the purpose of casting their votes.

SECTION 2. Male includes female. All reference to the male elector includes the female elector and the masculine pronoun includes the feminine.

SECTION 3. Computation of time. Calendar days shall be used in all computations of time made under the provisions of this act. In computing time for any act to be done before any election, the first day shall be included and the last, or election day, shall be excluded. Sundays and legal holidays shall be included, but if the time for any act to be done shall fall on Sunday or a legal holiday, such act shall be done upon the day following such Sunday or legal holiday.

SECTION 4. Powers of county clerk and deputy. (1) Except where otherwise provided in this act, the county clerk shall render all interpretations and shall make all initial decisions as to controversies or other matters arising in the operation of this act.

COMMENTS

Definition added to clarify law, based on present 49-6-17.

Definition added to clarify law, based on present 49-6-17.

Definition added to clarify law, based in part on present 49-10-7.

Based on part of present 49-4-49. Provision relating to questions regarding age in 49-4-49 is contained in proposed section 38 (5) subsequently herein.

New uniform definition similar to present 49-6-2 (6) and 49-2-5. Present law contains separate provisions contributing to confusion in interpretation.

New provision designed to give more administrative authority to county clerks.

TEXT

(2) All powers and authority granted to the county clerk by this act may be exercised by a deputy clerk in the absence of the clerk, or in the event the clerk for any reason is unable to perform his duties.

SECTION 5. Powers and duties of election commission. The election commission in counties having such commission shall have all the powers and jurisdiction and perform all the duties provided by this act in respect to county clerks, boards of county commissioners, and county boards of canvassers.

SECTION 6. Copies of election laws and manual provided. At least thirty days before the primary election the secretary of state shall transmit a sufficient number of copies of the election laws of the state and of a simplified manual of election procedures to the county clerk of each county, to be distributed to the judges of election in each precinct.

SECTION 7. Forms prescribed. Except as otherwise provided by this act, the secretary of state shall prescribe the forms required by this act, which forms shall be substantially followed by county clerks, judges of election and other election officials.

ARTICLE 2. GENERAL ELECTION

SECTION 8. Time of holding general election. A general election shall be held in the several precincts in this state on the Tuesday succeeding the first Monday of November in every even-numbered year.

SECTION 9. State and district officers. At the general election in 1966 and in every fourth year thereafter, there shall be elected the following state officers: one governor, one lieutenant-governor, one secretary of state, one state treasurer, one auditor of state, and one attorney general. At every general election there shall be elected in each representative district of the state such members of the state house of representatives as each district may be

COMMENTS

Subsection (2) included to eliminate later use of repetitious language and is based on present 49-13-4.

Based on present 49-4-51, 49-6-2 (2), and 49-13-1 (11).

Simplified manual of election procedures is a new requirement. Present 49-4-19 directs secretary of state to provide copies of law at least 20 days prior to primary election. Also based on present 49-7-14 and 49-6-23.

Based on part of present 49-7-14, 49-4-30, and 49-6-23.

Based on present 49-1-1. For hours of voting, see section 118 herein.

Based on present 49-1-2.

TEXT

entitled to. Candidates for the offices of supreme court justices, regents of the university, state senators, members of the state board of education, district judges, county judges, and district attorneys shall be voted on at the general election immediately prior to the expiration of the regular terms for such offices.

SECTION 10. Presidential electors. At the general election in 1964 and every fourth year thereafter, there shall be elected such number of electors of president and vice-president of the United States as the state may be entitled to in the electoral college.

SECTION 11. United States senators. At the general election in 1966 and every six years thereafter, there shall be elected one United States senator for the term next ensuing; and at the general election in 1968 and every six years thereafter there shall be elected one United States senator for the term next ensuing.

SECTION 12. Representatives in congress. At every general election there shall be elected the number of representatives in congress to which the state is entitled.

SECTION 13. County commissioners. (1) Members of the board of county commissioners shall be elected in each county, excluding a city and county, for a term of four years.

(2) In each county having a population of less than seventy thousand there shall be three county commissioners, any two of whom shall constitute a quorum for the transaction of business. Two commissioners shall be elected at the general election in 1964 and every four years thereafter; and one commissioner shall be elected at the general election in 1966 and every four years thereafter.

(3) In each county having a population of seventy thousand or more, the board of county commissioners may consist either of three members, any two of whom shall constitute a

COMMENTS

Based on present 49-1-3.

Based on present 49-1-4.

New separate provision now included in last sentence in present 49-1-2 which pertains to "state officers."

Based on present 49-1-6 (1).

TEXT

quorum for the transaction of business, or of five members, any three of whom shall constitute a quorum for the transaction of business.

(a) If the board consists of three commissioners, they shall be elected as provided in subsection (2) of this section.

(b) If the board consists of five commissioners, three shall be elected at the general election in 1964 and every four years thereafter; and two shall be elected at the general election in 1966 and every four years thereafter.

SECTION 14. Other county officers. At the general election in 1966 and every four years thereafter, there shall be elected in each county, excluding a city and county, one county clerk, who shall be ex officio recorder of deeds and clerk of the board of county commissioners, one sheriff, one coroner, one treasurer, who shall be collector of taxes, one county superintendent of schools, one county surveyor, and one county assessor. The term of office of all such officials shall be four years.

SECTION 15. Justice precinct officers. There shall be elected at every general election two justices of the peace and two constables in each justice precinct in each county, excluding a city and county, who shall hold office for a term of two years. In justice precincts containing fifty thousand or more inhabitants, the number of justices and constables may be increased as provided by law.

SECTION 16. Commencement of terms. The regular terms of office of all state, district, county, and justice precinct officers shall commence on the second Tuesday of January next after their election, except as otherwise provided by law.

COMMENTS

Based on present 49-1-6 (1) in accordance with Article XIV, Section 6, of state constitution. This would mean that there would be a four-member board of county commissioners for a two-year period during change-over. Neither this bill nor the present law contains procedures by which a five-member board of county commissioners may be established.

Based on present 49-1-6 (2), and Article XIV, Section 8, Colorado Constitution. Excludes reference to appointment of county attorney as this is contained in 36-1-18 and because this is not an election matter.

Based on present 49-1-6 (3) and Article XIV, Section 11, Colorado Constitution.

Based on present 49-1-7.

TEXT

ARTICLE 3. QUALIFICATIONS OF ELECTORS

SECTION 17. Basic qualifications. (1) Every person who has attained the age of twenty-one years, possessing the following qualifications, shall be entitled to register to vote at all general, primary, and special elections:

(a) He shall be a citizen of the United States.

(b) He shall have resided in this state one year immediately preceding the election at which he offers to vote, in the county ninety days, and in the precinct fifteen days.

(2) Notwithstanding subsection (1) of this section and section 19 of this act, an elector who moves from the county where registered to another county within this state within ninety days prior to any special, primary or general election shall be permitted to cast his ballot by absentee ballot or at the polling place in the precinct where registered; and an elector who moves from the precinct where registered to another precinct within the same county within twenty days prior to any special, primary, or general election, shall be permitted to cast his ballot for such election at the polling place in the precinct where registered.

SECTION 18. Disfranchisement of prisoners -- insane. (1) No person under sentence to or confined in any public prison shall be entitled to register or to vote at any general, primary, or special election. Every person who was a qualified elector prior to such sentence of imprisonment, and who is released by pardon or by having served his full term of imprisonment, shall be vested with all the rights of citizenship except as otherwise provided in the constitution.

(2) No person under guardianship, non compos mentis, or insane shall be entitled to register or to vote at any general, primary, or special election.

COMMENTS

Based on present 49-3-1 and Article VII, Section 1, Colorado Constitution. The law now reads that a person must be "over the age of twenty-one years" to be eligible to vote, while this draft refers to a person "who has attained the age of twenty-one years" to be eligible "to register" to vote. As with the rest of the draft, references to cities and towns have been excluded. Because of a change in proposed registration deadline, change made in subsection (2) from 15 days to 20 days for returning to precinct to cast ballot after moving therefrom as well as specifying such provision applies only when moving from one precinct to another within the same county.

Based on present 49-3-3 and Article VII, Section 10, State Constitution. Reference to registration is new.

Based on present 49-3-3. Reference to registration is new.

TEXT

SECTION 19. Rules for determining residence. The judges of election in determining the residence of a person offering to vote shall be governed by the following rules, so far as they may be applicable:

(1) That place shall be considered to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

(2) A person shall not be considered to have lost his residence who shall leave his home and go into another state, territory or county of this state, merely for temporary purposes with an intention of returning.

(3) A person shall not be considered to have gained a residence in this state, or in any county in this state, when retaining his home or domicile elsewhere.

(4) If a person moves to any other state, or to any of the territories, with the intention of making it his permanent residence, he shall be considered to have lost his residence in this state.

(5) If a person moves from one county or precinct in this state to any other county or precinct in this state, with the intention of making it his permanent residence, he shall be considered to have lost his residence in the county or precinct from which he moved.

SECTION 20. Military service -- students -- inmates.

(1) For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the state or of the United States; nor while a student at any institution of learning; nor while kept at public expense in any public prison or state institution unless the person is an employee or a member of the household of an employee of such prison or institution.

COMMENTS

Based on present 49-10-6. The committee decided not to attempt any substantive changes since this provision contains the commonly-accepted legal definition of residence.

Based on present 49-3-4 and Article VII, Section 4, Colorado Constitution in part. Term "state institution" substituted for "poorhouse or other asylum" with exception added for employees and their families residing therein.

TEXT

(2) The provisions of subsection (1) of this section notwithstanding, no person otherwise qualified under the provisions of this act shall be denied the right to vote at any general, primary, or special election held within this state solely because he is a student at an institution of learning, if such student shall, at any time when registration is provided for by law, file with the county clerk a written affidavit under oath, in such form as may be prescribed, that he has established a domicile in this state, that he has abandoned his parental or former home as a domicile, and that he is not registered as an elector in any other political subdivision of this state or of any other state. The fact that such affidavit has been filed shall be noted in the registration book.

(3) No provision in this section shall apply in the determination of residence or non-residence status of students for any college or university purpose.

SECTION 21. Only electors eligible to office. No person except a qualified elector shall be eligible to hold any office of this state.

ARTICLE 4. REGISTRATION OF ELECTORS

SECTION 22. Registration required. No person shall be permitted to vote at any primary, general, or special election without first having been registered within the time and in the manner required by the provisions of this article.

SECTION 23. Registration by county clerk. (1) The county clerk shall register any qualified elector residing in any precinct in the county who shall appear in person at his office at any time after forty-five days following any general election up to and including the twentieth day before the primary election or at any time after the primary election up to and including the twentieth day before the general election, except that the county clerk may prohibit registration in his office on such days as the registration books are taken from the office of the county clerk for the purpose of complying with any provision of this article.

COMMENTS

Based on present 49-3-5. Language changed to conform with Article VII, Section 6, of State Constitution.

Based on present 49-6-1 and 49-10-5.

Based on part of present 49-6-14 and 49-6-3. Changes cut-off date for registration from 15 days to 20 days preceding election.

TEXT

(2) Each elector registered shall sign his name on the registration sheet, or, if unable to write, make his mark. He shall answer the questions and take the oath required by sections 38 and 39 of this act.

(3) Any registered elector who is personally known to the county clerk or his deputy may register any members of his family who reside at the same address as the elector, by signing such names on the registration sheet and thereafter signing his own name as voucher in the presence of the county clerk or his deputy. Such elector shall answer the questions required by this article concerning each person so registered by him and shall take the following oath:

"I, _____, do solemnly swear (or affirm) that I am a qualified elector in precinct _____, county of _____; that I am registered from _____ (address) and a resident of that address; that _____ (name of person or persons), whose names I have caused to be placed in the registration book as qualified electors from the same address in this precinct, reside at such address and are members of my family and will be qualified electors in this precinct on the date of the next ensuing election."

(4) The county clerk shall attest to the signature of all electors registering before him by his official signature in the registration book.

SECTION 24. Branch registration. In counties of over three hundred thousand population the county clerk shall provide for at least twenty branch registration offices of the county clerk, which shall remain open for at least fifteen days preceding the closing of the registration books prior to any primary or general election for the purpose of registering electors. One-half of the locations of the branch offices and one-half of the personnel of each branch office shall be selected equally from lists submitted by the county chairman of each of the two major political parties. Electors shall be registered in branch offices in the same manner as if registration were made in the office of the county clerk.

COMMENTS

Based on present 49-6-13 and part of 49-6-14. Present law (49-6-13) allows such registration for servants as well as for members of elector's family.

Based on present 49-6-3 (3).

TEXT

SECTION 25. Precinct registration. (1) Precinct registration of electors shall be held in each precinct in each county on the twenty-fifth day preceding the primary election and on the twenty-fifth day preceding the general election; provided, however, the board of county commissioners may modify this requirement at any time up to five months preceding any general election in any of the following ways:

(a) The board of county commissioners or election commission in any county may, by resolution, discontinue precinct registration throughout the county preceding the primary election.

(b) The board of county commissioners in any county with a population of less than three hundred thousand may, by resolution, discontinue all precinct registration in the county.

(c) The board of county commissioners in any county with a population of less than three hundred thousand may, by resolution, discontinue precinct registration in all precincts located wholly or in part within the boundaries of the municipality which is the county seat of the county.

(d) The board of county commissioners in any county with a population of less than three hundred thousand may, by resolution, provide that the precinct registration of any two or more precincts located wholly outside the boundaries of the municipality which is the county seat of the county be combined and held in one central location with one registration committee, such committee to be appointed by the county clerk from lists submitted to him by the county chairman of each of the two major political parties. For purposes of appointment of this registration committee, such multiple precincts shall be considered as a single precinct.

(2) In the event a board of county commissioners or election commission has, by resolution, adopted any of the modifications authorized by subparagraphs (a), (b), (c), and (d) of subsection (1) of this section, such modifications may be rescinded by subsequent resolution of the board at any time up to five months preceding any general election.

COMMENTS

Present precinct registration is contained in 49-6-3. This proposed section would make precinct registration optional at the discretion of the board of county commissioners or election commission preceding a primary election and would make such registration optional before a general election in counties of less than 300,000 population. In this connection, it is the intent of the committee that any option exercised would apply throughout the county, i.e., there would be no option within the option which would permit registration for some precincts and not for others within the same county except in county seat municipalities. Precinct registration would continue to be mandatory before a general election in counties having 300,000 or more population. Time of holding precinct registration changed from 20 days to 25 days preceding election. Also, in the absence of action by the county commissioners, precinct registration would be required in every precinct before each primary and general election; at present precinct registration is not authorized by law within the boundaries of any county seat (except Denver). Revision -- subsection (1) (d) -- would permit consolidation of precincts for purposes of precinct registration.

TEXT

SECTION 26. Registration committee. (1) Precinct registration shall be conducted by a registration committee or by a majority thereof. The registration committee shall consist of three receiving judges of election, appointed as provided in article 6 of this act. No more than two members of the registration committee shall be members of the same political party.

(2) Vacancies in the registration committee shall be filled as provided in section 91 (1) of this act. If it is impossible to notify the county chairman of any vacancy in the registration committee occurring on precinct registration day, two members of such committee, if a majority thereof, shall perform the duties of such committee until the vacancy is filled. If the two remaining members do not constitute a majority of the registration committee, the county clerk shall designate some qualified elector in the precinct, belonging to the political party entitled to such representation, to act upon such committee pending the filling of the vacancy. The county clerk must designate some person who was named originally by the county chairman in the list submitted as provided in section 88 of this act, if any such person be willing to act.

SECTION 27. Oath of registration committee. Before making any registrations, changes of residence, or changes of name, the members of the registration committee shall severally take an oath or affirmation to be printed in the registration book, in the following form: "I, _____, do solemnly swear (or affirm) that I am a citizen of the United States and the state of Colorado; that I am a qualified elector in precinct _____ in the county of _____; that I am a member of the _____ party as shown on the registration books of the county clerk; that I will faithfully perform the duties required of a member of the registration committee in and for precinct _____, city or town of _____, county of _____, Colorado, according to law; that I will not wrongfully omit from the registration the name of any qualified elector; and that I will not knowingly register anyone who is not legally entitled to register, so help me

COMMENTS

Based on part of present
49-6-3.

Based on part of present
49-6-6.

Based on present 49-6-9.

TEXT

God." The members of the registration committee are hereby empowered to administer the oath to each other and the member administering the oath or affirmation shall cause an entry thereof to be made and subscribed by him in the registration book.

SECTION 28. Registration book delivered to registration committee. (1) One day prior to the precinct registration day the county clerk shall deliver to the minority member of the registration committee in each precinct where precinct registration is to be held the registration book for such precinct. The minority member of the registration committee shall have custody of the registration book and shall give his receipt therefor.

(2) The county clerk shall attach to each registration book a certificate substantially as follows:

"I hereby certify that the within registration for precinct _____, county of _____, containing _____ names, is a true and correct list of all voters in said precinct who voted therein at the last general election, together with the names of all qualified electors who have been registered after the completion of the purging.

" _____ "
"County Clerk"

SECTION 29. Supplies for precinct registration. The board of county commissioners in each county shall provide all necessary supplies and registration books for all election precincts in which precinct registration is held.

SECTION 30. Notice of precinct registration. In counties holding precinct registration, except counties of over three hundred thousand population, the county clerk shall publish notice of the precinct registration at least five days before the precinct registration day. The notice shall state the

COMMENTS

Based on part of present 49-6-13 and part of present 49-6-24.

Based on part of present 49-6-22. Details as to forms omitted in accordance with proposed section 7 herein authorizing secretary of state to prescribe forms.

Based on part of present 49-6-13. Publication provisions have been changed to conform with uniform provisions in Article 7 herein.

TEXT

names of the members of the registration committees and the time and place of registration in each precinct. The publication required in this section shall be made in the same manner as publications of notices for general elections in accordance with the provisions of section 100 (2) of this act. In counties where there is no newspaper of general circulation the county clerk shall send copies of the notice to one of the members of the registration committee to be conspicuously posted in three or more public places in the precinct.

SECTION 31. Conduct of precinct registration. (1) In counties holding precinct registration, twenty-five days prior to the day of any primary or general election the registration committee shall sit at the polling place designated by the county commissioners as provided by section 102 of this act, from seven a.m. until seven p.m. to register electors.

(2) The registration committee shall place on the registration books the names of all qualified electors of the precinct who shall present themselves in person for registration. All registrations shall be made in ink and shall be made only in the registration book furnished by the county clerk.

(3) Each elector registered shall sign his name in the registration book or, if unable to write, make his mark. He shall answer the questions and take the oath required by sections 38 and 39 of this act. The answers so made by the elector shall be entered in the registration book by the members of the registration committee in the proper place and, together with the signature of the elector, shall be attested by at least one member of the registration committee.

(4) Any registered elector who is personally known to any member of the registration committee may register any members of his family who reside at the same address as the elector, in the manner provided in section 23 (3) of this act.

COMMENTS

Based on part of present 49-6-13. Change is made in time of holding registration, i.e., 25 days prior to election. Also, proposed section specifies place of holding as the polling place whereas present law merely states "at some suitable place to be provided by the county commissioners."

Present law (49-6-13) allows such registration for servants as well as for members of elector's family.

TEXT

SECTION 32. Certification by registration committee. Upon completion of the precinct registration the registration committee shall attach to the registration book a certificate signed and sworn to by the members of the registration committee certifying substantially as follows:

"We, the legally appointed committee for the registration of electors for precinct _____, county of _____, do solemnly swear (or affirm) that as such registration committee we did sit at _____ (description of the place of registration) in the precinct between the hours of seven o'clock a.m. and seven o'clock p.m. on the _____ day of _____ for the purpose of registering electors, and that we have diligently performed the duties required of us by law in completing the registration of electors for the precinct, and that we have not knowingly permitted any illegal or fraudulent registration in said precinct.

" _____
" _____
" _____

"Registration committee for precinct _____, county of _____"

SECTION 33. Return of registration book. Upon completion of the precinct registration, the minority member of the registration committee shall seal the registration book for return to the county clerk not later than the day following the day of precinct registration. Compensation for the return of the registration book shall be set by the county clerk; provided, in counties under 300,000 population the compensation shall not exceed ten cents per mile for each mile necessarily traveled in returning the book. If it is not feasible for the minority member of the registration committee to return the registration book, the county clerk may make such rules for its return as he may deem advisable.

COMMENTS

Based on part of present 49-6-21.

Based on part of present 49-6-24 and 49-6-21. Option by county clerk on compensation for return of book added. Present law provides flat ten cents per mile traveled in going to and returning from office of the county clerk.

TEXT

SECTION 34. Compensation of registration committee. Each member of the registration committee shall receive as compensation for his services the sum of ten dollars per day actually served for registration.

SECTION 35. Affidavit registration. (1) Any qualified elector may be registered by filing or causing to be filed with the county clerk a verified application as prescribed by the county clerk any time after forty-five days following any general election, except the twenty-five days immediately preceding a general, primary or special election. In making the application the elector shall subscribe to the oath and answer the questions required by sections 38 and 39 of this act. The elector shall subscribe to the oath before an officer authorized by law to administer oaths. Upon receipt of the verified application the county clerk shall forthwith register the elector in the registration book for the precinct wherein the elector resides, in the same manner as electors appearing in person are registered, and shall write or stamp in the space for the elector's signature the words, "registered by affidavit."

(2) Forms for the purpose of making such application shall be furnished only by the county clerk upon the request of any elector. The county clerk shall keep a record of all forms furnished, including the name of the person to whom furnished. At least twenty days prior to any primary, general, or special election, such person shall account under oath to the county clerk in detail the disposition of forms furnished him.

COMMENTS

Based on present 49-6-27
(2).

Based on present 49-6-15
(1). Cut-off date changed from
20 days to 25 days preceding
election.

Date for accounting the
disposition of forms changed
from 15 days to 20 days
preceding election.

TEXT

SECTION 36. Registration by federal post card application.

(1) Any qualified elector of this state serving in the United States service who is unable to register under other provisions of this article may be registered by the proper execution of the federal post card application as provided in the laws of the United States known as "The Federal Voting Assistance Act of 1955." Such application may be made any time after forty-five days following any general election, except the twenty days immediately preceding a general, primary, or special election. Upon receipt of such duly executed application from a qualified elector, the county clerk shall forthwith register the elector in the registration book for the precinct wherein the elector resides, in the same manner as electors appearing in person are registered and shall write or stamp in the space for the elector's signature "registered by federal post card application."

(2) For purposes of this act the term "United States service" shall mean:

(a) Members of the armed forces while in the active service, and their spouses and dependents.

(b) Members of the merchant marine of the United States, and their spouses and dependents.

(c) Civilian employees of the United States in all categories serving outside the territorial limits of the several states of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not the employee is subject to the civil service laws and the Classification Act of 1949, and whether or not paid from funds appropriated by the congress.

(d) Members of religious groups or welfare agencies assisting members of the armed forces, who are officially attached to and serving with the armed forces, and their spouses and dependents.

COMMENTS

Based on present 49-6-15 (2).
Provision added as to time
during which such application
may be made.

TEXT

SECTION 37. Form for registration sheets and registration books. The secretary of state shall furnish the county clerks with a blank page showing the headings for the registration sheets and the registration books, which headings shall be substantially followed.

SECTION 38. Questions answered by elector. It shall be the duty of each qualified elector making application for registration to answer correctly concerning the following matters:

(1) Name in full.

(2) Whether married or single.

(3) Place of residence which, if urban or suburban, shall be located according to its street number, or if there shall be no street number, then by the description of the lot, in the block in the addition, division, or subdivision into which the land upon which the residence is located, is divided; in all other cases the residence shall be located by the section or subdivision thereof, in the township and range as established and numbered by the United States government survey. If the place of residence is an apartment house, rooming house, hotel or motel, the number of the floor and the number of the apartment or room shall also be given.

(4) Whether a native born or naturalized citizen of the United States. If a naturalized citizen, the applicant shall state how naturalized, whether by naturalization of self, parents, or otherwise; applicant shall state as near as may be to his best knowledge, information and belief when self, parents or, if a female, when husband was naturalized, the place and time of naturalization and by what court the naturalization papers were granted.

(5) A description of his person, consisting of his height, sex, age, complexion, color of eyes and any other physical features by which he can be readily identified. It shall only be necessary for a female elector to state that

COMMENTS

Based on present 49-6-23. Provision therein relating to furnishing of copies of election laws deleted as being repetitious since this is contained in section 6 herein.

Based on present 49-6-16.

TEXT

she is twenty-one years of age or over in answer to all questions relating to her age.

(6) His profession, business, or employment.

(7) His postoffice address.

SECTION 39. Oath taken by elector. (1) Each elector making application for registration shall take the following oath:

"I, _____, do solemnly swear (or affirm) that I am a citizen of the United States and that on the date of the next ensuing election I shall have attained the age of twenty-one years and shall have resided in the state of Colorado at least twelve months, in the county of _____ at least ninety days, and in precinct no. _____ at least fifteen days before the election."

(2) The county clerk is hereby authorized to administer the oath prescribed in subsection (1) of this section. Members of the registration committee are hereby empowered to administer the oath prescribed in subsection (1) at the precinct registration.

SECTION 40. Change of residence. (1) Any qualified elector who has been registered and who, subsequent thereto, has moved from the precinct in which he is registered to some other precinct in the county or has moved from one residence to another residence in the same precinct may have his residence changed on the registration books by appearing before the county clerk at any time during which registration is permitted and making an oath as to his present residence and signing the registration book for such change. An elector may also have his residence changed on the registration books by filing or causing to be filed with the county clerk, at any time during which registration is permitted, a verified application for the change, stating his old address and his new address. Any registered elector who

COMMENTS

Based on part of present 49-6-13.

Based on present 49-6-18.

TEXT

is personally known to the county clerk or his deputy may make the change of residence for any members of his family who reside at the same address as the elector.

(2) Changes from one residence in a precinct to another residence in the same precinct may be made during precinct registration by the registration committee or on the day of any primary, general or special election by the judges of election. Any member of a registration committee or judge of election making such change shall sign his name opposite the change of residence.

SECTION 41. Change of name. Any qualified elector who has been registered and who, subsequent thereto, has changed his name by reason of marriage, divorce, or other legal means, may have his name changed on the registration books by appearing before the county clerk at any time during which registration is permitted or before the registration committee on precinct registration day and making an oath as to his present legal name and signing in the registration book for such change. An elector may also have his name changed on the registration books by filing or causing to be filed with the county clerk, at any time during which registration is permitted, a verified application for the change, stating his former name and his new name.

SECTION 42. Names transferred when precinct boundaries changed. In case any new election precinct shall be formed, or in case of the division of any precinct, the registration sheets of all electors residing in that detached part of any precinct shall be forthwith removed by the county clerk from the registration book of the precinct, and shall be inserted by him in the registration book of the new precinct or the precinct to which such part may have been attached, at least twenty-five days prior to the day of any primary, general, or special election.

SECTION 43. Purging registration book. (1) Within forty-five days after any general election the county clerk shall compare the poll book of electors who voted at the general election with the registration book for such

COMMENTS

This is a new provision. At the present time changes of name are made in the registration books without specific statutory direction.

Based on present 49-6-25 (2). Deadline changed from "at least ten days prior to the third Thursday preceding" the day of election to "twenty-five days prior."

Based on present 49-6-19, first paragraph.

TEXT

election. He shall purge the registration book by drawing a red line through the name of each elector who failed to vote, writing or stamping on the registration sheet the words "failed to vote", and removing the registration sheet from the registration book. All registration sheets so removed for failure to vote shall be preserved for a period of two years after the purging.

(2) The registration book as thus purged, together with the names of additional persons who have registered after the completion of the purging, shall be the registration book for all succeeding primary and special elections until and including the next general election.

(3) At least ninety days prior to the primary election, the county clerk shall furnish to the county chairmen of the two major political parties a list containing the names, addresses, precinct numbers, and party affiliations of the electors whose names were removed from the registration book for failure to vote at the last preceding general election.

SECTION 44. Registration receipt. Upon request of any registered elector, it shall be the duty of the county clerk to make and deliver to such elector a receipt of the registration of such elector, setting forth the facts of such registration, including the date, description and other information recorded in connection with the registration, which receipt shall be attested by the hand of the county clerk and the seal of the county. The office of the county clerk may be allowed a fee of five cents for each such registration receipt, to be paid by the applicant.

SECTION 45. Fees to county clerk's office. The office of the county clerk in each county, except a city and county, shall be authorized to receive from the county the sum of five cents for each registration made, for each change of registration made upon application by an elector, for each name stricken from the registration book, and for each notice issued and mailed under the provisions of this article.

COMMENTS

Subsection (3) is a new provision.

Based on part of present 49-6-28. Change made to allow fee paid to office of county clerk rather than to county clerk. See proposed section 134 herein for new use of registration receipt.

Based on present 49-6-27 (1). Change made to allow fee paid to office of county clerk rather than to county clerk. Exclusionary clause for a city and county added.

TEXT

SECTION 46. Registration for special elections. In any special election the registration shall be made as provided in this article for general elections; provided, however, neither precinct registration nor branch registration shall be held preceding a special election. The time for registration and performance of other acts shall be a like time before such election, and in every other respect such election shall be in conformity with this article, as far as practicable. Any special elections shall be called in sufficient time before the date thereof as to permit the county clerk to comply with the provisions of this article.

SECTION 47. Custody and preservation of records. Registration books shall be left in the custody of the county clerk, who shall be responsible therefor, except when in actual use by the registration committee or judges of election in the performance of their duties. The oaths or affirmations, applications for affidavit registration, federal post card applications, applications for change of residence or change of name, and other papers provided for by this article shall be preserved by the county clerk and shall not be destroyed until after the next general election. They shall be public records subject to examination and the right to make copies thereof during office hours by any elector of this state.

COMMENTS

Based on present 49-6-26 (1). Exception added for precinct registration and branch registration.

Based on part of present 49-6-28, part of present 49-6-15 (1), part of present 49-6-15 (2), part of present 49-6-18, and part of present 49-6-19.

TEXT

ARTICLE 5. NOMINATIONS; POLITICAL PARTY
ORGANIZATION; PRIMARY ELECTIONS

SECTION 48. Methods of nomination. (1) Nominations for United States senator, representative in congress, governor, lieutenant governor, secretary of state, state treasurer, auditor of state, attorney general, member of the state board of education, regent of the university, member of the general assembly, supreme court justice, district judge, county judge, district attorney, and all county and justice precinct officers to be elected at the general election may be made either by primary election or by petition for nomination of an independent candidate as provided in section 78 of this act.

(2) Nominations for presidential electors to be elected at the general election and for candidates to fill vacancies to unexpired terms of representatives in congress to be elected at a special election may be made by a convention of a political party, or a committee authorized by such convention, or by petition for nomination of an independent candidate as provided in section 78 of this act.

SECTION 49. Party nominations to be made by primary election. (1) A primary election shall be held at the regular polling places in each precinct on the second Tuesday of September in even-numbered years for the nomination of candidates of political parties to be voted for at the succeeding general election and for the election of precinct committeemen and committeewomen of political parties.

(2) Each political party qualified under the provisions of subsection (12) of section 1 of this act shall be entitled to participate in the primary election and shall have a separate party ballot. The primary election of all political parties shall be held at the same time and at the same polling places and shall be conducted by the same election officials.

COMMENTS

Present 49-4-1, 49-4-29, 49-5-1, and 49-5-4 provide the basis for Section 48 which is a new section.

Subsection (1) based on present 49-4-3. Present provision omitted which refers to primary elections held other than in September.

Subsection (2) based on present 49-4-11 and part of 49-4-2.

TEXT

(3) All nominations by political parties for candidates for United States senator, representative in congress, all elective state, district, county, and justice precinct officers, and members of the general assembly shall be made by primary elections. The secretary of state and county clerks are prohibited from placing on the official general election ballot the name of any person as a candidate of any political party not nominated in accordance with the provisions of this article.

(4) Except as otherwise provided in this article, all primary elections shall be conducted the same as general elections as far as the provisions thereof are applicable, and the election officers for primary elections shall have the same powers and shall perform the same duties as those provided by law for general elections.

(5) All expenses incurred in the preparation or conduct of the primary election shall be paid out of the treasury of the county or state, as the case may be, in the same manner as for general elections.

SECTION 50. Methods of placing names on primary ballot. All candidates for nominations to be made at any primary election shall be placed on the primary election ballot either by certificate of designation by assembly or by petition.

SECTION 51. Designation of candidates by assembly.
(1) Assemblies of the several political parties may make assembly designations of candidates for nomination on the primary election ballot. No assembly shall be held later than fifty-two days preceding the primary election.

(2) An assembly shall take only one ballot upon candidates for each office to be filled at the ensuing general election and within the jurisdiction of the assembly. Every candidate receiving twenty per cent or more of the votes of the duly accredited delegates to such assembly for any

COMMENTS

Subsection (3) based on part of present 49-4-1.

Subsection (4) based on present 49-4-16, 49-4-23, 49-4-48, and part of 49-4-34.

Subsection (5) based on present 49-4-47.

Based on part of present 49-4-4.

Based on parts of present 49-4-4. The provision relating to time of holding assembly has been added in order to allow the full seven days for acceptance before the 45-day deadline for filing.

TEXT

office to be voted upon at the ensuing general election shall be certified by affidavit of the presiding officer and secretary of the assembly. The certificate of designation by assembly shall state the name of the office for which each person is a candidate, his name and address, and shall designate in not more than three words the name of the political party which the candidate represents. The certificate of designation shall indicate the order of the vote received at the assembly by candidates for each office, but no assembly shall declare that any one candidate has received the nomination of the assembly. The certificate of designation shall be filed in accordance with section 55 of this act.

(3) Each candidate designated by assembly shall file his written acceptance with the officer with whom his certificate of designation is filed, within seven days after the adjournment of the assembly. In the acceptance he shall state his name in the form in which he wishes it to appear on the ballot. The name may include one nickname. If an acceptance is not filed within the specified time, the candidate shall be deemed to have declined the designation.

(4) No person shall be eligible for designation by assembly as a candidate for nomination at any primary election unless such person shall have been affiliated with the political party holding the assembly for a period of at least twelve months immediately preceding the date of the assembly, as shown by the registration books of the county clerk.

SECTION 52. Delegates to party assemblies. Delegates to county assemblies shall be elected at precinct caucuses to be held in each precinct at a time and place to be fixed by the county central committee of each political party. Precinct caucuses shall be held not less than five nor more than fifteen days prior to county assemblies. The county central committee shall fix the number of delegates from each precinct to participate in the county assembly. The persons receiving the highest number of votes at the precinct caucus shall be the delegates to the county assembly from

COMMENTS

The provision for including nicknames is new and is intended to clarify the present situation which seems to be rather uncertain and confusing. This provision would authorize the use of a nickname by a candidate but would limit this to one nickname only.

Based on third paragraph of present 49-4-4.

TEXT

such precinct. Delegates to all other party assemblies shall be selected by the respective county assemblies from among the members of the county assemblies. All disputes regarding the qualifications of any delegate or the conduct of any precinct caucus at which such delegates were voted on shall be determined by the credentials committees of the respective party assemblies.

SECTION 53. Nominations for precinct committeeman and committeewoman. (1) At the time of electing the delegates to the county assembly, the precinct caucus shall also nominate a candidate for precinct committeeman and a candidate for precinct committeewoman. The person receiving the highest number of votes at the caucus for precinct committeeman shall be nominated as the candidate for precinct committeeman of the precinct and the person receiving the highest number of votes at the caucus for precinct committeewoman shall be nominated as the candidate for precinct committeewoman of the precinct. The names of the candidates shall be certified to the county assembly of the political party by the officers of the caucus. All disputes regarding the nomination of candidates for precinct committeeman or committeewoman shall be determined by the credentials committees of the respective party assemblies. The presiding officer and secretary of the county assembly shall file certificates of nomination with the county clerk not less than forty-five days prior to the primary election.

(2) The county clerk of each county shall cause to be printed on the party primary ballot the names of the candidates for precinct committeemen and committeewomen who have been nominated by precinct caucus and certified by party assembly without the candidates filing an acceptance of such nomination with the county clerk, except in cases where the candidate files a declination of the designation.

(3) All other nominations for precinct committeeman or committeewoman shall be by petition as provided in section 54 of this act.

COMMENTS

Based on fourth paragraph of present 49-4-4. Reference for filing nomination certificates not less than 45 days prior to primary election based on present 49-4-7. Subsection (2) also based on present 49-4-5.

TEXT

SECTION 54. Designation of party candidates by petition.

(1) Candidates for political party nominations may be placed on the primary election ballot by petition. Every petition for candidates for nomination to be made at a primary election shall state the name of the office for which each person is a candidate, his name and address, and shall designate in not more than three words the name of the political party which the candidate represents. No petition shall contain the name of more than one person for the same office.

(2) (a) Every petition in the case of a candidate for any county or justice precinct office or for precinct committeeman or committeewoman shall be signed by not less than one hundred electors resident within the political subdivision for which the officer, committeeman or committeewoman is to be elected; provided, however, no such petition shall require more signers than ten per cent of the gubernatorial votes cast in the political subdivision at the last preceding gubernatorial election by the political party which the candidate represents.

(b) Every petition in the case of a candidate for member of the general assembly, district judge, district attorney, or for any district office greater than a county office, the petition shall be signed by not less than three hundred electors resident within the district for which the officer is to be elected; provided, however, no petition shall require more signers than ten per cent of the gubernatorial votes cast in the district at the last preceding gubernatorial election by the political party which the candidate represents.

(c) Every petition in the case of a candidate for an office to be filled by the electors of the entire state shall be signed by electors resident within each congressional district in a number equal to at least two per cent of the votes cast in such district at the previous general election for the political party's candidate for the office for which the petition is being circulated.

COMMENTS

Based on present 49-4-6 and first three sentences of 49-4-4.

TEXT

(3) The electors signing the petition shall write opposite their names their respective addresses and the election precincts wherein they reside as electors and the date they sign such petition. Each signer shall make an oath, before any officer authorized by law to administer oaths, that he has given his true name and address, that he has been affiliated with the political party named in the petition for at least twelve months as shown on the registration books of the county clerk, that he intends to vote for the candidate at the ensuing primary election, and that he has not signed any other petition for any other candidate for the same office. The petition may consist of one or more sheets, to be fastened together in the form of one petition, but each sheet shall contain the same heading, and the affidavit of the subscribing electors shall be endorsed on the sheet on which their names are signed.

(4) Every petition, before it is filed, shall have endorsed thereon the acknowledged acceptance of the nomination by the candidate.

(5) (a) No person shall be placed in nomination by petition on behalf of any political party unless the person shall have been affiliated with the political party for at least twelve months prior to the date of filing the petition, as shown by the registration books of the county clerk.

(b) No elector shall be eligible to sign any petition unless the elector shall have been affiliated with the political party mentioned in the petition for at least twelve months prior to the date of filing the petition, as shown by the registration books of the county clerk.

(6) Nothing in this section shall apply to certificates of nomination submitted in accordance with section 78 of this act.

COMMENTS

TEXT

SECTION 55. Filing of petitions and certificates of designation by assembly. Every petition or certificate of designation by assembly in case of a candidate for nomination for any national or state office or for member of the general assembly, district judge, district attorney, or district office greater than a county office shall be filed in the office of the secretary of state. Every petition or certificate of designation by assembly in case of a candidate for nomination for any other elective office shall be filed in the office of the county clerk of the county wherein the person is a candidate. Petitions and certificates of designation by assembly shall be filed not less than forty-five days prior to the primary election.

SECTION 56. Order of names on primary ballot. Candidates designated and certified by assembly for a particular office shall be placed on the primary election ballot in the order of the vote received at the assembly. The candidate receiving the highest vote shall be placed first in order on the ballot, followed by the candidate receiving the next highest vote, and so on until all of the candidates designated have been placed on the ballot. Candidates by petition for any particular office shall follow assembly candidates and shall be placed on the primary election ballot in alphabetical order.

SECTION 57. Party affiliation required. No elector shall vote at any precinct caucus, assembly or convention of a political party unless such elector shall have been affiliated with the political party holding the caucus, assembly or convention for at least twelve months as shown on the registration books of the county clerk; provided, however, any registered elector who has attained the age of twenty-one years within the twelve months immediately preceding such meeting, or any registered elector who has become a naturalized citizen within the twelve months immediately preceding such meeting, may vote at any caucus, assembly or convention even though he has been affiliated with the political party for less than twelve months as shown on the registration books of the county clerk.

COMMENTS

Based on present 49-4-7 which now prohibits the filing of petitions and certificates of designation prior to 60 days before the primary election.

Based on part of second paragraph of present 49-4-4.

Based on paragraph five of present 49-4-4. New provision added to allow persons attaining 21 years of age or becoming naturalized citizens to participate in these party matters without requiring the full 12 months of party affiliation as shown on the registration books of the county clerk. Also, this provision establishes the registration book as the sole official means of determining party affiliation in these matters.

TEXT

SECTION 58. Declaration of party affiliation. Any unaffiliated registered elector may declare his party affiliation at the time he presents himself to vote at a primary election, as provided in section 68 (1) of this act; or by appearing in person before the registration committee at precinct registration; or at any time during which electors are permitted to register by appearing in person before the county clerk or by filing or causing to be filed a written request for such declaration upon a form which shall be furnished by the county clerk at the request of the elector. Any registered elector who has not declared a party affiliation shall be designated on the registration books of the county clerk as "unaffiliated."

SECTION 59. Changing or withdrawing declaration of party affiliation. Any registered elector desiring to change or withdraw his party affiliation may do so by signing a request for the change or withdrawal and filing it or causing it to be filed with the county clerk at any time during which electors are permitted to register, or by presenting such request to the registration committee at precinct registration. Upon receiving such request the county clerk or registration committee shall change the elector's party affiliation on the registration books. If the party affiliation is withdrawn, the designation on the registration books shall be changed to "unaffiliated." If the party affiliation is changed from one political party to another, the elector shall be entitled to vote at the ensuing primary elections only the party ballot of the party to which he has changed his affiliation, until he has again changed his party affiliation or has lost the same under the provisions of section 60 of this act.

SECTION 60. Loss of party affiliation. The declaration of party affiliation shall remain as to each registered elector making same until changed or withdrawn; provided, however, such elector shall lose his party affiliation by moving from the county in which he resided at the time the declaration or change was made, unless he transfers his affiliation as provided in section 61 of this act, or by failure to vote at any general election.

COMMENTS

Based on parts of present 49-4-12. New provision is included to establish "unaffiliated" classification of registered electors, thereby eliminating blanks in these spaces in the registration book or the use of different terms by county clerks such as independent, etc.

Based on second paragraph in present 49-4-12. New provision added to permit withdrawal of party affiliation and becoming "unaffiliated." The only way to change from one party to an unaffiliated status under the present law is to be purged from the registration book by failing to vote in a general election or by moving from the county where registered.

Based on parts of present 49-4-12.

TEXT

SECTION 61. Transfer of party affiliation. Upon the request of any registered elector moving or about to move from the county in which he resides, the county clerk of that county shall prepare a certificate showing the registered party affiliation of such elector during the twelve months immediately preceding such change of residence. The elector may present such certificate to the registration committee or the county clerk of the new county of residence at the time he registers. Thereupon the registration committee or the county clerk shall record on the registration sheet the information shown in the certificate and such record shall be evidence of party affiliation. The provisions of this section shall not apply to transfers of party affiliation from without the state.

SECTION 62. Errors in recording of party affiliation.
(1) If an elector presents himself at his legal voting place to vote at any primary election or at the office of the county clerk and contends that an error has been made in the recording of his party affiliation on the registration book or that his party affiliation has been unlawfully changed or withdrawn, the judges of election or the county clerk shall allow the elector to make and sign an affidavit, the form of which shall be substantially as provided in subsection (4) of this section. Any judge of election or the county clerk shall have authority to administer the oath and take the acknowledgement of the elector's affidavit. On the completion of the affidavit, the judges of election or the county clerk shall make the change as specified in the affidavit and shall enter after the elector's party affiliation on the registration book the words "changed by affidavit", giving the date of such change.

(2) For purposes of determining the eligibility of candidates for nomination in accordance with sections 51 (4) and 54 (5)(a) of this act, the eligibility of persons to vote at any precinct caucus, assembly or convention in accordance with section 57 of this act, or the eligibility of persons to sign petitions in accordance with section 54 (5)(b) of this act, the date of declaration of the party affiliation of the elector shall be the date of the declaration which he alleges by affidavit to have been erroneously recorded or unlawfully changed or withdrawn.

COMMENTS

New provision designed to permit greater party participation and to prevent persons from being penalized as not being eligible to so participate under the present law.

Based on fourth paragraph of present 49-4-12.

Subsection (2) has been added as this is not specifically covered in the present law.

TEXT

(3) All such affidavits shall be preserved by the judges of election and returned to the county clerk at the time the primary election returns are made and shall be kept on file in the office of the county clerk for a period of two years.

(4) Printed forms of affidavit shall be furnished the judges of election of the various election precincts. The form of the affidavit shall be substantially as follows:

"State of Colorado

"County of _____

"I, _____, believing an error has been made as to the recording of my party affiliation, or a change unlawfully made, or a withdrawal unlawfully made, on the registration book of precinct _____ in _____ County, do solemnly swear, or affirm, that the party affiliation as now shown on the registration book is an error, or has been unlawfully changed, or has been unlawfully withdrawn, and that my correct party affiliation should be _____ instead of _____ and request that the party affiliation be corrected on the registration book. My correct affiliation was made on _____ (date) at _____ (place).

"Dated _____

"Signed _____

"Subscribed and sworn before me this _____ day of _____, 19 __.

" _____
"Judge of Election or County Clerk
"Precinct _____
"County _____"

SECTION 63. Notice of primary election. (1) At least thirty days before any primary election, the secretary of state shall transmit to each county clerk a notice in writing specifying the offices for which nominations are to be made at the primary election. The notice shall include a certified list of persons for whom certificates of

COMMENTS

Based on fourth paragraph of present 49-4-12. Time of two years to retain affidavits added for clarification purposes.

Based on fourth paragraph of present 49-4-12. Provision added in affidavit to require affiant to state when and where his correct affiliation was made.

Based on present 49-4-8. Posting and publication provisions changed to conform with that provided for general elections in section 102 herein.

TEXT

designation or petitions have been filed in his office and the office for which each person is a candidate, together with the other details mentioned in the certificates of designation or petition.

(2) Each county clerk, at least ten days before the primary election, shall publish once in a condensed form under the proper party designation and under the title of each office, the names and addresses of all persons for whom certificates of designation or petitions have been filed, in so far as the same shall affect the electors of his county, except the names of precinct committeemen and precinct committeewomen of the various political parties. The publication shall contain the date of the primary election and the hours during which the polls will be open, and shall state that the primary election will be held in the lawful polling places designated in each precinct. A copy of such publication shall be posted at the polling place.

(3) The publication required in this section shall be made in the same manner as provided in section 100 (2) of this act for publication of notices for general elections.

SECTION 64. Primary election ballots. (1) The method of voting at the primary election may be either by paper ballots as provided in this article or by voting machine as provided in article 12 of this act.

(2) No later than twenty days before the primary election, the county clerk shall prepare a separate sample ballot for each party for public inspection. He shall forthwith proceed to have the ballots printed in the following manner:

(a) All ballots shall be white and printed in black ink and shall be uniform in size. The extreme top part of each ballot shall be divided by two perforated lines, into two spaces, each of which shall be not less than one inch in width, the top portion being known as the stub, and the next portion as the duplicate stub. Stubs and duplicate stubs of the various party ballots shall be numbered

COMMENTS

Based on present 49-4-10
(1), (2), (3), (4), and (6).

TEXT

consecutively commencing with number one in each precinct. Nothing shall be printed on the stubs but the number of the ballot and the same number shall be printed on both stubs. On the back of each ballot shall be printed "Official Primary Election Ballot". On the next line shall be printed the precinct and county in which the ballot is to be used, and the date of the election and below that a facsimile of the signature of the county clerk. Across the head of each ballot shall be printed the name of the political party for which the ballot is to be used, followed by the words, "To vote for a person make a cross (X) in the first square at the right of the name of the person for whom you desire to vote". In the left hand column shall appear the designated office and to the extreme right of the same line the words, "Vote for", then the words, "One", "Two", or a spelled number designating how many persons under that heading are to be voted for. The name of each candidate shall be printed below the designated office with a square to the right of the name. Following the names of all candidates for any particular office shall be a blank space wherein the voter may write the names of one or more candidates according to the number of candidates to be nominated for such office. Each office, with the names of the candidates for that office, shall be clearly separated from the following one.

(b) The positions on the ballot shall be arranged as provided in section 56 of this act and as follows: First, candidates for United States senator; next, congressional candidates; next, state candidates; next, legislative candidates; next, other candidates for districts greater than a county; next, county candidates; next, justice precinct candidates; next, candidates for precinct members of the party committees. When other offices are to be filled at the coming general election, the county clerk in preparing the primary ballot shall use substantially the form prescribed by this section, stating the proper designation of the office and placing the names of the candidates therefor under the same.

COMMENTS

TEXT

(c) There shall be no other printing or distinguishing marks on the ballot except as in this article specifically provided.

(d) Sample ballots shall be printed in the same form as the official ballot, but upon colored paper.

SECTION 65. Judges and clerks at primary elections.

(1) The regularly appointed receiving judges for general elections shall serve as the judges for primary elections. No counting judges shall be appointed for primary elections. Clerks shall be appointed in the same manner as provided in section 93 of this act for general elections.

(2) The same fees shall be allowed and paid from public funds for the services of anyone serving as a judge or clerk of primary elections as are provided by law for general elections.

SECTION 66. Watchers at primary elections. (1) Each political party participating in a primary election shall be entitled to have a watcher in each precinct in the county. The chairman of the county central committee of each political party shall certify the names of the persons selected as watchers to the county clerk who shall in turn certify such names to the respective precincts.

(2) In addition, a candidate for nomination on the ballot of any political party at the primary election shall be entitled to act as a watcher or to appoint some person to act in his behalf in every precinct in which he is a candidate. Such candidate shall certify the names of the persons so appointed to the county clerk who shall in turn certify such names to the judges of election in the respective precincts.

SECTION 67. Registration book furnished to primary election officials. The county clerk shall furnish the election judges with the registration book for the precinct, along with the poll books and other election material, as provided by law for the conduct of general elections.

COMMENTS

Based on present 49-4-17, last sentence of present 49-4-18, and last sentence of present 49-7-1.

Based on part of present 48-4-18 and part of present 49-6-30. Subsection (2) may be new, depending on how present 49-6-30 may be interpreted.

Based on present 49-4-41.

TEXT

SECTION 68. Voting at primary election. (1) At the time an elector presents himself to vote at a primary election, he shall openly declare to the judges of election the name of the political party with which he wishes to affiliate himself, and the name of such political party shall be written upon the registration book opposite the elector's name. Thereupon the judges of election shall deliver to the elector the appropriate party ballot. If the elector's party affiliation has already been recorded on the registration book he shall be given the party ballot of the party affiliation recorded. If the declaration of party affiliation has been changed as provided in section 59 of this Act, the elector shall be given the party ballot of the political party to which the affiliation has been changed. If the elector declines to state his party affiliation, he shall not be entitled to vote at the primary election.

(2) The ballot shall be cast in the same manner as in general elections. The voter shall designate his choice of candidates on his party ballot by marking a cross (X) in ink or indelible pencil in each of the small squares at the right of the names of the candidates for whom he desires to vote, and shall not vote for more candidates for each office than are to be elected thereto at the general election as indicated on said ballot.

(3) Any voter, instead of voting for a candidate whose name is printed on his party ballot, shall be entitled to vote for any other eligible person who is a member of his political party by writing the name of the person in the blank space immediately following the printed names of candidates for the office and by placing a cross (X) after his name. If any voter shall write on his party ballot the name of any candidate appearing on any other party ballot, or the name of any candidate who has not been affiliated with the political party for at least twelve

COMMENTS

Based on part of present 49-4-12. Revision allows use of indelible pencil as well as ink.

TEXT

months immediately preceding the date of the primary election as shown on the registration books of the county clerk, his vote for that office shall not be counted. When no candidate has been designated by an assembly or by petition, a write-in candidate for nomination by any political party must receive at least the number of votes at any primary election that is required by section 54 of this act to become designated as a candidate by petition.

SECTION 69. Count and certification. As soon as the polls are finally closed, the judges of election shall count the total number of ballots cast, and shall then count all the ballots for each political party separately, using the tally sheets furnished in accordance with section 70 of this act, and continuing until the count is completed. In no case shall they intermingle party ballots. After all ballots have been counted, the judges of election shall certify the number of votes cast for each candidate of each party and shall seal the returns for all parties in one envelope to be returned to the county clerk in the same manner as provided in sections 97 and 131 of this act for general elections.

SECTION 70. Tally sheets. The county clerk shall furnish for each precinct two sets of tally sheets for each political party having candidates to be voted for at the primary election, at the same time and in the same manner that the ballots are furnished. In each case the tally sheets shall have the proper party designation at the head thereof and shall state the precinct and county and the date of the primary election. In counties which use paper ballots, the names of candidates shall be placed on the tally sheets in the order in which they appear on the official ballots. In counties which use voting machines, the secretary of state shall prescribe the form of the tally sheets to be used.

COMMENTS

Based on present 49-4-21.

Based on present 49-4-22.
Last sentence added for counties which use voting machines as present law contains no such provision.

TEXT

SECTION 71. Party nominees. Candidates voted on for offices at primary elections who receive a plurality of the votes cast shall be the respective party nominees for the respective offices. In the event that there is more than one office of the same kind to be filled, then the number of candidates equal to the number of offices to be filled receiving the highest number of votes shall be the nominees of the political party for such offices. The names of the nominees shall be printed on the official ballot prepared for the ensuing general election.

SECTION 72. Defeated candidate ineligible. No person who has been defeated as a candidate in a primary election shall be eligible as a candidate for the same office in the next ensuing general election.

SECTION 73. Party nominations to be made by convention.
(1) Any convention of delegates of a political party or any committee authorized by resolution of such convention may nominate candidates for vacancies to unexpired terms of representatives in congress and for presidential electors, and may select delegates to national political conventions.

(2) All nominations for vacancies to unexpired terms of representatives in congress and for presidential electors made by convention or a committee authorized by such convention shall be certified by affidavit of the presiding officer and secretary of the convention or committee.

(a) The certificate of nomination shall contain the name of the office for which each person is nominated and the name and address of each such person and shall designate, in not more than three words, the political party which the convention or committee represents.

(b) No certificate of nomination shall contain the names of more candidates for any office than there are offices to fill. If any certificate does contain the names of more

COMMENTS

Based on present 49-4-26 and part of 49-4-27.

Based on present 49-4-14.

Based on present 49-5-1.

Based on part of present 49-5-2.

Based on part of present 49-5-2.

Based on present 49-5-5.

TEXT

candidates than there are offices to fill, only those names which come first in order on the certificate and are equally numbered with the number of offices to be filled shall be taken as nominated. No person shall sign more than one certificate of nomination for any office.

(c) When the nomination is made by a committee, the certificate of nomination shall also contain a copy of the resolution passed at the convention which authorized the committee to make such nomination.

(d) In the case of electors of president and vice-president of the United States, the names of the candidates for president and vice-president may be added to the name of the political party in the certificate of nomination.

(3) Certificates of nomination shall be filed with the secretary of state not less than forty-five days before the general or special election.

(4) (a) Any person nominated in accordance with this section by either of the two major political parties shall be deemed to have accepted such nomination unless the candidate shall file with the secretary of state a written declination of the nomination within seven days after the adjournment of the convention.

(b) Any person nominated in accordance with this section by a minor political party shall file his written acceptance with the secretary of state within seven days after the adjournment of the convention. If an acceptance is not filed within the specified time, the candidate shall be deemed to have declined the nomination and the nomination shall be treated as a vacancy to be filled as provided in sections 81 (3) and (5) of this act. Two or more nominees may make and acknowledge such acceptance in one paper.

SECTION 74. Party committees. (1) (a) At the primary election each political party shall elect one committeeman and one committeewoman for each election precinct. The

COMMENTS

Based on part of present 49-5-2.

Based on last sentence of present 49-5-2.

Based on present 49-5-3 and 49-5-7.

Based on present 49-5-12. Law now provides for filing declination or acceptance (except for major party nominees) within a five-day period; change to seven days made in order to be uniform with other acceptance provision.

Based on present 49-4-24.

TEXT

candidate for committeeman or committeewoman who receives a plurality of votes on the party primary ballot shall be declared the committeeman or committeewoman of the party for the precinct. Each committeeman or committeewoman shall be a resident of the precinct from which he is elected. Each committeeman or committeewoman shall hold such position for the term of two years from the date of his election, and each shall serve until his successor is duly elected or appointed and commences his term of office. In case of a vacancy in the office of precinct committeeman or committeewoman, the remaining members of the county central committee may select a successor to fill the vacancy. The person so selected shall be a resident of the precinct in which the vacancy occurred.

(b) All of the elected precinct committeemen and committeewomen of the political party in the county, together with the elected county officials of the party and the state senators and representatives of the party who reside within the county, shall constitute the county central committee.

(c) Each county central committee shall meet between the first day of March and the second Saturday in March of the odd-numbered years to organize by selecting a chairman, a vice-chairman, and a secretary.

(2) (a) The chairman and vice-chairman of the several party county central committees, together with the elected United States senators, representatives in congress, governor, lieutenant governor, secretary of state, state treasurer, auditor of state, attorney general, justices of the supreme court, members of the board of regents, members of the state board of education, state senators and state representatives of the party, shall constitute the state central committee.

(b) If in any county any political party shall have polled at least ten thousand votes at the last preceding general election for its candidate for governor, said county shall be entitled to two additional members of the state central committee of such political party. Two additional members shall be allowed for each additional ten thousand votes or major portion thereof so polled in such county. The

COMMENTS

Specification is new relating to enumeration of elected state officials.

TEXT

additional members shall be elected by the county central committee of the political party. One of each two such additional members shall be a woman.

(c) The state central committees of the respective political parties shall meet between March fifteenth and April first of the odd-numbered years to organize by electing a chairman, vice-chairman, and a secretary.

(d) Within ten days after the adjournment of the organizational meeting of the state central committee of any political party, the chairman and secretary of the state central committee shall file under oath with the secretary of state a full and complete roll of the membership of the state central committee.

(3) (a) The chairmen and vice-chairmen of the several party county central committees within each congressional district, together with the elected congressman of the party for the congressional district and the state senators and representatives of the party who reside within the congressional district, shall constitute the congressional central committee.

(b) If in any county within the congressional district any political party shall have polled at least ten thousand votes at the last preceding general election for its candidate for governor, said county shall be entitled to two additional members of the congressional central committee of such political party. Two additional members shall be allowed for each additional ten thousand votes or major portion thereof so polled in such county. The additional members shall be elected by the county central committee of the political party. One of each two such additional members shall be a woman.

(c) The congressional central committees of the respective political parties shall meet between March fifteenth and April first of the odd-numbered years to organize by electing a chairman, a vice-chairman, and a secretary.

COMMENTS

Based on present 49-18-2.

Based on present 49-4-24.

Specific statutory reference to bonus members for congressional central committees is new.

TEXT

(4) (a) The chairmen and vice-chairmen of the several party county central committees within each judicial district, together with the elected district judges of the party for the judicial district and the state senators and representatives of the party who reside within the judicial district, shall constitute the judicial district central committee.

(b) If in any county within the judicial district any political party shall have polled at least ten thousand votes at the last preceding general election for its candidate for governor, said county shall be entitled to two additional members of the judicial district central committee of such political party. Two additional members shall be allowed for each additional ten thousand votes or major portion thereof so polled in such county. The additional members shall be elected by the county central committee of the political party. One of each two such additional members shall be a woman.

(c) The judicial district central committees of the respective political parties shall meet between March fifteenth and April first of the odd-numbered years to organize by electing a chairman, a vice-chairman, and a secretary.

(5) (a) The chairmen and vice-chairmen of the several party county central committees within each state senatorial district, together with the elected state senators of the party for the state senatorial district and the state representatives of the party who reside within the state senatorial district, shall constitute the state senatorial central committee.

(b) If in any county within the state senatorial district any political party shall have polled at least ten thousand votes at the last preceding general election for its candidate for governor, said county shall be entitled to two additional members of the state senatorial central committee of such political party. Two additional

COMMENTS

Specific statutory reference to bonus members for judicial district central committees is new.

Specific statutory reference to bonus members for state senatorial central committees is new.

TEXT

members shall be allowed for each additional ten thousand votes or major portion thereof so polled in such county. The additional members shall be elected by the county central committee of the political party. One of each two such additional members shall be a woman.

(c) The state senatorial central committees of the respective political parties shall meet between March fifteenth and April first of the odd-numbered years to organize by electing a chairman, a vice-chairman, and secretary.

(6) (a) The chairmen and vice-chairmen of the several party county central committees within each state representative district, together with the elected state representatives of the party for the state representative district and the state senators of the party who reside within the state representative district, shall constitute the state representative central committee.

(b) If in any county within the state representative district any political party shall have polled at least ten thousand votes at the last preceding general election for its candidate for governor, said county shall be entitled to two additional members of the state representative central committee of such political party. Two additional members shall be allowed for each additional ten thousand votes or major portion thereof so polled in such county. The additional members shall be elected by the county central committee of the political party. One of each two such additional members shall be a woman.

(c) The state representative central committees of the respective political parties shall meet between March fifteenth and April first of the odd-numbered years to organize by electing a chairman, a vice-chairman, and a secretary.

COMMENTS

Specific statutory reference to bonus members for state representative central committees is new.

TEXT

SECTION 75. Control of party controversies. (1) The state central committee of any political party in this state shall have full power to pass upon and determine all controversies concerning the regularity of the organization of that party within any congressional, judicial, senatorial or representative district or within any county, and also concerning the right to the use of the party name. The state central committee may make such rules governing the method of passing upon and determining such controversies as it may deem best, unless such rules shall have been theretofore provided by the state convention of the party as provided in subsection (2) of this section. All such determinations upon the part of the state central committee shall be final.

(2) From the time the state convention of the party convenes until the time of its final adjournment the state convention shall have all the powers given by subsection (1) of this section to the state central committee, but not otherwise. The state convention of the party may also provide rules that shall govern the state central committee in the exercise of the powers conferred upon the committee in subsection (1) of this section.

SECTION 76. Powers of central committees. (1) Subject to the provisions of subsection (2) of section 75 of this act, the state central committee shall have the power to make all rules for party government.

(2) All vacancies in state, congressional, judicial, senatorial, or representative committees shall be filled by the respective county central committees.

(3) Any state, congressional, judicial, senatorial, representative, or county central committee may select a managing or executive committee and may authorize such committee to exercise any and all powers conferred upon the respective central committees.

COMMENTS

Based on present 49-18-1.

Based on present 49-4-24
(9).

TEXT

SECTION 77. Party platforms. (1) Any assembly or convention of any political party may formulate, adopt and publish a platform for the political subdivision which the assembly or convention represents.

(2) The candidates for United States senators, representatives in congress, governor, lieutenant governor, secretary of state, state treasurer, auditor of state, attorney general, justices of the supreme court, members of the board of regents, members of the state board of education, state senators and state representatives nominated by each political party at the primary election, the state senators and other elected state officers of each political party whose terms of office do not expire in January of the year next ensuing, and state chairmen of the respective political parties shall meet on the fourth Tuesday of September in each even-numbered year in the city and county of Denver at places to be designated by the respective state chairmen. They shall forthwith formulate the state platform of their respective parties. The platform of each party shall be framed and made public not later than five days after the date of the meeting.

SECTION 78. Petitions for nominating independent candidates. Candidates for public offices to be filled at a general or special election who do not wish to affiliate with a political party may be nominated otherwise than by a primary election or a convention, in the manner following:

(1) A petition for nominating independent candidates shall be prepared which shall contain the names and addresses of any candidates for the offices to be filled. The petition shall designate in not more than three words the political or other name which the signers shall select. No name of any political party as defined in this article shall be used, in whole or in part, for this purpose. In the case of nominations for electors of president and vice-president of the United States, the names of the candidates for president and vice-president may be added to the political or other name designated on the petition.

COMMENTS

Based on present 49-4-13 and 49-4-25. Specification is new relating to enumeration of elected state officials.

Based on present 49-4-29 part of 49-5-2, 49-5-4, and 49-5-7.

TEXT

COMMENTS

(2) The petition shall be signed by electors residing within the district or political subdivision in which the officers are to be elected, to the number of at least three hundred when the nomination is for an office to be filled by the electors of the entire state; of at least one hundred when the office is to be filled by the electors of a congressional district; of at least one hundred where the nomination is for a member of the general assembly, district judge, district attorney or district office greater than a county office, or any office to be filled by the electors of a county; and of at least fifty when the nomination is for an office to be filled by the electors of a justice precinct or other division.

(3) Each elector signing a certificate shall add to his signature his place of residence and, before an officer duly authorized to administer the same, shall acknowledge his signature and make oath by affidavit thereto attached, that he is an elector within and for the political division for which the nomination is made, has truly stated his residence, and has not voted at any primary election to nominate a candidate for such office.

(4) The signatures to the petition need not all be appended to one paper, but no petition shall be legal that does not contain the requisite number of names of electors whose names do not appear on any other petition previously filed for the same office under the provisions of this section. Any petition may be amended in this last respect at any time prior to thirty-one days before the day of the general or special election.

(5) No petition, except petitions for candidates for vacancies to unexpired terms of representatives in congress and for presidential electors, shall be circulated or any signatures obtained thereon prior to the date of the primary election next preceding the general or special election for which the certificate is filed.

TEXT

(6) The petition may designate or appoint upon the face thereof one or more persons as a committee to fill vacancies in accordance with sections 81 (4) and (5) of this act.

(7) Every petition, before the same is filed with the proper officer, shall have endorsed thereon or thereto appended in writing on the first or last sheet the acceptance of the candidate of the nomination by acknowledgment before any officer authorized to take acknowledgments. The acceptance of nomination shall contain the full name and address of such candidate.

(8) The petition, when executed and acknowledged as before prescribed, shall be filed with the secretary of state if for an office to be filled by the electors of the entire state or of a congressional district, or for the offices of members of the general assembly, district judge or district attorney or district office greater than a county office, and with the county clerk if for a county or justice precinct office. Petitions shall be filed not less than forty-five days before the day of the general or special election.

SECTION 79. Documents are public records. All certificates of designation, petitions, certificates of nomination, acceptances, declinations and withdrawals, as soon as filed, shall be public records, and shall be open to public inspection under proper regulation. When a copy of any such document is presented at the time the original is filed, or at any time thereafter, and a request is made to have a copy compared and certified, the officer with whom the document is filed shall forthwith compare such copy with the original on file, and, if necessary, correct the copy and certify and deliver the copy to the person who presented it. All such documents shall be preserved as other records are for two years after the election to which they pertain, unless otherwise ordered or restrained by some court.

COMMENTS

Based on part of present
49-4-38.

TEXT

SECTION 80. Withdrawal from nominations. (1) Any person who has been designated or nominated and who has accepted a designation or nomination, as provided in this article, may cause his name to be withdrawn from such designation or nomination, at any time prior to thirty-one days before the primary, general or special election, as the case may be, by a written instrument withdrawing from the designation or nomination. The written instrument shall be signed and acknowledged by the candidate before some officer authorized to take acknowledgments, and shall be filed with the officer with whom the original certificate or petition designating or nominating the candidate was filed.

(2) Any candidate withdrawing from a designation or nomination as provided in subsection (1) of this section shall forthwith report such withdrawal to the persons designated in section 81 of this act to fill the vacancy.

SECTION 81. Vacancies in designations or nominations.

(1) Any vacancy in a party designation occurring prior to thirty-one days preceding the primary election but after the holding of the party assembly at which the designation was made, caused by the declination, death, or withdrawal of any person designated by such assembly as a candidate for nomination, or by failure of the assembly to make designation of any candidate for nomination, or which exists by reason of the death or resignation of any elective officer after the holding of an assembly at which a candidate could have been designated for nomination for the office at a primary election had the vacancy then existed, may be filled by the respective party central committees of the district, county, or state, as the case may be, in which the vacancy in designation for nomination occurs. No person shall be eligible to be appointed to fill a vacancy in a party designation unless he shall have been affiliated with the political party in which the vacancy occurs for a period of at least twelve months immediately preceding the date of the assembly at which the original designation was made, as shown by the registration books of the county clerk.

COMMENTS

Based on first part of present 49-4-39. Time for withdrawal changed from prior to 35 days before election to 31 days prior to election.

Based on part of present 49-5-13 (3).

Based on part of present 49-4-24 (3). Deadline changed from 35 days to 31 days preceding primary election.

TEXT

(2) Any vacancy in a party nomination occurring prior to thirty-one days preceding the general election but after the holding of the primary election at which the nomination was made, caused by the death or withdrawal of any person nominated at such primary election, or which exists by reason of the death or withdrawal of any elective officer after the holding of any primary election at which a nomination could have been made for the office had the vacancy then existed, may be filled by the respective party central committees of the district, county, or state, as the case may be, in which the vacancy in nomination occurs. No person shall be eligible to be appointed to fill a vacancy in such party nomination unless he shall have been affiliated with the political party in which the vacancy occurs for a period of at least twelve months immediately preceding the date of the primary election, as shown by the registration books of the county clerk.

(3) Any vacancy in a party nomination occurring prior to thirty-one days preceding the general or special election but after the holding of the convention at which the nominations was made, caused by the declination, death or withdrawal of any person nominated at such convention may be filled in the same manner required for the original nomination. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, such committee, upon the occurring of such vacancies, may proceed to fill the same. No person shall be eligible to be appointed to fill a vacancy in such party nomination unless he shall have been affiliated with the political party in which the vacancy occurs for a period of at least twelve months immediately preceding the date of the convention at which the original nomination was made, as shown by the registration books of the county clerk.

(4) Any vacancy in a nomination for an independent candidate occurring prior to thirty-one days preceding the general or special election but after the filing of the petition for nomination, caused by the death or withdrawal of any person nominated by such petition, may be filled by the person or persons designated on the petition to fill vacancies.

COMMENTS

Based on first part of present 49-4-24 (4). Deadline changed from 35 days to 31 days preceding general election.

Based on present 49-5-13 in part.

Based on present 49-4-29 and 49-5-4. Deadline changed from 35 days to 31 days preceding the general or special election.

TEXT

(5) The persons designated to fill any of the vacancies in subsections (1) through (4) of this section shall file any certificate of nomination to fill such vacancy with the respective officers with whom the original certificate or petition was filed, not later than thirty-one days prior to the primary, general, or special election. The persons so designated may in like manner file a certificate setting forth the occurrence of the vacancy and the further fact that it is not their intention to fill such vacancy.

(6) When the secretary of state or the county clerk receives a certificate of nomination to fill a vacancy, he, in certifying the list of designees or nominees, shall insert the name of the person who has been designated or nominated to fill the vacancy in place of the original candidate. In the event that the secretary of state has already sent forward his certificate, he shall forthwith certify to the clerks of the proper counties the name and description of the person so nominated, the office he is nominated for, and the name of the person for whom such nominee is substituted. The secretary of state and the county clerks shall not be required to accept any certificates of nomination to fill vacancies after thirty-one days before election day.

SECTION 82. Objections to nominations. (1) All petitions or certificates of nomination which are in apparent conformity with the provisions of this article shall be deemed to be valid unless objection thereto shall be duly made in writing within three days after the filing of the same. In case objection is made, notice thereof shall be forthwith mailed to all candidates who may be affected thereby. The officer with whom the original certificate or petition is filed shall pass upon the validity of all objections, whether of form or substance, and his decision upon matters of form shall be final. His decisions upon matters of substance shall be open to review, if prompt application be made, as provided in section 205 of this act. But the remedy in all cases shall be summary, and the decision of any court having jurisdiction shall be final, and not subject to review by any other court, except that the supreme

COMMENTS

Based on last part of present 49-4-24 (4), 49-4-29, 49-5-4, part of present 49-5-13 (2), and part of present 49-5-13 (3).

Based on part of present 49-5-13 (2) and 49-5-13 (3).

Based on present 49-5-11. Expanded to include independent candidates as well as convention candidates.

TEXT

court, in the exercise of its discretion, may review any such judicial proceeding in a summary way. Said ministerial officers shall decide objections within at least forty-eight hours after the same are filed, and any objection sustained may be remedied or defect cured upon the original certificate or petition, or by an amendment thereto, or by filing a new certificate within three days after the objection is sustained.

(2) This section shall not apply to any nomination made at a primary election.

ARTICLE 6. JUDGES AND CLERKS

SECTION 83. Appointment of election judges. On the first Tuesday in June in even-numbered years, the county clerk shall appoint the judges of election for each precinct in the county by selecting names from lists submitted by the county chairmen as provided in section 88 of this act. The term of office of judges of election shall be two years from the time of appointment. The county clerk shall make and file in his office a list of all persons so appointed, giving their names, addresses and precincts.

SECTION 84. Number of judges in precincts which use paper ballots. (1) In each precinct using paper ballots, and in which at the last presidential election there were fewer than 200 votes cast, the county clerk shall appoint three receiving judges of election to perform the combined function of superintending the casting of ballots and of counting the votes and making returns thereof at general, primary, and special elections.

(2) In each precinct using paper ballots, and in which at the last presidential election there were 200 or more votes cast, the county clerk shall appoint three receiving judges and three counting judges.

COMMENTS

Based on present 49-6-4, but omits prohibition of appointment of "the employer, agent, superintendent, manager or boss of a number of employees, or any company, corporation or person carrying on mining or manufacturing or railroad operations in any precinct."

Based on present 49-6-4 and 49-7-1. Present law provides for the appointment of registration committees in precincts which have precinct registration whose members also serve as judges of election and for the appointment of judges of election in all other precincts. This revision merely shifts the emphasis or order of appointment in these first cases from registration committees to judges of election who also serve as the registration committee in most cases.

TEXT

(a) At general elections the receiving judges shall superintend the casting of the ballots and the counting judges shall count the votes and make returns thereof.

(b) At primary and special elections the receiving judges shall perform the combined function of superintending the casting of ballots and of counting the votes and making returns thereof. Counting judges shall not serve at primary or special elections.

SECTION 85. Number of judges in precincts where voting machines are used. In any precinct in which voting machines are used, the county clerk shall appoint not less than three receiving judges of election to perform the combined function of superintending the casting of ballots and of counting the votes and making returns thereof at general, primary and special elections. In each precinct in which more than one voting machine is used, the county clerk may appoint one additional receiving judge of election for each additional voting machine used in the precinct.

SECTION 86. Party affiliation of election judges. (1) In precincts which have an even number of receiving judges of election, each major political party shall be entitled to one-half of the number of receiving judges.

(2) In precincts which have an odd number of receiving judges or of counting judges, one major political party shall be entitled to the additional receiving judge or counting judge in all even-numbered precincts and the other major political party shall be entitled to the additional receiving judge or counting judge in all odd-numbered precincts. On the first Tuesday in June in even-numbered years the county clerk shall determine by lot which of such political parties shall be entitled to the additional receiving judge or counting judge in the even-numbered precincts and which political party shall be entitled to the additional receiving judge or counting judge in the odd-numbered precincts.

COMMENTS

Based on part of present 49-12-6. Revision removes the maximum on the number of receiving judges in voting machine precincts and makes the provision of one additional judge for each additional machine over one permissive rather than mandatory.

Based on part of present 49-6-5. As present law does not spell out the party alignment of judges where an even number of receiving judges are called for, the revision provides that in this situation each party is entitled to an equal number of receiving judges.

TEXT

COMMENTS

SECTION 87. List furnished by precinct committee members. Not later than ten days preceding the third Tuesday of May in even-numbered years, the county chairman of each major political party in each county shall request the precinct committeeman and committeewoman in each precinct to certify the names and addresses of not less than three nor more than six registered electors who reside in the precinct, are affiliated with such political party as shown on the registration books of the county clerk, and are willing to act as judges of election. Such committeeman and committeewoman shall submit the list in writing to the county chairman within five days from the time of such request.

SECTION 88. Recommendations by county chairmen. (1) No later than the third Tuesday of May in even-numbered years the county chairman of each major political party in each county shall certify to the county clerk the names and addresses of not less than three nor more than six registered electors recommended to serve as judges of election in each of the precincts in the county. Each county chairman shall also certify that all of the persons named are willing to serve as judges of election.

(2) Each county chairman shall designate the order of his choice of such names and the county clerk shall select names from each list in the order of such designation.

(3) In recommending persons as judges of election the county chairman shall select only such names as are filed with him by the precinct committeeman and committeewoman. If the precinct committeeman and committeewoman do not furnish such names to the county chairman, then the county chairman may select the electors to be recommended to the county clerk as judges of election, in which case the precinct residence requirement may be waived if necessary.

(4) If there is no county chairman or vice-chairman in the county, the county clerk shall make the appointments of judges of election by obtaining lists of names from the precinct committeemen and committeewomen. If there are no

Based on present 49-6-10. Adds specification that party affiliation is determined by the registration books of the county clerk.

Based on part of present 49-6-5, 49-6-6, and 49-6-11. "All" rather than "at least two" of the persons must be willing to serve. Also, provision added that precinct residence requirement may be waived if selection of judges devolves upon the county chairman or county clerk.

TEXT

precinct committeemen and committeewomen, the county clerk may make his own selection of electors representing the two major political parties, in which case the precinct residence requirement may be waived if necessary.

SECTION 89. Certificates of appointment. Within five days after the first Tuesday in June in even-numbered years, the county clerk shall issue certificates under his official seal certifying the appointment of judges of election in each precinct and shall mail one certificate to each person appointed. The county clerk shall mail to the county chairmen of the two major political parties a true, exact and certified copy of the list of all judges of election appointed in the county. The original of such list on file in the office of the county clerk shall be a matter of public record and shall be subject to inspection and examination during office hours by any elector of the state with the right to make copies thereof.

SECTION 90. Acceptances. With each certificate of appointment transmitted by the county clerk to the persons appointed as judges of election there shall be enclosed a form for acceptance of the appointment. Each person appointed as judge of election shall file his acceptance in the office of the county clerk within twelve days after the mailing by the county clerk of the certificate of appointment and the acceptance form. Failure of any person appointed as judge of election to file an acceptance within said twelve days shall result in a vacancy.

SECTION 91. Vacancies. (1) If for any reason any person selected to serve as judge of election refuses, fails or is unable to serve or is removed for cause, it shall be the duty of such person or any other judge of election to notify the county clerk. The county clerk shall notify forthwith the county chairman of the political party to which such judge of election belongs. The county chairman shall forthwith recommend to the county clerk the name of some other qualified elector to act in the place of such person.

COMMENTS

Based on present 49-6-7.

Based on present 49-6-8.
Date for filing changed from "ten days after the date of receipt" to "twelve days after the mailing" of the form.
Provision for notifying the county chairman of an appointee's failure to accept (with a 48-hour extension for compliance) has been eliminated. Revision provides that failure to accept within 12 days constitutes a vacancy.

Based on part of present 49-6-6.

TEXT

(2) If any receiving judge of election shall not be present at the opening of the polls but shall appear at the polling place within thirty minutes from the opening thereof, he shall nevertheless be entitled to act as such judge and in such event the election judges shall make note of this fact in their official returns from their precinct. If a vacancy should occur upon the date of any general, primary, or special election by failure of any judge of election to appear at the polling place by 7:30 a.m., the vacancy shall be filled by vote of the registered electors residing within the precinct who may then be present at the polling place. In no event shall any person selected as a judge of election because of a vacancy on the day of any general, primary, or special election be permitted to act for a longer period than during the election.

SECTION 92. County chairman may request removal of election judge. The county chairman of the political party in whose behalf a judge of election was appointed may file a statement with the county clerk that, after investigation, he is of the opinion that his party is not faithfully or fairly represented by said judge. Upon the filing of said statement it shall be the duty of the county clerk to forthwith notify such judge of his removal and the cause thereof, and his successor shall be forthwith appointed as provided in section 91 (1) of this act.

SECTION 93. Appointment of clerks of election. (1) In each precinct in which voting machines are not used, each major political party shall be entitled to one clerk of election for each set of receiving judges and one clerk of election for each set of counting judges serving in the precinct at a primary, general or special election. Clerks shall be appointed by the judge or judges of the political party entitled thereto and shall serve at the pleasure of the judge or judges appointing them. Clerks of election, who shall be registered electors residing within the precinct, shall belong to the same political party as the judge or judges appointing them. Party affiliation shall be determined as shown on the registration books of the county clerk. The precinct residence requirement for clerks of election may be waived if necessary.

COMMENTS

Based on present 49-6-12
(1).

Based on present 49-6-29,
49-7-8, and part of 49-12-6.
Qualifications for clerks are
specified (the same as for
judges), and provision is made
that precinct residence
requirement may be waived.

TEXT

(2) In each precinct in which voting machines are used, two of the receiving judges of election, representing opposite political parties, shall perform the duties of clerks of election.

SECTION 94. Oath of judges and clerks. (1) Before any votes are taken at any general, primary, or special election, the judges and clerks of the election shall severally take an oath or affirmation in the following form: "I, _____, do solemnly swear (or affirm) that I am a citizen of the United States and the state of Colorado; that I am a qualified elector in precinct _____ in the county of _____; that I am a member of the _____ party as shown on the registration books of the county clerk; that I will perform the duties of judge (or clerk, as the case may be) according to law and the best of my ability; that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same; that I will not try to ascertain how any elector voted; nor will I disclose how any elector voted if, in the discharge of my duties as judge (or clerk, as the case may be) such knowledge shall come to me, unless called upon to disclose the same before some court of justice; and that I will not disclose the result of the votes until the polls have closed."

(2) If no judge, justice of the peace, or other person qualified by law to administer an oath is present at the opening of the election to administer the oath, it shall be lawful for the judges of the election, and they are hereby empowered, to administer the oaths or affirmations to each other and to the clerks of the election. The person administering such oaths or affirmations shall cause an entry thereof to be made and subscribed by him and prefixed to the poll books.

SECTION 95. Oath of watchers. Watchers must take an oath administered by one of the judges of election, who are hereby empowered to administer such oaths, that they will not in any manner make known to anyone the result of the votes as they are being counted until the polls have closed.

COMMENTS

Based on parts of present 49-6-9, 49-7-6, 49-7-9, and 49-7-10.

Based on part of present 49-7-6.

TEXT

SECTION 96. Compensation of judges and clerks. Judges and clerks of election shall be paid for their services as follows:

(1) At each primary, general and special election, in precincts where voting machines are not used and in which there are no counting judges, the judges and clerks shall each receive not less than ten dollars nor more than twenty dollars in full compensation for their services as such judge or clerk at such election, as shall be determined by the board of county commissioners.

(2) At each general election in precincts where voting machines are not used and wherein counting judges are authorized by law, the receiving judges and clerks shall each be paid the sum of not less than five dollars nor more than ten dollars for all services rendered, and the counting judges and clerks, the sum of not less than ten dollars nor more than twenty dollars each for all services, as shall be determined by the board of county commissioners.

(3) At each primary, general and special election, in precincts where voting machines are used, the judges of election shall each receive twenty dollars in full compensation for all services rendered at such election.

(4) The compensation of all judges and clerks shall be uniform throughout a particular county.

SECTION 97. Compensation for delivery of election returns and other election papers. (1) In precincts using paper ballots, the judges of election shall select two judges or two clerks or one judge and one clerk, of opposite political parties, to deliver the election returns, registration book, ballot boxes, and other election papers and supplies to the office of the county clerk. In precincts using voting machines, the judges of election shall select one of their number to deliver the election returns, registration book, and other election papers and supplies to the office of the county clerk.

COMMENTS

Based on present 49-7-11, 49-7-12, and part of 49-12-6. Because present provisions are unclear, the revision in no way includes "watchers" as possibly being compensated for their activities from public funds since their services are performed on behalf of a party or candidate and not for the general public.

Based on present 49-7-13 and part of 49-12-6. Compensation is to be set by county clerk with \$2.50 and \$4.00 maximums, whereas present law sets exact amount of compensation. Mileage compensation is also to be set by the county clerk with maximum of ten cents per mile for each mile in excess of ten miles. Revision specifically provides

TEXT

(2) The persons so selected to deliver the election returns and other election papers and supplies shall be paid for the performance of such service an amount to be set by the county clerk, but not to exceed two dollars and fifty cents per person in precincts which do not use voting machines or four dollars per person in precincts which use voting machines. In addition, if the distance from the polling place to the office of the county clerk is greater than five miles, the person providing the transportation shall be paid a mileage allowance, to be set by the county clerk but not to exceed ten cents per mile, for each mile necessarily traveled in excess of ten miles in going to and returning from the office of the county clerk. No mileage allowance shall be paid to judges and clerks serving in precincts located wholly or in part within a city and county or within the municipality which is the county seat of the county.

SECTION 98. Judges for new or changed precincts.

Within ten days after the boundaries of an existing election precinct are changed or a new precinct is created, the county clerk shall appoint judges of election for the new or changed precinct in the same manner as provided in section 91 (1) of this act for filling vacancies.

ARTICLE 7. CALL AND NOTICE

SECTION 99. Secretary of state to notify county clerk.

(1) The secretary of state, at least thirty days previous to any general election, shall make out and cause to be delivered, or transmitted by registered letter, to the county clerk of each county a notice in writing specifying the national, state and district officers to be elected at the general election. When members of the general assembly are to be elected, it shall specify the number of the district and the names of the members whose terms of office will expire. The notice shall include the name and party or other designation of each candidate for whom a petition or certificate of nomination has been filed with the secretary

COMMENTS

that mileage is to be paid only to the person providing the transportation.

Based on part of present 49-6-25 (1).

Based on present 49-2-1 and 49-2-2. Revision specifies that the name and party of each candidate must be included in the notice.

TEXT

of state and the name and party of each candidate nominated at the primary election for a national, state, or district office.

(2) Whenever there is a vacancy to an unexpired term in any national, state or district office which is by law to be filled at any general or special election, the secretary of state, at least thirty days previous to said election, shall give notice in writing as provided in subsection (1) of this section. The notice shall specify the office in which the vacancy exists; the cause of such vacancy; the name of the officer in whose office it has occurred; and the time when his term of office will expire.

SECTION 100. County clerk to give notice. (1) The county clerk, at least ten days before each general or special election, shall give notice in writing of the election, stating the date of the election and the hours during which the polls will be open; stating that the election will be held in the lawful polling places designated in each precinct; naming the officers to be elected; and giving the name and party or other designation of each candidate whose nomination to office has been certified to him, which shall be as far as possible in the form in which such nominations shall appear upon the official ballot. A copy of such notice shall be posted at the polling place.

(2) In addition, the notice shall be published in two newspapers having general circulation in the county. One of the publications shall be made in a newspaper which advocates the principles of one major political party and the other of such publications shall be made in a newspaper which advocates the principles of the other major political party. The county clerk, in selecting the respective papers for such publication, shall select those which, according to the best information he can obtain, have the largest circulation within the county. For the purpose of ascertaining which paper has the largest circulation within the county, the county clerk may require a sworn certificate showing the number of bona fide subscribers to each newspaper. Should the county clerk find it impracticable to make the

COMMENTS

Based on present 49-2-3 and part of 49-5-9. The ten-day requirement on the notice by the county clerk has been added to conform to the provision on primaries (present 49-4-8). Present 49-5-9 provides for publication of notice in not less than two nor more than four newspapers published within the county. Revision changes this provision to two newspapers of general circulation in the county. The newspaper notice would include all information given in the notice required to be posted (not just a list of nominations). Publication would be at least ten, rather than six, days before the election.

TEXT

publication ten days before the election day, he shall make the same at the earliest possible day thereafter. The publications in any weekly newspapers shall be in the last issue thereof before the day of election, In counties where it is impracticable to make such publications in newspapers advocating opposite political principles, such publication shall be made in the newspaper having the largest circulation. In no even shall such publication be made in two newspapers advocating the principles of the same political party.

SECTION 101. Publication of proposed constitutional amendments and initiated and referred bills. Proposed constitutional amendments and proposed initiated and referred bills shall be certified by the secretary of state to the county clerks at least thirty days before the election and shall be published in two issues of two newspapers of opposite political parties, to be selected in accordance with subsection (2) of section 100 of this act, in each county in the state. This publication shall be made at least one week apart and not less than three nor more than five weeks before the election at which the said amendments or initiated or referred bills are to be voted upon.

ARTICLE 8. PREPARATION FOR ELECTIONS--POLLING PLACES, REGISTRATION BOOKS, BALLOTS AND BALLOT BOXES

SECTION 102. Establishing precincts and polling places.
(1) The boards of county commissioners of the several counties shall divide their respective counties into as many election precincts for all general, primary, and special elections as they may deem expedient for the convenience of electors of the county, and shall designate the place in each precinct at which elections are to be held. The precincts shall be numbered consecutively, beginning with number one in each district or county, at least once before each general election. The precincts and places of holding elections thus established shall so remain until consolidated, divided or otherwise changed by the board of county commissioners.

COMMENTS

Based on present 49-2-4 and Article XXIII, Section 1, Colorado Constitution. Revision follows constitutional language more closely than present provision. Date of certification by secretary of state is moved from 15 to 30 days before election.

Based on present 49-8-1, part of 49-6-5, and part of 49-12-5. Present 49-8-1 provides that the number of registered electors at the last general election shall govern; present 49-12-5 provides that the number of precincts shall be according to the number of registered electors 165 days before the general election. The revision does not specify the time for

TEXT

(a) In counties which use paper ballots, the commissioners shall establish at least one precinct for every five hundred registered electors.

(b) In counties which use voting machines, the commissioners shall establish at least one precinct for every one thousand registered electors.

(2) Changes in the boundaries of precincts or the creation of new precincts shall be completed not less than five months prior to any general election.

(3) It shall be the duty of the county commissioners to change any polling place upon a petition of a majority of the electors residing within said precinct.

SECTION 103. Judges may change polling place. (1) Whenever it shall become impossible or inconvenient to hold an election at the place designated therefor, the judges of election, after having assembled at or as near as practicable to such place, and before receiving any vote, may move to the nearest convenient place for holding the election, and at such newly designated place forthwith proceed with the election.

(2) Upon moving to a new polling place the judges shall display a proclamation of the change and shall station a constable or some other proper person at the original polling place to notify all electors of the new location for holding the election.

SECTION 104. Number of voting booths or voting machines. (1) At general, primary and special elections, in counties which use paper ballots, the board of county commissioners shall provide in each polling place at least one voting booth for every fifty registered electors, as computed by the total number of registrations in the registration book for such precinct at the close of the last day for registration before the election. Each voting booth shall be situated so as to permit voters to prepare their ballots screened from

COMMENTS

counting registered electors for this purpose other than to continue the five-month deadline for changing boundaries. Revision removes five-month deadline on changing polling places. Requirement is added that precinct numbering take place at least once before each general election.

Based on present 49-8-2 and 49-8-3.

Based on part of 49-8-5 and part of present 49-12-5. Present 49-8-5 requires at least one voting booth for every 50 voters who voted at the "last election in the district." Revision provides that there shall be at least one booth for every 50 "registered" electors. Also,

TEXT

observation and shall be furnished with such supplies and conveniences as will enable the voter to prepare his ballot for voting.

(2) (a) At primary and special elections in all counties which use voting machines, and at general elections in all counties of less than three hundred thousand population in which voting machines are used, the county clerk shall supply each precinct with a sufficient number of voting machines.

(b) At general elections in counties of three hundred thousand population and over, in which voting machines are used, the county clerk shall supply each precinct with one voting machine for each two hundred and fifty registered electors or fraction thereof, as computed by the total number of registrations in the registration book for such precinct at the close of the last day for registration before the election.

SECTION 105. Arrangement of voting machines or voting booths and ballot boxes. The voting machines or the voting booths and ballot box shall be situated in the polling place so as to be in plain view of the election officials and watchers. No person other than the election officials and those admitted for the purpose of voting shall be permitted within the immediate voting area, which shall be considered as within six feet of the voting machines or the voting booths and ballot box, except by authority of the judges of election, and then only when necessary to keep order and enforce the law.

COMMENTS

all references to "guard rails" have been deleted.

Subsection (2) (a) is a new provision added for clarification. The present law (49-12-5 (1)) covers only the situation provided in subsection (2) (b).

Based on part of present 49-8-5. Voting machines have been added to this section. Revision would prohibit watchers from approaching within six feet of the voting booths, ballot box, or voting machines. Present law permits watchers within the guard rail. References to "guard rail" are omitted in the revision but the "immediate voting area" is defined as "within six feet of the voting machines or voting booths and ballot box." Detailed requirements for construction of voting booths have been deleted.

TEXT

SECTION 106. Original registration book to be used at the polls. (1) The original registration book shall be used by the election judges at their respective polling places in complying with the provisions of this act. No copy thereof shall be used for such purpose unless the original has been lost, destroyed, or stolen.

(2) Prior to the delivery of the registration books to the judges of election for use on the day of a primary, general, or special election, the county clerk shall attach to each of the registration books his certificate stating that such book contains the registration sheets of all registered electors residing in the precinct except those who have applied for absentee ballots, and stating the total number of registration sheets contained therein.

(3) (a) In all precincts other than precincts located wholly or in part within the boundaries of municipalities which are the county seats of their respective counties, the county clerk, at least one day prior to any primary, general or special election, as the case may be, shall cause the registration book to be delivered in a sealed envelope or container to the minority judge of election, who shall have custody thereof and shall give his receipt therefor.

(b) In precincts located wholly or in part within the boundaries of municipalities which are the county seats of their respective counties, two of the judges of election, one of whom shall be the minority judge, one day prior to any primary, general or special election shall call in person at the office of the county clerk for the purpose of receiving the registration book. The registration book shall be delivered in a sealed envelope or container to the minority judge, who shall have custody thereof and shall give his receipt therefor.

COMMENTS

Based on part of present
49-6-24.

TEXT

(4) The minority judge of election, after the closing of the polls on the day of any primary, general or special election, shall seal the registration book and deliver it to the election officials selected to deliver the ballot boxes, election returns, and registration book as provided in section 97 of this act.

SECTION 107. Ballot boxes for non-machine voting. The board of county commissioners of each county using paper ballots shall provide one ballot box for each set of receiving judges and one ballot box for each set of counting judges at each place of voting. Each of said ballot boxes shall be circular in form, with a small opening at the top thereof, and enclosed in a square wooden frame with a lid to be locked. The ballot boxes and keys shall be kept by the county clerk and delivered to the receiving judges of election within four days immediately preceding any general, primary, or special election, to be returned as provided in section 131 of this act.

SECTION 108. Ballots for general and special elections. (1) The method of voting at general and special elections may be either by paper ballots as provided in this article or by voting machine as provided in article 12 of this act.

(2) The county clerk of each county using paper ballots shall provide printed ballots for every general or special election. The official ballots shall be printed and in the possession of the county clerk at least twenty days before the election. In addition, sample ballots shall be printed and in the possession of the county clerk twenty days before the election and shall be subject to public inspection. The sample ballots shall be printed in the form of the official ballots but upon paper of a different color from the official ballots. Sample ballots shall be delivered to the receiving judges of election and posted with the cards of instruction provided in section 114 of this act.

COMMENTS

Based on present 49-7-3 and 49-8-4. Requirement for glass ballot boxes has been deleted as has been the requirement for three keys. Under the revision, the ballot boxes must be delivered within four days rather than three as at present.

Based on present 49-9-5 and part of present 49-9-1. Deadline is changed on printing sample and official ballots from 30 to 20 days. Order of positions on the ballot have been specified (same as in the primary election provision). Some of the detailed printing requirements have been deleted.

TEXT

(3) Every ballot shall contain the names of all candidates for offices to be voted for at that election whose nominations have been duly made and accepted as provided in article 5 of this act, except those who have died or withdrawn, and the ballot shall contain no other names; provided, however, when presidential electors are to be elected their names shall not be printed upon the ballot, but in lieu thereof the names of the candidates of their respective political parties or political organizations for president and vice-president of the United States shall be printed together in pairs under the title "Presidential Electors." Such pairs shall be arranged in alphabetical order of the names of the candidates for president in the manner provided for in section 109 of this act. A vote for any such pair of candidates shall be a vote for the duly nominated presidential electors of the political party or political organization by which such candidates for president and vice-president of the United States were named.

(4) The name of each person nominated shall be printed upon the ballot in but one place. Opposite the name of each person nominated, including candidates for president and vice-president, shall be the name of the political party or political organization which nominated the candidate, expressed in not more than three words. The county clerk shall not print in connection with any name any title or degree designating the business or profession of the candidate. The names of the candidates for each office shall be arranged under the designation of the office, according to the surnames as provided in section 109 of this act.

(5) The positions on the ballot shall be arranged as provided in section 109 of this act and as follows: First, candidates for president and vice-president of the United States; next, candidates for United States senator; next, congressional candidates; next, state candidates; next, legislative candidates; next, other candidates for districts greater than a county; next, county candidates; next, justice precinct candidates. When other offices are to be filled, the county clerk in preparing the ballot shall use

COMMENTS

TEXT

substantially the form prescribed by this section, stating the proper designation of the office and placing the names of the candidates therefor under the same.

(6) The ballots shall be so printed as to give to each voter a clear opportunity to designate his choice of candidates by a cross mark (X) in the square at the right of the name. On the ballot may be printed such words as will aid the voter, such as "vote for not more than one."

(7) At the end of the list of candidates for each different office shall be as many blank spaces as there are persons to be elected to such office, in which the elector may write the name of any eligible person not printed on the ballot for whom he desires to vote as a candidate for such office.

(8) Whenever the approval of a constitutional amendment or other question is submitted to the vote of the people, such question shall be printed upon the ballot after the lists of candidates. The ballots shall be so printed as to give to each voter a clear opportunity to designate his answer by a cross mark (X) in a sufficient margin at the right of the question.

(9) The extreme top part of each ballot shall be divided by two perforated lines into two spaces, each of which shall be not less than an inch in width, the top portion being known as the stub, and the next portion as the duplicate stub. Upon each of said stubs nothing shall be printed except the number of the ballot, and the same number shall be printed upon both stubs. Stubs and duplicate stubs of ballots shall both be numbered consecutively. All ballots shall be uniform and of sufficient length and width to allow for the names of candidates and officers to be printed in clear, plain type, as herein required, with a space of at least one-half inch between the different columns on said ballot. On the back of each ballot shall be printed the endorsement, "Official ballot for _____," and after the word "for" shall follow the designation of the

COMMENTS

TEXT

precinct and county for which the ballot is prepared, the date of the election, and a facsimile of the signature of the county clerk who has caused the ballot to be printed. The ballot shall contain no caption or other endorsement, except as provided in this section. Each county clerk shall use precisely the same quality and tint of paper, the same kind of type, and the same quality and tint of plain black ink for all ballots furnished by him at one election. Whenever candidates are to be voted for only by the voters of a particular district, county or other political subdivision, the names of such candidates shall not be printed on any other ballot than those provided for use in such district, county, or political subdivision. The ballots shall be of such form that when folded the whole endorsement shall be visible and the contents of the ballot shall not be exposed.

SECTION 109. Arrangement of names on ballots for non-machine voting in general or special elections. In all general or special elections in precincts using paper ballots, the names of all candidates who have been duly nominated for each office shall be arranged on the ballot under the designation of the office in two groups. The names of the candidates of the two major political parties shall be listed in alphabetical order and shall comprise the first group. The names of the candidates of the remaining political parties or political organizations shall be listed in alphabetical order and shall comprise the second group.

SECTION 110. Single cross mark for party slate not permitted. Each office in every election shall be voted upon separately, and no emblem, device or political party designation shall be used on the official ballot at any election by which a voter may vote for more than one office by placing a single cross mark on the ballot or by writing therein the name of any political party or political organization.

SECTION 111. Ballots changed if candidate dies. If any person designated or nominated as provided in article 5 of this act dies before the day fixed by law for

COMMENTS

Based on part of present 49-9-3 (1).

Based on part of present 49-9-3.

Based on present 49-4-40 which applies only up to 25 days prior to election.

TEXT

the primary, general or special election, as the case may be, and the fact of his death becomes known to the secretary of state or county clerk in whose office the petition or certificate designating or nominating such person was filed, the name of the deceased candidate shall not be printed upon the ballots for the election, and, if already printed, if possible, shall be erased or cancelled before the ballots are delivered to the electors.

SECTION 112. Printing and distribution of ballots. In counties using paper ballots the county clerk shall cause to be printed and distributed to the election judges in the respective precincts a sufficient number of ballots. The ballots shall be sent in two sealed packages for each precinct with marks on the outside of each clearly stating the precinct and polling place for which it is intended, together with the number of ballots enclosed. Each of such packages shall contain one-half of the number of ballots intended for such precinct. Such packages shall be delivered between the close of business on Friday preceding election day and the Monday noon before election day, one to each of two receiving judges of election in each precinct representing opposite major political parties. Receipts for ballots thus delivered shall be given by the election judges who receive them. The receipts shall be filed with the county clerk, who shall also keep a record of the time when and the manner in which each of said packages was sent and delivered. The election judges receiving such packages shall produce the same, with the seals unbroken, in the proper polling place at the opening of the polls on election day, and in the presence of all receiving judges shall open said packages.

SECTION 113. Substitute ballots. If the ballots to be furnished to any election judges shall not be delivered at the time mentioned in section 112 of this act, or if after delivery they shall be destroyed or stolen, it shall be the duty of the county clerk to cause other ballots to be prepared, as nearly in the form prescribed as practicable, with the word "substitute" printed in brackets immediately

COMMENTS

Based on present 49-9-6 and 49-9-7. The number of ballots to be printed under the revision is left to the discretion of the county clerk. The time for beginning the delivery of ballots is moved from Saturday noon to "the close of business on Friday."

Based on present 49-9-8.

TEXT

under the facsimile signature of the county clerk. Upon receipt of ballots thus prepared from the county clerk, accompanied by a statement under oath that the same have been so prepared and furnished by him, and that the original ballots have so failed to be received, or have been destroyed or stolen, the election judges shall cause the ballots so substituted to be used at the election. If from any cause none of the official ballots nor substitute ballots prepared by the county clerk shall be ready for distribution at any polling place, or if the supply of ballots shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as possible in the form of the official ballots, may be used until substitutes prepared by the county clerk can be printed and delivered.

SECTION 114. Cards of instruction. The county clerk of each county shall furnish to the judges of election a sufficient number of instruction cards for the guidance of voters in preparing their ballots. The election judges shall post at least one of such cards in each polling place upon the day of the election. Such cards shall be printed in large, clear type, and shall contain full instructions to the voters as to what should be done:

- (1) To obtain ballots for voting;
- (2) To prepare the ballots for deposit in the ballot box;
- (3) To obtain a new ballot in the place of one spoiled by accident or mistake;
- (4) To obtain assistance in marking ballots.

SECTION 115. Election expenses to be paid by county. The cost of conducting general, primary and special elections, including the cost of printing and supplies, shall be a county charge, the payment of which shall be provided for in the same manner as the payment of other county expenses.

COMMENTS

Based on present 49-8-6. The specific requirement for supplying 12 instruction cards to each precinct has been omitted. Also, the requirement for printing cards in languages other than English has not been continued. Instead of requiring posting of one card in each voting booth and not less than three in or about the polling place, the revision specifies that at least one of such cards shall be posted in each polling place.

Based on present 49-9-9.

TEXT

ARTICLE 9. CONDUCT OF ELECTIONS

SECTION 116. Hours of voting. (1) At all general, primary, and special elections the polls shall be opened at seven a.m. and remain open until seven p.m. of the same day. If a full set of receiving judges of election shall not attend at the hour of seven a.m., and it shall be necessary for the electors present to appoint judges to conduct the election as provided by section 91 (2) of this act, the election may commence whenever a full set of judges is present, at any hour before the time for closing the polls, as the case may require. The polls at any election shall not be closed after once being opened until they are finally closed in the evening. If at the hour of closing there are electors at the polling place desiring to vote and who are qualified to vote, and who have not been able to do so since appearing at the polling place, the polls shall be kept open long enough after the hour of closing to allow those so present at that hour to vote. No one not present at the hour of closing shall be entitled to vote because the polls may not actually be closed when he arrives.

(2) Upon the opening of the polls, proclamation shall be made by one of the clerks that the polls are open, and thirty minutes before the closing of the polls proclamation shall be made in like manner that the polls will close in thirty minutes.

SECTION 117. Employee entitled to vote. (1) Any registered elector entitled to vote at a general election shall be entitled to absent himself for the purpose of voting from any service or employment in which he is then engaged or employed on the day of such election for a period of two hours between the time of opening and the time of closing the polls. Any such absence shall not be sufficient reason for the discharge of any such person from such service or employment. Such elector, because of so absenting himself, shall not be liable to any penalty, nor shall any deduction be made from his usual salary or wages on account of such absence. Electors who are employed and paid by the hour

COMMENTS

Based on present 49-10-1, 49-10-2, and 49-4-20.

Based on present 49-10-3, excluding last paragraph which is contained in section 238 (1) (b) in the revision.

TEXT

shall receive their regular hourly wage for the period of such absence not to exceed two hours. Application shall be made for such leave of absence prior to the day of election. The employer may specify the hours during which such employee may absent himself, but such hours shall be at the beginning or ending of the work shift if the employee so requests.

(2) This section shall not apply to any person whose hours of employment on the day of the election are such that there are three or more hours between the time of opening and the time of closing of the polls during which he is not employed on the job.

SECTION 118. Judges open ballot box first. In precincts which use paper ballots, it shall be the duty of the receiving judges of election, immediately before proclamation is made of the opening of the polls, to open the ballot box in the presence of the people there assembled and to turn it upside down so as to empty it of everything that may be in it, and then to lock it securely. It shall not be reopened until the time for counting the ballots therein.

SECTION 119. Clerks to keep poll books. Each clerk of election shall keep a poll book which shall contain one column headed, "Names of voters," and one column headed, "Number on ballot." The name and the number on the ballot of each elector voting shall be entered in regular succession under the headings in the poll book.

SECTION 120. Preparing to vote. (1) Any registered elector desiring to vote shall give his name and, if requested so to do, his residence to one of the receiving judges of election, who shall thereupon announce the same in a loud and distinct tone of voice, clear and audible. If the name is found in the registration book by the election judge or clerk having charge thereof, he shall likewise repeat the name, and the elector shall be allowed to enter the immediate voting area. Besides the election officials

COMMENTS

Based on present 49-10-4.

Based on present 49-10-7.

Based on part of present 49-10-8. In line with the comments under section 105 previously herein, watchers would not be permitted within the immediate voting area and reference to "guard rail" is omitted in the revision.

TEXT

not more than four voters in excess of the number of voting booths or voting machines shall be allowed within the immediate voting area at one time.

(2) In precincts using paper ballots, an election judge or clerk shall give to the elector one, and only one, ballot, which shall be removed from the package of ballots by tearing the same along the perforated line between the stub and duplicate stub. Before delivering such ballot to the elector, the judge or clerk of election having charge of the ballots shall endorse his initials on the duplicate stub, and the judge or clerk shall enter the date and the number of said ballot in the registration book opposite the name of the voter.

SECTION 121. Manner of voting in precincts which use paper ballots. (1) In precincts which use paper ballots, on receiving his ballot the voter shall immediately retire alone to one of the voting booths provided, and shall prepare his ballot by marking or stamping in ink or indelible pencil, in the appropriate margin or place, a cross (X) opposite the name of the candidate of his choice for each office to be filled; and in case of a question submitted to a vote of the people, by marking or stamping in the appropriate margin or place, a cross (X) opposite the answer which he desires to give. Before leaving the voting booth the voter shall fold his ballot without displaying the marks thereon, in the same way it was folded when received by him, so that the contents of the ballot shall be concealed and the stub can be removed without exposing any of the contents of the ballot, and he shall keep the same so folded until he has deposited his ballot in the ballot box.

(2) Each voter who has prepared his ballot and is ready to vote shall then leave the voting booth and approach the judges of election having charge of the ballot box. He shall give his name to one of the judges of election, who shall announce it in a loud and distinct tone of voice, clear and audible. The voter's ballot shall be handed to the judge in charge of the ballot box, who shall announce the

COMMENTS

Based on present 49-10-15.
Revision would permit use of
indelible pencil as well as
ink.

TEXT

name of such voter and the number upon the duplicate stub of his ballot, which number must correspond with the stub number previously placed on the registration book. If the stub number of the ballot corresponds and is identified by the initials of the judge or clerk placed thereupon, the judge or clerk shall then remove the duplicate stub from such ballot. The judge or clerk shall immediately thereafter write the name of such voter and the number of the ballot upon the poll book, and such ballot shall then be returned by said judge or clerk to the voter who shall thereupon, in full view of the judges of election, deposit the same in the ballot box, with the official endorsement on said ballot uppermost.

(3) Each voter shall mark and deposit his ballot without undue delay, and shall leave the immediate voting area as soon as he has voted. No voter shall be allowed to occupy a voting booth already occupied by another, nor to remain within the immediate voting area more than ten minutes, nor to occupy a voting booth for more than five minutes if all such booths are in use and other voters are waiting to occupy the same. No voter whose name has been entered on the poll book shall be allowed to re-enter the immediate voting area during the election, except a judge or clerk of election.

SECTION 122. Disabled voter--assistance. (1) If at any primary, general, or special election any registered elector shall declare under oath to the judges of election that, by reason of blindness or other physical disability, he is unable to prepare his ballot or operate the voting machine without assistance, then he shall be entitled upon his request to receive the assistance of any one of the election judges or clerks or at his option of any elector of the precinct to be selected by the disabled voter. No person other than a judge of election in the precinct shall be permitted to enter the voting booth or voting machine as an assistant to more than one voter. No person assisting a disabled voter shall seek to persuade or induce any such voter to vote in any particular manner.

COMMENTS

Based on part of present
49-10-17 and part of present
49-12-7.

TEXT

(2) A notation shall be made in the poll books opposite the name of each voter thus assisted, stating that the voter has been assisted.

SECTION 123. Spoiled ballots. In precincts which use paper ballots, no person shall remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot, he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The spoiled ballots thus returned shall be immediately canceled and shall be preserved and returned to the county clerk as provided in section 131 of this act.

SECTION 124. Watchers at general and special elections. Each political party participating in a general or special election shall be entitled to have a watcher in each precinct polling place in the county. The chairman of the county central committee of each political party shall certify the names of the persons selected as watchers to the county clerk who shall in turn certify the names to the judges of election in the respective precincts.

SECTION 125. Counting by counting judges. (1) In precincts having counting judges, at 8:00 a.m. or as soon thereafter as the counting judges may apply for the same, the receiving judges shall deliver to the counting judges the ballot box containing all ballots that have been cast up to that time, and the receiving judges shall then proceed to use the other ballot box furnished for that purpose. The receiving judges shall open, empty, and lock the alternate ballot box in the manner prescribed in section 118 of this act.

(2) Whenever the counting judges have counted the votes in a ballot box, they shall return the empty ballot box to the receiving judges and exchange it for the box containing ballots cast since taking possession of the first ballot box. They shall continue to exchange ballot boxes in the same manner during the day until the polls are closed and shall continue counting until all ballots have been counted.

COMMENTS

Based on part of present
49-10-19.

Based on part of present
49-10-8.

Based on part of present
49-7-4, 49-7-5, and 49-7-7.

TEXT

(3) Whenever an exchange of ballot boxes is made as described in subsection (1) of this section, the receiving judges shall furnish to the counting judges a statement signed by the receiving judges showing the number of ballots that are to be found in each ballot box as indicated by the poll books. The counting judges shall first count the number of ballots in each box. If the ballots shall be found to exceed the number entered on each of the poll books as shown by said statement of the receiving judges, the counting judges shall then examine the official endorsements upon the outside of the ballots without opening the same, and if, in the unanimous opinion of the judges, any one or more of the ballots in excess of the number on the poll book be deemed not to bear the proper official endorsement they shall be kept separate and a separate record and return of the votes in such ballots shall be made under the head of "excess ballots." The counting judges shall then proceed to count in the manner prescribed in section 127 of this act.

(4) The county commissioners may provide a separate room or building for the counting judges, but whenever ballot boxes are moved from one room or building to another they shall be under the constant observation of at least one of said counting judges.

SECTION 126. Counting by receiving judges. In precincts which use paper ballots but which do not have counting judges, as soon as the polls at any election shall have finally closed, the receiving judges shall immediately open the ballot box and proceed to count the votes polled, and the counting thereof shall be continued until finished before the judges and clerks shall adjourn. They shall first count the number of ballots in the box. If the ballots shall be found to exceed the number of names entered on each of the poll books, the judges of election shall then examine the official endorsements upon the outside of the ballots without opening the same, and if, in the unanimous opinion of the judges, any of the ballots in excess of the number

COMMENTS

Based on present 49-10-20.

TEXT

on the poll books be deemed not to bear the proper official endorsement, they shall be put into a separate pile by themselves, and a separate record and return of the votes in such ballots shall be made under the head of "excess ballots." When the ballots and the poll books agree, the board shall proceed to count the votes. The receiving judges shall then proceed to count in the manner prescribed in section 127 of this act.

SECTION 127. Method of counting paper ballots. (1) In precincts which use paper ballots, each ballot shall be read and counted separately. Every name separately marked as voted for on such ballot, where there is no conflict to obscure the intention of the voter, shall be read and marked upon the tally list before any other ballot is proceeded with. The entire number of ballots, excepting "excess ballots," shall be read and counted and placed upon the tally lists in like manner. When all of the ballots, excepting "excess ballots," have been counted, the judges shall estimate and publish the votes.

(2) When all the votes have been read and counted, the ballots, together with one of the tally lists, shall be returned to the ballot box and the opening shall be carefully sealed, and each of the judges shall place his initials on said seal. The cover shall then be locked and the ballot box delivered to the county clerk as provided in section 131 of this act.

(3) All persons except judges, clerks and watchers shall be excluded from the place where the counting is being carried on until the count has been completed.

SECTION 128. Clerks to keep tally sheets. As the judges of election shall open and read the ballots, each clerk, upon tally sheets furnished by the county clerk for that purpose, shall carefully mark down the votes each of the candidates shall have received. In precincts which use paper ballots, the names of candidates shall be placed on the tally sheets in the order in which they appear on the

COMMENTS

Based on parts of present 49-10-20, 49-7-6, and 49-10-24. Much of the detail regarding custody of keys has been omitted. Under the revision (section 131), keys are to be returned to the county clerk with the ballot boxes.

Based on present 49-10-21 and 49-4-22. The present provision (49-4-22) that the names of candidates shall be placed on tally sheets in the same order as on the ballot has been restricted to precincts

TEXT

official ballots. In precincts which use voting machines, the secretary of state shall prescribe the form of the tally sheets to be used.

SECTION 129. Defective ballots. If a voter marks in ink or indelible pencil more names than there are persons to be elected to an office, or if for any reason it is impossible to determine the choice of any voter for any office to be filled, his ballot shall not be counted for such office. A defective or an incomplete cross marked on any ballot in ink or indelible pencil in a proper place shall be counted if there be no other mark or cross in ink on such ballot indicating an intention to vote for some person other than those indicated by the first mentioned defective cross or mark. No ballot without the official endorsement, except as provided in section 113 of this act, shall be allowed to be deposited in the ballot box, and none but ballots provided in accordance with the provisions of this act shall be counted. Whenever the judges of election discover in counting the votes that the name of any candidate voted for be misspelled, or the initial letters of his given name be transposed or omitted in part or altogether on the ballot, the vote for such candidate shall be counted for him if the intention of the elector to vote for him be apparent. Ballots not counted shall be marked "defective" on the back thereof and shall be preserved by the county clerk until six months after the election at which such ballots were cast or until the time has expired for which the ballots would be needed in any contest proceedings, when the ballots shall be destroyed by fire in the presence of the members of the county board of canvassers.

SECTION 130. Judges' certificate and statement. (1) As soon as all the votes shall have been read and counted, the counting judges, or the receiving judges in precincts which do not have counting judges, shall make a certificate, attested by the clerks, stating the name of each candidate, designating the office for which such person received votes,

COMMENTS

using paper ballots. Where voting machines are used, the form of the tally sheets would be prescribed by the secretary of state.

Based on present 49-10-22 and parts of 49-4-15 and 49-13-14. Time for preservation of defective ballots has been changed from "until the next general election" to until six months after the election or until the time has expired for which the ballots would be needed in contest proceedings. Responsibility for destruction of ballots by fire is changed from the county clerk to the county board of canvassers, which would then conform to provision for preserving all ballots (present 49-9-10 and section 133 herein).

Based on parts of present 49-10-24 and 49-10-19.

TEXT

COMMENTS

and stating the number of votes he received, the number being expressed in words at full length and in numerical figures, such entry to be made as nearly as circumstances will admit, in the following form:

At any election held at _____, in precinct _____, in the county of _____ and state of Colorado, on the _____ day of _____ in the year _____, the following named persons received the number of votes annexed to their respective names for the following described offices: total number of ballots or votes cast were _____. A.B. had seventy-two (72) votes for governor; C.D. had seventy-one (71) votes for governor; E.F. had seventy-two (72) votes for lieutenant-governor; G.H. had sixty-nine (69) votes for lieutenant-governor; J.K. had sixty-eight (68) votes for representative in congress; L.M. had seventy (70) votes for representative in congress; N.O. had seventy-two (72) votes for state representative; P.Q. had seventy-one (71) votes for state representative; R.S. had eighty-four (84) votes for sheriff; T.W. had sixty (60) votes for sheriff; and the same manner for any other persons voted for.

Attest:

Certified by us:

G.H.	} Clerks of Election	A.B.	} Judges of Election
I.J.		C.D.	
		E.F.	

(2) In addition, the receiving judges of election shall make a statement in writing showing the number of ballots voted, making a separate statement of the number of unofficial and substitute ballots voted, the number of ballots delivered to voters, the number of spoiled ballots, the number of ballots not delivered to voters and the number of ballots returned, identifying and specifying the same. All unused ballots, spoiled ballots and stubs of ballots voted shall be returned with such statement.

TEXT

SECTION 131. Delivery of election returns, ballot boxes, and other election papers. When all the votes have been read and counted, the election officials selected in accordance with section 97 of this act shall deliver to the county clerk the certificate and statement required by section 130 of this act, the ballot boxes and all keys thereto, the registration book, poll books, tally sheets, spoiled ballots, unused ballots, ballot stubs, oaths, affidavits and other election papers and supplies. Such delivery shall be made at once and with all convenient speed, and informality in such delivery shall not invalidate the vote of any precinct when delivery shall have been made previous to the completion of the official abstract of the votes by the county board of canvassers. The county clerk shall give his receipt for all such papers so delivered.

SECTION 132. Judges to post returns. In addition to all certificates otherwise required to be made of the count of votes polled at any election, the judges of election shall make an abstract of the count of votes, which abstract shall contain the names of the offices, names of the candidates, ballot titles and submission clauses of all initiated, referred or other measures voted upon, and the number of votes counted for or against each candidate or measure. The abstract shall be posted in a conspicuous place upon the outside of the polling place immediately upon completion of the count. The abstract may be removed at any time after forty-eight hours following the election. Suitable blanks for the abstract required above shall be prepared, printed and furnished to all judges of election at the same time and in the same manner as other election supplies are furnished.

SECTION 133. Ballots preserved. The ballots, when not required to be taken from the ballot box for the purpose of election contests, shall remain in the ballot box in the custody of the county clerk until six months after the election at which such ballots were cast, or until the time has expired for which the ballots would be needed in any contest proceedings, at which time the ballot box shall be opened by the county clerk in the presence of the members

COMMENTS

Based on part of present 49-10-24 and various other sections in the present law consolidated into this one section.

Based on first part of present 49-10-25. Revision includes authorization for removal of abstract any time after 48 hours following the election.

Based on present 49-9-10.

TEXT

of the county board of canvassers and the ballots destroyed by fire. If the ballot boxes be needed for a special election before the legal time for commencing any proceedings in the way of contests shall have elapsed, or in case such county clerk, at the time of holding such special election, shall have knowledge of the pendency of any contest in which the ballots would be needed, the county clerk shall preserve the ballots in some secure manner and provide for their being so kept that no one can ascertain how any elector may have voted.

ARTICLE 10. CHALLENGE

SECTION 134. No voting unless registered. No person shall be permitted to vote at any general, primary or special election unless his name is found in the registration book; provided, however, any person who has been denied the right to vote because his name does not appear in the registration book shall, upon presentation of a registration receipt from the county clerk, be permitted to take the oath prescribed in section 138 of this act.

SECTION 135. Right to vote may be challenged. (1) When any person whose name appears in the registration book or who has presented a registration receipt shall make application for a ballot, his right to vote at that poll and election may be challenged. If the person so applying is not entitled to vote, no ballot shall be delivered to him. Any person may also be challenged when he shall offer his ballot for deposit in the ballot box.

(2) It shall be the duty of any judge of election to challenge any person offering to vote whom he shall believe not to be a qualified registered elector. In addition, challenges may be made by clerks, watchers, or any elector of the precinct.

COMMENTS

Based on present 49-10-5. The proviso for presenting a registration receipt in order to take the oath is new.

Based on part of present 49-10-8 and 49-10-14. Specific reference to "challengers" as such has been omitted.

TEXT

SECTION 136. Challenge to be made by written oath. Each challenge shall be made by written oath, signed by the challenger under penalty of perjury, setting forth the name of the person challenged and the basis for the challenge. The judges of election shall deliver all challenges and oaths to the county clerk at the time the poll books and other election papers are returned. The county clerk shall forthwith deliver all challenges and oaths to the district attorney for investigation and appropriate action.

SECTION 137. Challenge questions asked voter. If a person offering to vote be challenged as unqualified, one of the judges shall tender to him the following oath or affirmation: You do solemnly swear or affirm that you will fully and truly answer all such questions as shall be put to you concerning your place of residence and qualifications as a registered elector at this election.

(1) If the person be challenged as unqualified on the ground that he is not a citizen, the judges, or one of them, shall put the following questions:

(a) Are you a citizen of the United States?

(b) Are you a native or naturalized citizen?

(c) Have you become a citizen of the United States by reason of the naturalization of your parents, or one of them?

(d) Where were your parents, or one of them, naturalized? If the person offering the vote claims to be a naturalized citizen of the United States, he shall state, under oath, where and in what courts he was naturalized.

(2) If the person be challenged as unqualified on the ground that he has not resided in this state for one year immediately preceding the election, the judges, or one of them, shall put the following questions:

COMMENTS

This a new provision placing more responsibility on the person making the challenge in order to avoid capricious challenges and to encourage challenges for which there is good cause.

Based on present 49-10-9. Authority to ask other questions in addition to those listed has been omitted.

TEXT

(a) Have you resided in this state for one year immediately preceding this election?

(b) Have you been absent from this state within one year immediately preceding this election, and during that time have you retained a home or domicile elsewhere?

(c) If so, when you left, was it for a temporary purpose, with the design of returning, or did you intend remaining away?

(d) Did you, while absent, look upon and regard this state as your home?

(e) Did you, while absent, vote in any state or territory?

(3) If the person be challenged on the ground that he has not resided in the county ninety days or in the precinct fifteen days, one of the judges shall question him as to his residence in the county or precinct, in a manner similar to the method of questioning a person as to his residence in this state.

(4) If the person be challenged as unqualified on the ground that he is not twenty-one years of age, the judges, or one of them, shall ask the following question:

Are you twenty-one years of age or over, to the best of your knowledge and belief?

SECTION 138. Oath of challenged voter. If the challenge be not withdrawn after the person offering to vote shall have answered the questions put to him, one of the judges shall tender to him the following oath:

"You do solemnly swear or affirm that you are a citizen of the United States, of the age of twenty-one years or over; that you have been a resident of this state for one year next

COMMENTS

Based on present 49-10-10, 49-10-13, and part of 49-10-12. Fifteen-day provision has been changed to 20 days to conform with section 17 herein. Under the revision, the judges of election may not refuse a person from voting after the

TEXT

preceding this election, and have not retained a home or domicile elsewhere; that you have been for the last ninety days, and now are, a resident of this county; that you have been for the last fifteen days, and now are a resident of this precinct or absent therefrom twenty days or less as provided in section 17 of this act; that you are a registered elector in this precinct; and that you have not voted at this election."

After the person has taken the oath or affirmation, his ballot shall be received and it shall be the duty of the clerks of the election to write "sworn" on the poll books at the end of the person's name.

SECTION 139. Refusal to answer questions or take oath.
If the challenged person shall refuse to answer fully any question which shall be put to him as provided in section 137 of this act, or if any person shall refuse to take the oath or affirmation tendered as provided in section 138 of this act, the judges shall reject his vote.

ARTICLE 11. ABSENTEE VOTING

SECTION 140. When absent registered electors may vote.
When any registered elector of this state, on the day of any general, primary, or special election shall be absent from his county, or by reason of his work or the nature of his employment is likely to be absent and fears that he will be absent from his county, or because of serious illness or physical disability, or for reasons based upon the doctrines of established religions shall be unable to attend the polls, he may cast his ballot at such general, primary, or special election under the regulations and in the manner provided in this article.

SECTION 141. Application for absent voter's ballot.
(1) The application for an absent voter's ballot may be in the form of a letter, stating the applicant's residence address and that he will be absent from the county on the

COMMENTS

oath has been taken; present law would permit this refusal.

Based on present 49-10-11 and part of 49-10-12.

Based on present 49-11-1. Since this act is applicable only to general, primary, and special elections, statement excluding municipal or school elections from the provisions of this article is unnecessary and has been omitted.

Based on present 49-11-2 (1). Final time for making application for absentee ballot is changed from Saturday noon

TEXT

day of said general, primary, or special election, or that his work or employment (stating nature thereof) is such that he is likely to be absent and fears that he will be absent from the county on said day, or that on account of serious illness or physical disability he shall be unable to attend the polls, or that for reasons based upon the doctrines of the established religion of which such applicant is a member, he shall be unable to attend the polls. If the application is made for a primary election ballot, such application shall designate the name of the political party with which the applicant is affiliated or wishes to affiliate.

(2) A person in the United States service as defined in section 36 (2) of this act may make an application for an absent voter's ballot by use of a properly executed federal post card application as provided for in the laws of the United States known as "The Federal Voting Assistance Act of 1955."

(3) The application for an absent voter's ballot shall be signed personally by the applicant or a member of his family and in case of such applicant's disability or inability to sign his name, by his agent in his presence and at his request.

(4) Applications for absent voters' ballots shall be filed with the county clerk of the applicant's county of residence not earlier than ninety days before the election nor later than the close of business on the Friday immediately preceding the election.

SECTION 142. Delivery of absent voter's ballot. (1) Upon receipt of an application for an absent voter's ballot within the proper time, the county clerk receiving it shall examine the records of his office to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested and, if found to be so, he shall deliver to the applicant personally, or by mail to the mailing address given in the application, an official absent voter's ballot, a return envelope with the affidavit thereon properly filled in as to precinct and residence address as shown by the records in his office, and an instruction card.

COMMENTS

to the close of business on the Friday preceding the day of election.

(2). Based on present 49-11-2

TEXT

(2) If a person in the United States service submits a properly executed federal post card application and the county clerk receiving it shall determine that such applicant is not properly registered, the county clerk shall cause said applicant to be registered in accordance with section 36 of this act and shall then deliver to the applicant the official absent voter's ballot and other materials as above set forth.

(3) The absent voter's ballot and other materials shall be delivered or mailed to the absent voter within forty-eight hours after the receipt of the application, if the official ballots are then printed, or, if not then printed, within forty-eight hours after such printed ballots shall be delivered to the county clerk.

SECTION 143. Absent voters' registration book. Before any absent voter's ballot is delivered or mailed, or before any registered elector is permitted to cast his vote as provided in section 149 of this act, the county clerk shall write or stamp the number appearing on the stub of such ballot on the registration sheet of the elector making application for such ballot, together with the date the ballot is delivered or mailed. Such registration sheet shall then be removed and placed in a separate registration book entitled "absent voters' registration book." The name and address of each elector whose registration sheet is so removed from the precinct registration book and the date the ballot was delivered or mailed shall be recorded on a list attached at the back of the precinct registration book. A separate list of the names and addresses of electors whose registration sheets have been so removed shall be prepared by the county clerk and delivered with the absent voters' registration book to the minority judge of election as provided in section 151 of this act.

COMMENTS

Based on present 49-11-2 (4). Provision added for preparing a list of the absent voters whose registration sheets have been removed from registration book for inclusion in the back of the precinct registration book in order that this information will be available at the precinct polling place.

TEXT

SECTION 144. Affidavit on return envelope. The return envelope for the absent voter's ballot shall have printed on its face an affidavit substantially in the following form:

From _____
State of _____,
_____, County of _____

I, _____, being first duly sworn according to law, depose and say that I am a qualified and registered elector in precinct _____, county of _____, state of Colorado; that I am not registered in any other precinct; that my residence and post office address is _____; and that I herein enclose my ballot in accordance with the provisions of section 145 of this act.

Signature of voter

Subscribed and sworn to before me this _____ day of _____, 19__.

Official's signature

County Clerk

(Seal)

County of _____,
Colorado

Title of official

COMMENTS

Based on present 49-11-2 (5). Added to oath is statement that voter is not registered in any other precinct.

TEXT

COMMENTS

SECTION 145. Manner of absentee voting by paper ballot.

(1) Any registered elector applying for and receiving an absent voter's ballot, in casting such ballot, shall make and subscribe to the affidavit on the return envelope before an officer authorized by law to administer oaths, who shall administer said oath without charge therefor. The voter shall thereupon mark the ballot, in the presence of such officer and no other person, but in such a manner that such officer cannot know how the ballot is marked. The voter shall, in the presence of such officer, fold the ballot so as to conceal the marking, deposit it in the return envelope and seal the envelope securely. The envelope may be delivered personally or mailed by the voter to the county clerk issuing the ballot. It shall be permissible for a voter to deliver the ballot to any person of his own choice or to any duly authorized agent of the county clerk for mailing or personal delivery to the county clerk. All such envelopes containing absent voters' ballots shall be in the hands of the county clerk not later than the hour of 5:00 p.m. on the day of the general, primary, or special election.

(2) Upon receipt of an absent voter's ballot the county clerk of the county wherein such voter resides shall write or stamp upon the envelope containing the same, the date and hour such envelope was received in his office and, if the ballot was delivered in person, the name and address of the person delivering the same. He shall safely keep and preserve all absent voters' ballots unopened until the time prescribed for delivery to the minority judge in accordance with section 151 of this act.

SECTION 146. Absent voters' polling place. Each county shall provide, in addition to the precinct polling places, an "absent voters' polling place." It shall be provided with suitable quarters, ballot boxes or voting machines, and other necessary supplies as provided by law in the case of precinct polling places, except that voting booths shall not be provided.

Based on present 49-11-3.

Based on present 49-11-4
(1). Revision does not limit location of absent voters' polling place to county-seat cities.

TEXT

SECTION 147. Appointment of receiving judges and clerks for absent voters' polling place. (1) In all counties in which voting machines are not used at absent voters' polling places, prior to the tenth day preceding any general, primary, or special election, in the same manner prescribed in article 6 of this Act for the appointment of precinct judges and clerks, the county clerk shall appoint three persons to act as receiving judges and two persons, one from each political party, to act as clerks at the absent voters' polling place, whose qualifications, powers, duties, and compensation shall be the same as those provided for precinct receiving judges and clerks. Precinct residence shall not apply as to qualifications. The political party entitled to the additional receiving judge in even-numbered precincts as provided in section 86 of this act shall be entitled to the additional receiving judge on the absent voters' election board of the county.

(2) In all counties in which voting machines are used, the county clerk shall, prior to the fifteenth day preceding any general, primary, or special election, appoint not less than five receiving judges whose qualifications, powers, duties and compensations shall be the same as those provided for receiving judges at precinct polling places where voting machines are used. Precinct residence shall not apply as to qualifications. The political party entitled to the additional judge in even-numbered precincts as provided in section 86 of this act shall be entitled to the additional judge on the absent voters' election board of the county.

SECTION 148. Appointment of counting judges and clerks for absent voters' polling place. (1) If in any county in which voting machines are not used the clerk shall have mailed or delivered absent voters' ballots to five hundred or more electors, the county clerk shall appoint, in addition to the receiving judges and clerks appointed as provided in section 147 of this act, three counting judges, not more than two of whom shall be from any one political party, and two counting clerks, one from each political party, whose

COMMENTS

Based on present 49-11-5.

Based on present 49-11-6.

TEXT

powers and duties shall be the same as provided in section 125 of this act for counting judges and clerks in precinct polling places. For each additional five hundred absent voters' ballots so mailed or delivered, the county clerk shall appoint three counting judges and two counting clerks.

(2) In all counties in which voting machines are used, for each five hundred absent voters' ballots so mailed or delivered, the county clerk shall appoint, in addition to the receiving judges appointed as provided in section 147 of this act, five counting judges, not more than three of whom shall be from one political party.

(3) In counties in which this section shall apply, the county clerk shall make such appointments so that one major political party shall be represented by a majority of judges on the absent voters' receiving board and the other major political party shall be represented by a majority of judges on the absent voters' counting board of the county.

SECTION 149. Casting absent voter's ballot on voting machine. In all counties in which voting machines are used, the absent voters' polling place shall be opened fifteen days prior to the primary, general or special election day and shall remain open during the time the offices of the county clerk shall be open until the closing of business on the Friday immediately preceding the election. Qualified applicants for absent voters' ballots appearing in person at the absent voters' polling place during this time may cast their absent voters' ballots on voting machines expressly provided for that purpose in the same manner as any ballot would be cast on a voting machine in a precinct polling place on election day. The registration sheet of each such voter shall be placed in the "absent voters' registration book" and noted on the list attached at the back of the precinct registration book as provided in section 143 of this act. The voting machines used for the casting of such absent voters' ballots shall remain locked and the tabulation of the votes cast shall remain unknown until the time prescribed in section 151 of this act for counting

COMMENTS

Based on parts of 49-11-4 and 49-11-7. Deadline has been changed from Saturday noon to the closing of business on the Friday preceding the day of election. Also, as noted in the comments for section 143, provision is made for recording the name of the absent voter in the back of the precinct registration book when his registration sheet is removed.

TEXT

absentee ballots. During the time the absent voters' polling place is not open, the county clerk shall have the custody and keys of any voting machine being used for the casting of absent voters' ballots. The voting machines used for the casting of absent voters' ballots shall not be used for the further counting of absentee ballots as provided in section 152 (3) (b) of this act.

SECTION 150. Hours absent voters' polling place open for receiving and counting absent voters' ballots. (1) In every county the absent voters' polling place shall be open on general, primary, and special election days from 8:30 a.m. until 5:30 p.m. for the purpose of receiving and counting absent voters' ballots. In counties which use electronic data processing equipment for counting absent voters' ballots, the absent voters' polling place may also be open from 8:30 a.m. until 5:30 p.m. on the day preceding such election for the purpose of receiving and counting absent voters' ballots. No information concerning the count shall be released by the election officials or watchers until after 7:00 p.m. on election day and the election officials in charge of the absent voters' polling place shall take all precautions necessary to insure the secrecy of the counting proceedings.

(2) The duties, power, authority, and jurisdiction of the election officials at the absent voters' polling place on election day and the day preceding are hereby confined to the receiving, casting, and counting of absent voters' ballots delivered and turned over to them by the county clerk as provided in this article.

SECTION 151. Delivery to minority receiving judge. (1) No later than 8:30 a.m. on the day of any general, primary, or special election, the county clerk shall deliver to the minority receiving judge of the absent voters' polling place all the absent voters' envelopes received up to that time, in sealed packages, taking a receipt therefor, together with the "absent voters' registration book," and signed applications for such absent voters' ballots and the list of absent voters. In counties which commence counting absent voters' ballots on the day preceding such election

COMMENTS

Based on part of present 49-11-7. Revision adds provision for counting absentee ballots on the day before the election in counties which use electronic data processing equipment, along with safeguards for secrecy under such an arrangement.

Based on part of present 49-11-8. Time for delivery of absentee ballots for counting is changed from no later than 7:30 a.m. to no later than 8:30 a.m. on the day of election. As in section 150, provision is added for counting of absentee ballots the day before the election.

TEXT

pursuant to section 150 of this act, the county clerk shall make such delivery not later than 8:30 a.m. on the day preceding any general, primary, or special election. The county clerk shall continue to so deliver any envelopes containing absent voters' ballots which may be received thereafter up to and including 5:00 p.m. on election day. On the sealed packages of absent voters' envelopes shall be printed or written "This package contains

(number)

absent voters' ballots." With such envelopes the county clerk shall deliver to the minority receiving judge written instructions which shall be followed by the judges of election in casting and counting the ballots, and all such books, records, and supplies as shall be needed for tabulating, recording, and certifying the absent voters' ballots.

SECTION 152. Casting and counting absent voters' paper ballots. (1) If the affidavit on the envelope containing the absent voter's ballot is properly sworn to, one of the receiving judges shall open such voter's identification envelope in the presence of a majority of the receiving judges and, after announcing in an audible voice the name of such absent voter, he shall tear open such envelope without defacing the affidavit or certificate printed thereon or mutilating the enclosed ballot. One of the judges shall enter the name of the voter in the poll book and another judge shall deposit the unfolded ballot in the ballot box.

(2) In counties which have counting judges for the absent voters' polling place, the receiving judges, as soon as fifty ballots have been cast, shall deliver the ballot box containing such ballots to the counting judges who shall proceed to count the same. In counties which do not have counting judges for the absent voters' polling place, the receiving judges may begin counting when at least one hundred ballots have been cast.

(3) Absent voters' ballots shall be counted in one of the following ways:

COMMENTS

Based on present 49-11-9.

TEXT

(a) In counties which use paper ballots, the absent voters' ballots may be counted in the manner provided in section 127 of this act for counting paper ballots.

(b) In counties which use voting machines, the absent voters' ballots may be counted in the following manner: One judge shall call aloud the name of the candidate voted for. A second judge shall observe that the first judge reads the ballot correctly. Two other judges, one of each major political party, shall attend the voting machine so that one of the judges may depress the lever for the candidate whose name is being read, and the other judge shall observe closely that the proper levers are being depressed as the votes are read aloud. The fifth judge shall prepare the machine to receive each ballot. Votes for or against any measure appearing on the ballot shall be cast in the same manner as above provided.

(c) Any county may use adding machines or other mechanical calculating devices which print a record of numbers to count the absent voters' ballots. In counties using this method of counting, one judge shall call aloud the name of the candidate voted for, and a second judge shall observe that the first judge reads the ballot correctly. Two other judges, one of each major political party, shall attend the adding machine or other mechanical calculating device. The judge who operates such machine or device shall be of the political party opposite that of the judge who calls the name of the candidate voted for. The other judge attending said machine or device shall observe closely that the proper totals are entered on the record. When the votes have been so tallied, a judge of the political party opposite that of the judge who operated said machine or device shall read from the record to a judge of the opposite political party, who shall check the record, reading back against the ballots counted. The judge reading and the judge checking said readings shall be observed respectively by judges of the opposite political party. The fifth judge shall act in a general supervisory capacity. Votes for or against any measure appearing on the ballot shall be cast in the same manner as above provided.

COMMENTS

TEXT

SECTION 153. Challenges--rejections. The vote of any absent voter may be challenged in the same manner as other votes are challenged and the receiving judges shall have power and authority to determine the legality of such ballot. If the challenge be sustained, or if the receiving judges determine that the affidavit accompanying the absent voter's ballot is insufficient, or that the voter is not a qualified registered voter, the envelope containing the ballot of such voter shall not be opened and the judges shall endorse on the back of the envelope the reason therefor. Whenever it shall be made to appear to the receiving judges by sufficient proof that any elector who has marked and forwarded his ballot has died, then the envelope containing the ballot of such deceased voter shall not be opened and the judges shall make proper notation on the back of such envelope. If an absent voter's envelope contains more than one marked ballot of any one kind, none of such ballots shall be counted and the judges shall make notation on the back of the ballots the reason therefor. Judges of election shall certify in their returns the number of absent voters' ballots cast and counted and the number of such ballots rejected.

SECTION 154. Preservation of rejected absent voters' ballots. All absent voters' identification envelopes, ballot stubs and absent voters' ballots rejected by the receiving judges in accordance with the provisions of section 153 of this act shall be returned to the county clerk. All absent voters' ballots received by the county clerk after 5:00 p.m. on the day of the general, primary or special election, together with the rejected absent voters' ballots returned by the judges of election as provided in this section, shall remain in the sealed identification envelopes and be destroyed later as provided in section 133 of this act.

SECTION 155. Record of absent voters' ballots. The county clerk shall keep a record in his office containing a list of names and precinct numbers of electors making application for absent voters' ballots, together with the date on which such application was made, the date on which

COMMENTS

Based on part of present
49-11-10.

Based on part of present
49-11-10.

Based on part of present
49-11-10.

TEXT

such absent voter's ballot was returned, and the number appearing on the stub of such absent voter's ballot. If an absent voter's ballot is not returned or if it be rejected and not counted, such fact shall be noted on the record. Such record shall be open to public inspection under proper regulations.

SECTION 156. Certificate of absentee votes cast--canvass.

(1) Upon the completion of the count of absent voters' ballots, the judges and clerks shall make the certificate and perform all the official acts required by section 130 of this act.

(2) Upon the canvass of the votes of the county by the county board of canvassers, said board shall include in its abstract of votes the votes cast and counted at the absent voters' polling place in the manner provided for abstracting votes cast and counted at precinct polling places as provided in article 13 of this act.

SECTION 157. Return of absent voters' registration book.

The absent voters' registration book shall be returned to the county clerk with the certificate required to be filed by section 156 of this act. Thereafter, the registration sheets of those voters who voted by absent voters' ballot shall be returned to the registration book of the precinct in which such voter resides.

SECTION 158. Watchers at absent voters' polling places.

Any political party shall have the right to maintain watchers at the absent voters' polling place during the casting and counting of absent voters' ballots and also in the office of the county clerk during the period within which absentee ballots may be applied for or received in the office of the county clerk.

SECTION 159. Oaths. (1) Any oath or attestation required

by this article may be subscribed and sworn to before any United States postmaster or before any official authorized by law to administer oaths. Any such official may do and perform such other acts as are necessary under this article to enable a qualified elector to avail himself of the provisions of this article.

COMMENTS

Based on present 49-11-11.

Based on present 49-11-8
(2). Provision for purging names of persons whose absentee ballots were received after 5:00 p.m. on the day of election is omitted.

Based on present 49-11-12.

Based on present 49-11-13
and part of 49-11-2.

TEXT

(2) Any oath or attestation required by this article of persons in the United States service may be administered and attested by any commissioned officer in the active service of the armed forces, or any member of the merchant marine of the United States designated for this purpose by the secretary of commerce, or any civilian official empowered by state or federal law to administer oaths.

SECTION 160. Supplies for absentee voting. Absent voters' ballots, applications, affidavits, certificates, envelopes, instruction cards and other necessary supplies shall be provided by the county clerk in the same manner as other election supplies for general, primary, or special elections and shall be furnished without cost to the voter. Absent voters' ballots shall be ready for delivery or mailing to absent voters as soon as available. The ballots shall be in the same form as ordinary ballots for the same election, except that the names of candidates for justice precinct offices and for precinct committeemen and committee-women shall be omitted therefrom. On the stub of the absent voter's ballot shall be printed "Absent Voter's Ballot No. A.V. " and such stubs shall be numbered consecutively (number) commencing with number one.

ARTICLE 12. VOTING MACHINES

SECTION 161. Use of voting machines. In all general, primary, and special elections held in this state, the ballots or votes may be cast, registered, recorded and counted by means of voting machines, as provided in this article.

SECTION 162. Requirements for voting machines. No voting machine shall be used, purchased or leased unless it shall be so constructed as to fulfill the following requirements:

COMMENTS

Based on present 49-11-15.

Based on present 49-12-1 which now applies to all elections held in this state. Article VII, Section 8, of the State Constitution permits the use of voting machines "at any election."

Based on present 49-12-2. Revision omits requirement that the counter showing the number

TEXT

That it affords each elector an opportunity to vote in absolute secrecy; that it is closed during the progress of the voting so that no person can see or know the number of votes registered for any candidate or for whom an elector has voted; that it be capable of containing on the face thereof the form of ballot made up and arranged substantially in the manner prescribed by this article; that it provide facilities for a ballot containing the names of candidates of at least seven political parties or organizations; that it enables each voter to vote a ticket selected in part from the candidates in one party and in part from the candidates of any or all other parties and in part from an independent nomination and in part from persons not in nomination by any party or upon any independent ticket; that it prevents the voter from voting for a candidate or on a question for whom or on which he is not lawfully entitled to vote; that it enables each voter to vote for all candidates for whom he is entitled to vote and prevents him from voting for any candidate for any office more than once unless he is lawfully entitled to cast more than one vote for each candidate, and in that event permits him to cast only as many votes for that candidate as he is by law entitled to, and no more; that it be provided with at least twenty pairs of "yes" and "no" counters for voting on questions or propositions to be submitted in accordance with law; that it enables any voter to write in or affix upon the receptacles or devices provided for that purpose, ballots containing the names of persons whose names do not appear on such machine; that when a vote is so cast for any person for any such office whose name does not appear on the machine, it prevents the voter so voting from voting for any name appearing on the ballot for the same office; that such machine will correctly register by means of exact mechanical counters every vote cast for candidates whose names appear on the ballot labels or for questions appearing thereon; that each machine be provided with locks, the keys of which cannot be interchangably used, and by locking of which any movement of the operating mechanism can be prevented, so that it cannot be tampered with or manipulated for any fraudulent purpose; that there shall be a counter on each machine which will show during the election the total

COMMENTS

of persons who have voted at that election be visible from the outside of the machine. This change was made in order to correspond with the voting machines purchased for use in El Paso County.

TEXT

number of voters who have operated the machine at that election; that it shall have a protective counter or other device, the register of which cannot be reset, which shall record the cumulative total number of movements of the operating mechanism.

SECTION 163. Adoption and payment for voting machines.

The county commissioners of any county may adopt for use at elections any kind of voting machine fulfilling the requirements for voting machines set forth in section 162 of this act. Such voting machines may be used at any or all elections held in such county or in any part thereof for casting, registering and counting votes at such elections. The county commissioners of any county adopting and purchasing or leasing voting machines shall provide for the payment of the purchase price or the rent payable therefor in such manner as may be deemed for the best interest of such county and may for that purpose provide for the issuance of interest bearing bonds, certificates of indebtedness or other obligations which shall be a charge upon such county. Such bonds, certificates of indebtedness or other obligations may be made payable at such times not exceeding ten years from the date of issue, as may be determined by the board of county commissioners, but shall not be issued or sold at less than par.

SECTION 164. Experimental use.

The board of county commissioners of any county, prior to the adoption of voting machines, may make provision, either by contract or rental with option to purchase or otherwise, for the experimental use at any election, in one or more precincts which the county commissioners may specify, of any voting machine which might be lawfully adopted in accordance with the provisions in this article. Such experimental use shall be as valid for all purposes as if such voting machines had been formally adopted, and the cost of such experimental use shall constitute a necessary and proper election expense and shall be payable in accordance with the law.

COMMENTS

Based on part of present 49-12-3. A separate bill has been prepared to specify the incorporation by reference of voting machine provisions for municipalities.

Based on present 49-12-4.

TEXT

SECTION 165. Judges to inspect machines. The judges of election in each precinct using voting machines shall meet at the polling place at least forty-five minutes before the time set for the opening of the polls at each election. Before the polls are open for election, each judge shall carefully examine each machine used in the precinct and see that no vote has been cast and that every counter, except the protective counter, registers zero.

SECTION 166. Sample ballots and ballot labels--delivery of voting machines. (1) The county clerk shall provide for each election precinct in which voting machines are to be used two sample ballots, which shall be arranged in the form of a diagram showing the front of the voting machine as it will appear after the official ballot labels are arranged thereon for voting on election day. Such sample ballots may be either in full or reduced size and shall be delivered and submitted to public inspection in the same manner as now provided by law for sample ballots for use in non-machine voting.

(2) The county clerk shall also prepare and place on each voting machine to be used in precincts under his supervision a set of official ballot labels arranged in the manner prescribed for the official election ballot to be used on voting machines, and shall deliver the required number of voting machines, so equipped with the official ballot, to each election precinct at least one hour before the polls open.

SECTION 167. Instructions to voters. (1) Cards of instruction for the guidance of voters in casting their ballots on voting machines shall be supplied by the county clerk as provided in section 114 of this act.

COMMENTS

Based on present 49-12-6
(3).

Based on part of present
49-12-7.

Based on part of present
49-12-7.

TEXT

(2) In case any elector after entering the voting machine shall ask for further instructions concerning the manner of voting, two judges of opposite political parties shall give such instructions to him. No judge or other election official or person assisting an elector shall enter the voting machine, except as provided in section 122 of this act, or in any manner request, suggest, or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question, or proposition. After receiving such instruction, such elector shall vote as in the case of an unassisted voter.

SECTION 168. Judge to watch voting machine. No voter shall remain within the voting machine longer than three minutes. If he shall refuse to leave the voting machine after the lapse of three minutes, he shall be removed by the judges. The judges in their discretion may permit a voter to remain longer than three minutes. No voter or other person shall deface or injure the voting machine or the ballot thereon. The judges shall designate at least one of their number to be stationed beside the entrance to the voting machine during the entire period of the election to see that it is properly closed after a voter has entered to vote. At such intervals as he may deem proper and necessary, the judge shall also examine the face of the machine to ascertain whether it has been defaced or injured, to detect the wrongdoer, and to repair any injury.

SECTION 169. Seal on voting machine. The county clerk shall supply each election precinct with a seal for each voting machine to be used in the precinct, for the purpose of sealing the machine after the polls are closed, and an envelope for the return of the keys of the machine along with the election returns.

COMMENTS

Based on part of present
49-12-7.

Based on last paragraph
of present 49-12-7.

TEXT

SECTION 170. Arrangement of names on voting machine ballot in general elections. (1) In all general elections in counties in which voting machines are used, the names of all candidates who have been nominated for each office shall be arranged on the ballot under the designation of the particular office in groups by political party or political organization. The first group shall contain in alphabetical order the names of the candidates of the major political party which shall be entitled to the additional judge of election in odd-numbered precincts. The second group shall contain in alphabetical order the names of the candidates of the major political party which shall be entitled to the additional judge of election in even-numbered precincts. An additional group shall be provided for each remaining political party or political organization and shall contain in alphabetical order the names of the candidates of such political party or political organization.

(2) On voting machines having candidates' names placed on horizontal lines, the county clerk shall arrange the groups of candidates for each particular office on such voting machines in the following manner:

In all odd-numbered precincts, the first group defined above shall be placed on such machines in the uppermost line or lines; the second group shall be placed on such machines in the next lower line or lines; and the additional groups shall be placed on such machines in the next lower line or lines. In all even-numbered precincts, the second group defined above shall be placed on such machines in the uppermost line or lines; the first group shall be placed on such machines in the next lower line or lines; and the additional groups shall be placed on such machines in the next lower line or lines.

(3) On voting machines having candidates' names placed in vertical columns, the county clerk shall arrange the groups of candidates for each particular office on such voting machines either in the order provided in subsection (2) of this section or in the order provided in section 109 of this act for paper ballots.

COMMENTS

Based on parts of present 49-9-2 and 49-9-1. The revision specifies that each minor party or organization shall be placed on the ballot in its own separate group. Present law is unclear on this point. Provision is added for voting machines having names of candidates in vertical columns, such as are being used in El Paso County. These are given the option of arrangement in alphabetical order of the candidates' names as on paper ballots or arrangement by political groups as in subsection (2).

TEXT

(4) When there is more than one person to be elected to an office, there shall be provided on the voting machine two, and only two, spaces for write-in purposes for each different office.

SECTION 171. Close of polls and count--seals. (1) As soon as the polls are closed the judges of election shall immediately lock and seal each voting machine against further voting, and it shall so remain for a period of thirty days unless otherwise ordered by the court, and except as provided in subsection (2) of this section. Immediately after each machine is locked and sealed the judges of election shall then open the counting compartment and proceed to count the votes thereon. After the total vote for each candidate and upon each question or proposition has been ascertained, the judges of election shall make out a certificate of votes cast, in numerical figures only, and return the same in the manner prescribed by section 131 of this act.

(2) In the event no election contest has been filed by any candidate in a primary election within the time prescribed by law, the county clerk may unlock and break the seals of voting machines after fifteen days from the date of said primary election.

SECTION 172. Other laws apply--paper ballots permitted for absentee voting. All of the provisions of the election laws not inconsistent with the provisions of this article shall apply to all elections held in precincts where voting machines are used. Any provisions of the election law which conflict with the use of voting machines as set forth in this article shall not apply to precincts in which an election is conducted by the use of voting machines. Nothing in this article, however, shall be construed as prohibiting the use of a separate paper ballot by absentee voters as provided by law.

COMMENTS

Based on present 49-12-8.

Based on present 49-12-9.

TEXT

ARTICLE 13. CANVASS OF VOTES

SECTION 173. County board of canvassers--appointment, fees, oaths. (1) At least fifteen days before any primary, general or special election, the county chairman of each of the two major political parties in each county shall certify to the county clerk the appointment of a qualified elector who is a resident of the county to act as a member of the county board of canvassers. Such persons, together with the county clerk, shall constitute the county board of canvassers. If for any reason anyone selected to act as a member of the county board of canvassers refuses, fails or is unable to act, it shall be the duty of such person to notify the county clerk. The county clerk shall, in the most speedy and convenient method, notify the county chairman of the political party to which such person belongs. It shall be the duty of the county chairman of such political party to forthwith appoint some other person to act in the place of such person. If there be no county chairman or vice chairman in any county or if a vacancy in such appointments should occur upon the date of the meeting of the county board of canvassers so that there can be no specific compliance with the provisions of this section, the county clerk shall make such appointments or fill such vacancy as near in compliance with the intention of this section as possible.

(2) Each member of the county board of canvassers, except the county clerk, shall receive for his services the sum of not less than five dollars nor more than ten dollars for each day in which he is actually engaged in assisting in opening the election returns and making abstracts of the votes cast. Such fees shall be set by the county clerk and shall be paid by the county in which such service is rendered.

(3) Before entering upon their duties as members of the county board of canvassers, the members of said board shall take an oath in the following form: "I, _____,

COMMENTS

Based on part of present 49-13-1 and 49-13-2. Revision authorizes compensation for members of the county board of canvassers, except the county clerk, of not less than five dollars nor more than ten dollars per day. Present law provides compensation of five dollars per day.

TEXT

do solemnly swear (or affirm) that I am a citizen of the United States and the State of Colorado; that I am a qualified elector in precinct _____, in the county of _____; that I am a registered member of the _____ party as shown on the registration books of the county clerk; and that I will faithfully perform the duties required of a member of the county board of canvassers."

SECTION 174. Preliminary abstracts. No later than the tenth day after the close of the general or special election and no later than the fifth day after the close of the primary election the county board of canvassers shall proceed to open the returns and make preliminary abstracts of the votes. The preliminary abstracts of votes for presidential electors, United States senators, representatives in congress, officers of the executive department, regents of the university, members of the state board of education, state senators, state representatives, judges of the supreme court, judges of the district court, and district attorneys shall be listed on separate sheets. The preliminary abstract of votes for county, justice precinct, and precinct officers, including county judges, shall be listed on one sheet.

SECTION 175. Certificates of election for county, justice precinct, and precinct officers. Except in the case of offices for which a recount is required as provided in section 176 of this act, the county clerk shall, immediately after the abstract of votes for county, justice precinct, and precinct officers has been prepared, make a certificate of election, or a certificate of nomination in the case of a primary election, for each of the persons having the highest number of votes for such offices and shall cause such certificates to be delivered to the persons entitled to them.

SECTION 176. Recount for county, justice precinct, and precinct officers. (1) If it shall appear as evidenced by the preliminary abstract of votes that any candidate for any county, justice precinct, or precinct office failed to

COMMENTS

Based on part of present 49-13-1. Difference in time limits in this and the following sections for primary as opposed to general election is due to the limited time available between primary and general elections.

Based on part of present 49-13-1.

Based on part of present 49-13-1 and part of 49-4-27.

TEXT

be nominated in a primary election by less than two per cent of the highest vote cast for a candidate of his party for that office, or failed to be elected in a general or special election by less than one-half of one per cent of the highest vote cast for a candidate for that office, the county clerk shall order a recount of the votes cast for the specific office in question. Any recount of the votes for such offices shall be held at the same time and place and in the same manner as a recount ordered for any office by section 178 of this act. If no recount is ordered under section 178 of this act, then any recount of the votes for county, justice precinct, or precinct officers shall be held on the twentieth day after the close of a general or special election or on the tenth day after the close of a primary election and shall be completed by no later than the thirtieth day after the general or special election or the fifteenth day after the primary election.

(2) After the recount has been completed, the county clerk shall make a certificate of election or a certificate of nomination in the case of a primary election for each of the persons having the highest number of votes for the offices covered by the recount and shall cause such certificates to be delivered to the persons entitled to them.

(3) (a) If, after a recount has been made following a general or special election as provided in subsection (1) of this section, it appears that any two or more persons have an equal and the highest number of votes for the same county, justice precinct, or precinct office, the county clerk shall immediately determine by lot which of the candidates shall be elected. He shall make a certificate of election for the person so elected and shall cause such certificate to be delivered to the person entitled thereto.

COMMENTS

TEXT

(b) If, after a recount has been made following a primary election as provided in subsection (1) of this section, it appears that any two or more candidates of the same political party have an equal number of votes for the same county, justice precinct, or precinct office, and a higher number than any other candidate of the same political party, the "tie" shall be resolved in such manner as shall be agreed upon by the candidates so "tying." In case the candidates shall fail to agree upon the method of resolving the "tie" within two days after the completion of the recount, the same shall be resolved by lot, to be cast as the county board of canvassers shall determine. The county clerk shall then make a certificate of nomination for the person so nominated and shall cause such certificate to be delivered to the person entitled thereto.

SECTION 177. Copy of preliminary abstracts to secretary of state. The county clerk, immediately after the preliminary abstracts of votes for national, state, and district officers have been prepared, shall make a copy of such preliminary abstracts and deliver or transmit the same in a registered package by mail to the office of the secretary of state; the original preliminary abstracts he shall file and record in a book in his office to be kept for that purpose. The county clerk shall certify the preliminary abstracts and copies and shall affix thereto the county seal. He shall endorse on the back of the envelope in which the certified copies are enclosed:

"Certified copy of the preliminary abstract of votes cast for presidential electors, etc., governor, etc., members of the general assembly, etc., cast at the _____ election in _____ County, Colorado."

SECTION 178. Recounts for congressional, state and district offices. (1) If on the twentieth day after the close of the general or special election or on the tenth day after the close of the primary election, or sooner if all the preliminary abstracts be received in the office of the secretary of state, it shall appear as evidenced by the preliminary

COMMENTS

Based on part of present
49-13-1.

Based on part of present
49-13-1.

TEXT

abstracts of votes that any candidate for United States senator, representative in congress, or any state or district office failed to be nominated in a primary election by less than two per cent of the highest vote cast for a candidate of his party for that office, or failed to be elected in a general or special election by less than one-half of one per cent of the highest vote cast for a candidate for that office, the secretary of state shall order a complete recount of all the votes cast for said office.

(2) The secretary of state shall make demand upon the county clerk of each county involved, by certified or registered mail, for a public recount to be conducted in the county at a place prescribed by the secretary of state. The recount shall be completed by no later than the thirtieth day after the general or special election or the fifteenth day after the primary election. The secretary of state shall also promulgate and provide each such county clerk with such rules and regulations as in his opinion shall be necessary to conduct such recount in a fair, impartial, and uniform manner, including provisions for allowing interested political parties and candidates involved to be represented by watchers during the recount.

(3) Any county clerk upon whom such demand is made shall arrange to have such recount made by the county board of canvassers who officiated in making the preliminary abstract. If any member of such board cannot for any reason participate in such recount, another person shall be appointed in his place in essentially the same manner and under the same conditions as the original board was selected.

(4) Any county board of canvassers making a recount under the provisions of this section shall employ such assistants and clerks as shall be deemed necessary for the conduct of such recount. All expenses incurred in the conduct of the recount in any county shall be paid by the county. Members of a county board of canvassers assisting in any such recount shall receive the same fees as for making the preliminary abstract, as provided in section 173 of this act.

COMMENTS

TEXT

(5) In precincts using ballots, the recount shall be of the ballots cast. In precincts using voting machines, the recount shall be of the votes tabulated on the voting machines.

SECTION 179. Official abstracts--copy filed with secretary of state. No later than the thirtieth day after the close of the general or special election or the fifteenth day after the close of the primary election, the county board of canvassers shall make official abstracts of the votes cast for national, state, district, county, justice precinct, and precinct offices. The county clerk, immediately after the official abstracts of votes have been prepared, shall make a copy of such official abstracts and deliver or transmit the same in a registered package by mail to the office of the secretary of state; the original official abstracts he shall file and record in a book in his office to be kept for that purpose. The county clerk shall certify the official abstracts and copies and affix thereto the county seal. The clerk shall endorse on the back of the envelope in which the certified copies are enclosed:

"Certified copy of the official abstract of votes cast for presidential electors, etc., governor, etc., members of the general assembly, etc., cast at the _____ election in _____ County, Colorado."

SECTION 180. Canvass of votes at general election for state officers. A copy of the official abstracts of votes cast at each general election in each county for governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, and attorney general shall be sealed by the county clerks of said counties, and delivered or transmitted in a registered package by mail to the secretary of state, directed to the speaker of the house of representatives. Upon the organization of the house, the secretary of state shall deliver to the speaker of the house all of the official abstracts of votes cast for governor, lieutenant governor, secretary of state, auditor of state, treasurer of state and attorney general that he shall have received. Upon the receipt of the

COMMENTS

Based on part of present 49-13-1 and 49-13-3.

Based on present 49-13-5.

TEXT

same by the speaker of the house of representatives, before proceeding to other business, he shall open and announce the same in the presence of a majority of the members of both houses of the general assembly, who shall assemble for that purpose in the chamber of the house of representatives. The person having the highest number of votes for any of said offices shall be declared duly elected by the presiding officer of the joint assembly, but if two or more have an equal and the highest number of votes for the same office, one of them shall be chosen by the two houses on joint ballot.

SECTION 181. Canvass by state board of canvassers. (1) The governor, secretary of state, auditor of state, treasurer of state, and attorney general, or any three of them, shall constitute the state board of canvassers.

(2) (a) The state board of canvassers shall meet at the office of the secretary of state at 10:00 a.m. of the sixteenth day after any primary election and, if the official abstracts from all counties be in the possession of the secretary of state, they shall proceed to canvass the votes for candidates for United States senators, for representatives in congress, and for all state and district offices. If the official abstracts are not all in, the state board of canvassers shall adjourn until the seventeenth day after the primary election, at which time they shall canvass the votes whether all the official abstracts be received or not.

(b) The state board of canvassers shall meet at the office of the secretary of state at 10:00 a.m. of the thirty-first day after any general or special election and, if the official abstracts from all counties be in the possession of the secretary of state, they shall proceed to canvass the votes for electors of president and vice-president, for United States

COMMENTS

Based on present 49-13-6, part of 49-4-27, 49-13-8, 49-13-9, and 49-13-10. Provisions for canvass after primary elections have been changed for uniformity to conform with general election provision, except that less time is so allowed because of the limited amount of time available between these two elections. Deadline for final general election canvass has been changed from the last Wednesday in December to 35 days after the day of general election. This change makes the provision applicable for use in special elections by eliminating reference to specific day and month.

TEXT

senators, for representatives in congress, for regents of the university, for members of the state board of education, and for judges of the supreme and district courts, for district attorneys, and for state senators and state representatives. If the official abstracts are not all reported, the state board of canvassers shall adjourn from time to time, as they deem proper, to await the receipt of all returns. On the thirty-fifth day after the general or special election they shall canvass the votes whether all the official abstracts be received or not.

(3) The state board of canvassers shall proceed to examine and make certified statements of the total number of votes at any general, primary, or special election for the officers mentioned in subsection (2) of this section. The statement shall show the names of the persons for whom such votes were cast and the total number cast for each, distinguishing the several districts and counties in which they were cast. The state board of canvassers shall thereupon determine what persons have been elected to such offices, or nominated by each political party in the case of a primary election, shall endorse and subscribe on such statements a certificate of such determination, and shall file the statements with the secretary of state. In the case of a primary election the statements shall be made as to each political party separately.

(4) (a) If at any general or special election any two or more persons have an equal and the highest number of votes for electors of president and vice-president, for United States senator, for representative in congress, for regent of the university, for member of the state board of education, for judge of the supreme or district court, for district attorney, or for state senator or state representative, the state board of canvassers shall proceed to determine by lot which of the candidates shall be declared elected. Reasonable notice shall be given to such candidates of the time when such election will be so determined.

COMMENTS

TEXT

(b) If at any primary election any two or more candidates of the same political party have an equal number of votes for the same office, and a higher number than any other candidate of the same political party, the "tie" shall be resolved in such manner as shall be agreed upon by the candidates so "tying." In case the candidates shall fail to agree upon the method of resolving the "tie" within five days after the completion of the canvass of the vote, the same shall then be resolved by lot, to be cast as the state board of canvassers may determine.

SECTION 182. Certificates of election for national, state, and district officers. The secretary of state shall record in his office in a book to be kept by him for that purpose each certified statement and determination made by the state board of canvassers, or by the house of representatives as provided in section 180 of this act, and shall without delay make and transmit to each of the persons thereby declared to be elected, or nominated in the case of a primary election, a certificate of election or nomination, certified by him under his seal of office. The secretary of state shall also forthwith cause a copy of such certified statement and determination to be printed in a newspaper published at the seat of government.

SECTION 183. List of general assembly furnished. Upon the day fixed by law for the assembling of the general assembly the secretary of state shall transmit to each house a list of the members elected thereto, with the districts they represent, in accordance with the returns in his office.

SECTION 184. Lists of presidential electors. The secretary of state shall prepare lists of the names of the electors of president and vice-president of the United States elected at any general election, procure thereto the signature of the governor, affix the seal of the state to the same, and deliver one of such certificates thus signed to each of said electors, on or before the thirty-fifth day after the general election.

COMMENTS

Based on present 49-13-11.

Based on present 49-13-12.

Based on present 49-13-13.
Deadline changed from on or before the first Wednesday in December to 35 days after the general election.

TEXT

SECTION 185. Imperfect returns--corrections. (1)
Whenever the county board of canvassers or the state board of canvassers or the speaker of the house of representatives shall find that the returns from any precinct, county, or district do not strictly conform to the requirements of law in the making, certifying and returning of the same, the votes cast in such precinct, county or district, nevertheless shall be canvassed and counted, if such returns shall be sufficiently explicit to enable such boards or persons authorized to canvass votes and returns to determine therefrom how many votes were cast for the several candidates.

(2) If upon proceeding to canvass the votes it shall clearly appear to the canvassers that in any statement produced to them certain matters are omitted which should have been inserted, or that any mistakes which are merely clerical exist, they shall cause the statement to be sent by one of their number to the judges of election or to the county board of canvassers from whom they were received to have the same corrected. The judges of election or county clerk, when so demanded, shall make such correction as the facts of the case require, but shall not change or alter any decision before made by them. The canvassing board may adjourn from day to day for the purpose of obtaining and receiving such statement, but shall not delay the canvassing past the day provided by law for the completion of the canvass.

ARTICLE 14. ELECTION CONTESTS

SECTION 186. Causes of contest. The election of any person declared duly elected to any office may be contested:

(1) When the contestee is not eligible to the office to which he has been declared elected.

COMMENTS

Based on part of present 49-13-14 and 49-13-15.

Based on present 49-17-1.
Revision extends specific provisions to all contests rather than just county contests.

TEXT

(2) When illegal votes have been received or legal votes rejected at the polls in sufficient numbers to change the result.

(3) For any error or mistake on the part of any of the judges of election or boards of canvassers in counting or declaring the result of the election, if the error or mistake would be sufficient to change the results.

(4) For malconduct, fraud, or corruption on the part of the judges of election or boards of canvassers, or on the part of any member of such boards, if the malconduct, fraud, or corruption be sufficient to change the results.

(5) For any other cause which shows that another was the legally elected person.

SECTION 187. Contests for presidential elector and supreme court justice. Any elector may institute proceedings to contest the election of any person to the office of presidential elector or to the office of supreme court justice. The supreme court shall have original jurisdiction for the adjudication of such contests and shall prescribe rules for practice and proceedings therein. No judge of said court who is a contestor or contestee in such election contest shall be permitted to hear and determine the same.

SECTION 188. Contests for district and county judges and district attorneys. (1) Any elector may institute proceedings to contest the election of any person to the office of district judge, county judge, or district attorney. The district court of the district wherein the contest for the office of district judge or district attorney arises shall have jurisdiction for the adjudication of contests for the office of district judge. The district court shall have jurisdiction for the adjudication of contests for the office of county judge arising in any of the counties of that district. No district judge who is a contestor or contestee in any such election contest shall be permitted to hear and determine the same. In such case the contest shall be heard and determined before a district judge to be appointed by the supreme court.

COMMENTS

Based on part of present 49-14-1 and 49-14-2.

Based on part of present 49-14-1, 49-14-3, 49-14-4, 49-14-5, 49-14-6, and 49-14-7. Reference to contest for district attorneys is added.

TEXT

(2) All contests before the district court shall be conducted as nearly as may be according to the rules for practice and proceedings prescribed by the supreme court for contested elections in such supreme court. The supreme court may prescribe rules for practice and proceedings in contested elections before district courts. Before the district judge shall be required to take jurisdiction of the contest, the contestor must file with the clerk of said court a bond, with sureties, to be approved by said judge, running to the contestee and conditioned to pay all costs in case of failure to maintain his contest. Change of venue may be taken from any district court for any cause in which changes of venue might be taken in civil or criminal actions. Writs of error shall lie to the supreme court from the decisions of any district courts, which may be taken in the same manner and under the same conditions as writs of error are taken from judgments of the district court in civil actions.

SECTION 189. Contests for state officers. (1) Any elector may institute proceedings to contest the election of any person declared elected governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, or regent of the university, by filing with the secretary of the senate, between the sixth and tenth days of the first session of the general assembly after the day of the election, a notice of intention to contest the election, specifying the particular points on which he means to rely. The contestor shall file with the secretary of the senate a bond, with sureties, to be approved by said secretary, running to the contestee and conditioned to pay all costs in case of failure to maintain his contest.

(2) Upon any such notice being filed, the general assembly, by resolution, shall determine on what day they will meet in joint convention to take action in any such contest.

COMMENTS

Based on present 49-15-1
and 49-15-2.

TEXT

(3) A certified copy of the notice filed by any contestor shall be served upon the contestee, together with a notice that he is required to attend the joint convention on the day fixed to answer the contest.

SECTION 190. Evidence in contests for state officers. On the hearing of any contested election for any of the offices named in section 189 of this act, the parties to such contest may introduce written testimony to be taken in a manner to be prescribed by the joint convention. No depositions shall be read on such hearing unless the opposite party shall have had reasonable notice of the time and place of taking the same.

SECTION 191. Rules in conducting contests for state officers. In conducting any contested election for any of the offices named in section 189 of this act, the following rules shall be observed:

(1) On the day and at the hour appointed for that purpose the general assembly, with its proper officers, shall convene in joint convention.

(2) The president of the senate shall preside, but when he is the contestee the president pro tem of the senate shall preside.

(3) The parties to the contest shall then be called by the secretary of the senate. If they answer, their appearance shall be recorded.

(4) The testimony of the contestor shall be introduced first, followed by the testimony of the contestee. After the testimony has been presented on both sides, the contestor, by himself or by his counsel, may open the argument, and the contestee may then proceed, by himself or by his counsel, to make his defense, and the contestor may be heard in reply.

COMMENTS

Based on present 49-15-3.

Based on present 49-15-4.

TEXT

(5) After the arguments by the parties are completed, any member of the joint convention shall be at liberty to offer his reasons for the vote he intends to give. The convention may limit the time of argument and debate.

(6) The secretary of the senate shall keep a regular journal of the proceedings. The manner of taking the decision shall be by a call of the members, and a majority of all the votes given shall decide.

SECTION 192. Contests for state senator or representative.

(1) The election of any person declared duly elected as a state senator or a member of the state house of representatives may be contested by any qualified elector of the district to be represented by such senator or representative. Each house of the general assembly shall hear and determine election contests of its own members.

(2) The contestor, within ten days after the completion of the official canvass of the votes, shall make and file in the office of the secretary of state a verified statement of his intention to contest the election, setting forth the name of the contestor; that he is an elector of the district; the name of the contestee; the office contested; the time of the election; and the particular causes of the contest; and shall serve a copy thereof upon the contestee. He shall file with the secretary of state a bond, with sureties, to be approved by the secretary of state, running to the contestee and conditioned to pay all costs in case of failure to maintain his contest.

(3) The contestee, within ten days after the service upon him of such statement, shall make and file in the office of the secretary of state an answer, duly verified, admitting or specifically denying each allegation intended to be controverted by contestee, and shall also set up in such answer any new matter or counter statement which may entitle him to retain his seat in that branch of the general assembly to which he shall have been declared duly elected, and shall serve a copy thereof upon the contestor.

COMMENTS

Based on present 49-16-1, 49-16-2, 49-16-3, and 49-16-4. Revision specifically states that each house shall hear and determine contests involving its own members in accordance with Article V, Section 10, State Constitution.

TEXT

(4) When the answer of contestee contains new matter constituting a counter statement, the contestor, within ten days after the service upon him of such answer, shall reply to the same, admitting or specifically denying under oath each allegation contained in such counter statement intended by him to be controverted on the trial, and file the same in the office of the secretary of state, and serve a copy thereof upon the contestee.

SECTION 193. Depositions in contests for state senator or representative. (1) Either party, at the time of serving his statement or answer, may serve upon the adverse party reasonable notice of taking depositions to be used upon the trial of such contest for state senator or state representative. Immediately after joining issue of fact, both contestor and contestee shall proceed with all reasonable dispatch to take such depositions as he may desire to use on such trial. Nothing contained in this subsection shall abridge the right of either party to take depositions upon reasonable notice prior to the joining of issue in relation to any of the matters of controversy to be raised in such contest; but a failure to take depositions before the joining of issue shall not be held as laches against either party to such contest.

(2) If, upon the completion of taking any depositions, the adverse party has any witnesses present before the officer taking such depositions whose testimony is sought to be used in rebuttal of the depositions so taken, such adverse party may proceed immediately to take the deposition of such rebutting witness before such officer, upon giving written notice to the opposite party or his attorney. Such officer shall attach to said depositions a copy of said notice, with proof of service. The rebutting depositions shall be returned by the officer taking the same, in the same manner as provided for returning depositions in chief. Such adverse party shall be at his own proper cost and expense in procuring such depositions and the return thereof.

(3) The time for taking depositions to be used upon the trial of such contest shall expire three days prior to the

COMMENTS

Based on present 49-16-5, 49-16-6, 49-16-7, 49-16-8, 49-16-9, and part of 49-17-9.

TEXT

meeting of the next general assembly. Both parties may take depositions at the same time, but neither party shall take depositions at two or more different places at the same time. Nothing contained in this subsection shall be construed to abridge the right of either branch of the general assembly, upon good cause shown, to extend the time to take depositions, or to send for and examine any witness, to take any testimony it may desire to use on the trial of such contest, or to order a recount of the ballots if there has been an error in canvassing the vote in any county or precinct.

(4) Any county judge, justice of the peace, or notary public of a county in the district where the contest arises may issue subpoenas in every such contested election case and shall have power to compel the attendance of witnesses, take depositions and certify the same according to the rules for taking depositions in the district court.

(5) The officer before whom such depositions shall be taken, upon the completion thereof, shall certify the same immediately, enclosing the depositions together with the notices for the taking thereof and the proof of service of such notices in an envelope, and sealing and transmitting the same by mail, or by the hands of a sworn officer, to the secretary of state, with an endorsement thereon showing the nature of the papers, the names of the contesting parties, and the branch of the general assembly before which the contest is to be tried.

SECTION 194. Secretary of state to transmit papers in contests for state senator or representative. The secretary of state shall deliver the sealed envelope containing depositions, notices, and proof of service, together with the statement of contestor, answer of contestee, and reply, to the presiding officer of the body in which the contest for senator or representative is to be tried, immediately upon the organization of such body, or so soon thereafter as the same may come to his possession. Such presiding officer, immediately upon the receipt thereof, shall give notice to the body over which he presides that such papers are in his possession.

COMMENTS

Based on present 49-16-10.

TEXT

SECTION 195. Contests for county officers. (1) The election of any person declared duly elected to any county office may be contested by any elector of such county. Contests for the office of county judge shall be conducted as provided in section 188 of this act. Contested election cases of county officers other than county judge shall be tried and determined by the county judge of the county in which the contest arises. The style and form of process, the manner of service of process and papers, the fees of officers, and judgment for costs and execution thereon shall be according to the rules and practice of the county court.

(2) Before the county judge shall be required to take jurisdiction of the contest, the contestor must file with the clerk of said court a bond, with sureties, to be approved by said judge, running to said contestee and conditioned to pay all costs in case of failure to maintain his contest.

(3) The contestor shall file, in the office of the clerk of the county court, within ten days after the completion of the official canvass, a written statement of his intention to contest the election, setting forth the name of the contestor; that he is an elector of the county; the name of the contestee; the office contested; the time of the election; and the particular causes of the contest. The statement shall be verified by the affidavit of the contestor, or some elector of the county, that the causes set forth in such statement are true, as he is informed and verily believes.

(4) The clerk of the county court shall thereupon issue a summons in the ordinary form, in which the contestor shall be named as plaintiff and the contestee as defendant, stating the court in which the action is brought, the county in which the statement is filed, and a brief statement of the causes of contest as set forth in the contestor's statement. The summons shall be served upon the contestee, in the same manner as other summonses are served out of the county court of this state, within ten days after filing in said court the written statement of contestor's intention.

COMMENTS

Based on part of present 49-17-1, 49-17-3, part of 49-17-8, part of 49-17-11, 49-17-4, 49-17-5, and 49-17-6.

TEXT

(5) The contestee, within ten days after the service of such summons, shall make and file his answer to the same with the clerk of said court, in which he shall either admit or specifically deny each allegation intended to be controverted by contestee on the trial of such contest, and shall set up in such answer any counter statement which he relies upon as entitling him to the office to which he has been declared elected.

(6) When the reception of illegal or the rejection of legal votes is alleged as the cause of the contest, a list of the number of persons who so voted, or offered to vote, shall be set forth in the statement of contestor, and shall be likewise set forth in the answer of contestee, if any such cause is alleged in his answer by way of counter statement.

(7) When the answer of contestee contains new matter constituting a counter statement, the contestor, within ten days after the filing of such answer, shall reply to the same, admitting or specifically denying, under oath, each allegation contained in such counter statement, intended by him to be controverted on the trial, and file the same in the office of said clerk.

SECTION 196. Trial and appeals in contests for county officers. (1) Immediately after the joining of issue the county judge shall fix a day for the trial to commence, not more than twenty nor less than ten days after the joining of issue. Such trial shall take precedence over all other business in said court. The testimony may be oral or by depositions taken before any officer authorized to take depositions. Any depositions taken to be used upon the trial of such contest may be taken upon four days' notice thereof. The county judge shall cause the testimony to be taken in full and filed in said cause. The trial of such causes shall be conducted according to the rules and practice of the county court in other cases.

(2) An appeal from the judgment and final determination in any cause may be taken to the supreme court, the same as in other causes tried in the county court. Such appeal

COMMENTS

Based on present 49-17-7.

TEXT

shall be prayed for, bill of exceptions settled, bond for costs executed and filed, and the record transmitted to the clerk of the supreme court within twenty days from the date of entering such judgment. The supreme court shall advance such cause to the head of the calendar, and hear and determine the same with all reasonable dispatch.

SECTION 197. Recount in contests for county officers. If, upon the trial of any contested election for any county officer as provided in sections 195 and 196 of this act. the statement or counter statement sets forth an error in canvass sufficient to change the result, the county judge shall have power to conduct a recount of the ballots cast or the votes tabulated on the voting machines in the precinct or precincts in which the alleged error was made. The court may also require the production before it of such witnesses, documents, records, and other evidence as may have or contain information regarding the legality of any vote cast or counted for either of the contesting candidates, or the correct number of votes cast for either candidate, and may correct the canvass in accordance with the evidence presented and its findings thereon.

SECTION 198. Judgment in contests for county officers. The county court shall pronounce judgment whether the contestee or any other person was duly elected to the contested county office. The person so declared elected will be entitled to the office upon qualification. If the judgment be against the contestee and he has received his certificate, the judgment annuls it. If the court finds that no person was duly elected, the judgment shall be that the election be set aside and that a vacancy exists.

SECTION 199. Contests for justice precinct officers. The election of any person to any justice precinct office may be contested by any elector of such justice precinct. Contested elections for justice precinct officers shall be tried before the county court, as provided in this article for the trial of contests for county officers, so far as the

COMMENTS

Based on present 49-17-9.

Based on present 49-17-10.

Based on part of present 49-17-12.

TEXT

same is practicable; but the judgment rendered in such cause shall be final, and no appeal to the supreme court therefrom shall lie.

SECTION 200. Contests arising out of primary election.

(1) All election contests arising out of any primary election, except contests for national or state offices, shall be summarily adjudicated by the district court sitting for the political subdivision within which any such contest may arise. The court first acquiring jurisdiction of any such contest shall have original jurisdiction subject only to the summary appellate jurisdiction of the supreme court by writ of error. In all cases involving contests for national or state offices, the supreme court shall take original jurisdiction for the purpose of summarily adjudicating any such contest.

(2) Every such contest shall be instituted by petition to the proper court, setting forth the grounds of contest. The petition shall be verified and a copy thereof shall be served on the contestee within five days after the occurrence of the ground of contest, requiring the contestee to answer under oath within five days after service. If personal service of the petition cannot be procured in the state on the contestee, service may be made by leaving a copy of the petition with the clerk of the court having original jurisdiction of the controversy or contest. The clerk shall thereupon make diligent inquiry and endeavor to procure the contestee to make answer to the petition, and upon the expiration of the time for the answer the court having jurisdiction of the contest shall forthwith set the same for trial on the merits thereof, summarily adjudicating the same.

COMMENTS

Based on part of present
49-4-46.

TEXT

ARTICLE 15. OTHER JUDICIAL PROCEEDINGS

SECTION 201. Challenge of illegal or fraudulent registration. (1) Any qualified elector may by written challenge protest against the registration of any person whose name appears in the registration books. Such written challenge shall state the precinct number, the name of the challenged registrant, and the basis for such challenge, which may be upon information and belief, and shall bear the signature and address of the challenger. Such written challenge shall be filed with the county clerk not less than fifteen days before any general, primary, or special election. The county clerk shall notify such registrant of such challenge and shall set a time and place for a hearing to be held not later than five days after the filing of the challenge, at which hearing the registrant so challenged shall have opportunity to appear. The person so challenging such registration shall bear the burden of proof of the allegations in the challenge. The county clerk shall conduct such hearing and receive testimony and evidence, and shall render his decision within twenty-four hours thereafter, and shall notify both parties of his decision.

(2) All appeals from the decision of the county clerk shall be to the district court within three days after the decision of the county clerk. The appellant shall file in the district court his verified petition setting forth the facts presented at such hearing, the decision of the county clerk, and the basis for such appeal. Within twenty-four hours, the clerk of the district court shall mail to the other party a notice of such appeal and the time for hearing the same, which time shall be not less than three nor more than five days thereafter.

(3) The court shall hear the testimony and other evidence adduced and investigate summarily, and within forty-eight hours after the close of the evidence determine whether or not such charges are sustained. Only competent legal evidence shall be received at such hearing or considered by

COMMENTS

Based on part of present 49-6-19 and 49-6-20. Procedure has been changed so that the initial determination on a challenged registration can be made by the county clerk, with appeal to the courts, rather than requiring court action. Also, revision removes authority of precinct registration committee to rule on challenged registrations and to strike names from registration book (second paragraph of present 49-6-19). Deadline for challenging registrations is moved from ten days to 15 days before the day of election, thus retaining the five-day period after the close of registration as at present.

TEXT

the court, and no name registered in accordance with law shall be stricken from the registration book unless it shall be proved that the challenged person is not a qualified elector in the precinct wherein he is registered. No presumption shall be indulged in against any person whose registration is challenged merely because of the failure of such person to attend the hearing. The court shall have the power to subpoena any persons as witnesses at such hearing and make any necessary investigation to ascertain the truth of any of the charges in such petition, provided the method of such investigation shall not cause unnecessary delay or interfere with the final disposition of such cause within the time provided for in this section. All hearings of any such petition shall be summary, final and not subject of delay. At the close of such hearing the court shall announce the names in such petition as to which the charges have been sustained, and shall direct the clerk of the court to forthwith certify to the county clerk the lists of names of such persons, with their addresses, arranged alphabetically and according to precinct. It shall thereupon be the duty of the county clerk, upon the receipt of the list from the court, to forthwith strike such names from the registration book for the proper precinct with the notation that such names were stricken in pursuance of the order of court, giving the date of the order. The decision of the court in any such case shall be final and no appeal shall lie to any other court, except that the supreme court, in the exercise of its discretion, may review any such proceedings in a summary way.

SECTION 202. Removal of election judges. (1) Upon the failure or neglect of any judge of election to perform the duties of his office, it shall be the duty of any judge of election, county clerk, county chairman of a political party, or any elector of the precinct for which such judge of election is appointed, having knowledge of such failure or neglect, to cause proper action for removal to be instituted against such judge of election.

(2) Any election judge who has neglected his duty or has committed, encouraged or connived at any frauds in connection therewith, or has violated any of the election

COMMENTS

Based on part of present
49-6-12.

TEXT

COMMENTS

laws, or has knowingly permitted others to do so, or has been convicted of any crime, or has violated his oath, or has wrongfully hampered or interfered or tends to interfere with the due and regular performance of the duties of the other election judges, or has committed any other act which interferes or tends to interfere with a fair and honest registration and election, or was not appointed in accordance with the provisions of this article, may be removed in the following manner:

(a) Any elector may file a brief petition in the district court at any time up to ten days before any general, primary or special election or precinct registration day, setting out in brief and concise language the facts constituting the cause for the removal of such judge of election. Such petition shall be verified, but the verification may be upon information and belief. Thereupon the court shall issue a citation to such judge of election directing him to appear at a time within forty-eight hours thereafter to answer such petition if he desires to do so.

(b) The court shall proceed summarily to hear and finally dispose of such petition, and within forty-eight hours of the time of the filing of the answer may hear evidence in relation thereto. Evidence given by any such judge of election as a witness for petitioner at such hearing shall not be used against him in civil, criminal or other proceedings. If the court shall decide that such judge of election ought to be removed for any cause stated in the petition, it shall be so ordered and he shall notify the county clerk thereof forthwith.

(3) The validity of any part of the registration or election already completed, or other acts done under this act, if otherwise legally done, shall not be affected by the removal of a judge of election, but the same shall be in every respect valid and regular, and the successor of any such person removed shall proceed with the duties of such judge with like power and effect as though originally appointed.

TEXT

SECTION 203. Correction of errors. (1) The county clerk shall, on his own motion, correct without delay any errors in publication or in sample or official ballots which he may discover or which shall be brought to his attention and which can be corrected without interfering with the timely distribution of the ballots.

(2) When it shall appear by verified petition of a candidate or his agent to any district court that any error or omission has occurred in the publication of the names or description of the candidates, or in the printing of sample or official election ballots, which has not been corrected by the county clerk on his own motion, the court shall issue an order requiring the county clerk to correct the error forthwith or to forthwith show cause why the error should not be corrected. Costs, including a reasonable attorney's fee, may be taxed in the discretion of such court against either party.

SECTION 204. Neglect of duty and wrongful acts. (1) When it shall appear by verified petition of any elector to any district court that any neglect of duty or wrongful act by any person charged with a duty under this act has occurred or is about to occur, the court shall issue an order requiring the person charged to forthwith perform the duty or desist from the wrongful act or to forthwith show cause why the order should not be obeyed. The burden of proof in such charge shall be upon the complainant.

(2) The complainant shall be required to deposit in court the sum of two dollars per day for each person cited or summoned into court as a party or a witness, to be paid to the party or witness in case the charge is not sustained. The money so deposited shall be returned to the party depositing it in case the charges or any of them are sustained.

(3) Every order issued pursuant to this section shall be subject to summary review by the supreme court upon writ of error.

COMMENTS

Based on parts of present 49-4-28 and 49-9-4.

Based on parts of present 49-4-28.

TEXT

SECTION 205. Controversies. (1) When any controversy shall arise between any official charged with any duty or function under this act and any candidate, or the officers or representatives of any political party, or persons who have made nominations, or any other person, the district court, upon the filing of a verified petition by any such official or persons setting forth in concise form the nature of the controversy and the relief sought, shall issue an order commanding the respondent in such petition to appear before the court and answer under oath to such petition. It shall be the duty of the court to summarily hear and dispose of any such issues, with a view to obtaining a substantial compliance with the provisions of this act by the parties to such controversy, and to make and enter orders and judgments, and issue the writ or process of such court to enforce all such orders and judgments.

(2) Such proceedings may be reviewed and finally adjudicated by the supreme court of the state, if application to such court is made within three days after the termination thereof by the court in which the petition was filed, if the supreme court shall be willing to assume jurisdiction of the case.

ARTICLE 16. VACANCIES.

SECTION 206. Vacancies in office of representative in congress. (1) Whenever any vacancy shall happen in the office of representative in congress from this state, the governor shall set a day to hold a special election to fill such vacancy and cause notice of such election to be given as required in article 7 of this act; provided, however, special elections shall not be held within ninety days next preceding a general election.

(2) Special elections to fill such vacancies shall be conducted and the results thereof canvassed and certified

COMMENTS

Based on present 49-6-31 and part of 49-9-4.

Based on present 49-19-5 and last part of present 49-19-3.

Based on first part of present 49-19-3.

TEXT

in all respects as near as practicable in like manner as in general elections, except as otherwise provided in this act.

SECTION 207. Vacancies in office of United States senator.

(1) Whenever a vacancy happens in the office of United States senator from this state, the governor shall make a temporary appointment to fill such vacancy until the same is filled by election.

(2) When a vacancy happens, the governor shall direct the secretary of state to include in his general election notice for the next general election a notice of the filling of such vacancy. The secretary of state shall give notice accordingly. At such election the vacancy shall be filled for the unexpired term. If, for any reason, no United States senator is elected at the next general election the person temporarily appointed by the governor shall hold over until a United States senator is elected at a succeeding general election.

SECTION 208. Vacancies in general assembly. In the event of a vacancy in the general assembly, such vacancy shall be filled by the appropriate vacancy committee of the same political party, if any, and of the same representative or senatorial district represented by the former member whose seat is vacant. The vacancy shall be so filled until the next general election after such vacancy occurs, when such vacancy shall be filled by election. The vacancy committee, by a majority vote of its members, shall select a person who possesses the constitutional qualifications for a member of the general assembly, and who is affiliated with the same political party, if any, as shown on the registration books of the county clerk, as the former member whose seat is vacant. Such committee shall make such selection within ten days from the date a vacancy occurs. Upon the failure of the vacancy committee to make such selection before the expiration of said ten-day period, the governor shall, within five days, fill said vacancy by appointing a person having the qualifications above set forth. The name of the person so selected or appointed shall be

COMMENTS

Based on present 49-19-6.

Based on present 49-19-7.

Based on present 49-19-4.

TEXT

certified to the secretary of state, who shall certify said name to the appropriate house of the general assembly. Such person, after having qualified and taken the oath of office, shall enter upon the duties of his office immediately and shall serve until the convening of the general assembly next after his successor shall have been elected, certified and qualified.

SECTION 209. Vacancies in state, district, and county offices. All vacancies in any state office, in the supreme or district courts, and in the office of county commissioner, shall be filled by appointment by the governor until the next general election after such vacancy occurs, when such vacancy shall be filled by election. The district judge shall fill all vacancies in the office of district attorney in his district by appointment until the next general election, when such vacancy shall be filled by election.

SECTION 210. Vacancies in county and justice precinct offices. All vacancies in any county or justice precinct office, except that of county commissioner, shall be filled by appointment by the county commissioners of the county in which the vacancy occurs, until the next general election, when such vacancy shall be filled by election.

SECTION 211. Unexpired terms less than ninety days. No person shall be elected to fill a vacancy in an elective office when the unexpired term is, at the time of the election, less than ninety days duration. In such case if a person has been appointed to fill such vacancy he shall continue to hold the office for the remainder of the unexpired term and until his successor elected at such election shall be duly qualified.

SECTION 212. Term of appointee. Any of the officers that may be elected or appointed to fill vacancies as provided in this article may qualify and enter upon the duties of their office immediately thereafter. If elected they may hold the same during the unexpired term for which they were elected, and until their successors are elected and qualified. If

COMMENTS

Based on present 49-19-8.

Based on present 49-19-10.

Based on present 49-19-11.

Based on present 49-19-9.

TEXT

appointed, they shall hold the same only until their successors are elected and qualified.

ARTICLE 17. ELECTION OF PRESIDENT AND VICE-PRESIDENT

SECTION 213. Presidential electors. (1) The electors of president and vice-president of the United States shall convene at the capital of the state, in the office of the governor at the capitol building, on the first Monday after the second Wednesday in December, next after their election, at the hour of twelve noon, and take the oath required by law for such presidential electors. If there shall be any vacancy in the office of presidential electors, occasioned by death, refusal to act, neglect to attend, or other cause, the presidential electors present shall immediately proceed to fill such vacancy in the electoral college. When the vacancies shall have been filled, they shall proceed to perform the duties required of such presidential electors by the constitution and laws of the United States, and vote for president and vice-president by open ballot.

(2) It shall be the duty of the secretary of state to give notice in writing to each of the presidential electors, at least ten days prior thereto, of the time and place of said meeting.

(3) The secretary of state shall provide such presidential electors with the necessary blanks, forms, certificates or other papers or documents required to enable them to properly perform their duties.

(4) If desired, such presidential electors may have the advice of the attorney general of the state respecting their official duties.

(5) Each presidential elector shall be required to vote for the pair of presidential and vice-presidential candidates

COMMENTS

Based on present 49-20-1.

TEXT

who received the highest number of votes at the preceding general election in Colorado.

SECTION 214. Fees. Every presidential elector of this state who shall attend and give his vote for those officers at the time and place appointed by law shall be entitled to receive the sum of five dollars per day for each day's attendance at such election, and fifteen cents per mile for each mile he shall travel in going to and returning from the place where the electors shall meet, by the most usual traveled route, to be paid out of the general fund. The state controller shall audit the amount and draw his warrant for the same.

ARTICLE 18. ELECTION OFFENSES

SECTION 215. District attorney or attorney general to prosecute. (1) Any person may file an affidavit with the district attorney stating the name of any person who has violated any of the provisions of this act and stating the facts which constitute the alleged offense. Upon the filing of such affidavit, the district attorney shall forthwith investigate, and if reasonable grounds appear therefor, he shall prosecute the same.

(2) The attorney general of the state shall have equal power with district attorneys to file and prosecute informations or complaints against any person for violating any provisions of this act.

SECTION 216. Sufficiency of complaint--judicial notice. Irregularities or defects in the mode of calling, giving notice of, convening, holding or conducting any general, primary or special election authorized by law shall constitute no defense to a prosecution for a violation of this act. When an offense shall be committed in relation to any general,

COMMENTS

Based on first part of present 49-20-2.

Offenses and penalty provisions contained throughout various articles at present and are revised here to be provided in one article.

Based on present 49-6-34.

Based on present 49-6-37.

Based on present 49-6-36.

TEXT

primary, or special election, an indictment, information or complaint for such offense shall be sufficient if it alleges that such election was authorized by law, without stating the call or notice of the election, the names of the judges or clerks holding such election, or the names of the persons voted for at such election. Judicial notice shall be taken of the holding of any general, primary, or special election.

SECTION 217. Immunity of witness from prosecution. Any person offending against any provisions of this act is a competent witness against any other person so offending, and may be compelled to attend and testify upon any trial, hearing, proceeding or investigation in the same manner as other persons. But the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying, except for perjury in giving such testimony. A person so testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly in bar of such indictment or prosecution.

SECTION 218. Penalties for election offenses. (1) In all cases where an offense is denominated by this act as being a felony and no penalty is specified, the offender, upon conviction thereof, shall be punished by a fine of not to exceed five thousand dollars or by imprisonment in the penitentiary for not less than one nor more than five years, or by both such fine and imprisonment.

(2) In all cases where an offense is denominated by this act as being a misdemeanor and no penalty is specified, the offender, upon conviction thereof, shall be punished by a fine of not to exceed one thousand dollars or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment.

COMMENTS

Based on last part of present 49-17-8, and last part of present 49-21-17.

Section 223 is a new provision added for purposes of uniformity and brevity. Based in part on present 49-21-9.

TEXT

SECTION 219. Fines go into county general fund. All fines or forfeitures collected under the provisions of this act shall be paid to the county treasurer of the county wherein the offense was committed for the benefit of the general fund of the county where tried.

SECTION 220. Perjury. Any person having taken any oath or made any affirmation required by this act, who shall swear or affirm willfully, corruptly and falsely in a matter material to the issue or point in question, or shall suborn any other person to swear or affirm as aforesaid, shall be deemed guilty of perjury or subornation of perjury, as the case may be, and upon conviction thereof shall be punished by confinement in the penitentiary for a term not less than one year nor more than fourteen years.

SECTION 221. Forgery. Any person who shall falsely make, alter, forge, or counterfeit any ballot before or after it has been cast, or who shall forge any name of a person as a signer or witness to a petition or nomination paper, or who shall forge any letter of acceptance, declination or withdrawal, or who shall forge the name of a registered elector to an absent voter's ballot, shall be deemed guilty of forgery and upon conviction thereof shall be punished by confinement in the penitentiary for a term not less than one year nor more than fourteen years.

SECTION 222. Interfering with or impeding registration. Any person who shall intentionally interfere with or impede the registration of electors, whether by act of commission or by failure to perform any act or duty imposed or required for the proper administration of article 4 of this act, or who shall knowingly permit or encourage another to do so, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

COMMENTS

Based on present 49-21-22 which provides for the disposition of such fines and forfeitures to the county school fund.

This is the penalty for perjury under the general criminal laws (40-7-1) of Colorado. Based on present 49-4-36, 49-6-35, part of 49-10-17, 49-21-19, 49-21-24, and 49-21-25.

This is the penalty for forgery under the general criminal laws (40-6-1) of Colorado. Based on present 49-4-35, part of 49-11-14, and 49-21-32.

Based on present 49-6-33. No change in maximum penalties for fine, imprisonment, or both.

TEXT

SECTION 223. Interfering with election official. Any person who, at any general, primary, or special election, shall intentionally interfere with any election official in the discharge of his duty, or who shall induce any election official to violate or refuse to comply with his duty, or who shall aid, counsel, procure, advise or assist any person to do so shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 224. Interfering with watcher. Any person who shall intentionally interfere with any watcher while he is in the discharge of his duties as defined in section 1 (10) of this act shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in section 218 (2) of this act.

SECTION 225. Violation of duty. Any public officer, election official, or other person upon whom any duty is imposed by this Act who violates, neglects, or omits to perform such duty or is guilty of corrupt conduct in the discharge of the same, or any notary public or other officer authorized by law to administer oaths who shall administer any oath knowing it to be false, or who knowingly makes a false certificate in regard to a matter connected with any general, primary or special election, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

COMMENTS

Based on part of present 49-21-8. Penalty differs in that persons so convicted now may be imprisoned for not less than one nor more than five years.

Based on part of present 49-4-18 and 49-10-26, which contain different penalties of imprisonment in county jail from one to six months (49-4-18) and a fine of not more than \$300 (49-10-26).

Based on present 49-4-45, first part of present 49-21-14, and present 49-21-26. Present penalties are: 49-4-45, a felony punishable by a fine of \$500 or confinement in the penitentiary not less than one year, or both; 49-21-14, a fine of not less than \$100 nor more than \$3,000 and imprisonment in the county jail for not exceeding one year or both; and 49-21-26, a fine of not less than \$200 nor more than \$500 or imprisonment in the county jail not less than three months nor more than six months or both.

TEXT

SECTION 226. Fraud at precinct caucus, assembly, or convention. Any person in authority at any precinct caucus, assembly, or convention who in any manner shall dishonestly, corruptly, or fraudulently perform any act devolving on him by virtue of the position of trust which he fills, or shall knowingly aid or abet any other person to do any fraudulent, dishonest, or corrupt act or thing in reference to the carrying on of any precinct caucus, assembly or convention or the ascertaining or promulgating of its true will, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 227. Unlawful qualification as taxpaying elector. It shall be unlawful to take or place title to property in the name of another, or to pay the taxes, or to take or issue a tax receipt in the name of another for the purpose of attempting to qualify such person as a "taxpaying elector" or as a "qualified taxpaying elector" or to aid or assist any person to do so. The ballot of any person violating this section shall be void. Any person, company, corporation or association violating this section shall forfeit and lose all rights, franchises or other benefits accruing or to accrue to the benefit of such person, company, corporation or association by or as the result of any such election. Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 228. Procuring false registration. It shall be unlawful for any person to procure his own name, or the name of any other person, to be registered in the registration book of a precinct in which such person shall not be, at the time of such registration, entitled to be registered, or for any person to procure or attempt to procure any fictitious name to be registered in the registration book of any precinct. Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

COMMENTS

Based on present 49-21-37 which provides penalty of a felony punishable by a fine of from \$300 to \$2,000 or by imprisonment in the penitentiary for not to exceed two years, or both.

Based on last part of present 49-3-6 and present 49-3-7. Provision for fine and imprisonment added.

Based on present 49-21-20 which provides a fine of from \$200 to \$500 or imprisonment not less than ten nor more than 40 days for each offense, or both.

TEXT

SECTION 229. County clerk or registration committee signing wrongful registration. Every county clerk or member of a registration committee who shall willfully sign his name on the registration sheet opposite the name of any person knowing him to be not legally entitled to be registered shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 230. Signature on registration sheet is proof of oath. Any elector, election official or other person, by his signature on the registration sheet, shall be conclusively deemed in law to have duly verified such registration sheet. The registration sheet containing such signature, or a certified copy thereof by the county clerk, shall be admissible in evidence as proof of the taking of an oath or affirmation as to the information contained therein, in all criminal proceedings pursuant to sections 220, 228, and 229 of this act.

SECTION 231. Adding names after registration closed. No name shall be added to the registration book of any precinct after the close of the registration except as provided in section 142 (2) of this act and in case any county clerk, judge of election or other person shall willfully and knowingly add any such name of any person or any fictitious or false name to the registration book of any precinct after the close of registration, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 232. Disposition of affidavit registration forms. Any person willfully making any disposition of affidavit registration forms other than for registration of an elector or by return of unused forms to the county clerk within the time prescribed in section 35 of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

COMMENTS

Based on present 49-21-18 which provides a fine of not less than \$300 nor more than \$1,000, or by imprisonment not less than 30 nor more than 90 days, or both.

Based on part of present 49-6-28.

Based on present 49-21-21 which provides a fine of not less than \$200 nor more than \$500 for each offense. Exception provision added.

Based on last part of present 49-6-15. No change in penalty.

TEXT

SECTION 233. Fraudulent voting in precinct caucus, assembly or convention. Any person who shall fraudulently participate in and vote in a precinct caucus, assembly or convention when he is not a member of the political party holding such precinct caucus, assembly or convention, as shown on the registration books of the county clerk, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 234. Offenses at precinct caucus, assembly, or convention. (1) It shall be unlawful for any person at any precinct caucus, assembly or convention:

- (a) to fraudulently vote or attempt to vote more than once; or
- (b) to knowingly hand in two or more ballots deceitfully folded together; or
- (c) to knowingly procure, aid, counsel or advise another to vote or attempt to vote fraudulently or corruptly; or
- (d) to falsely personate any elector and vote or attempt to vote under his name or under an assumed name; or
- (e) to fraudulently procure, aid, abet, or encourage, directly or indirectly, any person to attempt to falsely personate any elector or to vote under an assumed name; or
- (f) to attempt to influence any elector in the casting of his vote by bribery, duress, or any other corrupt or fraudulent means; or
- (g) to receive any money or valuable thing, or the promise of either, for casting his vote for or against any person or measure, or shall offer his vote for or against any person or measure, in consideration of money or other valuable thing, or the promise of either; or

COMMENTS

Based on present 49-21-35. Present penalty of a fine not less than \$100 nor more than \$1,000, or by imprisonment in the county jail from 30 days to nine months, or by both.

Based on present 49-21-33 (1), (2), (4), (5), (6), (7), and (8). Present penalty is a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail from 30 days to nine months, or by both.

TEXT

(2) Each offense mentioned in subsection (1) of this section shall be deemed a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 218 (2) of this act.

SECTION 235. Bribery of petition signers. Any person who shall offer or, with knowledge of the same, permit any person to offer for his benefit any bribe or promise of gain to an elector to induce him to sign any petition or other election paper, or any person who shall accept any bribe or promise of gain of any kind in the nature of a bribe as consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe be offered or accepted before or after signing, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 236. Unlawful giving or promising money. (1) It shall be unlawful for any person, directly or indirectly, by himself or through any other person:

(a) to pay, loan or contribute, or offer or promise to pay, loan or contribute, any money or other valuable consideration to or for any elector, or to or for any other person, to induce such elector to vote or refrain from voting at any general, primary or special election or to induce any elector to vote or refrain from voting at such election for any particular person or to induce such elector to go to the polls or remain away from the polls at such election, or on account of such elector having voted or refrained from voting for any particular person, or having gone to the polls or remained away from the polls at such election; or

(b) to advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that the same, or any part thereof, shall be used in bribery at any general, primary or special election, or to knowingly pay or cause to be paid, any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part expended in bribery at any such election.

COMMENTS

Based on present 49-4-42 which provides that conviction shall constitute a felony punishable by a fine of \$500 or confinement in the penitentiary not less than one year, or both.

Based on present 49-21-2 (1) and (3) which have a penalty of a fine of not more than \$1,000 or imprisonment in the penitentiary from one to five years, or both. Provision in present 49-21-2 (2), relating to unlawful giving or promising of any office, place or employment, omitted as being unrealistic and contrary to the desires of the people in wanting to know during a campaign the persons a candidate may have in mind for appointment to various offices. Same comment applies to omission in proposed section 237 concerning unlawful receipt of office, place, or employment as provided in present 49-21-3.

TEXT

(2) Each offense mentioned in subsection (1) of this section shall be deemed a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 218 (2) of this act.

SECTION 237. Unlawful receipt of money. (1) It shall be unlawful for any person, directly or indirectly, by himself or through any other person:

(a) to receive, agree or contract for, before or during any general, primary or special election, any money, gift, loan or other valuable consideration for himself or any other person, for voting or agreeing to vote; or for going or agreeing to go to the polls; or for remaining away or agreeing to remain away from the polls; or for refraining or agreeing to refrain from voting; or for voting or agreeing to vote or refraining or agreeing to refrain from voting for any particular person or measure at any general, primary or special election ;or

(b) to receive any money or other valuable thing during or after any general, primary or special election on account of himself or any other person, for voting or refraining from voting at such election; or on account of himself or any other person, for voting or refraining from voting for any particular person at such election; or on account of himself or any other person, for going to the polls or remaining away from the polls at such election; or on account of having induced any person to vote or refrain from voting for any particular person or measure at such election.

(2) Each offense mentioned in subsection (1) of this section shall be deemed a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 218 (2) of this act.

SECTION 238. Employer's unlawful acts. (1) It shall be unlawful for any employer, whether corporation, association, company, firm or person, or any officer or agent of such employer:

COMMENTS

Based on present 49-21-3 which has a penalty of not more than \$1,000 or imprisonment in the penitentiary from one to five years, or both.

TEXT

(a) to attempt in any manner to control the action of his employees in casting their votes for or against any person or measure at any precinct caucus, assembly or convention; or

(b) to refuse to an employee the privilege of taking time off to vote as provided by section 117 of this act or to subject an employee to a penalty or reduction of wages because of the exercise of such privilege, or to violate the provisions of section 117 of this act in any other way; or

(c) to influence or attempt to influence the vote of any employee by force, violence or restraint or by inflicting or threatening to inflict any injury, damage, harm or loss or by discharging from employment or by promoting in employment; or

(d) in paying his employees the salary or wages due them, to enclose their pay in pay envelopes upon which or within which there are written or printed any political mottoes, devices, or arguments, containing threats, express or implied, intended or calculated to control the political opinions, views or actions of such employees; or

(e) within ninety days prior to any general, primary or special election to put up or otherwise exhibit in his factory, workshop, mine, mill, office or other establishment or place where his employees may be working or be present in the course of such employment, any hand-bill, notice or placard containing any threat, notice or information that in case any particular ticket or candidate be elected or issue carried, work in his place or establishment will cease in whole or in part, or his establishment will be closed, or the wages of his employees be reduced, or containing any other threats, express or implied, intended or calculated to control the political opinions or actions of his employees; or

COMMENTS

Based on present 49-21-38 which provides a penalty of a fine of not less than \$500 nor more than \$5,000. Presently applies only to incorporated employers.

Based on last paragraph of present 49-10-3.

Based on part of present 49-21-6 which applies to incorporated employers only.

Based on present 49-21-5, and part of 49-21-6.

TEXT

(f) to either expressly or by implication threaten, intimidate or compel any employee to vote or refrain from voting at any general, primary or special election or to vote or refrain from voting for any particular person or issue at any such election.

(2) Each offense mentioned in subsection (1) of this section shall be deemed a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 218 (2) of this act.

SECTION 239. Intimidation. It shall be unlawful for any person directly or indirectly, by himself or any other person in his behalf, to make use of any force, violence, restraint, abduction, duress, or any forcible or fraudulent device or contrivance, or to inflict or threaten the infliction of any injury, damage, harm or loss, or in any manner to practice intimidation upon or against any person in order to impede, prevent or otherwise interfere with the free exercise of the elective franchise of any elector, or to compel, induce or prevail upon any elector, either to give or refrain from giving his vote at any general, primary or special election, or to give or refrain from giving his vote for any particular person or measure at any such election. Each such offense shall be deemed a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 218 (2) of this act.

SECTION 240. Wagers with electors. It shall be unlawful for any person, including any candidate for public office, before or during any general, primary or special election, to make any bet or wager with an elector, or take a share or interest in, or in any manner become a party to, any such bet or wager, or provide or agree to provide any money to be used by another in making such bet or wager, upon any event or contingency whatever, arising out of such election. Each such offense shall be deemed a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 218 (2) of this act.

COMMENTS

The present law (49-21-6) provides that a corporation committing such offenses shall forfeit its charter and right to do business in this state.

Based on part of present 49-21-5.

This provision (present 49-21-4) has been changed to conform with a similar provision in the municipal election laws (49-22-154). No change made in penalty.

TEXT

SECTION 241. Electioneering. Any person who shall do any electioneering on election day within any polling place or in any public street or room, or in any public manner, within one hundred feet of any polling place, as determined by the county clerk, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 242. Liquor in or near polls. It shall be unlawful for any election official or other person to introduce into any polling place, or to use therein or to offer to another for use therein, at any time while any election is in progress or the result thereof being ascertained by the counting of the ballots, any intoxicating malt, spirituous or vinous liquors. Each such offense shall be deemed a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 218 (2) of this act.

SECTION 243. Tampering with nomination papers. Any person who, being in possession of any petition, certificate of nomination, letter of acceptance, declination or withdrawal, shall wrongfully or willfully destroy, deface, mutilate, suppress, neglect or fail to cause the same to be filed within the prescribed time, or who shall file any such paper knowing the same, or any part thereof, to be falsely made, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 244. Tampering with notices or supplies. Any person who, prior to an election, shall willfully deface, remove or destroy any notice of election posted in accordance with the provisions of this act, or who, during an election, shall willfully deface, remove or destroy any card of instruction or sample ballot, printed or posted for the instruction of electors, or who, during an election, shall willfully remove or destroy any of the supplies or conveniences furnished to enable an elector to prepare his ballot, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

COMMENTS

Based on first part of present 49-21-15. No change made in penalty.

Based on first part of 49-21-16. Would remove penalty provision on officials for locating polling places within 50 feet of places where liquor sold as liquor establishments must remain closed while the polls are open.

Based on present 49-4-44 and 49-21-13. Penalty under 49-4-44 is a fine of \$500 or imprisonment in the county jail for not to exceed six months and under 49-21-13 the penalty is a fine not to exceed \$1,000 nor imprisonment not to exceed one year in the county jail, or both.

Based on first part of present 49-21-12 which provides a penalty of a fine from \$5 to \$100 or by imprisonment in the county jail not exceeding three months or both.

TEXT

SECTION 245. Tampering with registration book or poll book. Any person who shall mutilate or erase any name, figure or word in any registration book or poll book, or who shall remove such registration book or poll book or any part thereof from the place where it has been deposited, with an intention to destroy the same, or to procure or prevent the election of any person, or to prevent any elector from voting, or who shall destroy any registration book or poll book or part thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 246. Tampering with voting machine. Any person who shall tamper with a voting machine before, during or after any general, primary or special election with intent to change the tabulation of votes thereon to reflect other than an accurate accounting shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 247. Inducing defective ballot. Any person who shall willfully cause a ballot to misstate in any way the wishes of the elector casting the same or who shall cause any other deceit to be practiced with intent fraudulently to induce such elector to deposit a defective ballot so as to have the ballot thrown out and not counted, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 248. Unlawful refusing or permitting to vote. If at any general, primary or special election any judge of election shall willfully and maliciously refuse or neglect to receive the ballot of any qualified registered elector who has taken or offered to take the oath prescribed by section 138 of this act, or shall knowingly and willfully permit any person to vote who is not entitled to vote at such election, such judge shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

COMMENTS

Based on present 49-21-31 which provides a penalty of a fine not exceeding \$500 or imprisonment of not more than 60 days in the county jail.

This is a new provision.

Based on part of present 49-21-29 which provides a penalty of not to exceed \$250 fine or by imprisonment not exceeding six months.

Based on present 49-10-16 and 49-21-27. The present law also provides for a civil action against the judge of election for refusing or neglecting to receive the plaintiff's vote (maximum damages \$500 -- 49-10-16).

TEXT

SECTION 249. Voting in wrong precinct. Any person who at any general, primary or special election shall fraudulently vote or offer to vote in any precinct in which he does not reside shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 250. Personating elector. Any person who shall falsely personate any elector and vote at any general, primary or special election under the name of such elector shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 251. Voting twice. If at any general, primary or special election any person shall vote more than once, or, having voted once, shall offer to vote again or shall offer to deposit in the ballot box more than one ballot, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 252. Interference with voter while voting. Any person who shall interfere or attempt to interfere with any voter when inside the immediate voting area or when marking a ballot or operating a voting machine at a general, primary or special election shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 253. Delivering and receiving ballots at polls.
(1) No elector shall receive an official ballot from any person except one of the judges or clerks of election having charge of the ballots, nor shall any person other than such judge or clerk deliver an official ballot to such elector.

(2) No person except a judge or clerk of election shall receive from any voter a ballot prepared for voting.

(3) Any elector who does not vote the ballot received by him shall return his ballot to the judge or clerk from whom he received the same before leaving the polling place.

COMMENTS

Based on present 49-21-30 which provides a penalty of a fine not exceeding \$200 or by imprisonment not exceeding six months.

Based on present 49-21-23 which provides a penalty of confinement in the state penitentiary for not exceeding three years.

Based on present 49-21-1 which provides a penalty of a fine not exceeding \$100 or imprisonment in the county jail not exceeding 60 days.

Based on part of present 49-21-11 and part of 49-21-12 which provide a penalty of a fine from \$5 to \$100 or by imprisonment in the county jail not exceeding three months, or both.

Based on parts of present 49-21-15.

TEXT

(4) Each violation of the provisions of this section shall be deemed a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 218 (2) of this act.

SECTION 254. Disclosing or identifying vote. Except as provided in section 122 of this act, no voter shall show his ballot after it is prepared for voting to any person in such a way as to reveal its contents, nor shall any person solicit or induce the voter to show the same. No voter shall place any mark upon his ballot by means of which it can be identified as the one voted by him, and no other mark shall be placed upon any ballot to identify it after it has been prepared for voting. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 255. Destroying, removing, or delaying delivery of ballots and other election papers. Any person who shall willfully destroy or deface any ballot, tally list, or certificate of election or who shall willfully delay the delivery of any ballots, tally lists, registration book, poll book, or certificates of election, or who shall take, carry away, conceal or remove any ballot or ballot box, tally list or certificate of election from the polling place, or from the possession of the person or persons authorized by law to have the custody thereof, or who aids, counsels, procures, advises or assists any person to do any of the aforesaid acts, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 256. Custody and delivery of ballots and other election papers. (1) Any election official having charge of official ballots, certificates of election, tally lists, registration books or poll books who shall destroy or conceal or suppress the same, except as expressly permitted by this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

COMMENTS

Based on parts of present 49-21-15 and 49-21-11.

Based on part of present 49-21-8, 49-21-13, and 49-21-15. Penalties under 49-21-8 include a fine of not more than \$1,000, imprisonment in the penitentiary for not less than one nor more than five years, or both.

Based on part of present 49-21-14 which provides a penalty of not less than one year nor more than five years imprisonment in the penitentiary.

TEXT

(2) Any election official who has undertaken to deliver the official ballots, certificates of election, tally lists, registration books or poll books to the county clerk who neglects or refuses to do so within the time prescribed by law, or who fails to account fully for all official ballots and other papers in his charge, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act. Informality in the delivery of the ballots, certificates, tally lists, registration books or poll books shall not invalidate the vote of any precinct if such papers are delivered prior to the canvassing of the votes by the county board of canvassers.

SECTION 257. Revealing how elector voted. Any election official or watcher or person who assists a disabled person in voting who shall reveal to any other person the name of any candidate for whom a voter has voted, or who shall communicate to another his opinion, belief or impression as to how or for whom a voter has voted, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 258. Release of information concerning count. Any election official, watcher or other person who shall release information concerning the count of ballots cast at precinct polling places, or of absent voters' ballots, prior to 7:00 p.m. on the day of the general, primary or special election shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 259. Mailing other materials with absent voter's ballot. It shall be unlawful for any county clerk to deliver or mail to an elector as a part of or in connection with the absent voter's ballot any thing other than the voting material as provided in article 11 of this act. Each such offense shall be deemed a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 218 (2) of this act.

COMMENTS

Based on part of present 49-21-14 which provides a penalty of a \$250 to \$1,000 fine or imprisonment in the county jail from six months to one year, or both.

Based on part of present 49-21-14 with same penalty as above. Also based on present 49-10-18 which provides a penalty of a fine of not less than \$500 or imprisonment in the county jail for not less than six months, or both.

Based on present 49-7-6 in part which provides a penalty of a fine of not more than \$500 or by imprisonment in the county jail for not more than six months, or both, and disfranchised for five years.

Based on part of present 49-11-2 (4). No change in penalty.

TEXT

SECTION 260. Absent voter applications and deliveries outside county clerk's office. No county clerk shall accept any application for any absent voter's ballot nor make personal delivery of any such ballot to the applicant, unless such acceptance and delivery occur within the confines of the official office of such county clerk, except as otherwise provided in section 141 and 142 of this act. Any acceptance or delivery contrary to the provisions of this section shall render void and of no effect the ballot to which it relates. Each violation of this section shall be deemed a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 218 (2) of this act.

SECTION 261. Breaking seal on absent voter's ballot. Any person, except those authorized by law, who shall break or loosen a seal on an absent voter's ballot with the intent to disclose or learn the number of such ballot, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 262. Offenses relating to absentee voting. Any election official or other person who knowingly violates any of the provisions of article 11 of this act relative to the casting of absent voters' ballots, or who attempts to aid or abet fraud in connection with any absent vote cast or to be cast, or attempting to be cast, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 263. Defacing or removing abstract of votes. Any person who shall deface, mutilate, alter or remove the abstract of votes posted outside of the polling place in accordance with section 132 of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act.

SECTION 264. Anonymous statements concerning candidates. Any person who willfully publishes or distributes any card, pamphlet, circular, poster, dodger, advertisement, or other

COMMENTS

Based on present 49-11-2 (3). No change in penalty.

Based on last sentence in present 49-21-14.

Based on parts of present 49-11-2 (6) and 49-11-14. Part of penalty at present for any public official so offending is the loss of voting rights forever.

Based on last part of present 49-10-25 which provides a penalty of a \$50 to \$100 fine or imprisonment in the county jail for 20 to 30 days.

Based on present 49-21-39 which provides as the penalty a fine of from \$100 to \$1,000.

TEXT

writing relating to or concerning any person who has publicly declared or has caused or permitted to be publicly declared his intention to seek election to any congressional, state, district, county, justice precinct, or precinct office in a primary, general, or special election or at a precinct caucus, assembly or convention of a political party, which does not contain the names of the persons, associations, committees, or corporations responsible for the publication or distribution of the same, and the name of the president, chairman or responsible official of each such association, committee, or corporation, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 218 (2) of this act. This section shall not apply to any person who, by himself or by his agent, publishes or distributes any writing relating to or concerning himself.

SECTION 265. Reporting campaign expenses. (1) Every candidate who is voted for at any primary, general or special election shall file an itemized statement showing, in detail, all of the moneys contributed or expended by him in aid of his election. Candidates at the primary election shall file the statement within ten days after the primary election. Candidates at a general or special election shall file the statement within thirty days after such election. The statement shall give the names of the various persons who received such money, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit, subscribed and sworn to by such candidate before an officer authorized to administer oaths, setting forth, in substance, that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him in aid of his election. Candidates for office to be filled by the electors of the entire state, or any division or district thereof greater than a county, and candidates for either house of the general assembly, for district judge, and for district attorney shall file their statements with the secretary of state. Candidates for county offices, and for all other offices not otherwise above expressly provided for, shall file their statements with the county clerk of the county wherein such election occurs.

COMMENTS

Based on present 49-4-32 and 49-21-7. This draft would eliminate the limitation on campaign expenses for primary elections (present 49-4-31) and would combine the subject of campaign expenses into this one section. Present law (49-21-9) also provides penalty of forfeiture of office.

TEXT

(2) Within thirty days after each general or special election, the chairman and secretary of the state, congressional, judicial, senatorial, representative, and county central committees of each political party presenting candidates, shall make and file a statement, under oath, setting forth in detail all sums of money received, from whom received, and to whom and for what purpose such money was paid by such committee during the preceding general or special election. Statements of state, congressional, judicial, senatorial and representative central committees shall be filed with the secretary of state and of county central committees with the county clerk.

(3) The statements filed in accordance with this section shall be preserved by the officers with whom they are filed until the next general election, and shall be open to the inspection of the public.

(4) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof be punished as provided in section 218 (2) of this act.

SECTION 266. Act liberally construed. This act shall be liberally construed so that all legally qualified electors may be registered and permitted to vote; that those who are not legal electors may be kept from the registration books; and that fraud and corruption in elections may be prevented.

SECTION 267. Applicability. This act shall apply only to general, primary and special elections as defined in section 1 of this act.

SECTION 268. Repeal. Articles 1 through 20 of chapter 49, Colorado Revised Statutes 1953, as amended, are hereby repealed.

SECTION 269. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given

COMMENTS

The present law provides also that a candidate who violates this section shall forfeit his office.

Based on part of present 49-6-31 and 49-6-40.

TEXT

effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 270. Effective date. This act shall take effect on July 1, 1963.

SECTION 271. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

COMMENTS

TEXT

FIRST REGULAR SESSION
FORTY-FOURTH GENERAL ASSEMBLY
STATE OF COLORADO

_____ BILL NO. _____

A Bill for an Act

RELATING TO THE USE OF VOTING MACHINES IN MUNICIPAL ELECTIONS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 49-22-89, Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby amended to read:

49-22-89. Use of voting machines. Voting machines may be used in any municipal election provided the governing body by resolution authorizes their use. THE ADOPTION AND USE OF VOTING MACHINES FOR MUNICIPAL ELECTIONS SHALL BE IN ACCORDANCE WITH THE PROVISIONS FOR THE ADOPTION AND USE OF VOTING MACHINES FOR GENERAL AND PRIMARY ELECTIONS INSOFAR AS SUCH PROVISIONS ARE APPLICABLE TO MUNICIPAL ELECTIONS.

SECTION 2. Effective date. This act shall take effect on July 1, 1963.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

COMMENTS

This appears to be the only change needed to the Municipal Election Laws as a result of the committee's revision of the General Election Laws.

APPENDIX A

ALTERNATIVE PROVISIONS TO COMMITTEE'S REVISION OF COLORADO ELECTION LAWS

The following alternative provisions cover matters on which there was majority approval but not unanimous agreement among committee members. The committee decided that these proposals should be submitted separately rather than as part of the text of the main revision. They are written to refer to specific sections in the proposed bill.

Primary Election Moved to Second Tuesday of August

Three alternative sections would be necessary to move the primary election date from the second Tuesday in September to the second Tuesday in August. Since nearly all of the deadlines and time limits (e.g., registration, filing of petitions, and filing of certificates of designation) are counted from the day of the primary election, they would automatically be made one month earlier without express statutory changes. The party assemblies would also have to be held one month earlier.

SECTION 1. Definitions. As used in this act.... (2) "Primary election" means the election held on the second Tuesday of August in each even-numbered year....

SECTION 49. Party nominations to be made by primary election.
(1) A primary election shall be held at the regular polling places in each precinct on the second Tuesday of August in even-numbered years for the nomination of candidates of political parties to be voted for at the succeeding general election and for the election of precinct committeemen and committeewomen of political parties....

SECTION 200. Contests arising out of primary election....
(2) Every such contest shall be instituted by petition to the proper court, setting forth the grounds of contest. The petition shall be verified and a copy thereof shall be served on the contestee within five days after the occurrence of the ground of contest, requiring the contestee to answer under oath within ten days after service....

Ballots Printed One Week Earlier

The following alternative sections are designed to require the ballots to be printed one week earlier than at present to provide more time for the mailing and return of absentee ballots.

SECTION 6. Copies of election laws and manual provided. At least thirty-seven days before the primary election, the secretary of state shall transmit a sufficient number of copies of the election laws of the state and of a simplified manual of election procedures to the county clerk of each county, to be distributed to the judges of election in each precinct.

SECTION 51. Designation of candidates by assembly. (1) Assemblies of the several political parties may make assembly designations of candidates for nomination on the primary election ballot. No assembly shall be held later than fifty-nine days preceding the primary election....

SECTION 55. Filing of petitions and certificates of designation. Every petition or certificate of designation by assembly in case of a candidate for nomination for any national or state office or for member of the general assembly, district judge, district attorney, or district office greater than a county office shall be filed in the office of the secretary of state. Every petition or certificate of designation by assembly in case of a candidate for nomination for any other elective office shall be filed in the office of the county clerk of the county wherein the person is a candidate. Petitions and certificates of designation by assembly shall be filed not less than fifty-two days prior to the primary election.

SECTION 63. Notice of primary election. (1) At least thirty-seven days before any primary election, the secretary of state shall transmit to each county clerk a notice in writing specifying the office for which nominations are to be made at the primary election. The notice shall include a certified list of persons for whom certificates of designation or petitions have been filed in his office and the office for which each person is a candidate, together with the other details mentioned in the certificates of designation or petitions....

SECTION 64. Primary election ballots.... (2) No later than twenty-seven days before the primary election, the county clerk shall prepare a separate sample ballot for each party for public inspection. He shall forthwith proceed to have the ballots printed in the following manner:....

SECTION 73. Party nominations to be made by convention.... (3) Certificates of nomination shall be filed with the secretary of state not less than fifty-two days before the general or special election....

SECTION 78. Petitions for nominating independent candidates.... (8) The petition, when executed and acknowledged as before prescribed, shall be filed with the secretary of state if for an office to be filled by the electors of the entire state or of a congressional district, or for the offices of members of the general assembly, district judges or district attorney or district office greater than a county office, and with the county clerk if for a county or justice precinct office. Petitions shall be filed not less than fifty-two days before the day of the general or special election.

SECTION 80. Withdrawal from nominations. (1) Any person who has been designated or nominated and who has accepted a designation or nomination, as provided in this article, may cause his name to be withdrawn from such designation or nomination at any time prior to thirty-eight days before the primary, general, or special election, as the case may be, by a written instrument withdrawing from the designation or nomination....

SECTION 81. Vacancies in designations or nominations. (1) Any vacancy in a party designation occurring prior to thirty-eight days preceding the primary election but after the holding of the party assembly at which the designation was made, caused by the declination, death, or withdrawal of any person designated....

(2) Any vacancy in a party nomination occurring prior to thirty-eight days preceding the general election but after the holding of the primary election at which the nomination was made, caused by the death or withdrawal of any person nominated at such primary election....

(3) Any vacancy in a party nomination occurring prior to thirty-eight days preceding the general or special election but after the holding of the convention at which the nomination was made....

(4) Any vacancy in a nomination for an independent candidate occurring prior to thirty-eight days preceding the general or special election but after the filing of the petition for nomination....

(5) The persons designated to fill any of the vacancies in subsections (1) through (4) of this section shall file any certificate of nomination to fill such vacancy with the respective officers with whom the original certificate or petition was filed, not later than thirty-eight days prior to the primary, general or special election....

(6) When the secretary of state or the county clerk receives a certificate of nomination to fill a vacancy, he, in certifying the list of designees or nominees, shall insert the name of the person who has been designated or nominated to fill the vacancy in place of the original candidate. In the event that the secretary of state has already sent forward his certificate, he shall forthwith certify to the clerks of the proper counties the name and description of the person so nominated, the office he is nominated for and the name of the person for whom such nominee is substituted. The secretary of state and the county clerks shall not be required to accept any certificates of nomination to fill vacancies after thirty-eight days before election day.

SECTION 99. Secretary of state to notify county clerk. (1) The secretary of state, at least thirty-seven days previous to any general election, shall make out and cause to be delivered, or transmitted by registered letter, to the county clerk of each county a notice in writing specifying the national, state and district officers to be elected at the general election....

(2) Whenever there is a vacancy to an unexpired term in any national, state or district office which is by law to be filled at any general or special election, the secretary of state, at least thirty-seven days previous to said election, shall give notice in writing as provided in subsection (1) of this section....

SECTION 108. Ballots for general and special elections....
(2) The county clerk of each county using paper ballots shall provide printed ballots for every general or special election. The official ballots shall be printed and in the possession of the county clerk at least twenty-seven days before the election. In addition, sample ballots shall be printed and in the possession of the county clerk twenty-seven days before the election and shall be subject to public inspection....

Affidavit Registration Limited to Cases of Illness or Physical Disability

This alternative would limit affidavit registration procedures to cases of serious illness or physical disability. The affidavit registration form would be furnished only to the elector (or his agent) who wishes to make the application.

SECTION 35. Affidavit registration. (1) When any qualified elector, because of serious illness or physical disability, shall be unable to register under other provisions of this article, such elector may be registered by filing or causing his agent to file with the county clerk a verified application as prescribed by the county clerk any time after forty-five days following any general election, except the twenty-five days immediately preceding a general, primary or special election. The elector shall declare under oath on the application that because of serious illness or physical disability he shall be unable to register under other provisions of this article. He shall answer the questions and subscribe to the oath required by sections 38 and 39 of this act. The elector shall subscribe to the oath before an officer authorized by law to administer oaths. Upon receipt of the verified application the county clerk shall forthwith register the elector in the registration book for the precinct wherein the elector resides, in the same manner as electors appearing in person are registered, and shall write or stamp in the space for the elector's signature the words, "registered by affidavit."

(2) An affidavit registration application form shall be furnished by the county clerk to any elector desiring to make such application or to the agent of any such elector. The county clerk shall keep a record of all forms furnished, including the name of the person to whom furnished.

SECTION 232. Disposition of affidavit registration forms.
(Delete.)

Elimination of Preliminary Abstract of Votes and Automatic Recount

The following alternative sections, if adopted, would eliminate the provisions relating to the preliminary abstract of votes and automatic recount.

SECTION 174. Abstracts of votes. No later than the tenth day after the close of the general or special election and no later than the fifth day after the close of the primary election the county board of canvassers shall proceed to open the returns and make abstracts of the votes. The abstracts of votes for presidential electors, United States senators, representatives in congress, officers of the executive department, regents of the university, members of the state board of education, state senators, state representatives, judges of the supreme court, judges of the district court, and district attorneys shall be listed on separate sheets. The abstract of votes for county, justice precinct, and precinct officers, including county judges, shall be listed on one sheet.

SECTION 175. Certificates of election for county, justice precinct, and precinct officers. The county clerk shall, immediately after the abstract of votes for county, justice precinct, and precinct officers has been prepared, make a certificate of election, or a certificate of nomination in the case of a primary election, for each of the persons having the highest number of votes for such offices and shall cause such certificates to be delivered to the persons entitled to them.

SECTION 176. Ties for county, justice precinct, and precinct officers. (1) If, after the abstract of votes has been prepared following a general or special election, it appears that any two or more persons have an equal and the highest number of votes for the same county, justice precinct, or precinct office, the county clerk shall immediately determine by lot which of the candidates shall be elected. He shall make a certificate of election for the person so elected and shall cause such certificate to be delivered to the person entitled thereto.

(2) If, after the abstract of votes has been prepared following a primary election, it appears that any two or more candidates of the same political party have an equal number of votes for the same county, justice precinct, or precinct office, and a higher number than any other candidate of the same political party, the "tie" shall be resolved in such manner as shall be agreed upon by the candidates so "tying." In case the candidates shall fail to agree upon the method of resolving the "tie" within two days after the completion of the abstract of votes, the same shall be resolved by lot, to be cast as the county board of canvassers shall determine. The county clerk shall then make a certificate of nomination for the person so nominated and shall cause such certificate to be delivered to the person entitled thereto.

SECTION 177. Copy of preliminary abstracts to secretary of state. (Delete.)

SECTION 178. Recounts for congressional, state and district offices. (Delete.)

SECTION 179. Copy of abstracts filed with secretary of state. The county clerk, immediately after the official abstracts of votes cast for national, state, district, county, justice precinct and precinct offices have been prepared, shall make a copy of such official abstracts and deliver or transmit the same in a registered package by mail to the office of the secretary of state; the original official abstract he shall file and record in a book in his office to be kept for that purpose. The county clerk shall certify the official abstracts and copies and affix thereto the county seal. The clerk shall endorse on the back of the envelope in which the certified copies are enclosed:

"Certified copy of the official abstract of votes cast for presidential electors, etc., governor, etc., members of the general assembly, etc., cast at the _____ election in _____ County, Colorado."

Judicial Review of Party Controversies

This alternative is designed to provide for judicial review in party controversies after remedies within the party have been exhausted.

SECTION 75. Party controversies. (1) All controversies concerning the regularity and conduct of the organization and operation of any political party shall be resolved in the following manner:

(a) If the controversy involves a precinct committee, the matter shall be adjudicated by the party's central committee of the county wherein the precinct lies under rules of procedure established by the state central committee of the political party concerned. Any participant, including any member of the county central committee, may appeal the ruling of the county central committee to the district court wherein the county lies.

(b) If the controversy involves a congressional, judicial, state senatorial or representative, or county committee, the matter shall be adjudicated by the party's state central committee under such rules of procedure as may be established by said state central committee. Any participant, including any member of the state central committee, may appeal the ruling of the state central committee to a district court within whose boundaries the district or county committee involved in such controversy is located. The district court first acquiring jurisdiction of any such appeal shall have complete jurisdiction thereof.

(c) If the controversy involves the state central committee or the state convention, the matter shall be adjudicated by a district court in the second judicial district.

(d) No person who is directly involved in any action brought under this section shall be permitted to serve in a capacity to hear and determine the same.

(e) The state central committee may make such rules governing the practice and proceedings for passing upon and determining such controversies within that party, unless such rules shall have been theretofore provided by the state convention of the party as provided in subsection (f) of this subsection.

(f) From the time the state convention of the party convenes until the time of its final adjournment, the state convention shall have all of the powers given by subsection (1) of this section to the state central committee, but not otherwise. The state convention of the party may also provide rules that shall govern the state central committee in the exercise of the powers conferred upon the committee in subsection (1) of this article.

(2) All appeals of decisions from the procedures contained in subsection (1) of this section shall be summarily adjudicated by the district court where such appeal is filed. All such appeals shall be tried de novo and the district court shall advance such appeals to the head of the calendar and hear and determine the same with all reasonable dispatch. The procedure for handling all such appeals before the district court shall be conducted as nearly as may be according to the rules for practice and proceedings in cases of contested elections. The decision of the district court hearing such appeals shall be final.

SECTION 76. Powers of central committees. (1) Subject to the provisions of section 75 of this act, the state central committee shall have the power to make all rules for party government....

County Boundary Changes Due to Annexation

The following alternative provisions would enable the election process to continue uninterrupted in cases of changes in county boundaries and would permit residents in such areas to vote for candidates in their "new" county of residence when the boundaries are changed less than 90 days before an election. At present these persons vote in their former county of residence.

SECTION 17. Basic qualifications. (1) Every person who has attained the age of twenty-one years, possessing the following qualifications, shall be entitled to register to vote at all general, primary, and special elections:....

(b) He shall have resided in this state one year immediately preceding the election at which he offers to vote, in the county ninety days, and in the precinct fifteen days; provided, in case of an annexation which changes county boundaries, any person otherwise qualified to register to vote under the provisions of this section who has resided within the territory annexed for the time prescribed shall be deemed to have met the residence requirements for the county and precinct to which the territory was annexed....

SECTION 42. Names transferred when precinct boundaries changed.

(1) In case any new election precinct shall be formed within a county, or in case of the division of any existing precinct, the registration sheets of all electors residing in the detached part of any precinct shall be forthwith removed by the county clerk from the registration book of the precinct, and shall be inserted by him in the registration book of the new precinct or the precinct to which such part may have been attached.

(2) In case any change shall be made in precinct boundaries as a result of annexation affecting county boundaries, the county clerk of the county from which the territory was annexed shall forthwith remove from the registration book the registration sheets of all electors residing in the annexed territory. He shall forthwith deliver, in person or by certified mail, such registration sheets to the county clerk of the county to which the territory was annexed, who shall insert them in the registration book of the appropriate precinct upon receipt. Such registrations shall be considered as continuing registrations with all such registered electors involved having full rights and privileges as if no change in county boundaries had occurred.

SECTION 102. Establishing precincts and polling places....

(2) Changes in the boundaries of precincts or the creation of new precincts shall be completed not less than five months prior to any general election, except in cases of precinct changes resulting from changes in county boundaries....

Electronic Data Processing

Another alternative proposal would be to permit the use of a "certified registration book" in lieu of the "original registration book" at the precinct polling places. The certified registration book could be prepared with the use of electronic data processing equipment and would consist of an alphabetical listing of the registered electors of the precinct along with the pertinent identification data for each elector.

In a number of sections in the revision, the only change necessary would be to insert a comma after the words "registration book" or "original registration book" followed by the words "or certified registration book." These sections are: 27, 28, 29, 31, 32, 33, 47, 62, 67, 68, 97, 106, 120, 121, 131, 134, 135, 143, 149, 151, 157, 231, 245, 255, and 256.

In addition to these changes, the following additional and alternative sections would be needed.

SECTION 1. Definitions. As used in this act:....(23) "Certified registration book" means a bound copy of identification data contained in the registration book, arranged by precinct in alphabetical order according to surname, certified as to accuracy and the completeness of said book by the county clerk. [Change subsection (23) in the revision to subsection (24).]

SECTION 23. Registration by county clerk. (1) The county clerk shall register any qualified elector residing in any precinct in the county who shall appear in person at his office at any time after forty-five days following any general election up to and including the twentieth day before the primary election or at any time after the primary election up to and including the twentieth day before the general election.

(2) Each elector....

SECTION 106. Registration book or certified registration book to be used at the polls. (1) The registration book or certified registration book shall be used by the election judges at their respective polling places in complying with the provisions of this act.

(2) Prior to....

APPENDIX B

SENATE JOINT MEMORIAL NO. _____

By:

MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION TO INCLUDE ADDITIONAL INFORMATION ON THE FEDERAL POST CARD APPLICATION FORM FOR VOTER REGISTRATION AND ABSENTEE VOTING UNDER "THE FEDERAL VOTING ASSISTANCE ACT OF 1955."

WHEREAS, under the provisions of "The Federal Voting Assistance Act of 1955" the Congress has provided a form of post card application for voter registration and absentee ballots to be used by members of the Armed Forces, of the United States merchant marine, civilian employees of the United States, and members of other groups assisting the Armed Forces in order to enable such persons to exercise their voting franchise when absent from their place of residence; and

WHEREAS, the Congress has recommended that each of the several states accept as applications for registration and absentee ballots the form of post card provided; and

WHEREAS, the State of Colorado has expressed its willingness to cooperate in the effort to make absentee voting by such persons as simple as possible by enacting legislation requiring election officials to accept the federal post card application form as a valid method of registering and voting; and

WHEREAS, additional information about the applicant is desirable for the adequate administration of the election laws of the State of Colorado; and

WHEREAS, this additional information is required of all other electors registering to vote in the State of Colorado; now, therefore,

Be It Resolved by the Senate of the Forty-fourth General Assembly of the State of Colorado, the House of Representatives concurring herein:

That it respectfully memorializes the Congress of the United States to recognize the need for additional information concerning applicants for registration and absentee ballots under "The Federal Voting Assistance Act of 1955" by proceeding at the earliest possible date to enact legislation that will add to the form of the federal post card application, as set out in "The Federal Voting Assistance Act of 1955," the following specified items:

(1) A description of the applicant, consisting of his height, sex, complexion, color of eyes and any other physical features by which he can be readily identified; and

(2) Whether married or single; and

(3) Whether the applicant is a native born or naturalized citizen of the United States. If he is a naturalized citizen, whether by naturalization of self, parents, or otherwise, and, as near as may be to his best knowledge, information and belief, when, where, and by what court the naturalization papers were granted.

Be It Further Resolved, That copies of this Memorial be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the Senators and Representatives in Congress from the State of Colorado.