

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0172.01 Megan McCall x4215

SENATE BILL 23-301

SENATE SPONSORSHIP

Bridges,

HOUSE SPONSORSHIP

deGruy Kennedy and Soper,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING VOTING IN PRESIDENTIAL PRIMARY ELECTIONS.**

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://leg.colorado.gov>.)

The bill requires that in presidential primary elections, beginning with the 2028 presidential primary election, electors rank their 5 top choices for candidate. Each ballot counts as one vote for the highest ranked active candidate on that ballot. Votes are tabulated in rounds until 2 or fewer active candidates remain. Votes cast for a candidate who withdraws their candidacy for president of the United States and votes cast for a candidate with the fewest votes in a round of tabulation are transferred to the elector's next highest ranked active candidate on the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

ballot. Ties are determined by lot. Round-by-round tabulation results must be publicly reported as unofficial preliminary results beginning at the time the polls close on election day until all votes have been counted.

The secretary of state must certify the results of each round of tabulation to the state chairperson and national committee of each political party that participated in the presidential primary election. The secretary of state is authorized to promulgate rules for the implementation of the ranked choice voting method for presidential primary elections.

The bill also requires that for the 2024 presidential primary election, voters covered by the "Uniform Military and Overseas Voters Act" be allowed to cast votes on ballots that allow the voter to rank up to 5 candidates, including a write-in candidate, and provides for the manner in which such ballots are to be counted.

Current law provides that ballots already printed that have votes cast for withdrawn, deceased, or disqualified candidates are invalid and are not to be counted. The bill makes an exception that ranked ballots with votes cast for withdrawn, deceased, or disqualified candidates for a presidential primary election are to be counted.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 1-4-1202 as
3 follows:

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

6 (1) "ACTIVE CANDIDATE" MEANS ANY CANDIDATE WHO HAS NOT
7 BEEN ELIMINATED DURING TABULATION OF THE VOTES CAST IN A
8 PRESIDENTIAL PRIMARY ELECTION AND IS NOT A WITHDRAWN CANDIDATE.

9 (2) "BALLOT" MEANS A BALLOT IN A PRESIDENTIAL PRIMARY
10 ELECTION.

11 (3) "CANDIDATE" MEANS A CANDIDATE FOR THE OFFICE OF
12 PRESIDENT OF THE UNITED STATES.

13 (4) "HIGHEST RANKED ACTIVE CANDIDATE" MEANS THE ACTIVE
14 CANDIDATE ASSIGNED TO A HIGHER RANKING ORDER THAN ANY OTHER
15 ACTIVE CANDIDATES ON THE BALLOT.

1 (5) "INACTIVE BALLOT" MEANS A BALLOT THAT DOES NOT COUNT
2 AS A VOTE FOR ANY CANDIDATE FOR ANY OF THE REASONS SET FORTH IN
3 SECTION 1-4-1205.5 (3)(b)(I).

4 (6) "OVERVOTE" MEANS AN ELECTOR HAS RANKED MORE THAN
5 ONE CANDIDATE WITH THE SAME RANKING ORDER NUMBER ON THE
6 ELECTOR'S BALLOT.

7 ~~(7)~~ (7) "Political party" means a major political party as defined
8 in section 1-1-104 (22).

9 ~~(8)~~ (8) "Presidential primary election" means a primary election
10 conducted in a year in which a United States Presidential Election will be
11 held to allocate delegates to national nominating conventions of the major
12 political parties selected in accordance with section 1-4-701.

13 (9) "RANKING ORDER" MEANS THE NUMBERS ASSIGNED BY AN
14 ELECTOR TO CANDIDATES TO EXPRESS THE ELECTOR'S HIGHEST TO LOWEST
15 PREFERENCE OF CANDIDATE. IN EXPRESSING THE ELECTOR'S "RANKING
16 ORDER", THE NUMBER ONE DEMONSTRATES THE HIGHEST PREFERENCE
17 CANDIDATE OF THE ELECTOR AND THE NEXT SUBSEQUENT HIGHEST
18 PREFERENCE CANDIDATES ARE DEMONSTRATED IN INCREASING
19 SEQUENTIAL NUMBERS NOT TO EXCEED THE NUMBER FIVE.

20 (10) "ROUND" MEANS AN INSTANCE OF THE SEQUENCE IN VOTING
21 TABULATION AS SET FORTH IN SECTION 1-4-1205.5 (3).

22 (11) "SKIPPED RANKING" MEANS THAT AN ELECTOR LEAVES A
23 NUMBER IN THE ELECTOR'S RANKING ORDER UNASSIGNED BUT RANKS A
24 CANDIDATE AT A SUBSEQUENT NUMBER IN THE RANKING ORDER.

25 (12) "UNDERVOTE" MEANS THAT THE ELECTOR HAS NOT ASSIGNED
26 ANY RANKING ORDER TO ANY CANDIDATES NAMED ON THE ELECTOR'S
27 BALLOT.

1 (13) "WITHDRAWN CANDIDATE" MEANS A CANDIDATE WHO:
2 (a) HAS FILED A SIGNED LETTER OF WITHDRAWAL WITH THE STATE
3 AND NATIONAL POLITICAL PARTY CHAIRS IN COMPLIANCE WITH ANY
4 APPLICABLE STATE AND NATIONAL POLITICAL PARTY RULES THAT MAY
5 EXIST CONCERNING THE TIMING, PROCEDURES, OR SUBSTANCE OF
6 CANDIDATE WITHDRAWALS OR SUSPENSIONS; AND
7 (b) IS DETERMINED TO BE A WITHDRAWN CANDIDATE BY THE
8 SECRETARY OF STATE ACCORDING TO THE PROCESS ESTABLISHED BY RULES
9 PROMULGATED BY THE SECRETARY OF STATE.

10 **SECTION 2.** In Colorado Revised Statutes, 1-4-1203, **amend**
11 (2)(a) and (3); **repeal** (4)(d); and **add** (2.2) as follows:

12 **1-4-1203. Presidential primary elections - when - conduct.**
13 (2) (a) Except as provided for in subsection (5) of this section, each
14 political party that has a qualified candidate entitled to participate in the
15 presidential primary election pursuant to this section is entitled to
16 participate in the Colorado presidential primary election. At the
17 presidential primary election, an elector ~~that~~ WHO is affiliated with a
18 political party may vote only for ~~a candidate~~ CANDIDATES of that political
19 party AND IN ACCORDANCE WITH SECTION 1-4-1205.5.

20 (2.2) AT LEAST ONE HUNDRED FIFTY DAYS BEFORE THE DATE OF
21 THE PRESIDENTIAL PRIMARY ELECTION, THE STATE COMMITTEE FOR EACH
22 POLITICAL PARTY SHALL INDICATE TO THE SECRETARY OF STATE IN
23 WRITING WHETHER THE PARTY INTENDS TO ALLOCATE ANY DELEGATES BY
24 CONGRESSIONAL DISTRICT OR BY OTHER GEOGRAPHICAL UNITS AND, IF SO,
25 THE GEOGRAPHICAL BASIS FOR SUCH ALLOCATION.

26 (3) Except as otherwise provided in this part 12, a presidential
27 primary election must be conducted in the same manner as any other

1 primary election to the extent statutory provisions governing other
2 primary elections are applicable to this part 12. EXCEPT AS OTHERWISE
3 PROVIDED IN THIS PART 12, the election officers and county clerk and
4 recorders have the same powers and shall perform the same duties for
5 presidential primary elections as they provide by law for other primary
6 elections and general elections.

7 (4) (d) ~~The secretary of state may by rule adopt additional ballot~~
8 ~~requirements necessary to avoid voter confusion in voting in presidential~~
9 ~~primary elections.~~

10 **SECTION 3.** In Colorado Revised Statutes, 1-4-1204, **amend** (3)
11 as follows:

12 **1-4-1204. Names on ballots.** (3) Except as otherwise prohibited
13 by political party rules, the state chairperson of a political party may
14 request the secretary to provide a place on the primary ballot for electors
15 ~~who have no presidential candidate preference~~ to register a vote to send
16 a noncommitted delegate to the political party's national convention. To
17 be valid, this request must be received by the secretary of state no later
18 than seventy days before the presidential primary election. IF THE STATE
19 CHAIRPERSON OF A POLITICAL PARTY MAKES A REQUEST AS SET FORTH IN
20 THIS SUBSECTION (3), THE OPTION TO SEND A NONCOMMITTED DELEGATE
21 TO THE POLITICAL PARTY'S NATIONAL CONVENTION MAY BE RANKED AND
22 TREATED IN THE SAME MANNER AS THE NAMES APPEARING ON THE BALLOT
23 AS CANDIDATES FOR PRESIDENT OF THE UNITED STATES IN ACCORDANCE
24 WITH SECTION 1-4-1205.5.

25 **SECTION 4.** In Colorado Revised Statutes, **add** 1-4-1205.5 as
26 follows:

27 **1-4-1205.5. Ranked choice - tabulation - rejected ballots -**

1 **reporting results - rules - short title.** (1) THE SHORT TITLE OF THIS
2 SECTION IS THE "EVERY VOTE COUNTS ACT".

3 (2) (a) ON AND AFTER JANUARY 1, 2028, VOTES IN A PRESIDENTIAL
4 PRIMARY ELECTION SHALL BE MADE AND COUNTED BY RANKED CHOICE
5 VOTING. EACH BALLOT COUNTS AS ONE VOTE FOR THE HIGHEST RANKED
6 ACTIVE CANDIDATE ON THE BALLOT. RANKING ORDER FOR WITHDRAWN
7 CANDIDATES IS TREATED IN THE SAME MANNER AS RANKING ORDER FOR
8 CANDIDATES WHO HAVE BEEN ELIMINATED FROM TABULATION IN
9 ACCORDANCE WITH SUBSECTION (3)(a)(II) OF THIS SECTION.

10 (b) BALLOTS SHALL ALLOW AN ELECTOR TO RANK FIVE
11 CANDIDATES NAMED ON THE BALLOT, INCLUDING ANY WRITE-IN
12 CANDIDATES WHO HAVE PROPERLY FILED STATEMENTS WITH THE
13 SECRETARY OF STATE AND PAID THE FEE IN ACCORDANCE WITH SECTION
14 1-4-1205. NOTWITHSTANDING SECTION 1-4-1205, IF THE WRITE-IN
15 CANDIDATE HAS NOT FILED A STATEMENT OR PAID A FEE, RANKING ORDER
16 FOR THE WRITE-IN CANDIDATES ARE TREATED IN THE SAME MANNER AS
17 RANKING ORDER FOR CANDIDATES WHO HAVE BEEN ELIMINATED FROM
18 TABULATION IN ACCORDANCE WITH SUBSECTION (3)(a)(II) OF THIS
19 SECTION. IF THE TOTAL NUMBER OF CANDIDATES PLUS THE OPTION FOR A
20 WRITE-IN CANDIDATE FOR A CONTEST IS LESS THAN FIVE, THE NUMBER OF
21 LINES ON THE BALLOT FOR RANKING ORDERS MUST EQUAL THAT TOTAL.

22 (c) IN A PRESIDENTIAL PRIMARY ELECTION CONDUCTED IN
23 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, THE ELECTION
24 JUDGES SHALL NOT COUNT VOTES AT THE POLLING LOCATION BUT SHALL
25 DELIVER ALL BALLOTS CAST IN THE PRESIDENTIAL PRIMARY ELECTION TO
26 THE DESIGNATED ELECTION OFFICIAL, WHO SHALL COUNT THE VOTES IN
27 ACCORDANCE WITH THIS SECTION AND THE RULES ADOPTED BY THE

1 SECRETARY OF STATE.

2 (3) (a) VOTES FOR CANDIDATES IN A PRESIDENTIAL PRIMARY
3 ELECTION SHALL BE TABULATED AS FOLLOWS:

4 (I) IF TWO OR FEWER ACTIVE CANDIDATES REMAIN, THE
5 TABULATION PROCESS IS COMPLETE. OTHERWISE, TABULATION CONTINUES
6 IN ACCORDANCE WITH SUBSECTION (3)(a)(II) OF THIS SECTION.

7 (II) THE ACTIVE CANDIDATE WITH THE FEWEST VOTES IS
8 ELIMINATED, VOTES FOR THE ELIMINATED CANDIDATE ARE TRANSFERRED
9 TO A BALLOT'S NEXT HIGHEST RANKED ACTIVE CANDIDATE, AND A NEW
10 ROUND BEGINS IN ACCORDANCE WITH SUBSECTION (3)(a)(I) OF THIS
11 SECTION.

12 (b) (I) AN INACTIVE BALLOT DOES NOT COUNT AS A VOTE FOR ANY
13 CANDIDATE. A BALLOT IS INACTIVE IF:

14 (A) THE BALLOT NO LONGER CONTAINS AN ACTIVE CANDIDATE
15 AND THE ELECTOR HAS NOT UNDERVOTED;

16 (B) THE BALLOT HAS REACHED AN OVERVOTE; OR

17 (C) THE BALLOT HAS REACHED TWO CONSECUTIVE SKIPPED
18 RANKING ORDERS.

19 (II) A BALLOT ON WHICH THE ELECTOR HAS UNDERVOTED DOES
20 NOT COUNT AS AN ACTIVE OR INACTIVE BALLOT IN ANY ROUND OF
21 TABULATION AND IS NOT COUNTED AS A VOTE FOR ANY CANDIDATE.

22 (c) IF TWO OR MORE CANDIDATES HAVE AN EQUAL AMOUNT OF
23 FEWEST VOTES AND TABULATION CANNOT CONTINUE PURSUANT TO
24 SUBSECTION (3)(a) OF THIS SECTION UNTIL THE CANDIDATE WITH THE
25 FEWEST VOTES IS ELIMINATED, THE CANDIDATE TO BE ELIMINATED IS
26 DETERMINED BY LOT. THE SECRETARY OF STATE SHALL DETERMINE THE
27 MANNER OF DRAWING LOTS AND SHALL DETERMINE THE MANNER PRIOR TO

1 TABULATION AND AFTER ALL VOTES ARE CAST. THE DETERMINATION OF
2 THE ELIMINATED CANDIDATE IN THE ROUND OF TABULATION PURSUANT TO
3 THIS SUBSECTION (3)(c) MUST BE RECORDED AND, IF THERE IS A RECOUNT
4 AND TWO OR MORE CANDIDATES STILL HAVE AN EQUAL AMOUNT OF
5 FEWEST VOTES, THE SAME LOT MUST BE USED AND THE METHOD OF
6 DETERMINATION BY LOT MUST BE THE SAME.

7 (4) (a) THE SECRETARY OF STATE SHALL PROMULGATE RULES OR
8 GUIDANCE TO FACILITATE THE RELEASE OF UNOFFICIAL PRELIMINARY
9 ROUND-BY-ROUND RESULTS AND UNOFFICIAL PRELIMINARY RECORDS OF
10 VOTES CAST AS SOON AS FEASIBLE AFTER THE POLLS CLOSE AND AT
11 REGULAR INTERVALS UNTIL THE COMPLETION OF COUNTING VOTES. IN
12 PROMULGATING RULES OR GUIDANCE PURSUANT TO THIS SUBSECTION
13 (4)(a), THE SECRETARY OF STATE SHALL CONSULT WITH COUNTY CLERK
14 AND RECORDERS, OTHER LOCAL ELECTION OFFICIALS, AND
15 REPRESENTATIVES OF THE STATE AND NATIONAL POLITICAL PARTIES.

16 (b) UNOFFICIAL PRELIMINARY ROUND-BY-ROUND RESULTS AND
17 UNOFFICIAL PRELIMINARY RECORDS OF VOTES CAST MUST BE:

18 (I) CLEARLY LABELED AS PRELIMINARY AND, IF FEASIBLE, MUST
19 INCLUDE THE PERCENTAGE OF BALLOTS COUNTED AT THE TIME THE
20 UNOFFICIAL PRELIMINARY RESULT IS REPORTED;

21 (II) PUBLISHED ONLINE IN A PUBLICLY ACCESSIBLE, ELECTRONIC
22 FORMAT; AND

23 (III) IDENTIFIABLE BY PRECINCT TO THE EXTENT IDENTIFICATION
24 CAN BE PROVIDED IN A MANNER CONSISTENT WITH MAINTAINING VOTER
25 PRIVACY.

26 (5) THE SECRETARY OF STATE MAY PROMULGATE ANY RULES
27 NECESSARY TO IMPLEMENT THIS SECTION.

1 (6) NOTHING IN THIS SECTION PRECLUDES A POLITICAL PARTY
2 FROM ALLOCATING DELEGATES ACCORDING TO THE POLITICAL PARTY'S
3 RULES FOR ALLOCATING DELEGATES.

4 (7) PURSUANT TO SECTION 24-21-104.7, THE SECRETARY OF STATE
5 MAY RECEIVE AND EXPEND GIFTS OR GRANTS FOR PURPOSES OF
6 IMPLEMENTING AND PROVIDING EDUCATION ON THIS ACT.

7 **SECTION 5.** In Colorado Revised Statutes, **amend** 1-4-1206 as
8 follows:

9 **1-4-1206. Presidential primary ballots - survey of returns.**

10 Each county clerk and recorder shall survey all returns received from the
11 presidential primary election in all county precincts in accordance with
12 article 10 of this title 1. For counties that contain more than one United
13 States congressional district, the returns must indicate the number of
14 votes cast in each precinct AND THE NUMBER OF NUMBER ONE PREFERENCE
15 RANKINGS RECEIVED for each candidate IN EACH PRECINCT; except that,
16 if the total number of votes cast and counted in any precinct is less than
17 ten, the returns for all such precincts in the county must be reported
18 together. For counties that contain only one United States congressional
19 district, the returns may indicate the number of votes cast in the county
20 AND THE NUMBER OF NUMBER ONE PREFERENCE RANKINGS RECEIVED for
21 each candidate IN THE COUNTY.

22 **SECTION 6.** In Colorado Revised Statutes, 1-4-1207, **amend** (1)
23 and (2) as follows:

24 **1-4-1207. Election results - certification - pledging of**
25 **delegates.** (1) ~~The secretary shall compile the number of votes cast for~~
26 ~~each candidate named on the presidential primary election ballot and the~~
27 ~~votes cast to send a noncommitted delegate to the political party's national~~

1 ~~convention, if applicable, and shall calculate the percentage of votes~~
2 ~~received by each candidate as compared to the number of votes received~~
3 ~~by all candidates of the same political party.~~ THE SECRETARY SHALL MAKE
4 PUBLIC:

5 (a) THE TOTAL NUMBER OF VOTES EACH CANDIDATE RECEIVED IN
6 EACH ROUND OF THE OFFICIAL TABULATION;

7 (b) THE TOTAL NUMBER OF BALLOTS THAT BECAME INACTIVE IN
8 EACH ROUND BECAUSE THE BALLOT DID NOT CONTAIN ANY ACTIVE
9 CANDIDATES, THE ELECTOR OVERVOTED, OR THE BALLOT CONTAINED TWO
10 CONSECUTIVE SKIPPED RANKINGS, EACH REPORTED AS SEPARATE FIGURES;
11 AND

12 (c) THE RECORDS OF VOTES CAST IN A PUBLICLY ACCESSIBLE,
13 ELECTRONIC FORMAT AND IDENTIFIABLE BY PRECINCT TO THE EXTENT
14 IDENTIFICATION CAN BE PROVIDED IN A MANNER CONSISTENT WITH
15 MAINTAINING VOTER PRIVACY.

16 (2) ~~The secretary shall certify the results and percentages~~
17 ~~calculated pursuant to subsection (1) of this section to the state~~
18 ~~chairperson and the national committee of each political party which had~~
19 ~~at least one candidate on its presidential primary election ballot.~~ THE
20 SECRETARY OF STATE SHALL CERTIFY THE RESULTS OF EACH ROUND
21 TABULATED PURSUANT TO SECTION 1-4-1205.5 (3), ALONG WITH ANY
22 OTHER INFORMATION REQUIRED BY SECTION 1-4-1205.5 (4), TO THE STATE
23 CHAIRPERSON AND THE NATIONAL COMMITTEE OF EACH POLITICAL PARTY
24 THAT PARTICIPATED IN THE PRESIDENTIAL PRIMARY ELECTION. IF A PARTY
25 ALLOCATES DELEGATES BY CONGRESSIONAL DISTRICT OR OTHER
26 GEOGRAPHICAL UNITS, THE SECRETARY OF STATE SHALL ALSO PROVIDE
27 THE ROUND-BY-ROUND RESULTS AND THE RECORDS OF VOTES CAST BY

1 CONGRESSIONAL DISTRICT OR OTHER GEOGRAPHICAL UNITS.

2 **SECTION 7.** In Colorado Revised Statutes, **add** 1-4-1208 as
3 follows:

4 **1-4-1208. Ranked choice ballots for uniform military and**
5 **overseas voters - legislative declaration - definitions - repeal.**

6 (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

7 (I) MILITARY AND QUALIFIED OVERSEAS VOTERS
8 DISPROPORTIONATELY FACE CONSTRAINTS ON VOTING DUE TO THE EXTRA
9 TIME NEEDED TO RECEIVE AND RETURN BALLOTS BY MAIL, AS RECOGNIZED
10 IN FEDERAL LAW;

11 (II) PRESIDENTIAL PRIMARIES OFTEN INCLUDE RAPIDLY CHANGING
12 CANDIDATE FIELDS, AS CANDIDATES DROP OUT OVER THE COURSE OF THE
13 ELECTION;

14 (III) IF A VOTER VOTES EARLY, AS MILITARY AND QUALIFIED
15 OVERSEAS VOTERS OFTEN MUST DO, THE VOTER MAY VOTE FOR A
16 CANDIDATE WHO WITHDRAWS PRIOR TO THE DATE OF THE ELECTION,
17 MISSING THE OPPORTUNITY TO MEANINGFULLY PARTICIPATE IN THE
18 ELECTION;

19 (IV) IN 2020, OVER 3 MILLION VOTES WERE CAST IN THE
20 DEMOCRATIC PRESIDENTIAL PRIMARY ELECTION FOR CANDIDATES WHO
21 HAD WITHDRAWN BY THE DAY OF THE ELECTION, AND IN 2016, OVER 2
22 MILLION VOTES WERE CAST IN THE REPUBLICAN PRESIDENTIAL PRIMARY
23 ELECTION FOR CANDIDATES WHO HAD WITHDRAWN BY THE DAY OF THE
24 ELECTION; AND

25 (V) ALLOWING VOTERS THE OPPORTUNITY TO CAST A RANKED
26 BALLOT CAN PROTECT VOTERS FROM LOSING THEIR VOTE TO A CANDIDATE
27 WHO HAS WITHDRAWN, BECAUSE IF THE VOTER'S FIRST CHOICE OF

1 CANDIDATES HAS NOTIFIED STATE ELECTION OFFICIALS OF THE
2 CANDIDATE'S WITHDRAWAL OR OTHERWISE HAS BECOME INELIGIBLE, THEN
3 THE VOTER'S BALLOT WILL COUNT FOR THEIR NEXT CHOICE OF CANDIDATE
4 INSTEAD.

5 (b) THEREFORE, THE GENERAL ASSEMBLY FINDS AND DECLARES
6 THAT IT IS NECESSARY TO ALLOW MILITARY AND QUALIFIED OVERSEAS
7 VOTERS TO INDICATE THEIR RANKED PREFERENCES WHEN VOTING IN A
8 PRESIDENTIAL PRIMARY ELECTION. THE BALLOT OF A MILITARY OR
9 QUALIFIED OVERSEAS VOTER WILL COUNT FOR THE VOTER'S FIRST CHOICE
10 CANDIDATE, IF THAT CANDIDATE IS AN ACTIVE CANDIDATE. IF THE VOTER'S
11 FIRST CHOICE HAS WITHDRAWN OR BECOME INELIGIBLE, THE BALLOT WILL
12 COUNT FOR THEIR HIGHEST RANKED ACTIVE CANDIDATE.

13 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
14 REQUIRES:

15 (a) NOTWITHSTANDING SECTION 1-4-1202 (1), "ACTIVE
16 CANDIDATE" MEANS ANY CANDIDATE WHO IS NOT A DISQUALIFIED
17 CANDIDATE OR A WITHDRAWN CANDIDATE.

18 (b) "COVERED VOTER" HAS THE SAME MEANING AS SET FORTH IN
19 SECTION 1-8.3-102 (2).

20 (c) "DISQUALIFIED CANDIDATE" MEANS A CANDIDATE THAT IS
21 DECEASED OR HAS BEEN DISQUALIFIED FOR ANOTHER REASON PROVIDED
22 FOR UNDER THIS TITLE 1.

23 (d) NOTWITHSTANDING SECTION 1-4-1202 (4), "HIGHEST RANKED
24 ACTIVE CANDIDATE" MEANS THE ACTIVE CANDIDATE ASSIGNED TO A
25 HIGHER RANKING ORDER THAN ANY OTHER ACTIVE CANDIDATES ON THE
26 BALLOT.

27 (e) "INACTIVE CANDIDATE" MEANS A WITHDRAWN CANDIDATE OR

1 A DISQUALIFIED CANDIDATE.

2 (3) (a) NOTWITHSTANDING ANY PROVISION IN THIS TITLE 1 TO THE
3 CONTRARY, FOR A PRESIDENTIAL PRIMARY ELECTION THAT TAKES PLACE
4 ON OR AFTER JANUARY 1, 2024, BUT BEFORE DECEMBER 31, 2027, IN
5 WHICH THERE ARE AT LEAST THREE CANDIDATES, A COVERED VOTER
6 SHALL BE ENTITLED TO A BALLOT THAT ALLOWS THE COVERED VOTER TO
7 RANK CANDIDATES IN ORDER OF PREFERENCE IN ACCORDANCE WITH THE
8 PROVISIONS OF THIS SECTION 1-4-1208.

9 (b) THE BALLOTS MUST ALLOW A COVERED VOTER TO RANK FIVE
10 CANDIDATES, INCLUDING ONE WRITE-IN CANDIDATE. IF THE TOTAL
11 NUMBER OF CANDIDATES PLUS THE OPTION FOR A WRITE-IN CANDIDATE
12 FOR A CONTEST IS LESS THAN FIVE, THE NUMBER OF LINES ON THE BALLOT
13 FOR RANKING ORDERS MUST EQUAL THAT TOTAL. IF VOTING EQUIPMENT
14 CANNOT ACCOMMODATE AT LEAST FIVE RANKING ORDERS ON THE BALLOT,
15 THE SECRETARY OF STATE MAY LIMIT THE NUMBER OF CHOICES A COVERED
16 VOTER MAY RANK ON A BALLOT TO THE MAXIMUM NUMBER ALLOWED BY
17 THE EQUIPMENT; EXCEPT THAT THE NUMBER OF RANKING ORDERS
18 ALLOWED MUST NOT BE LESS THAN THREE.

19 (4) BALLOTS MUST BE PROCESSED IN A MANNER ESTABLISHED BY
20 THE SECRETARY OF STATE CONSISTENT WITH THE FOLLOWING:

21 (a) EACH BALLOT CAST IN A PRESIDENTIAL PRIMARY ELECTION
22 PURSUANT TO THIS SECTION COUNTS AS A VOTE FOR THE HIGHEST RANKED
23 ACTIVE CANDIDATE;

24 (b) IF THE CANDIDATE ON A BALLOT WITH THE HIGHEST RANKING
25 ORDER IS AN INACTIVE CANDIDATE, THE BALLOT SHALL COUNT AS A VOTE
26 FOR THE HIGHEST RANKED ACTIVE CANDIDATE; AND

27 (c) A BALLOT DOES NOT COUNT AS A VOTE FOR ANY CANDIDATE IN

1 ANY OF THE FOLLOWING INSTANCES:

2 (I) THE COVERED VOTER HAS UNDERVOTED ON THE BALLOT;

3 (II) THE COVERED VOTER HAS NOT UNDERVOTED BUT HAS NOT
4 ASSIGNED RANKING ORDERS TO ANY ACTIVE CANDIDATES;

5 (III) THE COVERED VOTER HAS OVERVOTED AT OR PRIOR TO THE
6 RANKING ORDER FOR THE HIGHEST RANKED ACTIVE CANDIDATE; OR

7 (IV) THE BALLOT CONTAINS TWO OR MORE CONSECUTIVE SKIPPED
8 RANKING ORDERS PRIOR TO THE RANKING FOR THE HIGHEST RANKED
9 ACTIVE CANDIDATE.

10 (5) THE SECRETARY OF STATE MAY PROMULGATE ANY RULES
11 NECESSARY TO IMPLEMENT THIS SECTION.

12 (6) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2028.

13 **SECTION 8.** In Colorado Revised Statutes, 1-5-412, **amend** (3)
14 as follows:

15 **1-5-412. Correction of errors.** (3) (a) If, before the date set for
16 election, a duly nominated candidate withdraws by filing an affidavit of
17 withdrawal with the designated election official, or dies and the fact of
18 the death becomes known to the designated election official before the
19 ballots are printed, or is deemed disqualified, the name of the candidate
20 shall not be printed on the ballots. Except in the case of a vacancy to be
21 filled in accordance with section 1-4-1005, 1-4-1006, or 1-4-1009, if the
22 ballots are already printed, the votes cast for the withdrawn, deceased, or
23 disqualified candidate are invalid and shall not be counted; EXCEPT THAT
24 RANKED BALLOTS CAST IN A PRESIDENTIAL PRIMARY ELECTION FOR A
25 WITHDRAWN, DECEASED, OR DISQUALIFIED CANDIDATE SHALL BE
26 COUNTED FOR THE HIGHEST RANKED ACTIVE CANDIDATE ON A BALLOT.

27 (b) AS USED IN THIS SUBSECTION (3), UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

2 (I) "HIGHEST RANKED ACTIVE CANDIDATE" FOR THE PRESIDENTIAL
3 PRIMARY ELECTION THAT TAKES PLACE ON OR AFTER JANUARY 1, 2024,
4 BUT BEFORE DECEMBER 31, 2027, HAS THE SAME MEANING AS SET FORTH
5 IN SECTION 1-4-1208 (2)(d) AND FOR PRESIDENTIAL PRIMARY ELECTIONS
6 THAT TAKE PLACE ON OR AFTER JANUARY 1, 2028, HAS THE SAME
7 MEANING AS SET FORTH IN SECTION 1-4-1202 (4).

8 (II) "PRESIDENTIAL PRIMARY ELECTION" HAS THE SAME MEANING
9 AS SET FORTH IN 1-4-1202 (8).

10 **SECTION 9.** In Colorado Revised Statutes, 1-7-508, **amend** (2)
11 as follows:

12 **1-7-508. Determination of improperly marked ballots.**

13 (2) Votes cast for an office to be filled or a ballot question or ballot issue
14 to be decided shall not be counted if a voter marks more names than there
15 are persons to be elected to an office or if for any reason it is impossible
16 to determine the elector's choice of candidate or vote concerning the
17 ballot question or ballot issue; except that an elector's rankings of
18 multiple candidates in an election using instant runoff voting shall be
19 recorded and counted in accordance with section 1-7-1003 and rules
20 promulgated by the secretary of state AND VOTES CAST IN A PRESIDENTIAL
21 PRIMARY ELECTION SHALL BE RECORDED AND COUNTED IN ACCORDANCE
22 WITH SECTION 1-4-1205.5 AND RULES PROMULGATED BY THE SECRETARY
23 OF STATE. A defective or an incomplete mark on any ballot in a proper
24 place shall be counted if no other mark is on the ballot indicating an
25 intention to vote for some other candidate or ballot question or ballot
26 issue.

27 **SECTION 10. Applicability.** Sections 1, 7, and 8 of this act

1 apply to presidential primary elections on or after the effective date of this
2 act. Sections 2, 3, 4, 5, 6, and 9 of this act apply to presidential primary
3 elections on or after January 1, 2028.

4 **SECTION 11. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety.