



NOTICE OF TEMPORARY ADOPTION

Pursuant to section 1-107(2)(a), C.R.S. (2005) and 11-1.5-104(1)(e), C.R.S., (2005), and the rulemaking provisions of the State Administrative Procedure Act, section 24-4-103, C.R.S. (2005), I, Gigi Dennis, Colorado Secretary of State, do hereby adopt and give **NOTICE** of the temporary adoption this 7th day of September, 2006 of the following new Rule 46 of the Colorado Secretary of State Election Rules, 8 C.C.R. 1505-1. Such new rule is effective immediately.

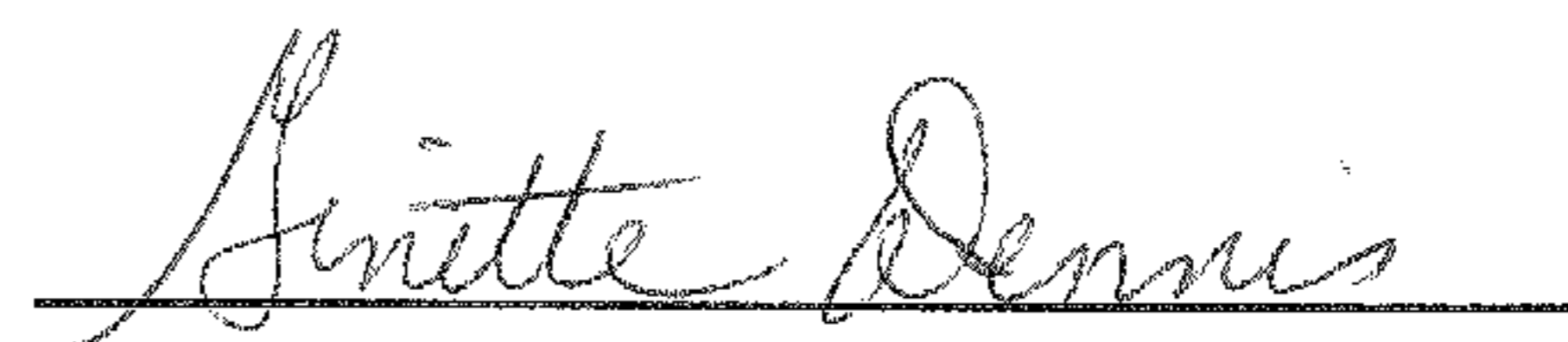
Rule 46 of the Election Rules of the Colorado Secretary of State is added as follows:

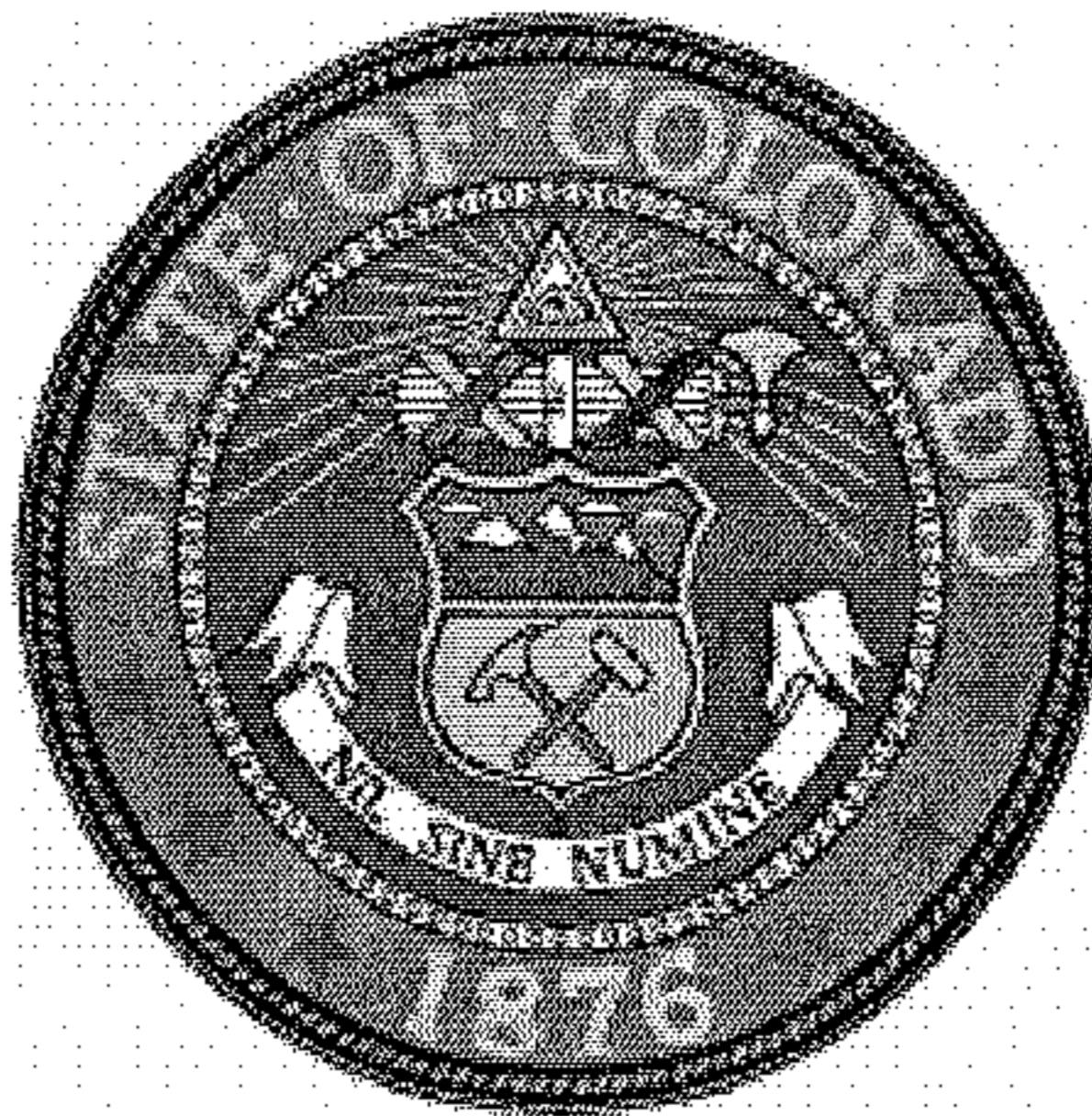
RULE 46. RULES CONCERNING VACANCIES IN NOMINATION

- 46.1 IF A VACANCY OCCURS AND IS FILLED BY THE APPROPRIATE VACANCY COMMITTEE MORE THAN 18 DAYS BUT LESS THAN 70 DAYS BEFORE A GENERAL ELECTION PURSUANT TO SECTION 1-4-1002(2.3)(A), C.R.S., (2005) THE DESIGNATED ELECTION OFFICIAL SHALL MAKE A REASONABLE ATTEMPT TO HAVE THE REPLACEMENT CANDIDATE'S NAME PRINTED ON THE OFFICIAL BALLOTS.
- 46.1.1 FOR THE PURPOSES OF THIS RULE 46, A VACANCY SHALL BE CONSIDERED FILLED ON THE DATE THAT THE REPLACEMENT CANDIDATE FILES AN ACCEPTANCE OF NOMINATION WITH THE APPROPRIATE FILING OFFICER PURSUANT TO SECTION 1-4-1002(5)(A), C.R.S., (2005).
- 46.1.2 NOT WITHSTANDING OTHER EVENTS, IF ABSENTEE OR POLLING PLACE BALLOTS HAVE BEEN PRINTED AND ARE IN THE POSSESSION OF THE DESIGNATED ELECTION OFFICIAL, THE DESIGNATED ELECTION OFFICIAL SHALL NOT BE REQUIRED TO PRINT OR ISSUE REPLACEMENT BALLOTS.
- 46.2 IF THE DESIGNATED ELECTION OFFICIAL IS UNABLE TO PROVIDE CORRECTED BALLOTS, AFTER REASONABLY ATTEMPTING TO ENSURE THAT THE REPLACEMENT CANDIDATE'S NAME IS PRINTED ON THE BALLOTS PURSUANT TO RULE 46.1, THE DESIGNATED ELECTION OFFICIAL SHALL MEET ALL REQUIREMENTS PROVIDED IN SECTION 1-4-1002(2.3)(B), C.R.S., (2005), AND ALL VOTES CAST FOR THE WITHDRAWING CANDIDATE SHALL BE COUNTED FOR THE REPLACEMENT CANDIDATE.
- 46.2.1 IF A REPLACEMENT CANDIDATE RECEIVES A PLURALITY OF VOTES CAST AT THE GENERAL ELECTION, THE REPLACEMENT CANDIDATE SHALL BE CERTIFIED AS THE WINNING CANDIDATE.

In accordance with section 24-4-103(6), C.R.S (2005), attached is a statement of the findings of the Secretary of State justifying the adoption of this addition on an emergency basis.

Dated this 7th day of September, 2006.


Ginette Dennis
Colorado Secretary of State



Statement of Justification and Reasons for Adoption of Emergency Rules

Office of the Secretary of State Amended and Revised Rules

Rule 46

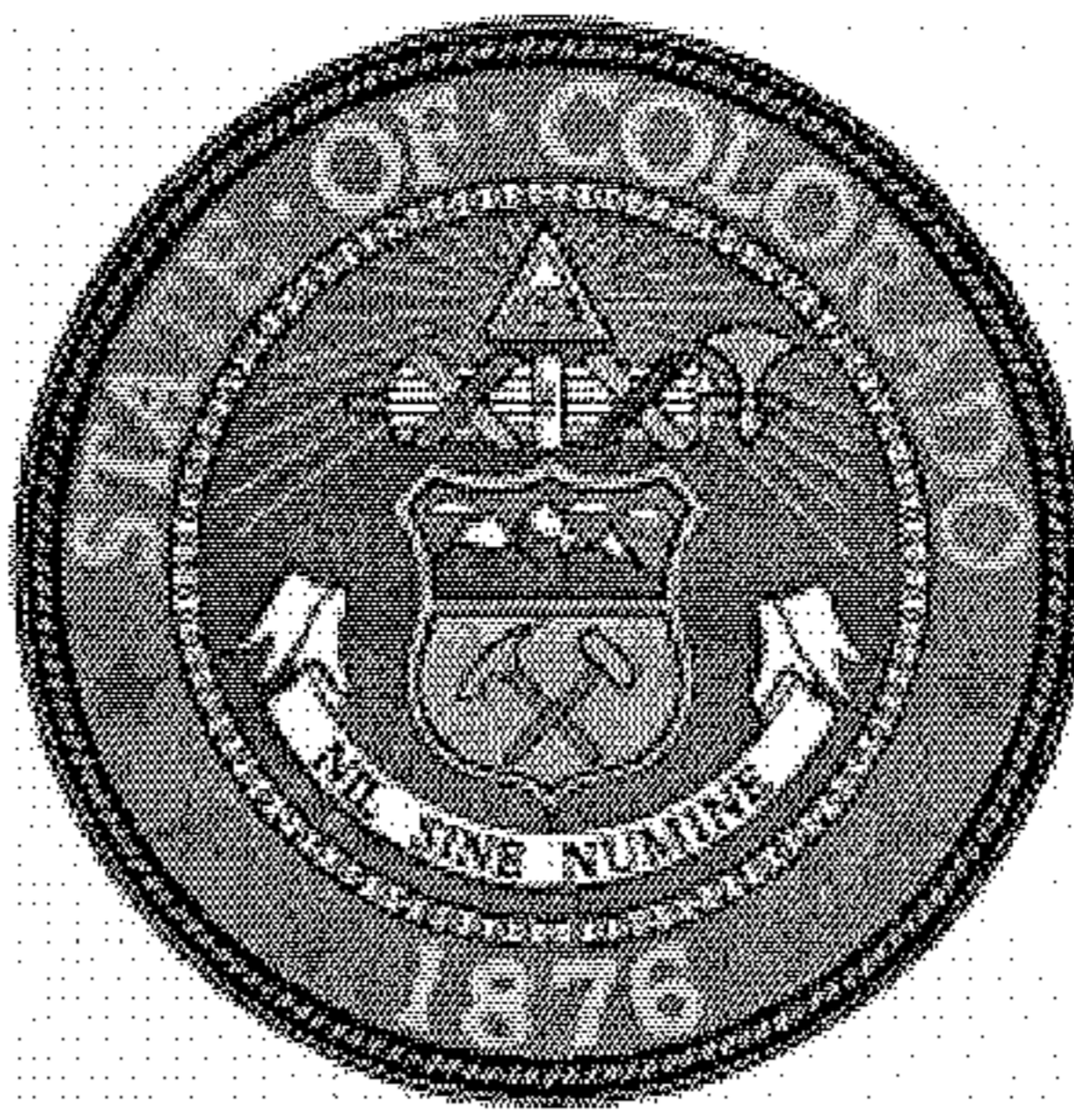
Colorado Secretary of State Election Rules

Under section 1-1-107(2)(a), C.R.S. (2005), the Secretary of State has the power “[t]o promulgate, publish, and distribute ... such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”

The amendment to the existing election rules is immediately necessary for the uniform and proper administration and enforcement of the election laws of the State of Colorado during the 2006 election cycle. The temporary adoption of this rule is necessary to clarify statutory language and to provide clear guidance regarding vacancies in nominations pursuant to 1-4-1002(2.3)(a), C.R.S. (2005). The temporary adoption of this rule is necessary to provide guidance as the 2006 general election cycle is well underway. Further, such amendments to the election rules are necessary until a legislative clarification may be proposed.

The Secretary of State finds that in order to ensure the uniform and proper administration and enforcement of the election laws, the adoption of the temporary amendment to the Secretary of State Election Rules is necessary both to comply with law and to preserve the public welfare generally.

Therefore, in accordance with section 24-4-103(6), C.R.S. (2005), the Secretary of State finds that adoption of the amendment to existing election rules is “imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of this section would be contrary to the public interest.”



Statements of Basis, Purpose and Specific Statutory Authority

Office of the Secretary of State

Rule 46

Colorado Secretary of State Election Rules

1. Basis and Purpose

This statement pertains to the amendments and revisions to the Colorado Secretary of State Election Rules for the administration of Colorado State Constitution Article VII, and Article 1, Title 1 of the Colorado Revised Statutes. The amendments are implemented to achieve the uniform and proper administration and enforcement of the election laws of the State of Colorado, specifically, with regard to the requirements of vacancies in nomination

The amendments to these rules are necessary for the implementation of Article VII of the Colorado Constitution and Article 1, Title 1 of the Colorado Revised Statutes. The Secretary of State finds that the adoption and enactment of these amendments is necessary because current statutory language is unclear regarding vote counting processes when vacancies in nomination occur. These amendments are also necessary until a legislative clarification may be proposed and to further increase the transparency and security of the election process.

The Secretary of State therefore finds that in order to ensure the uniform and proper administration and enforcement of the election laws, the temporary adoption of the amendments to the Election Rules is necessary both to comply with law and to preserve the public welfare generally.

2. Statutory Authority

Amendments and revisions to the "Secretary of State Rules Concerning Elections" are adopted pursuant to the following statutory and constitutional provisions:

§1-1-107(2)(a), C.R.S. (2005), which authorizes the Secretary of State "to promulgate, publish, and distribute...such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws"