



OFFICE OF THE CLERK AND RECORDER | THE CITY AND COUNTY OF  
DENVER

CITY CLERK | ELECTIONS | PUBLIC TRUSTEE | RECORDING & MARRIAGES

**Written Testimony**

HB 21-250 Elections and Voting

Tuesday, May 4, 2021

Hello Mr./Madame Chair and distinguished members of the State, Veterans, Military Affairs Committee. I am the Honorable Paul D. López, Clerk and Recorder of the City and County of Denver. The capital city of the state of Colorado which is widely considered to be the Gold Standard for voting in the country.

Bill 21-250 amends and updates outdated language related to how elections are conducted. We are in support of this bill without amendments. The following are areas of impact and importance to Denver.

The first area of importance is SSN verification for online signature through SOS database. Our office will continue to monitor this and follow the lead of the SOS, along with implementing the cure process when contacting and verifying voter signatures.

Our next area of focus is concerning VSPC's and drop boxes. We understand this is a point of contention, but also believe this could be used as a voter suppression tactic by allowing more VSPC's to be located at a stand-alone law enforcement agency. We will continue to follow this provision and updates at the state and county wide levels. As it stands the provisions to this bill prohibits new drop boxes at police stations and grandfathers existing drop boxes at police stations which we are in support of.

In addition, we will continue to track the additions to add public comment periods to election plans, and any potential impacts that may have on our UOCAVA voters.

Other areas of interest include:

- Recounts
- Recall petition
- VSPC designation criteria
- All impacts to UOCAVA and ADA voters

This bill will have fiscal impacts to state and local counties, as the average cost to implement this legislation for counties range from \$4,800 to \$50,000 and will mandate updates to current elections systems such as SCORE. While we understand these impacts, we believe this bill will update and remove obsolete language, create more access to voters, and assist in maintaining the integrity of our elections. We ask that you support this bill.

Sincerely,

Honorable Paul D. López

Clerk and Recorder of the City and County of Denver

## **To Colorado Senate State Military and Veterans Affairs Committee on the occasion of the hearing of Senate Bill 21-250 "Elections and Voting"**

Another Senate bill on elections passed the Colorado House on Second Reading today with minimal debate and a frequently repeated misnomer- that the internet voting allowed in the bill is "**safe and secure**". The statement was made by the Co-sponsor in introduction, and also attributed to the SOS and to the Denver Clerk and Recorder Paul Lopez. It was repeated again in the brief floor debate today.

Unfortunately many and in fact most experts including those who testified in opposition **disagree** with that description. Worse, Colorado does nothing to check or to ensure that home electronic voting is either safe or secure. While the vast majority of votes are handled by carefully tested and regulated equipment in polling centers, the software used for electronic return is not similarly certified and the home computers that the vote marking software runs on are most assuredly not secure from interference. The inherent risks of return by internet do not justify labeling ours as a "gold standard" election.

**Senate Bill 250** will **add internet voting** to party caucuses and assemblies and **extend internet voting** for vacancy committees into the unforeseeable future. It will allow voters to "**upload**" **signatures** for use as references for election signature verification - once again opening the risk of internet interference as well as adding uncertainty over how the signature was collected and whether or not it will resemble the wet signature on a return envelope. These are all risks Colorado should not be taking now to harm our excellent reputation for integrity.

Worse, the important capability of credentialed citizen watchers appointed by political parties and candidates to challenge mail-in voters for discrepant signatures will be ended by a portion of the 82 page omnibus bill.

Please see the links to the bill and my comments about it at this web page on my web site:  
<http://electionquality.com/amend-sb250>

Election integrity activists are requesting that the Bill add language to require the Secretary of State to **test and certify and report on usage of remote electronic voting methods**. If the public become aware that these new methods are unregulated untested and unreported, the General Assembly may take more interest in providing the proper quality assurance for electronic ballot marking, return and cure.

Amendment of SB-250 is obviously needed in the light of recent extra interest in eligibility and tabulation issues with elections- issues that are not absent in Colorado while all eyes are turned to Georgia and Arizona.

Harvie Branscomb

SB-250 topics needing amendment or deletion:

1. **Signatures** incomparable to envelope signatures may be uploaded from a registering voter to the signature database over the internet
2. **Precinct caucuses and party assemblies** may be voted in via risky email or internet app
3. **Emergency voting** with electronic return for out of state and temporarily located voters expands risky electronic return
4. A questioned signature may not be the sole basis for a challenge – ending citizen voter **authenticity challenges**
5. **Vacancy committees** for county commissioner and state legislator may be voted in by risky email or internet app without the sunset originally provided for in HB 21-1001.
6. **Drop boxes** are being treated like polling places – but without any of the accountability-please review alternatives
7. **Recount language** still has a loophole such that voter errors are not corrected in a recount
8. SB-250 is an ideal platform to add SOS-created quality assurance and certification and reporting requirements for the new internet remote electronic voting technologies – see text for amendment here: <http://electionquality.com/internet-voting-quality-controls>

On 4/14/2021 5:10 PM, Harvie Branscomb wrote:

**A Colorado election bill passed from the Colorado Senate on Monday with zero debate at maximum speed, but SB-188 has defects and deserves attention:**

- tarnishes Colorado's excellent reputation for election security; takes CO further from an evidence-based election; while experts agree that sending votes across the internet is too risky and the US Congress considers taking the nation to a universal verifiable paper ballot, Colorado is veering away from verified paper;
- SB-188's electronic ballot return will be easy to misuse while it legitimately benefits relatively few;
- current methods of remote electronic assistance in voting are neither certified nor tested nor even accounted for in publicly accessible reports;
- other ways to provide accessibility are more effective; many are already in place and can be expanded;
- rapid growth in usage of electronic return is likely for users that do not need the method for accessibility;
- safeguards originally provided through affirmation signature are withdrawn;
- voter verification of paper including using the voter's own assistive technology provides the best practice integrity and ability to audit; paper printed far from the voter isn't verifiable;
- remote accessible ballot marking generates digital expressions of selections that must be recreated onto official paper ballots by teams of election workers;
- may require a single vendor to supply both blank ballot delivery and electronic voted ballot return.

These bullet points are explained in the following web page that contains links to the bill and a transcript of supportive testimony by the sponsor and some suggested supplemental language to improve the bill:

<https://electionquality.com/2021/04/sb21-188-for-colorado-legislators/>

Harvie Branscomb 970-9631369

Other issues that deserve to be treated by an omnibus election bill and could be by SB-250:

**Suggestions for improvement of Colorado elections by Harvie Branscomb 6/1/2019** [harvie at electionquality.com](http://harvie.at.electionquality.com)

<http://electionquality.com> updated 12/12/2020

In Colorado several conditions have changed in the last twenty years that merit consideration and accommodation in election methods through substantive improvements – 1) the precinct polling place has been eliminated, thus separating the citizen voter from ability to observe the election process, and 2) the voter is no longer present when his/her eligibility is determined and 3) the ballots are no longer sorted by precinct and this has impinged on ballot anonymity. Finally, 4) voting systems now provide the possibility for interested citizens to access copies of the election records through images and cast vote records. The age of the **evidence-based public election** has begun and Colorado is leading the way.

On the way to a publicly verifiable evidence-based tabulation we are well into implementing the **Risk Limiting Audit**. This audit once completely implemented and supported by public access to election records will likely end concern about election outcomes that are wrong for reasons involving tabulation. This will have been a remarkable achievement. We are not quite there yet. At present our Secretary of State is choosing what to audit, our statewide contests aren't fully auditable, our cast vote records are being summed by software for the audit but the cast vote records are not available to be checked. And our ballots, images and cast vote records are not entirely anonymous, even though the Colorado constitution requires this.

My suggestions below are motivated by the desire to credibly achieve the evidence-based public election that enables a public audit of election outcomes:

#### **To achieve substantive ballot anonymity**

Pay closer attention to the necessary clear separation between the identifiable-voter **eligibility phase** and the anonymous-ballot **tabulation phase** – this is a general guiding principle. Particular attention must be paid to the places where these phases overlap, if at all. For example, the deconstruction of envelopes containing two ballots from U voters in primaries where the voter did not affiliate or state a preference is an overlap situation that requires attention. Counties have invented several different methods to maintain a verifiable separation of the identity from the anonymity phase.

End the identifiability of approved/tabulated **provisional ballot** sheets by making them identical in form and style to regular ballot sheets – no special marking indicating the formerly provisional status. This can only waste time and money, create special inventory and most importantly, risk voter privacy.

Set a legal standard for a threshold of **substantive self-identification** on a ballot sheet that requires duplication or redaction – set guidelines for how that redaction would be done such that it can be done by bipartisan election judges at the time of opening and in a manner that is reversible under court order. For example, using pressure sensitive redaction paper. This will help protect counties from law suits.

The 2017/18 cleanup bill called for **rulemaking to protect voter privacy** – meaning anonymity of ballots (in the section that ended the requirement for the secrecy sleeve). I hope to see discussion of what those rules might look

like – e.g. use Opex, camo pattern printed in envelope, all voter ID on one side of envelope, more effective disassociation of envelope batches from ballot sheet batches, combine and mix ballots from multiple vote centers to prevent rare styles, reduce rare styles during redistricting and re-precincting, choose coordinated contests designed to protect voter privacy, define substantive self-identification of ballots (mentioned earlier), etc.

**To achieve more verifiable accuracy in eligibility determination and the act of casting the ballot:**

Improve **signature verification** - enable SCORE to prioritize signatures based on provenance and age of signature. ( e.g. recently signed in-person by pen on paper in presence of an official would be prioritized first) – collect timestamps on sigver decisions to allow review of quickest or slowest decisions and decision reversals that took a lot of time – simplify uploading of undeliverable images – standardize SCORE interfaces for sigver with better human factors and less observable PII for election judges, supervisors and watchers.

Build **UOCAVA** privacy, oversight and accountability. Require testing of new technical methods for securing and reporting ballot delivery and return for UOCAVA - mindful of encroaching risks of internet voting. SB-19-202 requires a very cautious implementation.

Enhance **drop box oversight** and accountability - votes are lost due to naked ballot drop-off – return to a definition of "cast" that involves a voter action – look toward automated binning, reporting and rejection of improper envelopes at 24 hour drop boxes.

**To achieve better contact and mutual familiarity of voters with the election system:**

Encourage voters about to drop a signed ballot packet into a drop box at the door of an open VSPC to **return mail ballots in-person** inside the center and avoid the need for subsequent central count signature verification and opening processes ( e.g. deposit home marked paper into an election judge monitored VSPC ballot box after a simplified check-in and style check and signature confirmation in front of an official. )

**To implement practical access to election records by interested parties:**

Implement statutory **positive and timely public access** to voted ballots, ballot images and cast vote records in Title 1 as a deliberate route to build public confidence – Alternatively, adjust CORA so it does allow access to voted ballot data early enough so the public can either participate in or verify the audit in time for a decision to recount. Public access shouldn't treat all instances of CVRs, images and paper ballots alike – they have very different technical specifications and risks and defenses regarding ballot anonymity. The conflation of all three types of records, and the arbitrary requirement to use CORA to obtain access is an obstacle to election transparency and specifically the functionality of the new RLA. The best solution is to add election transparency into Title1 as a normal public benefit administered by the SOS.

**To complete the implementation of the RLA and integrate it with recounts and (?) the National Popular Vote Compact:**

**RLA implementation details:** Provide for the RLA to be conducted in public with reports written by counties to include descriptions of exceptional expressions of voter intent, to be published by SOS as in the previous audit law. Also provide for independence selection of contests, transparency of audited records, regulator advice on the proper way to describe, etc.

Rationalize the **recount law** to match other states formulas (1/2 percent of all ballots accepted containing the contest in the election) and to accommodate it to make sense with the existing RLA (this has only partially been done in Rule).

Encourage actual verification of voter intent on **machine-marked paper** ballots – improve layout and process at

VSPC to motivate actual check of the contents of the paper before depositing paper in ballot box. Eliminate use of QR coded voter intent.

The **National Popular Vote Compact** (NPVC) has passed into CO law. Colorado ought to play an important national role to explain the potential impact of recounts and audits that vary state by state on the NPVC. Options by states to recount will make it difficult to obtain a static final national election result by a deadline. Colorado may be best prepared to suggest enhancements that could be enacted by modification to the compact, or introduced as federal law to implement a national risk limiting audit that could stand in for a national recount in case of a narrow margin election.

**To simplify styles and balancing of voters to ballot sheets, and to make process more efficient and realistic**

Allow optional independent setting of ballot style for individual ballot sheets within multiple sheet ballots. Allow counties to **paginate** contests onto multiple sheet ballots intelligently – to place statutory districts on one sheet and coordinated districts on a different sheet and tabulate and account for them as independent styles. Existing multi-sheet elections using this method will see improvements in anonymity/voter privacy especially when **ending precinct reporting** for special, school and municipal contests. Districts whose borders ignore precinct borders create precinct splits. When these special, muni and school districts are no longer precinct reported, precinct splits will go away, much simplifying the election for many benefits protecting voters and officials.

Allow counties to report and canvass boards to **balance elections by comparison** of 1) style-specific SCORE reports of voters getting credit for voting with 2) a count of sheets tabulated by style using cast vote records as the source ( no need to have voter intent shown in no-voter-intent-CVRs). Eventually voting systems will no longer attempt to report “ballots cast” but rather “sheets tabulated” by style, where each voter may have received two or more styles.

Clarify the use of words such as "cast," "ballot," "image" and the like in CO law to assist the **VVSG** to be suitable for remote voting, central count and RLA. Colorado has much to contribute to that discussion that would bring VVSG 2.0 into the future rather than focused on the past. I hope to see more CO involvement in VVSG discussions before they are put to bed. Colorado's existing innovations are not yet be adequately included.

Check [electionquality.com](http://electionquality.com) for further information or email to Harvie at electionquality.com.