A BILL FOR AN ACT

CONCERNING THE RESTORATION OF A PRESIDENTIAL PRIMARY 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 The state repealed its presidential primary election in 2003.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
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
Be it enacted by the General Assembly of the State of Colorado:

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

1-4-1201. Legislative declaration. In recreating and reenacting this part 12, it is the intent of the General Assembly that the provisions of this part 12 conform to the requirements of federal law and national political party rules governing presidential primary elections.

1-4-1202. Definitions. As used in this part 12, unless the context otherwise requires:

(1) "Political party" means a major political party as defined in section 1-1-104 (22).

(2) "Presidential primary election" means a primary election conducted in a year in which a United States presidential election will be held to allocate delegates to national nominating conventions of the major political parties selected in accordance with section 1-4-701 (1).

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

(1) A presidential primary election must be held 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 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
SHALL DESIGNATE THE DATE OF THE PRESIDENTIAL PRIMARY ELECTION NO
LATER THAN THE FIRST DAY OF SEPTEMBER IN THE YEAR BEFORE THE
PRESIDENTIAL PRIMARY ELECTION WILL BE HELD.

(2) EXCEPT AS PROVIDED FOR IN SUBSECTION (5) OF THIS SECTION,
EACH MAJOR POLITICAL PARTY THAT HAS A QUALIFIED CANDIDATE
ENTITLED TO PARTICIPATE IN THE PRESIDENTIAL PRIMARY ELECTION
PURSUANT TO THIS SECTION 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 IN
ACCORDANCE WITH SECTION 1-7-201. NOTWITHSTANDING ANY OTHER
PROVISION OF LAW, NO ELECTOR AFFILIATED WITH A MAJOR OR MINOR
POLITICAL PARTY OR POLITICAL ORGANIZATION MAY CHANGE OR
WITHDRAW HIS OR HER AFFILIATION IN ORDER TO VOTE IN THE
PRESIDENTIAL PRIMARY ELECTION OF ANOTHER POLITICAL PARTY UNLESS
THE ELECTOR HAS CHANGED OR WITHDRAWN SUCH AFFILIATION NO LATER
THAN THE TWENTY-NINTH DAY PRECEDING THE PRESIDENTIAL PRIMARY
ELECTION AS PROVIDED IN SECTION 1-2-219 (1).

(3) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 12, A
PRESIDENTIAL PRIMARY ELECTION MUST BE CONDUCTED IN THE SAME
MANNER AS ANY OTHER PRIMARY ELECTION TO THE EXTENT STATUTORY
PROVISIONS GOVERNING OTHER PRIMARY ELECTIONS ARE APPLICABLE TO
THIS PART 12. THE ELECTION OFFICERS AND COUNTY CLERK AND
RECORDERS HAVE THE SAME POWERS AND SHALL PERFORM THE SAME
DUTIES FOR PRESIDENTIAL PRIMARY ELECTIONS AS THEY PROVIDE BY LAW
FOR OTHER PRIMARY ELECTIONS AND GENERAL ELECTIONS.

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

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

(6) THE STATE SHALL 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 IN SECTION 1-5-505.5; EXCEPT THAT THE REIMBURSEMENT
MUST BE BASED ON THE NUMBER OF ACTIVE REGISTERED ELECTORS
AFFILIATED WITH A MAJOR POLITICAL PARTY PARTICIPATING IN THE
PRESIDENTIAL PRIMARY ELECTION AS OF THE DAY OF THE PRESIDENTIAL
PRIMARY ELECTION. THE GENERAL ASSEMBLY SHALL 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 UNDER THE TERMS OF THIS SECTION IN
CONFORMITY WITH SECTION 24-21-104.5, C.R.S.

1-4-1204. Names on ballots. (1) Not later than sixty days
before the presidential primary election, the secretary of state
shall certify the names and party affiliations of the candidates
to be placed on the presidential primary election ballot. The
only candidates whose names will be placed on ballots for the
presidential primary election are those candidates who:

(a) Are eligible to receive payments pursuant to the
federal "Presidential Primary Matching Payment Account Act",
26 U.S.C. sec. 9031 et seq., or any successor section of federal
law, at the time candidates' names are to be certified by the
secretary of state pursuant to this subsection (1);

(b) Are seeking the nomination of a major political party
as a bona fide candidate for president of the United States
pursuant to political party rules and are affiliated with a major
political party that received at least twenty percent of the
votes cast by eligible electors in Colorado at the last
presidential election; and

(c) Have submitted to the secretary of state, by the
second day of January in the year of the presidential primary
election, a notarized candidate's statement of intent together
with either a nonrefundable filing fee of ten thousand dollars
or a petition signed by at least ten thousand eligible electors
affiliated with the candidate's political party who reside in the
state.

(2) The names of candidates appearing on any presidential
PRIMARY ELECTION BALLOT MUST BE IN ALPHABETICAL ORDER.

(3) Except as otherwise may be prohibited by political party rules, the State Chairperson of a political party may request the Secretary of State 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. To be valid, this request must be received by the Secretary of State not later than seventy days before the Presidential Primary Election.

(4) Any challenge to the listing of any candidate on the Presidential Primary Election Ballot must be made in writing and filed with the Secretary of State not later than five days after the filing deadline for candidates. Any such challenge must provide notice in writing in a summary manner of the alleged impropriety that gives rise to the complaint. The Secretary shall address by rule other requirements of a valid challenge. In response to a valid challenge brought under this subsection (5), the Secretary shall transmit notice of the challenge forthwith to all candidates appearing on the Presidential Primary Election ballot and to the State Chairperson of each major political party. No later than five days after the challenge is filed, a hearing must be held at which time the Secretary shall hear the challenge and assess the validity of all alleged improprieties. The Secretary shall issue findings of fact and conclusions of law not later than forty-eight hours after the hearing. The party filing the challenge has the burden of sustaining the
CHALLENGE BY A PREPONDERANCE OF THE EVIDENCE. THE SECRETARY'S DECISIONS UPON MATTERS OF SUBSTANCE ARE OPEN TO REVIEW, IF PROMPT APPLICATION IS MADE, AS PROVIDED IN SECTION 1-1-113.

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

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

1-4-1207. Election results - certification - allocation and pledging of delegates. (1) THE SECRETARY OF STATE SHALL COMPILE THE NUMBER OF VOTES CAST FOR EACH CANDIDATE NAMED ON THE PRESIDENTIAL PRIMARY ELECTION BALLOT AND THE VOTES CAST TO SEND A NONCOMMITTED DELEGATE TO THE POLITICAL PARTY'S NATIONAL CONVENTION, IF APPLICABLE, AND SHALL CALCULATE THE PERCENTAGE OF VOTES RECEIVED BY EACH AS COMPARED TO THE NUMBER OF VOTES CAST BY ELECTORS OF THE SAME POLITICAL PARTY.
SECTION 2. In Colorado Revised Statutes, amend 24-21-104.5 as follows:

24-21-104.5. General fund appropriation - cash fund appropriation - elections. The general assembly is authorized to appropriate moneys from the department of state cash fund to the department of state to cover the costs of the local county clerk and recorders relating to the conduct of presidential primary elections, general elections, and November odd-year elections. If the amount of moneys in the department of state cash fund is insufficient to cover such costs, the general assembly may appropriate additional general fund moneys to cover such costs after exhausting all moneys in the department of state cash fund. The intent of the general assembly is to authorize the appropriation of department of state cash fund moneys and general fund
moneys to the department of state to offset some of the costs of local
county clerk and recorders associated with the additional election duties
and requirements resulting FROM THE PREPARATION AND CONDUCT OF
PRESIDENTIAL PRIMARY ELECTIONS PURSUANT TO PART 12 OF ARTICLE 4
OF TITLE 1, C.R.S., AND from the passage of section 20 of article X of the
state constitution and from the increased number of initiatives that are
being filed.

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

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

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