TO: Charter Commission

FROM: Corrine Heine

DATE: June 4, 2020

SUBJECT: Addendum to Charter Commision Packet for June 9, 2020

This addendum to the June 9 charter commission packet contains the following information:

- <u>Answers to commission and council questions</u>. During the May 26 meeting, the chair asked commission members to email the city attorney by June 2 with questions or topics that members would like the elections staff to answer during the June 9 meeting. The chair had also asked council members to identify issues they wanted the commission to investigate. Moranda Dammann and Kyle Salage from the city's elections staff compiled the questions and prepared responses, which can be found at pages 2 through 14 of the addendum.

- <u>Public comment</u>. Commissioners received an email from resident Mark Francis on May17, 2020. That email was mistakenly omitted from the May 26, 20u20 meeting packet. It is included. The letter attached to the email and the articles hyperlinked within the email have been printed and attached, at pages 15-50 of this addendum.

- <u>Future meetings</u>. Commissioners are asked to reserve the following dates on their calendars for future meetings. Meeting topics are tentative:
  - June 23 - Hear opposing viewpoints; discuss communications to solicit resident input
  - July 7 -   Discuss ordinance to amend charter - if adopted by council
  - July 14 - Public comment meeting
  - July 21 - Discuss report to city council
  - City staff is exploring the potential for an additional meeting

Some commission members prefer to print their packets for easy reference during the meeting. Therefore, page numbers have been added to the addendum to make it easier for members to locate information

Minnetonka's history regarding primaries

Addressed in March 17 agenda packet; page 161

Minnetonka's history regarding special elections

Addressed in March 17 agenda packet pages; 161-162

Minnetonka's historical costs for primaries, general and special elections – city-wide and limited to single wards

Addressed in March 17 agenda packet pages; 164-166

Ballot issues that relate to ranked choice voting, including: limit on number of ranked choices; and explanation of why RCV is only possible for cities that hold elections in odd-numbered years and what happens if there is a special election in an even-numbered year

Addressed in March 17 agenda packet pages; 162-163

The ballot tabulation process in an RCV election

Addressed in March 17 agenda packet; pages 163-164

Status of certification of election equipment that could automatically tabulate RCV ballots

(Answered by MN Secretary of State's Office)

Minnesota's voting equipment certification process is a two-step process. First the voting system must be certified by an independent testing authority accredited by the U.S. Election Assistance Commission. The testing authority certifies that the system meets the standards of the Voluntary Voting System Guidelines. Those guidelines were approved by the EAC in 2005. (New guidelines are being drafted.)

Once federally certified, the vendor submits an application to the Office of the MN Secretary of State (OSS) for state certification. The OSS tests the system's "compliance with the requirements of law and as to its accuracy, durability, efficiency, and capacity to register the will of voters." In other words, the OSS certifies that the voting system meets all the requirement of Minnesota election law (including not allowing crossover votes in State Primaries; allowing multiple votes in at large offices; allowing write in votes in general elections; allowing multiple ballot styles in precincts splits; etc.)

Currently Minnesota election law does not allow ranked choice voting for statutory cities. Because there is no statutory authority allowing ranked choice voting, there is nothing for the OSS to certify to. State certification would only occur if the legislature adopts RCV standards.

Status of legislation regarding RCV

(Answered by MN Secretary of State's Office)

In the 2019-2020 Minnesota legislative session there was a bill (HF983/SF2424) that would have authorized RCV for local elections. The legislation was authored by Rep. Steve Elkins (Rep. Patty Acomb was a co-sponsor). The bill established standards for ballot formatting and the administration of RCV. The bill was heard by the State Government Finance Division and was referred to the House Ways and Means Committee. SF2424 was not heard in Senate.

The OSS supports local governments being able to decide whether or not to use RCV in their elections. The office has not taken a position on RCV itself.

In the 2018-2019 Minnesota legislative session, there was a similar bill (HF2322/SF2071) authorizing RCV for local elections. The bill was not heard in either the House or Senate. There was also a bill (HF3690/SF3325) that would have prohibited the use of RCV in Minnesota elections. That bill also did not receive a hearing.

In 2009, the Minnesota Supreme Court heard a case challenging the constitutionality of RCV. The court ruled that the RCV method adopted by the city of Minneapolis did not violate the U.S. or Minnesota constitutions.

What is the experience/history with voter turnout in General Elections in cities with RCV? Does turnout increase?

(Asked by Commission member Anderson, research by Minnetonka Elections Staff)

Refer to question 'Is there any evidence from cities already using RVC (in Minnesota or elsewhere) that it increases voter interest/turnout.' for answer and research.

Not including additional implementation costs, is there a significant cost differential between RVC and our current voting method?

(Asked by Councilmember Schack, research by Minnetonka Elections Staff)

Election administration anticipated changes and costs are address in the March 17 report on pages 164-166. However, breaking the costs down further does depend on if and when there is a primary.

As stated in the March 17 report, there has not been a primary since 2013, so the most relevant data is the April 10, 2018 Ward 3 special election. This was a single-ward election.

Election judge costs	$7,121.59
Polling place room rental	$160
Ballots	$1,655
Supplies	$1,557.93
Delivery truck rentals	$102.80
Total:	**$10,597.32**

With the use of ranked choice voting it eliminates the need for municipal primaries.

The 2019 municipal general election had a cost breakdown of:

Election Judge costs	$36,839.98
Recount Judge costs	$696.28
Polling place room rental	$770
Hennepin County expenses (Ballots, mailings, etc.)	$7,899.76
Supplies	$1,025.28
Delivery Truck rental	$317.44
Cell phone costs	$2,241.96
Estimated staff overtime costs	$1,343.34
By-annual Equipment maintenance	$9,694.40
Election day mileage reimbursement	$162.98
Total:	**$60,991.42**

With RCV, an anticipated municipal general election (not including implementation/launch costs) have a preliminary breakdown cost of:

Election Judge costs	$ 38,000.00
Training Costs	**$ 7,000.00**
Polling place room rental	$ 770.00
Hennepin County expenses (Ballots, mailings, etc.)	$ 7,900.00
Supplies	$ 1,100.00
Delivery Truck rental	$ 320.00
Cell phone costs	$ 2,242.00
Estimated staff overtime costs including estimated time for training and post-election tabulation and review	**$ 4,500.00**
By-annual Equipment maintenance	$ 9,700.00
Election day mileage reimbursement	$ 160.00
Total:	**$ 71,692.00**

With RCV, an anticipated municipal general election with implantation/launch, which would include outreach and education, added full-time staff to manage outreach and education and creation of materials would be anticipated to be:

Election Judge costs	$	38,000.00
Training Costs	$	**7,000.00**
Polling place room rental	$	770.00
Hennepin County expenses (Ballots, mailings, etc.)	$	7,900.00
Supplies	$	1,100.00
Delivery Truck rental	$	320.00
Cell phone costs	$	2,242.00
Estimated staff overtime costs including estimated time for training and post-election tabulation and review	$	**4,500.00**
By-annual Equipment maintenance	$	9,700.00
Election day mileage reimbursement	$	160.00
Creation and distribution of materials and efforts for outreach and education	$	**25,000.00**
Average annual cost of additional Full Time staff to manage outreach and education (including benefits and technology)	$	**122,725.00**
Total		**$ 219,417.00**

An additional cost to consider would be a potential need for a second ballot during a special election on an even year in August or November.

These estimates are preliminary in nature based off of current election judge and staff rates, in which both may increase overtime.

Regarding recounts, I believe in the 2017 Minneapolis study, there was a discussion about a recount in Minneapolis Ward 6, where the recount was only conducted in a couple precincts, within Ward 6. In a RCV situation, how was this actually possible? Wouldn't a RCV recount require a recount of the entire Ward, so you get the correct tally's and eliminations for each round?

(Asked by Chair Northrup, answered by Hennepin County)

This was the case of a discretionary recount, where the losing candidate pays the costs because the vote margin is outside the recount threshold. State law [MS 204C.45 Subd.,2(d)] allows a candidate to provide a list of up to three precincts to be counted first, after which the candidate can elect to continue with the recount or stop it and pay for only the precincts counted. This doesn't make sense for RCV, because all the votes are needed to determine which candidates are eliminated and votes for them transferred. What happened in Mpls is that they did a first-choice sort of the ballots. The candidate saw that the first-choice votes matched the data from the ballot counters and declined to continue

with the recount. This in essence meant that no recount occurred and no results were changed, and the candidate paid for just the portion that was counted.

How would recounts work for Minnetonka - in a city wide and Ward only election?

(Asked by Chair Northrup, answered by Hennepin County)

Minneapolis ordinance allows them to draft administrative rules that set how the recount is done. Essentially, there are two options. First, we could do a process that is entirely by hand. This would involve sorting all the ballots by candidate, determining which candidates were defeated and physically transferring those ballots to the next choice on that ballot to the new candidate pile, updating totals, and repeat until there is a winner. This method is transparent and perhaps more understandable for observers, but has the drawback of mixing ballots from different precincts which then need to be resorted for storage, and the possibility of dealing with large piles of ballots for larger elections.

The second method would be similar to what Mpls did in 2009. Ballots were sorted precinct-by-precinct into unique three choice combinations, counted, and then this data plugged into a spreadsheet similar to what the voting equipment currently produces, and tabulated the same way using the new totals. Advantages of this method are that it is faster and likely more accurate. The main drawback is that the results calculation is less transparent.

In the past 20 years how many candidates have run unopposed?

(Additional information provided by Minnetonka Elections staff)

2001:   Council Member at Large A Candidate Janis Callison
          Council Member at Large B Candidate Terry Schneider

2003:   Council Member Ward 2 Candidate Tony Wagner
          Council Member Ward 3 Candidate Brad Wiersum

2007:   Council Member Ward 1 Candidate Bob Ellingson
          Council Member Ward 2 Candidate Tony Wagner

2009:   Mayor Candidate Terry Schneider

2011:   Council Member Ward 2 Candidate Tony Wagner
          Council Member Ward 3 Candidate Brad Wiersum

2015:   Council Member Ward 3 Candidate Brad Wiersum
          Council Member Ward 4 Candidate Tim Bergstedt

2019:   Council Member Ward 1 Candidate Brian Kirk
          Council Member at Large B Candidate Susan Carter (special election)

Software cost and implantation

(Requested by Councilmember Schaeppi, answered by Minnetonka Elections Staff)

Equipment capable of automatically transmitting and tabulating Ranked Choice Voting results cannot yet be certified or used in Minnesota. The state would need to certify such a tabulator, and since statutory cities in Minnesota are not currently authorized to use Ranked Choice Voting for local elections, the state cannot proceed with certifying any such equipment. Similarly, software for tabulating Ranked Choice Voting results cannot technically be certified either.

The vote data transmitted by our ES&S DS-200 ballot counters can be exported into an Excel File. Once put into Excel format, elections staff takes the vote data and calculates the results. Hand counts are not required for the tabulation process, except to do a post-election audit.

Despite the growing presence of Ranked Choice Voting as an election process, tabulation software options are extremely limited. The most well-known are the "Universal RCV Tabulator" (URCVT) by the Ranked Choice Voting Resource Center and "ChoicePlus Pro" by Voting Solutions. Both are free, open-sources programs. However, the latter does not appear to have been updated since the mid-2000's.

The City of Minneapolis used URCVT to replicate their results. However, this software is not used for the official tabulation, which is completed in Excel using the program's intermediate-level user features. Like Minneapolis, St. Louis Park used Excel for the tabulation process. No separate software was used in 2019.

If Ranked Choice Voting is adopted, we will decide during the implementation phase which method is most practical and beneficial for our tabulation process. At this time, given the inability to certify RCV software and the potential litigation associated with using an uncertified software for official tabulation, it is not recommended to any such software except for replication of results.

Additional information can be found in the March 17 charter packet on pages 163-164.

Information regarding Exhausted Ballots

(Requested by Councilmember Schaeppi, answered by Hennepin County)

An exhausted ballot is simply one where the voter did not vote any of the candidates that made it through to the round in which a winner was determined, and it is similar to a voter voting for a losing candidate in a regular election. One way to reduce the number of exhausted ballots is to include more choices (6 instead of 3, for example). However, as referenced on page 164 of the March 17 packer, increasing the number of allowed rankings could impair ballot space and easy-to-read ballot layout.

Do we have a voting problem with our city council municipal election process?

(Asked by Commission member Larson, answered by Minnetonka Elections Staff)

This is a value question and Minnetonka Election staff provides no opinion.

Why does this RCV make financial sense for Minnetonka?

(Asked by Commission member Larson, answered by Minnetonka Elections Staff)

Refer to pages 164-166 in the March 17 packet, as well as question 'Not including additional implementation costs, is there a significant cost differential between RVC and our current voting method?' listed above.

Is there any evidence from cities already using Rank Choice Voting "RVC" (in Minnesota or elsewhere) that RCV increases the candidate base?

(Asked by Councilmember Schack, Research by Minnetonka Elections Staff)

In evaluating the impacts of Ranked Choice Voting (RCV) on the size of candidate bases for Mayor and Councilmember in the 3 Minnesota cities that have adopted it, the following observations were made based on the sample sizes chosen:

- **Minneapolis** – Pools for Councilmember have remained similar to those pre-RCV, though there will occasionally be a small jump to 5 or 6 candidates. Mayor saw a spike to 35 candidates in 2013, but there have been no other significant increases.

- **St. Louis Park** – No significant impact can be identified at this point, given they have only had 1 RCV election. As the data shows, they generally have had between 1 and 4 candidates per office.

- **St. Paul** – Pools for Councilmember increased slightly once RCV was implemented, though there were still some uncontested seats. Mayor saw a spike to 10 candidates in 2017, though this is not entirely unprecedented given there were 8 mayoral candidates in 2005.

The corresponding spreadsheet with candidate base data is attached.

Minneapolis

Office	2001	2005	*2009*	2013	2017
Mayor	22	12	11	35	16
Councilmember - Ward 1	5	5	5	3	3
Councilmember - Ward 2	6	5	2	2	1
Councilmember - Ward 3	5	5	5	4	4
Councilmember - Ward 4	2	1	4	3	4
Councilmember - Ward 5	3	2	5	4	4
Councilmember - Ward 6	7	3	6	6	3
Councilmember - Ward 7	3	4	3	1	4
Councilmember - Ward 8	4	10	5	1	4
Councilmember - Ward 9	4	4	4	6	4
Councilmember - Ward 10	4	6	4	4	4
Councilmember - Ward 11	4	2	3	3	3
Councilmember - Ward 12	3	3	4	5	3
Councilmember - Ward 13	2	3	3	5	2

St. Louis Park

Office	2013	2015	2017	*2019*
Mayor		4		2
Councilmember - Ward 1	1		4	
Councilmember - Ward 2	1		2	
Councilmember - Ward 3	3		2	
Councilmember - Ward 4	2		1	
At-Large Councilmember A		1		3
At-Large Councilmember B		2		2

St. Paul

Office	2003	2005	2007	2009	*2011*	2013	2015	2017	2019
Mayor		8		4		4		10	

Councilmember - Ward 1	2		2		4	6	2		4
Councilmember - Ward 2	2		2		5		6		5
Councilmember - Ward 3	2		2		4		1		2
Councilmember - Ward 4	2		2		2		2		3
Councilmember - Ward 5	5		2		2		3		4
Councilmember - Ward 6	1		2		2		3		6
Councilmember - Ward 7	2		2		1		1		4

Is there any evidence from cities already using RVC (in Minnesota or elsewhere) that it increases voter interest/turnout.

(Asked by Councilmember Schack, Research by Minnetonka Elections Staff)

In evaluating the impacts of Ranked Choice Voting (RCV) on voter turnout in elections for Mayor and Councilmember, the following observations were made based on the sample sizes chosen:

- **Minneapolis** – Voter turnout decreased the year that RCV was first implemented (2009), but increased each of the following elections. The most significant increase was in 2013, but 2017 produced the highest overall turnout in recent elections.

- **St. Louis Park** – Voter turnout for the year that RCV was first implemented (2019) was higher than the previous election for Mayor and At-Large Councilmembers (2015). However, the average turnout over the last 4 local elections is 19.5%, so it is still consistent with general turnout figures.

- **St. Paul** – Voter turnout has surpassed 30% each of the last two local elections (2017 and 2019), but it averaged 19.5% for the first three elections under RCV implementation. That was relatively consistent with previous turnout figures, which usually fell between 19 and 21%.

It is worth nothing that all of these cities saw an increase in voter turnout in 2017. It is unclear whether RCV was a factor in producing these turnout increases, at least for St. Paul and Minneapolis – it could not have been a factor for St. Louis Park, given they did not implement RCV until 2019. However, considering the timing of the turnout increase for each of these cities, it is possible that the 2016 presidential election helped facilitate a greater level civic awareness and participation the following year. Furthermore, in the case of St. Louis Park, the city's robust voter outreach and education efforts may have helped to drive this increased participation as well.

The corresponding spreadsheet with voter turnout data is attached.

Minneapolis

Year	Votes Cast in General Election	Eligible Voter Participation	Office(s) on Ballot
2001	89,927	41.3%	Mayor, Councilmember Wards 1-13
2005	70,987	30.1%	Mayor, Councilmember Wards 1-13
2009	45,968	19.9%	Mayor, Councilmember Wards 1-13
2013	79,174	33.9%	Mayor, Councilmember Wards 1-13
2017	104,297	43.5%	Mayor, Councilmember Wards 1-13

St. Louis Park

Year	Votes Cast in General Election	Eligible Voter Participation	Office(s) on Ballot
2013	5,999	20.4%	Councilmember Wards 1-4
2015	4,334	14.6%	Mayor, At-Large Councilmembers A & B
2017	7,210	23.1%	Councilmember Wards 1-4
2019	6,619	20.0%	Mayor, At-Large Councilmembers A & B

St. Paul

Year	Votes Cast in General Election	Eligible Voter Participation	Office(s) on Ballot
2003	31,598	21.1%	Councilmember Wards 1-7
2005	59,154	36.8%	Mayor
2007	30,620	19.4%	Councilmember Wards 1-7
2009	34,411	21.8%	Mayor
2011	30,682	19.8%	Councilmember Wards 1-7
2013	31,175	20.2%	Mayor, Councilmember Ward 1
2015	27,923	18.5%	Councilmember Wards 1-7
2017	61,984	39.6%	Mayor
2019	56,192	33.9%	Councilmember Wards 1-7

Official Ballot
City General Election Ballot
City of Minneapolis
November 7, 2017

_____ _____
Judge   Judge

Ranked Choice Voting Instructions to the Voters
Rank up to 3 different candidates for each office.
Vote from left to right in each office in order of your preference.
To vote, completely fill in the oval(s) next to your choice(s) like this: ●

City Offices

Mayor
Rank your first, second and third choice candidates in the columns below. One to be elected.

1 1st Choice — Select One	**2** 2nd Choice, if any — Must be DIFFERENT from your 1st choice. Select One	**3** 3rd Choice, if any — Must be DIFFERENT from your 1st and 2nd choices. Select One
○ Nekima Levy-Pounds — Democratic-Farmer-Labor	○ Nekima Levy-Pounds — Democratic-Farmer-Labor	○ Nekima Levy-Pounds — Democratic-Farmer-Labor
○ Jacob Frey — Democratic-Farmer-Labor	○ Jacob Frey — Democratic-Farmer-Labor	○ Jacob Frey — Democratic-Farmer-Labor
○ Gregg A. Iverson — Democratic-Farmer-Labor	○ Gregg A. Iverson — Democratic-Farmer-Labor	○ Gregg A. Iverson — Democratic-Farmer-Labor
○ Betsy Hodges — Democratic-Farmer-Labor	○ Betsy Hodges — Democratic-Farmer-Labor	○ Betsy Hodges — Democratic-Farmer-Labor
○ Charlie Gers — Libertarian Party	○ Charlie Gers — Libertarian Party	○ Charlie Gers — Libertarian Party
○ David Rosenfeld — Socialist Workers Party	○ David Rosenfeld — Socialist Workers Party	○ David Rosenfeld — Socialist Workers Party
○ Ian Simpson — The Idea Party	○ Ian Simpson — The Idea Party	○ Ian Simpson — The Idea Party
○ Captain Jack Sparrow — Basic Income Guarantee	○ Captain Jack Sparrow — Basic Income Guarantee	○ Captain Jack Sparrow — Basic Income Guarantee
○ Troy Benjegerdes — Farmer Labor	○ Troy Benjegerdes — Farmer Labor	○ Troy Benjegerdes — Farmer Labor
○ Aswar Rahman — Democratic-Farmer-Labor	○ Aswar Rahman — Democratic-Farmer-Labor	○ Aswar Rahman — Democratic-Farmer-Labor
○ Al Flowers — Democratic-Farmer-Labor	○ Al Flowers — Democratic-Farmer-Labor	○ Al Flowers — Democratic-Farmer-Labor
○ Raymond Dehn — Democratic-Farmer-Labor	○ Raymond Dehn — Democratic-Farmer-Labor	○ Raymond Dehn — Democratic-Farmer-Labor
○ Tom Hoch — Democratic-Farmer-Labor	○ Tom Hoch — Democratic-Farmer-Labor	○ Tom Hoch — Democratic-Farmer-Labor
○ David John Wilson — Rainbows Butterflies Unicorns	○ David John Wilson — Rainbows Butterflies Unicorns	○ David John Wilson — Rainbows Butterflies Unicorns
○ Ronald Lischeid — People Over Politics	○ Ronald Lischeid — People Over Politics	○ Ronald Lischeid — People Over Politics
○ L.A. Nik — Independent	○ L.A. Nik — Independent	○ L.A. Nik — Independent
○ _____ write-in, if any	○ _____ write-in, if any	○ _____ write-in, if any

Council Member Ward One
Rank your first, second and third choice candidates in the columns below. One to be elected.

1 1st Choice — Select One	**2** 2nd Choice, if any — Must be DIFFERENT from your 1st choice. Select One	**3** 3rd Choice, if any — Must be DIFFERENT from your 1st and 2nd choices. Select One
○ John Hayden — Independent	○ John Hayden — Independent	○ John Hayden — Independent
○ Jillia Pessenda — Democratic-Farmer-Labor	○ Jillia Pessenda — Democratic-Farmer-Labor	○ Jillia Pessenda — Democratic-Farmer-Labor
○ Kevin Reich — Democratic-Farmer-Labor	○ Kevin Reich — Democratic-Farmer-Labor	○ Kevin Reich — Democratic-Farmer-Labor
○ _____ write-in, if any	○ _____ write-in, if any	○ _____ write-in, if any

MINNEAPOLIS W-1 P-01
1360

Vote Front and Back of Ballot

Typ:01 Seq:0056 Spl:01

City Offices

Board of Estimate and Taxation

Rank your first, second and third choice candidates in the columns below. Two to be elected.

1 1st Choice — Select One	**2** 2nd Choice, if any — Must be DIFFERENT from your 1st choice. Select One	**3** 3rd Choice, if any — Must be DIFFERENT from your 1st and 2nd choices. Select One
○ David B. Wheeler	○ David B. Wheeler	○ David B. Wheeler
○ Carol Becker	○ Carol Becker	○ Carol Becker
○ _____ write-in, if any	○ _____ write-in, if any	○ _____ write-in, if any

Park and Recreation Commissioner At Large

Rank your first, second and third choice candidates in the columns below. Three to be elected.

1 1st Choice — Select One	**2** 2nd Choice, if any — Must be DIFFERENT from your 1st choice. Select One	**3** 3rd Choice, if any — Must be DIFFERENT from your 1st and 2nd choices. Select One
○ Londel French	○ Londel French	○ Londel French
○ Devin Hogan	○ Devin Hogan	○ Devin Hogan
○ Bob Sullentrop	○ Bob Sullentrop	○ Bob Sullentrop
○ Jonathan Honerbrink	○ Jonathan Honerbrink	○ Jonathan Honerbrink
○ Russ Henry	○ Russ Henry	○ Russ Henry
○ Mike Derus	○ Mike Derus	○ Mike Derus
○ Latrisha Vetaw	○ Latrisha Vetaw	○ Latrisha Vetaw
○ Meg Forney	○ Meg Forney	○ Meg Forney
○ Charlie Casserly	○ Charlie Casserly	○ Charlie Casserly
○ _____ write-in, if any	○ _____ write-in, if any	○ _____ write-in, if any

Park and Recreation Commissioner District One

Rank your first, second and third choice candidates in the columns below. One to be elected.

1 1st Choice — Select One	**2** 2nd Choice, if any — Must be DIFFERENT from your 1st choice. Select One	**3** 3rd Choice, if any — Must be DIFFERENT from your 1st and 2nd choices. Select One
○ Chris Meyer	○ Chris Meyer	○ Chris Meyer
○ Mohamed Issa Barre	○ Mohamed Issa Barre	○ Mohamed Issa Barre
○ Billy Menz	○ Billy Menz	○ Billy Menz
○ _____ write-in, if any	○ _____ write-in, if any	○ _____ write-in, if any

SAMPLE

Vote Front and Back of Ballot

MINNEAPOLIS W-1 P-01
1360

Typ:01 Seq:0056 Spl:01

Corrine Heine

From:	Corrine Heine
Sent:	Thursday, June 4, 2020 1:45 PM
To:	Corrine Heine
Subject:	For addendum
Attachments:	DRAFT RCV Letter to the Editor.docx

Begin forwarded message:

> **From:** Mark Francis <█████████████████>
> **Date:** May 17, 2020 at 2:29:52 PM CDT
> **To:** Dick Allendorf <dallendorf@minnetonkamn.gov>, Karen Anderson
> <kanderson@minnetonkamn.gov>, John Cheleen <jcheleen@minnetonkamn.gov>, David
> Larson <dlarson@minnetonkamn.gov>, John Northrup <jnorthrup@minnetonkamn.gov>, Terry
> Schneider <tschneider@minnetonkamn.gov>, Linnea Sodergren
> <lsodergren@minnetonkamn.gov>, LuAnn Tolliver <ltolliver@minnetonkamn.gov>, Brad
> Wiersum <bwiersum@minnetonkamn.gov>
> **Subject: Ranked Choice Voting - Information for Commission**

To the members of the Charter Commission,

My name is Mark Francis, a resident of Minnetonka since 1991. I wanted to email you and share my discoveries regarding Ranked Choice Voting (RCV). I hope that the information and opinions below are helpful to the commission as they study this election system.

To provide some context – I decided to research RCV after reading a letter to the editor in the Sun Sailor. I had no leanings one way or the other but rather wanted to know more. Perhaps you have already reviewed the articles below, taken a critical look at FairVote's presentation materials and thought about how to reduce the risk of using RCV but I am compelled to share with you as I do not know what you have had time for.

As I researched and formed my opinions what I kept in mind was "Is RCV a wise choice for Minnetonka voters?"

 First, allow me to start with some of the articles which brought issues to light for me.

1. Maine Heritage Policy Center's analysis of RCV – In 2016 Maine adopted RCV statewide as well as for federal positions. The center conducted a study that included 96 RCV elections to help legislators and the public decide if RVC is right for states. This link is to the center's PR release from August 2019 and at the bottom of the release are links to a condensed version of the report (15 pages) and the full report. Currently, in Maine there is a considerable effort to repeal RCV.

2. The Heritage Foundation – While more biased, this article talks to the main flaws of the system and in the process debunks the common claims made by RCV proponents.

3. [The Maine Wire](#) – An op-ed piece that takes the Maine Heritage Policy Center analysis and relates it to what happened in Maine's elections including the promises made by RCV proponents.

4. [Detroit](#) and [New York](#) – Two short pieces that further explore RCV's shortcomings.

Second, I reviewed the available information on the city's website. I'd like to provide my thoughts (bolded below) on the executive summary from FairVote. This summary is included in the May 4, 2020 City Council Agenda, Item #14B.

Executive Summary provided by David Haeg, representing FairVote Minnesota

Why Use Ranked Choice Voting?
● Minnetonka elections are typically positive and well-run. But voter turnout, especially in primaries, is very low (4% average), and special elections historically result in a winner without a majority. **My first question is "How do we know what the correct percentage is for a primary turnout?" FairVote is entitled to their opinion but who is to say what it should be? Special elections – Our system uses a plurality not a majority; along the same lines as turnout who is to say that one is better than the other?**
● Ranked Choice Voting would allow Minnetonka to eliminate the primary, rolling all candidates into a single November election when turnout is much higher, electing candidates with a majority of support, and saving time/money. **Be wary of RCV proponents' use of "majority", I'll explain further below which also relates to the topic of ballot exhaustion. Saving time and money – Is it significant? How much savings will actually be realized in the long run? Considerations should include the system being challenged after implementation and the funds need to study the system's effectiveness. The city of Minneapolis adopted RCV in 2006 and continues to spend money on studying and tweaking the system.**
● Minneapolis, St. Paul and St. Louis Park have established a blueprint and process that would make adopting it here straightforward. **Isn't the bigger issue whether the system works for Minnetonka voters? Enticement of easier of entry should not be a factor especially if these cities are not realizing RCV's promises.**

How Does Ranked Choice Voting Work?
● Instead of just picking one candidate per race, voters are allowed (but not required) to make a1st/2nd/3rd choice **Note the parentheses here. Again, read below on ballot exhaustion which was not mentioned at all during this presentation.**
● The first preferences of each voter are counted. If any candidate receives a majority (50% +1) of the first preferences, they win. If no candidate reaches a majority, then the candidate with the fewest first preferences is eliminated. The voters who preferred the eliminated candidate then have their vote moved to their 2nd preference. The ballots are counted again, if a candidate has a majority, they are the winner. If not, candidates continue to be eliminated and ballots reallocated until one reaches the winning threshold. **And again, watch the use of "majority". Under RCV it is only the surviving votes (due to ballot exhaustion) that determine the results of the deciding round.**

● A voter's second or third choices have no value and is not counted unless their first choice is eliminated from the contest. A voter's third choice only counts if their first and second choices are eliminated.

Why Ranked Choice Voting is Better
● Ranked Choice Voting eliminates low-turnout, costly and unrepresentative primaries. Several previous elections required a primary (and we should expect future elections will), with a voter turnout averaging 4%, and voter demographics that are unrepresentative of Minnetonka's population. Eliminating the costly and time-consuming primary frees up more resources for other city priorities, and streamlines the campaigning and voting process for candidates and voters. **The presenters quantify current primary turnout yet do not quantify anything when it comes to what RCV might deliver. What can be promised in terms of real results and change?**
● Our current special elections result in a winner without majority support, simply due to math. With 3 or more popular candidates, getting to 50% is challenging. Ranked Choice Voting would ensure a winner with majority support, by eliminating spoiler and vote-splitting dynamics. **Again, the use of "majority." Spoiler and splitting dynamics exist within RCV.**
● Ranked Choice Voting creates greater civic engagement because it allows more candidates to run through November in regular elections. More candidates and competitive elections foster more interaction between voters and candidates - discussing issues, raising election awareness. Voters have more power with their vote, are more satisfied with the outcome**. I very much disagree with the last sentence since. Your vote may not count towards the outcome or can support as candidate that you disagree with. A vote can be cast aside as part of the process and its power can be taken away under RCV.**

A Proven, Easy and Popular Way to Vote
● Used by millions in the US, 100+ million globally. Used in Minneapolis for a decade, statewide in Maine. Dozens of cities from San Francisco to smaller cities in Utah. Validated by Minnesota State Supreme Court. **To quote everyone's Mom "If all your friends jumped off a bridge, would you do it too?" Just because it is used by others and is legal doesn't mean it is right for Minnetonka's voters. There are cities that tried it and repealed it due to its flaws.**
● Voters can rank as many or few candidates as they want. 92% of all 2017 voters in Minneapolis thought ranking was easy. 87% of voters ranked more than one candidate. 84% wanted to continue using the system. The effective ballot rate was 99.96%. Works with existing Hennepin County voting equipment. **"…as many or few candidates…" while true there needs to be an explanation of ballot exhaustion. What happens to the vote as a result of being processed by the system matters.**
● All kinds of Minnetonka residents like it. Seniors, busy professionals, parents and the disabled prefer one trip to the polls instead of two. Residents who prioritize low taxes, or those who expect Minnetonka to think ahead. People who want greater community engagement and inclusivity. Younger people with fresh eyes and a desire for more open and inclusive elections. **To be blunt, this is marketing fluff. Is it really a question of who likes it? The question remains "What is right for voters?" Perhaps is it not what they "like."**

Apologies if the above is too "rank-like." One of my concerns is that the downsides of RCV are not presented early in the commission's process. I hope that the commission has found similar issues and has similar questions. FairVote has thrown a lot of promises against the wall. With so many it is easy for individuals (even in the commission setting) to heavily weigh what appeals to them as they study.

I hope that the commission has developed a well-defined problem statement to use as a lens and review RCV in a focused manner. I bring this up because during an email exchange with my representative he stated that his focus is on council election results being based on a majority and primaries from the cost and candidate point of view. Is that what everyone should focus on or is it something else?

As stated above, be aware of how the term "majority" is selectively used. If the first round where a candidate achieves >50% of the vote, it is a majority as everyone would understand it. What happens, however, when there is not a majority winner and where candidates then get eliminated and votes are reallocated is that there are votes that do not count in the deciding round. So it is only the votes that survive to the end round that the term "majority" is now being applied to. This is different than its use during the initial round with a >50% winner. In my research, I have yet to see this mentioned by RCV proponents. The system will disenfranchise some voters via "ballot exhaustion" (where a vote does not count in the deciding round).

I have thought about this system and if it does become approved I would suggest that the city charter have language built in so there is a way to repeal RCV if it fails to meet expectations. Ideally, these expectations are quantified and measured.

I also think if the main issue is primary turnout, then a viable option is explore fixing the current system, which we know well as opposed to adopting one that we do not.

Last, I have attached a draft of a letter to the editor as I think it is more useful to send it to the commission at this point. What I want to convey is 1) that our current system guarantees that voters control the destiny of their vote, not the election system and 2) that the system can be taken advantage of.

Thank you for your time and studying the above. I welcome the opportunity to communicate further.

Mark Francis
Minnetonnka, MN

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To the Editor:
We vote for candidates who align with our values. But what if your vote was re-directed to a candidate that you did not agree with due to the behind-the-scenes workings of the election system? What if your vote went to a candidate that you opposed? Ranked Choice Voting (RCV) is capable of just that; it has been the subject of letters to the editor and is currently under study by the Minnetonka Charter Commission. Proponents of RCV make promises of fixing our current system but there are fundamental flaws with RCV that every voter should be aware of.

"One person, one vote" is the basis for our current system. With it, you know who your vote goes to and that it will stay with that person. It is guaranteed and the way it works is clear - the candidate who gets the most votes wins.

RCV, however, puts voters in a position where instead of casting one vote for one candidate they rank their order of preference for every candidate on the ballot whether the voter agrees with a particular candidate or not – in essence they vote for "All the Above" because the RCV method can steer the course of votes and where they land. And this is what introduces the potential for your vote to misrepresent you or even go uncounted.

In a RCV election, voters' preferences are first tallied to see if any candidate has more than 50% of the vote. If that happens, a winner is declared. If not, a second round of tallying is conducted after the candidate with the lowest number of votes eliminated and those voters who listed that candidate as their first choice now have their second choice counted instead. This kind of elimination and reallocation carries on until one candidate captures 50% or more.

First, the RCV method can dilute the very reason for elections - bringing someone into office who represents constituents' values. Imagine a slate of candidates all with very different platforms where there is only one that you align with. You'll need to be informed on every candidate if you want to intelligently rank them and have your vote count. When the votes are tallied and if no one wins by 50% or more those who voted for the last place finisher have their votes re-directed to their second choice which, in this example, is someone who does not reflect your values at all. While it is palatable to vote and have your candidate lose it is not palatable to vote and have your vote support someone that you would never want in office.

Second, "Ballot Exhaustion" can take place, resulting in votes being eliminated. This is where a voter chooses not to include all candidates when ranking; they would simply never vote for certain candidates and do not list them. If the preferences that they did list are eliminated during the process, then their vote counts for nothing. A large study done by the Maine Policy Institute found votes eliminated under RCV ranged from 9.6% up to 27.1%.

Third, RCV proponents mislead by claiming that winners are elected by a majority. It is more accurate to say that it is the majority of votes that do not get eliminated that determine winners. The same Maine study found that 61% of election winners under RCV did <u>not</u> receive a majority as most people would define it.

Last, election systems may never be perfect but does it make sense to adopt one that can be easily rigged? One way to twist RCV is in closely contested races where one political party can place a lot of candidates on the ballot, knowing that their lesser candidates will receive votes and those votes will then be re-directed within their party as the lesser candidates are eliminated. This "harvesting" took place in Maine's 2nd Congressional District in 2018 where two candidates without funding or staff openly stated this intention. Imagine what elections would be like when all political parties engage in such behavior. A second flaw is the potential for a coordinated block of voters to rank the opposing party's secondary candidate as their first preference in order to prevent the opposing party's front-runner from getting 50% or more. This tactic is employed in hopes of overcoming that front-runner as rounds of elimination and vote shuffling take place in favor of their own party. In the age of social media such an abuse is quite possible.

It's easy to see RCV's shortfalls as well as its history of failure and being repealed. Just ask citizens from Burlington VT, Pierce County WA, Aspen CO and Ann Arbor MI among others who dumped RCV after it tainted their elections.

It's easy too to contact our Mayor and City Council and tell that that you have no interest in a susceptible, distortion prone shell game but rather support our current, tested and proven election system.

INTRODUCTION

In 2016, Maine launched a bold experiment by becoming the first state to adopt ranked-choice voting, otherwise known as instant run-off voting. Several municipalities have experimented with ranked-choice voting for more than a decade. Because this voting system has been used in municipalities nationwide, The Maine Heritage Policy Center was able to compile results from 96 elections in the U.S. that triggered ranked-choice voting. Put differently, these election results were compiled from 96 races where more than one round of tabulation occurred.

Using this data, we can examine and draw conclusions about ranked-choice voting and compare Maine's recent experience with other jurisdictions to identify patterns. The goal of this report is to analyze the history, claims and mechanisms of ranked-choice voting in an attempt to understand how the system works, its merits and shortcomings, and how it compares to plurality elections and other voting systems. This report also intends to help lawmakers and the public decide if ranked-choice voting is right for Maine and other states.

HOW DOES RANKED-CHOICE VOTING WORK?

In contrast to plurality elections where voters select a single candidate and the candidate with the most votes wins, ranked-choice voting gives voters the option to rank-order candidates on their ballots. For example, in the 2018 race for Maine's Second Congressional District, voters could have ranked up to five candidates, including a write-in, on their ballots.

Rep. to Congress District 2	1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice
Bond, Tiffany L. Portland Independent	○	○	○	○	○
Golden, Jared F. Lewiston Democratic	○	○	○	○	○
Hoar, William R.S. Southwest Harbor Independent	○	○	○	○	○
Poliquin, Bruce Oakland Republican	○	○	○	○	○
Write-in	○	○	○	○	○

Source: Maine Secretary of State

If a candidate receives more than 50 percent of first-place votes, they are declared the winner of the election. However, oftentimes one candidate does not receive a majority of the votes cast on Election Day. When this occurs, the candidate(s) who do not stand a mathematical chance of winning are eliminated from contention, and additional rounds of tabulation occur until a candidate receives a majority of the remaining votes. In Maine's 2018 Second Congressional District election, both William Hoar and Tiffany Bond were eliminated from contention after the first round of tabulation, and the ballots that listed them as a voter's first choice were then awarded to the candidate listed as the voter's next choice. This recurs until a candidate receives over 50 percent of the remaining, non-

exhausted ballots. In Maine's 2018 Second Congressional District election, only two rounds of tabulation were needed to declare a winner. However, races with a large field of candidates can require many rounds of tabulation. Regardless, most ranked-choice voting elections that have more than one round of tabulation produce exhausted ballots.

What is an Exhausted Ballot?
An exhausted ballot occurs when a voter overvotes, undervotes, or ranks only candidates that are mathematically eliminated from contention. Because these votes are not tabulated in the final round, their ballot does not influence the election after it becomes exhausted. For example, if a ballot becomes exhausted in round four of an election that necessitates 20 rounds of tabulation, the voter's ballot is not included in the final tally; it is as if they never showed up on Election Day.

The distinction between exhausted ballots in the first round of tabulation and the rest of the election merits clarification. In this report, we do not consider overvotes and undervotes in the first round of tabulation as "exhausted votes" because voters could make the same mistake on a ballot in an election decided by plurality. In other words, votes that are exhausted in the second and subsequent rounds of tabulation are purely a consequence of using ranked-choice voting. Thus, this report will focus on and isolate those exhausted ballots when considering elections in Maine and across the United States.

VOTER CONFUSION AND INFORMATION DEFICITS

In a plurality election, the choice facing voters is simple: Of all the candidates running, whom do you prefer? Ranked-choice voting entails a much more complicated — and somewhat artificial — decision. To fully participate, voters must rank-order all of the candidates. In contrast to run-off elections, voters do not get the benefit of evaluating candidates as they face-off one-on-one. In Maine, voter confusion was so pervasive that proponents of ranked-choice voting felt the need to publish a 19-page instruction manual to help voters navigate the process.[1]

This inherent feature of ranked-choice voting is problematic because it demands that voters have a large amount of information about candidates' differing views. The fact is that most Maine voters, like most voters in any election, do not follow political races closely enough to meaningfully rank candidates in contests with more than three or four candidates. Yet, in order to avoid losing influence in a ranked-choice voting election, a voter must rank each and every candidate.

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[1] "Voting in Maine's Ranked Choice Election." Town of Wiscasset. 2018. Accessed July 23, 2019. https://www.wiscasset.org/uploads/originals/rankchoicevoting.pdf.

It is well-documented that American voters often lack basic information about candidates' policy positions. A Pew Research Center survey conducted shortly before the 2016 presidential election revealed that a significant proportion of registered voters knew little or nothing about where the two major candidates stood on key issues.[2] For instance, 48 percent of Hillary Clinton voters knew a lot about her positions, 32 percent knew some, and 18 percent knew not much or nothing. Knowledge about Donald Trump's stances was even lower: 41 percent of Trump voters knew a lot about his positions, 27 percent knew some, and 30 percent knew little or nothing.[3] In 2018, a poll found that 34 percent of registered Republican voters and 32.5 percent of registered Democratic voters said they did not even know the names of their party's congressional candidates in their districts.[4]

In other words, tens of millions of Americans enter the voting booth knowing virtually nothing about the policy stance of the candidates. It seems unlikely that they could confidently rank five, ten, or more candidates based on a sound assessment of their platforms. A 2014 study conducted in California provides additional reasons to be skeptical that ranked-choice voting functions in practice as its proponents predict.[5] The study found voters are "largely ignorant about the ideological orientation of candidates, including moderates..."[6] This information deficit is already a concern in plurality contests and is greatly magnified in ranked-choice voting elections when voters are asked to rank more than a single candidate.

Less knowledgeable voters are more likely to rank fewer candidates, potentially denying them influence over the election outcome. Giving knowledgeable voters more electoral influence may be defensible as a matter of political philosophy, but it is surely not the intent behind Maine's adoption of ranked-choice voting. The 2018 Maine Democratic gubernatorial primary provides a good example of the practical challenges this poses to voters in ranking their preference in a large field of candidates. There were seven candidates on the ballot in this race and more than seven percent of the ballots were exhausted by the end of the fourth round of tabulation.[7] Another example is the 2011 mayoral race in Portland, where ranked-choice voting was used and 15 candidates

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[2]Oliphant, J. Baxter, and J. Baxter Oliphant. "Many Voters Don't Know Where Trump, Clinton Stand on Issues." Pew Research Center. September 23, 2016. Accessed July 24, 2019. https://www.pewresearch.org/fact-tank/2016/09/23/ahead-of-debates-many-voters-dont-know-much-about-where-trump-clinton-stand-on-major-issues/.

[3] Ibid.

[4]"What's in a Name? One-third of US Voters Don't Know Candidates." CNBC. October 03, 2018. Accessed July 24, 2019. https://www.cnbc.com/2018/10/03/one-third-of-us-voters-dont-know-candidates-reutersipsos-poll html.

[5]Ahler, Douglas, Citrin, Jack, Lenz, and Gabriel S. "Why Voters May Have Failed to Reward Proximate Candidates in the 2012 Top Two Primary." California Journal of Politics and Policy. January 15, 2015. Accessed July 24, 2019. https://escholarship.org/uc/item/9714j8pc.
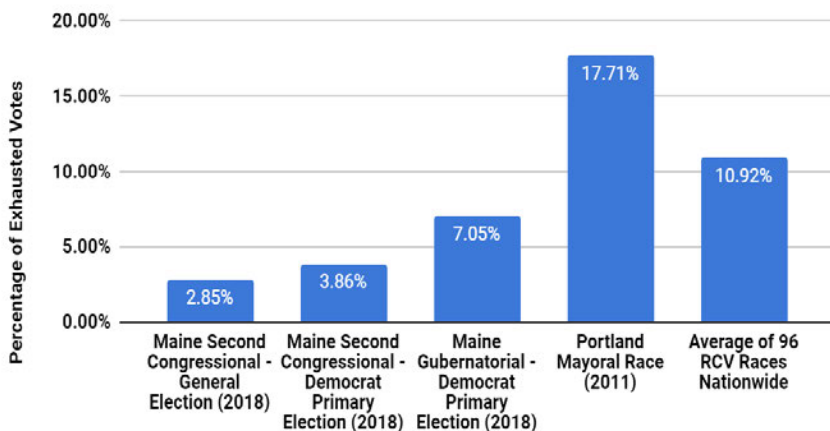
[6] Ibid.

[7] "2018 General Election Results." Maine Secretary of State. 2018. Accessed July 23, 2019. https://www maine.gov/sos/cec/elec/results/results18 html#Nov6

appeared on the ballot. In this race, voters had 15 choices and almost 18 percent of the votes were exhausted before a winner was determined.[8]

When we examined the 96 ranked-choice voting races in our sample from across the nation, our analysis found an average of 10.92 percent of ballots cast are exhausted by the final round of tabulation. This phenomenon can be seen in Figure 1.

Figure 1: Percentage of Exhausted Votes in Ranked-Choice Elections (Maine and Nationally)

Source: Maine Secretary of State, The Maine Heritage Policy Center

When presented with a ranked-choice voting ballot, many voters do not rank every candidate, potentially due to insufficient information about the candidates or confusion about how ranked-choice voting works. Exhausted ballots are a serious problem under ranked-choice voting, as they systematically reduce the electoral influence of certain voters. A study in 2014 reviewed more than 600,000 ballots in four municipal ranked-choice voting elections from around the country and found ballot exhaustion to be a persistent and significant feature of these elections.[9] The rate of ballot exhaustion in that study was high in each election, ranging from 9.6 percent to 27.1 percent.

While exceedingly rare, ranked-choice voting races can create more exhausted ballots than ballots that are awarded to the winner of an election. For example, the 2010 election for San Francisco's Board of Supervisors in District 10 resulted in 9,608 exhausted ballots whereas the prevailing candidate only received 4,321 votes.[10] More striking, there were

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[8] Portland, Maine 2011 Mayoral Election Results. FairVote. 2011. Access July 23, 2019. https://www.slideshare.net/kkellyfv/portland-me-2011-mayoral-election-graphs-1

[9] Burnett, Craig M., and Vladimir Kogan. "Ballot (and Voter) "exhaustion" under Instant Runoff Voting: An Examination of Four Ranked-choice Elections." Electoral Studies. November 18, 2014. Accessed July 24, 2019. https://www.sciencedirect.com/science/article/pii/S0261379414001395.

[10] "Official Ranked-Choice Results Report November 2, 2010 Consolidated Statewide Direct Primary Election Board of Supervisors, District 10." City of San Francisco. 2011. Accessed July 23, 2019. https://sfelections.org/results/20101102/data/d10.html.

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Figure 2: Exhausted Ballots in San Francisco's Board of Supervisors Election - District 10 (2010)

Source: City of San Francisco, Department of Elections
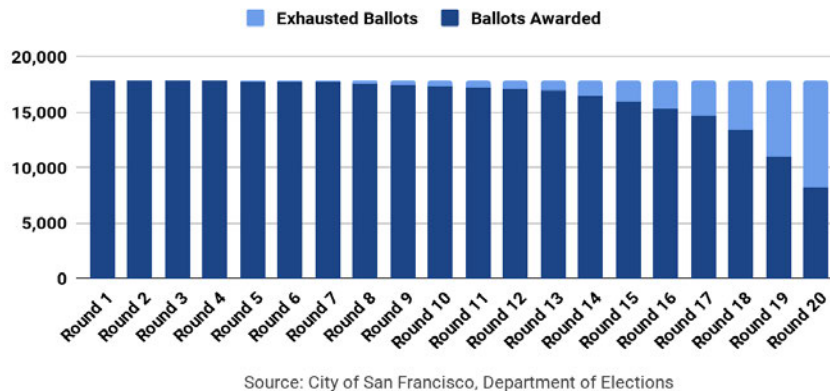
more than 1,300 more ballots that were exhausted than were awarded to a candidate at the end of the 20th round of tabulation.[11]

Voter Disenfranchisement

Of particular significance for Maine, research has found that jurisdictions with higher proportions of older voters are more likely to report ballot-marking mistakes.[12] Maine is the oldest state in the nation with a median age 44.6 years of age.[13]

Similarly, in San Francisco's 2004 ranked-choice voting election, a study conducted by FairVote, a proponent of ranked-choice voting, found that "the prevalence of ranking three candidates was lowest among African Americans, Latinos, voters with less education, and those whose first language was not English."[14] In the races examined in FairVote's study, the ballots had three columns for voters to rank their candidates of choice. African Americans, Latinos, voters with less education, and those whose first language was not English disproportionately did not utilize their ballot to the fullest extent possible. More specifically, only 50 percent of African Americans and 53 percent of Latinos ranked three candidates whereas 62 percent of whites ranked a candidate in all three columns.

When individuals leave columns blank on their ballots and the candidate(s) they vote for are eliminated from contention, their ballot is not counted in the final tabulation. Therefore, if these voters only choose one candidate on their ballot, it is more likely to become exhausted, thereby giving those who fully complete their ballot more influence over the electoral process. In other words, African Americans, Latinos, voters with less

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[11]Ibid.

[12]Cook, Corey, and David Latterman. "Ranked Choice Voting in the 2011 San Francisco Municipal Election: Final Report." The University of San Francisco. 2011. Accessed July 23, 2019. https://repository.usfca.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1002&context=mccarthy_fac.

[13]"Northern New England States Still the Oldest." U.S. News & World Report. September 14, 2018. Accessed July 24, 2019. https://www.usnews.com/news/best-states/maine/articles/2018-09-14/northern-new-england-states-still-the-oldest.

[14]Neely, Francis, Lisel Blash, and Corey Cook. "An Assessment of Ranked-Choice Voting in the San Francisco 2004 Election Final Report." FairVote. May 2005. Accessed July 23, 2019. http://archive.fairvote.org/sfrcv/SFSU-PRI_RCV_final_report_June_30.pdf.

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education, and those whose first language is not English are more likely to be disenfranchised with a ranked-choice voting system.

Further, in his analysis of San Francisco elections between 1995 and 2001, Jason McDaniel, an associate professor at San Francisco State University, found that ranked-choice voting is likely to decrease voter turnout, primarily among African Americans and white voters.[15] McDaniel also found that ranked-choice voting increases the disparity between "those who are already likely to vote and those who are not, including younger voters and those with lower levels of education."[16] In short, the complexity of a ranked-choice ballot makes it less likely that disadvantaged voices will be fully heard in the political and electoral process.[17]

One key question is whether the rate of ballot exhaustion declines as ranked-choice voting becomes an accepted practice in a jurisdiction and voters become acclimated to it. Evidence suggests that, although mistake rates may decline slightly over time, ranked-choice voting produces consistently higher proportions of exhausted ballots than plurality elections. When we examined races in San Francisco, the data showed inconsistent results — some districts showed higher rates of exhausted ballots over time while others realized a decline. In Australia, which has used ranked-choice voting in its legislative elections for more than a century, officials still report a much higher rate of invalid ballots than comparator countries like the United States.[18]

While confusion at the ballot box is difficult to quantify, the large percentage of exhausted ballots after the first round of tabulation in ranked-choice voting elections is troubling. It is clear that plurality elections do not elicit as many exhausted ballots. In addition, it is easier for voters to understand and participate in plurality elections. In short, policymakers should make voting as simple as possible and strive to increase engagement in our electoral process.

CLAIMS MADE BY PROPONENTS OF RANKED-CHOICE VOTING

Too often, proponents of ballot initiatives advance lofty claims to win support at the ballot box. Question 5 was no different when it achieved ballot access for the 2016 general

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[15] McDaniel, Jason. "Ranked Choice Voting Likely Means Lower Turnout, More Errors." Cato Unbound. December 13, 2016. Accessed July 23, 2019.

[16] Ibid.

[17] Ibid.

[18] "Spoilage and Error Rates with Range Voting versus Other Voting Systems." RangeVoting.org - Experimental Ballot Spoilage Rates for Different Voting Systems. Accessed July 24, 2019. https://rangevoting.org/SPRates html.

election. Below are some of the claims made by proponents of ranked-choice voting and how they measure up to the data.

CLAIM 1: A CANDIDATE NEEDS A MAJORITY TO WIN

Proponents of ranked-choice voting often claim that "in a ranked-choice election, a candidate needs to earn more than half of the votes to win."[19] While this might seem logical based on the sequence of events in a ranked-choice election, it does not always hold true. In fact, a candidate in Maine has already prevailed in a ranked-choice election without receiving a true majority of the votes cast.

In Maine's 2018 Second Congressional District election, incumbent Bruce Poliquin won a plurality (46.33 percent) in the first round of voting. Because the election was governed by ranked-choice voting and Poliquin had not earned more than 50 percent of the votes cast, a second round of tabulation was conducted and the candidates who could not mathematically win were eliminated from contention.

Figure 3: 2nd Congressional District Ranked-Choice Voting (Round 1)

Source: Maine Secretary of State

Tiffany Bond 5.7%
Bruce Poliquin 46.3% — 134,184
Jared Golden 45.6% — 132,013
William Hoar 2.4%
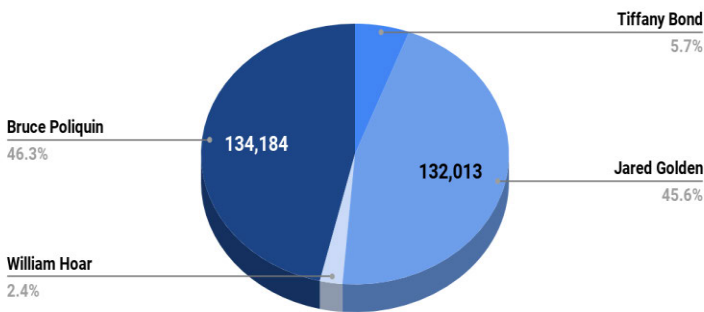
Figure 4: 2nd Congressional District Ranked-Choice Voting (Round 2)

Source: Maine Secretary of State

Exhausted Ballots 2.8%
Bruce Poliquin 48.0% — 138,931
Jared Golden 49.2% — 142,440

In the second round, Jared Golden secured victory after he gained enough votes from the eliminated candidates to eclipse Poliquin's lead. However, in this case, "majority" is a misnomer. In reality, Golden prevailed with only 49.18 percent of the total votes cast in the election. This phenomenon is due to the number of ballots that were exhausted during the reallocation of votes from William Hoar and Tiffany Bond, who were eliminated after the first round.

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[19]FairVote.org. "Benefits of Ranked Choice Voting." FairVote. Accessed July 24, 2019. https://www.fairvote.org/rcvbenefits.

To come to this conclusion, one must look at the total number of votes cast in the first round of the election, which was 289,624. After enough ballots were exhausted, Jared Golden was declared the winner with 142,440 votes.[20] However, this was only the majority of the votes tallied in the second round of tabulation, which totaled 281,375. Thus, 8,253 votes were exhausted after the first round and were not carried over into the second round.

Further, peer-reviewed research points to the lack of a majority winner as a crucial flaw in the ranked-choice voting system. A 2014 study revealed that ranked-choice voting does not always produce a majority winner. In fact, none of the winners of the elections examined in the study won with a majority of the votes cast.[21] In examining 96 ranked-choice voting race from across the country where additional rounds of tabulation were necessary to declare a winner, The Maine Heritage Policy Center concludes that the eventual winner failed to receive a true majority 61 percent of the time. This can be seen in Figure 5. The most extreme example was from the 2010 San Francisco District 10 Board of Supervisors race, where the prevailing candidate received less than 25 percent of the votes cast.

Figure 5: Percentage Of Elections That Resulted In A Majority Winner
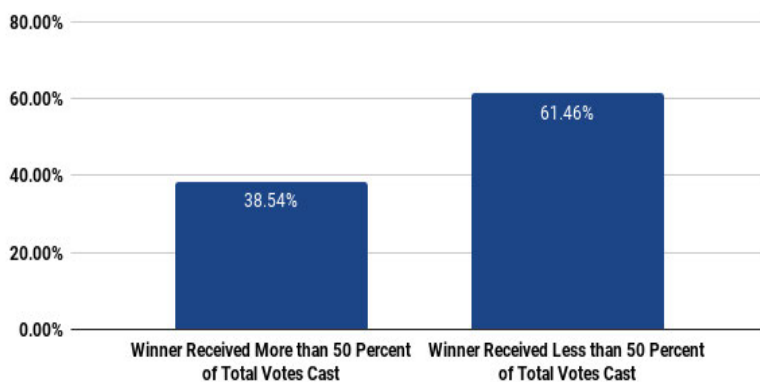
Source: The Maine Heritage Policy Center

Thus, the claim that ranked-choice voting always provides a majority winner because a candidate is required to earn more than 50 percent of the vote is false and deserves further scrutiny from voters. While candidates sometimes do receive a majority of the total votes cast, a winner is often declared only after a large number of exhausted ballots have been removed from the final denominator.

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[20]"2018 Second Congressional District Election Results." Maine Secretary of State. 2018. Accessed July 23, 2019.
https://www.maine.gov/sos/cec/elec/results/2018/updated-summary-report-CD2.xls
[21] Burnett, Craig M., and Vladimir Kogan. "Ballot (and Voter) "exhaustion" under Instant Runoff Voting: An Examination of Four Ranked-choice Elections." Electoral Studies. November 18, 2014. Accessed July 24, 2019.
https://www.sciencedirect.com/science/article/pii/S0261379414001395.

CLAIM 2: RANKED-CHOICE VOTING REDUCES NEGATIVE CAMPAIGNING AND MITIGATES THE IMPACT OF MONEY IN POLITICS

Ranked-choice voting is often presented as a solution to the bitter, divisive campaign rhetoric that has come to characterize much of politics in Maine and the nation.[22] The argument goes like this: Since candidates hope to be the second choice of voters who prefer a rival candidate, all candidates are dissuaded from trashing their opponents and alienating potentially crucial voters.

But while this logic may discourage candidates from attacking each other directly, it may also augment the role of unaccountable third-party groups in negative campaigning. We could not test whether the candidates themselves reduced negative campaigning because the Federal Elections Commission does not compile data related to expenditures in opposition or support of a candidate from the principal campaign committees. As empirical evidence of the claim that ranked-choice voting makes elections more civil, advocates point to a survey of voters conducted in 2014 in several U.S. cities that used ranked-choice voting to elect city officials.[23] While this study does suggest that negativity declines with ranked-choice voting, it simply measures the "perception of campaign cooperation and civility" and was conducted through a telephone survey. In addition, the sample size was relatively small — measuring only 2,400 respondents in several municipalities. The conclusion that ranked-choice voting decreases negative campaigning merits additional scrutiny.

We can test proponents' claims with campaign finance data from Maine's 2018 gubernatorial primaries and the Second Congressional District general election. The largest limitation to this research is that independent expenditures below $250 do not have to be reported to the Maine Ethics Commission, so some campaign spending is not captured in our analysis.[24]

Maine's Gubernatorial Primaries

In Maine's 2018 gubernatorial primaries, there was a clear increase in independent expenditures (spending by third-party groups unaffiliated with a particular candidate or party) when compared to prior gubernatorial primaries. In 2018, a total of $207,500 was spent through independent expenditures to oppose specific candidates. Similarly, $146,775

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[22]"What Data Exists to Support the Argument That Ranked Choice Voting Has Reduced Negative Campaigning in Jurisdictions Where It Has Been Adopted?" The Committee for Ranked Choice Voting 2020. Accessed July 24, 2019. http://www.rcvmaine.com/what_data_exists_to_support_the_argument_that_ranked_choice_voting_has_reduced_negative_campaigning_in_jurisdictions_where_it_has_been_adopted.

[23]Tolbert, Caroline. "Experiments in Election Reform: Voter Perceptions of Campaigns Under Preferential and Plurality Voting." University of Iowa. March 15-16, 2014. Accessed July 23, 2019. https://fsi-live.s3.us-west-1.amazonaws.com/s3fs-public/caroline-tolbert.pdf.

[24]Title 21-A, §1019-B: Reports of Independent Expenditures. Accessed July 24, 2019. http://www.mainelegislature.org/legis/statutes/21-A/title21-Asec1019-B.html.

was spent through independent expenditures to support candidates in the 2018 gubernatorial primaries. While this may seem insignificant for gubernatorial races, we need to consider that there were zero independent expenditures in opposition to specific candidates during the 2006, 2010, and 2014 gubernatorial primaries.[25] Of these elections, the 2010 gubernatorial race would most closely resemble the 2018 election because of the large field of candidates and the fact that the incumbent was term limited out of office, making it an open seat.

As outlined in Table 1, there were zero independent expenditures in opposition to a candidate in 2010 and only $46,669 was spent in support of a candidate. In contrast, $207,500 was spent in opposition to a candidate in 2018 and $146,775 was spent in support. Support expenditures actually decreased by more than 40 percent from 2014 to 2018 while opposition expenditures increased by 100 percent.

According to fundraising data from the Maine Ethics Commission, 2018 Democrat gubernatorial candidate Adam Cote had raised over $1 million in the primary election whereas candidate Janet Mills hovered around $792,000 before June 12, 2018. Instead of Mills' campaign attacking Cote directly, it may have been more effective for her to allow third-party groups to launch attacks against Cote to avoid tarnishing her image in the eyes of Cote supporters. That is exactly what happened — $192,500 of the opposition spending came from Maine Women Together to attack Cote for once being a Republican and accepting corporate donations.[26] Since a third-party group was levying attacks on Cote, it was more plausible that Mills would receive his voters' second choice votes if he was eliminated from contention than if she attacked him through her own campaign channels. Unfortunately, this analysis is limited by the records that were available from the Maine Ethics Commission. Records for gubernatorial races prior to 2006 are unavailable.

Table 1: Independent Expenditures by Third Parties in Maine's Gubernatorial Primaries (2006-2018)				
	Opposition ($)	Support ($)	Total	Total Number of Candidates
2018	$207,500	$162,275	$369,775	13
2014	$0	$274,858	$274,858	3
2010	$0	$46,669	$46,669	15
2006	$0	$1,559	$1,559	6
Source: Maine Ethics Commission				

[25]"Candidate Elections." Maine.gov. Accessed July 24, 2019. https://www.maine.gov/ethics/disclosure/candidates_htm.
[26]"Maine Women Together." Maine Women Together. Accessed July 24, 2019. http://www.mainewomentogether.org/.

Maine's 2018 Second Congressional Race

A similar phenomenon occurred in Maine's 2018 Second Congressional District election. According to Federal Election Commission data, approximately $11.52 million was spent through independent expenditures in opposition to a candidate in the 2018 Second Congressional District race. This was a 24 percent increase from 2016, which saw $9.27 million spent on opposition expenditures.

When we compare the opposition expenditures in non-presidential elections (2014 and 2018), we find that opposition expenditures increased by 341 percent. Only $2.91 million was spent on independent expenditures to oppose a candidate in 2014. Figure 6 breaks down the amounts spent through independent expenditures in support and opposition to candidates in the Second Congressional District.

While this analysis does not provide sufficient evidence that ranked-choice voting increases negative campaigning by third-party groups, it casts doubt on the claim that the system improves the tone and civility of political races. This data should be interpreted as a preliminary indication that ranked-choice voting does not reduce negative campaigning.

Figure 6: Independent Expenditures in Maine's 2nd Congressional District (2014-2018)

Source: Federal Election Commission
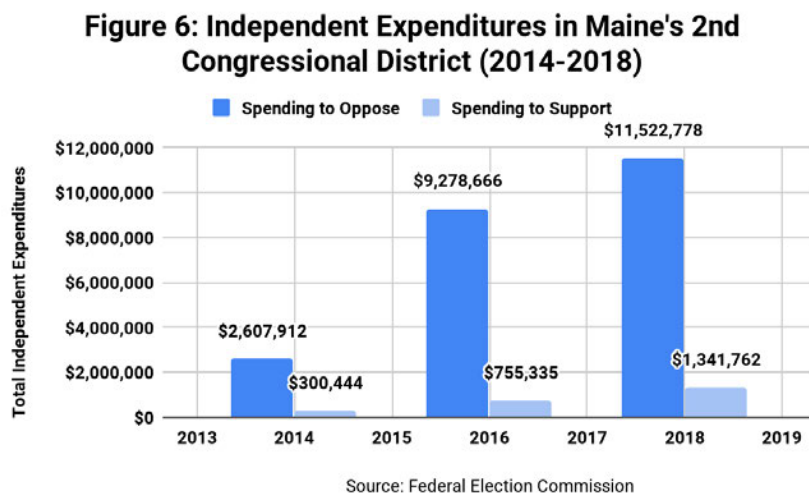
CLAIM 3: RANKED-CHOICE VOTING WILL INCREASE TURNOUT

A common metric used to judge the performance of a voting system — although by no means the only criterion — is its impact on voter turnout. In a democratic society, public participation in elections is critical. A voting system that, for whatever reason, discourages a large portion of eligible voters from casting a ballot could hardly claim to reflect the will of the people.

By international standards, voter turnout in the United States is low.[27] In the 2018 midterms, only 50.3 percent of eligible voters nationwide cast a ballot, and even that level

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[27] DeSilver, Drew. "U.S. Voter Turnout Trails Most Developed Countries." Pew Research Center. May 21, 2018. Accessed July 24, 2019. https://www.pewresearch.org/fact-tank/2018/05/21/u-s-voter-turnout-trails-most-developed-countries/.

of engagement marked a 50-year high for a midterm election.[28] Maine performs much better than the national average (turnout was 60.2 percent in 2018), largely due to the demographic characteristics of our population. Older people tend to vote more, as do whites.[29]

Of course, the United States' comparatively low voter turnout has a multitude of causes. Cultural differences, barriers to voter registration, political party dynamics, the competitiveness of races, and other factors influence voter turnout.

Some argue that ranked-choice voting could improve America's chronically low levels of citizen participation in elections by making voters feel that their voice has a greater impact on the outcome of the election. On the other hand, ranked-choice voting might depress turnout by discouraging voters who are confused about how to vote or who don't feel knowledgeable enough to make an informed decision. By increasing the complexity of the ballot, ranked-choice voting could also make it harder for voters to understand the connection between any one vote they cast and the resulting impact on government policies.

The empirical evidence is mixed but tends to show that ranked-choice voting slightly depresses turnout relative to plurality elections. It is important to note that ranked-choice voting has been tried in a small number of jurisdictions in the U.S., which limits the sample size and reduces the power of statistical analyses. It is also exceedingly difficult to isolate other variables — such as voter enthusiasm generated by specific candidates and other concurrent election reforms — that can play a major role in voter turnout. It is too early to evaluate the specific impact of ranked-choice voting on voter turnout in Maine. The 2018 elections in Maine saw exceptional voter participation, but national politics may have been the driving force behind this phenomenon.

A study of four cities in California that adopted ranked-choice voting in the early 2000s found that "voter turnout has remained stable when compared to previous elections."[30] In contrast, testimony to the Kansas Special Committee on Elections from the American Civil Liberties Union (ACLU) said:

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[28] "Voter Turnout in United States Elections." Ballotpedia. Accessed July 24, 2019.
https://ballotpedia.org/Voter_turnout_in_United_States_elections.

[29] U.S. Census Bureau. "Behind the 2018 U.S. Midterm Election Turnout." The United States Census Bureau. July 16, 2019. Accessed August 01, 2019. https://www.census.gov/library/stories/2019/04/behind-2018-united-states-midterm-election-turnout.html.

[30]Henry, Madeline Alys. "THE IMPLEMENTATION AND EFFECTS OF RANKED CHOICE VOTING IN CALIFORNIA CITIES." 2016. Accessed July 23, 2019. https://csus-dspace.calstate.edu/bitstream/handle/10211.3/182785/Henry.pdf.

> *"Ranked-choice ballots have suppressed voter turnout, especially among those segments of the electorate that are already least likely to participate. Ranked-choice voting (RCV) has resulted in decreased turnouts up to 8% in non-presidential elections. Low-propensity voters are already less likely to participate in elections that do not coincide with congressional or presidential races. By adding additional steps to voting, RCV exacerbates this tendency, making it less likely that new and more casual voters will enter into the process. Moreover, RCV exacerbates economic and racial disparities in voting. Voting errors and spoiled ballots occur far more often. In Minneapolis, for example, nearly 10% of ranked choice ballots were not counted, most of these in low-income communities of color. Other municipalities have seen similar effects."*[31]

Proponents of ranked-choice voting point to an analysis commissioned by FairVote that found ranked-choice voting is associated with a 10-point increase in voter turnout compared to primary and run-off elections, but is not associated with any change in turnout in general elections. The study was based on data on 26 American cities across 79 elections.[32] According to the study, this 10 point "increase" in turnout is likely due to the compression of voting and "winnowing" of candidates into one election.[33] Overall, the study suggested that ranked-choice voting elections have "minimal effects on rates of voter participation."[34]

As previously mentioned, a study of San Francisco's election data from 1995 to 2011 found that turnout declined among African American and white voters and exacerbated the disparities between voters who were already likely to vote and those who were not.[35] The author attributes these effects, at least in part, to the fact the ranked-choice voting increases the "information costs" of voting (i.e., the need to be familiar with how ranked-choice voting works further discourages low-propensity voters from participating in elections).[36] Exit polls of voters participating in ranked-choice voting bolster these findings.[37]

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[31]Ganapathy, Vignesh. "Written Testimony" October 27, 2017. Accessed July 23, 2019. https://www.aclukansas.org/sites/default/files/field_documents/aclu_testimony_on_ranked_choice_voting.pdf.

[32]Kimball, David, and Joseph Anthony. "The Adoption of Ranked Choice Voting Raised Turnout 10 Points." FairVote. Accessed July 24, 2019. https://d3n8a8pro7vhmx.cloudfront.net/fairvote/pages/426/attachments/original/1449182124/Kimball-and-Anthony-one-pager-27-Oct.pdf?1449182124.

[33] Ibid.

[34] Ibid.

[35] McDaniel, Jason. "Ranked Choice Voting Likely Means Lower Turnout, More Errors." Cato Unbound. December 13, 2016. Accessed July 24, 2019. https://www.cato-unbound.org/2016/12/13/jason-mcdaniel/ranked-choice-voting-likely-means-lower-turnout-more-errors.

[36] Ibid.

[37]Neely, Francis, Lisel Blash, and Corey Cook. "An Assessment of Ranked-Choice Voting in the San Francisco 2004 Election Final Report." FairVote. May 2005. Accessed July 23, 2019. http://archive.fairvote.org/sfrcv/SFSU-PRI_RCV_final_report_June_30.pdf.

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Since the answer to whether ranked-choice voting actually increases turnout when compared to plurality elections is still up for debate, it is irresponsible to make this lofty claim.

COMPARING ELECTION OUTCOMES

A relevant question in comparing plurality elections against ranked-choice voting is to ask how often the two voting systems would produce a different electoral outcome. Those cases are relatively sparse, occurring only when the votes cast for eliminated candidates are reallocated to a contender who came in second place or worse in the first round of tabulation, and the votes gained in subsequent rounds of tabulation exceed the gains made by the leader after the first round.
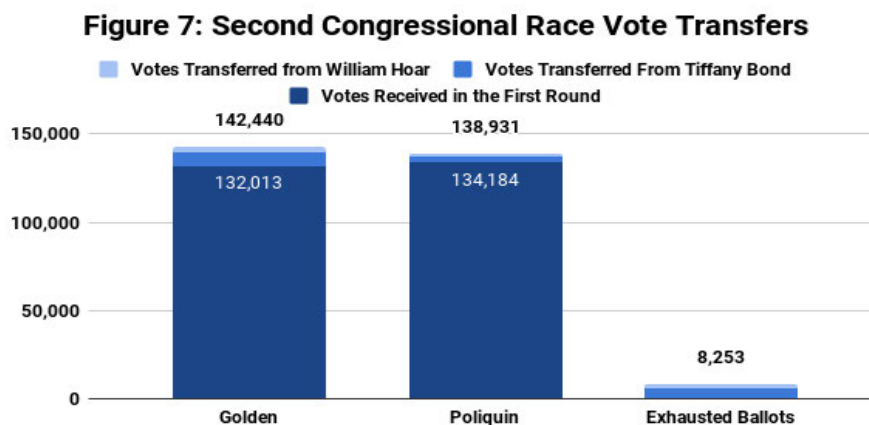
Maine
In 2018, only three elections in Maine triggered ranked-choice voting tabulation:
- Democrat Gubernatorial Primary
- Democrat Congressional Primary (Second Congressional District)
- General Election for the Second Congressional District

Of the elections that triggered ranked-choice voting in Maine, the general election race for the Second Congressional District was the only election that produced an outcome different than what would have occurred under a plurality election.

As previously mentioned, Poliquin initially received 134,184 votes, or 46.33 percent of the total votes cast whereas Golden received 132,013 votes, or 45.48 percent of the total votes cast. Once the second round of tabulation was completed, 4,747 votes (3,117 from Bond and 1,630 from Hoar) were allocated to Poliquin and 10,427 votes (7,862 from Bond and 2,565 from Hoar) were awarded to Golden. Figure 7 provides a visual breakdown of how the votes were distributed to change the outcome of the election.

Figure 7: Second Congressional Race Vote Transfers

Source: Maine Secretary of State; The Maine Heritage Policy Center

Other Jurisdictions
According to the election results obtained from 96 ranked-choice voting elections nationwide that triggered a second round of tabulation (excluding one that resulted in a tie in the first round

of tabulation), ranked-choice voting changes the outcome of an election approximately 17 percent of the time. This is illuminated in Figure 8. If all ranked-choice voting races were examined in this analysis, including those that produced a majority winner in the first round, the percentage of races where the outcome changes would decrease.

The frequency with which ranked-choice voting elections produce a different outcome than plurality elections is important because it allows lawmakers to weigh the benefits and consequences of a new voting system. If ranked-choice elections rarely produce a different outcome, the costs of such a system may outweigh the alleged benefits.

CONCLUSION

Democratic choice, within the confines of our constitutional republic, forms the bedrock of America's system of governance. Adopting a simple, fair, and secure voting system is fundamental to democratic elections. It is clear that plurality elections are much simpler and easier to understand than races determined by ranked-choice voting.

Figure 8: How Often Does The Outcome Change In Ranked-Choice Elections?

Source: The Maine Heritage Policy Center

● Different Than Plurality   ● Same As Plurality

16.84%

83.16%
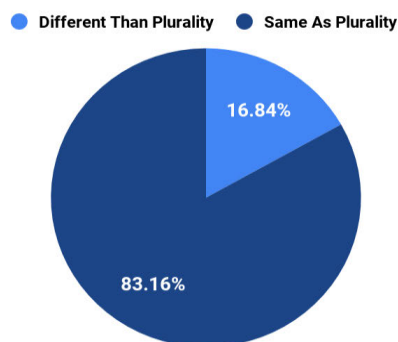
This analysis of 96 ranked-choice voting elections from across the country shows that the voting system produces false majorities, frequently exhausts more than 10 percent of ballots cast on Election Day, and further disenfranchises voters who are already less likely to vote.

While proponents of ranked-choice voting may claim the new voting system is a better alternative to traditional voting systems, the plurality system offers voters an easier method of selecting representatives without the false promises of ranked-choice voting.

15

Ranked Choice Voting Is a Bad Choice

Hans A. von Spakovsky and J. Christian Adams

KEY TAKEAWAYS

Ranked choice voting is a scheme to disconnect elections from issues and allow candidates with marginal support from voters to win.

It obscures true debates and issue-driven dialogs among candidates and eliminates genuine binary choices between two top-tier candidates.

It also disenfranchises voters, because ballots that do not include the two ultimate finalists are cast aside to manufacture a faux majority for the winner.

You will not believe what "reformers" have devised to tinker with and manipulate our elections. It is called ranked choice voting (or "instant runoff voting")—but it is really a scheme to disconnect elections from issues and allow candidates with marginal support from voters to win elections. Some jurisdictions in the U.S. have already replaced traditional elections with the ranked choice scheme.[1]

Here is how it works. In 2008, instead of choosing to cast your ballot for John McCain, Barack Obama, Ralph Nader, Bob Barr, or Cynthia McKinney, all of whom were running for president, you would vote for all of them and rank your choice. In other words, you would list all five candidates on your ballot from one to five, with one being your first choice for president and five being your last choice.

If none of the candidates were chosen as the number one pick by a majority of voters in Round One,

then the presidential candidate with the lowest number of votes would be eliminated from the ballot. People who selected that candidate as their top pick—let us say it was McKinney—would automatically have their votes changed to their second choice. Then the scores would be recalculated, over and over again, until one of the candidates finally won a majority as the second, third, or even fourth choice of voters.

In the end, a voter's ballot might wind up being cast for the candidate he ranked far below his first choice—a candidate to whom he may have strong political objections and for whom he would not vote in a traditional voting system.

Rigging the System

We do not often agree with former California Governor Jerry Brown Jr. (D), but he was right in 2016 when he vetoed a bill to expand ranked choice voting in his state, saying it was "overly complicated and confusing" and "deprives voters of genuinely informed choice."[2] Such a system would present many opportunities to rig the electoral system.

Think about what ranked choice voting destroys. It destroys your clear and knowing choices as a political consumer. Let us call it the supermarket contemplation. In reality, you are choosing one elected official to represent you, just like you might choose one type of steak sauce to buy when you are splurging for steaks. At the supermarket you ponder whether to buy A1, Heinz 57, HP, or the really cheap generic brand you have never tried.

In the real world, you compare price, taste, mood, and maybe even the size of the bottle and then decide on your steak sauce. You know nothing about the generic brand, so you rank it last among your choices, while A1 is ranked a distant third. In your mind, it comes down to Heinz or HP, and you choose the Heinz. You buy that bottle and head home to the grill.

Now imagine if, instead, you had to rank-order all the steak sauces—even the ones you dislike—and at checkout the cashier swaps out your bottle of Heinz 57 with the cheap generic you ranked dead last. Why? Well, the majority of shoppers also down-voted it, but there was no clear front-runner, so the generic snuck up from behind with enough down ballot picks to win. In fact, in this ranked choice supermarket, you might even have helped the lousy generic brand win.

Ballot Exhaustion

How could this happen? Because of a phenomenon known as ballot exhaustion. A study published in 2015 that reviewed 600,000 votes cast

using ranked choice voting in four local elections in Washington State and California found that "the winner in all four elections receive[d] less than a majority of the total votes cast."[3]

Going back to our original example of the 2008 presidential election, not all voters are going to rank all five presidential candidates on their ballot. Many voters may only list their top two or three candidates, particularly when there are candidates on the ballot for whom they would never even consider voting.

Thus, if a voter only ranks two of the five candidates and those two are eliminated in the first and second rounds of tabulation, their choices will not be considered in the remaining rounds of tabulation. This ballot exhaustion leads to candidates being elected who were not the first choice of a majority of voters, but only a majority of *"all valid votes in the final round of tallying."* Thus, "it is possible that the winning candidate will fall short of an actual majority," eliminating the "influence [of many voters] over the final outcome."[4]

Cautionary Examples

Another example of this problem is demonstrated by what happened in Australia (which uses ranked choice voting) in the 2010 election. The liberal Labor Party won the Australian House despite receiving only "38 percent of first-place votes on the initial ballot, while the second-place Liberal-National coalition [the center right choice] captured 43 percent" of first-place votes.[5] In other words, more voters wanted a center-right government than a left-wing government, but ranked choice made sure that did not happen.

Or consider the mayor's race in Oakland, California, in 2010, in which the candidate that received the most first-place votes lost the election to "a candidate on the strength of nearly 25,000 second- and third-place votes" after *nine rounds* of redistribution of the votes.[6]

This also happened recently in Maine. In 2018, the first-ever general election for federal office in our nation's history was decided by ranked choice voting in the Second Congressional District in Maine. Jared Golden (D) was declared the eventual winner—even though incumbent Bruce Poliquin (R) received more votes than Golden in the first round. There were two additional candidates in the race, Tiffany Bond and William Hoar. However, the Maine Secretary of State, Matt Dunlop, "exhausted" or threw out a total of 14,076 ballots of voters who had not ranked all of the candidates.[7]

Ranked choice obscures true debates, true issue-driven dialogues between and among candidates, and eliminates genuine binary choices between two top-tier candidates.

You never really know who will be running against whom in the final vote count with ranked choice. Your votes are thrown into a fictional fantasy in which no one knows which candidate is really a substitute for another candidate who may not survive the initial rounds. It is all a numbers gimmick. You, as a voter, are not given the opportunity to make the final decision between competing substitutes.

As Professor James G. Gimpel, an expert on voter behavior, testified in a recent case challenging Maine's ranked choice voting law, "unlike ordinary elections and ordinary runoffs, voters are required to make predictions about who will be left standing following an initial tabulation of the votes."[8] He believes that "a portion of the voting public has insufficient interest and information to make a meaningful assessment about likely outcomes."[9]

Clarity Obstruction and Disenfranchisement

Ranked choice destroys clarity of political debate and forces voters to cast ballots in hypothetical future runoff elections. When we have Republicans versus Democrats versus Greens and Libertarians, we know who is running against whom and what the actual distinctions are between the candidates on issues. Second- or third-choice votes should not matter in America; they do not provide the mandate that ensures that the representatives in a republic have the confidence and support of a majority of the public in the legitimacy of their decisions.

Not only is ranked choice voting too complicated, it disenfranchises voters, because ballots that do not include the two ultimate finalists are cast aside to manufacture a faux majority for the winner. But it is only a majority of the voters remaining in the final round, not a majority of all of the voters who actually cast votes in the elections.

Ballot exhaustion is not just a minor problem with ranked choice voting. According to the 2015 study, "a substantial number of voters either cannot or choose not to rank multiple candidates, even when they have the ability to do so."[10] Instead, many voters "opt to cast a vote for their top choice, neglecting to rank anyone else."[11]

Additionally, some jurisdictions that have implemented ranked choice voting also limit the number of candidates that can be ranked. All of the localities in the study limited voters to ranking three candidates—even when there were more candidates in the race. Thus, "if each of a voter's top three candidates is eliminated, his or her ballot becomes exhausted and, as a result, is excluded from the final total."[12]

In other words, a ranked choice election will, in the end, boil down to only two opposing candidates, but many voters (not knowing how the roulette

wheel will spin) will not cast ballots between those two choices. That voter ends up with no say in the contest between the final two candidates in the black box elections governed by ranked choice voting.

Of course, had that election been between just those two candidates in the first place, that same voter would have heard debates, listened to the issues discussed, and made an informed choice between those two. With ranked choice voting, a candidate whose support was too marginal to get into public debates may end up winning—eliminating the process that informs the electorate and forcing average American voters into the world of mixed strategy game theory, where they are forced to try to predict the probability that particular candidates that they favor or do not favor will survive multiple rounds of vote tabulation.[13]

Tactical Gimmickry

Ranked choice voting also provides voters with an incentive to tactically game the system and falsify their preferences for candidates.

For example, if enough Ross Perot voters had listed George H. W. Bush as their second choice over Bill Clinton in 1992, Bush might have won that presidential election instead of Clinton. Since Perot came in third in the race, his votes with Bush as the second choice would have counted for Bush in the second round of vote tabulation.

If you could convince enough other voters to do that, you could potentially eliminate a viable candidate from the next rounds of ballot tabulations—even though he is one of the two candidates in a multiple-member field with the largest plurality of support. As one analyst says, the tactic is to "'up-vote your lesser-evil candidate and 'bury' your lesser-evil candidate's most viable opponent."[14]

While this might sound farfetched, in today's social media world, it would not seem that difficult to implement and coordinate such a strategy, particularly in local elections where there is a much smaller electorate. It is easy to imagine sophisticated insiders and campaign consultants creating and employing such a strategy to reach their candidate's supporters and voters for second-, third-, or fourth-round recalculations of voting results.

The Solution: Runoff Elections

The answer to this gimmickry is runoff elections. In the normal electoral process in the vast majority of states, there is a runoff election several weeks after a general election in which no candidate won a majority of the vote.

It is true that some voters might not turn out for a runoff election that is held several weeks after the general election because their preferred candidate did not gather enough votes to be in the runoff. However, the added time window gives potential voters the opportunity to reexamine and reeducate themselves about the character and views on issues of the two candidates who received the largest pluralities in the general election. Voters have a greater opportunity to make an informed choice than with instant runoffs (i.e., ranked choice voting). Runoff elections guarantee that the winner of the runoff election has a genuine mandate from a majority of the voters—a crucial factor in a democratic system.

Runoff elections carry additional costs—but so do primary and general elections. Yet few people suggest abolishing them because of their cost. Consent of the governed matters.

Consent of the governed is what fosters domestic tranquility. When people believe that elections produce clear results between known opposing ideas, people learn to live with results even if they do not like the outcome. The vast number of Americans who are perfectly comfortable with how elections have been run for centuries will likely see ranked choice as a gimmick. When a body politic comes to believe election outcomes are a gimmick, beware.

A few years ago, there was a movement to add "none of the above" to ballots in some states. Ranked choice voting does the opposite—forcing voters who want to have any say to vote for "all of the above."

Birds of a Feather

For over a decade, we have been warning about the people and institutions who want to fundamentally transform our elections.[15] You should pay close attention to, and be highly skeptical of, anyone who wants to tinker with long-standing and revered electoral institutions, whether that is the people controlling redistricting, voter registration, citizen-only voting, or the Electoral College.

We have detected a pattern. Most of the time, when fundamental transformations to elections are proposed, the people proposing them have two characteristics. First, they think it will help their side win. Second, their ideological perspectives are usually rooted in a transformational extreme: They want to change the rules to manipulate elections outcomes in order to force the public into their distorted vision of a supposedly utopian society.

Foes of the Electoral College, for example, want to undo it because they want large, densely populated cities with their one-party control over

election administration determining who becomes the President of the United States. Foes of legislatures drawing district lines oppose the people having control over the process because they want friendly bureaucrats who sit on "independent" redistricting commissions and who are unaccountable to voters drawing lines instead.

Conclusion

In the end, it is all about political power, not about what is best for the American people and for preserving our great republic. So-called reformers want to change process rules so they can manipulate election outcomes to obtain power.

Ranked choice voting is no different.

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Endnotes

1. Ella Nilsen, "Maine Voters Blew Up Their Voting System and Started From Scratch," Vox, June 12, 2018, https://www.vox.com/2018/6/12/17448450/maine-ranked-choice-voting-paul-lepage-instant-runoff-2018-midterms (accessed August 17, 2019). However, ranked choice voting only applies to federal elections, not state elections, because the Maine Supreme Judicial Court held that the law conflicts with the state's constitution. *Opinion of the Justices*, 162 A.3d 188, at 209–211 (Me. 2017). Some municipalities in states like California, Minnesota, and Washington State also use ranked choice voting. Simon Waxman, "Ranked-Choice Voting Is Not the Solution," *Democracy Journal*, November 3, 2016, https://democracyjournal.org/arguments/ranked-choice-voting-is-not-the-solution/ (accessed August 17, 2019).

2. David Sharp, "Ranked Choice as Easy as 1, 2, 3? Not So Fast, Critics Say," Associated Press, October 9, 2016, https://apnews.com/62c997cfd2ab403ca0b3c3333e1a9312 (accessed August 17, 2019).

3. Craig M. Burnett and Vladimir Kogan, "Ballot and Voter 'Exhaustion' Under Instant Runoff Voting: An Examination of Four Ranked-Choice Elections," *Electoral Studies*, Vol. 37 (2015), pp. 41–49, https://cpb-us-w2.wpmucdn.com/u.osu.edu/dist/e/1083/files/2014/12/ElectoralStudies-2fupfhd.pdf (accessed August 17, 2019).

4. Ibid., p. 42 (emphasis in original).

5. Waxman, "Ranked-Choice Voting Is Not the Solution."

6. Sharp, "Ranked Choice as Easy as 1, 2, 3?"

7. *Baber v. Dunlap*, 376 F.Supp.3d 125, footnote 6 (D. Maine 2018) ("Whether RCV [ranked choice voting] is a better method for holding elections is not a question for which the Constitution holds the answer…. To the extent that the Plaintiffs call into question the wisdom of using RCV, they are free to do so but…such criticism falls short of constitutional impropriety." *Baber*, at 135).

8. Ibid., at 131.

9. Ibid., at 132. Thousands of ballots were discarded in the Second Congressional District that was being litigated in this case, illustrating, according to Professor Gimpel, "that those voters guessed wrong due to an information deficit." Ibid.

10. Burnett and Kogan, "Ballot and Voter 'Exhaustion' Under Instant Runoff Voting," p. 49.

11. Ibid.

12. Ibid., p. 44.

13. Mixed-strategy game theory "is a probability distribution that assigns to each available action a likelihood of being selected." See "Mixed Strategy," International Encyclopedia of the Social Sciences. 2nd ed., p. 290, http://www.columbia.edu/~rs328/MixedStrategy.pdf (accessed August 17, 2019).

14. Jason Sorens, "The False Promise of Instant Runoff Voting," CATO Unbound, December 9, 2016, https://www.cato-unbound.org/2016/12/09/jason-sorens/false-promise-instant-runoff-voting (accessed August 17, 2019). Sorens argues that ranked choice voting is worse than "the status quo because it neuters third parties" by eliminating their "blackmail power." Under our current system, Sorens contends, major parties have "an incentive to cater a bit to ideological minorities" to avoid those third parties fielding a candidate in a race that will take votes away from the major party candidate.

15. See J. Christian Adams, *Injustice: Exposing the Racial Agenda of the Obama Justice Department* (Washington, DC: Regnery Publishing, 2011), and John Fund and Hans von Spakovsky, *Who's Counting? How Fraudsters and Bureaucrats Put Your Vote at Risk* (New York: Encounter Books, 2012).

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In 2016, Maine voters <u>approved a ballot initiative</u> that established the use of ranked-choice voting (RCV) in state and federal elections. In its most recent legislative session, the state <u>also approved the use of RCV in presidential primary and general elections</u>, though that law is now the <u>subject of a People's Veto campaign</u> to be permanently repealed. A thorough timeline of Maine's experience with RCV can be found <u>here</u>.

Election reform is not new to Maine or other jurisdictions. Reformers often make grand claims about the benefits of their preferred voting methods. But like any election system we employ, it comes with pros and cons that deserve legitimate scrutiny outside of the media soundbites and campaign slogans.

On Jan. 23, the ADN <u>published a commentary</u> from Peter Brann, a Maine attorney who represented Jared Golden in 2018 after the result of our second congressional district election was challenged in court. Mr. Brann made it sound like ranked-choice voting did exactly what was promised – in fact he said it ran "quite smoothly." This couldn't be further from the truth.

Despite its billing as the panacea for all of our political woes, RCV fails to deliver on many of its promises to voters. After proponents made dozens of vague, unscientific claims about the benefits of RCV, we at The Maine Heritage Policy Center decided to <u>put these claims to the test</u>.

Unsurprisingly, the conclusions we reached counter much of the talking points voters hear about the benefits of RCV.

Perhaps the central selling point of RCV is that it produces majority winners. This is completely false.

In Maine's 2018 Second Congressional race between incumbent Bruce Poliquin and challengers Jared Golden, Tiffany Bond and William Hoar, 289,624 votes were cast in the first round. Jared Golden was eventually declared the winner of the contest in the second round of tabulation with 142,440 votes, or 49.18% of ballots cast in the election. We waited nine days for the final election results.

How was this "majority" obtained? More than 8,000 ballots were exhausted through multiple rounds of counting, allowing the eventual winner to take the contest with less than a true majority of the votes cast.

RCV fails to produce true majority winners is because the system exhausts voters' ballots. A ballot becomes exhausted when a voter overvotes, undervotes or exhausts their choices. For example, a voter accidentally ranks two candidates as their first choice, or only ranks one candidate who is eventually eliminated from the contest.

In these instances, the ballot becomes exhausted and no longer contributes toward the final denominator used to determine a majority winner. It's as if these voters never showed up on Election Day.

Of the 96 RCV elections examined in our research, 61% of them failed to produce a true majority winner.

Similarly, our research found that, on average, approximately 11% of ballots become exhausted in RCV elections. This is a significant portion of the electorate and illustrates exactly how the faux majority is reached – after about 10% of ballots are discarded.

Other claims related to voter turnout, negative campaigning and the influence of money in elections were similarly proven to be false. Again and again, the claims made by supporters of RCV have been debunked using hard data from the jurisdictions that enacted the system.

Like Alaska, we in Maine regularly deal with an onslaught of ballot initiatives because we live in a cheap media market. The system may soon be coming to your neck of the woods. Don't be surprised when it produces the opposite result of what you were promised.

OPINION

Editorial: Ranked-choice voting fails to boost diversity

The Detroit News   Published 11:00 p m ET Nov 25, 2019 | Updated 9:57 a.m. ET Nov. 26, 2019

Voters cast their ballots at Forest Park Elementary School in Eastpointe., November 5, 2019. *(Photo: Clarence Tabb Jr., The Detroit News)*

Earlier this month, the city of Eastpointe in Macomb County held Michigan's first ever ranked-choice election to select two City Council seats. This measure was complex, ineffective and unnecessary.

The new election method, in which voters are required to rank all candidates on their ballot from most preferable to least, was prescribed over the summer to settle a complaint filed against the city by the U.S. Department of Justice just before President Barack Obama left office in 2017.

The Justice Department alleged that since no African Americans had been voted into office despite more than a third of the city's population being black, racism must be at work. The department concluded that since city elections didn't produce the results it thought were desirable, the city was in violation of the Voting Rights Act.

As a remedy, Eastpointe had to put in place ranked voting. Voters were asked to rank four candidates, and winners were the two who got 33.3% plus one additional vote (/story/news/local/macomb-county/2019/11/03/eastpointe-ranked-choice-voting-michigan-first/40538173/) after officials tallied all the rankings.

More: Familiar candidates win under ranked-choice voting in Eastpointe (/story/news/local/macomb-county/2019/11/07/eastpointe-candidates-election-win-ranked-choice-voting/40564637/)

It didn't work, at least not to produce the diversity the Justice Departemnt demanded. Newly elected council members Sarah Lucido and Harvey Curley are white.

"Most people believe that the results would have been the same with a traditional vote," Lucido says. "I don't think it made too much of a difference."

The city did elect its first black mayor, Monique Owens, but that was with a traditional city-wide vote. In fact, Owens had been the first black city councilwoman as well, elected by traditional vote the same year the DOJ filed suit against the city.

Assistant City Manager Brian Fairbrother says Election Day came off without a hitch, thanks to a roughly $30,000 effort to explain to voters how ranked voting works.

Hans von Spakovsky, manager of the Heritage Foundation's Election Law Reform Initiative, spent four years at the DOJ coordinating enforcement of the Voting Rights Act and says he doesn't think ranked-choice elections are a good idea.

"It's bizarre that the DOJ would come in and push ranked-choice voting," he says.

The complaint against at-large voting in elections is that it takes away a sizable minority's ability to elect their preferred candidate, but von Spakovsky doesn't think ranked-choice voting is the remedy.

The standard, more acceptable solution, according to von Spakovsky, is to create or redraw voting district lines to make "minority majorities" — districts in which the city-wide minority has a majority voice. And then elect council members to represent those districts.

Spakovsky argues that ranked-choice elections actually rob voters of the chance to make informed decisions at the polls, and that runoff elections are a better way for candidates to reach voters about their platforms.

Per the settlement agreement, Eastpointe has to hold another ranked-choice election in 2021. After that, the city should quit the practice and get back to democracy as usual.

Read or Share this story: https://www.detroitnews.com/story/opinion/editorials/2019/11/26/editorial-ranked-choice-voting-fails-boost-diversity/4231162002/

What's wrong with ranked-choice voting: Let us count the problems

By HERB W. STUPP
NEW YORK DAILY NEWS | NOV 01, 2019 | 10:14 AM

Early voting at the Park Slope Armory YMCA on the first day of early voting in New York City. This is the first year early voting is being implemented in the city. (Clarissa Sosin/for New York Daily News)

A question on the New York City ballot proposes to dramatically alter the way we vote for city officials. The small percentage of New Yorkers who turn out could impose their will on those who prefer our traditional democratic method.

Question 1 would amend the City Charter to implement ranked-choice voting (RCV) in primaries and special elections for mayor, public advocate, city controller, borough president and City Council.

Instead of our standard, familiar system, where the candidate who gets the most votes wins, even if that's a plurality, RCV would allow voters to rank up to five candidates, in order of preference, for each of the designated city offices.

If no candidate achieves 50% of the first-place votes, the one receiving the fewest such votes is eliminated, and that contender's second-place votes are allocated to the remaining candidates. These rounds of re-allocating second-, third- or fourth-place votes from the bottom-up continues until one candidate gets a majority.

Proponents of Question One says that ranked-choice voting will encourage interest among potential voters and reduce the influence of special-interest lobbies. But when I checked the pro-RCV advocates' website, I found mostly special interests supporting the scheme.

In fact, there's strong evidence RCV risks distorting voters' actual will. In Maine, Rep. Bruce Poliquin had apparently won re-election, but with under 50% of the vote. Maine's ranked-choice system kicked in, eliminating an independent candidate, whose second choice votes were re-allocated.

The election-night results were reversed, and the congressman's top challenger was awarded that seat.

"It's been a disaster," says business leader Jeff Kane, who's on the board of the Maine Heritage Policy Center. The center has examined 96 RCV elections across the nation.

Part of the problem is the way the counting works. As each round of RCV tabulation proceeds, some ballots are declared "exhausted," as some voters' remaining choices do not include candidates "still standing" as voters' other choices are being re-allocated. In some races, the percentage of "exhausted ballots" ranged from 9.6% up to 27.1%.

That positively disenfranchises "exhausted" voters, excluding them in final rounds of an RCV election.

Look at how the process worked in a 2010 race for San Francisco Board of Supervisors (City Council). After 20 rounds of tabulation, there were 9,608 exhausted (discarded) ballots, whereas the winner garnered only 4,321 votes. The victor took fewer than 25% of the votes.

Yet supporters still insist ranked-choice voting is somehow majoritarian.

A Pew Research survey found that 34% of Republican voters and 32.5% of Democrats couldn't even name their own party's nominee for Congress; now voters are expected to have five informed choices, in order of preference? FairVote, which supports ranked-choice, found that under RCV, the "...prevalence of ranking three candidates was lowest among African-Americans, Hispanics, voters with less education and those whose first language was not English."

Also, consider my former constituency, older New Yorkers. Seniors vote in higher proportions than others. However, in RCV jurisdictions with greater percentages of older voters, more ballot-marking errors occur. Improperly marked ballots are discarded.

That means RCV is likely to disproportionately disenfranchise senior voters.

Some jurisdictions have repealed their ranked-choice voting laws following negative experiences. After an unpopular mayor of Burlington was re-elected with only 29% of the first place votes, voters repealed the system. The North Carolina legislature repealed their RCV laws in 2013, and the voters of Ann Arbor, Mich., did the same.

In Pierce County, Wash., voters repealed Ranked Choice by a thumping 71%. Aspen, Colo., rescinded RCV in 2009 by 65%.

After the California legislature passed a ranked-choice voting system, then-Gov. Jerry Brown vetoed the bill, explaining it was "overly complicated and confusing, depriv(ing) voters of genuinely informed choice."

In 17% of the cases studied, RCV systems produced a different winner from the one chosen by voters on election day. That's just unacceptable.

Vote no on Question 1.

Stupp served as a regional administrator at two federal agencies, and as commissioner of the NYC Department for the Aging from 1994-2002.