

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.

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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.

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(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

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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

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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

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(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.

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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.

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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.

COMMENTS

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

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Based on present 49-11-5.

Based on present 49-11-6.

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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.

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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.

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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.

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(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.

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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.

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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.

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(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

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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

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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

COMMENTS

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, _____,

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

COMMENTS

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.

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 upon the 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.