



November 12, 2008

Testimony to Election Reform Commission:

Good afternoon and thank you for the opportunity to speak with you today. My name is Jenny Flanagan and I am the executive director of Colorado Common Cause. We work for open, honest, and accountable government, and to increase public participation in the political process. Nothing is more sacred in a democracy than a citizen's right to vote. We are the lead organization of Just Vote Colorado, a nonpartisan election protection program designed to assist voters and collect information about Colorado's elections. Over the years we have made recommendations about the voting process, many of which have been adopted by our state legislature. We will issue a post election report in mid-December based on the 2008 elections.

Before I continue my comments, I want to commend Colorado's county clerks on a great election this year. With limited time to plan for this election, and under enormous scrutiny, Colorado's election went very well. Of course there are always areas for improvement, and though we did not see the incredible lines of 2006, this election revealed a number of critical areas where we can improve our elections to ensure all eligible Colorado voters can cast their ballots and have them counted.

Today, I will focus my comments on several broad areas that we recommend the panel address over the course of the next several months. Because there are so many issues, we also encourage the commission to hear public testimony at each of its meetings, to solicit input from outside groups.

The scope defined by legislation provides a wide range for you to consider what works and what doesn't work about our state elections. I have provided you all with our list of priority areas for election reform and will highlight three key areas in need of reform.

Colorado Election Reform Issues

- 1) Voter registration: All of Colorado's eligible voters should be able to participate in our state's elections. Registration should not be a barrier to voting, and the Commission should advance reforms that encourage participation.
 - a. Election Day Voter Registration: Colorado should join the eight other states (INSERT 8 states) that allow eligible citizens to register and vote on Election Day. North Carolina allows for Same Day Registration at early voting sites. EDR states typically boast voter turnout rates that are generally 10-12 percent higher than states without EDR, and report few problems with fraud, costs or administrative complexity. EDR significantly increases the opportunity to cast a vote and participate in American democracy.

- b. Voter purges: The National Voter Registration Act (NVRA) exists to protect voters from systematic removal from the rolls before an election. In light of recent court intervention, Colorado must review and change its procedures for cancelling voter registrations. 44,000 voters were improperly removed from the voter rolls within the prohibited 90 day period this year.
 - c. Check box issue – Colorado’s onerous requirement that voters affirmatively state that they do not have a state-issued ID unnecessarily excludes legitimate voters from registering to vote. Several thousands of voters had their voter registrations deemed incomplete for failure to check the box on Colorado’s state registration form. The use of the new form demonstrates the negative impact the law had on voters’ ability to register. We must revise these requirements.
 - d. SCORE: As the 2008 election was the first test of the statewide voter database, we recommend a review and analysis on how SCORE performed.
 - e. Inactive voters: Colorado’s law making voters inactive after missing just one general election is too aggressive. Few states have similar procedures. In the state’s effort to maintain ‘clean’ voter lists, many Coloradans are being pushed out of the voting process. The Legislature took temporary steps to address this issue, but have not resolved it for the long term.
- 2) Non partisan election administration
- a. Coloradans should not have to wonder whether or not the chief election administrator of the state is biased in his or her approach to overseeing our elections. On too many occasions partisanship was thrust into Colorado’s election administration in 2008.
 - b. We should require the Secretary of State to follow clear guidelines for conducting themselves in a nonpartisan manner. Partisan activities of election officials should be restricted; the Secretary should not actively participate in political organizations including fundraising or campaigning.
- 3) Maintain voting options
- a. Colorado should maintain its voting options, including vote by mail, early voting and Election Day polling places, to provide for the greatest flexibility and ensure that all Colorado voters can participate.
 - b. We support vote by mail as an option for voters. Vote by mail can increase voter turnout in low interest elections, and provides an alternative for voters who cannot make it to the polls on Election Day. However, vote by mail is not a panacea for our election challenges. We heard from many voters who never received their mail ballots, had questions about how to return their ballots, and had other concerns.

Other Issues for the Election Reform Commission:

- 1) Election planning: Colorado should incorporate formulas to calculate how many back up ballots, provisional ballots, and other materials should be at the polls. We also recommend incorporating community input into key election decisions such as the location of polling places during early voting and on Election Day.
- 2) County Oversight: The Commission should discuss whether or not Colorado's county watch list is an effective means for accountability when issues arise regarding how counties interpret and implement federal and state laws and rules.
- 3) Training for Election Judges: Election workers are the front line on Election Day. Training for election workers is inconsistent statewide, and often inadequate. In some counties there were mistakes over polling place identification requirements and over use of provisional ballots.
- 4) Funding for elections: To hold fair elections we must adequately fund them. Colorado must make a commitment to ensure our counties have the resources they need to conduct our elections.
- 5) Voting machines: Voting systems must hold the confidence of the electorate. Last years decertification and subsequent recertification called into question the process by which we introduce voting equipment in our state. The Commission should review the certification process with an eye toward transparency, integrity, accessibility, auditability and accountability.
- 6) Identification requirements
 - a. Increasing identification requirements only serve to further burden access to the voting process. Photo ID requirements disproportionately impact people of color, low income, elderly, individuals with disabilities, and rural voters. Significantly, there is no evidence that the type of fraud often cited in support of ID and proof of citizenship requirements actually exists.
 - b. Colorado should not increase the burden on voters by requiring a photo ID at the polls. Colorado should not require proof of citizenship for registration or polling place voting.
- 7) Minority language materials:
 - a. Colorado should evaluate whether counties should be required to provide election materials in Spanish (or other minority languages) even if not required by the Voting Rights Act. Given the fast growing population of Spanish speakers in Colorado counties and the slowness of the census process, the state should pass a law requiring counties to do more in the way of providing language assistance to voters than is required under federal law.

- 8) Deceptive Practices: In this election, misinformation from partisan operatives confused Colorado voters. The text messages and robo calls that were distributed to voters throughout the country, giving misinformation about voting dates and locations, also reached some Colorado voters. Reports include text messages directing Democrats to vote on Wednesday as well as robo calls aimed at suppressing voter turnout among GOP voters. Colorado should strengthen the law about deceptive practices to discourage these bad acts.