



The Center for
Voting and Democracy

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To New York City Council Members
From Drew Spencer, Staff Attorney, FairVote
Date August 7, 2013
Re Memorandum of Support: Int. No. 1108 (Brewer)

FairVote is a national, nonpartisan, non-profit organization dedicated to research and analysis of electoral rules. We are writing to express our enthusiastic support for Int. No. 1108, which will greatly enhance the voting rights of overseas and military voters by allowing them to participate in New York City's primary runoff elections by use of a ranked choice ballot.

This practice has been used for years in congressional and state primary elections in South Carolina, in general elections for Congress and state offices in Louisiana and for congressional, state and local primary elections in Arkansas. On July 26, 2013, a federal judge ordered Alabama to use a ranked choice ballot for overseas and military voters for the upcoming congressional district 1 special election in order to comply with the Uniform and Overseas Citizens Absentee Voting Act (UOCAVA).¹ The one time the issue has appeared as a ballot measure, in Springfield (IL), it passed with a whopping 91% in support.

Speaking about South Carolina's experience with the use of ranked choice ballots for overseas voters, Chris Whitmire, Director of Public Information of the South Carolina State Election Commission had this to say in a message that he wrote on May 8, 2013, which we share with his permission:

We consider it an unqualified success. We've heard nothing but good things from voters about it. In the past, UOCAVA voters had a very difficult time participating in runoffs due to the two-week turnaround time. In the June 2012 primary, 92.5% of UOCAVA primary voters also participated in the runoff. That is exceptional, and that doesn't even take into account those voters who may not have had a runoff to vote for. The real participation rate could be closer to 100%.

The basic problem is tied to the fact that runoff elections require two rounds of voting. When voters must come back to the polls a second time, voter turnout tends to plummet, especially for lower profile elections. This problem is particularly acute for overseas and military voters. Use of a runoff election without ranked choice voting requires a second ballot to be printed and mailed to each qualified absentee voter. Given New York City's timeline – whether two weeks or the three weeks being allotted this year – very few of these voters have time to receive their ballots and send it back in a timely way. Indeed, the current timeline would not be allowed for federal elections due to the Military and Overseas Voter Empowerment (MOVE) Act and UOCAVA.

Use of a ranked ballot allows absentee voters to fully participate in both the primary election and primary runoff election at the same time. All voters need to do is return a ranked choice ballot. Their first choice will count in the first round of the primary. In the runoff, the highest-ranked candidate on

¹ <http://www.scribd.com/doc/157068436/Judge-Thompson-Court-Order-1-2>

their ballot who is in the runoff will receive their vote. Using this system allows South Carolina to maintain a primary runoff for federal and state elections that takes place only 14 days after the first round, for example.

Ranked choice ballots address the problem of effective disenfranchisement of military voters far better than the alternative of extending the time between the primary election and primary runoff election. As detailed in a recent FairVote report,² an analysis of primary runoff elections across the nation demonstrates that primary elections with a gap of more than 30 days before the primary runoff election have a median decline in voter participation of **48.1%**, while those with a gap of 20 days or less have a median decline of only **15.4%**. Ranked choice ballots are also far better than allowing overseas voters to be counted no matter when they are cast and received. It is highly problematic to allow voters to cast a ballot after they know the results of the election. Qualified absentee voters instead should be able to participate fully in both elections. Int. No. 1108 will allow them to do so by simply allowing them to rank all choices on their ballots.

Note that ranked choice ballots can also be used outside of New York City's current runoff system. We would urge New York to consider a general replacement of its runoff elections with ranked choice voting (also called instant runoff voting) for all voters. Ranked choice voting simulates a runoff election without requiring votes to come out to vote in a second election, with important positive consequences relating to campaign finance, election administration and representativeness of winners.

Under ranked choice voting, voters indicate a first choice preference and have the option to indicate their second, third, and so on. (Note that some jurisdictions limit the number of allowed rankings, but others do not, including those using ranked choice ballots for overseas voters.) These rankings can be thought of as a voter's backup choices – ones only to count if the voter's first choice is eliminated from consideration. A candidate will win after the count of first choices if surpassing the victory threshold – typically 50% of the vote. If not, an “instant runoff” occurs, with candidates being defeated and votes added to the totals of the remaining candidates until a candidate wins by surpassing the victory threshold.

Ranked choice voting is used for local elections in Maine's largest city of Portland, Minnesota's largest cities of Minneapolis and St. Paul, four major cities in California, and communities in Colorado and Maryland. We urge the City to consider ranked choice voting for all voters in the City in citywide primary elections.

As noted in the memorandum of support filed by Citizens Union, there are 31,650 permanent absentee voters registered in New York City, and 2,782 registered military voters. Both law and ethics require that they not be denied the right to vote in important elections. Ranked choice voting for qualified absentee voters will allow military and overseas voters to participate meaningfully in runoff elections without the need to inject a long delay between voting rounds or allow absentee voters to cast a ballot after the election has taken place. It is the proposal that best makes New York City's elections conform with federal and state law and with doing what is right for overseas voters. FairVote supports this proposal and eagerly awaits its passage and prompt implementation.

² <http://www.fairvote.org/assets/Uploads/Federal-Primary-Election-Runoff-Turnout3.pdf>