

<p><b>SUPREME COURT, STATE OF COLORADO</b>  2 East 14<sup>th</sup> Avenue  Denver, CO 80203</p>	<p>DATE FILED: May 3, 2024 4:57 PM</p>
<p>Original Proceeding Pursuant to C.R.S. § 1-40-102(2)  Appeal from the Ballot Title Board</p>	
<p>In the Matter of the Ballot Title of Proposed Initiative 2023-2024 #309</p> <p><b>MARK CHILSON,</b>  Petitioner,</p> <p>v.</p> <p><b>JASON BERTOLACCI and OWEN ALEXANDER CLOUGH,</b></p> <p>and</p> <p><b>COLORADO BALLOT TITLE SETTING BOARD:</b> Theresa Conley, Christy Chase, and Jennifer Sullivan  <b>Respondents.</b></p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<p><i>Attorneys for Petitioner:</i>  Scott E. Gessler (28944), <a href="mailto:sgessler@gesslerblue.com">sgessler@gesslerblue.com</a>  Geoffrey N. Blue (32684), <a href="mailto:gblue@gesslerblue.com">gblue@gesslerblue.com</a>  Gessler Blue LLC  7350 E. Progress Place, Suite 100  Greenwood Village, CO 80111  Tel. (303) 906-1050 or (720) 839-6637</p>	<p>Case Number:</p> <p>Division:</p>
<p style="text-align: center;"><b>PETITION FOR REVIEW OF FINAL ACTION OF THE TITLE BOARD  CONCERNING PROPOSED INITIATIVE 2023-2024 #309</b></p>	

Mark Chilson (“Petitioner” or “Chilson”), registered elector of the State of Colorado through counsel Gessler Blue, LLC, respectfully petitions this Court

pursuant to C.R.S. § 1-40-107(2) to review the actions of the Title Setting Board with respect to the title, ballot title, and submission cause set for Initiative 2023-2024 #309.

## STATEMENT OF THE CASE

This appeal is nearly identical to Petitioner's appeal in Proposed Ballot Initiatives 2023-2024 #307, #308, and #310, filed concurrently with this petition.

### **A. Procedural History**

Following Review and Comment hearing before Legislative Council Staff and Office of Legislative Legal Services at the General Assembly, Proponents Bertolacci and Clough filed their initiative text with the Title Board and subsequently appeared before the Title Board on April 18, 2024. At that time, the Board approved of a single subject and set a title.

Petitioner Chilson filed a motion for rehearing before the Title Board, which reconsidered the Proposed Initiative on April 26, 2024. The Board partially granted the motion for rehearing with respect to the ballot title, but it denied the motion in its with respect to single subject and other aspects of the title and submission clause.

This Petition followed on May 2, 2024.

### **B. Jurisdiction**

The Petitioner is entitled to review before the Supreme Court under C.R.S. § 1-40-107(2). Petitioner timely filed the Motion for Rehearing with the Title Board under

C.R.S. § 1-40-107(1) and has timely filed this Petition for Review seven days from the date of the hearing on the Motion for Rehearing.

As required by C.R.S. § 1-40-107(2), the certified copies of the below listed documents have been requested from the Secretary of State's Office but have not yet been received by the Petitioner and will be filed with the Court as soon as they are received:

- (1) the final text of the initiative filed by the Proponents;
- (2) the original ballot title set for this measure;
- (3) the Motion for Rehearing filed by the Petitioner;
- (4) the ruling on the Motion for Rehearing as reflected by the title and ballot title and submission clause set by the Board. Petitioner believes that the Title Board erred in denying certain aspects of the Motion for Rehearing; and,
- (5) Fiscal Summary for Initiative 309.

### **ADVISORY ISSUES ON APPEAL**

#### **A. The measure violates single-subject requirements.**

In attempting to re-write Colorado election law, the measure contains multiple purposes:

1. It creates a new class of covered offices to which the measure applies;

2. It creates a new all-candidate primary ballot, which includes every party and every unaffiliated candidate;
3. It allows all candidates to petition on to the primary election ballot;
4. It reduces the number of signatures required to petition on to the primary ballot;
5. It creates a new definition of “primary election” for covered office, in which primary election voters do not choose political party nominees, but rather narrow the number of candidates who can advance to the primary election;
6. It limits the general ballot election to the top four vote-getters and the newly defined primary election; and
7. It creates a new method of counting votes in the general election, by adopting instant runoff voting.

This matter contains several, incongruous subjects. First and foremost, it reworks the primary election. It changes the very nature of the primary, from selecting party nominees to instead narrowing the number of general election candidates to four. It allows non-party candidates on the primary ballot, and it limits general election candidates to the top four finishers in the primary.

This rework of Colorado’s primary elections is fundamentally different than the changes to the general election system. The measure creates an entirely new way of

voting and tabulating votes, through an instant runoff system. This new general election voting system is a radical departure from the voting system Colorado has used for over 150 years. And it is not necessarily or properly connected to the entirely new primary voting system. In short, the measure includes two radically new voting systems – one for a re-defined primary election, and a separate one for the general election.

Next, the measure creates an entirely new system for nominating candidates for the primary election. It not only changes who can be on the primary ballot, but it also changes how candidates get there. The measure now allows unaffiliated and minority party candidates to petition on the ballot, and it changes the numbers of signatures required, while allowing any voter to sign petitions for unaffiliated or minority party candidates.

Third, the measure contains separate subjects by creating new voting systems for one class of candidates – covered candidates – yet establishing or retaining separate nomination, primary, and general election voting systems for an entirely separate class of candidates.

The measure does not create one, but rather creates multiple, fundamental, radical changes to Colorado's election systems. And it combines different voting systems and different nominating systems within the same measures. But these

different, multiple systems are not necessarily or properly connected, thus creating surprise among voters and forcing them into a take-it-or-leave-it logrolling vote that combines different, incongruous measures.

For these reasons, the measure violates Colorado's single subject requirement.

**B. The title and submission clause are incomplete and misleading.**

In addition, the ballot title and submission clause are misleading and incomplete:

First, the title and submission clause do not explain how unaffiliated and minority party voters can obtain signatures from any person, including those who do not share a candidate's unaffiliated status or minority party membership.

Second, the title does not explain that the general election voting system is an instant runoff voting system, whereby if no person wins a majority of votes, then voters' secondary and tertiary candidate preferences determine the outcome of the election, based on the elimination of votes for candidates in each round of instant runoff tabulation. Bluntly put, the Instant Runoff Voting system is a radically new process for Colorado, and the title makes no effort to inform voters how this new system works.

Respectfully submitted this 3<sup>rd</sup> day of May 2024,

GESSLER BLUE LLC

s/ Scott E. Gessler  
Scott E. Gessler

### Certificate of Service

I certify that on this 3<sup>rd</sup> day of May 2024, the foregoing was electronically served via e-mail or CCES on all parties and their counsel of record.

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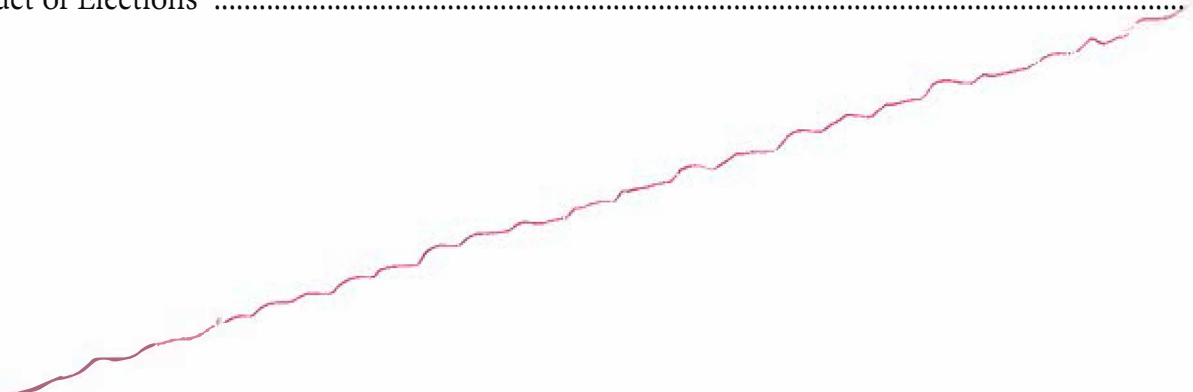
# STATE OF COLORADO

DEPARTMENT OF  
STATE

## CERTIFICATE

I, **JENA GRISWOLD**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, fiscal summary, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2023-2024 #309 'Concerning the Conduct of Elections'" .....



.....**IN TESTIMONY WHEREOF** I have unto set my hand .....  
and affixed the Great Seal of the State of Colorado,  
at the City of Denver this 6<sup>th</sup> day of May, 2024.

*Jena Griswold*

SECRETARY OF STATE







Proposed Initiative 2023-2024 #309 (Final with technical corrections)

*Be it Enacted by the People of the State of Colorado:*

## **SECTION 1. Declaration of the People of Colorado**

(1) It is in the interest of the people of the state of Colorado to modernize our election system so that all voters and candidates have equal access in certain state and federal elections and voters have more choice to elect candidates who better reflect the will of a majority of the voters. In furtherance of this objective, the people of the state of Colorado establish that all voters have the right to:

- (a) Participate in an all-candidate primary election featuring all candidates for those state and federal offices, with the final four candidates advancing to the general elections;
- (b) Vote for any candidate they prefer, regardless of political affiliation or non-affiliation; and
- (c) Participate in general elections where candidates are elected by a majority of votes.

(2) This equal access provides voters more choices, generates more competitive candidates for elective office, promotes more meaningful voter participation, and holds elected officials more accountable.

**SECTION 2.** In Colorado Revised Statutes, 1-1-104, **amend** (19.7), (23.4), (34.4), and (49.7); and **add** (1.05), (7.3), (19.1), (34.3), (43.5), (45.7), and (46.4), as follows:

**1-1-104. Definitions.** As used in this code, unless the context otherwise requires:

(1.05) “ACTIVE CANDIDATE” MEANS ANY CANDIDATE OR SLATE OF CANDIDATES WHO HAS NOT BEEN ELIMINATED OR ELECTED.

(7.3) “COVERED OFFICE” MEANS THE OFFICE OF UNITED STATES SENATOR, REPRESENTATIVE TO THE UNITED STATES HOUSE OF REPRESENTATIVES, STATE OFFICER, STATE SENATOR OR STATE REPRESENTATIVE SERVING IN THE GENERAL ASSEMBLY, AND DISTRICT ATTORNEY.

(19.1) “HIGHEST-RANKED ACTIVE CANDIDATE” MEANS THE ACTIVE CANDIDATE ASSIGNED TO A HIGHER RANKING THAN ANY OTHER ACTIVE CANDIDATE.

(19.7) “Instant runoff voting” means a ranked voting method used to select a single winner in a race, as set forth in ~~section~~ SECTIONS **1-4-207** AND 1-7-1003(3).

(23.4) “Overvote” means the selection by an elector of more names than there are persons to be elected to an office, THE SELECTION OF MORE THAN ONE NAME IN AN ALL-CANDIDATE PRIMARY FOR A COVERED OFFICE, THE ASSIGNMENT OF MORE THAN ONE NAME TO ONE RANKING IN AN ELECTION USING A RANKED VOTING METHOD, or the designation of more than one answer to a ballot question or ballot issue. “Overvote” does not include the ranking of multiple candidates in

an election using A RANKED ~~instant runoff~~ voting METHOD ~~in accordance with part 10 of article 7 of this title 1.~~

(34.3) “RANKING” MEANS THE NUMBER AVAILABLE TO BE ASSIGNED BY A VOTER TO A CANDIDATE TO EXPRESS THE VOTER’S PREFERENCE FOR THAT CANDIDATE; THE NUMBER “1” IS THE HIGHEST RANKING, FOLLOWED BY “2,” AND THEN “3,” AND SO ON.

(34.4) “Ranked voting method” means a method of casting and tabulating BALLOTS ~~votes~~ that allows electors to rank the candidates for an office in order of preference and uses these preferences to determine the winner of the election. “Ranked voting method” includes instant runoff voting and choice voting or proportional voting as described in ~~section~~ SECTIONS **1-4-207** AND 1-7-1003.

(43.5) “ROUND” MEANS AN INSTANCE OF THE RANKED VOTING TALLY AS DESCRIBED IN SECTION 1-4-207 AND 1-7-1003.

(45.7) “SINGLE CHOICE VOTING” MEANS A METHOD OF CASTING AND TABULATING BALLOTS THAT ALLOWS ELECTORS TO INDICATE A CHOICE FOR ONLY ONE CANDIDATE FOR AN OFFICE AND USES THESE CHOICES TO DETERMINE THE WINNER OF THE ELECTION.

(46.4) “STATE OFFICER” MEANS THE GOVERNOR AND LIEUTENANT GOVERNOR, THE SECRETARY OF STATE, THE STATE TREASURER, THE ATTORNEY GENERAL, MEMBERS OF THE STATE BOARD OF EDUCATION, AND REGENTS OF THE UNIVERSITY OF COLORADO.

(49.7) “Undervote” means the failure of an elector to vote on a ballot question or ballot issue, the failure of an elector to vote for OR RANK any candidate for an office, or the designation by an elector of fewer votes than there are offices to be filled; except that it is not an undervote if there are fewer candidates than offices to be filled and the elector designates as many votes as there are candidates.

**SECTION 3.** In Colorado Revised Statutes, 1-4-101, **amend** (1), (2), (3), and (4), as follows:

**1-4-101. Primary elections - when - nominations - expenses.** (1) Except as provided in section 1-4-104.5, a primary election FOR AN OFFICE OTHER THAN A COVERED OFFICE shall be held on the last Tuesday in June of even-numbered years to nominate candidates of political parties to be voted for at the succeeding general election. Except as provided by section 1-4-1304(1.5), only a major political party, as defined in section 1-1-104(22), is entitled to nominate candidates in a primary election.

(2) (a) Each political party that is entitled to participate in the primary election FOR AN OFFICE OTHER THAN A COVERED OFFICE must have a separate party ballot for use by electors affiliated with that political party. An elector is not required to vote in the same party primary as the elector voted in as part of a presidential primary election occurring in that same year, if such an election is held.

(b) The county clerk and recorder shall send to all active electors in the county who have not declared an affiliation a mailing that contains the PRIMARY ELECTION ballots FOR AN OFFICE OTHER THAN A COVERED OFFICE of all of the major political parties. In this mailing, the clerk shall also provide written instructions advising the elector of the manner in which the elector will be in compliance with the requirements of this code in selecting and casting the ballot of a major political party. An elector may cast the ballot of only one major political party. After selecting and casting a ballot of a single major political party, the elector shall return the ballot to the clerk. If an elector casts and returns to the clerk the ballot of more than one major political party, all such ballots returned will be rejected and will not be counted.

(3) All nominations by major political parties for candidates for ~~United States senator, representative in congress, all elective state, district, and county officers, EXCEPT FOR DISTRICT ATTORNEY, and members of the general assembly~~ shall be made by primary elections; ~~except that, for general elections occurring after January 1, 2001, nominations by major political parties for candidates for lieutenant governor shall not be made by primary elections and shall be made pursuant to section 1-4-502 (3).~~ Neither the secretary of state nor any county clerk and recorder shall place on the official general election ballot the name of any person as a candidate of any major political party who has not been nominated in accordance with the provisions of this article, or who has not been affiliated with the major political party for the period of time required by section 1-4-601, or who does not meet residency requirements for the office, if any. The information found on the voter registration record of the county of current or previous residence of the person seeking to be placed on the ballot is admissible as prima facie evidence of compliance with this article.

(4) Except as otherwise provided in this code, all primary elections FOR AN OFFICE OTHER THAN A COVERED OFFICE shall be conducted in the same manner as general elections insofar as the general election provisions are applicable, and the election officers for primary elections have the same powers and shall perform the same duties as those provided by law for general elections.

**SECTION 4.** In Colorado Revised Statutes, **add** 1-4-101.5, as follows:

**1-4-101.5 All-candidate primary elections for covered offices - when - nominations - expenses.** (1) AN ALL-CANDIDATE PRIMARY ELECTION FOR A COVERED OFFICE SHALL BE HELD ON THE LAST TUESDAY IN JUNE OF EVEN-NUMBERED YEARS TO NOMINATE CANDIDATES TO BE VOTED ON AT THE SUCCEEDING GENERAL ELECTION.

(2) THE ALL-CANDIDATE PRIMARY ELECTION FOR CANDIDATES FOR A COVERED OFFICE SHALL BE CONDUCTED WHEREBY ALL CANDIDATES WHO QUALIFY FOR THE BALLOT, REGARDLESS OF POLITICAL PARTY AFFILIATION OR NON-AFFILIATION, SHALL APPEAR ON THE SAME BALLOT AND EACH ELECTOR, REGARDLESS OF POLITICAL PARTY AFFILIATION OR NON-AFFILIATION, IS ELIGIBLE TO VOTE FOR ANY ONE CANDIDATE PER EACH COVERED OFFICE SPECIFIC TO THE DISTRICTS OF THE ELECTOR'S REGISTRATION. THE FOUR CANDIDATES WHO RECEIVE THE HIGHEST NUMBER OF VOTES FOR EACH COVERED OFFICE ADVANCE TO THE GENERAL ELECTION.

(a) THE ALL-CANDIDATE PRIMARY ELECTION DOES NOT SERVE TO DETERMINE THE NOMINEE OF A POLITICAL PARTY OR POLITICAL GROUP BUT INSTEAD SERVES TO NARROW THE NUMBER OF CANDIDATES WHOSE NAME WILL APPEAR ON THE BALLOT AT THE GENERAL ELECTION.

(b) NOTHING IN THIS SECTION SHALL PREVENT POLITICAL PARTIES, ORGANIZATIONS, OR OTHER GROUPS FROM ENDORSING A CANDIDATE OR CANDIDATES OF THEIR CHOICE FOR COVERED OFFICES NOR SHALL IT PREVENT A CANDIDATE FROM ACCEPTING OR REJECTING ANY NUMBER OF SUCH ENDORSEMENTS.

(c) (I) CANDIDATES WHO QUALIFY FOR THE ALL-CANDIDATE PRIMARY ELECTION BALLOT SHALL BE PLACED ON THE BALLOT IN AN ORDER ESTABLISHED BY LOT.

(II) FOR A CANDIDATE WHO IS AFFILIATED WITH A POLITICAL PARTY, THEIR POLITICAL PARTY AFFILIATION SHALL APPEAR NEXT TO THEIR NAME. NO CANDIDATE SHALL HAVE A POLITICAL PARTY AFFILIATION NEXT TO THEIR NAME UNLESS THE CANDIDATE WAS AFFILIATED WITH THE POLITICAL PARTY, AS SHOWN IN THE STATEWIDE VOTER REGISTRATION SYSTEM, NO LATER THAN THE FIRST BUSINESS DAY OF THE JANUARY IMMEDIATELY PRECEDING THE ELECTION.

(III) FOR A CANDIDATE WHO IS NOT AFFILIATED WITH A POLITICAL PARTY, THE WORD “UNAFFILIATED” SHALL APPEAR NEXT TO THEIR NAME.

(d) CANDIDATES ADVANCING FROM THE ALL-CANDIDATE PRIMARY ELECTION TO THE GENERAL ELECTION FOR THESE COVERED OFFICES SHALL BE DETERMINED AS FOLLOWS:

(I) AT THE ALL-CANDIDATE PRIMARY ELECTION FOR THESE COVERED OFFICES, ONLY THE FOUR CANDIDATES RECEIVING THE HIGHEST NUMBER OF VOTES SHALL ADVANCE TO THE GENERAL ELECTION FOR THESE COVERED OFFICES.

(II) IF THERE ARE FOUR OR FEWER CANDIDATES FOR ONE OF THE COVERED OFFICES, THE ALL-CANDIDATE PRIMARY ELECTION FOR THAT COVERED OFFICE SHALL STILL BE HELD AND THE RESULTS MADE PUBLIC, AND ALL CANDIDATES MUST BE DECLARED THE CANDIDATES FOR THE GENERAL ELECTION.

(III) IN THE EVENT IT CANNOT BE DETERMINED WHICH FOUR CANDIDATES RECEIVED THE HIGHEST NUMBER OF VOTES DUE TO A TIE FOR THE FINAL ADVANCING POSITION, THE TIED CANDIDATE OR CANDIDATES WHO WILL PROCEED TO THE GENERAL ELECTION WILL BE DETERMINED BY LOT.

(IV) IF, BEFORE BALLOTS ARE PRINTED FOR THE GENERAL ELECTION AND PURSUANT TO SECTION 1-5-412, ANY CANDIDATE WHO ADVANCES FROM THE ALL-CANDIDATE PRIMARY ELECTION WITHDRAWS, DIES, OR IS DEEMED DISQUALIFIED, THE CANDIDATE RECEIVING THE NEXT HIGHEST NUMBER OF VOTES AT THE ALL-CANDIDATE PRIMARY ELECTION, BUT WHO DID NOT ORIGINALLY ADVANCE TO THE GENERAL ELECTION, TAKES THE WITHDRAWN, DECEASED, OR DISQUALIFIED CANDIDATE’S PLACE ON THE GENERAL ELECTION BALLOT.

(e) THE SECRETARY OF STATE SHALL PROMULGATE RULES, INCLUDING RULES FOR WITHDRAWING CANDIDATES AND WRITE-IN CANDIDATES, FOR THE ALL-CANDIDATE PRIMARY ELECTIONS FOR

COVERED OFFICES AND THE PROCESS BY WHICH CANDIDATES ADVANCE TO THE GENERAL ELECTION BALLOT CONSISTENT WITH THIS SECTION. NOTHING IN THIS SUBSECTION SHALL LIMIT THE AUTHORITY OF THE GENERAL ASSEMBLY TO PASS LAWS REGARDING SUFFRAGE AND ELECTIONS AS PROVIDED IN ARTICLE VII OF THE STATE CONSTITUTION.

(3) NOMINATIONS FOR CANDIDATES FOR LIEUTENANT GOVERNOR SHALL BE MADE PURSUANT TO SECTION 1-4-502(3).

(4) THE COUNTY CLERK AND RECORDER SHALL SEND TO ALL ACTIVE ELECTORS IN THE COUNTY A MAILING THAT CONTAINS THE ALL-CANDIDATE PRIMARY ELECTION BALLOT FOR COVERED OFFICES. IN THIS MAILING, THE CLERK SHALL ALSO PROVIDE WRITTEN INSTRUCTIONS ADVISING THE ELECTOR OF THE MANNER IN WHICH THE ELECTOR WILL BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS CODE IN SELECTING AND CASTING THE BALLOT. AFTER SELECTING AND CASTING A BALLOT, THE ELECTOR SHALL RETURN THE BALLOT TO THE CLERK. THE SECRETARY OF STATE MAY BY RULE ADOPT ADDITIONAL BALLOT REQUIREMENTS NECESSARY TO AVOID VOTER CONFUSION IN VOTING IN THE ALL-CANDIDATE PRIMARY ELECTION.

(5) NEITHER THE SECRETARY OF STATE NOR ANY COUNTY CLERK AND RECORDER SHALL PLACE ON THE OFFICIAL ALL-CANDIDATE PRIMARY ELECTION BALLOT THE NAME OF ANY PERSON AS A CANDIDATE WHO DOES NOT MEET RESIDENCY REQUIREMENTS FOR THE OFFICE, IF ANY. THE INFORMATION FOUND ON THE VOTER REGISTRATION RECORD OF THE COUNTY OF CURRENT OR PREVIOUS RESIDENCE OF THE PERSON SEEKING TO BE PLACED ON THE BALLOT IS ADMISSIBLE AS PRIMA FACIE EVIDENCE OF COMPLIANCE WITH THIS ARTICLE.

(6) EXCEPT AS OTHERWISE PROVIDED IN THIS CODE, THE ELECTION OFFICERS FOR ALL-CANDIDATE PRIMARY ELECTIONS HAVE THE SAME POWERS AND SHALL PERFORM THE SAME DUTIES AS THOSE PROVIDED BY LAW FOR GENERAL ELECTIONS.

(7) ALL EXPENSES INCURRED IN THE PREPARATION OR CONDUCT OF THE ALL-CANDIDATE PRIMARY ELECTION SHALL BE PAID OUT PURSUANT TO SECTION 1-4-101(5).

**SECTION 5.** In Colorado Revised Statutes, **amend** 1-4-103, as follows:

**1-4-103. Order of names on primary ballot.** (1) Candidates designated and certified by assembly for ~~a particular~~ AN office OTHER THAN A COVERED OFFICE shall be placed on the primary election ballot in the order of the vote received at the assembly. The candidate receiving the highest vote shall be placed first in order on the ballot, followed by the candidate receiving the next highest vote. To qualify for placement on the primary election ballot, a candidate must receive thirty percent or more of the votes of the assembly. The names of two or more candidates receiving an equal number of votes for designation by assembly shall be placed on the primary ballot in the order determined by lot in accordance with section 1-4-601(2). Candidates by petition for ~~any particular~~ AN office OTHER THAN A COVERED OFFICE shall follow assembly candidates and shall be placed on the primary election ballot in an order established by lot.

(2) CANDIDATES FOR THE ALL-CANDIDATE PRIMARY ELECTION FOR A COVERED OFFICE SHALL BE PLACED ON THE BALLOT IN AN ORDER DETERMINED BY LOT.

**SECTION 6.** In Colorado Revised Statutes, **amend** 1-4-104, as follows:

**1-4-104. Party nominees.** Candidates voted on ~~for offices~~ at primary elections FOR AN OFFICE OTHER THAN A COVERED OFFICE who receive a plurality of the votes cast shall be the respective party nominees for the respective offices. If more than one office of the same kind is to be filled, the number of candidates equal to the number of offices to be filled receiving the highest number of votes shall be the nominees of the political party for the offices. The names of the nominees shall be printed on the official ballot prepared for the ensuing general election.

**SECTION 7.** In Colorado Revised Statutes, 1-4-104.5, **amend** (1), (2), and (3), as follows:

**1-4-104.5. Primary election canceled - when.** (1) If, at the close of business on the sixtieth day before the primary election FOR AN OFFICE OTHER THAN A COVERED OFFICE, there is not more than one candidate for any political party who has been nominated in accordance with this article or who has filed a write-in candidate affidavit of intent pursuant to section 1-4-1101 for any office on the primary election ballot, the designated election official may cancel the primary election and declare each candidate the party nominee for that office at the general election. For purposes of other applicable law, such nominee shall be deemed a candidate in and the winner of the primary election FOR AN OFFICE OTHER THAN A COVERED OFFICE. The name of each nominee shall be printed on the official ballot prepared for the ensuing general election.

(2) If a major political party has more than one candidate nominated for any office OTHER THAN A COVERED OFFICE on the primary election ballot, the primary election shall be conducted as provided in section 1-4-101.

(3) If, at the close of business on the sixtieth day before the primary election FOR AN OFFICE OTHER THAN A COVERED OFFICE, there is not more than one candidate for each major political party who has been nominated in accordance with this article for any office on the primary election ballot and a minor political party has more than one candidate nominated for any such office, the primary election shall be conducted as provided in section 1-4-101 for the nomination of the minor political party candidate only.

**SECTION 8.** In Colorado Revised Statutes, **add** 1-4-207, as follows:

**1-4-207. Final four general elections.** (1) EACH ELECTOR MAY VOTE IN THE GENERAL ELECTION FOR EACH COVERED OFFICE FOR THE CANDIDATES ADVANCING FROM THE ALL-CANDIDATE PRIMARY ELECTION. EACH GENERAL ELECTION FOR COVERED OFFICE SHALL BE CONDUCTED BY INSTANT RUNOFF VOTING.

(2) THE GENERAL ELECTION BALLOT FOR COVERED OFFICES SHALL BE FORMATTED AS FOLLOWS:

(a) THE NAMES OF THE CANDIDATES ADVANCING FROM THE ALL-CANDIDATE PRIMARY ELECTION AS DETERMINED UNDER SECTION 1-4-101.5 ALONG WITH THEIR POLITICAL PARTY AFFILIATION, IF ANY, SHALL BE PLACED ON THE GENERAL ELECTION BALLOT IN AN ORDER DETERMINED BY LOT.

(I) FOR A CANDIDATE WHO IS AFFILIATED WITH A POLITICAL PARTY, THEIR POLITICAL PARTY AFFILIATION SHALL APPEAR NEXT TO THEIR NAME. NO CANDIDATE SHALL HAVE A POLITICAL PARTY AFFILIATION NEXT TO THEIR NAME UNLESS THE CANDIDATE WAS AFFILIATED WITH THE POLITICAL PARTY, AS SHOWN IN THE STATEWIDE VOTER REGISTRATION SYSTEM, NO LATER THAN THE FIRST BUSINESS DAY OF THE JANUARY IMMEDIATELY PRECEDING THE ELECTION.

(II) FOR A CANDIDATE WHO IS NOT AFFILIATED WITH A POLITICAL PARTY, THE WORD “UNAFFILIATED” SHALL APPEAR NEXT TO THEIR NAME.

(b) THE GENERAL ELECTION BALLOTS SHALL BE DESIGNED SO THAT THE VOTER MAY RANK CANDIDATES IN ORDER OF PREFERENCE.

(3) A VOTER MAY CHOOSE TO RANK AS MANY OR AS FEW CANDIDATES FOR THE COVERED OFFICES ON THE GENERAL ELECTION BALLOT AS THE VOTER WISHES, INCLUDING RANKING JUST ONE CANDIDATE PER COVERED OFFICE.

(4) EACH BALLOT SHALL COUNT AS ONE VOTE FOR THE HIGHEST-RANKED ACTIVE CANDIDATE ON THAT BALLOT. THE CANDIDATE WITH THE HIGHEST NUMBER OF VOTES AT THE END OF THE RANKED VOTING TALLY IS ELECTED. THE RANKED VOTING TALLY SHALL PROCEED IN ROUNDS AS FOLLOWS:

(a) IF THERE ARE MORE THAN TWO ACTIVE CANDIDATES, THE ACTIVE CANDIDATE RANKED HIGHEST ON THE FEWEST BALLOTS IS ELIMINATED. BALLOTS RANKING THE ELIMINATED CANDIDATE ARE COUNTED FOR THEIR NEXT-RANKED ACTIVE CANDIDATE AND A NEW ROUND BEGINS.

(b) IF THERE ARE TWO OR FEWER ACTIVE CANDIDATES, THE RANKED VOTING TALLY IS COMPLETE AND THE CANDIDATE WITH THE HIGHEST NUMBER OF VOTES IS ELECTED.

(5) BALLOTS FOR EACH GENERAL ELECTION FOR COVERED OFFICE CONDUCTED BY INSTANT RUNOFF VOTING SHALL BE TREATED AS FOLLOWS:

(a) (I) AN UNDERVOTE DOES NOT COUNT AS AN ACTIVE OR INACTIVE BALLOT IN ANY ROUND OF A RANKED VOTING TALLY OF THAT CONTEST.

(II) AN INACTIVE BALLOT IS A BALLOT THAT CEASES IN A ROUND OF A RANKED VOTING TALLY TO COUNT FOR ANY CANDIDATE FOR THE REMAINDER OF THE RANKED VOTING TALLY OF THE CONTEST BECAUSE EITHER:

(A) ALL CANDIDATES RANKED ON THE BALLOT HAVE BECOME INACTIVE; OR

(B) THE BALLOT INCLUDES AN OVERVOTE AND ANY CANDIDATES RANKED HIGHER THAN THE OVERVOTE HAVE BECOME INACTIVE.

(6) DURING A RANKED VOTING TALLY, A BALLOT SHALL REMAIN ACTIVE AND CONTINUE TO COUNT FOR ITS HIGHEST-RANKED ACTIVE CANDIDATE NOTWITHSTANDING ANY SKIPPED OR REPEATED RANKINGS ON THE BALLOT. A SKIPPED RANKING OCCURS WHEN A VOTER LEAVES A RANKING



UNASSIGNED BUT RANKS A CANDIDATE AT A SUBSEQUENT RANKING. A REPEATED RANKING OCCURS WHEN A VOTER RANKS THE SAME CANDIDATE AT MULTIPLE RANKINGS.

(7) IF TWO OR MORE CANDIDATES ARE TIED WITH THE FEWEST BALLOTS, AND THE RANKED VOTING TALLY CANNOT CONTINUE UNTIL A CANDIDATE IS ELIMINATED, THEN THE CANDIDATE TO BE ELIMINATED SHALL BE DETERMINED BY LOT. ELECTION OFFICIALS MAY RESOLVE PROSPECTIVE TIES BETWEEN CANDIDATES PRIOR TO THE RANKED VOTING TALLY. THE RESULT OF ANY TIE RESOLUTION MUST BE RECORDED AND REUSED IN THE EVENT OF A RECOUNT. IF THERE ARE TWO CANDIDATES TIED WITH THE HIGHEST NUMBER OF VOTES AND THE RANKED VOTING TALLY IS COMPLETE, THE CANDIDATE TO BE ELECTED SHALL BE DETERMINED IN THE MANNER PROVIDED BY LAW OR BY LOT, AS APPLICABLE.

**SECTION 9.** In Colorado Revised Statute, 1-4-502, **amend** (1), (3) (a), and (3) (c); and **add** (1.5), as follows:

**1-4-502. Methods of nomination for partisan candidates.** (1) ~~Except as otherwise provided in paragraphs (b) and (c) of subsection (3) of this section, Nominations~~ NOMINATIONS for United States senator, representative in congress, governor, lieutenant governor, secretary of state, state treasurer, attorney general, member of the state board of education, regent of the university of Colorado, member of the general assembly, district attorney, and all county officers to be elected at the general election may be made by primary election under section 1-4-101 or by assembly or convention under section 1-4-702 by major political parties, by petition for nomination as provided in section 1-4-802, or by a minor political party as provided in section 1-4-1304.

(1.5) A CANDIDATE FOR THE ALL-CANDIDATE PRIMARY ELECTION FOR A COVERED OFFICE UNDER SECTION 1-4-101.5 MAY BE MADE BY ASSEMBLY OR CONVENTION UNDER SECTION 1-4-702.5 BY MAJOR POLITICAL PARTIES, BY PETITION FOR NOMINATION AS PROVIDED IN SECTIONS 1-4-801 AND 1-4-802, OR BY A MINOR POLITICAL PARTY AS PROVIDED IN SECTION 1-4-1304.

(3) For general elections: (a) ~~The nomination~~ NOMINATIONS of a major political party for CANDIDATES FOR lieutenant governor shall be made by the ~~party's candidate~~ CANDIDATES for governor ADVANCING TO THE GENERAL ELECTION FROM THE ALL-CANDIDATE PRIMARY ELECTION PURSUANT TO SECTION 1-4-101.5. No later than seven days after the official statewide election results for the ALL-CANDIDATE primary election are certified pursuant to section 1-10-105 (1), the ~~party's candidate~~ CANDIDATES for governor shall EACH select a candidate for lieutenant governor and shall file a written nomination of the candidate with the secretary of state. ~~Other nominations for the office of lieutenant governor may be made by petition for nomination of an unaffiliated candidate as provided in section 1-4-802 or by a minor political party as provided in section 1-4-1304 (2).~~

(c) Any person nominated as the candidate for lieutenant governor ~~of a major political party~~ pursuant to subsection (3)(a) of this section shall file a written acceptance with the secretary of state by mail or hand delivery. The written acceptance must be postmarked or received by the secretary of state within thirty days after the nomination. If an acceptance is not filed within the required time, the candidate is deemed to have declined the nomination, and the nomination must be treated as a vacancy to be filled as provided in part 10 of this article 4.

**SECTION 10.** In Colorado Revised Statutes, 1-4-601, **amend** (1) (a) and (4) (a), as follows:

**1-4-601. Designation of candidates for primary election and all-candidate primary election - definition.** (1) (a) Assemblies of the major political parties may make assembly designations of candidates for nomination on the primary election ballot FOR AN OFFICE OTHER THAN A COVERED OFFICE AND FOR THE ALL-CANDIDATE PRIMARY ELECTION BALLOT FOR A COVERED OFFICE. Except as provided in subsection (1)(b) of this section, an assembly shall be held no later than seventy-three days preceding the primary election.

(4) (a) No person is eligible for designation by assembly as a candidate for nomination at ~~any~~ A primary election FOR AN OFFICE OTHER THAN A COVERED OFFICE AND FOR THE ALL-CANDIDATE PRIMARY ELECTION BALLOT FOR A COVERED OFFICE unless the person was affiliated with the political party holding the assembly, as shown in the statewide voter registration system, no later than the first business day of the January immediately preceding the primary election, unless otherwise provided by party rules.

**SECTION 11.** In Colorado Revised Statutes, **amend** 1-4-603, as follows:

**1-4-603. Designation of major political party candidates by petition.** (1) Candidates for major political party nominations for the offices specified in section 1-4-502(1) that are to be made by primary election may be placed on the primary election ballot by petition, as provided in part 8 of this article.

(2) CANDIDATES FOR COVERED OFFICES SPECIFIED IN SECTION 1-4-502(1.5) MAY BE PLACED ON THE ALL-CANDIDATE PRIMARY ELECTION BALLOT BY PETITION, AS PROVIDED IN PART 8 OF THIS ARTICLE.

**SECTION 12.** In Colorado Revised Statutes, 1-4-604, **amend** (1) (a), as follows:

**1-4-604. Filing of petitions.** (1) (a) Every petition or certificate of designation by assembly in the case of a candidate for nomination for any national or state office specified in section 1-4-502 (1) AND (1.5), or for member of the general assembly, district attorney, or district office greater than a county office, together with the written acceptances signed by the persons designated or nominated by such assembly described in section 1-4-601(3), shall be filed by the presiding officer or secretary of such assembly and received in the office of the secretary of state.

**SECTION 13.** In Colorado Revised Statutes, **amend** 1-4-605, as follows:

**1-4-605. Order of names on primary ballot.** Candidates designated and certified by assembly for AN OFFICE OTHER THAN A COVERED-~~a particular~~ office shall be placed on the primary election ballot in the order of the vote received at the assembly. The candidate receiving the highest vote shall be placed first in order on the ballot, followed by the candidate receiving the next highest vote, and so on until all of the candidates designated have been placed on the ballot. The names of two or more candidates receiving an equal number of votes for designation by assembly shall be placed on the primary ballot in the order determined by lot in accordance with section 1-4-

601(2). Candidates by petition for AN OFFICE OTHER THAN A COVERED ~~a particular~~ office shall follow assembly candidates and shall be placed on the primary election ballot in an order established by lot.

**SECTION 14.** In Colorado Revised Statutes, 1-4-702, **amend** (1) and (3), as follows:

**1-4-702. Nominations of candidates for general election by convention.** (1) Notwithstanding any other provision of law, a political party may choose to change from the nomination of candidates by primary election to the nomination of candidates by assembly or convention for ~~all offices including, but not limited to, united states senator, representative in congress, all elective state, district, and county officers, EXCEPT FOR DISTRICT ATTORNEY, and members of the general assembly~~ if at least three-fourths of the total membership of the party's state central committee votes to use the assembly or convention nomination process; ~~except that nominations by major political parties for candidates for lieutenant governor shall be made by the party's candidate for governor pursuant to section 1-4-502 (3).~~ Such vote of the party central committee shall occur no later than October 1 of the year preceding the year in which an assembly or convention nominating process is to be used.

(3) Whichever method of candidate selection is chosen by a major political party as between primary election, assembly or convention, all of the candidates for that party at any level of office in that election year must be selected by such method, except that the requirements of this provision shall not apply to a primary for president of the united states if such an election is held OR TO THE ALL-CANDIDATE PRIMARY ELECTION FOR A COVERED OFFICE PURSUANT TO SECTION 1-4-101.5.

**SECTION 15.** In Colorado Revised Statutes, **add** 1-4-702.5, as follows:

**1-4-702.5. Nominations of candidates for all-candidate primary election for covered offices by convention.** (1) POLITICAL PARTIES MAY CHOOSE TO NOMINATE CANDIDATES BY ASSEMBLY OR CONVENTION TO THE ALL-CANDIDATE PRIMARY ELECTION FOR COVERED OFFICES.

(2) A POLITICAL PARTY NOMINATING CANDIDATES BY PARTY ASSEMBLY OR CONVENTION SHALL NOMINATE THE CANDIDATES OF THE PARTY AND MAKE SUCH NOMINATIONS PUBLIC NOT LATER THAN SEVENTY-FIVE DAYS BEFORE THE ALL-CANDIDATE PRIMARY ELECTION.

**SECTION 16.** In Colorado Revised Statutes, 1-4-801, **amend** (1), (2) (a.5), (2) (b), and (2) (b.5), as follows:

**1-4-801. Designation of party candidates by petition.** (1) Candidates for political party nominations FOR AN OFFICE OTHER THAN A COVERED OFFICE to be made by primary election AND CANDIDATES FOR THE ALL-CANDIDATE PRIMARY FOR COVERED OFFICE may be placed on the primary election ballot by petition. Every petition to nominate candidates for a primary election OR FOR THE ALL-CANDIDATE PRIMARY ELECTION shall state the name of the office for which the person is a candidate and the candidate's name and address and shall designate in not more than three words the name of the political party which the candidate represents. No petition shall contain the name of more than one person for the same office.

(2) The signature requirements for the petition are as follows:

(a.5) Every petition in the case of a candidate for a member of the United States house of representatives, member of the state board of education for a congressional district, or member of the board of regents of the university of Colorado for a congressional district must be signed by eligible electors resident within the district for which the officer is to be elected. The petition requires the lesser of one thousand five hundred signers or signers equal in number to ten percent of the votes cast in the district at the ~~contested or uncontested primary election for the political party's candidate for the office for which the petition is being circulated or, if there was no primary election,~~ at the last preceding general election for which there was a candidate for the office.

(b) Every petition in the case of a candidate for member of the general assembly or any district office greater than a county office must be signed by eligible electors resident within the district for which the officer is to be elected. The petition requires the lesser of one thousand signers or signers equal to thirty percent of the votes cast in the district at the ~~contested or uncontested primary election for the political party's candidate for the office for which the petition is being circulated or, if there was no primary election,~~ at the last preceding general election for which there was a candidate for the office.

(b.5) Every petition in the case of a candidate for the office of district attorney must be signed by eligible electors resident within the district for which the officer is to be elected. The petition requires the lesser of one thousand signers or signers equal in number to ten percent of the votes cast in the district at the ~~contested or uncontested primary election for the political party's candidate for the office for which the petition is being circulated or, if there was no primary election,~~ at the last preceding general election for which there was a candidate for the office.

**SECTION 17.** In Colorado Revised Statutes, 1-4-802, **amend** (1) introductory portion, as follows:

**1-4-802. Petitions for nominating minor political party and unaffiliated candidates for a partisan office.** (1) Candidates for THE ALL-CANDIDATE PRIMARY ELECTION, FOR partisan public offices OTHER THAN FOR COVERED OFFICES to be filled at a general ELECTION, or FOR A congressional vacancy election, who do not wish to affiliate with a major political party may be nominated, other than by a primary election or a convention, in the following manner:

**SECTION 18.** In Colorado Revised Statutes, 1-4-904, **amend** (2), as follows:

**1-4-904. Signatures on the petitions.** (2) (a) For petitions to nominate candidates from a major political party in a partisan election, each signer must be affiliated with the major political party named in the petition and shall state the following to the circulator: That the signer has been affiliated with the major political party named in the petition for at least twenty-two days as shown in the statewide voter registration system, and that the signer has not signed any other petition for any other candidate for the same office. THIS REQUIREMENT APPLIES TO PETITIONS

FOR CANDIDATES AFFILIATED WITH A MAJOR POLITICAL PARTY, AS SET FORTH IN SECTION 1-4-801(3), SEEKING TO PETITION ONTO THE ALL-CANDIDATE PRIMARY ELECTION BALLOT.

(b) Petitions to nominate candidates from a minor political party or unaffiliated candidates in a partisan election may be signed by any eligible elector who has not signed any other petition for any other candidate for the same office. THIS SUBSECTION (2)(b) APPLIES TO PETITIONS FOR CANDIDATES AFFILIATED WITH A MINOR POLITICAL PARTY, AS SET FORTH IN SECTION 1-4-801(3), SEEKING TO PETITION ONTO THE ALL-CANDIDATE PRIMARY ELECTION BALLOT.

**SECTION 19.** In Colorado Revised Statutes, 1-4-1304, **amend** (1.5), (2) introductory portion, and (5), as follows:

**1-4-1304. Nomination of candidates.** (1.5) (a) A minor political party may nominate candidates for offices OTHER THAN COVERED OFFICES to be filled at a general election AND CANDIDATES FOR THE ALL-CANDIDATE PRIMARY ELECTION by petition in accordance with section 1-4-802.

(b) (I) A minor political party may nominate candidates for offices OTHER THAN COVERED OFFICES to be filled at a general election by assembly. A MINOR POLITICAL PARTY MAY NOMINATE CANDIDATES FOR COVERED OFFICES FOR THE ALL-CANDIDATE PRIMARY ELECTION BY ASSEMBLY. Except as provided in subsection (1.5)(f) of this section, an assembly shall be held no later than seventy-three days preceding the primary election.

(c) If an assembly designates more than one candidate for an office OTHER THAN A COVERED OFFICE, or if an assembly designates one or more candidates FOR AN OFFICE OTHER THAN A COVERED OFFICE and one or more candidates qualifies by petition, the candidate of the minor political party for that office shall be nominated at a primary election held in accordance with this code. A minor political party may prohibit unaffiliated electors from voting in the party's primary election so long as the prohibition is in accordance with the party's constitution, bylaws, or other applicable rules. Any minor party choosing to prohibit unaffiliated electors from voting in its primary election must notify the secretary of state of the prohibition not less than seventy-five days prior to the primary election.

(d) If only one candidate is designated for an office OTHER THAN A COVERED OFFICE by petition or assembly, that candidate shall be the candidate of the minor political party in the general election.

(2) Nominations by a minor political party, to be valid, must be made in accordance with the party's constitution or bylaws. No nomination under this section is valid for A ~~any~~ general election FOR AN OFFICE OTHER THAN A COVERED OFFICE unless the nominee:

(5) Nothing in this part 13 shall be construed to allow a minor political party to nominate more than one candidate for AN ~~any one~~ office OTHER THAN A COVERED OFFICE.

**SECTION 20.** In Colorado Revised Statutes, 1-5-402, **amend** (1), as follows:

**1-5-402. Primary election ballots for offices other than covered offices.** (1) No later than thirty-two days before the primary election FOR AN OFFICE OTHER THAN A COVERED OFFICE, the county clerk and recorder shall prepare a separate ballot for each political party. The ballots shall be printed in the following manner:

(a) All official ballots FOR THE PRIMARY ELECTION FOR OFFICES OTHER THAN COVERED OFFICES shall be printed according to the provisions of sections 1-5-407 and 1-5-408; except that across the top of each ballot shall be printed the name of the political party for which the ballot is to be used.

(b) The positions on the ballot FOR THE PRIMARY ELECTION FOR OFFICES OTHER THAN COVERED OFFICES shall be arranged as follows: First, ~~candidates for United States senator; next, congressional candidates; next, state candidates; next, legislative candidates; next, district attorney candidates; next, other candidates for district offices greater than a county office; next, candidates for county commissioners; next, county clerk and recorder candidates; next, county treasurer candidates; next, county assessor candidates; next, county sheriff candidates; next, county surveyor candidates; and next, county coroner candidates.~~ When other offices OTHER THAN COVERED OFFICES are to be filled at the coming general election, the county clerk and recorder, in preparing the primary ballot, shall use substantially the form prescribed by this section, stating the proper designation of the office and placing the names of the candidates for the office under the name of the office.

**SECTION 21.** In Colorado Revised Statutes, **add** 1-5-402.5, as follows:

**1-5-402.5. All-candidate primary election ballots for covered offices.** (1) NO LATER THAN THIRTY-TWO DAYS BEFORE THE ALL-CANDIDATE PRIMARY ELECTION FOR A COVERED OFFICE, THE COUNTY CLERK AND RECORDER SHALL PREPARE THE ALL-CANDIDATE PRIMARY ELECTION BALLOT. THE BALLOTS SHALL BE PRINTED IN THE FOLLOWING MANNER:

(a) ALL OFFICIAL BALLOTS FOR THE ALL-CANDIDATE PRIMARY ELECTION FOR COVERED OFFICES SHALL BE PRINTED ACCORDING TO THE PROVISIONS OF SECTIONS 1-5-407 AND 1-5-408.

(b) THE POSITIONS ON THE BALLOT FOR THE ALL-CANDIDATE PRIMARY ELECTION FOR COVERED OFFICES SHALL BE ARRANGED AS FOLLOWS: FIRST, CANDIDATES FOR UNITED STATES SENATOR; NEXT, CONGRESSIONAL CANDIDATES; NEXT, STATE CANDIDATES; AND NEXT, LEGISLATIVE CANDIDATES.

**SECTION 22.** In Colorado Revised Statutes, 1-5-403, **amend** (2) and (4); and **add** (2.5), as follows:

**1-5-403. Content of ballots for general and congressional vacancy elections.** (2) For all elections except those for presidential electors, every ballot shall contain the names of all candidates for offices OTHER THAN COVERED OFFICES to be voted for at that election whose nominations have been made and accepted, except those who have died or withdrawn, and the

ballot shall contain no other names. When presidential electors are to be elected, their names shall not be printed on the ballot, but the names of the candidates of the respective political parties or political organizations for president and vice president of the United States shall be printed together in pairs under the title “presidential electors”. The pairs shall be arranged in the alphabetical order of the names of the candidates for president in the manner provided for in section 1-5-404. A vote for any pair of candidates is a vote for the duly nominated presidential electors of the political party or political organization by which the pair of candidates were named.

(2.5) FOR ALL COVERED OFFICE GENERAL ELECTIONS EVERY BALLOT SHALL CONTAIN THE NAMES OF THE CANDIDATES ADVANCING FROM THE ALL-CANDIDATE PRIMARY ELECTION, EXCEPT THOSE WHO HAVE DIED OR WITHDRAWN, AND THE BALLOT SHALL CONTAIN NO OTHER NAMES.

(4) The name of each person nominated FROM A PRIMARY ELECTION OR ADVANCING FROM AN ALL-CANDIDATE PRIMARY ELECTION shall be printed or written upon the ballot in only one place. Each ~~nominated~~ person’s name may include one nickname, if the person regularly uses the nickname and the nickname does not include any part of a political party name. Opposite the name of each person ~~nominated~~, including candidates for president and vice president and joint candidates for governor and lieutenant governor, shall be the name of the political party or political organization which nominated the candidate FROM A PRIMARY ELECTION OR WITH WHICH A CANDIDATE FROM THE ALL-CANDIDATE PRIMARY IS AFFILIATED, IF ANY, expressed in not more than three words. Those three words may not promote the candidate or constitute a campaign promise.

**SECTION 23.** In Colorado Revised Statutes, 1-5-404, **amend** (2); and **add** (2.5), as follows:

**1-5-404. Arrangement of names on ballots for partisan elections.** (2) Between July 1 and July 15 of each election year, the officer in receipt of the original designation, nomination, or petition of each candidate FOR AN OFFICE OTHER THAN A COVERED OFFICE shall inform the major political parties, each minor political party that has nominated at least one candidate, and the representative of each political organization that has filed a nominating petition for at least one candidate of the time and place of the lot-drawing for offices to appear on the general election ballot. Ballot positions shall be assigned to the major political party, minor political party, or political organization in the order in which they are drawn. The name of the candidate shall be inserted on the ballot prior to the ballot certification.

(2.5) IN THE GENERAL ELECTION FOR A COVERED OFFICE, THE NAMES OF THE CANDIDATES ADVANCING FROM THE ALL-CANDIDATE PRIMARY ELECTION SHALL BE PLACED ON THE BALLOT FOR THE GENERAL ELECTION IN AN ORDER DETERMINED BY LOT.

**SECTION 24.** In Colorado Revised Statutes, 1-5-407, **amend** (2), as follows:

**1-5-407. Form of ballots.** (2) The ballots shall be printed so as to give to each eligible elector a clear opportunity to designate his or her choice of candidates, joint candidates, ballot issues, and ballot questions by a mark as instructed. On the ballot may be printed words that will aid the elector, such as “vote for not more than one” IN ELECTIONS CONDUCTED USING SINGLE CHOICE

VOTING. FOR ELECTIONS CONDUCTED USING A RANKED VOTING METHOD, THE BALLOT SHALL INCLUDE LANGUAGE THAT WILL AID THE ELECTOR IN RANKING CANDIDATES IN ORDER OF PREFERENCE.

**SECTION 25.** In Colorado Revised Statutes, 1-5-408, **amend** (1), as follows:

**1-5-408. Form of ballots - electronic voting.** (1) Ballot cards placed upon voting equipment shall, so far as practicable, be arranged as provided by sections 1-5-402, ~~1-5-402.5~~, 1-5-403, and 1-5-404; except that they shall be of the size and design required by the voting equipment and may be printed on a number of separate ballot cards that are placed on the voting equipment.

**SECTION 26.** In Colorado Revised Statutes, 1-5-412, **amend** (3), as follows:

**1-5-412. Correction of errors.** (3) (a) If, before the date set for election FOR AN OFFICE OTHER THAN A COVERED OFFICE, a duly nominated candidate withdraws by filing an affidavit of withdrawal with the designated election official, or dies and the fact of the death becomes known to the designated election official before the ballots are printed, or is deemed disqualified, the name of the candidate shall not be printed on the ballots.

(b) (I) IF, BEFORE THE DATE SET FOR THE ALL-CANDIDATE PRIMARY ELECTION FOR A COVERED OFFICE, A DULY NOMINATED CANDIDATE WITHDRAWS BY FILING AN AFFIDAVIT OF WITHDRAWAL WITH THE DESIGNATED ELECTION OFFICIAL, OR DIES AND THE FACT OF THE DEATH BECOMES KNOWN TO THE DESIGNATED ELECTION OFFICIAL BEFORE THE BALLOTS ARE PRINTED, OR IS DEEMED DISQUALIFIED, THE NAME OF THE CANDIDATE SHALL NOT BE PRINTED ON THE ALL-CANDIDATE PRIMARY ELECTION BALLOT.

(II) IF A CANDIDATE FOR COVERED OFFICE ADVANCING FROM THE ALL-CANDIDATE PRIMARY ELECTION TO THE GENERAL ELECTION WITHDRAWS BY FILING AN AFFIDAVIT OF WITHDRAWAL WITH THE DESIGNATED ELECTION OFFICIAL, OR DIES AND THE FACT OF THE DEATH BECOMES KNOWN TO THE DESIGNATED ELECTION OFFICIAL BEFORE THE BALLOTS ARE PRINTED, OR IS DEEMED DISQUALIFIED, THE NAME OF THE CANDIDATE SHALL NOT BE PRINTED ON THE BALLOT, AND THE DESIGNATED ELECTION OFFICIAL SHALL FOLLOW THE PROCEDURES SPECIFIED IN SECTION 1-4-101.5(2)(d)(IV).

(c) Except in the case of a vacancy to be filled in accordance with section 1-4-1005, 1-4-1006, or 1-4-1009, OR IN AN ELECTION CONDUCTING USING A RANKED VOTING METHOD, if the ballots are already printed, the votes cast for the withdrawn, deceased, or disqualified candidate are invalid and shall not be counted. IN AN ELECTION CONDUCTED USING A RANKED VOTING METHOD, BALLOTS SHALL CONTINUE TO COUNT FOR THEIR HIGHEST-RANKED ACTIVE CANDIDATE, IF ANY.

**SECTION 27.** In Colorado Revised Statutes, 1-7-201, **amend** (1), (2), (2.3), (4), (5), and (6), as follows:

**1-7-201. Voting at primary election for an office other than a covered office.** (1) Any registered elector, including a preregistrant who is eligible under section 1-2-101 (2)(c), who has declared an affiliation with a political party that is participating in a primary election FOR AN



OFFICE OTHER THAN A COVERED OFFICE and who desires to vote for candidates of that party at a primary election FOR AN OFFICE OTHER THAN A COVERED OFFICE shall show identification, as defined in section 1-1-104 (19.5), write THEIR ~~his or her~~ name and address on a form available at the voter service and polling center, and give the form to one of the election judges.

(2) If the name is found on the registration list, the election judge having charge of the list shall likewise repeat the elector's name and present the elector with the party ballot FOR THE PRIMARY ELECTION FOR AN OFFICE OTHER THAN A COVERED OFFICE of the political party affiliation last recorded.

(2.3) An eligible unaffiliated elector, including a preregistrant who is eligible under section 1-2-101 (2)(c), is entitled to vote in the primary election FOR AN OFFICE OTHER THAN A COVERED OFFICE of a major political party without affiliating with that political party. To vote in a political party's primary election FOR AN OFFICE OTHER THAN A COVERED OFFICE without declaring an affiliation with the political party, any eligible unaffiliated elector shall declare to the election judges the name of the political party in whose primary election the elector wishes to vote. Thereupon, the election judges shall deliver the appropriate party ballot FOR THE PRIMARY ELECTION FOR AN OFFICE OTHER THAN A COVERED OFFICE to the elector. In addition, any eligible unaffiliated elector may openly declare to the election judges the name of the political party with which the elector wishes to affiliate and complete the necessary forms. An eligible elector must separately date and sign or date and initial a declaration of affiliation with a political party form in such manner that the elector clearly acknowledges that the affiliation has been properly recorded. Thereupon, the election judges shall deliver the appropriate party ballot to the eligible elector.

(4) Party ballots FOR THE PRIMARY ELECTION FOR AN OFFICE OTHER THAN A COVERED OFFICE shall be cast in the same manner as in general elections. An elector shall not vote for more candidates for any office than are to be elected at the general election as indicated on the ballot.

(5) Instead of voting for a candidate whose name is printed on the party ballot FOR THE PRIMARY ELECTION FOR AN OFFICE OTHER THAN A COVERED OFFICE, an elector may cast a write-in vote for any eligible candidate who is a member of the major political party and who has filed an affidavit of intent of write-in candidacy pursuant to section 1-4-1101. When no candidate has been designated by an assembly or by petition FOR THE PRIMARY ELECTION FOR AN OFFICE OTHER THAN A COVERED OFFICE, a write-in candidate for nomination by any major political party FOR THE PRIMARY ELECTION FOR AN OFFICE OTHER THAN A COVERED OFFICE must receive at least the number of votes at any primary election that is required by section 1-4-801(2) to become designated as a candidate by petition.

(6) The provisions of subsections (1), (2), and (4) of this section shall not apply to a primary election FOR AN OFFICE OTHER THAN A COVERED OFFICE conducted as a mail ballot election pursuant to article 7.5 of this title.

**SECTION 28.** In Colorado Revised Statutes, **add** 1-7-201.5, as follows:

**1-7-201.5. Voting at all-candidate primary election for a covered office.** (1) ANY REGISTERED ELECTOR, INCLUDING A PREREGISTRANT WHO IS ELIGIBLE UNDER SECTION 1-2-101(2)(c), WHO DESIRES TO VOTE IN THE ALL-CANDIDATE PRIMARY ELECTION FOR COVERED OFFICES SHALL SHOW IDENTIFICATION, AS DEFINED IN SECTION 1-1-104(19.5), WRITE THEIR NAME AND ADDRESS ON A FORM AVAILABLE AT THE VOTER SERVICE AND POLLING CENTER, AND GIVE THE FORM TO ONE OF THE ELECTION JUDGES.

(2) IF THE NAME IS FOUND ON THE REGISTRATION LIST, THE ELECTION JUDGE HAVING CHARGE OF THE LIST SHALL LIKEWISE REPEAT THE ELECTOR'S NAME AND PRESENT THE ELECTOR WITH THE ALL-CANDIDATE PRIMARY ELECTION BALLOT.

(3) INSTEAD OF VOTING FOR A CANDIDATE WHOSE NAME IS PRINTED ON THE ALL-CANDIDATE PRIMARY ELECTION BALLOT, AN ELECTOR MAY CAST A WRITE-IN VOTE FOR ANY ELIGIBLE CANDIDATE WHO HAS FILED AN AFFIDAVIT OF INTENT OF WRITE-IN CANDIDACY PURSUANT TO SECTION 1-4-1101.

**SECTION 29.** In Colorado Revised Statutes, 1-7-307, **amend** (2), as follows:

**1-7-307. Method of counting paper ballots.** (2) Each ballot shall be read and counted separately.

(a) FOR EACH ELECTION USING SINGLE CHOICE VOTING, ~~Every~~ EVERY name and all names of joint candidates separately marked as voted for on the ballot shall be read and an entry made on each of two accounting forms before any other ballot is counted. The entire number of ballots, excepting "excess ballots", shall be read, counted, and placed on the accounting forms in like manner. When all of the ballots, except "excess ballots", have been counted, the election judges shall post the votes from the accounting forms.

(b) FOR EACH ELECTION USING A RANKED VOTING METHOD, BALLOTS SHALL BE COUNTED PURSUANT TO PART 5, OF THIS ARTICLE 7.

**SECTION 30.** In Colorado Revised Statutes, 1-7-503, **amend** (1), as follows:

**1-7-503. Manner of voting.** (1) Each eligible elector, upon receiving a ballot, shall immediately proceed unaccompanied to one of the voting booths provided. To cast a vote, the eligible elector shall clearly fill the oval, connect the arrow, or otherwise appropriately mark the name of the candidate; ~~or~~ the names of the joint candidates; OR, IN THE EVENT THE ELECTION USES A RANKED VOTING METHOD, RANK THE NAMES OF THE CANDIDATES of the elector's choice for each office to be filled. In the case of a ballot issue, the elector shall clearly fill the oval, connect the arrow, or otherwise appropriately mark the appropriate place opposite the answer that the elector desires to give. Before leaving the voting booth, the eligible elector, without displaying the marks thereon, shall place the ballot in the privacy envelope so that the contents of the ballot or ballot card are concealed and shall place the envelope and the ballot or ballot card in the ballot box.

**SECTION 31.** In Colorado Revised Statutes, 1-7-508, **amend** (2), as follows:

**1-7-508. Determination of improperly marked ballots.** (2) Votes cast for an office to be filled or a ballot question or ballot issue to be decided shall not be counted if a voter marks more names than there are persons to be elected to an office or if for any reason it is impossible to determine the elector's choice of candidate or vote concerning the ballot question or ballot issue; except that an elector's rankings of multiple candidates in an election using ~~instant runoff~~ A RANKED voting METHOD shall be recorded and counted in accordance with ~~section~~ SECTIONS ~~1-4-207~~ AND 1-7-1003 and rules promulgated by the secretary of state. A defective or an incomplete mark on any ballot in a proper place shall be counted if no other mark is on the ballot indicating an intention to vote for some other candidate or ballot question or ballot issue.

**SECTION 32.** In Colorado Revised Statutes, 1-7-509, **amend** (2) (a), as follows:

**1-7-509. Electronic and electromechanical vote counting - testing of equipment required - rules.** (2) (a) A public test of voting equipment shall be conducted prior to the commencement of voting in accordance with this section by processing a preaudited group of ballots produced so as to record a predetermined number of valid votes for each candidate and on each ballot question or ballot issue. The test shall ensure that the system accurately records votes when the elector has the option of voting for more than one candidate in a race. The test shall ensure that the voting system properly rejects and does not count overvotes and undervotes. If the equipment is to be used in an election using ~~instant runoff~~ A RANKED voting METHOD, the test shall ensure that the voting system accurately records, counts, and tabulates an elector's rankings of multiple candidates in accordance with ~~section~~ SECTIONS ~~1-4-207~~ AND 1-7-1003 and rules promulgated by the secretary of state.

**SECTION 33.** In Colorado Revised Statutes, 1-7.5-107, **amend** (2.7), as follows:

**1-7.5-107. Procedures for conducting mail ballot election - primary elections - first-time voters casting a mail ballot after having registered by mail to vote - in-person request for ballot - return envelope requirements - repeal.** (2.7) Subsequent to the preparation of ballots in accordance with ~~section~~ SECTIONS 1-5-402 AND ~~1-5-402.5~~ but prior to the mailing required under subsection (3) of this section, and no sooner than forty-five days nor later than thirty-two days before an election, a designated election official shall provide a mail ballot PACKET FOR ALL-CANDIDATE PRIMARY ELECTIONS FOR COVERED OFFICES AND FOR PRIMARY ELECTIONS FOR OFFICES OTHER THAN COVERED OFFICES to a registered elector requesting the ballot PACKET at the designated election official's office or the office designated in the election plan filed with the secretary of state.

**SECTION 34. Severability.**

If any provision of this initiative, or the application of any provision of this initiative to any person, office, or circumstance, is held to be unconstitutional, the remainder of this initiative and the application of its provision to any person, office, or circumstance, shall not be affected by the holding.

**SECTION 35. Effective Date.**

This initiative takes effect at 12:01 a.m. on January 1, 2026.



## **Ballot Title Setting Board**

### **Proposed Initiative 2023-2024 #309<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

A change to the Colorado Revised Statutes creating new election processes for U.S. Senate, U.S. House of Representatives, Colorado state legislature, and certain state offices, and, in connection therewith, creating a new all-candidate primary election for these offices, allowing voters to vote for any one candidate per office, regardless of political party affiliation, and specifying that the four candidates who receive the most votes advance to the general election; and in the general election, allowing voters to rank candidates for these offices and adopting a ranked voting process for how the votes are tallied and a winner is determined.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado Revised Statutes creating new election processes for U.S. Senate, U.S. House of Representatives, Colorado state legislature, and certain state offices, and, in connection therewith, creating a new all-candidate primary election for these offices, allowing voters to vote for any one candidate per office, regardless of political party affiliation, and specifying that the four candidates who receive the most votes advance to the general election; and in the general election, allowing voters to rank candidates for these offices and adopting a ranked voting process for how the votes are tallied and a winner is determined?

*Hearing April 18, 2024:*

*Single subject approved (2-1, Sullivan); staff draft amended; titles set.*

*The Board made technical corrections to the text of the initiative.*

*Board members: Theresa Conley, Christy Chase, Jennifer Sullivan*

*Hearing adjourned 3:21 P.M.*

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<sup>1</sup> Unofficially captioned “**Concerning the Conduct of Elections**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.



## **Ballot Title Setting Board**

### **Proposed Initiative 2023-2024 #309<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

A change to the Colorado Revised Statutes creating new election processes for certain federal and state offices, and, in connection therewith, creating a new all-candidate primary election for U.S. Senate, U.S. House of Representatives, governor, attorney general, secretary of state, treasurer, CU board of regents, state board of education, district attorney, and the Colorado state legislature; allowing voters to vote for any one candidate per office, regardless of the voter's or candidate's political party affiliation; providing that the four candidates for each office who receive the most votes advance to the general election; and in the general election, allowing voters to rank candidates for each office on their ballot, adopting a process for how the ranked votes are tallied, and determining the winner to be the candidate with the highest number of votes in the final tally.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado Revised Statutes creating new election processes for certain federal and state offices, and, in connection therewith, creating a new all-candidate primary election for U.S. Senate, U.S. House of Representatives, governor, attorney general, secretary of state, treasurer, CU board of regents, state board of education, district attorney, and the Colorado state legislature; allowing voters to vote for any one candidate per office, regardless of the voter's or candidate's political party affiliation; providing that the four candidates for each office who receive the most votes advance to the general election; and in the general election, allowing voters to rank candidates for each office on their ballot, adopting a process for how the ranked votes are tallied, and determining the winner to be the candidate with the highest number of votes in the final tally?

*Hearing April 18, 2024:*

*Single subject approved (2-1, Sullivan); staff draft amended; titles set.*

*The Board made technical corrections to the text of the initiative.*

*Board members: Theresa Conley, Christy Chase, Jennifer Sullivan*

---

<sup>1</sup> Unofficially captioned “**Concerning the Conduct of Elections**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.



*Hearing adjourned 3:21 P.M.*

*Rehearing April 26, 2024*

*Motion for rehearing (Chilson) was granted only to the extent the Board made changes to the title (2-1, Reichert).*

*Motion for rehearing (Good; Templin) denied in its entirety (2-1, Reichert).*

*Board members: Theresa Conley, Christy Chase, Lee Reichert*

*Hearing adjourned 5:00 P.M.*

**BEFORE THE COLORADO BALLOT TITLE SETTING BOARD**

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**Mark Chilson,**  
Objector,

v.

**Jason Bertolacci and Owen Alexander Clough,**  
Designated Representatives of Initiative 2023-2024 #309

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**MOTION FOR REHEARING ON  
PROPOSED INITIATIVE 2023-2024 #309**

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Mark Chilson, a Colorado registered elector, seeks a rehearing on Proposed Initiative 2023-2024 #309. As part of this motion Chilson withdraws his previously-filed motion on April 24, 2024. This motion for rehearing is timely, because it is filed seven days after the Title Board set a title and submission clause, on April 18, 2024.

The motion or rehearing is brought on two grounds: (1) that the Title Board had no jurisdiction to set a title, because the resubmitted measure contained more than one subject, and (2) that the title and submission clause is incomplete and misleading.

**A. The measure violates single-subject requirements.**

In attempting to re-write Colorado election law, the measure contains multiple purposes:

1. It creates a new class of covered offices to which the measure applies;
2. It creates a new all-candidate primary ballot, which includes every party and every unaffiliated candidate;

3. It allows all candidates to petition on to the primary election ballot;
4. It reduces the number of signatures required to petition onto the primary ballot;
5. It creates a new definition of “primary election” for covered office, in which a primary election voters do not choose political party nominees, but rather narrow the number of candidates who can advance to the primary election;
6. It limits the general ballot election to the top four vote-getters and the newly-defined primary election; and
7. It creates a new method of counting votes in the general election, by adopting instant runoff voting.

This matter contains several, incongruous subjects. First and foremost, it reworks the primary election. It changes the very nature of the primary, from selecting party nominees to instead narrowing the number of general election candidates to four. It allows non-party candidates on the primary ballot, and it limits general election candidates to the top four finishers in the primary.

This rework of Colorado’s primary elections is fundamentally different than the changes to the general election system. The measure creates an entirely new way of voting and tabulating votes, through an instant runoff system. This new general election voting system is a radical departure from the voting system Colorado has used for over 150 years. And it is not necessarily or properly connected to the entirely new primary voting system. In short, the measure includes two radically new voting systems – one for a re-defined primary election, and a separate one for the general election.

Next, the measure creates an entirely new system for nominating candidates for the primary election. It not only changes who can be on the primary ballot, but it also changes how candidates get there. The measure now allows unaffiliated and minority party candidates to petition on the ballot, and it changes the numbers of signatures required, while allowing any voter to sign petitions for unaffiliated or minority party candidates.

Third, the measure contains separate subjects by creating new voting systems for one class of candidates – covered candidates – yet establishing or retaining separate nomination, primary, and general election voting systems for an entirely separate class of candidates.

The measure does not create one, but rather creates multiple, fundamental, radical changes to Colorado’s election systems. And it combines different voting systems and different nominating systems within the same measures. But these different, multiple systems are not necessarily or properly connected, thus creating surprise among voters and forcing them into a take-it-or-leave-it logrolling vote that combines different, incongruous measures.

For these reasons, the measure violates Colorado’s single subject requirement.

**B. The title and submission clause are incomplete and misleading.**

In addition, the ballot title and submission clause are misleading and incomplete:

First, the title does not define the scope of the measure – rather than fully informing voters of the offices covered, it refers instead on “certain state offices.”

Because the measure radically changes voting systems for the offices it encompasses,

it is misleading to fail to inform Colorado voters of exactly what offices are covered by the new measure.

Second, the title and submission clause do not explain how unaffiliated and minority party voters can obtain signatures from any person, including those who do not share a candidate's unaffiliated status or minority party membership.

Third, the title does not explain that the general election voting system is an instant runoff voting system, whereby if no person wins a majority of votes, then voters' secondary and tertiary candidate preferences determine the outcome of the election, based on the elimination of votes for candidates in each round of instant runoff tabulation. Bluntly put, the Instant Runoff Voting system is a radically new process for Colorado, and the title makes no effort to inform voters how this new system works.

Respectfully submitted this 25th day of April 2024,

**GESSLER BLUE LLC**

*s/ Scott E. Gessler*

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Scott E. Gessler  
7350 E. Progress Place, Ste. 100  
Greenwood Village, CO 80111  
(720) 839-6637 Tel.

## CERTIFICATE OF SERVICE

On April 25, 2024, a copy of the foregoing was filed with the Colorado Secretary of State's Office and served on all parties to this matter via email on the following:

Jason Bertolacci  
Sarah Mercer, Esq. (smercerc@BHFS.com)  
Brownstein Hyatt Farber Schreck, LLP  
675 15<sup>th</sup> Street, Suite 2900  
Denver, CO 80202

Owen Alexander Clough  
Sarah Mercer, Esq. (smercerc@BHFS.com)  
Brownstein Hyatt Farber Schreck, LLP  
675 15<sup>th</sup> Street, Suite 2900  
Denver, CO 80202

*s/Joanna Bila*  
\_\_\_\_\_  
Joanna Bila, Paralegal



COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION  
CLAUSE FOR PROPOSED INITIATIVES 2023-2024 #307-313

**MOTION FOR REHEARING ON PROPOSED INITIATIVES 2023-2024  
#307-313**

I, Linda Good, a registered elector of the State of Colorado, submit to the Title Board this Motion for Rehearing on Proposed Initiatives 2023-2024 #307-313 "Concerning the Conduct of Elections" ("Initiatives #307-313") and as grounds therefore state as follows:

I. THE TITLE SET BY TITLE BOARD

On April 18, 2024, the Title Board set the similar ballot titles and submission clauses for Initiatives #307-313:

The title as designated and fixed by the Board is as follows:

A change to the Colorado Revised Statutes creating new election processes for U.S. Senate, U.S. House of Representatives, Colorado state legislature, and certain state offices, and, in connection therewith, creating a new all-candidate primary election for these offices, reducing the number of signatures required to petition onto the all-candidate primary ballot, allowing voters to vote for any one candidate per office, regardless of political party affiliation, and specifying that the four candidates who receive the most votes advance to the general election; and in the general election, allowing voters to rank candidates for these offices and adopting a ranked voting process for how the votes are tallied and a winner is determined.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado Revised Statutes creating new election processes for U.S. Senate, U.S. House of Representatives, Colorado state legislature, and certain state offices, and, in connection



therewith, creating a new all-candidate primary election for these offices, reducing the number of signatures required to petition onto the all-candidate primary ballot, allowing voters to vote for any one candidate per office, regardless of political party affiliation, and specifying that the four candidates who receive the most votes advance to the general election; and in the general election, allowing voters to rank candidates for these offices and adopting a ranked voting process for how the votes are tallied and a winner is determined?

## II. GROUNDS FOR REHEARING

The Initiatives Impermissibly Contains Several Separate and Distinct Subjects in Violation of the Single Subject Requirement.

Pursuant to Colo. Const. art. V, §1(5.5),

“no measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in its title . . . . If a measure contains more than one subject, such that a ballot title cannot be fixed that clearly expresses a single subject, no title shall be set and the measure shall not be submitted to the people for adoption or rejection at the polls.”

See also 1-40-106.5, C.R.S. "When a proposed initiative comprises multiple subjects, the [Title] Board lacks jurisdiction to set its title.”

Initiatives #307-313 have distinct separate subjects;

1. These initiatives change the conduct of the General election from a plurality of votes which has been the mechanism of conducting elections in the United States of America for 248 years and in the state of Colorado for 148 years, to Ranked Voting Method or Instant Runoff Voting where the duly elected is determined by the

majority of votes after several rounds of voting. The severity of this change to the conduct of elections in Colorado far exceeds any threshold to trigger an issue to be its own subject.

Simply declaring a broad topic such as “instant runoff voting in elections” does not save the matter. For example, the Colorado Supreme Court rejected a subject of “recall of government officers” as far too broad.<sup>1</sup> That provision created “a new constitutional right to recall non-elected officers, in addition to elected officers.”<sup>2</sup> Under the same reasoning, the broad subject of “instant runoff in elections” does not rescue the measure from its serious single-subject violation.

2. Secondly, these initiatives change the conduct of the Primary election to an All Candidate Primary which will eliminate the separate Partisan Primary elections and create a new election where all candidates are on one ballot for Federal and state elections but leave the partisan party primaries in tact for County elections.

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<sup>1</sup> *Hayes v. Spalding (In re Title, Ballot Title, & Submission Clause for 2013-2014 #76)*, 2014 CO 52, ¶ 10.

<sup>2</sup> *Id.* at ¶ 9.

3. Along with this radical change to an All Candidate Primary election comes an altogether separate subject which limits the number of candidates on the General ballot to four. This is not only a separate change to the conduct of elections, but is contrary to the Proponents' stated goal in Section 1 subsection (2) "provides voters more choices, generates more competitive candidates for elective office, promotes more meaningful voter participation". Though mentioned in the title, this extreme change in the initiative is deceptive and will cause confusion and surprise the voters.
4. All initiatives reduce the number of signatures required for petitioning onto the ballot. This is a Ballot Access issue and should be considered a separate issue.
5. Initiative #312 adds another subject by including the US Presidential election which has a separate purpose and outcome which is different from the "covered offices". Colorado does not select the presidential winner, but instead sends electors who vote for the U.S. President in combination with members of the Electoral college. This negates the proponents' stated purpose of "more choice to elect candidates who better reflect the will of a majority of the voters" as Colorado voters only account for less than 2% of the presidential electors. (10 out of 538

electors). In short, the two elections are different, and they constitute two different subjects.

6. Initiative #313 brings even more changes by including the County elected offices into the All Candidate Primary, and limiting the number of candidates on the General Ballot to two!
7. Initiative #313 has an altogether separate, new and made up version of ranked voting method they decided to call it “Instant Runoff Voting” to make things easy.”<sup>3</sup> Instant runoff is in the Primary but not the General because they are only allowing 2 candidates on the General. 6:53
8. Initiative #313 completely eliminates the Partisan Primary election. Again, this is a substantial change and should be a triggering event to a separate subject.
9. The language used in the Declaration is incongruent with body of the Initiative. The Declaration states “where candidates are elected with a majority of votes.” However, the language within the proposed statute changes and in the titles set states “the candidate with the highest number of votes at the end of the voting tally is elected.”
10. Counsel for the Proponents David Meschke stated “This is not the Proponents’ preferred policy, this is an alternative, obviously a lot can

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<sup>3</sup> [https://csos.granicus.com/player/clip/451?view\\_id=1&redirect=true](https://csos.granicus.com/player/clip/451?view_id=1&redirect=true)

happen between now and November, this just presents a different way of achieving, in this case **many of the Proponent's goals**, not all of them.”<sup>4</sup>

Which is an Acknowledgement that the initiative is multiple subject and achieving “many of the Proponents’ goals.”

11. The multiple variations on Instant Runoff Voting being used by the proponents is confusing and deceptive as they do not conform to the standard form of Instant Runoff Voting nationwide. Not many voters understand the tabulation of Instant Runoff Voting, but with the Proponents making up their own version and using the same name, even the few who do understand Instant Runoff Voting will be deceived into thinking they are getting a different conduct of election.

Counsel for the Proponents’ David Meschke made several statements which made it clear that they had made up this version of Instant Runoff Voting. “But I don't believe the type of ranked voting method that we're adding in this measure has a particular set name at this point in time, so we had to kind of fit it in something and since it's a runoff voting is very similar.”

Mr. Meschke also stated, “We are now using that term instant runoff voting for a different purpose in this in this measure, because it's

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<sup>4</sup> [https://csos.granicus.com/player/clip/451?view\\_id=1&redirect=true](https://csos.granicus.com/player/clip/451?view_id=1&redirect=true) @6:50

“winnowing the field” of candidates to two as opposed to selecting one. So that's why we use the language “winnowing the field” of candidates and Ms. Landry is correct, it's a bottoms up, instead run up voting method.” And separately, “depends on what you consider IRV I think these definitions are somewhat fluid.”

Madame Chair asked those in the room, “Do you feel like the definition of instant runoff voting to expand or to “winnow a field of candidates” as set forth is new? Or does some instant runoff voting include something other than a single winner?”

Linda Templin answered definitively, “Instant runoff voting is only a single winner.”

12. In the discussion on #314 counsel for the Proponents David Meschke referred back to Initiative #313 stating, “I said we're moving away from instant runoff voting. So now we're moving not only as a general, but this one doesn't even touch it in the primary election. Right. So the single subject is giving every registered voter the right to vote and any for any eligible candidate and taxpayer funded elections. And I think when we talked about 313 I tried to shorthand with the features....” This statement from the Proponents makes it clear that the change to Ranked Voting method, or Instant Runoff Voting is not necessarily tied to the

proponents' goal of an All Candidate Primary where any eligible elector can vote for any eligible candidate regardless of party affiliation.

Changing the voting method, or implementation mechanism, of the election is a separate subject not necessarily tied to the subject of an All Candidate Primary.

### III. CONCLUSION

Based on the foregoing, Objector requests a rehearing of the Title Board for Initiatives 2023-2024 #307-313 because the initiatives contain multiple subjects, and the titles set are incomplete and unclear with deceptive language. As a result, the Title Board lacks jurisdiction to set a title and should reject the measures in their entirety.

Respectfully submitted this 24<sup>th</sup> day of April, 2024.

/S/ Linda Good  
Linda Good  
lindalaughs@protonmail.com

Date: April 24, 2024

To: Colorado Title Board

From: Linda Templin, MPA

Re: 2023-2024 #307, #308, #309, #310, #312 & #313

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Motion for Rehearing is accurate in some instances, and inaccurate in others.

**Is RCV a separate subject from IRV? No.**

Ranked Choice Voting (RCV) is the modern, voter-centered language for a preferential ballot. When RCV ballots are used in a single-winner race, they are inseparable from the Instant Runoff Voting (IRV) tally. There is no other way for voters to make their wishes known without a separate round of polling.

Robert's Rules of Order uses the older name from the late 1800's for the RCV/IRV vote and tally method, which they still call 'preferential voting.' It identifies that the best means of finding the consensus of a majority is multiple rounds of in-person voting with debate in between each poll. If multiple rounds of in-person voting is not practicable, then Roberts' Rules dictate the use of 'preferential voting' to determine the will of the majority.

**Might voters be confused? No.**

Voters normally get their paper ballots and then those ballots are tallied. Voters do not see this as a separate process because it is part of running a single election.

**Can a #3 win the majority in RCV? Rare and only if they earned a majority of the support.**

RCV protects the will of a majority - even when there are many candidates. It is very rare that in a large field of candidates, the top candidates have such a narrow margin between them that #3 is ahead in the final round of tally.

When the first-choice votes are tallied, the candidate with the most support usually wins outright. In the instance where no candidate has a majority, there is an instant runoff tally to determine which candidate truly earned the support of a majority of voters. The candidate with the fewest first choice votes is eliminated and their voters ballots are counted for their second-choice candidate. If a candidate now has a majority of support, they win. The process repeats until the will of a majority has been identified.

RCV allows there to be more than two candidates without the hazard of splitting the majority. The candidate who has the most votes at the end of the first round wins 95% of the time. The candidate who has the second-most votes at the end of the first round wins 5% of the time. The candidate who has the third-most votes at the end of the first round wins less than 0.05% of the time.



**Might voters be confused? No.**

On its face, most voters need one-and-a-half minutes to comprehend a verbal, written, or video clip explanation. Voters with advanced university educations are well-equipped to belabor minor points, but that can be said of the sun rising in the East.

**Is an Instant Runoff a snap election? No.**

RCV races are tallied on the same timeline as non-RCV races. In RCV live demonstrations, it is not unusual for one voter in thirty to want clarification that the same ballots are used to find which candidate passes the majority threshold. It doesn't override their desire to have more options on the ballot without splitting the majority, but they do ask if it is not stated explicitly. If proponents accede, there would be a short segment of title that explains that the same ballots are used to run the instant runoff. In Colorado, the final results are delivered on the same time schedule as non-RCV elections.

Policy note to stakeholders unaware of the process:

Alaska elections take longer because they have to ship the ballots over 2,000 miles down the coast from the Aleutian islands for central tally in Juneau<sup>1</sup>. By contrast, in Colorado the ballots would be tallied at the county level, the cast vote records electronically submitted to the office of the Secretary of State. The office of the Secretary of State would finalize the tally, and then an audit would be conducted confirming that the records used by the office of the Secretary of state match individual ballots retained by the office of each county clerk.

**Might voters be confused? No.**

The title language can clarify that it is a single polling or round of balloting.

**Is RCV a substantial change to elections? Yes.**

As seen in the motion for reconsideration, many voters who are unfamiliar with RCV view it with suspicion. Even though RCV has been used in American elections since 1915, some people are worried that their political rivals are trying to marginalize and exclude them. This is not an irrational concern because it does happen in other areas of elections such as ballot access. Even though there could be a very brief descriptor of RCV in the same title as one for the all-candidate primary, it runs the hazard of excluding voters by failing to clearly express the subject of RCV in the title.

**Might voters be confused? Maybe.**

To be sufficient the title will have to explain what RCV is, which would most likely not leave room for the substantial changes being proposed for the primaries.

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<sup>1</sup> <https://www.elections.alaska.gov/Core/alaskavotecountingsystems.php>

**Are All-Candidate Primaries necessary for RCV? No.** Primaries are not necessary for a general election to occur. Colorado began using state primaries in the 1910's<sup>2</sup>. In the Presidential contests, Colorado used caucuses from 2004 to 2016.

Maine has a history of using RCV in the general election without blanket primaries. There is no reason to have all-candidate primaries and RCV in the same measure, other than the proponent's preference to piggyback all-candidate primaries onto RCV because it serves as a "shiny object" to win support where it would not otherwise be won.

**Title Language: Expanding Voter Choice: RCV-only.**

RCV expands voter choice in that voters can rank their preferences without fear of being excluded from the final tally. RCV contests tend to have a greater variety of candidates on the ballot both by demographics and by viewpoint. If proponents' measures are bifurcated, their RCV measure may fairly use reference to the expansion of choice because in fact that is what it does.

If all-candidate primaries are bifurcated from RCV November elections, use of reference to "expanding voter choice" in the RCV measure would be accurate.

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<https://www.cambridge.org/core/journals/journal-of-policy-history/article/direct-democracy-during-the-progressive-era-a-crack-in-the-populist-veneer/DCC97C9CEBC4A0CB91A5BB4875F5D861>





## Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# Initiative 309

## Fiscal Summary

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**Date:** April 14, 2024

**Fiscal Analyst:** Hamza Syed (303-866-4976)

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### LCS TITLE: CONCERNING THE CONDUCT OF ELECTIONS

#### Fiscal Summary of Initiative 309

This fiscal summary, prepared by the nonpartisan Director of Research of the Legislative Council, contains a preliminary assessment of the measure's fiscal impact. A full fiscal impact statement for this initiative is or will be available at [leg.colorado.gov/bluebook](https://leg.colorado.gov/bluebook). This fiscal summary identifies the following impact.

**State expenditures and revenue.** The measure is estimated to increase state expenditures in the Department of State (DOS) by about \$2.8 million in FY 2025-26 to implement several changes to elections systems and processes and to begin operating under the new procedures for the 2026 election cycle. Specifically, the DOS must update election rules, modify election software and information technology systems, and conduct public awareness campaigns to inform voters about the changes to voting in Colorado. Costs will also increase in FY 2026-27 and future years, primarily related to increased cost reimbursement to counties provided by the state, which are equal to 45 percent of county costs under current law (see local government impacts below). If costs are paid from the Department of State Cash Fund, state revenue from business filing fees paid to the DOS must be increased. The actual amount of new revenue and fee charges will be set administratively by DOS in order to cover any costs to implement the initiative paid from the DOS Cash Fund.

**Local government impact.** The measure increases costs for county clerks and other local election officials in several ways. Conducting an all-candidate primary election increases the size and complexity of printed ballots, which will require that clerks educate voters, and revise processes for the operation of polling places and ballot counting. For some counties, this will require new election system software and equipment. Other counties will have costs to modify existing voting systems. A portion of local costs under the bill will be reimbursed by the state under current law.

**Economic impacts.** The measure has no direct impact on the state economy. Changes to elections may result in different leadership and different policies, which could have an economic effect. However, these effects depend on voter choices and future decision making.