

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0603.01 Jessica Herrera x4218

HOUSE BILL 23-1185

HOUSE SPONSORSHIP

Daugherty,

SENATE SPONSORSHIP

(None),

House Committees

State, Civic, Military, & Veterans Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PROCEDURES RELATING TO THE REPLACEMENT OF
102 ELECTED OFFICIALS.

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://leg.colorado.gov>.)

Section 1 of the bill clarifies the affidavit of intent requirements for a write-in candidate in a partisan election.

Section 2 requires that if the election of the successor is a partisan election, and the incumbent was affiliated with a political party when the incumbent was elected, only a person who is affiliated with the same political party may be nominated as a successor. If the incumbent was

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

unaffiliated at the time the incumbent was elected, only a person who is unaffiliated may be nominated as a successor.

Sections 3 through 8 clarify the procedure for filling a vacancy in the governing body of a municipality in the absence of a quorum of the body. When a vacancy occurs, the governing body shall appoint an eligible elector or call a special election within 60 days. If the governing body lacks sufficient members to reach a quorum, the clerk of the governing body is authorized to call a special election to fill any vacancies.

Sections 9 through 11 make several changes to the requirements for municipal recall elections, including:

- Requiring members of the committee designated to represent the signers of a recall petition to be registered electors residing in the municipality;
- Clarifying the number of signatures required for a recall petition for a person holding an office filled by more than one person;
- Requiring signers to include their municipality and county with their address when signing a recall petition;
- Clarifying the effect of disassembly of a recall petition;
- Repealing requirements to send a copy of a protest to the county clerk and recorder and for the county clerk and recorder to prepare a list of registered electors for the protest;
- Clarifying deadlines and processes for petitions and protests;
- Requiring that nomination petitions for successors be circulated and filed within 20 calendar days after the date a recall election is set;
- Clarifying procedures for voting by absentee ballot in recall elections;
- Providing that if the incumbent is not recalled, the votes for a successor are not recorded and any unofficial results of the vote on a successor shall not be disclosed; and
- Clarifying ballot requirements and election standards for a recall election in which more than one officer is sought to be recalled.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 1-12-115 as
3 follows:

4 **1-12-115. Write-in candidates.** (1) ~~No~~ A write-in vote for any

1 office shall NOT be counted unless THE PERSON FOR WHOM THE WRITE-IN
2 VOTE IS MADE HAS FILED an affidavit of intent ~~has been filed indicating~~
3 ~~that the person for whom the write-in vote is made desires the office and~~
4 ~~is legally qualified to assume the duties of the office if elected~~ PURSUANT
5 TO SUBSECTION (2) OF THIS SECTION.

6 (2) The affidavit of intent must be filed with the designated
7 election official no later than twenty-five calendar days before the date
8 for holding the election. FOR A PARTISAN ELECTION, ONLY A PERSON WHO
9 MEETS THE QUALIFICATIONS SET FORTH IN SECTION 1-12-117(1) MAY FILE
10 AN AFFIDAVIT OF INTENT. THE AFFIDAVIT MUST INCLUDE A STATEMENT
11 THAT THE PERSON FILING THE AFFIDAVIT DESIRES THE OFFICE, MEETS ANY
12 APPLICABLE QUALIFICATIONS SET FORTH IN SECTION 1-12-117 (1), AND IS
13 LEGALLY QUALIFIED TO ASSUME THE DUTIES OF THE OFFICE IF ELECTED.

14 **SECTION 2.** In Colorado Revised Statutes, 1-12-117, **amend** (1)
15 and (3)(b)(I) as follows:

16 **1-12-117. Nomination of successor - ballot certification.**

17 (1) (a) For partisan elections, TO BE NOMINATED AS a candidate to
18 succeed the officer sought to be recalled:

19 (I) ~~must meet the qualifications of a party candidate or an~~
20 ~~unaffiliated candidate as provided in part 8 of article 4 of this title 1 and~~
21 IF THE INCUMBENT WAS AFFILIATED WITH A POLITICAL PARTY ON THE
22 DATE THE INCUMBENT WAS ELECTED, THE CANDIDATE MUST BE
23 AFFILIATED WITH THE SAME POLITICAL PARTY BEGINNING NO LATER THAN
24 THE FIRST BUSINESS DAY OF THE JANUARY IMMEDIATELY PRECEDING THE
25 RECALL ELECTION, AS SHOWN IN THE STATEWIDE VOTER REGISTRATION
26 SYSTEM. THE CANDIDATE must be nominated by a MAJOR OR MINOR
27 political party petition, ~~or an unaffiliated petition~~ AS APPLICABLE, as

1 provided in ~~part~~ PARTS 8 AND 9 of article 4 of this title 1.

2 (II) IF THE INCUMBENT WAS UNAFFILIATED ON THE DATE THE
3 INCUMBENT WAS ELECTED, THE CANDIDATE MUST BE UNAFFILIATED
4 BEGINNING NO LATER THAN THE FIRST BUSINESS DAY OF THE JANUARY
5 IMMEDIATELY PRECEDING THE RECALL ELECTION, AS SHOWN IN THE
6 STATEWIDE VOTER REGISTRATION SYSTEM. THE CANDIDATE MUST BE
7 NOMINATED BY AN UNAFFILIATED PETITION AS PROVIDED IN PARTS 8 AND
8 9 OF ARTICLE 4 OF THIS TITLE 1.

9 (b) Nomination petitions FOR PARTISAN ELECTIONS may be
10 circulated beginning ON the first date on which a protest may be filed and
11 must be filed no later than twenty-five calendar days prior to the date for
12 holding the election as provided in section 1-12-111. If the election is to
13 be held with a general election, nomination petitions must be filed no
14 later than five days prior to the date to certify ballot content for the
15 general election.

16 (3) (b) (I) The designated election official shall verify successor
17 candidate petitions AND THE ELIGIBILITY OF THE NOMINATED SUCCESSOR
18 within five days after the deadline to file such petitions as set forth in
19 subsections (1) and (2) of this section.

20 **SECTION 3.** In Colorado Revised Statutes, 31-4-103, **amend** (1)
21 as follows:

22 **31-4-103. Mayor - vacancy - appointment - mayor pro tem.**

23 (1) ~~In case~~ WITHIN THIRTY DAYS of the mayor's death, disability,
24 resignation, or other vacation of ~~his~~ THE MAYOR'S office, the city council
25 ~~may~~ SHALL APPOINT A PERSON POSSESSED OF ALL STATUTORY
26 QUALIFICATIONS OR order a special election as soon as practicable to fill
27 the vacancy until the term of office of a successor elected at the next

1 regular election has commenced, as provided in section 31-4-105, and the
2 city council may appoint ~~some~~ A registered elector to act as mayor until
3 ~~such~~ THE special election. ~~Such~~ THE special election shall be conducted
4 in accordance with the provisions of the "Colorado Municipal Election
5 Code of 1965". ~~If the city council does not call a special election, it shall~~
6 ~~fill the vacancy by appointment until the term of office of a successor~~
7 ~~elected at the next regular election has commenced, as provided in section~~
8 ~~31-4-105~~ IF THE COUNCIL LACKS A SUFFICIENT NUMBER OF MEMBERS IN
9 OFFICE TO ESTABLISH A QUORUM TO CHOOSE A SUCCESSOR OR ORDER AN
10 ELECTION, THE VACANCY SHALL BE FILLED IN THE MANNER PROVIDED BY
11 SECTION 31-4-108 (3).

12 **SECTION 4.** In Colorado Revised Statutes, 31-4-108, **amend**
13 (2)(b); and **add** (3) as follows:

14 **31-4-108. Expulsion from city council - vacancies in other**
15 **offices.** (2) (b) ~~In case any office of an~~ WITHIN SIXTY DAYS AFTER A
16 VACANCY OCCURS IN ANY elective officer ~~becomes vacant~~ OFFICE before
17 the regular expiration of the term thereof, the ~~vacancy may be filled by~~
18 ~~the city council by appointment or by election until the term of office of~~
19 ~~a successor elected at the next regular election has commenced as~~
20 ~~provided in section 31-4-105.~~ If the city council does not fill the vacancy
21 by appointment or order an election within sixty days after the vacancy
22 occurs, it shall order an election, subject to the municipal election code,
23 as soon as practicable to fill the vacancy until the term of office of a
24 successor elected at the next regular election has commenced as provided
25 in section ~~31-4-105~~. CITY COUNCIL SHALL:

26 (I) APPOINT A PERSON POSSESSED OF ALL STATUTORY
27 QUALIFICATIONS TO FILL THE VACANCY UNTIL THE TERM OF OFFICE OF A

1 SUCCESSOR ELECTED AT THE NEXT REGULAR ELECTION HAS COMMENCED
2 AS PROVIDED IN SECTION 31-4-105; OR

3 (II) ORDER A SPECIAL ELECTION TO BE HELD AS SOON AS
4 PRACTICABLE TO FILL THE VACANCY UNTIL THE TERM OF OFFICE OF A
5 SUCCESSOR ELECTED AT THE NEXT REGULAR ELECTION HAS COMMENCED
6 AS PROVIDED IN SECTION 31-4-105.

7 (3) IF THE CITY COUNCIL, AT THE TIME THE VACANCY OCCURS OR
8 WITHIN SIXTY DAYS THEREAFTER, LACKS A SUFFICIENT NUMBER OF
9 MEMBERS TO ESTABLISH A QUORUM TO FILL THE VACANCY AS PROVIDED
10 IN SUBSECTION (2)(b) OF THIS SECTION, THE CITY CLERK, WITHOUT
11 FURTHER ACTION BY THE CITY COUNCIL, SHALL CALL A SPECIAL ELECTION
12 TO BE HELD AS SOON AS PRACTICABLE TO FILL ANY VACANCY IN ANY
13 ELECTIVE OFFICE UNTIL THE TERM OF OFFICE OF A SUCCESSOR ELECTED AT
14 THE NEXT REGULAR ELECTION AS PROVIDED IN SECTION 31-4-105. THE
15 CITY COUNCIL MAY CANCEL THE SPECIAL ELECTION IF IT IS ABLE TO FILL
16 THE VACANCY BEFORE THE DATE OF THE SPECIAL ELECTION.

17 **SECTION 5.** In Colorado Revised Statutes, 31-4-205, **amend**
18 (2)(b); and **add** (4) as follows:

19 **31-4-205. Council members - vacancies.** (2) Within sixty days
20 after a vacancy occurs in the city council, the council shall:

21 (b) Order ~~an~~ A SPECIAL election ~~subject to the municipal election~~
22 ~~code~~, to be held as soon as practicable to fill the vacancy until the term of
23 office of a successor elected at the next regular election has commenced
24 as provided in section 31-4-105.

25 (4) IF THE CITY COUNCIL, AT THE TIME A VACANCY OCCURS OR
26 WITHIN SIXTY DAYS THEREAFTER, LACKS A SUFFICIENT NUMBER OF
27 MEMBERS TO ESTABLISH A QUORUM TO FILL THE VACANCY AS PROVIDED

1 IN SUBSECTION (2) OF THIS SECTION, THE CITY CLERK, WITHOUT FURTHER
2 ACTION BY THE CITY COUNCIL, SHALL CALL A SPECIAL ELECTION TO BE
3 HELD AS SOON AS PRACTICABLE TO FILL THE VACANCY UNTIL THE TERM OF
4 OFFICE OF A SUCCESSOR ELECTED AT THE NEXT REGULAR ELECTION HAS
5 COMMENCED AS PROVIDED IN SECTION 31-4-105. THE COUNCIL MAY
6 CANCEL THE SPECIAL ELECTION IF IT IS ABLE TO FILL THE VACANCY BEFORE
7 THE DATE OF THE SPECIAL ELECTION.

8 **SECTION 6.** In Colorado Revised Statutes, 31-4-207, **amend** (2)
9 as follows:

10 **31-4-207. Mayor - selection.** (2) If the mayor is to be elected
11 from the city at large, ~~he or she shall~~ THE MAYOR MUST be elected by the
12 registered electors of the city at the regular election in the city. The mayor
13 ~~shall~~ MUST be a registered elector who has resided within the limits of the
14 city for a period of at least twelve consecutive months immediately
15 preceding the date of the election; except that, in the case of annexation,
16 any person who has resided within the annexed territory for the time
17 prescribed in this subsection (2) shall be deemed to have met the
18 residence requirements for the city to which the territory was annexed.
19 The mayor shall assume ~~his or her~~ office at the next regularly scheduled
20 meeting of the city council following ~~his or her~~ THE MAYOR'S election or
21 upon such earlier date as the council may specify. Except as otherwise
22 provided in subsection (3) of this section, the mayor ~~shall hold his or her~~
23 HOLDS office for a term of two years. At the same meeting of the city
24 council, the city council shall choose, by a majority vote, one of its
25 members to act as mayor pro tem in the temporary absence of the mayor.
26 The city council may appoint one of its members acting mayor ~~in the~~
27 ~~event~~ IF both the mayor and the mayor pro tem are temporarily absent

1 from the city or unable to perform the duties of the mayor. In case of a
2 vacancy in the office of the mayor, the city council shall choose ~~his~~ THE
3 MAYOR'S successor for the unexpired term IN THE MANNER PROVIDED IN
4 SECTION 31-4-205 FOR FILLING A VACANCY IN THE OFFICE OF COUNCIL
5 MEMBER.

6 **SECTION 7.** In Colorado Revised Statutes, **amend** 31-4-303 as
7 follows:

8 **31-4-303. Trustees to fill vacancy - mayor pro tem - clerk pro**
9 **tem.** (1) The board of trustees has the power, by appointment, to fill all
10 vacancies in the board or any other office, and the person so appointed
11 shall hold ~~his~~ office until the next regular election and until ~~his~~ A
12 successor is elected and has complied with section 31-4-401. The board
13 also has the power to fill a vacancy in the board or in any other elective
14 office of the town by ordering an election to fill the vacancy until the next
15 regular election and until a successor has been elected and has complied
16 with section 31-4-401. ~~If a vacancy in the board or in such other elective~~
17 ~~office is not filled by appointment or an election is not ordered within~~
18 ~~sixty days after the vacancy occurs, the board shall order an election,~~
19 ~~subject to the municipal election code, to be held as soon as practicable~~
20 ~~to fill the vacancy until the next regular election and until a successor has~~
21 ~~been elected and has complied with section 31-4-401. At its first meeting,~~
22 ~~the board shall choose one of the trustees as mayor pro tem who, in the~~
23 ~~absence of the mayor from any meeting of said board or during the~~
24 ~~mayor's absence from the town or his inability to act, shall perform the~~
25 ~~mayor's duties. The board also has the power to elect a clerk pro tem to~~
26 ~~perform the duties of the clerk during his absence or inability to act.~~

27 (2) IF THE BOARD, AT THE TIME A VACANCY OCCURS OR WITHIN

1 SIXTY DAYS THEREAFTER, LACKS A SUFFICIENT NUMBER OF MEMBERS TO
2 ESTABLISH A QUORUM TO FILL THE VACANCY AS PROVIDED IN SUBSECTION
3 (1) OF THIS SECTION, THE TOWN CLERK SHALL, WITHOUT FURTHER ACTION
4 BY THE TOWN BOARD, CALL A SPECIAL ELECTION TO BE HELD AS SOON AS
5 PRACTICABLE TO FILL THE VACANCY UNTIL THE TERM OF OFFICE OF A
6 SUCCESSOR ELECTED AT THE NEXT REGULAR ELECTION HAS COMMENCED
7 AS PROVIDED IN SECTION 31-4-301. THE BOARD MAY CANCEL SUCH
8 ELECTION IF THE BOARD IS ABLE TO FILL THE VACANCY PRIOR TO THE DATE
9 OF THE SPECIAL ELECTION.

10 (3) AT THE FIRST MEETING, THE BOARD SHALL CHOOSE ONE OF THE
11 TRUSTEES AS MAYOR PRO TEM WHO, IN THE ABSENCE OF THE MAYOR FROM
12 ANY MEETING OF THE BOARD OR DURING THE MAYOR'S ABSENCE FROM THE
13 TOWN OR THE MAYOR'S INABILITY TO ACT, SHALL PERFORM THE MAYOR'S
14 DUTIES. THE BOARD MAY ELECT A CLERK PRO TEM TO PERFORM THE
15 DUTIES OF THE CLERK DURING THE CLERK'S ABSENCE OR INABILITY TO ACT.

16 **SECTION 8.** In Colorado Revised Statutes, 31-4-502, **amend**
17 (1)(a)(I), (1)(c), and (1)(d) as follows:

18 **31-4-502. Procedure - petition - signatures.** (1) The procedure
19 to effect the recall of an elective officer of a municipality shall be as
20 follows:

21 (a) (I) A petition containing the requisite number of signatures
22 under ~~paragraph (d) of this subsection (1) shall~~ SUBSECTION (1)(d) OF
23 THIS SECTION MUST be filed in the office of the municipal clerk,
24 demanding an election of a successor to the officer named in the petition.
25 Each petition ~~shall~~ MUST designate by name and address not less than
26 three nor more than five persons, referred to in this section as the
27 "committee", who shall represent the signers thereof in all matters

1 affecting the ~~same~~ PETITION. THE PERSON DESIGNATED AS A MEMBER OF
2 THE COMMITTEE MUST BE A REGISTERED ELECTOR OF THE MUNICIPALITY.
3 The petition shall clearly indicate the name of the municipality and the
4 name of the officer sought to be recalled. The petition ~~shall~~ MUST include
5 the name of only one person to be recalled. The petition ~~shall~~ MUST
6 contain a general statement, ~~in~~ OF not more than two hundred words, of
7 the grounds on which the recall is sought, which statement ~~shall be~~ IS
8 intended for the information of the electors of the municipality. ~~Such~~ THE
9 electors ~~shall be~~ ARE the sole and exclusive judges of the legality,
10 reasonableness, and sufficiency of the grounds assigned for recall, and
11 ~~said~~ THE grounds ~~shall~~ ARE not ~~be~~ open to review.

12 (c) ~~No~~ A recall petition shall NOT be circulated until it has been
13 approved as meeting the requirements of this section as to form. The clerk
14 shall approve or disapprove a petition as to form ~~by~~ NO LATER THAN the
15 close of the second business day following submission of the proposed
16 petition. The clerk shall mail OR TRANSMIT ELECTRONICALLY written
17 notice of ~~such~~ THE clerk's action to the officer sought to be recalled on the
18 day that any such petition is approved.

19 (d) ~~The~~ A RECALL petition ~~shall~~ MUST be signed by registered
20 electors entitled to vote for a successor of the incumbent sought to be
21 recalled equal in number to twenty-five percent of the entire vote cast for
22 all ~~the~~ candidates for that particular office at the last preceding regular
23 election held in the municipality. If THE PERSON SOUGHT TO BE RECALLED
24 HOLDS AN OFFICE THAT more than one person is required by law ~~to be~~
25 ~~elected to fill, the office of which the person sought to be recalled is an~~
26 ~~incumbent~~, then the recall petition shall be signed by registered electors
27 entitled to vote for a successor to the incumbent sought to be recalled

1 equal in number to twenty-five percent of the entire vote cast at the last
2 preceding regular election held in the municipality for all candidates for
3 the office, ~~to which the incumbent sought to be recalled was elected as~~
4 ~~one of the officers thereof, such entire vote being~~ divided by the number
5 of all officers elected to such office at the last preceding regular election
6 held in the municipality EVEN IF THE PERSON SOUGHT TO BE RECALLED
7 WAS ELECTED AT A DIFFERENT ELECTION.

8 **SECTION 9.** In Colorado Revised Statutes, 31-4-503, **amend** (1),
9 (2)(a), (2)(b), (2)(d), (3), and (4) as follows:

10 **31-4-503. Petition in sections - signing - affidavit - review -**
11 **tampering with petition.** (1) ~~Any~~ A recall petition may be circulated
12 and signed in sections, but each section ~~shall~~ MUST contain a full and
13 accurate copy of the title and text of the petition.

14 (2) (a) ~~The~~ Signatures FOR A RECALL PETITION need not all be on
15 one sheet of paper. All ~~such~~ recall petitions ~~shall~~ MUST be filed in the
16 office of the municipal clerk within sixty days from the date on which the
17 municipal clerk approves the petition as to form.

18 (b) ~~Any~~ A recall petition ~~shall~~ MUST be signed only by registered
19 electors using their own signatures, after which each such elector shall
20 print or, if ~~such~~ THE elector is unable to do so, shall cause to be printed
21 ~~such~~ THE elector's legal name; the residence address of such person,
22 including the street and number, if any, THE MUNICIPALITY, AND THE
23 COUNTY; and the date of signing the ~~same~~ PETITION.

24 (d) Any disassembly of ~~the~~ AN ENTIRE petition ~~which has the~~
25 ~~effect of separating the affidavits from the signatures shall render~~
26 RENDERS the petition invalid and of no force and effect. ANY
27 DISASSEMBLY OF A PETITION SECTION RENDERS THAT PETITION SECTION

1 INVALID AND OF NO FORCE AND EFFECT.

2 (3) (a) The municipal clerk shall issue a written INITIAL
3 determination that a recall petition is sufficient or not sufficient by the
4 close of business on the fifth business day after ~~such~~ THE petition is filed
5 or, if ~~such~~ THAT day is not a regular business day, on the first regular
6 business day thereafter, unless a protest has been filed prior to that ~~date~~
7 DAY. The clerk shall forthwith mail a copy of ~~such~~ THE written INITIAL
8 determination to the officer sought to be recalled and to the committee.
9 ~~Any such petition shall be deemed~~ THE CLERK SHALL INITIALLY DEEM A
10 PETITION sufficient if the ~~municipal~~ clerk determines that ~~it~~ THE PETITION
11 was timely filed, has attached ~~thereto~~ TO IT the required affidavits, and
12 was signed by the requisite number of registered electors of the
13 municipality within sixty days following the date upon which the clerk
14 approved the form of the petition. The clerk shall not remove the
15 signature of an elector from ~~the~~ A petition after ~~such~~ THE petition is filed.
16 If a petition is INITIALLY determined by the clerk to be not sufficient, the
17 clerk shall identify those portions of the petition that are not sufficient
18 and the reasons ~~therefor~~ FOR THE INSUFFICIENCY. THE CLERK'S WRITTEN
19 INITIAL DETERMINATION IS FINAL IF NO PROTEST IS FILED AS PROVIDED IN
20 SUBSECTION (3)(b) OF THIS SECTION.

21 (b) A protest in writing under oath may be filed in the office of the
22 municipal clerk by ~~some~~ A registered elector ~~who resides in~~ OF the
23 municipality within fifteen days after ~~such~~ THE petition is filed setting
24 forth specifically the grounds of ~~such~~ THE protest. Grounds for protest
25 may include, but ~~shall not be~~ ARE NOT limited to, the failure of any
26 portion of a petition, or circulator affidavit, or petition circulator to meet
27 the requirements of this section. The municipal clerk shall mail a copy of

1 ~~such~~ A protest to the officer named in the petition, to the committee
2 named in the petition as representing the signers of the petition, and to the
3 county clerk and recorder, together with a notice fixing a time for hearing
4 ~~such~~ THE protest THAT IS not less than five nor more than ten days after
5 ~~such~~ THE notice is mailed. ~~The county clerk and recorder shall, upon~~
6 ~~receipt of such notice, prepare a registration list pursuant to section~~
7 ~~31-10-205 to be utilized in determining whether such petition is~~
8 ~~sufficient.~~ Every hearing ~~shall~~ MUST be before the municipal clerk with
9 whom ~~such~~ A protest is filed, who shall serve as hearing officer unless
10 some other person is designated by the governing body as the hearing
11 officer, and the testimony in every ~~such~~ hearing ~~shall~~ MUST be under oath.
12 The hearing officer ~~shall have~~ HAS the power to issue subpoenas and
13 compel the attendance of witnesses. ~~Such~~ A hearing ~~shall be~~ IS summary
14 and not subject to delay and shall be concluded within thirty days after
15 ~~such~~ A petition is filed. No later than five days after the conclusion of ~~the~~
16 A hearing, the hearing officer shall issue a written determination of
17 whether the petition is sufficient or not sufficient. If the hearing officer
18 determines that a petition is not sufficient, the hearing officer shall
19 identify IN THE WRITTEN DETERMINATION those portions of the petition
20 that are not sufficient and the reasons for the insufficiency. The result of
21 ~~such~~ a hearing ~~shall~~ MUST be forthwith certified to the committee and the
22 officer sought to be recalled.

23 (c) ~~In case the~~ IF A recall petition is DETERMINED not sufficient ~~it~~
24 IN THE CLERK'S WRITTEN INITIAL DETERMINATION OR THE HEARING
25 OFFICER'S WRITTEN DETERMINATION, THE PETITION may be withdrawn by
26 a majority of the committee and, within fifteen days after ~~the municipal~~
27 ~~clerk or hearing officer issues a written~~ A determination that the petition

1 is not sufficient, may be amended by the addition of any required
2 information relating to the signers ~~thereof~~ OF THE PETITION or the
3 attachment of proper circulator affidavits and refiled as an original
4 petition; except that any petition amended and refiled as provided in this
5 ~~paragraph (c)~~ SUBSECTION (3)(c) may not again be withdrawn and refiled.
6 The municipal clerk shall issue a written INITIAL determination that ~~such~~
7 A refiled petition is sufficient or not sufficient within four business days
8 after ~~said~~ THE petition is filed. THE CLERK'S WRITTEN INITIAL
9 DETERMINATION AS TO A REFILED PETITION WILL BECOME FINAL IF NO
10 PROTEST IS FILED AS PROVIDED IN THIS SUBSECTION (3)(c). Any protest
11 concerning ~~the~~ A refiled petition shall be filed within five business days
12 of the date on which ~~such~~ THE petition was refiled, and any hearing shall
13 be conducted as provided in ~~paragraph (b) of this subsection (3)~~
14 SUBSECTION (3)(b) OF THIS SECTION.

15 (d) ~~The~~ A MUNICIPAL HEARING OFFICER'S finding as to the
16 sufficiency of any petition may be reviewed by the district court for the
17 county in which ~~such~~ THE municipality or portion ~~thereof~~ OF THE
18 MUNICIPALITY is located upon application of either the officer sought to
19 be recalled or the officer's representative or a majority of the committee,
20 ~~but such~~ AND THE review shall be had and determined forthwith. THE
21 CLERK'S WRITTEN DETERMINATION IS NOT SUBJECT TO REVIEW UNLESS A
22 PROTEST IS FILED AND DETERMINED BY A HEARING OFFICER IN
23 ACCORDANCE WITH THIS SECTION. The sufficiency or the determination
24 of the sufficiency of the petition referred to in this section shall not be
25 held or construed to refer to the grounds assigned in such petition for the
26 recall of the incumbent sought to be recalled from the office ~~thereby~~ BY
27 THE PETITION.

1 (4) When ~~such~~ A recall petition is determined sufficient AND ANY
2 REVIEW PURSUANT TO SUBSECTION (3)(d) OF THIS SECTION IS CONCLUDED,
3 the municipal clerk shall submit ~~said~~ THE petition, together with a
4 certificate of its sufficiency, to the governing body of ~~such~~ THE
5 municipality at the first meeting of ~~such~~ THE GOVERNING body following
6 expiration of the period within which a protest may be filed, ~~or~~ at the first
7 meeting of ~~such~~ THE GOVERNING body following the determination of a
8 hearing officer that a petition is sufficient, OR AT THE FIRST MEETING OF
9 THE GOVERNING BODY FOLLOWING THE CONCLUSION OF ANY REVIEW
10 PURSUANT TO SUBSECTION (3)(d) OF THIS SECTION, whichever is later. The
11 governing body shall thereupon order and fix a date for the recall election
12 to be held not less than thirty days nor more than ninety days from the
13 date of submission of the petition to the governing body by the municipal
14 clerk and determine whether voting in the recall election is to take place
15 at the polling place or by mail ballot; but, if a regular election is to be held
16 within one hundred eighty days after the date of submission of said
17 petition, the recall election shall be held as a part of ~~said~~ THE regular
18 election.

19 **SECTION 10.** In Colorado Revised Statutes, 31-4-504, **amend**
20 (3)(b), (3)(c), (4), (6), and (7); and **repeal** (5)(b) and (5)(c) as follows:

21 **31-4-504. Resignation - vacancy filled - election - ballot -**
22 **nomination.** (3) (b) ~~There shall be printed on the~~ THE official ballot
23 MUST INCLUDE, as to every officer whose recall is to be voted on, the
24 words, "Shall (name of person against whom recall petition is filed) be
25 recalled from the office of (title of office)?" ~~Following such question~~
26 ~~shall be~~ The words "yes" and "no" MUST FOLLOW EACH QUESTION on
27 separate lines with a blank space at the right of each in which the voter

1 shall indicate ~~by marking a cross mark (X), his~~ THE VOTER'S vote for or
2 against ~~such~~ THE recall.

3 (c) (I) On ~~such~~ ballots ~~under each question~~, FOLLOWING ALL
4 QUESTIONS OF RECALL FOR A PARTICULAR OFFICE, there must ~~also~~ be
5 printed the names of those persons who have been nominated as
6 candidates ~~to succeed the~~ FOR THE OFFICE FROM WHICH A person IS sought
7 to be recalled. THE NAMES MUST BE PRINTED IN THE SAME MANNER AS
8 CANDIDATES FOR THE OFFICE WOULD BE PRINTED ON THE BALLOT AT A
9 REGULAR ELECTION. The name of the person against whom ~~the~~ A petition
10 is filed shall not appear on the ballot as a candidate for the office. ~~All~~
11 ~~candidates on the ballot must be listed in alphabetical order.~~

12 (II) THE BALLOTS MUST BE PRINTED TO GIVE EACH VOTER A CLEAR
13 OPPORTUNITY TO INDICATE THE VOTER'S CHOICE OF CANDIDATES FOR THE
14 OFFICE. THE BALLOT MAY INCLUDE ANY OTHER WORDS THAT WILL AID THE
15 VOTER.

16 (4) (a) ~~Except as otherwise provided in paragraph (b) of this~~
17 ~~subsection (4), candidates~~ CANDIDATES for the office at a recall election
18 may be nominated by petition as provided in section 31-10-302; except
19 that nominating petitions may be circulated beginning on the first
20 business day after the governing body sets the date for the recall election
21 and shall be filed no later than twenty days ~~prior to such~~ AFTER THE DATE
22 THE recall election IS SET.

23 (b) ~~Where the governing body of the municipality chooses to~~
24 ~~conduct the recall election by mail ballot in accordance with the~~
25 ~~requirements of section 31-4-503 (4), candidates shall have not less than~~
26 ~~ten calendar days beginning on the first calendar day after the governing~~
27 ~~body sets the date for the recall election within which to circulate~~

1 ~~nominating petitions, and such petitions shall be filed no later than~~
2 ~~forty-five days prior to such recall election.~~

3 (5) (b) ~~Absentee ballots shall be available no later than ten days~~
4 ~~before the recall election.~~

5 (c) ~~The absentee polling place in the office of the municipal clerk~~
6 ~~shall be open during regular business hours between the tenth and fifth~~
7 ~~day preceding the recall election.~~

8 (6) If a majority of those voting on ~~said~~ A question of the recall of
9 any incumbent from office vote "no", ~~said~~ THE incumbent ~~shall continue~~
10 CONTINUES in ~~said~~ THE office. IF THE INCUMBENT CONTINUES IN OFFICE,
11 THE VOTES FOR THE INCUMBENT'S SUCCESSOR SHALL NOT BE RECORDED
12 AND ANY COUNTS OR UNOFFICIAL RESULTS OF THE VOTES SHALL NOT BE
13 PUBLICLY DISCLOSED. If a majority vote "yes", ~~such~~ THE incumbent shall
14 be removed from such office upon compliance with section 31-4-401 by
15 ~~his~~ THE INCUMBENT'S successor OR UPON THE OFFICE BEING DEEMED
16 VACANT PURSUANT TO SUBSECTION (7)(c) OF THIS SECTION.

17 (7) (a) If the vote in ~~such~~ A recall election recalls the officer, the
18 candidate who has received the highest number of votes for the office
19 thereby vacated ~~shall be declared~~ IS elected for the remainder of the term,
20 and a certificate of election shall be forthwith issued to ~~him~~ THE
21 CANDIDATE by the canvassing board. ~~In case the person who received the~~
22 ~~highest number of votes fails to comply with section 31-4-401 within~~
23 ~~fifteen days after the issuance of a certificate of election, or in the event~~
24 ~~no person sought election, the office shall be deemed vacant and shall be~~
25 ~~filled according to law.~~

26 (b) IF A RECALL ELECTION RECALLS MORE THAN ONE OFFICER FROM
27 AN OFFICE TO WHICH MORE THAN ONE PERSON MAY BE ELECTED,

1 CANDIDATES EQUAL IN NUMBER TO THE NUMBER OF PERSONS RECALLED
2 FROM OFFICE WHO RECEIVED THE HIGHEST NUMBER OF VOTES FOR THE
3 OFFICE ARE ELECTED FOR THE REMAINDER OF THE TERM OF EACH OF THE
4 OFFICES VACATED. THE CANDIDATE RECEIVING THE HIGHEST NUMBER OF
5 VOTES IS ELECTED FOR THE LONGEST REMAINING TERM.

6 (c) IF A PERSON ELECTED TO AN OFFICE VACATED PURSUANT TO
7 THIS SECTION FAILS TO COMPLY WITH SECTION 31-4-401 WITHIN FIFTEEN
8 DAYS AFTER THE ISSUANCE OF A CERTIFICATE OF ELECTION, OR IF AN
9 OFFICE VACATED PURSUANT TO THIS SECTION AND NO PERSON SOUGHT
10 ELECTION, THE OFFICE IS DEEMED VACANT AND SHALL BE FILLED
11 ACCORDING TO LAW.

12 **SECTION 11. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly; except
15 that, if a referendum petition is filed pursuant to section 1 (3) of article V
16 of the state constitution against this act or an item, section, or part of this
17 act within such period, then the act, item, section, or part will not take
18 effect unless approved by the people at the general election to be held in
19 November 2024 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.