

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0472.01 Bob Lackner x4350

HOUSE BILL 15-1354

HOUSE SPONSORSHIP

Moreno,

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE SELECTION OF GENERAL ELECTION CANDIDATES BY
102 MEANS OF PRIMARY ELECTIONS, AND, IN CONNECTION
103 THEREWITH, ALLOWING ELIGIBLE UNAFFILIATED ELECTORS TO
104 VOTE IN A POLITICAL PARTY'S PRIMARY ELECTION WITHOUT
105 AFFILIATING WITH THAT PARTY AND PERMITTING THE SOLE
106 CANDIDATE OF A MAJOR POLITICAL PARTY IN A PRIMARY
107 ELECTION TO BE DECLARED THE SOLE CANDIDATE OF THAT
108 POLITICAL PARTY IN THE GENERAL ELECTION IN LIEU OF A
109 HOLDING A PRIMARY ELECTION.

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

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.

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

Section 1 of the bill clarifies that, in connection with the other changes made by the bill, an unaffiliated eligible elector may, but is not required to, declare a political party affiliation when the elector desires to vote at a primary election.

Section 2 of the bill requires that all political parties that are entitled to participate in the primary election must 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. The bill further requires that, on the ballots for use by unaffiliated electors, the names of the candidates of each political party must be clearly and conspicuously segregated from the names of the candidates of any other political party, and all candidates of a political party must be grouped together and separated by the office each candidate is seeking.

Sections 3 and 4 of the bill permit a political party to change from the nomination of candidates by primary election to the nomination of candidates by convention for all offices.

Section 5 of the bill allows a minor political party to prohibit unaffiliated electors from voting in the party's primary election as long as the prohibition reflects the party's constitution, bylaws, or other applicable rules. The minor political party is required to notify the secretary of state of the prohibition in advance of the primary election.

Section 6 of the bill requires the clerk and recorder to prepare a combined primary election ballot to be used by unaffiliated electors. The bill contains additional requirements pertaining to the printing of the ballots.

Section 7 of the bill permits an eligible unaffiliated elector 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 without declaring an affiliation with the political party, the eligible unaffiliated elector is required to declare to the election judges the name of the political party in whose primary election the elector wishes to vote. Thereupon, the election judges must deliver the appropriate party ballot to the eligible elector.

Under this section of the bill, any eligible unaffiliated elector may also 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. An eligible elector must separately execute the necessary documentation in such manner that the elector clearly acknowledges that the affiliation has been properly recorded. Thereupon, the election judges are required to deliver the appropriate party ballot to the eligible elector.

Section 8 of the bill requires that the notice mailed to voters in advance of a mail ballot primary election advise eligible electors who are not affiliated with a political party of their ability to vote in the primary election of any one political party.

Section 9 of the bill pertains to an application for an absentee ballot for a primary election. 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.

Section 10 of the bill permits any unaffiliated elector at a primary election to cast a regular party ballot upon requesting such ballot from an election judge.

If, at the close of business on the 60th day before the primary election, there is not more than one candidate affiliated with a particular major political party for each of the offices on the primary election ballot of such party, **section 11** of the bill requires the designated election official to declare the sole candidate for each office, or his or her successor if a candidate has been designated to fill a vacancy, the party nominee for that office at the general election. For purposes of other applicable law, the nominee is deemed a candidate in and the winner of the primary election. The bill requires the name of each such nominee to be printed on the official ballot prepared for the ensuing general election.

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

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

4 **1-2-218.5. Declaration of affiliation.** (2) Any eligible elector
5 who has not declared an affiliation with a political party or political
6 organization ~~shall~~ MUST be designated on the registration records of the
7 county clerk and recorder as "unaffiliated". Any unaffiliated eligible
8 elector may, BUT IS NOT REQUIRED TO, declare a political party affiliation
9 when the elector desires to vote at a primary election, as provided in
10 section 1-7-201 (2), or the elector may declare his or her political party or
11 political organization affiliation at any other time during which electors
12 are permitted to register by submitting a letter or a form furnished by the
13 county clerk and recorder, either by mail or in person.

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

3 **1-4-101. Primary elections - when - nominations - expenses.**

4 (2) Each political party that is entitled to participate in the primary
5 election ~~shall~~ MUST have a separate party ballot FOR USE BY ELECTORS
6 AFFILIATED WITH THAT POLITICAL PARTY. IN ADDITION, ALL POLITICAL
7 PARTIES THAT ARE ENTITLED TO PARTICIPATE IN THE PRIMARY ELECTION
8 MUST HAVE THEIR CANDIDATES PLACED ON A SINGLE COMBINED BALLOT
9 TO BE USED BY UNAFFILIATED ELECTORS THAT CONTAINS THE NAMES OF
10 THE CANDIDATES OF EACH OF THE POLITICAL PARTIES. ON THE BALLOTS
11 FOR USE BY UNAFFILIATED ELECTORS, THE NAMES OF THE CANDIDATES OF
12 EACH POLITICAL PARTY MUST BE CLEARLY AND CONSPICUOUSLY
13 SEGREGATED FROM THE NAMES OF THE CANDIDATES OF ANY OTHER
14 POLITICAL PARTY, AND ALL CANDIDATES OF A POLITICAL PARTY MUST BE
15 GROUPED TOGETHER AND SEPARATED BY THE OFFICE EACH CANDIDATE IS
16 SEEKING. The primary election of all political parties ~~shall~~ MUST be held
17 at the same time and ~~shall~~ MUST be conducted by the same election
18 officials.

19 **SECTION 3.** In Colorado Revised Statutes, **add** 1-4-702 as
20 follows:

21 **1-4-702. Nominations of candidates for general election by**

22 **convention.** (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
23 POLITICAL PARTY MAY CHOOSE TO CHANGE FROM THE NOMINATION OF
24 CANDIDATES BY PRIMARY ELECTION TO THE NOMINATION OF CANDIDATES
25 BY CONVENTION FOR ALL OFFICES INCLUDING, BUT NOT LIMITED TO,
26 UNITED STATES SENATOR, REPRESENTATIVE IN CONGRESS, ALL ELECTIVE
27 STATE, DISTRICT, AND COUNTY OFFICERS, AND MEMBERS OF THE GENERAL

1 ASSEMBLY IF THERE IS A THREE-FOURTHS VOTE OF THE TOTAL
2 MEMBERSHIP OF THE CONVENTION TO USE THE CONVENTION NOMINATION
3 PROCESS; EXCEPT THAT NOMINATIONS BY MAJOR POLITICAL PARTIES FOR
4 CANDIDATES FOR LIEUTENANT GOVERNOR SHALL NOT BE MADE BY
5 CONVENTION AND MUST BE MADE PURSUANT TO SECTION 1-4-502 (3).

6 (2) A POLITICAL PARTY SHALL NOT NOMINATE ITS CANDIDATES BY
7 PARTY CONVENTION IN ACCORDANCE WITH THIS SECTION FOR AN ELECTION
8 CYCLE IN WHICH THE FILING PERIOD FOR CANDIDATES HAS ALREADY
9 COMMENCED.

10 (3) A POLITICAL PARTY NOMINATING CANDIDATES BY PARTY
11 CONVENTION SHALL NOMINATE THE CANDIDATES OF THE PARTY AND MAKE
12 SUCH NOMINATIONS PUBLIC NOT LATER THAN SIXTY DAYS BEFORE THE
13 PRIMARY ELECTION.

14 (4) NOTHING IN THIS SECTION REQUIRES A POLITICAL PARTY THAT
15 HAS NOMINATED CANDIDATES BY CONVENTION IN THE PREVIOUS ELECTION
16 CYCLE TO NOMINATE ITS CANDIDATES BY PRIMARY ELECTION IN ANY
17 GIVEN ELECTION CYCLE IN ORDER TO CONTINUE USING THE CONVENTION
18 METHOD TO NOMINATE ITS CANDIDATES.

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

21 **1-4-502. Methods of nomination for partisan candidates.**

22 (1) Except as otherwise provided in paragraphs (b) and (c) of subsection
23 (3) of this section, nominations for United States senator, representative
24 in congress, governor, lieutenant governor, secretary of state, state
25 treasurer, attorney general, member of the state board of education, regent
26 of the university of Colorado, member of the general assembly, district
27 attorney, and all county officers to be elected at the general election may

1 be made by primary election UNDER SECTION 1-4-101 OR BY CONVENTION
2 UNDER SECTION 1-4-702, by major political parties, by petition for
3 nomination as provided in section 1-4-802, or by a minor political party
4 as provided in section 1-4-1304.

5 **SECTION 5.** In Colorado Revised Statutes, 1-4-1304, **amend**
6 (1.5) (c) as follows:

7 **1-4-1304. Nomination of candidates.** (1.5) (c) If an assembly
8 designates more than one candidate for an office, or if an assembly
9 designates one or more candidates and one or more candidates qualifies
10 by petition, the candidate of the minor political party for that office ~~shall~~
11 MUST be nominated at a primary election held in accordance with this
12 code. A MINOR POLITICAL PARTY MAY PROHIBIT UNAFFILIATED ELECTORS
13 FROM VOTING IN THE PARTY'S PRIMARY ELECTION AS LONG AS THE
14 PROHIBITION REFLECTS THE PARTY'S CONSTITUTION, BYLAWS, OR OTHER
15 APPLICABLE RULES. ANY MINOR PARTY CHOOSING TO PROHIBIT
16 UNAFFILIATED ELECTORS FROM VOTING IN ITS PRIMARY ELECTION MUST
17 NOTIFY THE SECRETARY OF STATE OF THE PROHIBITION NOT LESS THAN
18 SIXTY DAYS PRIOR TO THE PRIMARY ELECTION.

19 **SECTION 6.** In Colorado Revised Statutes, 1-5-402, **add** (2) as
20 follows:

21 **1-5-402. Primary election ballots.** (2) NO LATER THAN
22 THIRTY-TWO DAYS BEFORE THE PRIMARY ELECTION, THE COUNTY CLERK
23 AND RECORDER SHALL PREPARE A COMBINED PRIMARY ELECTION BALLOT
24 TO BE USED BY UNAFFILIATED ELECTORS. THE BALLOTS MUST BE PRINTED
25 IN THE FOLLOWING MANNER:

26 (a) ALL OFFICIAL BALLOTS MUST BE PRINTED ACCORDING TO THE
27 PROVISIONS OF SECTIONS 1-5-407 AND 1-5-408; EXCEPT THAT ACROSS THE

1 TOP OF EACH BALLOT THE WORDS "PRIMARY ELECTION BALLOT FOR
2 UNAFFILIATED VOTERS" MUST BE PRINTED.

3 (b) THE POSITIONS ON THE BALLOTS TO BE USED BY UNAFFILIATED
4 ELECTORS MUST BE ARRANGED IN THE ORDER SPECIFIED IN PARAGRAPH (b)
5 OF SUBSECTION (1) OF THIS SECTION; EXCEPT THAT THE CANDIDATES OF
6 EACH POLITICAL PARTY MUST BE CLEARLY AND CONSPICUOUSLY
7 SEGREGATED FROM THE CANDIDATES OF ANY OTHER POLITICAL PARTY
8 AND GROUPED TOGETHER ACCORDING TO SECTION 1-4-101 (2).

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

11 **1-7-201. Voting at primary election.** (2) If the name is found on
12 the registration list, the election judge having charge of the list shall
13 likewise repeat the elector's name and present the elector with the party
14 ballot of the political party affiliation last recorded. ~~If unaffiliated, the~~
15 ~~eligible elector shall openly declare to the election judges the name of the~~
16 ~~political party with which the elector wishes to affiliate, complete the~~
17 ~~approved form for voter registration information changes, and initial the~~
18 ~~registration list in the space provided. Declaration of affiliation with a~~
19 ~~political party shall be separately dated and signed or dated and initialed~~
20 ~~by the eligible elector in such manner that the elector clearly~~
21 ~~acknowledges that the affiliation has been properly recorded. Thereupon,~~
22 ~~the election judges shall deliver the appropriate party ballot to the eligible~~
23 ~~elector. Eligible electors who decline to state an affiliation with a political~~
24 ~~party that is participating in the primary shall not be entitled to vote at the~~
25 ~~primary election.~~

26 (2.3) AN ELIGIBLE UNAFFILIATED ELECTOR IS ENTITLED TO VOTE
27 IN THE PRIMARY ELECTION OF A MAJOR POLITICAL PARTY WITHOUT

1 AFFILIATING WITH THAT POLITICAL PARTY. TO VOTE IN A POLITICAL
2 PARTY'S PRIMARY ELECTION WITHOUT DECLARING AN AFFILIATION WITH
3 THE POLITICAL PARTY, ANY ELIGIBLE UNAFFILIATED ELECTOR SHALL
4 DECLARE TO THE ELECTION JUDGES THE NAME OF THE POLITICAL PARTY IN
5 WHOSE PRIMARY ELECTION THE ELECTOR WISHES TO VOTE. THEREUPON,
6 THE ELECTION JUDGES SHALL DELIVER THE APPROPRIATE PARTY BALLOT
7 TO THE ELIGIBLE ELECTOR. AN ELIGIBLE UNAFFILIATED ELECTOR SHALL
8 NOT VOTE IN MORE THAN ONE POLITICAL PARTY'S PRIMARY ELECTION
9 DURING ANY ONE ELECTION YEAR. IN ADDITION, ANY ELIGIBLE
10 UNAFFILIATED ELECTOR MAY OPENLY DECLARE TO THE ELECTION JUDGES
11 THE NAME OF THE POLITICAL PARTY WITH WHICH THE ELECTOR WISHES TO
12 AFFILIATE, COMPLETE THE APPROVED FORM FOR VOTER REGISTRATION
13 INFORMATION CHANGES, AND INITIAL THE REGISTRATION LIST IN THE
14 SPACE PROVIDED. AN ELIGIBLE ELECTOR MUST SEPARATELY DATE AND
15 SIGN OR DATE AND INITIAL A DECLARATION OF AFFILIATION WITH A
16 POLITICAL PARTY FORM IN SUCH MANNER THAT THE ELECTOR CLEARLY
17 ACKNOWLEDGES THAT THE AFFILIATION HAS BEEN PROPERLY RECORDED.
18 THEREUPON, THE ELECTION JUDGES SHALL DELIVER THE APPROPRIATE
19 PARTY BALLOT TO THE ELIGIBLE ELECTOR.

20 **SECTION 8.** In Colorado Revised Statutes, 1-7.5-107, **amend**
21 (2.5) (a) (II); and **repeal** (2.3) as follows:

22 **1-7.5-107. Procedures for conducting mail ballot election -**
23 **primary elections - first-time voters casting a mail ballot after having**
24 **registered by mail to vote - in-person request for ballot - repeal.**
25 ~~(2.3) (a) Not less than thirty days nor more than forty-five days before a~~
26 ~~primary election, the county clerk and recorder shall mail a notice by~~
27 ~~forwardable mail to each unaffiliated active registered eligible elector.~~

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

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

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

8 (2.5) (a) (II) For a primary mail ballot election, in addition to the
9 items described in the notice required by subparagraph (I) of this
10 paragraph (a), such notice ~~shall~~ MUST advise eligible electors who are not
11 affiliated with a political party of the ability to ~~declare an affiliation with~~
12 ~~a political party and vote in the primary election~~ VOTE IN THE PRIMARY
13 ELECTION OF ANY POLITICAL PARTY. THE NOTICE MUST CLEARLY AND
14 CONSPICUOUSLY ADVISE ELECTORS THAT ANY PRIMARY BALLOT
15 CONTAINING VOTES FOR A CANDIDATE OF MORE THAN ONE POLITICAL
16 PARTY SHALL NOT BE COUNTED.

17 **SECTION 9.** In Colorado Revised Statutes, 1-7.5-116, **amend** (1)
18 (b) as follows:

19 **1-7.5-116. Applications for absentee ballot.** (1) (b) If the
20 application is made for a primary election ballot, the application ~~shall~~
21 MUST name the political party with which the applicant is affiliated ~~or~~
22 ~~wishes to affiliate~~ OR, IF THE APPLICANT IS UNAFFILIATED, THE
23 APPLICATION MUST EITHER NAME THE POLITICAL PARTY WITH WHICH THE
24 APPLICANT WISHES TO AFFILIATE OR MUST STATE THAT THE APPLICANT
25 WISHES TO REMAIN UNAFFILIATED AND RECEIVE AN UNAFFILIATED
26 PRIMARY ELECTION BALLOT.

27 **SECTION 10.** In Colorado Revised Statutes, 1-8.5-101, **amend**

1 (5) as follows:

2 **1-8.5-101. Provisional ballot - entitlement to vote.** (5) ANY
3 UNAFFILIATED ELECTOR AT A PRIMARY ELECTION MAY CAST A REGULAR
4 PARTY BALLOT UPON REQUESTING SUCH BALLOT FROM AN ELECTION
5 JUDGE IN ACCORDANCE WITH SECTION 1-7-201 (2.3). Any unaffiliated
6 elector at a primary election may ALSO cast a regular party ballot upon
7 openly declaring to the election judge the name of the political party with
8 which the elector wishes to affiliate pursuant to section 1-2-218.5 or
9 1-7-201. NOTHING IN THIS SECTION REQUIRES A MINOR POLITICAL PARTY
10 TO ALLOW AN UNAFFILIATED ELECTOR TO VOTE IN THE PRIMARY ELECTION
11 OF SUCH POLITICAL PARTY.

12 **SECTION 11.** In Colorado Revised Statutes, 1-4-104.5, **amend**
13 (1) and (3) as follows:

14 **1-4-104.5. Noncontested races for political party nomination**
15 **of major political party - more than one candidate nominated for any**
16 **office on primary election ballot of major political party - more than**
17 **one candidate for nomination of minor political party.** (1) ~~If, at the~~
18 ~~close of business on the sixtieth day before the primary election, there is~~
19 ~~not more than one candidate for any political party who has been~~
20 ~~nominated in accordance with this article or who has filed a write-in~~
21 ~~candidate affidavit of intent pursuant to section 1-4-1101 for any office~~
22 ~~on the primary election ballot, the designated election official may cancel~~
23 ~~the primary election and declare each candidate the party nominee for that~~
24 ~~office at the general election. For purposes of other applicable law, such~~
25 ~~nominee shall be deemed a candidate in and the winner of the primary~~
26 ~~election. The name of each nominee shall be printed on the official ballot~~
27 ~~prepared for the ensuing general election~~ NOTWITHSTANDING ANY OTHER

1 PROVISION OF LAW, IF, AT THE CLOSE OF BUSINESS ON THE SIXTIETH DAY
2 BEFORE THE PRIMARY ELECTION, THERE IS ONLY ONE CANDIDATE
3 AFFILIATED WITH A PARTICULAR MAJOR POLITICAL PARTY FOR EACH OF
4 THE OFFICES ON THE PRIMARY ELECTION BALLOT OF SUCH PARTY, THE
5 DESIGNATED ELECTION OFFICIAL SHALL DECLARE THE SOLE CANDIDATE
6 FOR EACH OFFICE, OR HIS OR HER SUCCESSOR IF A CANDIDATE HAS BEEN
7 DESIGNATED TO FILL A VACANCY IN A PARTY DESIGNATION IN
8 ACCORDANCE WITH SECTION 1-4-1002 (1) OR (2), THE PARTY NOMINEE FOR
9 THAT OFFICE AT THE GENERAL ELECTION. FOR PURPOSES OF OTHER
10 APPLICABLE LAW, INCLUDING WITHOUT LIMITATION, THE PROVISIONS OF
11 ARTICLE XXVIII OF THE STATE CONSTITUTION OR ARTICLE 45 OF THIS
12 TITLE, THE NOMINEE IS DEEMED A CANDIDATE IN AND THE WINNER OF THE
13 PRIMARY ELECTION. THE NAME OF EACH SUCH NOMINEE MUST BE PRINTED
14 ON THE OFFICIAL BALLOT PREPARED FOR THE ENSUING GENERAL ELECTION.
15 IN SUCH CASE, NOT SOONER THAN TWENTY-TWO DAYS BEFORE THE DATE
16 OF THE PRIMARY ELECTION AND NO LATER THAN EIGHTEEN DAYS BEFORE
17 THE DATE OF THE PRIMARY ELECTION, THE DESIGNATED ELECTION
18 OFFICIAL SHALL MAIL TO EACH ACTIVE REGISTERED ELECTOR WHO IS A
19 RESIDENT OF THE COUNTY AND IS AFFILIATED WITH THE POLITICAL PARTY
20 AT THE LAST MAILING ADDRESS APPEARING IN THE REGISTRATION
21 RECORDS A MAILING INFORMING THE ELECTOR OF THE NAMES OF THE
22 CANDIDATES THAT HAVE BEEN DECLARED THE WINNER OF THE PRIMARY
23 ELECTION. THE MAILING REQUIRED BY THIS SUBSECTION (1) MUST BE
24 SEPARATE FROM OTHER MAILINGS SENT BY THE DESIGNATED ELECTION
25 OFFICIAL.

26 (3) If, at the close of business on the sixtieth day before the
27 primary election, ~~there is not more than one candidate for each major~~

1 ~~political party who has been nominated in accordance with this article for~~
2 ~~any office on the primary election ballot and a minor political party has~~
3 more than one candidate nominated for any such office, the primary
4 election shall be conducted as provided in section 1-4-101 for the
5 nomination of the minor political party candidate only.

6 **SECTION 12. Act subject to petition - effective date -**
7 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
8 the expiration of the ninety-day period after final adjournment of the
9 general assembly (August 5, 2015, if adjournment sine die is on May 6,
10 2015); except that, if a referendum petition is filed pursuant to section 1
11 (3) of article V of the state constitution against this act or an item, section,
12 or part of this act within such period, then the act, item, section, or part
13 will not take effect unless approved by the people at the general election
14 to be held in November 2016 and, in such case, will take effect on the
15 date of the official declaration of the vote thereon by the governor.

16 (2) This act applies to any primary election conducted on or after
17 the applicable effective date of this act.