

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

**TO:** Charles Dukes and Roberta Lynn Moreland  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** December 1, 2023

**SUBJECT:** Proposed initiative 2023-2024 #100, concerning the conduct of elections

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

This initiative was submitted with a series of initiatives including proposed initiatives 2023-2024 #98 and #99. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2023-2024 #98 and #99, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those other memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum. Only new comments and questions are included in this memorandum.

## Purposes

The major purposes of the proposed amendment to the Colorado constitution appear to be:

1. To create an "all-candidate primary election" process that requires that all candidates for a covered office who qualify for the ballot, regardless of political party affiliation or nomination, or lack thereof, appear on the same ballot;
2. To allow all electors, regardless of political party affiliation or lack thereof, to vote for one candidate per covered office in the all-candidate primary election;
3. To specify that the all-candidate primary election does not determine the nominee of a political party or group but instead narrows the number of candidates whose names will appear on the ballot at the general election;
4. To specify that the order in which candidates who qualify for the all-candidate primary election will appear on the ballot is determined by lot and specify the process for determining the number of candidates who will advance to the general election;
5. If two or more candidates in the all-candidate primary election received an equal number of votes and resolution of the tie is required to determine which candidate or candidates advance to the general election, to require the tie to be resolved by lot;
6. To specify that if a candidate who advanced to the general election becomes unable to appear on the general election ballot, the candidate receiving the next greatest number of votes at the all-candidate primary election replaces the withdrawing candidate on the general election ballot;
7. To require that the general election for covered offices and vacancy elections for representatives to congress will be conducted by instant runoff voting, whereby voters will rank one or more of the advancing candidates in order of preference on the ballot;
8. To specify how the ballots for general elections for covered offices will be formatted;
9. To specify that a candidate for a covered office for receives a majority of the top-ranked votes on the general election ballot wins the general election for that covered office;

10. To require that all votes lawfully cast be counted by the end of the day on election day, or as soon as practicable thereafter, specify processes to ensure the accurate and timely count of ballots, and specify how the tabulations of the votes will be reported;
11. To require the secretary of state to promulgate rules to implement the initiative; and
12. To require the General Assembly to provide the necessary money so that counties have adequate staffing, systems, and technology to timely complete the counting and reporting of election results.

### **Substantive Comments and Questions**

The proposed initiative does not raise any substantive comments or questions in addition to those raised in the Review and Comment Memorandum for proposed initiatives 2023-2024 #98 and #99.

### **Technical Comments**

The proposed initiative does not raise any technical questions in addition to those raised in the Review and Comment Memorandum for proposed initiatives 2023-2024 #98 and #99.