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APR 08 2016 10:00 A.M.

#140 FINAL DRAFT

Colorado Secretary of State **PRESIDENTIAL PRIMARY ELECTIONS**

Be it enacted by the People of the State of Colorado:

SECTION 1. Declaration of the People of Colorado

COLORADO VOTERS EXPERIENCED DISENFRANCHISEMENT AND PROFOUND DISAPPOINTMENT WITH THE STATE'S SYSTEM FOR PARTICIPATING IN THE PRESIDENTIAL NOMINATION PROCESS IN 2016.

ON THE DEMOCRATIC SIDE, ATTENDANCE AT CAUCUSES OVERWHELMED MANY PARTY-RUN EVENTS, WITH LONG LINES OR OTHER PROBLEMS LIMITING MANY ELIGIBLE VOTERS' ABILITY TO TAKE PART.

THE STATE'S REPUBLICAN PARTY CHOSE NOT TO HOLD OFFICIAL PREFERENCE POLLS, ESSENTIALLY LEAVING ACTIVE REPUBLICAN VOTERS WITHOUT A SAY ON THE PARTY'S POTENTIAL NOMINEES.

AND, GIVEN THE RULES FOR PARTICIPATING IN CAUCUSES, THE STATE'S LARGEST GROUP OF VOTERS -- MORE THAN 1 MILLION UNAFFILIATED ELECTORS -- WERE DISENFRANCHISED ALTOGETHER.

COLORADO PREVIOUSLY HELD PRESIDENTIAL PRIMARIES IN 1992, 1996 AND 2000. THIS MEASURE WOULD RESTORE A PRESIDENTIAL PRIMARY IN COLORADO BEGINNING IN 2020. BECAUSE A PRESIDENTIAL PRIMARY ELECTION WOULD BE PAID FOR BY ALL TAXPAYERS, ALL ELIGIBLE VOTERS WHO WANT THEIR VOICES TO BE HEARD SHOULD BE ABLE TO VOTE IN THOSE ELECTIONS.

CURRENTLY, THE 35% OF COLORADO VOTERS WHO ARE INDEPENDENT OF A PARTY MUST JOIN A PARTY IF THEY WANT TO PARTICIPATE IN CAUCUSES WHERE PRESIDENTIAL PREFERENCE POLLS ARE TAKEN OR A PRIMARY ELECTION. IN FACT, COLORADO IS IN THE MINORITY OF STATES THAT LIMIT PARTICIPATION IN THE PRESIDENTIAL NOMINATION PROCESS TO ONLY THOSE REGISTERED WITH A MAJOR POLITICAL PARTY.

A PRESIDENTIAL PRIMARY WOULD INVOLVE MORE VOTERS, INCREASE PARTICIPATION AND COULD ENCOURAGE CANDIDATES WHO ARE RESPONSIVE TO THE VIEWPOINTS OF MORE COLORADANS.

ACCORDINGLY, COLORADO SHOULD RESTORE ITS PRESIDENTIAL PRIMARY AND ALL VOTERS SHOULD BE ALLOWED TO PARTICIPATE IN SELECTING THE PRIMARY CANDIDATES FOR PRESIDENT.

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

1-4-1201. Declaration. IN RECREATING AND REENACTING THIS PART 12, IT IS THE INTENT OF THE PEOPLE OF THE STATE OF COLORADO THAT THE PROVISIONS OF THIS PART 12 CONFORM TO THE REQUIREMENTS OF FEDERAL LAW AND NATIONAL POLITICAL PARTY RULES GOVERNING PRESIDENTIAL PRIMARY ELECTIONS, AND THAT THE COLORADO GENERAL ASSEMBLY WILL, DURING THE 2017 LEGISLATIVE SESSION, ADOPT ALL NECESSARY CONFORMING AMENDMENTS TO ENSURE THE PROPER OPERATION OF A PRESIDENTIAL PRIMARY ELECTION IN COLORADO.

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.

1-4-1203. Presidential primary elections - when - conduct. (1) A PRESIDENTIAL PRIMARY ELECTION SHALL 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)(a) EXCEPT AS PROVIDED FOR IN SUBSECTION (5) OF THIS SECTION, EACH 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 COLORADO PRESIDENTIAL PRIMARY ELECTION. AT THE PRESIDENTIAL PRIMARY ELECTION, AN ELECTOR THAT IS AFFILIATED WITH A POLITICAL PARTY MAY VOTE ONLY FOR A CANDIDATE OF THAT POLITICAL PARTY.

(b) AN UNAFFILIATED ELIGIBLE ELECTOR MAY VOTE IN A POLITICAL PARTY'S PRESIDENTIAL PRIMARY ELECTION WITHOUT AFFILIATING WITH THAT PARTY OR 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) 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 UNLESS EXPRESSLY AUTHORIZED BY LAW.

(b) EACH POLITICAL PARTY THAT IS ENTITLED TO PARTICIPATE IN THE PRESIDENTIAL PRIMARY ELECTION SHALL HAVE A SEPARATE PARTY BALLOT FOR USE BY ELECTORS AFFILIATED WITH THAT POLITICAL PARTY. IN ADDITION, ALL POLITICAL PARTIES THAT ARE ENTITLED TO PARTICIPATE IN THE PRIMARY ELECTION SHALL HAVE THEIR CANDIDATES PLACED ON A SINGLE COMBINED BALLOT TO BE USED BY UNAFFILIATED ELECTORS THAT CONTAINS THE NAMES OF THE CANDIDATES OF EACH OF THE POLITICAL PARTIES AND THAT ARE CLEARLY AND CONSPICUOUSLY SEGREGATED FROM THE NAMES OF THE CANDIDATES OF ANY OTHER POLITICAL PARTY. ACROSS THE TOP OF EACH SUCH BALLOT THE WORDS "PRIMARY ELECTION BALLOT FOR UNAFFILIATED VOTERS" SHALL BE PRINTED AND CLEARLY ADVISE THAT AN ELECTOR MAY CAST THE BALLOT OF ONLY ONE POLITICAL PARTY AND THAT ANY BALLOT IN WHICH VOTES HAVE BEEN CAST IN THE PRIMARY OF MORE THAN ONE PARTY SHALL BE VOID AND NOT COUNTED.

(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 POLITICAL PARTY CERTIFIED TO THE PRESIDENTIAL PRIMARY BALLOT PURSUANT TO SECTION 1-4-1204(1) OR WHO HAS FILED A WRITE-IN CANDIDATE STATEMENT OF INTENT PURSUANT TO 1-4-1205, 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 SECRETARY OF STATE MAY BY RULE ADOPT ADDITIONAL BALLOT REQUIREMENTS NECESSARY TO AVOID VOTER CONFUSION IN VOTING IN PRESIDENTIAL PRIMARY ELECTIONS.

(7) 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 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.

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 ANY PRESIDENTIAL PRIMARY ELECTION BALLOTS. THE ONLY CANDIDATES WHOSE NAMES SHALL BE PLACED ON BALLOTS FOR THE ELECTION SHALL BE 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 FOR PRESIDENT OF A 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, 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 FIVE HUNDRED DOLLARS OR A PETITION SIGNED BY AT LEAST FIVE THOUSAND ELIGIBLE ELECTORS OF THE CANDIDATE'S POLITICAL PARTY WHO RESIDE IN THE STATE. CANDIDATE PETITIONS MUST MEET THE REQUIREMENTS OF PARTS 8 AND 9 OF THIS ARTICLE, AS APPLICABLE.

(2) THE NAMES OF CANDIDATES APPEARING ON ANY PRESIDENTIAL PRIMARY BALLOT MUST BE IN AN ORDER DETERMINED BY LOT. THE SECRETARY OF STATE SHALL DETERMINE THE METHOD OF DRAWING LOTS.

(3) EXCEPT AS OTHERWISE PROHIBITED BY POLITICAL PARTY RULES, THE STATE CHAIRPERSON OF A POLITICAL PARTY MAY REQUEST THE SECRETARY TO PROVIDE A PLACE ON THE PRIMARY 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 NO 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 NO LATER THAN FIVE DAYS AFTER THE FILING DEADLINE FOR CANDIDATES. ANY SUCH CHALLENGE MUST PROVIDE NOTICE IN WRITING IN A SUMMARY MANNER OF AN 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 (4), THE SECRETARY SHALL TRANSMIT NOTICE OF THE CHALLENGE FORTHWITH TO ALL CANDIDATES APPEARING ON THE PRESIDENTIAL PRIMARY 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 NO LATER THAN FORTY-EIGHT HOURS AFTER THE HEARING. THE PARTY FILING THE CHALLENGE HAS THE BURDEN TO SUSTAIN THE CHALLENGE BY A PREPONDERANCE OF THE EVIDENCE. THE SECRETARY OF STATE'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 FIVE HUNDRED 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 NO LATER THAN THIRTEEN DAYS AFTER THE ELECTION.

1-4-1207. Election results—certification—pledging of delegates. (1) THE SECRETARY 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 CANDIDATE AS COMPARED TO THE NUMBER OF VOTES RECEIVED BY ALL CANDIDATES OF THE SAME POLITICAL PARTY.

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

(3) EACH POLITICAL PARTY SHALL USE THE RESULTS OF THE ELECTION RESULTS TO ALLOCATE ALL NATIONAL DELEGATE VOTES TO THE PRESIDENTIAL PRIMARY CANDIDATE RECEIVING THE HIGHEST NUMBER OF VOTES AND TO BIND MEMBERS OF THE STATE'S DELEGATION TO VOTE FOR THAT CANDIDATE AT THE PARTY'S NATIONAL CONVENTION.

SECTION 3. In Colorado Revised Statutes, 1-2-218.5, **amend** (2) as follows:

1-2-218.5. Declaration of affiliation. (2) Any eligible elector who has not declared an affiliation with a political party or political organization shall be designated on the registration records of the county clerk and recorder as "unaffiliated". Any unaffiliated eligible elector may declare a political party affiliation when the elector desires to vote at a primary election, as provided in section 1-7-201(2), or the elector may declare his or her political party or political organization affiliation at any other time during which electors are permitted to register by submitting a letter or a form furnished by the county clerk and recorder, ~~either~~ by mail, ~~or~~ in person, OR ONLINE IN ACCORDANCE WITH SECTION 1-2-202.5. AN UNAFFILIATED ELIGIBLE ELECTOR NEED NOT DECLARE AN AFFILIATION TO VOTE IN A PRESIDENTIAL PRIMARY ELECTION.

SECTION 4. In Colorado Revised Statutes, 24-21-104.5, **amend** 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 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 5. 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 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 6. In Colorado Revised Statutes, 1-4-801, **add** (6) as follows:

1-4-801. Designation of party candidates by petition. (6) A CANDIDATE FOR A PRESIDENTIAL PRIMARY ELECTION SHALL NOT BEGIN CIRCULATING PETITIONS BEFORE THE FIRST MONDAY IN NOVEMBER OF THE YEAR PRECEDING THE YEAR IN WHICH THE PRESIDENTIAL PRIMARY ELECTION IS HELD. A CANDIDATE MUST FILE A PETITION NO LATER THAN THE SECOND DAY OF JANUARY IN THE YEAR OF THE PRESIDENTIAL PRIMARY ELECTION.

SECTION 7. Effective date - applicability. This measure shall apply to any presidential primary election conducted after the effective date of this measure as declared by proclamation of the governor.