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BILL ANALYSIS

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Senate Bill 397 (as enrolled)
Sponsor: Senator Jason E. Allen
Committee: Government Operations

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RATIONALE

Candidates for U.S. President are nominated by delegates to a political party's national convention. Delegates are selected within each state and support a particular candidate.

For the past two decades, the method of selecting delegates in Michigan has been in a state of flux. The process has changed from an open primary method of selection, to a caucus system, to a closed primary system, to a split system (as described in **BACKGROUND**, below). How delegates are chosen is typically a matter dealt with in state election law, but when party rules conflict with state law, generally speaking, the national party rules take precedence. Thus, Republicans presently select their delegates to the Republican National Convention in the Michigan presidential primary, which under current law is an "open" primary (one in which any elector may vote). Democrats use a caucus system to select delegates, as an open primary is contrary to national Democratic Party rules.

This means that in Michigan's open primary, only Republican candidates are on the ballot. The cost to the State to conduct the 2000 presidential primary was \$6.3 million, and the cost is projected to be greater for the 2004 election. Many people believe that President George W. Bush is likely not to have any viable opposition in the primary, and therefore the State should forego the 2004 presidential primary in order to save approximately \$7 million.

CONTENT

The bill would amend the Michigan Election Law to provide that no statewide presidential primary would be conducted in 2004.

Currently, the Election Law requires a statewide presidential primary to be held on

the fourth Tuesday in February in each presidential election year.

MCL 168.613a

BACKGROUND

In 1972, provisions were inserted in the Michigan Election Law to establish an "open" presidential primary, meaning that while voters could vote only for the candidates of one party, they did not need to be registered members of that party in order to do so, and in fact could belong to another party. This presented the possibility that members of one party could temporarily "cross over" to cast votes for another party's candidates, so that the winners might not necessarily be the most popular choices among their own party members. Indeed, many Democrats believe that this is exactly what happened in 1972, when George Wallace won the Michigan Democratic presidential primary. To help ensure that Democratic winners in presidential primaries were chosen by Democrats only, prior to the 1980 presidential election, the National Democratic Party adopted a rule that prevented its members from recognizing the results of open presidential primaries in selecting delegates to the national nominating convention. Michigan Republicans then decided not to use the presidential primary as a means of selecting delegates in 1984. In effect, this meant that the results of an open presidential primary in Michigan were not binding in any way on delegates to the Democratic convention in 1980 or on delegates to either the Democratic or the Republican convention in 1984. As a result of these actions, amendments to the Michigan Election Law in 1983 eliminated the presidential primary.

Eliminating the presidential primary resulted in both parties in Michigan choosing their nominee for President through party caucuses that selected delegates to their respective national conventions. This selection process received a great deal of negative publicity, particularly within the Republican party where competition for delegates among various candidates' supporters sparked a series of lawsuits. Also, there were numerous complaints that the caucus system in both major parties had become so complicated and confusing that it prevented the average person from effectively participating in the selection of presidential candidates, and left the process open to manipulation by party officials.

This series of events preceded the adoption of Public Act 275 of 1988, which established a closed presidential primary system that required voters to register their party preference before voting. Great dissatisfaction with this method inspired both parties to modify their procedures for the 1992 primary, by party rule. The Democrats allowed electors to vote in the Democratic primary if they registered as Democrats on election day; the Republicans allowed people to vote in the Republican primary without making a party declaration. While the changes in party rules made it less likely that a registered voter would be turned away at the polls, an examination of voting records still would reveal the party's primary in which the person voted. Subsequently, Public Act 87 of 1995 removed the statutory requirement that a voter declare a party preference, and thus returned the presidential primary to an open primary.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Many people believe that, absent a highly unlikely scenario, President George W. Bush will not face opposition to his nomination for a second term as President. Given that the Democrats use the caucus system, and not the primary election, to select their nominee, the only purpose in holding the election to nominate President Bush will be to affirm what is already known. This makes the 2004 State presidential primary unnecessary. By eliminating the election, the bill would

recognize this fact and save the State millions of dollars in election costs.

Legislative Analyst: George Towne

FISCAL IMPACT

The cost of the last presidential primary was \$6.3 million. The projected cost of a presidential primary for 2004 is approximately \$7 million.

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.