

From: [REDACTED]
To: [Statewide Initiatives](#)
Subject: [EXTERNAL] 2023-2024 #119 Testimony: objections
Date: Wednesday, January 17, 2024 2:39:31 PM

To: State of Colorado Title Board
From: Linda Templin, MPA, Executive Director for RCV for Colorado

Re: 2023-2024 #119 – “Concerning the Conduct of Elections”

REJECT as multi-subject

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RCV for Colorado is a non-partisan organization devoted to expanding political choice for voters. This proposed measure unreasonably limits ballot access and thus reduces the political options available to voters.

This expansive grouping of disparate elections issues can be parsed into multiple subjects with even more subjects associated by practical implementation matters. Frankly, many of these issues would have been resolved if proponents had engaged in a stakeholder process with RCV for Colorado and subject matter experts. This measure seeks to change different aspects of multiple areas of elections. It is over-broad in its interpretation of elections.

SECTION 1. Has multiple subjects

Measure 2023-2024 #119 states in Section 1 “all voters and candidates have equal access in state and federal elections”. However in opposition to that preamble, the measure then seeks to

1. Create unequal access to the primary ballot by eliminating automatic party access which will place an economic barrier upon people with disabilities.
2. Functionally eliminate ballot access for minor parties and possibly some major parties in some geographic areas.

Section 1 then goes on to state, “voters elect candidates with majority support”. However, the measure states in Section 1 (1)(a) that the “top four candidates (are the ones) advancing”. In this iteration, It is unclear if the open primary provides ranked choice voting ballots in a four-winner race. The tally in that multiple-winner instance is set forth in Secretary of State Election Rules [8 CCR 1505-1] Rule 26. Ranked Voting Method as “single-transferrable vote” (STV).

CATEGORY A OPEN PRIMARIES

First Subject: Open Primaries

The All-Party Primary proposal goes on to include misleading content in that all of Colorado’s active parties would not have candidates in the race.

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Second Subject: Revoke Partisan Access to the Primaries

The title of the above-captioned proposed measure is misleading to the voters. The language proposed measure states that it is merely concerning the process of accessing the ballot. This implies to the voters that the outcome is equal - that access is equal between means of access. This measure would remove access to the ballot for political parties. A more accurate title would be, "Restricting Candidate Access to the Primary Ballot".

Additionally, the measure and its analysis fail to include the involvement of the counties. It appears at first glance that the fiscal impact is below the actual cost to the counties. Elections staff would have the burden of having to confirm each signature on each candidate's petition. This process is laborious as the names and addresses are all handwritten, as such the majority of signature information is barely legible.

Third Subject: Primary ballot access has Americans with Disabilities Act Conflict

The title of the above-captioned proposed measure includes an additional subject, which is the There is a Further, proponent's materials do not address ADA accommodation. In order to achieve its stated objective, the measure would place undue burden on people with disabilities. The highest-level races will require more signatures to be gathered than one person and their campaign volunteers can gather. Revoking partisan ballot access disadvantages candidates with disabilities would have to pay more additional signature-gathering contractors than non-disabled candidates.

Having a ballot measure in conflict with federal civil rights law would encounter litigation in every election cycle. Asking the state to take on the burden to argue the merits would at a minimum require the voters to understand that they are voting on the second topic of rolling back ADA protections on the right to run for office.

Fouth Subject: Revoke Ballot Access.

The measure would eliminate automatic ballot access for parties in the general election. Further the fact that the number of candidates is inflexibly set at four removes the possibility of all minor parties from participating in the general election on an equal basis.

Fifth Subject: Limit Freedom of Association

The measure eliminates the ability of parties to designate which candidates represent the party platform.

Sixth Subject: Variety of Voting and Tally Methods

Different versions of the measure propose Ranked Choice Voting, Pick-one plurality and a novel version of plurality voting where the voters are disingenuously provided with ranked choice ballots. If the Primaries do not use RCV they should not be in the same measure as

RCV.

Majority. Any measure referencing “majority” should be clear about the definition. In Ranked Choice Voting, voters have the right to rank as many or as few candidates as they like. In the minority of the races which proceed to an “instant runoff”, the candidate with the least support is eliminated. Voters who selected only that candidate have effectively walked away from the negotiating table. They are heard to say “the remaining candidates are equally bad. I wash my hands of it.” This is a valid statement to make. However, because they have left the table, their ballot becomes inactive IF their candidate is eliminated. This action changes the majority threshold. In a fraction of a fraction of races, A winning majority in the final round is less than THE majority required in the first round.

As such, the language suggested for other iterations of this RCV portion of any proposal is: “To require the general election for candidates for covered offices to be conducted by ranked choice voting, whereby registered electors rank the candidates in order of preference, and the candidate for each office who receives support by the consensus of a majority wins the general election for that office”

Seventh Subject: Creation of Special Elections

Section 1 (1) (e) states that voters have a right to “Vote in elections to fill vacancies in the state legislature. This obscures that fact that voters would be creating a more costly system of filling seats in addition to the current general election.

It is possible that such vacancy elections could be grouped into any other county-coordinated race in the interest of increasing turnout.

Eighth Subject: Reduction in Voter Choice

Section 1 (2) states that the measure will “provide equal access provides voters more choices, generates more qualified and competitive candidates for elective office, promotes meaningful voter participation, holds elected officials accountable, and ensures that Colorado officials are elected with support from a majority of voters”

The measure will reduce voter choice in a variety of ways:

1. Reduce the candidates on the primary ballot access for parties and people with disabilities.
2. Final Four primaries reduce the number of candidates in the general election. For instance in the most recent Colorado governor’s race there were five candidates. This proposed measure would reduce that choice to four.
3. Eliminate some number of minor political parties from the competitive races in the general election as it did in Alaska. Members of minor parties have voiced concern that voter access to the ballot is meaningless if their party is eliminated from the ballot.

If open primaries are in fact to increase voter choice they would need to be four-plus, not final four,

- a. Parties would need to retain access for a set number of ballot lines and have the power to place candidates on the primary ballot
- b. Voters would need accurate information on the ballot. Specifically, parties would need to be able to designate which candidates represent the party platform.
- c. All parties would have ballot access in the general election. Parties with candidates participating in the primary, but without a candidate proceeding from the first four winners also have access to the general election ballot.
- d. The ballots would be RCV.
 - i. The four-winner tally would be Single-Transferrable Vote as defined in Secretary of State Election Rules [8 CCR 1505-1] Rule 26.
 - ii. Any additional single, partisan winners would be determined by an Instant Runoff Voting (IRV) tally of party-designed candidates, IRV being defined in Secretary of State Election Rules [8 CCR 1505-1] Rule 26.

Conclusion: Please REJECT due to multiple su

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