

Testimony in Support of SCR 08-003 to Refer a Measure to the Voters to Change the Initiative Process

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We support SCR 08-003 to refer to the voters a measure to make changes in Colorado's initiative process. These changes provide incentives for sponsors to submit statutory rather than constitutional initiatives.

We are concerned about existing constitutional provisions, particularly those related to fiscal policy, that conflict with each other, have unintended consequences and limit state policymakers' ability to address budget issues. Because they are in the constitution it is difficult to change them. The incentives to file statutory rather than constitutional initiatives embodied in SCR 08-003 could help alleviate some of these problems in the future.

By encouraging statutory initiatives, it is more likely that, in the future, detailed policy issues will be adopted via statutory rather than constitutional initiatives. By moving in this direction we will likely limit amendments to our constitution to broad based fundamental issues. It is also likely that the number of future policies that conflict or have unintended consequences that are embedded in our constitution and thus difficult to amend will be reduced.

We think the combination of raising the signature requirements for constitutional initiatives, lowering them for statutory initiatives and limiting the legislature's ability to amend initiated statutes balances the needs of the people for access to the initiative process with the need to protect the state constitution.

The changes proposed in this legislation are similar to those requirements currently found in other states that have constitutional and statutory initiatives.

Only one state, North Dakota, uses a signature requirement for constitutional amendments that is lower than Colorado's. Even if the changes in this bill were adopted Colorado would still have the second lowest percentage requirement for signatures to initiate a constitutional amendment.¹

Most states also base their signature requirement on votes cast for governor.²

Only four states (NV, MT, SD, ND) require fewer total signatures than Colorado to qualify a constitutional initiative in 2008. When looked at as the number of signatures per

capita Colorado requires the fewest number of signatures (.0194 of voting age population compared with almost .09 in Nebraska)³

Five out of 14 states that allow constitutional initiatives require geographic distribution of signatures.⁴

Eight of 14 states that have both statutory and constitutional initiatives restrict the legislature's ability to amend or repeal statutes passed via initiative. These include California's total ban on the legislature's ability to amend or repeal to requirements for super majority votes to change the statutory language within a certain period following passage. According to the National Conference of State Legislatures, "A feature of the initiative process in some states that may effectively encourage sponsors to take the statutory route rather than the constitutional one is to place restrictions on the legislature's ability to amend or repeal statutes created via the initiative process."⁵

End Notes

¹ William Pound, National Conference of State Legislatures, "Amending Colorado's Constitution by Initiative", presentation to the Joint Select Committee on Constitutional Reform, February 19, 2008.

² Ibid.

³ Ibid.

⁴ Ibid

⁵ "Use of the Statutory Initiative vs. the Constitutional Initiative", National Conference of State Legislatures, Updated January 16, 2008, p.6.