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#98 REDLINE DRAFT

## PRIMARY ELECTIONS

Colorado Secretary of State

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

### SECTION 1. Declaration of the People of Colorado

BECAUSE PRIMARY ELECTIONS ARE PAID FOR BY 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 POLITICAL PARTY MUST JOIN A PARTY IF THEY WANT TO PARTICIPATE IN THE SELECTION OF OUR GENERAL ELECTION CANDIDATES. IN FACT, COLORADO IS IN THE MINORITY OF STATES THAT LIMIT PARTICIPATION IN PRIMARY ELECTIONS TO ONLY THOSE ~~REGISTERED~~ AFFILIATED WITH A MAJOR POLITICAL PARTY.

BECAUSE PRIMARY ELECTION TURNOUT IS DECLINING, INVOLVING MORE VOTERS CAN INCREASE PARTICIPATION AND ENCOURAGE CANDIDATES WHO ARE RESPONSIVE TO THE VIEWPOINTS OF MORE COLORADANS.

ACCORDINGLY, ALL VOTERS SHOULD BE ALLOWED TO VOTE IN STATE AND LOCAL PRIMARY ELECTIONS WITH THE SAME EASE AS THOSE VOTERS ~~REGISTERED~~ AFFILIATED WITH A MAJOR POLITICAL PARTY.

**SECTION 2.** 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, BUT IS NOT REQUIRED TO, 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.

**SECTION 3.** In Colorado Revised Statutes, 1-4-101, **amend** (2) as follows:

**1-4-101. Primary elections - when - nominations - expenses.** (2) Each political party that is entitled to participate in the 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. ALL CANDIDATES OF A POLITICAL PARTY SHALL BE GROUPED TOGETHER AND SEPARATED BY THE OFFICE EACH CANDIDATE IS SEEKING. SUCH BALLOTS SHALL CLEARLY ADVISE THAT AN ELECTOR MAY CAST THE BALLOT OF ONLY ONE MAJOR 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. HOWEVER, AN ELECTOR IS NOT REQUIRED TO VOTE IN THE SAME PARTY PRIMARY AS THE ELECTOR VOTED IN AS PART OF A PRESIDENTIAL PRIMARY ELECTION OCCURRING IN THAT SAME YEAR, IF SUCH AN ELECTION IS HELD:-

(a) IF IT IS NOT PRACTICABLE FOR A COUNTY TO USE A SINGLE COMBINED BALLOT THAT CONTAINS THE NAMES OF THE CANDIDATES OF EACH OF THE POLITICAL PARTIES, THE COUNTY CLERK AND RECORDER SHALL SEND TO ALL ACTIVE ELECTORS IN THE COUNTY WHO HAVE NOT DECLARED AN AFFILIATION WITH A POLITICAL PARTY A MAILING THAT CONTAINS THE BALLOTS OF ALL OF THE MAJOR POLITICAL PARTIES. IN THIS MAILING, THE CLERK SHALL ALSO PROVIDE WRITTEN INSTRUCTIONS ADVISING THE ELECTOR OF THE MANNER IN WHICH THE ELECTOR WILL BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS CODE IN SELECTING AND CASTING THE BALLOT OF A MAJOR POLITICAL PARTY. AN ELECTOR MAY CAST THE BALLOT OF ONLY ONE MAJOR POLITICAL PARTY. AFTER SELECTING AND CASTING A BALLOT OF A SINGLE MAJOR POLITICAL PARTY, THE ELECTOR SHALL RETURN THE BALLOT TO THE CLERK. IF AN ELECTOR CASTS AND RETURNS TO THE CLERK THE BALLOT OF MORE THAN ONE MAJOR POLITICAL PARTY, ALL SUCH BALLOTS RETURNED WILL BE VOID AND WILL NOT BE COUNTED.

(b) THE SECRETARY OF STATE MAY BY RULE ADOPT ADDITIONAL BALLOT REQUIREMENTS NECESSARY TO AVOID VOTER CONFUSION IN VOTING IN PRIMARY ELECTIONS.

(c) The primary election of all political parties shall be held at the same time and shall be conducted by the same election officials.

**SECTION 4.** In Colorado Revised Statutes, 1-4-502, **amend** (1) as follows:

**1-4-502. Methods of nomination for partisan candidates.** (1) Except as otherwise provided in paragraphs (b) and (c) of subsection (3) of this section, nominations for United States senator, representative in congress, governor, lieutenant

governor, secretary of state, state treasurer, attorney general, member of the state board of education, regent of the university of Colorado, member of the general assembly, district attorney, and all county officers to be elected at the general election may be made by primary election UNDER SECTION 1-4-101 OR BY ASSEMBLY OR CONVENTION UNDER SECTION 1-4-702 by major political parties, by petition for nomination as provided in section 1-4-802, or by a minor political party as provided in section 1-4-1304.

**SECTION 5.** In Colorado Revised Statutes, **add** 1-4-702 as follows:

**1-4-702. Nominations of candidates for general election by convention.** (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A POLITICAL PARTY MAY CHOOSE TO CHANGE FROM THE NOMINATION OF CANDIDATES BY PRIMARY ELECTION TO THE NOMINATION OF CANDIDATES BY ASSEMBLY OR CONVENTION FOR ALL OFFICES INCLUDING, BUT NOT LIMITED TO, UNITED STATES SENATOR, REPRESENTATIVE IN CONGRESS, ALL ELECTIVE STATE, DISTRICT, AND COUNTY OFFICERS, AND MEMBERS OF THE GENERAL ASSEMBLY IF AT LEAST THREE-FOURTHS OF THE TOTAL MEMBERSHIP OF THE PARTY'S STATE CENTRAL COMMITTEE VOTES TO USE THE ASSEMBLY OR CONVENTION NOMINATION PROCESS; EXCEPT THAT NOMINATIONS BY MAJOR POLITICAL PARTIES FOR CANDIDATES FOR LIEUTENANT GOVERNOR SHALL BE MADE BY THE PARTY'S CANDIDATE FOR GOVERNOR PURSUANT TO SECTION 1-4-502 (3). SUCH VOTE OF THE PARTY CENTRAL COMMITTEE SHALL OCCUR NO LATER THAN OCTOBER 1 OF THE YEAR PRECEDING THE YEAR IN WHICH AN ASSEMBLY OR CONVENTION NOMINATING PROCESS IS TO BE USED.

(2) A POLITICAL PARTY NOMINATING CANDIDATES BY PARTY ASSEMBLY OR CONVENTION SHALL NOMINATE THE CANDIDATES OF THE PARTY AND MAKE SUCH NOMINATIONS PUBLIC NOT LATER THAN SEVENTY-FIVE DAYS BEFORE THE GENERAL ELECTION.

(3) WHICHEVER METHOD OF CANDIDATE SELECTION IS CHOSEN BY A MAJOR POLITICAL PARTY AS BETWEEN PRIMARY ELECTION, ASSEMBLY OR CONVENTION, ALL OF THE CANDIDATES FOR THAT PARTY AT ANY LEVEL OF OFFICE IN THAT ELECTION YEAR MUST BE SELECTED BY SUCH METHOD, EXCEPT THAT THE REQUIREMENTS OF THIS PROVISION SHALL NOT APPLY TO A PRIMARY FOR PRESIDENT OF THE UNITED STATES IF SUCH AN ELECTION IS HELD.

**SECTION 6.** In Colorado Revised Statutes, 1-4-1002, **amend** (2.3)(a) ~~to read~~ as follows:

**1-4-1002. Vacancies in designation or nomination.** (2.3)(a) A vacancy in a party nomination, other than a vacancy for a party nomination for lieutenant governor for a general election occurring after January 1, 2001, that occurs after the day of the primary election or AFTER NOMINATION BY ASSEMBLY OR CONVENTION UNDER SECTION 1-4-702 and more than eighteen days before the general election may be filled by the respective party assembly vacancy committee of the district, county, or state, as appropriate,

depending upon the office for which the vacancy in nomination has occurred in accordance with the provisions of subsection (9) of this section. A vacancy in a party nomination for lieutenant governor for a general election occurring after January 1, 2001, shall be filled by a replacement candidate for lieutenant governor nominated by the party's candidate for governor. A vacancy may be caused by the declination, death, disqualification, resignation, or withdrawal of the person nominated at the primary election or by the declination, death, disqualification, resignation, or withdrawal of an elective officer after a primary election at which a nomination could have been made for the office had the vacancy then existed. No person is eligible for appointment to fill a vacancy in the party nomination unless the person meets all of the requirements of candidacy as of the date of the primary election. When a vacancy is filled pursuant to this paragraph (a), the designated election official shall provide notice by publication of the replacement nomination in the same manner as the notice required by section 1-5-205.

**SECTION 7.** In Colorado Revised Statutes, 1-4-1304, **amend** (1.5)(c) ~~to read~~ as follows:

**1-4-1304. Nomination of candidates.** (1.5) (c) If an assembly designates more than one candidate for an office, or if an assembly designates one or more candidates and one or more candidates qualifies by petition, the candidate of the minor political party for that office shall be nominated at a primary election held in accordance with this code. A MINOR POLITICAL PARTY MAY PROHIBIT UNAFFILIATED ELECTORS FROM VOTING IN THE PARTY'S PRIMARY ELECTION SO LONG AS THE PROHIBITION IS IN ACCORDANCE WITH THE PARTY'S CONSTITUTION, BYLAWS, OR OTHER APPLICABLE RULES. ANY MINOR PARTY CHOOSING TO PROHIBIT UNAFFILIATED ELECTORS FROM VOTING IN ITS PRIMARY ELECTION MUST NOTIFY THE SECRETARY OF STATE OF THE PROHIBITION NOT LESS THAN SEVENTY-FIVE DAYS PRIOR TO THE PRIMARY ELECTION.

**SECTION 8.** In Colorado Revised Statutes, ~~add~~ 1.5.402(2), **add** (2) as follows:

**1-5-402. Primary election ballots.** (2) NO LATER THAN FORTY-FIVE DAYS BEFORE THE PRIMARY ELECTION, THE COUNTY CLERK AND RECORDER SHALL PREPARE A COMBINED PRIMARY ELECTION BALLOT TO BE USED BY UNAFFILIATED ELECTORS. THE BALLOT MUST BE PRINTED IN THE FOLLOWING MANNER:

(a) ALL OFFICIAL BALLOTS MUST BE PRINTED ACCORDING TO THE PROVISIONS OF SECTIONS 1-4-101, 1-5-407, AND 1-5-408. ACROSS THE TOP OF EACH BALLOT THE WORDS "PRIMARY ELECTION BALLOT FOR UNAFFILIATED VOTERS" SHALL BE PRINTED.

(b) THE POSITIONS OF CANDIDATES ON THE BALLOTS TO BE USED BY UNAFFILIATED ELECTORS MUST BE ARRANGED IN THE ORDER SPECIFIED IN PARAGRAPH (B) OF SUBSECTION (1) OF THIS SECTION; EXCEPT THAT THE CANDIDATES OF EACH POLITICAL PARTY MUST BE CLEARLY AND CONSPICUOUSLY SEGREGATED FROM THE CANDIDATES OF

ANY OTHER POLITICAL PARTY AND GROUPED TOGETHER ACCORDING TO SECTION 1-4-101(2).

**SECTION 9.** In Colorado Revised Statutes, ~~amend~~ 1-7-201, amend (2); and add (2.3) as follows:

**1-7-201. Voting at primary election.** (2) If the name is found on the registration list, the election judge having charge of the list shall likewise repeat the elector's name and present the elector with the party ballot of the political party affiliation last recorded. ~~If unaffiliated, the eligible elector shall openly declare to the election judges the name of the political party with which the elector wishes to affiliate, complete the approved form for voter registration information changes, and initial the registration list in the space provided. Declaration of affiliation with a political party shall be separately dated and signed or dated and initialed by the eligible elector in such manner that the elector clearly acknowledges that the affiliation has been properly recorded. Thereupon, the election judges shall deliver the appropriate party ballot to the eligible elector. Eligible electors who decline to state an affiliation with a political party that is participating in the primary shall not be entitled to vote at the primary election.~~

(2.3) AN ELIGIBLE UNAFFILIATED ELECTOR IS ENTITLED TO VOTE IN THE PRIMARY ELECTION OF A MAJOR POLITICAL PARTY WITHOUT AFFILIATING WITH THAT POLITICAL PARTY. TO VOTE IN A POLITICAL PARTY'S PRIMARY ELECTION WITHOUT DECLARING AN AFFILIATION WITH THE POLITICAL PARTY, ANY ELIGIBLE UNAFFILIATED ELECTOR SHALL BE GIVEN A COMBINED BALLOT, IF APPLICABLE. IF A COMBINED BALLOT IS NOT AVAILABLE, THE ELECTOR SHALL DECLARE TO THE ELECTION JUDGES THE NAME OF THE POLITICAL PARTY IN WHOSE PRIMARY ELECTION THE ELECTOR WISHES TO VOTE. THEREUPON, THE ELECTION JUDGES SHALL DELIVER THE APPROPRIATE PARTY BALLOT TO THE ELECTOR. IN ADDITION, ANY ELIGIBLE UNAFFILIATED ELECTOR MAY OPENLY DECLARE TO THE ELECTION JUDGES THE NAME OF THE POLITICAL PARTY WITH WHICH THE ELECTOR WISHES TO AFFILIATE AND COMPLETE THE NECESSARY FORMS. AN ELIGIBLE ELECTOR MUST SEPARATELY DATE AND SIGN OR DATE AND INITIAL A DECLARATION OF AFFILIATION WITH A POLITICAL PARTY FORM IN SUCH MANNER THAT THE ELECTOR CLEARLY ACKNOWLEDGES THAT THE AFFILIATION HAS BEEN PROPERLY RECORDED. THEREUPON, THE ELECTION JUDGES SHALL DELIVER THE APPROPRIATE PARTY BALLOT TO THE ELIGIBLE ELECTOR.

**SECTION 10.** In Colorado Revised Statutes, ~~amend~~ 1-7.5-107, delete (2.3); and amend (2.5)(a)(II) as follows:

**1-7.5-107. Procedures for conducting mail ballot election -primary elections - first-time voters casting a mail ballot after having registered by mail to vote - in-person request for ballot - repeal.**

~~(2.3) (a) Not less than thirty days nor more than forty-five days before a primary election, the county clerk and recorder shall mail a notice by forwardable mail to each unaffiliated active registered eligible elector.~~

~~(b) The notice shall indicate that the unaffiliated elector has the ability to and must affiliate with a political party in order to vote in the primary election.~~

~~(c) The notice shall have a returnable portion that allows the elector to request affiliation with a political party.~~

~~(d) The notice may be included with any other communication by mail from the county clerk and recorder to electors within the county.~~

(2.5) (a) (II) For a primary mail ballot election, in addition to the items described in the notice required by subparagraph (I) of this paragraph (a), such notice shall advise eligible electors who are not affiliated with a political party of the ability to ~~declare an affiliation with a political party and vote in the primary election~~ VOTE IN THE PRIMARY ELECTION OF ANY POLITICAL PARTY. THE NOTICE MUST CLEARLY AND CONSPICUOUSLY ADVISE ELECTORS THAT ANY PRIMARY BALLOT CONTAINING VOTES FOR A CANDIDATE OF MORE THAN ONE POLITICAL PARTY SHALL NOT BE COUNTED.

**SECTION 11.** In Colorado Revised Statutes, ~~amend~~ 1-7.5-116, amend (1)(b) as follows:

**1-7.5-116. Applications for absentee ballot.** (1) (b) If the application is made for a primary election ballot, the application shall name the political party with which the applicant is affiliated ~~or wishes to affiliate~~; OR, IF THE APPLICANT IS UNAFFILIATED, THE APPLICATION MUST EITHER NAME THE POLITICAL PARTY WITH WHICH THE APPLICANT WISHES TO AFFILIATE OR MUST STATE THAT THE APPLICANT WISHES TO REMAIN UNAFFILIATED AND RECEIVE AN UNAFFILIATED PRIMARY ELECTION BALLOT, OR IF SUCH COMBINED BALLOT IS NOT AVAILABLE, THE BALLOTS FOR EACH PARTY PRIMARY ALONG WITH NOTICE THAT THE ELECTOR SHALL VOTE IN ONLY ONE PRIMARY.

**SECTION 12.** In Colorado Revised Statutes, ~~amend~~ 1-8.5-101, amend (5) as follows:

**1-8.5-101. Provisional ballot - entitlement to vote.** (5) ANY UNAFFILIATED ELECTOR AT A PRIMARY ELECTION MAY CAST A REGULAR PARTY BALLOT UPON REQUESTING SUCH BALLOT FROM AN ELECTION JUDGE IN ACCORDANCE WITH SECTION 1-7-201 (2.3). Any unaffiliated elector at a primary election may ALSO cast a regular party ballot upon openly declaring to the election judge the name of the political party with which the elector wishes to affiliate pursuant to section 1-2-218.5 or 1-7-201. NOTHING IN

THIS SECTION REQUIRES A MINOR POLITICAL PARTY TO ALLOW AN UNAFFILIATED ELECTOR TO VOTE IN THE PRIMARY ELECTION OF SUCH POLITICAL PARTY.

**SECTION 13. Effective date - applicability.** This measure applies to any primary election conducted after the effective date of this measure as declared by proclamation of the governor.