

**0First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 15-1116.01 Bob Lackner x4350

SENATE BILL 15-287

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Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE RESTORATION OF A PRESIDENTIAL PRIMARY**
102 **ELECTION IN COLORADO.**

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>.)

From 1992 until 2000, the state held a presidential primary election. The state repealed its presidential primary election in 2003. The bill restores this election. Specifically, it requires the state to hold a presidential primary election on a Tuesday on a date designated by the governor. The date selected for the primary must be no earlier than the date the national rules of the major political parties provide for state

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.

delegations to the party's national convention to be allocated without penalty and not later than the third Tuesday in March in years in which a United States presidential election will be held. The governor is required to select the date of the presidential primary election no later than September 1 in the year before the presidential primary election will be held.

Each major political party that has a qualified candidate entitled to participate in the presidential primary election is entitled to participate in the primary election and must have a separate party ballot. At the presidential primary election, an elector may vote only for a candidate on the ballot of the political party with which the elector has declared an affiliation. An unaffiliated eligible elector may declare an affiliation with a political party to the election judges at the presidential primary election.

A ballot used in a presidential primary election must only contain the names of candidates for the office of the president. The ballot shall not be used for the purpose of presenting any other issue or question to the electorate.

The bill requires the state to reimburse the counties for all expenses incurred and shown to be directly attributable to the preparation and conduct of the presidential primary election in the same manner as the state reimburses counties for state ballot issues. The bill requires the general assembly to make appropriations to the department of state from the department of state cash fund or from the general fund for the purpose of reimbursing counties.

Not later than 60 days before the presidential primary election, the bill requires the secretary of state (secretary) to certify the names and party affiliations of the candidates to be placed on a presidential primary election ballot. The bill specifies eligibility requirements that candidates must meet to have their names placed on the primary election ballot.

The bill requires names of candidates appearing on any presidential primary election ballot to be listed in alphabetical order. The bill permits the state chairperson of a political party to request the secretary to provide a place on the presidential primary election ballot for electors who have no presidential candidate preference to register a vote to send a noncommitted delegate to the political party's national convention in specified circumstances.

The bill permits legal challenges to the listing of any candidate on the presidential primary election ballot and specifies procedures governing such challenges.

The bill specifies circumstances under which a write-in vote will be counted. The bill specifies additional procedures regarding the survey of presidential primary election returns and the certification of results. The bill also requires each political party to use the results of the presidential primary election to allocate delegate votes to presidential candidates and to bind members of the state's delegation to its national

convention unless otherwise prohibited or required by national political party rules.

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

2 **SECTION 1.** In Colorado Revised Statutes, **recreate and**
3 **reenact, with amendments,** part 12 of article 4 of title 1 as follows:

4 **1-4-1201. Legislative declaration.** IN RECREATING AND
5 REENACTING THIS PART 12, IT IS THE INTENT OF THE GENERAL ASSEMBLY
6 THAT THE PROVISIONS OF THIS PART 12 CONFORM TO THE REQUIREMENTS
7 OF FEDERAL LAW AND NATIONAL POLITICAL PARTY RULES GOVERNING
8 PRESIDENTIAL PRIMARY ELECTIONS.

9 **1-4-1202. Definitions.** AS USED IN THIS PART 12, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "POLITICAL PARTY" MEANS A MAJOR POLITICAL PARTY AS
12 DEFINED IN SECTION 1-1-104 (22).

13 (2) "PRESIDENTIAL PRIMARY ELECTION" MEANS A PRIMARY
14 ELECTION CONDUCTED IN A YEAR IN WHICH A UNITED STATES
15 PRESIDENTIAL ELECTION WILL BE HELD TO ALLOCATE DELEGATES TO
16 NATIONAL NOMINATING CONVENTIONS OF THE MAJOR POLITICAL PARTIES
17 SELECTED IN ACCORDANCE WITH SECTION 1-4-701 (1).

18 **1-4-1203. Presidential primary elections - when - conduct.**

19 (1) A PRESIDENTIAL PRIMARY ELECTION MUST BE HELD ON A TUESDAY ON
20 A DATE DESIGNATED BY THE GOVERNOR. THE DATE SELECTED FOR THE
21 PRIMARY MUST BE NO EARLIER THAN THE DATE THE NATIONAL RULES OF
22 THE MAJOR POLITICAL PARTIES PROVIDE FOR STATE DELEGATIONS TO THE
23 PARTY'S NATIONAL CONVENTION TO BE ALLOCATED WITHOUT PENALTY
24 AND NOT LATER THAN THE THIRD TUESDAY IN MARCH IN YEARS IN WHICH
25 A UNITED STATES PRESIDENTIAL ELECTION WILL BE HELD. THE GOVERNOR

1 SHALL DESIGNATE THE DATE OF THE PRESIDENTIAL PRIMARY ELECTION NO
2 LATER THAN THE FIRST DAY OF SEPTEMBER IN THE YEAR BEFORE THE
3 PRESIDENTIAL PRIMARY ELECTION WILL BE HELD.

4 (2) EXCEPT AS PROVIDED FOR IN SUBSECTION (5) OF THIS SECTION,
5 EACH MAJOR POLITICAL PARTY THAT HAS A QUALIFIED CANDIDATE
6 ENTITLED TO PARTICIPATE IN THE PRESIDENTIAL PRIMARY ELECTION
7 PURSUANT TO THIS SECTION IS ENTITLED TO PARTICIPATE IN THE PRIMARY
8 ELECTION AND MUST HAVE A SEPARATE PARTY BALLOT. AT THE
9 PRESIDENTIAL PRIMARY ELECTION, AN ELECTOR MAY VOTE ONLY FOR A
10 CANDIDATE ON THE BALLOT OF THE POLITICAL PARTY WITH WHICH THE
11 ELECTOR HAS DECLARED AN AFFILIATION. AN UNAFFILIATED ELIGIBLE
12 ELECTOR MAY DECLARE AN AFFILIATION WITH A POLITICAL PARTY TO THE
13 ELECTION JUDGES AT THE PRESIDENTIAL PRIMARY ELECTION IN
14 ACCORDANCE WITH SECTION 1-7-201. NOTWITHSTANDING ANY OTHER
15 PROVISION OF LAW, NO ELECTOR AFFILIATED WITH A MAJOR OR MINOR
16 POLITICAL PARTY OR POLITICAL ORGANIZATION MAY CHANGE OR
17 WITHDRAW HIS OR HER AFFILIATION IN ORDER TO VOTE IN THE
18 PRESIDENTIAL PRIMARY ELECTION OF ANOTHER POLITICAL PARTY UNLESS
19 THE ELECTOR HAS CHANGED OR WITHDRAWN SUCH AFFILIATION NO LATER
20 THAN THE TWENTY-NINTH DAY PRECEDING THE PRESIDENTIAL PRIMARY
21 ELECTION AS PROVIDED IN SECTION 1-2-219 (1).

22 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 12, A
23 PRESIDENTIAL PRIMARY ELECTION MUST BE CONDUCTED IN THE SAME
24 MANNER AS ANY OTHER PRIMARY ELECTION TO THE EXTENT STATUTORY
25 PROVISIONS GOVERNING OTHER PRIMARY ELECTIONS ARE APPLICABLE TO
26 THIS PART 12. THE ELECTION OFFICERS AND COUNTY CLERK AND
27 RECORDERS HAVE THE SAME POWERS AND SHALL PERFORM THE SAME

1 DUTIES FOR PRESIDENTIAL PRIMARY ELECTIONS AS THEY PROVIDE BY LAW
2 FOR OTHER PRIMARY ELECTIONS AND GENERAL ELECTIONS.

3 (4) A BALLOT USED IN A PRESIDENTIAL PRIMARY ELECTION MUST
4 ONLY CONTAIN THE NAMES OF CANDIDATES FOR THE OFFICE OF THE
5 PRESIDENT OF THE UNITED STATES OF AMERICA. THE BALLOT SHALL NOT
6 BE USED FOR THE PURPOSE OF PRESENTING ANY OTHER ISSUE OR QUESTION
7 TO THE ELECTORATE.

8 (5) IF, AT THE CLOSE OF BUSINESS ON THE SIXTIETH DAY BEFORE
9 A PRESIDENTIAL PRIMARY ELECTION, THERE IS NOT MORE THAN ONE
10 CANDIDATE FOR PRESIDENT AFFILIATED WITH A MAJOR POLITICAL PARTY
11 CERTIFIED TO THE PRESIDENTIAL PRIMARY ELECTION BALLOT PURSUANT
12 TO SECTION 1-4-1204 (1) OR WHO HAS FILED A WRITE-IN CANDIDATE
13 AFFIDAVIT OF INTENT PURSUANT TO SECTION 1-4-1204, THE SECRETARY
14 OF STATE MAY CANCEL THE PRESIDENTIAL PRIMARY ELECTION FOR THAT
15 POLITICAL PARTY AND DECLARE THAT CANDIDATE THE WINNER OF THE
16 PRESIDENTIAL PRIMARY ELECTION OF SUCH POLITICAL PARTY.

17 (6) THE STATE SHALL REIMBURSE THE COUNTIES FOR ALL
18 EXPENSES INCURRED AND SHOWN TO BE DIRECTLY ATTRIBUTABLE TO THE
19 PREPARATION AND CONDUCT OF THE PRESIDENTIAL PRIMARY ELECTION IN
20 THE SAME MANNER AS THE STATE REIMBURSES COUNTIES FOR STATE
21 BALLOT ISSUES IN SECTION 1-5-505.5; EXCEPT THAT THE REIMBURSEMENT
22 MUST BE BASED ON THE NUMBER OF ACTIVE REGISTERED ELECTORS
23 AFFILIATED WITH A MAJOR POLITICAL PARTY PARTICIPATING IN THE
24 PRESIDENTIAL PRIMARY ELECTION AS OF THE DAY OF THE PRESIDENTIAL
25 PRIMARY ELECTION. THE GENERAL ASSEMBLY SHALL MAKE
26 APPROPRIATIONS TO THE DEPARTMENT OF STATE FROM THE DEPARTMENT
27 OF STATE CASH FUND OR FROM THE GENERAL FUND FOR THE PURPOSE OF

1 REIMBURSING COUNTIES UNDER THE TERMS OF THIS SECTION IN
2 CONFORMITY WITH SECTION 24-21-104.5, C.R.S.

3 **1-4-1204. Names on ballots.** (1) NOT LATER THAN SIXTY DAYS
4 BEFORE THE PRESIDENTIAL PRIMARY ELECTION, THE SECRETARY OF STATE
5 SHALL CERTIFY THE NAMES AND PARTY AFFILIATIONS OF THE CANDIDATES
6 TO BE PLACED ON THE PRESIDENTIAL PRIMARY ELECTION BALLOT. THE
7 ONLY CANDIDATES WHOSE NAMES WILL BE PLACED ON BALLOTS FOR THE
8 PRESIDENTIAL PRIMARY ELECTION ARE THOSE CANDIDATES WHO:

9 (a) ARE ELIGIBLE TO RECEIVE PAYMENTS PURSUANT TO THE
10 FEDERAL "PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT ACT",
11 26 U.S.C. SEC. 9031 ET SEQ., OR ANY SUCCESSOR SECTION OF FEDERAL
12 LAW, AT THE TIME CANDIDATES' NAMES ARE TO BE CERTIFIED BY THE
13 SECRETARY OF STATE PURSUANT TO THIS SUBSECTION (1);

14 (b) ARE SEEKING THE NOMINATION OF A MAJOR POLITICAL PARTY
15 AS A BONA FIDE CANDIDATE FOR PRESIDENT OF THE UNITED STATES
16 PURSUANT TO POLITICAL PARTY RULES AND ARE AFFILIATED WITH A MAJOR
17 POLITICAL PARTY THAT RECEIVED AT LEAST TWENTY PERCENT OF THE
18 VOTES CAST BY ELIGIBLE ELECTORS IN COLORADO AT THE LAST
19 PRESIDENTIAL ELECTION; AND

20 (c) HAVE SUBMITTED TO THE SECRETARY OF STATE, BY THE
21 SECOND DAY OF JANUARY IN THE YEAR OF THE PRESIDENTIAL PRIMARY
22 ELECTION, A NOTARIZED CANDIDATE'S STATEMENT OF INTENT TOGETHER
23 WITH EITHER A NONREFUNDABLE FILING FEE OF TEN THOUSAND DOLLARS
24 OR A PETITION SIGNED BY AT LEAST TEN THOUSAND ELIGIBLE ELECTORS
25 AFFILIATED WITH THE CANDIDATE'S POLITICAL PARTY WHO RESIDE IN THE
26 STATE.

27 (2) THE NAMES OF CANDIDATES APPEARING ON ANY PRESIDENTIAL

1 PRIMARY ELECTION BALLOT MUST BE IN ALPHABETICAL ORDER.

2 (3) EXCEPT AS OTHERWISE MAY BE PROHIBITED BY POLITICAL
3 PARTY RULES, THE STATE CHAIRPERSON OF A POLITICAL PARTY MAY
4 REQUEST THE SECRETARY OF STATE TO PROVIDE A PLACE ON THE
5 PRESIDENTIAL PRIMARY ELECTION BALLOT FOR ELECTORS WHO HAVE NO
6 PRESIDENTIAL CANDIDATE PREFERENCE TO REGISTER A VOTE TO SEND A
7 NONCOMMITTED DELEGATE TO THE POLITICAL PARTY'S NATIONAL
8 CONVENTION. TO BE VALID, THIS REQUEST MUST BE RECEIVED BY THE
9 SECRETARY OF STATE NOT LATER THAN SEVENTY DAYS BEFORE THE
10 PRESIDENTIAL PRIMARY ELECTION.

11 (4) ANY CHALLENGE TO THE LISTING OF ANY CANDIDATE ON THE
12 PRESIDENTIAL PRIMARY ELECTION BALLOT MUST BE MADE IN WRITING AND
13 FILED WITH THE SECRETARY OF STATE NOT LATER THAN FIVE DAYS AFTER
14 THE FILING DEADLINE FOR CANDIDATES. ANY SUCH CHALLENGE MUST
15 PROVIDE NOTICE IN WRITING IN A SUMMARY MANNER OF THE ALLEGED
16 IMPROPRIETY THAT GIVES RISE TO THE COMPLAINT. THE SECRETARY SHALL
17 ADDRESS BY RULE OTHER REQUIREMENTS OF A VALID CHALLENGE. IN
18 RESPONSE TO A VALID CHALLENGE BROUGHT UNDER THIS SUBSECTION (5),
19 THE SECRETARY SHALL TRANSMIT NOTICE OF THE CHALLENGE FORTHWITH
20 TO ALL CANDIDATES APPEARING ON THE PRESIDENTIAL PRIMARY ELECTION
21 BALLOT AND TO THE STATE CHAIRPERSON OF EACH MAJOR POLITICAL
22 PARTY. NO LATER THAN FIVE DAYS AFTER THE CHALLENGE IS FILED, A
23 HEARING MUST BE HELD AT WHICH TIME THE SECRETARY SHALL HEAR THE
24 CHALLENGE AND ASSESS THE VALIDITY OF ALL ALLEGED IMPROPRIETIES.
25 THE SECRETARY SHALL ISSUE FINDINGS OF FACT AND CONCLUSIONS OF
26 LAW NOT LATER THAN FORTY-EIGHT HOURS AFTER THE HEARING. THE
27 PARTY FILING THE CHALLENGE HAS THE BURDEN OF SUSTAINING THE

1 CHALLENGE BY A PREPONDERANCE OF THE EVIDENCE. THE SECRETARY'S
2 DECISIONS UPON MATTERS OF SUBSTANCE ARE OPEN TO REVIEW, IF PROMPT
3 APPLICATION IS MADE, AS PROVIDED IN SECTION 1-1-113.

4 **1-4-1205. Write-in candidate affidavit for presidential**
5 **primary.** A WRITE-IN VOTE FOR ANY CANDIDATE ON THE PRESIDENTIAL
6 PRIMARY BALLOT SHALL NOT BE COUNTED UNLESS THE CANDIDATE FOR
7 WHOM THE WRITE-IN VOTE WAS CAST HAS FILED A NOTARIZED
8 CANDIDATE'S STATEMENT OF INTENT TO SEEK THE OFFICE OF PRESIDENT OF
9 THE UNITED STATES. ANY SUCH AFFIDAVIT MUST BE ACCOMPANIED BY A
10 NONREFUNDABLE FEE OF ONE THOUSAND DOLLARS AND MUST BE FILED
11 WITH THE SECRETARY OF STATE NO LATER THAN THE CLOSE OF BUSINESS
12 ON THE SIXTY-SEVENTH DAY BEFORE THE PRESIDENTIAL PRIMARY
13 ELECTION.

14 **1-4-1206. Presidential primary ballots - survey of returns.**
15 EACH COUNTY CLERK AND RECORDER SHALL SURVEY ALL RETURNS
16 RECEIVED FROM THE PRESIDENTIAL PRIMARY ELECTION IN ALL COUNTY
17 PRECINCTS, AS PROVIDED IN THIS TITLE, AND SHALL CERTIFY THE RESULTS
18 OF THE PRESIDENTIAL PRIMARY ELECTION TO THE SECRETARY OF STATE NO
19 LATER THAN TEN DAYS AFTER THE PRIMARY ELECTION.

20 **1-4-1207. Election results - certification - allocation and**
21 **pledging of delegates.** (1) THE SECRETARY OF STATE SHALL COMPILE THE
22 NUMBER OF VOTES CAST FOR EACH CANDIDATE NAMED ON THE
23 PRESIDENTIAL PRIMARY ELECTION BALLOT AND THE VOTES CAST TO SEND
24 A NONCOMMITTED DELEGATE TO THE POLITICAL PARTY'S NATIONAL
25 CONVENTION, IF APPLICABLE, AND SHALL CALCULATE THE PERCENTAGE OF
26 VOTES RECEIVED BY EACH AS COMPARED TO THE NUMBER OF VOTES CAST
27 BY ELECTORS OF THE SAME POLITICAL PARTY.

1 (2) THE SECRETARY OF STATE SHALL CERTIFY THE RESULTS AND
2 PERCENTAGES CALCULATED PURSUANT TO SUBSECTION (1) OF THIS
3 SECTION TO THE STATE CHAIRPERSON AND TO THE NATIONAL COMMITTEE
4 OF EACH POLITICAL PARTY WHICH HAD AT LEAST ONE CANDIDATE ON THE
5 PRESIDENTIAL PRIMARY ELECTION BALLOT.

6 (3) EXCEPT AS OTHERWISE PROHIBITED OR REQUIRED BY NATIONAL
7 POLITICAL PARTY RULES, EACH POLITICAL PARTY MUST USE THE RESULTS
8 OF THE PRESIDENTIAL PRIMARY ELECTION TO ALLOCATE DELEGATE VOTES
9 TO PRESIDENTIAL CANDIDATES AND TO BIND MEMBERS OF THE STATE'S
10 DELEGATION TO ITS NATIONAL CONVENTION. POLITICAL PARTIES NEED NOT
11 ALLOCATE DELEGATE VOTES TO CANDIDATES WHO RECEIVE LESS THAN
12 FIFTEEN PERCENT OF THE VOTES CAST IN THE PRESIDENTIAL PRIMARY
13 ELECTION FOR THAT PARTY UNLESS REQUIRED TO DO SO BY STATE OR
14 NATIONAL PARTY RULES.

15 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-21-104.5
16 as follows:

17 **24-21-104.5. General fund appropriation - cash fund**
18 **appropriation - elections.** The general assembly is authorized to
19 appropriate moneys from the department of state cash fund to the
20 department of state to cover the costs of the local county clerk and
21 recorders relating to the conduct of PRESIDENTIAL PRIMARY ELECTIONS,
22 general elections, and November odd-year elections. If the amount of
23 moneys in the department of state cash fund is insufficient to cover such
24 costs, the general assembly may appropriate additional general fund
25 moneys to cover such costs after exhausting all moneys in the department
26 of state cash fund. The intent of the general assembly is to authorize the
27 appropriation of department of state cash fund moneys and general fund

1 moneys to the department of state to offset some of the costs of local
2 county clerk and recorders associated with the additional election duties
3 and requirements resulting FROM THE PREPARATION AND CONDUCT OF
4 PRESIDENTIAL PRIMARY ELECTIONS PURSUANT TO PART 12 OF ARTICLE 4
5 OF TITLE 1, C.R.S., AND from the passage of section 20 of article X of the
6 state constitution and from the increased number of initiatives that are
7 being filed.

8 **SECTION 3.** In Colorado Revised Statutes, 1-3-102, **amend** (1)
9 (a) (III) as follows:

10 **1-3-102. Precinct caucuses.** (1) (a) (III) In a year in which a
11 presidential election will be held, a political party may, by decision of its
12 state central committee, hold its precinct caucuses on the first ~~Tuesday in~~
13 ~~February~~ SATURDAY FOLLOWING THE PRESIDENTIAL PRIMARY ELECTION.
14 The committee ~~shall~~ MUST notify the secretary of state and the clerk and
15 recorder of each county in the state of the decision within five days after
16 the decision.

17 **SECTION 4. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.