

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0662.01 Troy Bratton

SENATE BILL 10-030

SENATE SPONSORSHIP

Kopp,

HOUSE SPONSORSHIP

(None),

Senate Committees
State, Veterans & Military Affairs

House Committees

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Currently, a vacancy in the office of a United States senator from this state is filled by appointment of the governor. The bill requires such vacancies to be filled by a special senatorial vacancy election.

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

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

2 **SECTION 1.** 1-1-102 (1), Colorado Revised Statutes, is amended
3 to read:

4 **1-1-102. Applicability.** (1) This code applies to all general,
5 primary, congressional vacancy, SENATORIAL VACANCY, school district,
6 special district, ballot issue, and other authorized elections unless
7 otherwise provided by this code. This code applies to any municipal
8 election conducted as part of a coordinated election except to the extent
9 that this code conflicts with a specific charter provision. Any
10 municipality may provide by ordinance or resolution that it will utilize the
11 requirements and procedures of this code in lieu of the "Colorado
12 Municipal Election Code of 1965", article 10 of title 31, C.R.S., with
13 respect to any election.

14 **SECTION 2.** 1-1-104 (51), Colorado Revised Statutes, is
15 amended, and the said 1-1-104 is further amended BY THE ADDITION
16 OF A NEW SUBSECTION, to read:

17 **1-1-104. Definitions.** As used in this code, unless the context
18 otherwise requires:

19 (45.7) "SENATORIAL VACANCY ELECTION" MEANS AN ELECTION
20 HELD AT A TIME OTHER THAN THE GENERAL ELECTION FOR THE PURPOSE
21 OF FILLING A VACANCY IN AN UNEXPIRED TERM OF A UNITED STATES
22 SENATOR.

23 (51) "Watcher" means an eligible elector other than a candidate
24 on the ballot who has been selected by a political party chairperson on
25 behalf of the political party, by a party candidate at a primary election, by
26 an unaffiliated candidate at a general, congressional vacancy,

1 SENATORIAL VACANCY, or nonpartisan election, or by a person designated
2 by either the opponents or the proponents in the case of a ballot issue or
3 ballot question. If selected by a political party chairperson, a party
4 candidate, or an unaffiliated candidate, the watcher shall be affiliated with
5 that political party or unaffiliated as shown on the registration books of
6 the county clerk and recorder.

7 **SECTION 3.** 1-1-107 (1) (a) and (2) (b), Colorado Revised
8 Statutes, are amended to read:

9 **1-1-107. Powers and duties of secretary of state - penalty.**

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

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

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

17 (b) To inspect, with or without the filing of a complaint by any
18 person, and review the practices and procedures of county clerk and
19 recorders, election commissions, their employees, and other election
20 officials in the conduct of primary, general, ~~and~~ congressional vacancy,
21 AND SENATORIAL VACANCY elections and the registration of electors in
22 this state;

23 **SECTION 4.** 1-2-201 (3), Colorado Revised Statutes, is amended
24 to read:

25 **1-2-201. Registration required - deadline.** (3) Any other
26 provisions of this title to the contrary notwithstanding, ~~electors~~ AN
27 ELECTOR shall be permitted to vote if the elector is registered to vote no

1 later than twenty-nine days before any primary, presidential, general,
2 special legislative election, municipal, congressional vacancy,
3 SENATORIAL VACANCY, special district, or other election, and, if the
4 twenty-ninth day before an election is a Saturday, Sunday, or legal
5 holiday, then ~~electors~~ THE ELECTOR shall be permitted to register on the
6 next day that is not a Saturday, Sunday, or legal holiday.

7 **SECTION 5.** The introductory portion to 1-2-209 (1), Colorado
8 Revised Statutes, is amended to read:

9 **1-2-209. Registration of citizens who reside outside the United**
10 **States - federal law.** (1) A nonresident overseas elector who meets the
11 other qualifications for registration in this state shall be registered and
12 entitled to vote at any primary, general, ~~or~~ congressional vacancy, OR
13 SENATORIAL VACANCY election for federal offices only, upon receipt by
14 the county clerk and recorder of the former domicile of the elector of a
15 federal postcard application, even though while residing outside the
16 United States the elector does not have a place of residence in this state
17 and the intent to return may be uncertain, if:

18 **SECTION 6.** 1-2-210, Colorado Revised Statutes, is amended to
19 read:

20 **1-2-210. Registration for congressional and senatorial vacancy**
21 **elections.** Except as otherwise provided in section 1-4-401.5, in any
22 congressional OR SENATORIAL vacancy election, the time and method of
23 registration and performance of other acts shall be as provided in this part
24 2 for general elections. In every other respect, the election shall be held
25 in conformity with this part 2 as far as practicable. Any congressional OR
26 SENATORIAL vacancy election shall be called in sufficient time before the
27 date of the election to permit the county clerk and recorder to comply

1 with the provisions of this part 2.

2 **SECTION 7.** 1-2-216 (5), Colorado Revised Statutes, is amended
3 to read:

4 **1-2-216. Change of residence.** (5) A change of residence within
5 the same precinct may be made on the day of any primary, general,
6 odd-numbered year, congressional vacancy, SENATORIAL VACANCY, or
7 coordinated election at the polls by the elector.

8 **SECTION 8.** 1-2-305 (3) (b), Colorado Revised Statutes, is
9 amended to read:

10 **1-2-305. Postelection procedures - voting history - definitions.**

11 (3) As used in this section, unless the context otherwise requires:

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

17 **SECTION 9.** 1-4-401, Colorado Revised Statutes, is amended to
18 read:

19 **1-4-401. Time of congressional or senatorial vacancy elections.**

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

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

5 **SECTION 10.** 1-4-402 (1) (a), (1) (d) (II), and (2), Colorado
6 Revised Statutes, are amended to read:

7 **1-4-402. Nominations of political party candidates.**

8 (1) (a) Any convention of delegates of a political party or any committee
9 authorized by resolution of the convention shall nominate a candidate to
10 fill a vacancy in the unexpired term of a representative in congress OR A
11 UNITED STATES SENATOR. A state central committee, its managing or
12 executive committee selected pursuant to section 1-3-105 (2), or any other
13 committee designated by the bylaws of the state central committee to
14 convene a convention to nominate a candidate to fill a vacancy in the
15 unexpired term of a representative in congress OR A UNITED STATES
16 SENATOR shall convene the convention and shall provide the procedure
17 for the nomination of the candidate. A copy of the notice of election, as
18 set by the governor and filed with the secretary of state, shall be sent by
19 certified mail to the state chairperson of each political party.

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

25 (2) The nomination to fill the vacancy in the unexpired term of a
26 representative in congress OR A UNITED STATES SENATOR made by the
27 political party convention or a committee authorized by the convention

1 shall be certified by affidavit of the presiding officer and secretary of the
2 convention or committee.

3 **SECTION 11.** 1-4-403 (1), Colorado Revised Statutes, is
4 amended to read:

5 **1-4-403. Nomination of unaffiliated candidates for**
6 **congressional or senatorial vacancy election.** (1) Except as provided
7 in section 1-4-401.5, candidates for congress at a congressional vacancy
8 election OR FOR THE UNITED STATES SENATE AT A SENATORIAL VACANCY
9 ELECTION who do not wish to affiliate with a major political party may be
10 nominated pursuant to the provisions of section 1-4-802.

11 **SECTION 12.** 1-4-502 (2), Colorado Revised Statutes, is
12 amended to read:

13 **1-4-502. Methods of nomination for partisan candidates.**
14 (2) Nominations for presidential electors to be elected at the general
15 election, ~~and~~ for candidates to fill vacancies to unexpired terms of
16 representatives in congress to be elected at a congressional vacancy
17 election, AND FOR CANDIDATES TO FILL VACANCIES TO UNEXPIRED TERMS
18 OF UNITED STATES SENATORS TO BE ELECTED AT A SENATORIAL VACANCY
19 ELECTION may be made by a convention of a political party, or by a
20 committee authorized by the convention, or by petition for nomination of
21 an unaffiliated candidate as provided in parts 8 and 9 of this article.

22 **SECTION 13.** 1-4-701 (3), Colorado Revised Statutes, is
23 amended to read:

24 **1-4-701. Party nominations to be made by convention.**
25 (3) Certificates of nomination shall be received and filed with the
26 secretary of state no later than sixty days before the general, ~~or~~
27 congressional vacancy, OR SENATORIAL VACANCY election.

1 **SECTION 14.** The introductory portion to 1-4-802 (1) and
2 1-4-802 (1) (f) (I), Colorado Revised Statutes, are amended to read:

3 **1-4-802. Petitions for nominating minor political party and**
4 **unaffiliated candidates for a partisan office.** (1) Candidates for
5 partisan public offices to be filled at a general, ~~or~~ congressional vacancy,
6 OR SENATORIAL VACANCY election who do not wish to affiliate with a
7 major political party may be nominated, other than by a primary election
8 or a convention, in the following manner:

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

13 **SECTION 15.** 1-4-912 (1), Colorado Revised Statutes, is
14 amended to read:

15 **1-4-912. Cure.** (1) In case a petition for nominating an
16 unaffiliated candidate is not sufficient, it may be amended once no later
17 than 3 p.m. on the ninety-fifth day before the general election, 3 p.m. on
18 the fifty-fifth day preceding a congressional OR SENATORIAL vacancy
19 election, or 3 p.m. on the sixty-seventh day before an election that is not
20 being held concurrently with the general election. If a petition for
21 nominating an unaffiliated candidate is amended, the designated election
22 official shall notify the candidate of whether the petition is sufficient or
23 insufficient no later than the ninetieth day before the general election.

24 **SECTION 16.** 1-4-1002 (3), (4), and (4.5), Colorado Revised
25 Statutes, are amended to read:

26 **1-4-1002. Vacancies in designation or nomination.** (3) Any
27 vacancy in a party nomination occurring after the convention or assembly

1 at which the nomination was made and no later than seventy days before
2 the congressional OR SENATORIAL vacancy election, caused by the
3 declination, death, disqualification, or withdrawal of any person
4 nominated at the convention, may be filled in the same manner required
5 for the original nomination. If the original nomination was made by a
6 party convention or assembly that had delegated to a committee the power
7 to fill vacancies, the committee may proceed to fill the same vacancy
8 when it occurs. No person is eligible for appointment to fill a vacancy in
9 the party nomination unless that person meets all of the requirements of
10 candidacy as of the date of the convention or assembly at which the
11 original nomination was made.

12 (4) Any vacancy in a nomination for an unaffiliated candidate
13 caused by the declination, death, or withdrawal of any person nominated
14 by petition or statement of intent occurring after the filing of the petition
15 for nomination or the submittal of a statement of intent under section
16 1-4-303 and no later than seventy days before the general, ~~or~~
17 congressional, OR SENATORIAL vacancy election may be filled by the
18 person or persons designated on the petition or statement of intent to fill
19 vacancies.

20 (4.5) Any vacancy in a nomination for a minor political party
21 candidate occurring after the filing of the certificate of designation
22 pursuant to section 1-4-1304 (3) and no later than seventy days before the
23 general, ~~or~~ congressional, OR SENATORIAL vacancy election, which is
24 caused by the declination, death, or withdrawal of any person nominated
25 by the minor political party, may be filled by the person or persons
26 designated in the constitution or bylaws of the minor political party to fill
27 vacancies.

1 **SECTION 17.** 1-5-101 (1), Colorado Revised Statutes, is
2 amended to read:

3 **1-5-101. Establishing precincts and polling places for partisan**
4 **elections.** (1) Subject to approval by the board of county commissioners,
5 the county clerk and recorder of each county shall divide the county into
6 as many election precincts for all general, primary, ~~and~~ congressional
7 vacancy, AND SENATORIAL VACANCY elections as is convenient for the
8 eligible electors of the county and shall designate the place for each
9 precinct at which elections are to be held. In establishing boundaries, the
10 board of county commissioners shall take into consideration natural and
11 artificial boundaries that meet the requirements of the United States
12 bureau of the census. The precincts shall be numbered in accordance
13 with section 1-5-101.5. Changes in the precinct boundaries of a county
14 shall be made only within the district boundaries of each representative
15 and senatorial district.

16 **SECTION 18.** The introductory portion to 1-5-203 (1) (a),
17 Colorado Revised Statutes, is amended to read:

18 **1-5-203. Certification of ballot.** (1) (a) No later than sixty days
19 before any primary election, and no later than fifty-seven days before any
20 general or odd-year November election or congressional OR SENATORIAL
21 vacancy election, the secretary of state shall deliver by electronic
22 transmission and registered mail to the county clerk and recorder of each
23 county a certificate in writing of the ballot order and content for each
24 county, as follows:

25 **SECTION 19.** 1-5-205 (3), Colorado Revised Statutes, is
26 amended to read:

27 **1-5-205. Published and posted notice of election.** (3) When

1 there is a vacancy for an unexpired term in any national or state office or
2 a district office of state concern that is by law to be filled at any general,
3 ~~or~~ congressional vacancy, OR SENATORIAL VACANCY election, the
4 secretary of state, no later than fifty-five days prior to the election, shall
5 give notice in writing by publishing a notice in at least one newspaper of
6 general circulation in the state or in the congressional district in which the
7 vacancy is to be filled. The notice shall specify the office in which the
8 vacancy exists, the cause of the vacancy, the name of the officer in whose
9 office it has occurred, and the time when the term of office will expire.

10 **SECTION 20.** 1-5-301 (1), Colorado Revised Statutes, is
11 amended to read:

12 **1-5-301. Registration record for partisan elections.** (1) The
13 original registration records shall be retained in the office of the county
14 clerk and recorder and may be provided for use by election judges at
15 precinct polling places in primary, general, ~~and~~ congressional vacancy,
16 AND SENATORIAL VACANCY elections.

17 **SECTION 21.** 1-5-302, Colorado Revised Statutes, is amended
18 to read:

19 **1-5-302. Computer lists may be used in lieu of original**
20 **registration records.** For the purposes of all elections, the county clerk
21 and recorder may substitute and supply computer lists of registered
22 electors within the political subdivision for the original registration
23 record. Following a primary, general, ~~or~~ congressional vacancy, OR
24 SENATORIAL VACANCY election, the county clerk and recorder shall record
25 the date of election and, if a primary election, the party ballot received on
26 the registered elector's original registration record retained and stored as
27 provided in section 1-1-104 (36).

1 **SECTION 22.** 1-5-403 (1), Colorado Revised Statutes, is
2 amended to read:

3 **1-5-403. Content of ballots for general, congressional vacancy,**
4 **and senatorial vacancy elections.** (1) The county clerk and recorder of
5 each county using paper ballots or electronically counted ballot cards
6 shall provide printed ballots for every odd-numbered year, general, ~~or~~
7 congressional vacancy, OR SENATORIAL VACANCY election. The official
8 ballots shall be printed and in the possession of the county clerk and
9 recorder no later than thirty-two days before every odd-numbered year,
10 congressional vacancy, SENATORIAL VACANCY, and general election.

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

13 **1-5-404. Arrangement of names on ballots for partisan**
14 **elections.** (3) The arrangement of names on ballots for A congressional
15 vacancy ~~elections~~ OR SENATORIAL VACANCY ELECTION shall be
16 established by lot at any time prior to the certification of ballots for the
17 congressional vacancy OR SENATORIAL VACANCY election. The officer in
18 receipt of the original designation, nomination, or petition of each
19 candidate shall inform the two major political parties, each minor political
20 party, and the representatives of each political organization on file with
21 the secretary of state of the time and place of the lot-drawing for the
22 congressional VACANCY OR SENATORIAL VACANCY election ballot. Ballot
23 positions shall be assigned to the major political party, minor political
24 party, or political organization in the order in which they are drawn.

25 **SECTION 24.** 1-5-505 (1), Colorado Revised Statutes, is
26 amended to read:

27 **1-5-505. Election expenses to be paid by county.** (1) Except as

1 provided in section 1-5-505.5, the cost of conducting general, primary,
2 ~~and~~ congressional vacancy, AND SENATORIAL VACANCY elections,
3 including the cost of printing and supplies, shall be a county charge, the
4 payment of which shall be provided for in the same manner as the
5 payment of other county expenses.

6 **SECTION 25.** 1-5-802 (1) and the introductory portion to
7 1-5-802 (2), Colorado Revised Statutes, are amended to read:

8 **1-5-802. Use of voting systems - voter-verified paper record.**

9 (1) In addition to the other requirements of this article, the voting system
10 used in each primary, general, coordinated, ~~or~~ congressional ~~district~~
11 vacancy, OR SENATORIAL VACANCY election held in the state on and after
12 January 1, 2010, shall have the capability to produce a voter-verifiable
13 paper record of each elector's vote. Before an elector's vote is cast, the
14 elector shall have the opportunity, in private and without assistance, to
15 inspect and verify that the voter-verified paper record correctly reflects
16 the elector's choices. Any political subdivision that has not complied with
17 the provisions of this section on or before January 1, 2009, shall comply
18 with such provisions by January 1, 2014.

19 (2) The requirements of subsection (1) of this section shall apply
20 to each primary, general, coordinated, ~~or~~ congressional ~~district~~ vacancy,
21 OR SENATORIAL VACANCY election conducted by a county clerk and
22 recorder on and after January 1, 2008, if the governing body of the county
23 determines that:

24 **SECTION 26.** 1-7-106, Colorado Revised Statutes, is amended
25 to read:

26 **1-7-106. Watchers at general, congressional vacancy, and**
27 **senatorial vacancy elections.** Each participating political party or issue

1 committee whose candidate or issue is on the ballot, and each unaffiliated
2 and write-in candidate whose name is on the ballot for a general, ~~or~~
3 congressional vacancy, OR SENATORIAL VACANCY election, shall be
4 entitled to have no more than one watcher at any one time in each
5 precinct polling place in the county and at each place where votes are
6 counted in accordance with this article. The chairperson of the county
7 central committee of each major political party, the county chairperson or
8 other authorized official of each minor political party, the issue
9 committee, or the write-in or unaffiliated candidate shall certify the names
10 of one or more persons selected as watchers on forms provided by the
11 county clerk and recorder and submit the names of the persons selected
12 as watchers to the county clerk and recorder. To the extent possible, the
13 chairperson, authorized official, issue committee, or candidate shall
14 submit the names by the close of business on the Friday immediately
15 preceding the election. The watchers shall surrender the certificates to
16 the election judges at the time they enter the polling place and are sworn
17 by the judges. This section shall not prevent party candidates or county
18 party officers from visiting polling places to observe the progress of
19 voting in the precincts.

20 **SECTION 27.** 1-7-510 (2), Colorado Revised Statutes, is
21 amended to read:

22 **1-7-510. Election software code - escrow - definition.** (2) At
23 the conclusion of programming and after it has been determined that a
24 voting system is in proper working order and ready for voting, the
25 designated election official shall deposit a copy of the election setup
26 records for a county, statewide, ~~or~~ congressional vacancy, OR SENATORIAL
27 VACANCY election with the secretary of state no later than 5:00 p.m. on

1 the seventh day before the election.

2 **SECTION 28.** 1-7-514 (1) (a) (I), Colorado Revised Statutes, is
3 amended to read:

4 **1-7-514. Random audit.** (1) (a) (I) Following each primary,
5 general, coordinated, ~~or~~ congressional ~~district~~ vacancy, OR SENATORIAL
6 VACANCY election, the secretary of state shall publicly initiate a manual
7 random audit to be conducted by each county. Unless the secretary
8 approves an alternative method for a particular county that is based on a
9 proven statistical sampling plan and will achieve a higher level of
10 statistical confidence, the secretary shall randomly select not less than
11 five percent of the voting devices used in each county to be audited;
12 except that, where a central count voting device is in use in the county,
13 the rules promulgated by the secretary pursuant to subsection (5) of this
14 section shall require an audit of a specified percentage of ballots counted
15 within the county.

16 **SECTION 29.** 1-7-515 (2) (a), Colorado Revised Statutes, is
17 amended to read:

18 **1-7-515. Risk-limiting audits - pilot program - rules -**
19 **legislative declaration - definitions.** (2) (a) Commencing with the 2014
20 general election and following each primary, general, coordinated, ~~or~~
21 congressional vacancy, OR SENATORIAL VACANCY election held thereafter,
22 each county shall make use of a risk-limiting audit in accordance with the
23 requirements of this section. Races to be audited shall be selected in
24 accordance with procedures established by the secretary of state, and all
25 contested races shall be eligible for such selection.

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

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

4 (b) Elections held in conjunction with, or on the same day as, a
5 primary, ~~or~~ congressional vacancy, OR SENATORIAL VACANCY election,
6 unless the primary election is conducted as a mail ballot election.

7 **SECTION 31.** 1-8-111 (1) (a), Colorado Revised Statutes, is
8 amended to read:

9 **1-8-111. Delivery of mail-in ballot and replacement mail-in**
10 **ballots.** (1) (a) The mail-in ballot and other materials shall be delivered
11 or mailed to the elector within seventy-two hours after the receipt of the
12 application, if the official ballots are then printed, or, if not then printed,
13 within seventy-two hours after the printed ballots are delivered to the
14 designated election official, but no sooner than twenty-two days before
15 every odd-year, congressional vacancy, SENATORIAL VACANCY, primary,
16 and general election. If the mail-in ballot and other materials are mailed,
17 the envelope shall be marked "DO NOT FORWARD" or by any other
18 similar statement that is in accordance with United States postal service
19 regulations. Except as otherwise provided in paragraph (b) of this
20 subsection (1), nothing in this subsection (1) shall affect any provision of
21 this code governing the delivery of mail or mail-in ballots to an absent
22 uniformed services elector, nonresident overseas elector, or resident
23 overseas elector covered by the federal "Uniformed and Overseas
24 Citizens Absentee Voting Act", 42 U.S.C. sec. 1973ff et seq.

25 **SECTION 32.** 1-8-116 (1), Colorado Revised Statutes, is
26 amended to read:

27 **1-8-116. Special write-in blank mail-in ballots.** (1) A citizen

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

16 **SECTION 33.** 1-8-117 (1), Colorado Revised Statutes, is
17 amended to read:

18 **1-8-117. Federal write-in absentee ballots pursuant to the**
19 **"Uniformed and Overseas Citizens Absentee Voting Act".** (1) An
20 absent uniformed services elector, nonresident overseas elector, or
21 resident overseas elector, as defined in section 1-2-208 (2.5), who is an
22 eligible elector in this state prior to the elector's departure or pursuant to
23 section 1-2-208 is entitled to vote for federal officers by a federal write-in
24 absentee ballot at any primary, general, ~~or~~ congressional vacancy, OR
25 SENATORIAL VACANCY election.

26 **SECTION 34.** 1-10-101 (1) (a), Colorado Revised Statutes, is
27 amended to read:

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

14 **SECTION 35.** 1-11-101 (1) and (2), Colorado Revised Statutes,
15 are amended to read:

16 **1-11-101. Tie votes at partisan elections.** (1) If at any general
17 ~~or congressional vacancy~~ election, after all recounts have been completed,
18 any two or more pairs of joint candidates for the offices of governor and
19 lieutenant governor or if two or more candidates for the offices of
20 secretary of state, state treasurer, or attorney general tie for the highest
21 number of votes for the same office, one of the pairs or one of the
22 individual candidates shall be chosen by the two houses of the general
23 assembly on a joint ballot.

24 (2) If at any general, ~~or congressional vacancy~~, OR SENATORIAL
25 VACANCY election, after all recounts have been completed, any two or
26 more persons tie for the highest number of votes for presidential electors,
27 for United States senator, for representative in congress, for regent of the

1 university of Colorado, for member of the state board of education, for
2 state senator or state representative, or for district attorney, the secretary
3 of state shall proceed to determine by lot which of the candidates shall be
4 declared elected. Reasonable notice shall be given to the candidates of
5 the time when the election will be determined.

6 **SECTION 36.** 1-12-201, Colorado Revised Statutes, is amended
7 to read:

8 **1-12-201. Vacancies in office of United States senator.**

9 (1) When a vacancy occurs in the office of United States senator from
10 this state, the governor shall ~~make a temporary appointment to fill the~~
11 ~~vacancy until it is filled by election~~ SET A DAY TO HOLD A SENATORIAL
12 VACANCY ELECTION WITHIN THE TIME PROVIDED IN SECTION 1-4-401 (1)
13 TO FILL THE VACANCY AND CAUSE NOTICE OF THE ELECTION TO BE GIVEN
14 AS REQUIRED IN PART 2 OF ARTICLE 5 OF THIS TITLE.

15 (2) ~~When a vacancy occurs, the governor shall direct the secretary~~
16 ~~of state to include in the general election notice for the next general~~
17 ~~election a notice of the filling of the vacancy. The secretary of state shall~~
18 ~~give notice accordingly. At the election, the vacancy shall be filled for~~
19 ~~the unexpired term. If, for any reason, no United States senator is elected~~
20 ~~at the next general election, the person temporarily appointed by the~~
21 ~~governor shall hold the office until a United States senator is elected at a~~
22 ~~succeeding general election.~~

23 **SECTION 37.** 1-12-202, Colorado Revised Statutes, is amended
24 to read:

25 **1-12-202. Vacancies in office of representative in congress.**

26 Except as provided in section 1-4-401.5, when any vacancy occurs in the
27 office of representative in congress from this state, the governor shall set

1 a day to hold a congressional vacancy election WITHIN THE TIME
2 PROVIDED IN SECTION 1-4-401 (1) to fill the vacancy and cause notice of
3 the election to be given as required in part 2 of article 5 of this title. ~~but~~
4 ~~congressional vacancy elections shall not be held within the ninety-day~~
5 ~~period preceding a general election.~~

6 **SECTION 38.** 1-13-102, Colorado Revised Statutes, is amended
7 to read:

8 **1-13-102. Sufficiency of complaint - judicial notice.**
9 Irregularities or defects in the mode of calling, giving notice of,
10 convening, holding, or conducting any general, primary, ~~or~~ congressional
11 vacancy, OR SENATORIAL VACANCY election authorized by law constitute
12 no defense to a prosecution for a violation of this code. When an offense
13 is committed in relation to any general, primary, ~~or~~ congressional
14 vacancy, OR SENATORIAL VACANCY election, an indictment, information,
15 or complaint for such offense is sufficient if it alleges that such election
16 was authorized by law without stating the call or notice of the election,
17 the names of the judges holding such election, or the names of the persons
18 voted for at such election. Judicial notice shall be taken of the holding of
19 any general, primary, ~~or~~ congressional vacancy, OR SENATORIAL
20 VACANCY election.

21 **SECTION 39.** 31-10-108, Colorado Revised Statutes, is amended
22 to read:

23 **31-10-108. Special elections.** Special elections shall be held on
24 any Tuesday designated by ordinance or resolution of the governing body.
25 No special election shall be held within the ninety days preceding a
26 regular election. No special election shall be called within thirty days
27 before the date thereof, nor shall any special election be held within the

1 thirty-two days before or after the date of a primary, general, or
2 congressional vacancy, OR SENATORIAL VACANCY election. A special
3 election may be held at the same time and place as a primary,
4 congressional vacancy, SENATORIAL VACANCY, or general election as a
5 coordinated election pursuant to section 1-7-116, C.R.S., or may be
6 conducted at the same time as a mail ballot election pursuant to article 7.5
7 of title 1, C.R.S. Special elections shall be conducted as nearly as
8 practicable in the same manner as regular elections.

9 **SECTION 40. Act subject to petition - effective date.** This act
10 shall take effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part shall not take effect
16 unless approved by the people at the general election to be held in
17 November 2010 and shall take effect on the date of the official
18 declaration of the vote thereon by the governor.