

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 09-0687.01 Troy Bratton

SENATE BILL 09-152

SENATE SPONSORSHIP

Kopp and Penry,

HOUSE SPONSORSHIP

(None),

Senate Committees
State, Veterans & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING A REQUIREMENT THAT VACANCIES IN THE OFFICE OF
102 UNITED STATES SENATOR BE FILLED BY A VACANCY ELECTION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires that a vacancy in the office of United States senator be filled by a vacancy election.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 1-4-401 (1) and (2), Colorado Revised Statutes, are

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 amended to read:

2 **1-4-401. Time of congressional or senatorial vacancy elections.**

3 (1) Except as provided in section 1-4-401.5, when any vacancy occurs
4 in the office of representative in congress OR IN THE OFFICE OF UNITED
5 STATES SENATOR from this state, the governor shall set a day to hold an
6 election to fill the vacancy and cause notice of the election to be given as
7 required in part 2 of article 5 of this title; but no congressional OR
8 SENATORIAL vacancy election shall be held during the ninety days prior
9 to a general election or less than seventy-five days or more than ninety
10 days after the vacancy occurs.

11 (2) A congressional OR SENATORIAL vacancy election shall be
12 conducted and the results thereof surveyed and certified in all respects as
13 nearly as practicable in like manner as for general elections, except as
14 otherwise provided in this code.

15 **SECTION 2.** 1-4-402 (1) (a), (1) (d) (II), and (2), Colorado
16 Revised Statutes, are amended to read:

17 **1-4-402. Nominations of political party candidates.**

18 (1) (a) Any convention of delegates of a political party or any committee
19 authorized by resolution of the convention shall nominate a candidate to
20 fill a vacancy in the unexpired term of a representative in congress OR A
21 UNITED STATES SENATOR. A state central committee, its managing or
22 executive committee selected pursuant to section 1-3-105 (2), or any other
23 committee designated by the bylaws of the state central committee to
24 convene a convention to nominate a candidate to fill a vacancy in the
25 unexpired term of a representative in congress OR A UNITED STATES
26 SENATOR shall convene the convention and shall provide the procedure
27 for the nomination of the candidate. A copy of the notice of election, as

1 set by the governor and filed with the secretary of state, shall be sent by
2 certified mail to the state chairperson of each political party.

3 (1) (d) (II) Notwithstanding the provisions of subparagraph (I) of
4 this paragraph (d), if a political party has established a rule regarding the
5 length of affiliation which is necessary to be eligible for nomination by
6 convention for the office of representative in congress OR THE OFFICE OF
7 UNITED STATES SENATOR, the party rule shall apply.

8 (2) The nomination to fill the vacancy in the unexpired term of a
9 representative in congress OR A UNITED STATES SENATOR made by the
10 political party convention or a committee authorized by the convention
11 shall be certified by affidavit of the presiding officer and secretary of the
12 convention or committee.

13 **SECTION 3.** 1-4-403 (1), Colorado Revised Statutes, is amended
14 to read:

15 **1-4-403. Nomination of unaffiliated candidates for**
16 **congressional or senatorial vacancy election.** (1) Except as provided
17 in section 1-4-401.5, candidates for congress at a congressional vacancy
18 election OR FOR SENATOR AT A SENATORIAL VACANCY ELECTION who do
19 not wish to affiliate with a major political party may be nominated
20 pursuant to the provisions of section 1-4-802.

21 **SECTION 4.** 1-12-201, Colorado Revised Statutes, is amended
22 to read:

23 **1-12-201. Vacancies in office of United States senator.**
24 (1) When a vacancy occurs in the office of United States senator from
25 this state, the governor shall ~~make a temporary appointment to fill the~~
26 ~~vacancy until it is filled by election~~ SET A DAY TO HOLD A SENATORIAL
27 VACANCY ELECTION TO FILL THE VACANCY AND CAUSE NOTICE OF THE

1 ELECTION TO BE GIVEN AS REQUIRED IN PART 2 OF ARTICLE 5 OF THIS
2 TITLE, BUT SENATORIAL VACANCY ELECTIONS SHALL NOT BE HELD WITHIN
3 THE NINETY-DAY PERIOD PRECEDING A GENERAL ELECTION.

4 (2) ~~When a vacancy occurs, the governor shall direct the secretary~~
5 ~~of state to include in the general election notice for the next general~~
6 ~~election a notice of the filling of the vacancy. The secretary of state shall~~
7 ~~give notice accordingly. At the election, the vacancy shall be filled for~~
8 ~~the unexpired term. If, for any reason, no United States senator is elected~~
9 ~~at the next general election, the person temporarily appointed by the~~
10 ~~governor shall hold the office until a United States senator is elected at a~~
11 ~~succeeding general election.~~

12 **SECTION 5.** 1-1-102 (1), Colorado Revised Statutes, is amended
13 to read:

14 **1-1-102. Applicability.** (1) This code applies to all general,
15 primary, congressional vacancy, SENATORIAL VACANCY, school district,
16 special district, ballot issue, and other authorized elections unless
17 otherwise provided by this code. This code applies to any municipal
18 election conducted as part of a coordinated election except to the extent
19 that this code conflicts with a specific charter provision. Any
20 municipality may provide by ordinance or resolution that it will utilize the
21 requirements and procedures of this code in lieu of the "Colorado
22 Municipal Election Code of 1965", article 10 of title 31, C.R.S., with
23 respect to any election.

24 **SECTION 6.** 1-1-104 (51), Colorado Revised Statutes, is
25 amended, and the said 1-1-104 is further amended BY THE ADDITION
26 OF A NEW SUBSECTION, to read:

27 **1-1-104. Definitions.** As used in this code, unless the context

1 otherwise requires:

2 (44.5) "SENATORIAL VACANCY ELECTION" MEANS AN ELECTION
3 HELD AT A TIME OTHER THAN THE GENERAL ELECTION FOR THE PURPOSE
4 OF FILLING A VACANCY IN AN UNEXPIRED TERM OF A UNITED STATES
5 SENATOR.

6 (51) "Watcher" means an eligible elector other than a candidate
7 on the ballot who has been selected by a political party chairperson on
8 behalf of the political party, by a party candidate at a primary election, by
9 an unaffiliated candidate at a general, congressional vacancy,
10 SENATORIAL VACANCY, or nonpartisan election, or by a person designated
11 by either the opponents or the proponents in the case of a ballot issue or
12 ballot question. If selected by a political party chairperson, a party
13 candidate, or an unaffiliated candidate, the watcher shall be affiliated with
14 that political party or unaffiliated as shown on the registration books of
15 the county clerk and recorder.

16 **SECTION 7.** 1-1-107 (1) (a) and (2) (b), Colorado Revised
17 Statutes, are amended to read:

18 **1-1-107. Powers and duties of secretary of state - penalty.**

19 (1) In addition to any other duties prescribed by law, the secretary of
20 state has the following duties:

21 (a) To supervise the conduct of primary, general, congressional
22 vacancy, SENATORIAL VACANCY, and statewide ballot issue elections in
23 this state;

24 (2) In addition to any other powers prescribed by law, the
25 secretary of state shall have the following powers:

26 (b) To inspect, with or without the filing of a complaint by any
27 person, and review the practices and procedures of county clerk and

1 recorders, election commissions, their employees, and other election
2 officials in the conduct of primary, general, ~~and~~ congressional vacancy,
3 AND SENATORIAL VACANCY elections and the registration of electors in
4 this state;

5 **SECTION 8.** 1-2-201 (3), Colorado Revised Statutes, is amended
6 to read:

7 **1-2-201. Registration required - deadline.** (3) Any other
8 provisions of this title to the contrary notwithstanding, electors shall be
9 permitted to vote if the elector is registered to vote no later than
10 twenty-nine days before any primary, presidential, general, special
11 legislative election, municipal, congressional vacancy, SENATORIAL
12 VACANCY, special district, or other election, and, if the twenty-ninth day
13 before an election is a Saturday, Sunday, or legal holiday, then electors
14 shall be permitted to register on the next day that is not a Saturday,
15 Sunday, or legal holiday.

16 **SECTION 9.** The introductory portion to 1-2-209 (1), Colorado
17 Revised Statutes, is amended to read:

18 **1-2-209. Registration of citizens who reside outside the United**
19 **States - federal law.** (1) A nonresident overseas elector who meets the
20 other qualifications for registration in this state shall be registered and
21 entitled to vote at any primary, general, ~~or~~ congressional vacancy, OR
22 SENATORIAL VACANCY election for federal offices only, upon receipt by
23 the county clerk and recorder of the former domicile of the elector of a
24 federal postcard application, even though while residing outside the
25 United States the elector does not have a place of residence in this state
26 and the intent to return may be uncertain, if:

27 **SECTION 10.** 1-2-210, Colorado Revised Statutes, is amended

1 to read:

2 **1-2-210. Registration for congressional and senatorial vacancy**
3 **elections.** Except as otherwise provided in section 1-4-401.5, in any
4 congressional OR SENATORIAL vacancy election, the time and method of
5 registration and performance of other acts shall be as provided in this part
6 2 for general elections. In every other respect, the election shall be held
7 in conformity with this part 2 as far as practicable. Any congressional OR
8 SENATORIAL vacancy election shall be called in sufficient time before the
9 date of the election to permit the county clerk and recorder to comply
10 with the provisions of this part 2.

11 **SECTION 11.** 1-2-216 (5), Colorado Revised Statutes, is
12 amended to read:

13 **1-2-216. Change of residence.** (5) A change of residence within
14 the same precinct may be made on the day of any primary, general,
15 odd-numbered year, congressional vacancy, SENATORIAL VACANCY, or
16 coordinated election at the polls by the elector.

17 **SECTION 12.** 1-2-301 (2) (b), Colorado Revised Statutes, is
18 amended to read:

19 **1-2-301. Centralized statewide registration system - secretary**
20 **of state to maintain computerized statewide voter registration list -**
21 **county computer records - agreement to match information.**

22 (2) (b) No later than five days after the last day to register for a primary,
23 general, odd-numbered year, ~~or~~ congressional vacancy, OR SENATORIAL
24 VACANCY election, the county clerk and recorder of each county shall
25 transmit to the secretary of state, in a media format acceptable to the
26 secretary of state, a list of the registered electors in the county. The list
27 shall contain, but shall not be limited to, each elector's name, place of

1 residence, mailing address if different from residence address, precinct
2 number, date of birth, social security number or other identification
3 number, and the date on which the elector was last registered.

4 **SECTION 13.** 1-2-305 (3) (b), Colorado Revised Statutes, is
5 amended to read:

6 **1-2-305. Postelection procedures - voting history.** (3) As used
7 in this section, unless the context otherwise requires:

8 (b) "State election" means a general, primary, ~~or~~ congressional
9 vacancy, ~~OR SENATORIAL VACANCY~~ election, a special legislative election
10 involving more than one county, a ballot issue election involving a
11 statewide ballot issue, or any election involving a candidate or ballot issue
12 for a district of state concern.

13 **SECTION 14.** 1-2-604 (2), Colorado Revised Statutes, is
14 amended to read:

15 **1-2-604. Cancellation of electors with a multiple registration.**

16 (2) Not later than fifteen days prior to each primary, general,
17 odd-numbered year, ~~or~~ congressional vacancy, ~~OR SENATORIAL VACANCY~~
18 election, the secretary of state shall furnish to each county clerk and
19 recorder a list of registered electors who are registered to vote in more
20 than one precinct in this state. The lists shall identify each elector as
21 provided in section 1-2-301 (1).

22 **SECTION 15.** 1-4-502 (2), Colorado Revised Statutes, is
23 amended to read:

24 **1-4-502. Methods of nomination for partisan candidates.**

25 (2) Nominations for presidential electors to be elected at the general
26 election, ~~and~~ for candidates to fill vacancies to unexpired terms of
27 representatives in congress to be elected at a congressional vacancy

1 election, AND FOR CANDIDATES TO FILL VACANCIES TO UNEXPIRED TERMS
2 OF UNITED STATES SENATORS TO BE ELECTED AT A SENATORIAL VACANCY
3 ELECTION may be made by a convention of a political party, or by a
4 committee authorized by the convention, or by petition for nomination of
5 an unaffiliated candidate as provided in parts 8 and 9 of this article.

6 **SECTION 16.** 1-4-701 (3), Colorado Revised Statutes, is
7 amended to read:

8 **1-4-701. Party nominations to be made by convention.**
9 (3) Certificates of nomination shall be received and filed with the
10 secretary of state no later than sixty days before the general, ~~or~~
11 congressional vacancy, OR SENATORIAL VACANCY election.

12 **SECTION 17.** The introductory portion to 1-4-802 (1) and
13 1-4-802 (1) (f) (I), Colorado Revised Statutes, are amended to read:

14 **1-4-802. Petitions for nominating minor political party and**
15 **unaffiliated candidates for a partisan office.** (1) Candidates for
16 partisan public offices to be filled at a general, ~~or~~ congressional vacancy,
17 OR SENATORIAL VACANCY election who do not wish to affiliate with a
18 major political party may be nominated, other than by a primary election
19 or a convention, in the following manner:

20 (f) (I) Except as provided by subparagraph (II) of this paragraph
21 (f), petitions shall be filed no later than 3 p.m. on the one hundred fortieth
22 day before the general election or 3 p.m. on the fifty-fifth day preceding
23 the congressional OR SENATORIAL vacancy election.

24 **SECTION 18.** 1-4-912 (1), Colorado Revised Statutes, is
25 amended to read:

26 **1-4-912. Cure.** (1) In case a petition for nominating an
27 unaffiliated candidate is not sufficient, it may be amended once no later

1 than 3 p.m. on the ninety-fifth day before the general election, 3 p.m. on
2 the fifty-fifth day preceding a congressional OR SENATORIAL vacancy
3 election, or 3 p.m. on the sixty-seventh day before an election that is not
4 being held concurrently with the general election. If a petition for
5 nominating an unaffiliated candidate is amended, the designated election
6 official shall notify the candidate of whether the petition is sufficient or
7 insufficient no later than the ninetieth day before the general election.

8 **SECTION 19.** 1-4-1002 (3), (4), and (4.5), Colorado Revised
9 Statutes, are amended to read:

10 **1-4-1002. Vacancies in designation or nomination.** (3) Any
11 vacancy in a party nomination occurring after the convention or assembly
12 at which the nomination was made and no later than seventy days before
13 the congressional OR SENATORIAL vacancy election, caused by the
14 declination, death, disqualification, or withdrawal of any person
15 nominated at the convention, may be filled in the same manner required
16 for the original nomination. If the original nomination was made by a
17 party convention or assembly that had delegated to a committee the power
18 to fill vacancies, the committee may proceed to fill the same vacancy
19 when it occurs. No person is eligible for appointment to fill a vacancy in
20 the party nomination unless that person meets all of the requirements of
21 candidacy as of the date of the convention or assembly at which the
22 original nomination was made.

23 (4) Any vacancy in a nomination for an unaffiliated candidate
24 caused by the declination, death, or withdrawal of any person nominated
25 by petition or statement of intent occurring after the filing of the petition
26 for nomination or the submittal of a statement of intent under section
27 1-4-303 and no later than seventy days before the general, or

1 congressional, OR SENATORIAL vacancy election may be filled by the
2 person or persons designated on the petition or statement of intent to fill
3 vacancies.

4 (4.5) Any vacancy in a nomination for a minor political party
5 candidate occurring after the filing of the certificate of designation
6 pursuant to section 1-4-1304 (3) and no later than seventy days before the
7 general, ~~or~~ congressional, OR SENATORIAL vacancy election, which is
8 caused by the declination, death, or withdrawal of any person nominated
9 by the minor political party, may be filled by the person or persons
10 designated in the constitution or bylaws of the minor political party to fill
11 vacancies.

12 **SECTION 20.** 1-5-101 (1), Colorado Revised Statutes, is
13 amended to read:

14 **1-5-101. Establishing precincts and polling places for partisan**
15 **elections.** (1) Subject to approval by the board of county commissioners,
16 the county clerk and recorder of each county shall divide the county into
17 as many election precincts for all general, primary, ~~and~~ congressional
18 vacancy, AND SENATORIAL VACANCY elections as is convenient for the
19 eligible electors of the county and shall designate the place for each
20 precinct at which elections are to be held. In establishing boundaries, the
21 board of county commissioners shall take into consideration natural and
22 artificial boundaries that meet the requirements of the United States
23 bureau of the census. The precincts shall be numbered in accordance
24 with section 1-5-101.5. Changes in the precinct boundaries of a county
25 shall be made only within the district boundaries of each representative
26 and senatorial district.

27 **SECTION 21.** The introductory portion to 1-5-203 (1) (a),

1 Colorado Revised Statutes, is amended to read:

2 **1-5-203. Certification of ballot.** (1) (a) No later than sixty days
3 before any primary election, and no later than fifty-seven days before any
4 general or odd-year November election, or congressional OR SENATORIAL
5 vacancy election, the secretary of state shall deliver by electronic
6 transmission and registered mail to the county clerk and recorder of each
7 county a certificate in writing of the ballot order and content for each
8 county, as follows:

9 **SECTION 22.** 1-5-205 (3), Colorado Revised Statutes, is
10 amended to read:

11 **1-5-205. Published and posted notice of election.** (3) When
12 there is a vacancy for an unexpired term in any national or state office or
13 a district office of state concern that is by law to be filled at any general,
14 ~~or~~ congressional vacancy, OR SENATORIAL VACANCY election, the
15 secretary of state, no later than fifty-five days prior to the election, shall
16 give notice in writing by publishing a notice in at least one newspaper of
17 general circulation in the state or in the congressional district in which the
18 vacancy is to be filled. The notice shall specify the office in which the
19 vacancy exists, the cause of the vacancy, the name of the officer in whose
20 office it has occurred, and the time when the term of office will expire.

21 **SECTION 23.** 1-5-301 (1), Colorado Revised Statutes, is
22 amended to read:

23 **1-5-301. Registration record for partisan elections.** (1) The
24 original registration records shall be retained in the office of the county
25 clerk and recorder and may be provided for use by election judges at
26 precinct polling places in primary, general, ~~and~~ congressional vacancy,
27 AND SENATORIAL VACANCY elections.

1 **SECTION 24.** 1-5-302, Colorado Revised Statutes, is amended
2 to read:

3 **1-5-302. Computer lists may be used in lieu of original**
4 **registration records.** For the purposes of all elections, the county clerk
5 and recorder may substitute and supply computer lists of registered
6 electors within the political subdivision for the original registration
7 record. Following a primary, general, ~~or~~ congressional vacancy, OR
8 SENATORIAL VACANCY election, the county clerk and recorder shall record
9 the date of election and, if a primary election, the party ballot received on
10 the registered elector's original registration record retained and stored as
11 provided in section 1-1-104 (36).

12 **SECTION 25.** 1-5-403 (1), Colorado Revised Statutes, is
13 amended to read:

14 **1-5-403. Content of ballots for general, congressional vacancy,**
15 **and senatorial vacancy elections.** (1) The county clerk and recorder of
16 each county using paper ballots or electronically counted ballot cards
17 shall provide printed ballots for every odd-numbered year, general, ~~or~~
18 congressional vacancy, OR SENATORIAL VACANCY election. The official
19 ballots shall be printed and in the possession of the county clerk and
20 recorder no later than thirty-two days before every odd-numbered year,
21 congressional vacancy, SENATORIAL VACANCY, and general election.

22 **SECTION 26.** 1-5-404 (3), Colorado Revised Statutes, is
23 amended to read:

24 **1-5-404. Arrangement of names on ballots for partisan**
25 **elections.** (3) The arrangement of names on ballots for congressional
26 vacancy OR SENATORIAL VACANCY elections shall be established by lot at
27 any time prior to the certification of ballots for the congressional vacancy

1 OR SENATORIAL VACANCY election. The officer in receipt of the original
2 designation, nomination, or petition of each candidate shall inform the
3 two major political parties, each minor political party, and the
4 representatives of each political organization on file with the secretary of
5 state of the time and place of the lot-drawing for the congressional
6 election ballot. Ballot positions shall be assigned to the major political
7 party, minor political party, or political organization in the order in which
8 they are drawn.

9 **SECTION 27.** 1-5-505 (1), Colorado Revised Statutes, is
10 amended to read:

11 **1-5-505. Election expenses to be paid by county.** (1) Except as
12 provided in section 1-5-505.5, the cost of conducting general, primary,
13 ~~and~~ congressional vacancy, AND SENATORIAL VACANCY elections,
14 including the cost of printing and supplies, shall be a county charge, the
15 payment of which shall be provided for in the same manner as the
16 payment of other county expenses.

17 **SECTION 28.** 1-7-106, Colorado Revised Statutes, is amended
18 to read:

19 **1-7-106. Watchers at general, congressional vacancy, and**
20 **senatorial vacancy elections.** Each participating political party or issue
21 committee whose candidate or issue is on the ballot, and each unaffiliated
22 and write-in candidate whose name is on the ballot for a general, ~~or~~
23 congressional vacancy, OR SENATORIAL VACANCY election, shall be
24 entitled to have no more than one watcher at any one time in each
25 precinct polling place in the county and at each place where votes are
26 counted in accordance with this article. The chairperson of the county
27 central committee of each major political party, the county chairperson or

1 other authorized official of each minor political party, the issue
2 committee, or the write-in or unaffiliated candidate shall certify the names
3 of one or more persons selected as watchers on forms provided by the
4 county clerk and recorder and submit the names of the persons selected
5 as watchers to the county clerk and recorder. To the extent possible, the
6 chairperson, authorized official, issue committee, or candidate shall
7 submit the names by the close of business on the Friday immediately
8 preceding the election. The watchers shall surrender the certificates to
9 the election judges at the time they enter the polling place and are sworn
10 by the judges. This section shall not prevent party candidates or county
11 party officers from visiting polling places to observe the progress of
12 voting in the precincts.

13 **SECTION 29.** 1-7-510 (2), Colorado Revised Statutes, is
14 amended to read:

15 **1-7-510. Election software code - escrow - definitions.** (2) At
16 the conclusion of programming and after it has been determined that a
17 voting system is in proper working order and ready for voting, the
18 designated election official shall deposit a copy of the election setup
19 records for a county, statewide, ~~or~~ congressional vacancy, OR SENATORIAL
20 VACANCY election with the secretary of state no later than 5:00 p.m. on
21 the seventh day before the election.

22 **SECTION 30.** 1-7.5-104 (2) (b), Colorado Revised Statutes, is
23 amended to read:

24 **1-7.5-104. Mail ballot elections - optional.** (2) Notwithstanding
25 the provisions of subsection (1) of this section, a mail ballot election shall
26 not be held for:

27 (b) Elections held in conjunction with, or on the same day as, a

1 primary, ~~or~~ congressional vacancy, OR SENATORIAL VACANCY election.

2 **SECTION 31.** 1-8-116 (1), Colorado Revised Statutes, is
3 amended to read:

4 **1-8-116. Special write-in blank mail-in ballots.** (1) A citizen
5 who resides or is traveling outside the United States, who is a registered
6 elector in this state prior to his or her departure, and who qualifies
7 pursuant to this section may apply to the county clerk and recorder for a
8 special write-in blank mail-in ballot to vote at a primary, general,
9 coordinated, ~~or~~ congressional vacancy, OR SENATORIAL VACANCY
10 election, regardless of whether the elector has previously submitted an
11 absentee ballot application for the election. An application for a special
12 write-in blank mail-in voter ballot shall contain a statement by the
13 registered elector that due to military or other contingencies that preclude
14 normal mail delivery, as specified by the elector, the elector believes that
15 he or she cannot vote a mail-in ballot during the normal period provided
16 by this part 1. An application made pursuant to this section that is
17 received by the designated election official prior to the fifty-seventh day
18 before the election shall be kept and processed on or after the
19 fifty-seventh day before the election.

20 **SECTION 32.** 1-8-117 (1), Colorado Revised Statutes, is
21 amended to read:

22 **1-8-117. Federal write-in absentee ballots pursuant to the**
23 **"Uniformed and Overseas Citizens Absentee Voting Act".** (1) An
24 absent uniformed services elector, nonresident overseas elector, or
25 resident overseas elector, as defined in section 1-2-208 (2.5), who is an
26 eligible elector in this state prior to the elector's departure or pursuant to
27 section 1-2-208 is entitled to vote for federal officers by a federal write-in

1 absentee ballot at any primary, general, ~~or~~ congressional vacancy, OR
2 SENATORIAL VACANCY election.

3 **SECTION 33.** 1-10-101 (1) (a), Colorado Revised Statutes, is
4 amended to read:

5 **1-10-101. Canvass board for partisan elections - appointment,**
6 **fees, oaths.** (1) (a) At least fifteen days before any primary, general,
7 congressional vacancy, SENATORIAL VACANCY, or special legislative
8 election, the county chairpersons of each of the two major political parties
9 in each county shall certify to the county clerk and recorder, in the
10 manner prescribed by such clerk and recorder, the appointment of one or
11 more registered electors to serve as a member of the county canvass
12 board. The appointees, together with the county clerk and recorder,
13 constitute the county canvass board. Each minor political party whose
14 candidate is on the ballot and each unaffiliated candidate whose name is
15 on the ballot in such election may designate, in the manner prescribed by
16 such clerk and recorder, one watcher to observe the work of the county
17 canvass board.

18 **SECTION 34.** 1-11-101 (1) and (2), Colorado Revised Statutes,
19 are amended to read:

20 **1-11-101. Tie votes at partisan elections.** (1) If at any general,
21 ~~or~~ congressional vacancy, OR SENATORIAL VACANCY election, after all
22 recounts have been completed, any two or more pairs of joint candidates
23 for the offices of governor and lieutenant governor or if two or more
24 candidates for the offices of secretary of state, state treasurer, or attorney
25 general tie for the highest number of votes for the same office, one of the
26 pairs or one of the individual candidates shall be chosen by the two
27 houses of the general assembly on a joint ballot.

1 (2) If at any general, ~~or~~ congressional vacancy, OR SENATORIAL
2 VACANCY election, after all recounts have been completed, any two or
3 more persons tie for the highest number of votes for presidential electors,
4 for United States senator, for representative in congress, for regent of the
5 university of Colorado, for member of the state board of education, for
6 state senator or state representative, or for district attorney, the secretary
7 of state shall proceed to determine by lot which of the candidates shall be
8 declared elected. Reasonable notice shall be given to the candidates of
9 the time when the election will be determined.

10 **SECTION 35.** 1-13-102, Colorado Revised Statutes, is amended
11 to read:

12 **1-13-102. Sufficiency of complaint - judicial notice.**
13 Irregularities or defects in the mode of calling, giving notice of,
14 convening, holding, or conducting any general, primary, ~~or~~ congressional
15 vacancy, OR SENATORIAL VACANCY election authorized by law constitute
16 no defense to a prosecution for a violation of this code. When an offense
17 is committed in relation to any general, primary, ~~or~~ congressional
18 vacancy, OR SENATORIAL VACANCY election, an indictment, information,
19 or complaint for such offense is sufficient if it alleges that such election
20 was authorized by law without stating the call or notice of the election,
21 the names of the judges holding such election, or the names of the persons
22 voted for at such election. Judicial notice shall be taken of the holding of
23 any general, primary, ~~or~~ congressional vacancy, OR SENATORIAL
24 VACANCY election.

25 **SECTION 36.** 31-10-108, Colorado Revised Statutes, is amended
26 to read:

27 **31-10-108. Special elections.** Special elections shall be held on

1 any Tuesday designated by ordinance or resolution of the governing body.
2 No special election shall be held within the ninety days preceding a
3 regular election. No special election shall be called within thirty days
4 before the date thereof, nor shall any special election be held within the
5 thirty-two days before or after the date of a primary, general, ~~or~~
6 congressional vacancy, OR SENATORIAL VACANCY election. A special
7 election may be held at the same time and place as a primary,
8 congressional vacancy, SENATORIAL VACANCY, or general election as a
9 coordinated election pursuant to section 1-7-116, C.R.S., or may be
10 conducted at the same time as a mail ballot election pursuant to article 7.5
11 of title 1, C.R.S. Special elections shall be conducted as nearly as
12 practicable in the same manner as regular elections.

13 **SECTION 37. Act subject to petition - effective date.** This act
14 shall take effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly that is
16 allowed for submitting a referendum petition pursuant to article V,
17 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
18 sine die is on May 6, 2009); except that, if a referendum petition is filed
19 against this act or an item, section, or part of this act within such period,
20 then the act, item, section, or part, if approved by the people, shall take
21 effect on the date of the official declaration of the vote thereon by
22 proclamation of the governor.