

EXHIBIT 1  
DATE 3/4/09  
SB 243

## John Hottinger & Carl Cummins: Runoff elections? Yes, please -- but make them instant

Press articles

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By John Hottinger and Carl "Buzz" Cummins

Improving the election process and safeguarding Minnesota's reputation for voting integrity are among the top issues at the State Capitol this year in the wake of the U.S. Senate race recount.

One idea, backed by DFL Sen. Ann Rest and Republican Rep. Laura Brod, is to use runoff elections as an alternative to recounts. Both have said they plan to introduce legislation this session to replace recounts with December runoffs as a fairer way to determine winners in contested and close elections.

It is good that the two legislators are looking at ways to improve the democratic process. Runoff elections ensure that winners in single-seat races can legitimately claim they have won their office with the support of a majority of the voters. Runoff elections would also reduce, although not eliminate, the likelihood of recounts.

The idea of runoff elections is gaining growing consideration in Minnesota, where plurality elections are becoming the norm. In the past election alone, five races — in addition to the Senate race — were decided by a minority of voters: the Third and Sixth Congressional District races, the House District 41A and 51A races, and the Senate District 16 race. Fourteen statewide elections have been won with less than majority support since 1998, when Jesse Ventura became governor with 37 percent of the vote.

But a better way than a second, expensive election in December is an instant-runoff election, which allows voters to rank candidates in order of preference. By capturing voters' additional preferences on the general election ballot, we eliminate the need to ask voters to make a second trip to the polls, which history shows many do not make.

Instant-runoff voting, or IRV, is a tested and accepted system that rolls two elections into one. Imagine it in the recent Senate race, where no candidate topped out with a majority of first-choice votes. Voters would have ranked their favorite candidate first, knowing that if their candidate didn't end up in the top two, their second choice would be counted. For instance, votes cast for Dean Barkley and the other less-popular candidates would have been redistributed to more-popular candidates based on voters' second choices until either Franken or Coleman emerged with a majority of votes.

December runoffs are not only expensive, they attract far fewer voters than general elections — in the recent Georgia Senate race, just 59 percent of those voting in the general election returned for the runoff. Moreover, IRV ensures that voters can cast a ballot for their favorite candidate without fear of "wasting" their vote or inadvertently helping elect the candidate they least prefer.

We do not believe that Minnesotans would like to see political campaigns go on even longer — most of us would like the decision made on Election Day, when turnout is greatest, when campaigns have come to an end and when we've made the vast public expenditure necessary to run an election.

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The choice for improvement is between IRV, which assures us of a 50 percent winner with one election, and a separate runoff, which results in higher public cost; longer, more costly political campaigns, and smaller voter turnout. In a time of deficits, the cost-saving IRV approach should be attractive to Democrats and Republicans alike.

IRV is already in use in more than half a dozen jurisdictions across the United States and in foreign democracies such as Ireland and Australia. Nearly a dozen other cities are slated to use IRV in the near future. In Minnesota, campaigns are underway in St. Paul and Duluth for the adoption of IRV.

Contrary to Brod's statement that IRV is unconstitutional, it has been found in several state courts to uphold the principle of "one person, one vote." We expect a similar outcome soon in a lawsuit against IRV now pending in Hennepin County.

To assist Minnesota cities that wish to use IRV for municipal elections, Rest and Rep. Steve Simon introduced legislation last session that provides consistent rules for the conduct of IRV elections. FairVote Minnesota is pushing for the introduction of this legislation again in the current session.

Minneapolis (this year) and other cities (in the future) are poised to demonstrate how effectively IRV works and pave the way for its use in legislative, statewide and federal races.

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# Instant Runoff Voting:

## Majority Rule, Maximum Choice

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The United States has one advantage in having its plurality voting system falter years after other democracies with plurality voting have had problems. These nations have had years of debate on what steps could be taken -- a debate we should catch up on quickly. The United States also has an advantage in that, unlike these countries, it has a federal system with fifty states that can enact changes on their own, even for presidential elections in their state.

We strongly recommend the instant runoff voting system for presidential elections. Used to elect Australia's parliament since the 1920s, used to elect the Irish presidency and advocated by many in the United Kingdom, instant runoff voting (also called "the alternative vote" and "majority preference voting") has the twin benefits of better assuring majority rule (at least within states) and promoting increased voter choice -- and thus participation -- in elections.

Designed to produce majority winners, instant runoff voting (IRV) allows voters to rank candidates in order of preference rather than simply "x" vote for one. This simple provision for "voter literacy" -- few voters would have difficulty marking a "1" next to a first choice, a "2" next to a second choice and so on -- allows a different method of tabulating results. Rather than the winner being whoever has the most first-place votes -- the current approach -- a candidate would need a majority of over 50% to win. If no candidate obtains a majority of first-place votes, then the last-place candidate is defeated, and, just as if there were a run-off election, the ballots for that candidate are transferred to the next candidate listed on these ballots. This transfer of ballots from last-place candidates continues until only one candidate remains or gains 50%.

If IRV had been used in 1992, Bill Clinton almost certainly still would have won the presidency, as exit polls showed that Ross Perot voters were evenly split between George Bush and Clinton. But Clinton would have had the increased legitimacy of being a majority president rather than a plurality winner with 43%, and Perot would have had a greater chance to win -- and perhaps faced a correspondingly increased level of scrutiny on his proposed policies.

Having IRV in 1996 would reverse much conventional political wisdom. Independent candidacies by Ross Perot, Colin Powell or Pat Buchanan would not fracture the opposition to Clinton -- there would be no more rumors of Clinton consultant Dick Morris helping Ross Perot's Independence Party gain ballot status. Instead, the vote in opposition to Clinton would coalesce behind the strongest of the opposition candidates. Similarly, a Jesse Jackson candidacy would help Clinton rather than hurt him. Jackson supporters on the left would be more inspired to vote, but likely would list Clinton as their second choice, where their vote would go if Jackson did not finish ahead of Clinton in a particular state.

Instant runoff voting as a result encourages candidacies for citizens who feel left out by the limitations of the current system. It provides them with a greater reason to vote and, if they choose to vote, an increased chance to have their vote count toward a winner. By opening the field to more choices -- an increase that polls show a majority of Americans would welcome -- IRV could

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**lift our voter turnout, which now is among the lowest in the world. The 1992 elections provide good evidence of the positive impact more candidacies have on turnout. With Ross Perot on the ballot, voter participation rose in 49 out of 50 states. Furthermore, while the average increase in voter turnout was 5% around the nation, its average rise was 8% in the 10 states where Perot gained his highest percentages of the vote.**

**Although politicians may be resistant to pursue reform before absolutely necessary, they would be foolhardy to risk electoral disaster in 1996 without at least studying proposed changes. Fortunately, a mechanism may indeed exist to study IRV on a national level, as House Speaker Newt Gingrich and Senate Majority Leader Bob Dole have begun steps toward formation of a powerful electoral reform commission. In addition, the Republican presidential primaries may provide a stark demonstration of the haphazard nature of plurality voting, as most states will allocate Republican convention delegates by "plurality takes all" primaries.**

**Regardless of action at the federal level, states can lead the way on presidential election reform. Article II, Section 1 of the Constitution explicitly gives states the power to determine the manner of choosing presidential electors. Thus, unlike abolition of the electoral college, which requires constitutional change, legislatures could institute the IRV for presidential elections (as well as for statewide offices) immediately. The only barrier is that some states might need to find new ways to tabulate ballots, but such one-time changes would be a small price to pay in exchange for providing for majority rule and for a more engaged electorate in what promises to be a watershed election in our nation's history.**

SB243 Majority Vote Requirement (Sen. Joe Balyeat)

Mr. Chair, members of the broad-minded State Admin committee, for the record I'm Sen. Joe Balyeat, representing SD34 in Gallatin & Broadwater Counties. I'm the former State Chairman of Montanans for Better Government; and that position is germane to the bill I bring you today – SB 243. The basic tenet of democracy is – “Majority Rules”. Yet, in Montana, unless we pass this bill, often majority doesn't rule. This bill would change MT election law to require a runoff election if no candidate gets a majority of the vote in a given race. You'll note from one of the articles I passed out that many, if not most, southern states utilize this majority vote system, as well as other states across the country.

Last session, for the first time ever, we had a third party represented in MT's legislature. I assure you– it won't be the last. I'm sponsoring SB243 because I believe it is a creative solution to the problems caused by the increasing presence of third parties on MT's political landscape. I also believe this change would lead to higher voter turnout, higher voter enthusiasm, and higher respect for elected officials of all parties.

Presently in MT, third parties are consigned to nothing more than the role of spoiler – the best they can ever hope to do is spoil the election for one of the major party candidates. For instance, a Green Party or New Party candidate might steal just enough votes away to hand a normally Democrat seat to a Republican, or a Constitution Party candidate might steal just enough votes to hand a normally Republican district to a Democrat. By my count, that's exactly what happened about 17 times in elections between 01 and 07.

The consequence of this situation isn't good for anybody – 1) It isn't good for the people of the district because they end up being represented by a legislator who didn't even get 50% of the vote. 2) Its not good for the major party which normally represents the district, because they've lost a seat to the other party which, but for MT's convoluted election law, that party would've retained in it's column. 3) Its not good for the legislator who won either; because he's constantly hamstrung by the fact that he “only represents less than half the people in his district”, despite the fact that he may have gotten more than 50% in a head-to-head race. 4) Because the third party candidate doesn't end up representing the district anyway, its not good for third parties in MT either; because third parties are then forever consigned to a negative stigma – the spoiler role. That when you cast a third party vote you're not just doing a neutral thing – throwing your vote away, but you may even be doing a negative thing – spoiling the results of a particular legislative or statewide race.

In the past, I've carried legislation called “fusion”; which was a more complicated approach to solving this same problem. **SB243 is much simpler, it simply requires a runoff election between the top two finishers. That runoff could either be a subsequent election at a later date, or it could be done as “Instant Runoff Voting”, where voters only go to the polls once, but indicate both their first choice and second choice votes.**

The best way to explain this issue is to use an example which many of you may be familiar with – Rep. Jim “Landslide” Whitaker. This particular example involves a Constitution Party candidate spoiling the election for a Republican, but I urge those of you on the Democrat side of the aisle to see that this exact same situation can and does occur with Democrat legislators who have a Green Party spoiler. Landslide Whitaker was up for re-election in '02. A Constitutionalist filed against him, as well as a Democrat. Normally you'd expect an incumbent to win. But the Constitutionalist drew 200+ votes away (mostly from Republicans); and the Democrat won the seat with less than 50% of the vote. I would contend that situation was good for neither the

district nor the Democrat. The district was represented by someone who didn't reflect the majority of district voters; and, the Democrat was hamstrung throughout his tenure and lost his seat in '04. And nobody will ever know how the '02 election would've turned out in a straight head-to-head match up. It's possible the Democrat would've run that race outright and would've had a solid base to perform his job and get re-elected.

If this majority vote law would've been in effect back then; Landslide Whitaker and his Democratic opponent would've had a runoff election without the Constitution party candidate. We would've then had a two-way head-to-head contest between the Democrat and the Republican. This bill doesn't say whether that race would be a runoff election at a later date, or an instant head-to-head runoff, where people who voted for the third place candidate, also (at the same election) voted for their second choice, which was subsequently used to count the head-to-head race between the Democrat and the Republican candidates.

Again, this same principle would also work with Democrats who have Green Party or New Party opposition. In fact, I would contend that the only possible way that you, as Democrat incumbents, could possibly lose your seats is if you had Greens or New Party candidates file against you and spoil your race. So one way you could look at this bill is incumbency insurance.

Since this bill is a constitutional amendment, our passage will simply allow the voters of Montana to make the final decision. I'm asking you, even if you're not sure on this, to please vote for it and give MT voters that opportunity, and give us all the chance for an honest and thorough debate on the proposal.

I urge the committee, even if this idea is new to you, don't just dismiss it out of hand. Give it a close look, and ask me lots of questions.

I'll sit and listen to proponents and opponents. I ask that a written copy of my testimony be entered in the record, and I reserve the right to close.