FILED
U.S. DISTRICT COURT
DISTRICT OF COLORADO
2004 OCT 13 PM 1:44
GREGORY C. LANGHAM
CLERK
BY _____ DEP. CLK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 04-RB-2114 (BNB)
(To be supplied by the court)

Jason Napolitano, a Colorado registered voter, Plaintiff,

v.

Donetta Davidson, in her official capacity,

as Secretary of the Colorado Department,

of State,

_____,

_____,

_____,

_____,

_____, Defendant(s).

(List each named defendant on a separate line.)

COMPLAINT

PARTIES

1. Plaintiff Jason Napolitano, a Colorado registered voter, is a citizen of Colorado who presently resides at the following address:
1136 Wabash Street - Unit 20; Fort Collins, CO 80526-3022.

2. Defendant Donetta Davidson, in her official capacity as Secretary of the Colorado Department of State, is a citizen of Colorado who live(s) at or is/are located at the following address:
1560 Broadway, Suite 200; Denver, CO 80202-5169.

JURISDICTION

3. Jurisdiction is asserted pursuant to the following statutory authorities:
Plaintiff believes that the 14th Amendment and Article II of the United States Constitution are violated by the Colorado Department of State's announced plans to administer the selection of presidential electors in the upcoming election on November 2, 2004.

4. Briefly state the background of your case:

4a. The Colorado Department of State is administering a general election on November 2, 2004.

4b. In said election, Colorado voters are to vote on presidential electors by voting for a presidential ticket.

4c. In said election, Colorado citizens are also to vote on Amendment 36 (the "Proposal"), an amendment to the Colorado Constitution regarding the selection of Presidential Electors, a copy of which is attached as Appendix A.

4d. The Proposal calls for Colorado's presidential electors to be chosen based on the proportion of ballots cast for a given ticket as opposed to the current winner-take-all

system of choosing presidential electors.

4e. The Proposal has been placed on the ballot as a result of an initiative process under Article V, Section 2 of the Colorado Constitution

4f. The Proposal specifically calls for its provisions to apply retroactively to the 2004 election (see Section 1f of the Proposal)

4g. The Proposal specifically declares that the people of Colorado are acting as the Legislature of Colorado regarding the manner of electing presidential electors, and that such action is in accordance with Article II, Section 1 of the United States Constitution (see Section 1b of the Proposal).

4h. Plaintiff maintains that the retroactive application of the Proposal denies equal protection to the class of voters whose first choice is a minor party ticket but would vote for a major party ticket in a winner-take-all election because they do not believe the minor ticket could win a plurality.

4i. Plaintiff maintains that Article II, § 1 of the United States Constitution requires that the Colorado Legislature direct the manner of choosing presidential electors, that the Proposal prevents the Colorado Legislature from doing so in the 2004 election, and, accordingly, that the Proposal is unconstitutional in this regard.

4j. The groups of voters described in paragraph 4h will suffer irreperable harm if the November 2 election is conducted according to the currently announced plans of the Colorado Department of State. These groups of voters will have the effect of their votes diluted because applying the Proposal retroactively will undermine the ability of these voters to combine their votes with like minded voters (see paragraphs 2 through 8, 12 and 23 of the Plaintiff's Memorandum of Law regarding this case for more information).

4k. Applying the Proposal retroactively fails to comply with 3 U.S.C. § 5, a "safe harbor" in federal law regarding the counting of electoral votes. Failing to comply with 3 U.S.C. § 5 introduces the risk that Colorado's electoral votes counted in the Presidential election will be decided by the U.S. Congress rather than the voters of Colorado (or potentially even that Colorado will not be able to have any electoral votes counted in the Presidential election). If this happens, all Colorado voters will suffer irreparable harm (see paragraphs 71 through 78 of the Plaintiff's Memorandum of Law regarding this case for more information).

4l. There is no adequate remedy at law for the harm described in paragraphs 4h, 4j or 4k of this motion.

FIRST CLAIM FOR RELIEF
AND SUPPORTING FACTUAL ALLEGATIONS

5. Plaintiff incorporates Plaintiff's Memorandum of Law regarding this case.

REQUEST FOR RELIEF

Plaintiff requests the following temporary relief:

1) This Court declares Section 1b and Section 1f of the Proposal unconstitutional.

2) This Court directs the Secretary of the Colorado Department of State to follow existing laws and procedures and not the Proposal in conducting the choice of Presidential electors in 2004.

Date: October 13, 2004

Jason Napolitano
(Plaintiff's Original Signature)

1136 Wabash Street - Unit 20
(Street Address)

Fort Collins, CO 80526-3022
(City, State, ZIP)

970-204-4973
(Telephone Number)

Appendix A - the Proposal

AMENDMENT 36
SELECTION OF PRESIDENTIAL ELECTORS

Ballot Title: An amendment to the Colorado constitution concerning popular proportional selection of presidential electors, and, in connection therewith, creating procedures for allocating Colorado's electoral votes for president and vice-president of the United States, based on the proportion of ballots that are cast in this state for each presidential ticket; making the terms of the proposed amendment effective so that popular proportional selection of presidential electors applies to the 2004 general election; setting forth procedures and timelines that govern the certification of election results and the potential recounting of votes in elections for presidential electors and in the election on this proposed amendment; granting the Colorado supreme court original jurisdiction for the adjudication of all contests concerning presidential electors and requiring that such matters be heard and decided on an expedited basis; and authorizing the general assembly to enact legislation to change the manner of selecting presidential electors or any of the procedures contained in this amendment.

Text of Proposal:

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

ARTICLE VII OF THE CONSTITUTION is amended BY THE ADDITION OF A NEW SECTION, to read:

Section 13. Popular proportional selection of presidential electors.

(1) THE PEOPLE OF THE STATE OF COLORADO HEREBY FIND AND DECLARE THAT:

(a) THE UNITED STATES CONSTITUTION DELEGATES TO EACH STATE THE METHOD OF CHOOSING PRESIDENTIAL ELECTORS WHO ARE CHARGED WITH CASTING VOTES IN THE ELECTORAL COLLEGE FOR THE OFFICES OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES;

(b) THE COLORADO CONSTITUTION RESERVES TO THE PEOPLE OF THIS STATE THE RIGHT TO ACT IN THE PLACE OF THE STATE LEGISLATURE IN ANY LEGISLATIVE MATTER, AND THROUGH ENACTMENT OF THIS SECTION, THE PEOPLE DO HEREBY ACT AS THE LEGISLATURE OF COLORADO FOR THE PURPOSE OF CHANGING THE MANNER OF ELECTING PRESIDENTIAL ELECTORS IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE II, SECTION 1 OF THE UNITED STATES CONSTITUTION;

(c) THE RIGHT TO VOTE FOR PRESIDENT OF THE UNITED STATES IS A

FUNDAMENTAL RIGHT AND EACH PERSON'S VOTE IS ENTITLED TO EQUAL DIGNITY AND SHOULD COUNT EQUALLY;

(d) THE PRESENT WINNER-TAKE-ALL METHOD OF AWARDING PRESIDENTIAL ELECTORS IN COLORADO PERMITS A PRESIDENTIAL TICKET TO RECEIVE ALL OF THIS STATE'S ELECTORAL VOTES EVEN THOUGH IT WINS LESS THAN A MAJORITY OF THE BALLOTS CAST IN THIS STATE;

(e) THE WILL OF THE COLORADO ELECTORATE IS BEST REFLECTED BY THE POPULAR PROPORTIONAL ALLOCATION OF ELECTORAL COLLEGE REPRESENTATIVES, BASED ON THE NUMBER OF BALLOTS CAST FOR THE RESPECTIVE PRESIDENTIAL TICKETS IN THIS STATE; AND

(f) IN THE STRONGEST POSSIBLE TERMS, THE VOTERS OF COLORADO DECLARE THAT, BY APPROVING THIS INITIATIVE, THEY UNDERSTAND, DESIRE, AND EXPECT THAT THE POPULAR PROPORTIONAL SELECTION OF PRESIDENTIAL ELECTORS IS INTENDED TO APPLY RETROACTIVELY AND THUS DETERMINE THE MANNER IN WHICH OUR STATE'S PRESIDENTIAL ELECTORS ARE CHOSEN AND OUR STATE'S ELECTORAL VOTES ARE CAST FOR THE GENERAL ELECTION OF 2004.

(2) THE TOTAL NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED SHALL BE DIVIDED AMONG THE PRESIDENTIAL TICKETS ON THE GENERAL ELECTION BALLOT, BASED UPON THE POPULAR PROPORTIONAL SHARE OF THE TOTAL STATEWIDE BALLOTS CAST FOR BACH PRESIDENTIAL TICKET, SUBJECT TO SUBSECTIONS (3) AND (4) OF THIS SECTION. EACH PRESIDENTIAL ELECTOR SHALL VOTE FOR THE PRESIDENTIAL CANDIDATE AND, BY SEPARATE BALLOT, VICE-PRESIDENTIAL CANDIDATE ON THE PRESIDENTIAL TICKET OF THE POLITICAL PARTY OR POLITICAL ORGANIZATION THAT NOMINATED THAT PRESIDENTIAL ELECTOR.

(3) THE ALLOCATION OF A PRESIDENTIAL TICKET'S POPULAR PROPORTION OF THIS STATE'S ELECTORAL VOTES SHALL BE IN WHOLE NUMBERS AND SHALL BE MADE IN THE FOLLOWING MANNER:

(a) THE TOTAL NUMBER OF BALLOTS CAST IN THIS STATE FOR EACH PRESIDENTIAL TICKET AT A GENERAL ELECTION SHALL BE DIVIDED BY THE TOTAL NUMBER OF BALLOTS CAST FOR ALL PRESIDENTIAL TICKETS THAT RECEIVE VOTES AT THAT GENERAL ELECTION; AND

(b) THE PROPORTION OF A PRESIDENTIAL TICKET'S POPULAR VOTE, AS DETERMINED IN PARAGRAPH (a) OF THIS SUBSECTION, SHALL BE MULTIPLIED BY THE NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED.

(4) THE NUMBER OF ELECTORAL VOTES THAT IS ATTRIBUTABLE TO THE BALLOTS CAST FOR ANY PRESIDENTIAL TICKET, AS DETERMINED IN SUBSECTION (3) OF THIS SECTION, SHALL

BE ROUNDED TO THE NEAREST WHOLE NUMBER, SUBJECT TO THE FOLLOWING LIMITATIONS.

(a) NO PRESIDENTIAL TICKET SHALL RECEIVE ANY ELECTORAL VOTES FROM THIS STATE IF ITS PROPORTION OF THE TOTAL BALLOTS CAST FOR ALL PRESIDENTIAL TICKETS WOULD REFLECT LESS THAN A FULL ELECTORAL VOTE AFTER ROUNDING TO THE NEAREST WHOLE NUMBER.

(b) IF THE SUM OF ELECTORAL VOTES ALLOCATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION IS GREATER THAN THE NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED:

(I) THE ALLOCATION OF ELECTORAL VOTES TO THE PRESIDENTIAL TICKET RECEIVING AT LEAST ONE ELECTORAL VOTE AND THE FEWEST NUMBER OF BALLOTS CAST SHALL BE REDUCED BY WHOLE ELECTORAL VOTES UNTIL ONLY THAT NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED HAVE BEEN ALLOCATED; AND

(II) THE PROCESS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE REPEATED IF, AFTER THE REDUCTION OF ELECTORAL VOTES AS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE TOTAL NUMBER OF ELECTORAL VOTES ALLOCATED TO ALL PRESIDENTIAL TICKETS REMAINS GREATER THAN THE TOTAL NUMBER OF ELECTORAL VOTES TO WHICH THIS STATE IS ENTITLED, AND SUCH PROCESS SHALL BE APPLIED TO THE PRESIDENTIAL TICKET RECEIVING AT LEAST ONE ELECTORAL VOTE AND THE NEXT FEWEST NUMBER OF BALLOTS CAST UNTIL THE TOTAL NUMBER OF ELECTORAL VOTES ALLOCATED TO ALL PRESIDENTIAL TICKETS IS EQUAL TO THE TOTAL NUMBER OF ELECTORAL VOTES TO WHICH THIS STATE IS ENTITLED.

(c) IF THE SUM OF ALL ELECTORAL VOTES ALLOCATED WOULD BE LESS THAN THE NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED, THE PRESIDENTIAL TICKET RECEIVING THE GREATEST NUMBER OF BALLOTS CAST SHALL RECEIVE ANY UNALLOCATED ELECTORAL VOTES UNTIL ALL OF THE ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED HAVE BEEN ALLOCATED.

(d) IF TWO OR MORE PRESIDENTIAL TICKETS RECEIVE THE IDENTICAL TOTAL NUMBER OF BALLOTS CAST FOR ALL PRESIDENTIAL TICKETS AND THE ALLOCATION OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED CANNOT BE PROPORTIONALLY ALLOCATED IN WHOLE ELECTORAL VOTES TO THESE PRESIDENTIAL TICKETS, THE SECRETARY OF STATE SHALL DETERMINE BY LOT WHICH OF THESE PRESIDENTIAL TICKETS WILL HAVE THEIR NUMBER OF ELECTORAL VOTES INCREASED OR DECREASED BY A WHOLE ELECTORAL VOTE UNTIL ALL OF THE ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED HAVE BEEN

ALLOCATED.

(5) (a) A RECOUNT OF BALLOTS CAST FOR AND AGAINST THIS INITIATIVE SHALL BE ORDERED BY THE SECRETARY OF STATE IF THE DIFFERENCE BETWEEN THE NUMBER OF BALLOTS CAST FOR AND AGAINST THIS INITIATIVE IS LESS THAN OR EQUAL TO ONE-HALF OF ONE PERCENT OF THE HIGHEST NUMBER OF BALLOTS CAST IN THE ELECTION ON THIS INITIATIVE. WHERE THE DIFFERENCE BETWEEN THE NUMBER OF BALLOTS CAST FOR AND AGAINST THIS INITIATIVE IS GREATER THAN ONE-HALF OF ONE PERCENT OF THE HIGHEST NUMBER OF BALLOTS CAST IN THE ELECTION ON THIS INITIATIVE, A RECOUNT IN CONNECTION WITH THIS INITIATIVE MAY BE REQUESTED BY A PETITION REPRESENTATIVE IDENTIFIED WITH THIS INITIATIVE OR THE REGISTERED AGENT OF AN ISSUE COMMITTEE OPPOSING THIS INITIATIVE; PROVIDED, HOWEVER, THAT ANY SUCH PERSON OR THE COMMITTEE WITH WHICH HE OR SHE IS ASSOCIATED SHALL PAY THE COST OF SUCH RECOUNT BEFORE THE SECRETARY MAY BEGIN THE RECOUNT, BUT IF THE PREVAILING SIDE IN THE ELECTION IS CHANGED THEREBY, SUCH AMOUNT SHALL BE REFUNDED.

(b) A RECOUNT SHALL BE ORDERED BY THE SECRETARY OF STATE IF:

(I) THE DIFFERENCE BETWEEN THE NUMBER OF BALLOTS CAST FOR ANY TWO PRESIDENTIAL TICKETS IS LESS THAN OR EQUAL TO ONE-HALF OF ONE PERCENT OF THE BALLOTS CAST FOR THE TICKET THAT RECEIVED THE MOST VOTES OF THE TWO PRESIDENTIAL TICKETS IN QUESTION; AND

(II) AT LEAST ONE OF THE TWO PRESIDENTIAL TICKETS, AS A RESULT OF SUCH RECOUNT, COULD QUALIFY FOR ONE OR MORE ADDITIONAL ELECTORAL VOTES.

WHERE THE DIFFERENCE BETWEEN THE NUMBER OF BALLOTS CAST FOR THE TWO PRESIDENTIAL TICKETS IN QUESTION IS GREATER THAN ONE-HALF OF ONE PERCENT OF THE BALLOTS CAST FOR THE TICKET THAT RECEIVED THE MOST VOTES AS BETWEEN THOSE TWO TICKETS, A RECOUNT FOR PRESIDENTIAL ELECTORS MAY BE REQUESTED BY A PRESIDENTIAL TICKET OR THE POLITICAL PARTY OR POLITICAL ORGANIZATION ASSOCIATED WITH SUCH TICKET; PROVIDED, HOWEVER, THAT ANY SUCH TICKET OR POLITICAL PARTY OR ORGANIZATION WITH WHICH IT IS ASSOCIATED SHALL PAY THE COST OF SUCH RECOUNT BEFORE THE SECRETARY MAY BEGIN THE RECOUNT, BUT IF THE ELECTION RESULT IS CHANGED THEREBY AND AN ADDITIONAL ELECTORAL VOTE OR VOTES IS AWARDED TO THAT PRESIDENTIAL TICKET, SUCH AMOUNT SHALL BE REFUNDED.

(c) ANY RECOUNT AUTHORIZED PURSUANT TO THIS SUBSECTION SHALL BE ORDERED OR REQUESTED NOT LATER THAN 5:00 P.M ON THE TWENTY-THIRD DAY AFTER THE GENERAL ELECTION AT WHICH SUCH BALLOTS ARE CAST AND SHALL BE COMPLETED AND THE RESULT SHALL BE CERTIFIED BY THE SECRETARY OF STATE NOT LATER THAN CLOSE OF BUSINESS ON THE THIRTIETH DAY AFTER THE GENERAL ELECTION AT WHICH SUCH BALLOTS ARE CAST.

(6) FOR PURPOSES OF THIS SECTION ONLY AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONSTITUTION:

(a) THE RESULTS OF THE ELECTION ON THIS INITIATIVE SHALL BE OFFICIALLY DECLARED BY PROCLAMATION OF THE GOVERNOR WHICH SHALL BE ISSUED AFTER THE VOTES THEREON HAVE BEEN CANVASSED BUT BEFORE NOON ON:

(I) THE TWENTY-FOURTH DAY FOLLOWING THE GENERAL ELECTION, IF NO RECOUNT IS ORDERED OR REQUESTED; OR

(II) THE THIRTY-FIRST DAY FOLLOWING THE GENERAL ELECTION, IF A RECOUNT IS ORDERED OR REQUESTED.

(b) THE SECRETARY OF STATE SHALL CERTIFY THE ELECTION OF PRESIDENTIAL ELECTORS, AS DETERMINED PURSUANT TO THIS SECTION, BUT IN NO EVENT SHALL SUCH CERTIFICATION BE ISSUED LATER THAN 2:00 P.M. ON:

(I) THE TWENTY-FOURTH DAY FOLLOWING THE GENERAL ELECTION, IF NO RECOUNT IS ORDERED OR REQUESTED AS TO SUCH ELECTION; OR

(II) THE THIRTY-FIRST DAY FOLLOWING THE GENERAL ELECTION, IF A RECOUNT IS ORDERED OR REQUESTED AS TO SUCH ELECTION.

(c) THE ELECTION CERTIFICATION PROCESS REFERRED TO IN PARAGRAPH (b) OF THIS SUBSECTION SHALL APPLY TO THE BALLOTS CAST FOR PRESIDENTIAL TICKETS AT THE NOVEMBER 2, 2004 GENERAL ELECTION AND AT GENERAL ELECTIONS HELD AFTER 2004 AT WHICH PRESIDENTIAL TICKETS ARE ON THE STATEWIDE BALLOT.

(7) THE SECRETARY OF STATE SHALL DETERMINE BY LOT WHICH PRESIDENTIAL ELECTORS, NOMINATED IN CONJUNCTION WITH A PRESIDENTIAL TICKET THAT QUALIFIES FOR AT LEAST ONE ELECTORAL VOTE PURSUANT TO THIS SECTION, SHALL BE ENTITLED TO CAST ELECTORAL VOTES. FOR EACH PRESIDENTIAL TICKET, THE SECRETARY OF STATE SHALL THEN DETERMINE BY LOT THE ORDER OF NOMINATED PRESIDENTIAL ELECTORS FOR THAT PRESIDENTIAL TICKET TO SERVE AS ALTERNATES IF ANY VACANCIES OCCUR IN THE OFFICE OF PRESIDENTIAL ELECTOR FOR THAT PRESIDENTIAL TICKET BECAUSE OF DEATH, REFUSAL TO ACT, ABSENCE OR OTHER CAUSE. SUCH DETERMINATIONS BY LOT PERFORMED BY THE SECRETARY OF STATE SHALL BE MADE BEFORE 3:00 P.M. OF THE TWENTY-FOURTH DAY FOLLOWING THE ELECTION IF NO RECOUNT IS ORDERED OR REQUESTED AND BEFORE 3:00 P.M. OF THE THIRTY-FIRST DAY FOLLOWING SUCH ELECTION IF A RECOUNT IS ORDERED OR REQUESTED. IF THE NUMBER OF NOMINATED PRESIDENTIAL ELECTORS FOR A PRESIDENTIAL TICKET IS INSUFFICIENT TO ALLOW THE SECRETARY OF STATE TO FILL A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR BY LOT, THE POLITICAL PARTY OR

POLITICAL ORGANIZATION OF THE PRESIDENTIAL TICKET FOR WHICH THE VACANCY REMAINS SHALL NOMINATE THE NUMBER OF ADDITIONAL PRESIDENTIAL ELECTORS NECESSARY TO FILL THE VACANCY. THE SECRETARY OF STATE SHALL PREPARE A CERTIFICATE OF ELECTION FOR EACH PRESIDENTIAL ELECTOR ENTITLED TO CAST AN ELECTORAL VOTE. THE GOVERNOR SHALL SIGN AND AFFIX THE SEAL OF THE STATE TO THE CERTIFICATES AND DELIVER ONE CERTIFICATE TO EACH ELECTOR ON THE FIRST MONDAY AFTER THE SECOND WEDNESDAY OF DECEMBER FOLLOWING A GENERAL ELECTION.

(8) THE SUPREME COURT SHALL HAVE ORIGINAL JURISDICTION FOR THE ADJUDICATION OF ALL CONTESTS CONCERNING PRESIDENTIAL ELECTORS AND SHALL PRESCRIBE RULES FOR PRACTICE AND PROCEEDINGS FOR SUCH CONTESTS. CONTESTS CONCERNING THE ELECTION OF PRESIDENTIAL ELECTORS SHALL BE GIVEN THE HIGHEST PRIORITY ON THE COURT'S CALENDAR AND SHALL BE EXPEDITED IN ALL RESPECTS, INCLUDING HEARING AND DECISION. THE COURT SHALL RENDER ITS FINAL DECISION IN ANY CONTEST CONCERNING PRESIDENTIAL ELECTORS NOT LATER THAN THE FIRST FRIDAY AFTER THE SECOND WEDNESDAY OF DECEMBER FOLLOWING A GENERAL ELECTION. NO JUSTICE OF THE COURT WHO IS A CONTESTOR IN THE ELECTION CONTEST SHALL BE PERMITTED TO HEAR AND DETERMINE THE MATTER.

(9) THIS SECTION SHALL BE EFFECTIVE ON AND AFTER NOVEMBER 3, 2004.

(10) THIS SECTION SHALL BE LIBERALLY CONSTRUED TO ACHIEVE POPULAR PROPORTIONAL ALLOCATION OF PRESIDENTIAL ELECTORS AT THE 2004 GENERAL ELECTION.

(11) THE GENERAL ASSEMBLY MAY ENACT LEGISLATION TO CHANGE THE MANNER OF SELECTING PRESIDENTIAL ELECTORS OR ANY OF THE PROCEDURES RELATED THERETO.

(12) FOR PURPOSES OF THIS SECTION:

(a) "PRESIDENTIAL TICKET" MEANS CANDIDATES FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES WHO RUN FOR THEIR RESPECTIVE OFFICES JOINTLY IN COLORADO.

(b) "ROUNDED TO THE NEAREST WHOLE NUMBER" MEANS:

(I) INCREASED TO THE NEXT WHOLE NUMBER IF THE FRACTIONAL PROPORTION OF AN ELECTORAL VOTE ALLOCATED IS EQUAL TO OR GREATER THAN .5; AND

(II) DECREASED TO THE PRECEDING WHOLE NUMBER IF THE FRACTIONAL PROPORTION OF AN ELECTORAL VOTE ALLOCATED IS LESS THAN .5.

(c) "THIS INITIATIVE" MEANS THE VOTER-INITIATED CONSTITUTIONAL AMENDMENT, APPROVED AT THE NOVEMBER 2, 2004 GENERAL ELECTION, PROVIDING FOR POPULAR PROPORTIONAL SELECTION OF PRESIDENTIAL ELECTORS.

(d) "WHOLE NUMBER" MEANS A POSITIVE INTEGER, INCLUDING ZERO.

(13) IF ANY PROVISION OF THIS SECTION OR ANY PART THEREOF IS, FOR ANY REASON, HELD TO BE INVALID OR UNCONSTITUTIONAL, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED, BUT SHALL REMAIN IN FULL FORCE AND EFFECT, AND TO THIS END, THE PROVISIONS OF THIS SECTION ARE SEVERABLE.