



TO: The Honorable Louis Luchini  
The Honorable John Schneck, Co-Chairs  
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: March 4, 2019

RE: LD 667– Resolution, Proposing an Amendment to the Constitution of Maine to Require That the Governor Be Elected by a Majority Vote

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Senator Luchini, Representative Schneck, and members of the Joint Standing Committee on Veterans and Legal Affairs:

Thank you for the opportunity to testify on LD 667 – Resolution, Proposing an Amendment to the Constitution of Maine to Require That the Governor Be Elected by a Majority Vote.

My name is John Brautigam. I am here today as Legal Counsel and Senior Policy Advisor for the League of Women Voters of Maine.

This bill proposes to amend the Maine constitution to institute a runoff election whenever no candidate for governor in the general election wins more than 50% of the popular vote.

The League of Women Voters of Maine strongly agrees with the goal of ensuring that the winner of the gubernatorial election has more than 50 percent of the vote. For that we thank the sponsor. But we disagree with the means chosen in this bill – a runoff election two weeks after the general election. We therefore testify neither for nor against this bill.

First, what we agree about: States have the option of conducting elections in a way that ensures that the winner has support of at least 50% of the voters. This is helpful for our democracy, as it promotes a culture of constructive, civil campaigning and it ensures a stronger mandate for the winning candidate. It ensures that all voters have a say in the final choice. The majority standard may be part of the solution to the fractured politics that seems to prevail these days. So we support the sponsor’s objective of changing the threshold from the current “plurality” standard to the standard of “more than 50 percent.”

This is hardly a new idea. Many election systems are designed to ensure a winner with more than 50 percent of the vote. Some of those are runoff systems such as that in LD 816. Increasingly, those systems use an instant runoff method. In Maine, the instant runoff method is referred to as ranked choice voting.

Rather than a runoff two weeks after election day, we think a the constitutional amendment should allow for an instant runoff on Election Day, for a variety of reasons. Both a conventional runoff and an instant runoff system will give us a winner with more than 50 percent of the vote, but the instant runoff system has numerous advantages.

First, the instant runoff system will mean greater voter participation in the choice of governor. History shows, that with conventional runoffs, voter participation in the runoff election falls off substantially – by as much as 40 percent. Anything that results in lower participation in the choice of our governor would be a step backwards and something we cannot endorse.

Second, the instant runoff system works for overseas military voters and those who vote absentee. The two-week runoff in this bill could disenfranchise those voters, as the time frame is too short to accommodate overseas voters and would be difficult if not impossible to administer for absentee voters.

Third, the instant runoff system costs a lot less. Our ranked choice voting system in 2018 generated costs of a few hundred thousand dollars. An entirely separate election two weeks after the general election would cost at least twice as much, and for no real benefit that we can see.

Fourth, the instant runoff system is far less burdensome on our towns. We don't think it is a great idea to ask our town clerks and volunteers to gear up for an entirely separate, additional election just two weeks after the regular November general election.

Fifth, the conventional runoff system would create a whole new mini-campaign for the top two candidates. They would have to launch a new round of fundraising and expenditures – all of which could be avoided. The campaign season – already too long – would go into overtime. Has anyone ever said that the problem with our campaigns is that they don't last long enough?

Sixth, an instant runoff system would produce a winner more quickly, allowing that person to begin the transition into his or her elected office office sooner.

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We support the intention of LD 667 of ensuring that the winning candidate of the gubernatorial race has more than 50 percent of the vote. That would have a beneficial effect on the ability of that person to lead and on the confidence of the public.

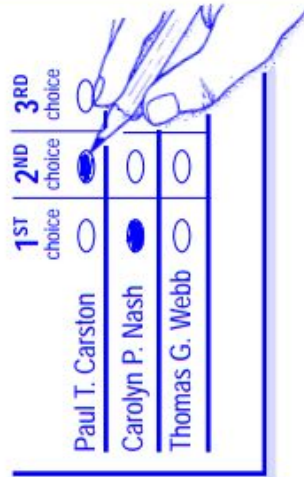
But a conventional runoff is too costly, too burdensome, and likely to reduce voter participation. We therefore urge the sponsors of this bill to join with us in supporting the exact same concept of majority winner, except with an approach that would allow for an instant runoff instead of mandating a stand-alone two-week runoff.

Thank you.

**How Instant Runoff Voting Works**

Instant runoff voting (IRV) is a method of voting that determines a majority winner in a single election, no matter how many candidates are running. It combines a regular election and a runoff election between the top candidates into one election.

Each voter has the option of ranking candidates in order of choice (1, 2, 3, etc.). They select their favorite candidate as their first choice, and their runoff choices as their subsequent choices, in case their favorite candidate doesn't make the runoff.



If no candidate is the first choice of at least half of the voters, a runoff count is conducted. The counting of ballots simulates a series of runoff elections, eliminating the candidates from the bottom who have the least support. In each round, every voter's ballot counts as a single vote for his or her top-ranked candidate who is still in the running, as indicated on that voter's ballot. Candidates with the least support are eliminated until there are just two remaining. The finalist with the highest number of votes is elected by a majority.

The count can be simplified by immediately reducing the field to two candidates after the initial ballot count and determining a winner in the second round of counting.

**The value of majority winners.**

Runoffs seek to assure that in single-seat elections the winning candidate has the support of the majority of voters, rather than a mere plurality. In a majority system, candidates must gain the support of more than 50% of voters, while a plurality system can reward extreme candidates who couldn't gain 50% support, but might win the most votes in a fractured field. Runoffs indeed can be valuable in determining the community consensus and protecting voters from unrepresentative leaders. But requiring two elections can undermine the majority principle due to lower voter turnout.

**Why waste money on two elections?**

By using **instant runoff voting**, the goal of majority winners can be achieved in just one election. By eliminating an unnecessary trip to the polls, IRV saves significant tax dollars, reduces candidates' need to raise money and maximizes voter turnout. If desired, it is even possible to fold primary elections into the general election.

The Center for Voting and Democracy is a non-partisan, non-profit educational organization that studies the American electoral process and the impact of proposed reforms on voter participation, representation and governance. The Center is supported by individuals and foundations, including the Ford Foundation, the Joyce Foundation and the Open Society Institute. Former Congressman John B. Anderson is its president.

**The Center for Voting & Democracy**

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**Why not settle for plurality winners?**

When three or more candidates are in a race, the majority of voters may split such that the plurality "winner" (the one with the most votes) is actually the candidate a majority of voters consider to be the worst choice. There is no need to suffer the "spoiler" problem in multi-candidate races, or settle for undemocratic winners, when a majority voting system such as instant runoff voting can be used.



**Why is IRV better than two-election runoffs?**

It saves both taxpayers and candidates money, and eliminates hassles for both voters and election administrators by having one election instead of two. Traditional runoffs also typically result in significantly fewer voters participating in one of the elections. A drop in turnout of over 50% is not uncommon. IRV maximizes voter participation. The countries with the highest voter turnout in the world use instant runoff voting.



**Is IRV simple for voters to use?**

Yes. Millions of voters have used this system for decades without problems. Mock elections in a large number of schools and senior citizen centers prove that people have no difficulty with rank-order voting, and most actually prefer it. An initial voter education campaign is recommended, but all evidence suggests that voter error will not increase and may even decrease.



**What impact would IRV have on campaigns?**

IRV eliminates the need for a second round of campaign fund-raising. Since second election runoff campaigns are so short, candidates with quick access to large contributors have an advantage. Also, experience in jurisdictions using instant runoff voting suggests it tends to reduce negative campaigning. Since candidates want to also win the second choice votes from voters who favor another candidate, mudslinging can backfire by alienating these voters. IRV elects candidates with both strong core support and also broad

appeal. IRV can avoid some of the extreme polarization that can occur in a traditional runoff between candidates who characterize their opponent as dishonorable.



**Is instant runoff voting constitutional?**

Yes. Because every voter gets one vote in each round of counting, American courts have consistently ruled that IRV complies with the one-person, one-vote mandate of the U.S. Supreme Court. Likewise, there are no federal laws that would prevent any state from adopting instant runoff voting for electing their congressional delegation or presidential electors.



**Where has IRV been adopted?**

IRV is used for government elections in several English-speaking countries, such as: Australia, Ireland and the U.K. In the U.S. instant runoff voting has been adopted in places such as: Louisiana (for overseas absentee ballots), the Utah Republican Party (for U.S. Congressional nominations at conventions), and the city of San Francisco for its most important offices. Many organizations and colleges use IRV, as it is recommended by Robert's Rules of Order (called "preferential voting"). Political scientists elect the president of the American Political Science Association using IRV.



**Are current voting machines able to handle IRV?**

This depends on the voting machine. Older punch-card and lever-style machines are incompatible. Ranked-choice elections have been administered on optical scan, and touchscreen equipment, as well as with hand-counted paper ballots. New Federal Elections Commission standards require voting machine vendors to disclose which of their machines can handle ranked ballots. Federal lawmakers are likely to make more than \$3 billion available for upgrading voting machines. Even jurisdictions with some older machines can implement IRV for a fraction of the cost of a new election, by simply modifying the ballot design, and treating the occasional IRV runoff count like a recount using existing recount procedures.

<p><b>Typical two-election runoff</b></p> <p><b>STEP # 1</b></p> <p>Voters go to the polls and mark their favorite candidate on their ballot.</p>	<p><b>Instant runoff voting</b></p> <p><b>STEP # 1</b></p> <p>Voters go to the polls and mark their favorite candidate on their ballot as their first choice. At the same time they can also indicate their runoff choices by ranking candidates in order of preference – 1, 2, 3.</p>
<p><b>STEP # 2</b></p> <p>If no candidate receives a majority, a second election is called.</p>	<p><b>STEP # 2</b></p> <p>If no candidate receives a majority, the ballots simply need to be retabulated.</p>
<p><b>STEP # 3</b></p> <p>Candidates resume fund raising and campaigning. New ballots must be quickly printed. Polling stations must be set up again. Typically some voters don't make two trips to the polls, resulting in lower turnout.</p>	<p><b>STEP # 3</b></p> <p>Skip step 3.</p>
<p><b>STEP # 4</b></p> <p>If your favorite candidate makes it into the runoff election, you mark a new ballot for your favorite candidate again. If your favorite has been eliminated, you mark your ballot for your next choice among the remaining candidates.</p>	<p><b>STEP # 4</b></p> <p>If your favorite candidate makes it into the runoff count, your original ballot counts for your favorite candidate again. If your favorite has been eliminated, your ballot counts for your next choice among the remaining candidates.</p>
<p><b>STEP # 5</b></p> <p>The candidate with the majority of the votes (of those voting in the second election) wins.</p>	<p><b>STEP # 5</b></p> <p>The candidate with the majority of the votes wins.</p>
<p><b>SUMMARY</b></p> <ul style="list-style-type: none"> <li>★ wastes tax money</li> <li>★ extends campaign season</li> <li>★ inconvenient for voters and election administrators</li> <li>★ lower voter turnout</li> </ul>	<p><b>SUMMARY</b></p> <ul style="list-style-type: none"> <li>★ saves tax money</li> <li>★ one election instead of two</li> <li>★ more convenient for voters and election administrators</li> <li>★ higher voter turnout</li> </ul>