

From: [REDACTED]
To: [Statewide Initiatives](#)
Subject: [EXTERNAL] Initiatives 98, 99, 100: two problems with "majority" goal
Date: Tuesday, December 19, 2023 1:04:55 PM
Attachments: [AK 2022 Aug 16 official results special election RcvDetailedReport.pdf](#)

Dear Title Board,

I submitted a version of these comments to Legislative Council Staff in early December and was directed to submit them when the initiatives came up before the Title Board. Initiatives 98, 99, and 100 contain the word "majority," respectively, 6, 6, and 5 times. Initiatives 98 and 99 are expanded versions of Initiative 100. Initiative 100 is called "Majority Support Requirement for Colorado Elections." In each initiative, 3 of the instances of the word "majority" occur in the very first section, entitled "Declaration of the People of Colorado." At the Dec 5th Legislative Council Staff hearing, the attorney for the initiative proponents said that the single subject for the initiatives was a "voting system to expand voter choice and to elect officials by majority support." Clearly, "majority support" is an important goal in these initiatives. The goal to "elect candidates with majority support" raises two concerns. One concern is lack of a mathematical guarantee, and the other is a possible constitutional problem.

Lack of a Mathematical Guarantee: No voting method used in an election with 3 or more candidates can guarantee that a candidate will get majority support.

- The voting method proposed in these initiatives is the same method used in Alaska in 2022. Looking at the August 2022 special congressional election, the winner got 91,266 votes out of 188,582 valid votes cast in the election – or 48.4% of the valid votes cast.
- Similar non-majority results occurred in the following high-profile instant-runoff voting elections: New York City's 2021 mayoral Democratic primary, Maine's 2018 US Representative CD2 general election, and San Francisco's 2018 mayoral special election.
- Critics of instant-runoff voting have zeroed in on this lack of a true majority. A 2019 Maine Heritage Policy Center 40-page report entitled "A False Majority: The Failed Experiment of Ranked-Choice Voting" gives many more examples of these "false majorities."
<https://mainepolicy.org/project/false-majority/>

To fulfill the "majority" goal, these initiatives need some modification. Two distinct possible modifications:

- Propose a separate top-2 runoff election at a later date.
- Rewrite "majority support" as "majority of active votes in the final round."

"Support" also needs to be defined. Could a candidate claim majority support if 1,000 ballots are cast with Candidate A getting 400 votes, Candidate B getting 399 votes and 201 voters leaving that contest blank? Arguably, Candidate A has only 40% of the electorate's support.

Possible Constitutional Problem: Maine adopted instant-runoff voting for both state and federal primary elections, but *only for federal general elections* because of the way that the Maine Supreme Judicial Court interpreted Maine's constitutional language for state offices in 2017: "... such persons as shall appear to have been elected by a **plurality** of all votes ..."

- Colorado has similar language in its constitution: "The joint candidates having the **highest number of votes** cast for governor and lieutenant governor, and the person having the **highest number of votes** for [secretary of state, state treasurer, and attorney general], shall be declared duly elected..." CO Constitution, Article 4, Section 3

A 2022 Alaska decision may point the way to a resolution of this constitutional question, but the Alaska case doesn't have jurisdiction over either Maine or Colorado so, for now, uncertainty reigns in both states. <https://mainebeacon.com/an-alaska-court-ruling-could-open-door-for-expanding-ranked-choice-voting-in-maine/>

I hope that these "majority" concerns can be resolved to everyone's satisfaction.

Sincerely,
Celeste Landry, representing myself and not any organization
Boulder, CO

State of Alaska
2022 SPECIAL GENERAL ELECTION
RCV Tabulation
August 16, 2022
OFFICIAL RESULTS

U.S. Representative (Special General)

Official results

Number of positions to elect is 1.

Tabulation status: All Positions Filled

Tabulation time: 9/2/2022 9:47:14 AM

Tabulation Options	
RCV method	IRV
Exclude unresolved write-ins	True
Declare winners by threshold	False
Uses precincts	True
Previous rounds evaluation method	None
Elimination type	Single
Fixed precision decimals	0
Perform elimination transfer in last round	True
Skip overvoted rankings	False
Votes to include in threshold calculation	Continuing ballots per round
Use first round suspension	False
Handling skip rankings	Exhausted on Two or More Ranks Skipped

Ties are resolved in accordance with election law.

State of Alaska

Round 1

Candidate	Votes	Percentage
Begich, Nick	53,810	28.53%
Palin, Sarah	58,973	31.27%
Peltola, Mary S.	75,799	40.19%
Continuing Ballots Total	188,582	
Blanks	3,412	
Exhausted	0	
Overvotes	295	
Remainder Points	0	
Non Transferable Total	3,707	

Begich, Nick is eliminated because the candidate had the least amount of votes.

Elimination transfer for candidate Begich, Nick.

53810 ballots have been transferred in the following manner:

Transferred from	Transferred to	Ballots	Votes
Begich, Nick	Palin, Sarah	27053	27,053
Begich, Nick	Peltola, Mary S.	15467	15,467
Begich, Nick	Exhausted	11243	11,243
Begich, Nick	Overvotes	47	47

Round 2

Candidate	Votes	Percentage
Begich, Nick	0	0.00%
Palin, Sarah	86,026	48.52%
Peltola, Mary S.	91,266	51.48%
Continuing Ballots Total	177,292	
Blanks	3,412	
Exhausted	11,243	
Overvotes	342	
Remainder Points	0	
Non Transferable Total	14,997	

Palin, Sarah is eliminated because the candidate was not elected in the last round.

Peltola, Mary S. is elected because all other candidates have been eliminated.