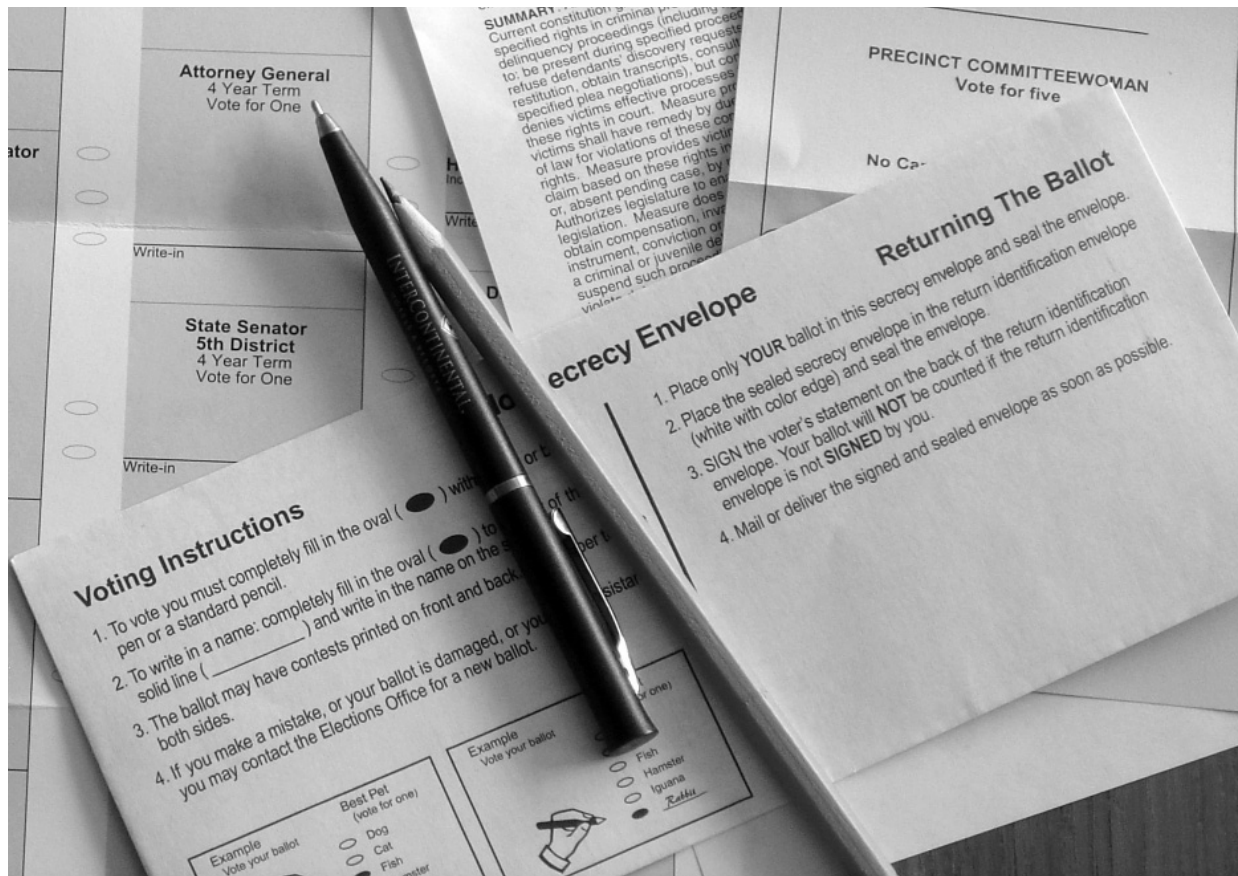


# Election Methods: Review of Alternatives and Oregon Proposals



## LEAGUE OF WOMEN VOTERS® OF OREGON EDUCATION FUND

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# Section 1 – Introduction

Oregon's elections are widely considered to be effectively managed with a voter turnout that is typically among the highest in the nation. In recent years, however, proposals for changes in Oregon's election methods have been made to the Legislature and the League. Possible changes were also discussed in 2006 by the Public Commission on the Legislature. The initiative process is also a vehicle Oregonians have used for voters to consider changes to election methods.

For example, Oregon voters will see on the November 2008 ballot an open/top two primary proposal that changes how general election candidates are selected for partisan offices. Currently Oregon's partisan primary races are closed to all but candidates and registrants of the major parties. Interestingly, closed primaries were a reform from the early 1900s and deemed an improvement over party endorsement methods dominated by decisions made behind closed doors at conventions. Now, 100 years later, Oregonians are being asked to consider Measure 65 that reflects the perception of its proponents that the closed primary system is outdated.

Obviously Oregon voters will decide on this primary reform question, but that it is being raised is an indication that a thoughtful discussion of election method alternatives would benefit League members. Challenging the status quo should not be unexpected in an open society. Indeed, Oregon pioneered a method for direct election of U.S. Senators that contributed to the passage of the 17th Amendment in 1913 that ended an almost 150 year-old system of state legislatures, rather than voters, selecting the senators they send to Congress.<sup>1</sup>

The Legislature and the League have also been asked to consider a nonpartisan legislature, instant runoff voting, and fusion voting. In 2007 the League of Women Voters of Oregon (LWVOR) convention delegates voted to study election methods. This study was sponsored by the LWVOR Education Fund whose goals include increasing understanding of policy issues and empowering citizens to participate in the political process. The purpose of this study is to educate League members on these and other election method alternatives.

Alternative election methods may provide options to increase meaningful political participation, but may not be familiar to many League members used to the current "top vote recipient take all" method of designating election winners. Analysis of alternative election systems in Oregon must be done against the backdrop of our vote-by-mail system and how this voting

process might interface with different election methods in terms of cost, challenges in ensuring a readily understandable ballot, and need for voter education. These concerns are heightened because Oregonians vote at home. Though voters can call election offices (including pre-election hotlines) with how-to questions and voting "how to" information can be included in the Voters' Pamphlet, neither of these options are as convenient as asking in person for clarifications at polling places.

LWVOR Election Methods study group benefited from reports done by the League of Women Voters in other states. We were pleased to receive permission from both the Minnesota and California Leagues to use portions of their studies. With permission, we have updated the figure for women in Congress, included examples from Oregon elections, and used more familiar names in sample ballots. Copied portions are indicated by text against a shaded backdrop followed by a note indicating authorship. It should be noted that ballot examples are not intended to be exact replicas of any state's ballot, but rather illustrate the underlying concepts of different election methods. The report also includes information drawn from academic research, election administrators as well as reform proponents and opponents.

## Election Methods Pros and Cons

This report's discussion of pros and cons are not to be confused with positions of the League of Women Voters of Oregon. Also keep in mind that one person's "con" argument can be another's "pro" position. Election methods are also a topic that deserves far more academic research and when a new or little-used method is discussed authoritative research on its effects is often not available. In general, the pros and cons sections in this report are intended to enhance discussions of these critical issues and are not intended as definitive lists of all possible concerns related to an election method alternative. Finally, these pros and cons should be viewed by the reader within the context of his or her experiences with current election methods. In other words, some readers may well conclude that current procedures are as good as or better than the alternatives discussed in the report.

## Public Commission on the Legislature and Election Reforms

The job of the Public Commission on the Legislature (PCOL) was to “fix what is broken within the legislature and to mend what is harmful or dysfunctional.” The commission considered a wide range of topics including the citizen nature of the Legislature, the amount of money it takes to be elected and stay in the Legislature as well as concerns about a perceived, if not real, increase in partisanship.<sup>2</sup> PCOL proposed bills for a nonpartisan legislature and reform of partisan primary elections. These bills were not successful during the 2007 session.



## Voter Turnout in Oregon

Voter turnout in Oregon general elections between 1960 and 2004 ranged from 59 percent in 1998 to 86.5 percent in 1960 and 2004. Oregon primary turnout over this period ranged from 34.9 percent in 1998 to 72.8 percent in 1968.<sup>3</sup> High primary turnout in 1968 is due to that year's high profile Democratic presidential primary between Robert Kennedy and Eugene McCarthy. Similar dynamics in the 2008 primary resulted in overall turnout of 58 percent. While 2008 primary turnout didn't reach the level seen in 1968, it was still a significant increase compared with 2002, 2004, and 2006 when primary turnout was 47, 46, and 39 percent respectively. In May 2008 there was higher turnout, 76 percent, by Democratic registrants voting for either Barack Obama or Hillary Clinton. Republican turnout in May 2008 was 56 percent while the percentage of nonaffiliated voters returning their ballots with votes on measures and nonpartisan races was 30 percent.<sup>4</sup>

# Section 2 – Criteria for Evaluating Election Systems

Political scientists, politicians, election administrators, and political activists have spent a great deal of time thinking about what makes a good election system. Virtually everyone agrees that a good system should promote majority rule, fair representation, high voter turnout, and stable government. Most of the political disagreements about election systems are usually over which criteria are most important, or over how well particular systems fulfill those criteria.<sup>5</sup>

In 1952 Kenneth Arrow won a Nobel Prize in part for proving mathematically that there is no perfect voting system.<sup>6</sup> However, Arrow’s analysis focused on ranking voting systems. Election methods that are based on scoring systems, such as approval and range voting, fall outside of the scope of the Arrow’s impossibility theorem.<sup>7</sup>

When evaluating election methods the form of our government must be considered. The following is helpful information from the League of Women Voters of Oregon’s 2007 study on redistricting.

Our government is a representative democracy, in which citizens elect representatives to speak for their interests in governmental bodies. There are many possible kinds of representation. As an example, geographic representation emphasizes such things as businesses, farming, mining and roads as much as the people who reside in that geography. If these are what voters value most, then geographic representation is fine. However, it may be important in some communities to represent different ethnic groups, religious groups, economic classes, or other groups. Or it may be more important to equitably represent political philosophies, perhaps as represented by political parties. In examining possible changes to our election system, it is worthwhile to consider all the different types of representation and what type is best for governance.<sup>8</sup>

During an interview with League members, John Lindback, Elections Director in the Oregon Secretary of State’s office, suggested three criteria: elections should be straightforward with a simple system that is easy for all voters to understand, votes need to be counted quickly and accurately, and all voters should be treated alike to ensure fairness.<sup>9</sup>

Some of the following criteria are interrelated, others overlap, and still others may be in conflict. Not all possible criterion are included, but are based on a listing of options from *Introduction to the Election Systems Study*, League of Women Voters of California Education Fund, 2000.

## Terminology Note

Evaluation of election methods by political scientists and mathematical analysis of election results use some terms - wasted, strategic, and sincere - to describe votes cast in specific situations. The use of these terms may be jarring to the reader but does reflect their use in academic research. To remind the reader of their academic lineage they will be identified with quotation marks throughout the report.

• **Ensure Majority Rule:** A good election system should ensure that winning candidates have the support of the majority of the electorate. Candidates can be elected with a plurality rather than a majority with some election systems. When elected officials represent only a minority of the electorate, their political legitimacy can be challenged and their policies have a greater chance of being opposed.

• **Encourage Minority Representation:** Minority representation encompasses two concepts. Minority can be defined by party affiliation. The minority parties need to feel their views are represented. Minority representation can also be defined in terms of race, ethnic background, sex, etc. Minority representation is essential to a fair election system. Minority rights should be protected and minorities must feel included in the election process.

• **Encourage Fair Gender Representation:** Currently, women are under-represented in the United States Congress. However, they receive better representation in local government. In particular, it seems that in voting systems where slates of party candidates are nominated to fill seats in multi-districts, women tend to be nominated more frequently and go on to win office more often.

• **Produce Fair and Accurate Representation of Different Political Views:** There are numerous political views and legislatures should accurately reflect the diverse political perspectives of their constituents. With accurate representation of views, public policies will more likely reflect the will of the constituents. A good election system will allow each party/political view a fair share of seats in any legislative body.

- **Increase Voter Participation:** Voter participation is essential to a healthy democracy. Low voter turnout can indicate voter apathy or alienation. A fair and impartial election system can create a reason for voters to participate.

- **Encourage Geographical Representation:** Geographical areas may have different needs and requirements. Having a representative accountable to a specific area ensures that local concerns have a voice in governing bodies.

- **Encourage “Sincere” Voting:** “Sincere” voting happens when individuals vote for their first choice candidate without the worry that their vote for a third party candidate may result in the election of their least favorite major party candidate. This may result in “strategic” voting, where voters select someone other than their first choice in order to be genuine participants in elections that all too often involve only two viable candidates. A fair and objective election system minimizes “strategic” voting and maximizes “sincere” voting.

- **Maximize Effective Votes/Minimize “Wasted” Votes:** Effective votes contribute to the election of a candidate while “wasted” votes do not elect a candidate of the voter’s choice. If a voter’s candidate loses, she has cast what political scientists call a “wasted” vote and is not represented. A sound election system will reduce the number of “wasted” votes and increase the number of effective votes thereby increasing the number of people actually represented in a legislative body. (“Wasted” votes are inevitable in a single seat election.)

- **Provide a Reasonable Range of Voter Choice:** American voters often complain that they lack real choices at the polls. The type of system used for elections has a very large impact on both the number of candidates and the variety of political parties present on the ballot. Some election systems, plurality-majority systems in particular, tend to discourage minor parties from running candidates because they stand so little chance of winning under those rules. In contrast, proportional representation systems make it easier for minor party candidates to get elected, and more of them can appear on the ballot. Election systems can also affect the range of choices among candidates of the same party.

**Majority:** A vote count of more than 50 percent is considered a majority. Receiving a majority vote is not required for statewide or legislative elections in Oregon. Some political jurisdictions in our state, typically in nonpartisan races, require that elections be won with a majority.

**Plurality:** “A plurality of votes is a total vote received by a candidate greater than that received by any opponent but less than a 50 percent majority of the vote. In other words, if one candidate receives 30 percent of the vote, another candidate receives 30 percent of the vote, and a third candidate receives 40 percent, that third candidate has a plurality of the votes, and wins the election. Abraham Lincoln and Bill Clinton are examples of presidents who received a majority of the electoral vote, but only a plurality of the popular vote in a competitive three-way election contest.”<sup>10</sup>

**Winner-take-all systems:** “Another term for a plurality or majority voting system that produces one winner in each district.”<sup>11</sup>

**Proportional representation:** “The doctrine that political parties (or other groups) should be represented in a legislature in proportion to their size in the electorate. Neither the plurality vote nor its rival single seat election systems can guarantee this. Achieving proportional representation requires a voting method devised for that purpose, such as the single transferable vote or cumulative voting.”<sup>12</sup>

- **Prevent Fraud and Political Manipulation:** To the greatest extent possible, an election system should discourage fraud and political manipulation. Most current election systems have safeguards that make outright fraud unlikely. But political manipulation of the rules and how they are applied does occur. The most common example of this in the United States is the use of gerrymandering: the drawing of voting district lines to favor certain incumbents or parties. Election systems differ dramatically on how much they facilitate or discourage gerrymandering and other kinds of political manipulation.

- **Encourage Competitive Elections:** Many voters are concerned about the lack of competitive elections in the United States. In November of 2004, 401 of the 435 sitting members of the U.S. House of Representatives sought reelection. Of those 401, all but five were reelected. In other words, incumbents seeking reelection to the House had a better than 99 percent success rate. In the U.S. Senate, only one incumbent seeking reelection was defeated in 2003, while 25 out of 26 or 96 percent were reelected.<sup>13</sup> Without competitive elections, it is difficult for voters to hold politicians accountable.

See following page for an analysis of competition in Oregon Legislative races.

- **Easy to Use and Administer:** An objective election system also should allow citizens to easily cast their votes

and understand the results of elections. Overly complex election systems or lengthy ballots may discourage some people from effectively casting their vote. Related concerns involve the ease and expense of administering various election systems including the cost of switching to those systems, and the ease of auditing the results.

**Other important considerations include:** promoting healthy political parties, ensuring stable government, encouraging issue-oriented campaigns, protecting fundamental rights which include freedom of speech and association, discouraging extremism, helping manage political conflict, being responsive to changes in public opinion, producing results viewed as legitimate, reducing campaign spending, establishing close links between constituents and representatives and evaluating whether or not an election method has a proven track record.

## Gaming the Vote?

**Spoilers:** “Minor candidates who draw enough votes from a would-be winner to cause him to lose. In a two-party system, spoilers are the most familiar form of vote splitting.”<sup>14</sup>

**Vote Splitting:** “The central flaw of plurality voting. A group of like-minded voters may split their votes among two or more similar candidates rather than rallying behind one. Vote splitting diminishes the chances that any of the affected candidates will win.”<sup>15</sup>

**U.S. Presidential Elections and Spoilers:** “There have been 45 presidential elections since 1828. In at least five, the race went to the second most popular candidate because of a spoiler. That’s over an 11 percent rate of catastrophic failure.”<sup>16</sup>

**Gaming the Spoiler Effect:** The Pennsylvania Senate race in 2006 was a hot contest between Republican incumbent Rick Santorum and Bob Casey, Jr., a Democrat and son of a former governor. A Green Party candidate, Carl Romanelli, was more liberal but faced an uphill battle to gather the 67,070 signatures needed to qualify for the ballot. Twenty conservatives contributed essentially all of the sixty-six thousand dollars given to the Green Party’s signature-gathering effort. The Democratic Party, however, successfully challenged the validity of those signatures so Romanelli didn’t qualify for the ballot and Casey did win the election.

Why these shenanigans? Because Romanelli might have split votes away from Casey and helped Santorum’s candidacy. “These were the risks the Republican donors were taking. But say that, on the average, the sixty-six-thousand-dollar investment in Romanelli could be expected to decrease the Casey vote by 1 percent. The race was between Santorum and Casey, so decreasing the Casey vote is just as good as increasing the Santorum vote. The upshot is that sixty-six thousand dollars spent on Romanelli’s signatures could do about as much for Santorum as a million dollars spent on his own TV ads.”<sup>17</sup>



## Competition in Oregon Legislative Races

In Oregon's May 2008 primary Democratic and Republican contests were held for 60 House districts and 15 Senate districts for a total of 150 contests; 75 each to nominate Democratic and Republican nominees to the general election. In 28 races or 19 percent of 150 contests, there was no candidate. In 103 or 69 percent of the total 150 contests, candidates ran unopposed. In

other words, there will be two major party candidates on the November ballot but there was no competition between party candidates to receive nominations to the general election. There were only 19 contested primaries, representing only 13 percent of all 150 primary races. (See chart 1 below that summarizes this analysis for 2002 through 2008 Oregon primaries.)

<b>Chart 1 - Oregon Legislative Primary Races Competition Analysis – 2002-2008</b>								
Oregon has 60 House Districts and 30 Senate Districts. Partisan primaries are held in each House district and in 15 or ½ the Senate districts every two years for a total of 150 races								
Competitiveness of each party's primary races	2002		2004		2006		2008	
	# of races	% of 150	# of races	% of 154*	# of races	% of 150	# of races	% of 150
No candidate – no one is seeking that party's nomination	19	13%	21	14%	10	7%	28	19%
Unopposed – only one candidate	101	67%	102	66%	126	84%	103	69%
Contested – 2 or more candidates	30	20%	31	20%	14	9%	19	13%

In those 28 districts where one party didn't field any candidate in May 2008, the final election results are likely a foregone conclusion. For example, in several Portland districts "the race" is in the Democratic primary, with no Republican entering that party's primary. In several eastern Oregon districts, the reverse is true with no Democrat even bothering to run in that party's primary. Unless a minor party or nonaffiliated

candidate runs, there will only be one candidate on the November ballot in those districts. This means that in 28 districts, or 37 percent of our state's 75 legislative districts, it is likely known after this May's primary who will serve those districts in Salem. These figures were still significant but not quite so dramatic in 2002 through 2006. (See chart 2 below.)

<b>Chart 2 - Oregon Legislative District Competition Analysis – 2002-2008</b>								
Oregon has 60 House Districts and 30 Senate Districts. Partisan primaries are held in each House district and in 15 or ½ the Senate districts every two years in a total of 75 districts								
District competitiveness	2002		2004		2006		2008	
	# of districts	% of 75	# of districts	% of 77*	# of districts	% of 75	# of districts	% of 75
General election winner known after May primary (unless minor or NAV** candidate qualifies and wins in November) because one party didn't field a candidate	19	25%	21	27%	10	13%	28	37%

\*Due to special elections there were 17 districts with Senate primaries in 2004.

\*\* NAV means nonaffiliated voter

## Section 3 – Nonpartisan Versus Partisan Election

The issue of candidates running in partisan or nonpartisan elections merits consideration due to concerns about partisan politics diminishing the quality of policymaking and creating legislative gridlock. In addition, whether or not elections are run on a partisan or nonpartisan basis influences evaluation of alternative election methods.

### History of Political Parties

Political parties exist because wherever people “are elected to offices that require making public policy decisions, there are always persons and groups interested in getting certain candidates elected and in defeating others. All elections are partisan in the sense that people and groups ...” come together to seek victory for their side.<sup>18</sup>

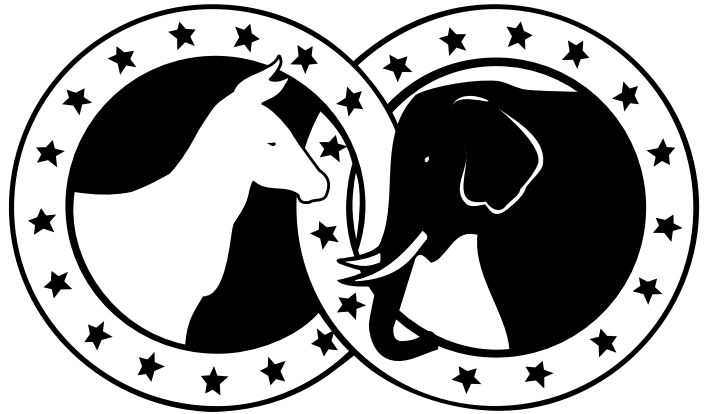
The founders made no provisions for the emergence of parties since they were keenly opposed to the very notion of party governance. However within three years of President Washington’s first inauguration, parties were taking shape and, with minor exceptions, a national pattern of two major parties has prevailed ever since.

Political parties have been defined as organized social groups formed to influence governmental authority through elective means. In addition to providing a meeting ground for people sharing a common philosophy or background and nominating candidates for public office, parties have played major roles in organizing campaigns, raising money, educating voters and getting out the vote.<sup>19</sup>

Especially during the country’s early decades and more frequently in eastern states, political parties developed powerful ward bosses who could dole out substantial political patronage.<sup>20</sup> It was in attempting to weaken the control by party machines that the Progressives at the beginning of the twentieth century advocated reforms that included making local elections nonpartisan. They believed the party system “limited direct government by the people.”<sup>21</sup>

In the second decade of the twentieth century, a series of innovations designed to make government more businesslike and to weaken the power of political parties evolved. The movement was inspired by the success of the corporate structure used in trade and industry and by a revulsion against the low moral standards to be found

in many sectors of political party activity at that time. Journalists had exposed the corruption in politics, and the prestige of the parties had reached a low level. The reform movement that resulted advocated for elections without party designations, among other ideas.<sup>22</sup>



### Oregon Considerations

The majority of local elections around the nation are nonpartisan, while Nebraska is the only state legislative body that is nonpartisan. In Oregon state legislative and federal races as well as elections for Governor, Secretary of State, Attorney General, and Treasurer are run on a partisan basis. State judges, Commissioner of Labor and Industries, and Superintendent of Public Instruction are elected on a nonpartisan basis. Until the 1998 election, the Commissioner of Labor and Industries was elected on a partisan basis, but this was changed by the 1995 Legislature.

In Oregon, cities and school board elections are typically run on a nonpartisan basis. Currently 27 Oregon counties elect their commissions (called courts in some counties) on a partisan basis, while nine counties use nonpartisan elections.<sup>23</sup> These figures reflect a November 2007 decision by voters in Clackamas County to increase from three to five the number of commissioners and change their elections from partisan to nonpartisan. Deschutes County’s home rule committee has considered making the office of commissioner nonpartisan, but no changes have been made.<sup>24</sup>

A bill for a nonpartisan legislature recommended by PCOL (see sidebar on page 5) died in committee during the 2007 session.

Nonpartisan elections occur with different levels of influence by political parties. For example, even without

party labels in some situations a candidate's party affiliation is readily available. In other settings with nonpartisan elections political parties and/or other groups identify a slate of candidates they favor. There are also situations where nonpartisan elections occur with little or no influence exerted by political parties or other groups.<sup>25</sup>

When making a case for or against partisan/nonpartisan elections, factors such "as the size of the jurisdiction's population (small vs. big cities); the demographics of the population (especially the percentage of minority group members); the jurisdiction's form of government (city manager vs. strong mayor); when the election is held (on the "regular" election day or some off-cycle date)" need to be considered.<sup>26</sup>

## Pros of Nonpartisan Elections

- Reduces partisanship in the legislative policy process.<sup>27</sup>
- Reduces the polarizing effect of party identification for the electorate. "Partisan bias in political perceptions plays a crucial role in perpetuating and reinforcing sharp differences in opinion between Democrats and Republicans."<sup>28</sup>
- Increases the leadership experience due to fewer turnovers in nonpartisan legislative bodies.<sup>29</sup>
- Expands the leadership pool of the elected body to include all members, not just the members of the party in control.<sup>30</sup>
- Increases the independence of elected officials and makes

it feasible for minor party and nonaffiliated candidates to be elected.

- Decreases the power of parties.

## Cons of Nonpartisan Elections

- Increases the impact of incumbency, ethnicity, and gender<sup>31</sup> on voting decisions when the "cues" provided by party label are removed.
- Reduces voter turnout.<sup>32</sup> This lower voter turnout "effectively disenfranchises the poorest and least educated citizens"<sup>33</sup> who have the most challenge in getting information about candidates when there is no party label to provide it.
- Creates a disconnect between voters and policy. The focus only on the effects of partisanship within the legislative body misses the impact of parties in connecting the voters and the policymaking process.<sup>34</sup>
- Reduces legislative turnover.<sup>35</sup>
- Reduces accountability. When voters are collectively dissatisfied with the policies of the electorate they can vote those in charge out, but when there is no group or party in power as in a nonpartisan legislature it is impossible to vote "them" out.<sup>36</sup>
- Reduces the choice on the ballot. Without a party label and ideology, candidates may moderate their positions to get elected. Voters with different view points may not find a choice on the ballot.<sup>37</sup>
- Decreases the power of parties but other factions may develop.

### Why Two Parties?

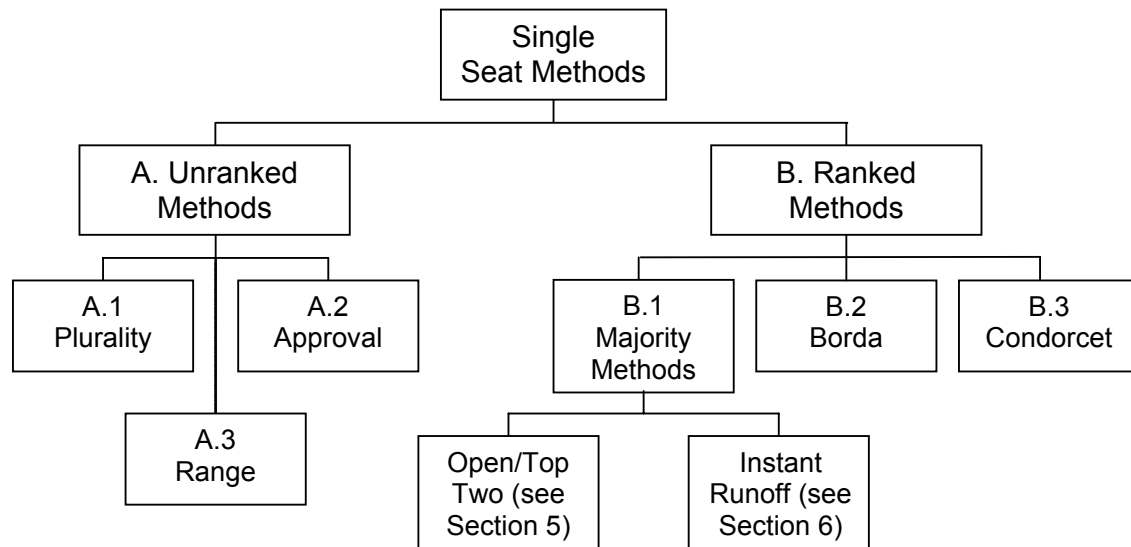
"Why are there two major parties in Oregon? Why not one or three? Part of the answer involves the state's electoral system. Duverger's Rule, named after the French political scientist who formulated it during the 1950s, attributes the existence of two-party systems to two different and independent features of election law: single-member districts and plurality voting. The presence of both features virtually guarantees that a two-party system will dominate elections. The absence of either one provides incentives for minor parties to compete on more equal grounds with major parties."<sup>38</sup>

# Section 4 - Single Seat Election Methods

## Introduction

Election methods are generally of two kinds:

- Methods that are best suited to electing a single candidate for a single office, such as a governor, mayor or legislator in a single seat district.
- Methods that are best suited to simultaneously electing multiple candidates for multiple seats, such as a whole legislature or city council. Multiple seat alternatives are summarized in Section 9.



*Figure 1 – Single Seat Election Methods*

Figure 1 summarizes the universe of single seat election methods and separates them into two categories, unranked or ranked systems. In unranked methods, voters are asked to provide only a single bit of information about their opinion of the candidates - whether they want them elected or not. Because ranked methods require more information from voters, including comparing one candidate relative to the others, ranked methods are considered to provide a better representation of voters' wishes. Common features of single seat methods are discussed first followed by review of key characteristics of each method.

## A. – Unranked Methods

### A.1 – Plurality Elections

Plurality elections are undoubtedly the most familiar to Americans. They are sometimes called winner-take-all or

first-past-the-post (like a horserace) elections in regard to offices where a single candidate is elected to fill a single seat or single member district. In Oregon all congressional, statewide, state senate and state house offices are elected in single-seat plurality elections. A majority winner is not required. In other words, a winner could have received less than 50 percent of the votes cast if more than two candidates are running for the same position. Plurality elections are easy to understand, which along with their familiarity, contributes to their results being generally accepted as legitimate.

## Single-Member District Plurality Voting - How It Works

All the candidates appear on the ballot and the voters indicate their choice of one of them. All the votes are then counted and the winner is the one with the most votes.

1. To Vote: Mark an "X" in the box next to your preferred candidate.
2. To vote for a person whose name is not printed on the ballot, write the candidate's name on the extra line provided and put an "X" in the box next to the name.

Candidates for the State Senate	
Ellery Queen (Democrat)	
Agatha Christie (Republican)	
Rex Stout (nonaffiliated)	
Ruth Rendell (Libertarian)	
Write-In	

### -- Results of Plurality Election --

CANDIDATES & PARTIES	Vote Totals	% of the Vote
*Ellery Queen (Democrat)	43,000	43%
Agatha Christie (Republican)	42,000	42%
Rex Stout (nonaffiliated)	8,000	8%
Ruth Rendell (Libertarian)	7,000	7%
* Winning candidate		
TOTAL	100,000	100%

Ellery Queen is the winner with 43 percent of the vote. As this example illustrates, winners need not collect a majority of the votes, only more votes than their opponents do - a plurality of the votes.

## Advantages Specific to the Plurality System

### Inexpensive and Easy to Administer

Because this is the current voting system in most jurisdictions, election administrators feel very comfortable with the details of this process: designing the ballots, counting the votes, and so on. Also, the voting machines and other technologies associated with casting and counting ballots are already in place, so there is no additional expense necessary to keep using this system.

### Disadvantages Specific to our Plurality System

#### May Violate Majority Rule

One disadvantage of plurality voting is that it allows a candidate to win with less than a majority of the vote. If there are more than two candidates running in a district, the winning one often gets less than 50 percent of the vote. The results show Ellery Queen is the winner, but he has the support of only a minority of the voters, 43 percent. In other words, under plurality rules the winner can be someone the majority did not choose. In this case, the majority of the voters voted for someone other than candidate Queen. This outcome can seem unfair to some voters who may question whether the winner has a valid mandate to rule. In this way, plurality rules may undermine the political legitimacy of some elected officials.

- LWV of California

For example, in 2002 Democrat Ted Kulongoski was elected Oregon governor with 49 percent of the vote against Republican Kevin Mannix and Libertarian Tom Cox who received 46 percent and 5 percent of the vote respectively.<sup>39</sup> In the 1990 Oregon governor's race, a nonaffiliated candidate attracted enough votes for a major party opponent to win with a plurality rather than a majority of the vote. That year Democrat Barbara Roberts won with 46 percent of the vote against three opponents, Republican Dave Frohnmyer with 40 percent, nonaffiliated candidate Al Mobley with 13 percent of the vote and a fourth candidate receiving one percent.<sup>40</sup> (At the time Al Mobley was considered an independent. Current terminology is nonaffiliated, which is helpful to distinguish these voters from members of the Independent Party formed in January 2007.)

## Discourages “Sincere” Voting or Encourages “Strategic” Voting

Most American voters understand “strategic” voting, although they may not recognize the term. In some cases a vote for a favored third party candidate can actually help the voter's least-preferred candidate to win, so the voter may feel compelled to vote for the “lesser evil” of the two major party candidates. “Sincere” voting, defined as voting for your most preferred candidate, is the opposite of “strategic” voting. The need for “strategic” voting is a defining characteristic of some election systems, while others favor “sincere” voting.

In this way, single-member plurality voting encourages supporters of third party and independent candidates to abandon their first choice and cast a “strategic” vote for the lesser-of-two evils among the major party candidates.

## Susceptible to Spoilers

Plurality voting does not always work to the advantage of the major parties, and the problem of spoilers is a case in point. Spoilers are independent or third party candidates that take away enough votes from one major party candidate to ensure the victory of another candidate who would not have won otherwise.

- LWV of California

For example, nonaffiliated Al Mobley was thought to have cost Dave Frohnmyer more votes than Barbara Roberts during the 1990 gubernatorial election. In Oregon's 2002 governor's race, Libertarian Tom Cox was considered a spoiler who cut into Republican Kevin Mannix's vote total.

## A.2 – Approval Elections

Approval voting is a variation of single-member plurality. Voters can vote for more than one candidate and whoever gets the most votes wins.

## Approval Voting - How It Works

Approval voting is a variation of plurality-majority voting and can be used in single-office elections and single-member district legislative elections, although it is not currently used in any public elections. This system was developed in

the 1970s by several analysts, the most prominent being the political scientist Steven Brams. In this system, the ballot resembles a standard plurality voting ballot (see previous sample of plurality ballot with candidates Ellery Queen, Agatha Christie, Rex Stout, and Ruth Rendell.). Voters can vote for, or approve of, as many candidates as they wish in multi-candidate elections; that is, elections with more than two candidates. Each candidate approved of receives one vote and the candidate with the most votes wins.

Currently, approval voting is not used to elect a legislature in any democracy. It is used to elect the Secretary General of the United Nations, and it is used to elect officials in several scientific and engineering societies, including the Mathematical Association of America and the Institute of Electrical and Electronics Engineers.

## Advantages of Approval Voting

However, its proponents cite these advantages. One is that it helps avoid a situation where three or more candidates compete for receiving the largest number of votes, with one candidate being elected by a plurality. In Approval Voting, the person elected is not chosen by eliminating the opposition but rather by receiving the greatest overall support.

Another advantage cited is that supporters of minor party or independent candidates need not worry about “wasting” their votes, or inadvertently helping their least liked candidate get elected. If you vote for both a minor party and a major party candidate, and if the minor party candidate does not win, you have still helped the major party candidate - of whom you approve - get elected.

Approval voting may increase the range of parties and candidates on the ballot and this could encourage more people to vote. Also, proponents argue that less negative campaigning would take place under this system because candidates will try to woo voters who might have a different first choice. Attacking other candidates would risk alienating their supporters and losing their approval.

Because approval voting is a form of plurality-majority voting, it also shares many of the advantages of that family of systems. When used for legislative elections, it promotes close constituency ties, good geographical representation, and stable single-party legislative majorities.

## Disadvantages of Approval Voting

Approval voting assumes that you support all the candidates you vote for equally. But most voters have one candidate they usually prefer over others, even if they approve of many. One major disadvantage of approval voting is that voting for more than one candidate may hurt the chances of your most preferred candidate. In a close three-way race, for instance, if you vote for two candidates, you may be helping your second choice candidate to defeat your first choice. Since this problem is fairly obvious, in practice many voters may cast only one vote in this system, which means that it then reverts to a standard plurality voting system and loses all of its unique advantages.

Some critics of approval voting suggest that it gives an advantage to bland, centrist, "smiley face" candidates who are likely to be approved by a wide cross-section of the electorate. By avoiding taking strong stands on difficult issues, these inoffensive candidates run less of a risk of alienating voters and a better chance of gaining their approval vote.

Because approval voting is basically a form of plurality-majority voting, it also shares most of its disadvantages. When used in single-member districts for legislative elections, approval voting would produce large numbers of "wasted" votes, deny minority representation, produce unfair party representation, and encourage gerrymandering.

- LWV of California

## A.3 – Range Voting

In range voting, a voter is asked to assign to each candidate a numerical score within some range, say 0 to 9 or 0 to 99. Voters don't rank candidates but give each one a score with the option of giving candidates the same score. Voters may also indicate that they have no opinion about a candidate, often with an "X" option. Such votes don't affect that candidate's average. It does not matter that one voter's scores may greatly differ from other voters. The winner is the candidate with the highest average score, except that a winning candidate's total score must be at least 50 percent of the sum received by any other candidate. (This is called a quorum and prevents candidates with few numerical votes, as opposed to no opinion or "X" votes, from winning.)<sup>41</sup>

Range voting is not known to be used anywhere for governmental elections. However, it is a scoring method

used in athletics, including some Olympic events. It has also been used to grade students (0 to 100) and select valedictorians for over a century. Range voting is also used on several popular websites; for example, YouTube and Amazon use a five-point scale for users to rate videos and books.

The effectiveness of range voting is increased when the same group of people rates all the options. Since this is the situation in a political election, range voting would likely work better in this setting compared to its use in website voting. A sample electoral ballot could look like the following with the candidate with the highest score winning.<sup>42</sup>

	Bad	Poor	Fair	Good	Great
Ruth Rendell	1	2	3	4	5
Rex Stout	1	2	3	4	5
Sue Grafton	1	2	3	4	5
John Grisham	1	2	3	4	5

One advantage of this system is the increased likelihood of being able to use current voting technology, especially if one-to-five or one-to-ten score ranges are used. In a 2004 exit survey voters were asked upon leaving polling places how they would have voted using a zero to one hundred scale. Most voters used multiples of ten, indicating that adequate resolution is provided by smaller ranges.

Number phobia has been cited for a perception that scoring candidates could be difficult. To address this concern report card style letters A-F could be used. The relevance of this concern, however, may not be significant as indicated by the popularity of hotornot.com, a website targeted to young people that provides a ten point ranking system to evaluate photographs. More than twelve billion votes has been cast on that website, more than four times the votes cast in all the presidential elections held in the United States.<sup>43</sup> Nevertheless, a disadvantage of range voting is that it has not been used in political elections.

Approval voting can be considered a simple form of range voting because voting for more than one candidate is allowed, but with only a check mark for "approve" rather than a score for each candidate. Approval and range voting are similar in terms of being scoring systems, which means they are not factored into Arrow's work on the impossibility of developing a perfect voting system.

The leading proponent of range voting is Warren D. Smith,

a mathematician who teaches at Temple University. Smith is considered to have little reverence for previous work in voting theory, and wrote that “Arrow’s Nobel-winning 1951 ‘impossibility theorem’ misdirected the entire field of voting systems for 50 years.”<sup>44</sup>

## **B. – Ranked Methods**

### **B.1 – Majority Methods**

There are two majority methods that are among the most familiar alternative election systems, open/top two and instant runoff voting. In Oregon, the open/top two primary reform is backed by proponents who attempted (albeit unsuccessfully to date) to put this election system into place through the Legislature and by use of the initiative process. This Oregon-specific discussion is included in Section 5. Instant runoff, including Oregon history on this topic, is discussed in Section 6.

### **B.2 – Borda Count Elections**

This system of voting was named after the French mathematician Jean-Charles de Borda and requires voters to rank candidates from most to least preferred. Rankings are converted to points. For example, in a four candidate election, every first-place ranking is three points, second place is two points, and third place receives one point, while fourth place receives no points. The winner is the candidate who has received the most points.<sup>45</sup>

A Borda count, however, is vulnerable to easy manipulation by a technique called burying. This occurs when a “strategic” voter ranks a minor party candidate with no realistic prospects of winning ahead of a major party candidate. Imagine, for example, a Nazi Party candidate, Schickelgruber, in the presidential contest between Nixon and Kennedy. In terms of viability, a Kennedy supporter

would presumably rank Kennedy first, followed by Nixon and then Schickelgruber. But a strategic Kennedy supporter could actually help more by ranking Schickelgruber second and Nixon last, which penalizes Nixon in the Borda count. When confronted with similar stories of “strategic” voting, Borda’s comment was, “My scheme is intended only for honest men.”<sup>46</sup>

More details on the Borda system are available online at <http://www.lwvor.org/studyreport.htm>.

### **B.3 – Condorcet Elections**

A contemporary of Borda, Marquis de Condorcet, felt that an election winner should be the candidate able to beat every other candidate in two-way votes. A Condorcet ballot lists every pair of candidates with voters being asked to designate their preference in each pairing. The confusing ballot and difficulty of tallying votes made this system impractical. Now, however, voters can rank candidates with computers used to determine the winner. Some online communities use Condorcet voting, but for government elections new voting equipment would be required. There are also infrequent cases where the Condorcet system produces a circular outcome. “Candidate A may beat B, B may beat C, and C may beat A.”<sup>47</sup>

More details on Condorcet voting are available online at <http://www.lwvor.org/studyreport.htm>.



# Section 5 –Open/Top Two and an Oregon Proposal

## Purpose and Types of Primary Elections

Primary elections are held to select candidates for the general election.

In nonpartisan elections candidates are not identified by party, and the general election is the runoff between the top vote recipients in the primary. In some jurisdictions, if a candidate wins a majority of the votes in the primary election, then that person has won and either does not appear or is the only candidate on the general election ballot. In other locales, the recipient of a majority of the votes will still face the second top vote recipient in the general election.

In today's partisan elections the major party nominees to the general election are selected. In other words, a party endorsement process is a government paid function. "Before primaries were widely adopted in the 20th century, powerful state and local party leaders—the so-called political bosses—controlled the selection of nominees at political conventions."<sup>48</sup> Minor political parties typically select their candidates at nominating conventions that must comply with state regulations, but costs are covered by the minor party.

Currently primaries in Oregon are closed to members of a minor party or a nonaffiliated voter. These voters receive a primary election ballot, but it includes only nonpartisan races such as local government officials and judges as well as any legislative referral or local ballot measures. These voters do not have the option of voting in the major party primary that selects those party nominees for the general election. Nonaffiliated voter or NAV is Oregon's official terminology for what is commonly called an independent.

Depending on internal party rules, in some states the major parties allow nonaffiliated voters to vote in closed primaries, resulting in what are sometimes called semiclosed primaries. Though Oregon's political parties have experimented with opening their primary elections to NAVs, this is not the current practice.

Significant numbers of Oregonians switched party registration status due to interest in voting in the hotly contested Democratic presidential primary between Barack Obama and Hillary Clinton in May 2008.

From January 1 through April 19 of 2008, 74,885 Oregonians switched their party registration. The largest number, 32,268 switched from NAV to Democratic. Republican registrants switching to Democratic totaled 18,912. Smaller numbers switched from NAV to Republican (2,495) and from Pacific Green to Democratic (2,412).<sup>49</sup>

An open primary is the opposite of a closed primary, but can be a confusing term because it is used loosely to describe a wide range of primary options. The most common form of open primary is found in the 22 states whose voter registration process does not require the voter to state a party preference.<sup>50</sup>

In some of these states, for example Indiana, voters choose either a Democratic or Republican ballot, both of which include any applicable nonpartisan races. Voters make a public declaration of which party nominees they want to vote on by virtue of requesting either a Republican or Democratic ballot. Nonaffiliated voters can participate in the primary and request either a Republican or Democratic ballot. A person who typically votes for Republican candidates can request a Democratic ballot or vice versa.

In other states, Wisconsin for example, ballots include a Democratic or Republican column and voters choose their party in the privacy of the voting booth. Any voter, regardless of party affiliation or nonaffiliation can vote, but the voter must pick one party's column. Crossover voting is not allowed, and if it occurs, no votes cast in any partisan races are counted.<sup>51</sup>

Blanket primary is a term used for completely open primaries when any voter, regardless of party or nonaffiliation, can vote for a nominee from either major party. In other words, everyone receives the same ballot, and crossover voting is allowed. This term is often used to describe the primary system used in Washington State from 1935 until recent legal challenges.<sup>52</sup>

An open/top two primary means that primary elections for partisan offices are open to all voters regardless of party

affiliation or nonaffiliation. In addition, all candidates regardless of party affiliation or nonaffiliation run in this form of primary. In other words, this primary system is no longer a state-paid mechanism for major parties to select their general election nominees. No political party, major or minor, could use the primary election to select their candidates and will presumably find other mechanisms to do so, such as caucuses or conventions. The next step is that the top two vote recipients from the primary continue to the general election. No other means to appear on the November ballot are available. This can mean that the two general election candidates can be from the same party.

Louisiana adopted an open/top two primary in the 1970s. In 2004 Washington voters adopted an open/top two primary initiative that is going into effect during the 2008 primary season. In Oregon, Measure 65 will be on the November 2008 ballot.

Measure 65 ballot title: Changes general election nomination processes for major/minor party, independent candidates for most partisan offices.

Measure 65 requires that ballots label each candidate with his or her party registration status. Also on the ballot will appear the phrase, “A candidate’s political party registration shown on the ballot for voter choice offices is the candidate’s own party registration as of 70 days prior to the election. It does not imply the endorsement of the political party.”<sup>53</sup>

The endorsement of any political party, minor or major, can also be listed by the candidate’s name with an “Endorsed by” label, but only upon the agreement of the candidate. If a candidate is endorsed by more than one political party he or she can agree to have each party endorsement listed on the ballot. This also provides the option for one political party to endorse more than one candidate in a race. Measure 65 does not specify what form a party endorsement process must take.

Measure 65 does not affect elections for those offices in Oregon that, as defined in state law, are nonpartisan. Measure 65 creates a voter choice category of elections and all the races in Oregon currently run on a partisan basis are included in this category. Any office not explicitly designated in state law as partisan or nonpartisan would be placed in this voter choice category by Measure 65.

## Primary Reform– Legal Considerations

Political parties have successfully challenged the constitutionality of the blanket and other forms of open primaries, citing freedom of association protections and objecting to allowing non-party members to select party nominees.

The policy and legal story in Washington State is the most pertinent since it was the subject of the most recent U. S. Supreme Court ruling on this topic. That state’s blanket primary was ruled unconstitutional, which led to the passage of the open/top two ballot measure (I-872) that eliminated any declaration of political party and advanced the top two vote recipients to the general election.<sup>54</sup> This measure was challenged by political parties in a case that went to the nation’s top court.

In March 2008, the U.S. Supreme Court upheld the validity of the Washington open/top two primary system in a 7-2 vote. Key findings in the decision were that the Washington primary does not choose the nominees of parties. Indeed, the law doesn’t refer to candidates as party nominees and says that the top two candidates from the primary proceed to the general election regardless of their party status.<sup>55</sup>

Open/top two primary proponents in Oregon were not successful in collecting enough signatures to qualify an initiative for the 2006 general election. Another attempt, Measure 65 will be on the November 2008 ballot. Its drafters indicate that it is different from the 2006 proposal and written to meet legal concerns about the rights of parties. This appears to be the case based on review of the March 2008 U.S. Supreme Court decision upholding Washington’s open/top two primary system. Measure 65 contains a severability clause such that if these provisions were ruled unconstitutional, the rest of the measure is still valid.

## Why an Open/Top Two Primary and Experience Elsewhere

Sam Reed, Washington Secretary of State, and Phil Keisling, former Oregon Secretary of State, are open/top two primary advocates.<sup>56</sup> In Washington much of the motivation appears to stem from resistance to changing from the blanket primary system that voters used from 1935 to 2003. Support for open primaries in Oregon appears to focus on a view that closed primaries may serve the interests of political parties, especially the major parties, but that voters would be better

## Primary Purposes and Types

### 1) Select Top Two Candidates for Nonpartisan Offices

- The top two vote recipients advance to runoff or general election.
- Any voter can participate regardless of party affiliation or nonaffiliation.
- Any candidate can run regardless of party affiliation or nonaffiliation.
- Candidates run without party labels.
- This is current Oregon law for nonpartisan offices.

### 2) Select Major Party Nominees for Partisan Offices

General features are:

- Two major party candidates are selected for the general election.
- A major party will be represented on the November ballot unless a candidate is not recruited to run in a particular race.
- Candidates must be members of one of the two major parties.
- Variations exist in whether or not and how nonaffiliated voters are allowed to participate.
- A minor party is also ensured a spot on the November ballot, but a convention or other mechanism is used to select candidates.

Primary types:

- Closed primaries are only for voters registered with a major party; nonaffiliated voters are not allowed to vote for major party candidates.
- Semi-closed primaries are when nonaffiliated voters are only allowed to vote if the major parties agree in their rule making; not a decision made by government.
- Open primaries are often linked to voter registration that does not require identification of party status.
  - In the public declaration version all voters can vote in either Republican or Democratic Party primary based on which ballot they request. Cross voting is not possible because the voter gets either a Republican or Democratic ballot.
  - In the private declaration version all voters receive a ballot with a Republican and Democratic column of candidates and choose the column in which they will vote in the privacy of the ballot box. Cross voting between party columns is not allowed.
- Blanket primary
  - All voters receive the same ballot and vote for either major party's nominees for the general election. Cross voting is allowed.

### 3) Select Top Two Candidates for Partisan Offices

General features:

- The top two vote recipients advance to the general election for partisan offices.
- Only two candidates listed on the November ballot; write-ins still allowed.
- All candidates regardless of party membership run in the primary.
- The primary is not the means for major parties to nominate a general election candidate for partisan offices, and these parties are not ensured a slot on the November ballot.
- The primary is open to nonaffiliated and minor party candidates. Minor parties are not assured a slot on the November ballot.
- Not used to select presidential primary candidates.
- Used only in Washington and Louisiana, proposed in Oregon.

Oregon's Measure 65:

- A candidate's official party registration status must be listed on the ballot.
- If endorsed by a political party or parties, the candidate may have endorsement(s) listed on the ballot.
- Voter registration includes declaration of party or nonaffiliation.

Washington's I-872, adopted in 2004 and went into effect with the August 2008 primaries:

- A candidate may state a political party that he or she prefers on the ballot, but this is not required.
- Statement of party preference is not an endorsement and there is no option for a candidate to list party endorsements on ballot.
- Voter registration does not include declaration of party or nonaffiliation.

Louisiana, adopted in the 1970s:

- Originally primary held in November with runoff for "top two" in December. Now the primary is in October with November general election as next step.
- A candidate's official party registration status is listed on the ballot.
- Party endorsements are not listed on ballots.
- Voter registration includes declaration of party or nonaffiliation.
- Does not apply to elections of any federal candidates.

served by a more open general election candidate selection process for partisan races.

Current primary voters must be registered in one of the two major parties and tend to be party stalwarts. To win their votes during the primary, Democratic candidates often move to the left while Republican candidates typically emphasize their conservative credentials. Primary winners then typically shift to the middle to win the general election, but these candidates often carry strong partisan attitudes into the legislature or statehouse.

Indeed, one way to keep legislators aligned with the party line is to threaten or actually recruit a primary challenger against a legislator who didn't comply with the voting dictates of the legislative caucus leadership. Often the challenged incumbent is a moderate. Open/top two primary proponents argue that moderate candidates can be successful because the "policy zigzag" between the primary and general election would be reduced and candidate candor would increase since candidates need to speak with all voters from the beginning of their electoral run.

In Louisiana moderate Democrats have been successful in recent elections, but extreme candidates have also advanced to the general election. Most notably that state's 1991 governor's race involved a runoff between white supremacist David Duke and former Governor Edwin Edwards, a Democrat, after incumbent governor Buddy Roemer failed to gain votes split among a number of Republican candidates. Roemer had switched to the Republican Party, a move that didn't work due to vote splitting, but many felt that he could have beaten either Edwards or Duke in a less crowded primary field.<sup>57</sup>

Given Edwards' history of suspected corruption, one bumper sticker said, "Vote for the Crook, not the Klan." A Louisiana political columnist wrote, "The fact is that Louisiana's primary system isn't a good test of the state's mood and intentions. The multi-candidate primary is about who can attract 20 to 30 percent of the vote on one day."<sup>58</sup> Edwards beat Duke, but subsequently went to prison on corruption charges. Obviously, the political culture of Louisiana is different from Oregon, but this is the only state with a history of using a comparable primary system.

Portland State University political science professor Richard Clucas states that conflict is inherent in legislative politics and wonders whether a shift in the primary system would really result in significant change. "Conflict is a product

of our society, not the system," says Clucas. "The system reflects the society."<sup>59</sup>

## Oregon Primary Reform and the Public Commission on the Legislature

The 2005 Legislature formed an interim work group, the Public Commission on the Legislature, to review a wide range of options to improve legislative operations. The Process Subcommittee heard testimony on a number of election reform options including the open/top two primary. Proponents of this reform were former Oregon Secretaries of State Phil Keisling and Norma Paulus. Another former Secretary of State and Governor, Barbara Roberts, and former Speaker of the Oregon House, Grattan Kerans spoke in opposition.

Open/top two primary supporters cited a 2002 "Values & Beliefs Survey" that found that only 24 percent of Oregonians polled felt that political parties make their community a better place to live. They also referred to uncompetitive races and growing numbers of nonaffiliated voters or NAVs, particularly among younger Oregonians. Keisling and Paulus felt their proposal would discourage "zigzag" campaigning and encourage candidate candor and issue-oriented campaigns. An open/top two primary would require candidates to appeal to a broader range of voters during both the primary and general elections. Voters could also register for their preferred party without a concern that their subsequent voting options would be limited.<sup>60</sup>

The following statistics show the increase in voter registrations indicating no party affiliation as well as lower voter participation by NAVs, especially in our state's closed primary elections when they can't vote for major party nominees.

- Voter participation during the 2006 primary was 43.7 percent of Democrats, 44.7 percent of Republicans, 21.5 percent of NAVs, and 23.3 percent of minor party members. (NAV and minor party members were only voting on nonpartisan candidates and ballot measures.)
- The percentage of NAV registrations during Oregon's general elections increased from 10.9 percent in 1990 to 22.1 percent in 2006.
- During the 2006 general election, voter turn out was 75.4 percent of Democrats, 75.6 percent of Republicans, 57 percent of NAVs, and 57.1 percent of others.<sup>61</sup>

Keisling and Paulus felt that an open/top two primary would increase voter turnout and choice because all voters can

cast a ballot in the “qualifying round” at the primary. This would help ensure that general election nominees represent a broader base than those Democrats and Republicans who are motivated to vote in their respective party primaries. They also cited the fairness of treating all voters as equals and eliminating the current guarantee that the major parties will have a general election nominee. Minor party candidates would compete on equal footing with other candidates in the May primary, and plurality votes in November couldn’t occur because there would be only two candidates.

Opponents of the open/top two primary, Roberts and Kerans, first discussed a range of options that they felt better addressed problems with Oregon elections and then provided a critique of the open/top primary proposal. Problems cited included costly and long campaigns. Solutions were to move the primary from May to September and adopt Voter-Owned Elections or full public financing reform. To address concerns about major party domination and NAV or third-party candidates being perceived as a spoiler, they suggested adopting Instant Runoff Voting.<sup>62</sup>

Another objection by Roberts and Kerans was that the open/top two primary proposal would lengthen the election cycle with the primary essentially being a “first general election” followed by a “final general election,” resulting in an increase in campaign costs. They were also concerned that if major parties couldn’t use primaries to elect their nominees they would turn to endorsement procedures, presumably conventions or caucuses, which could actually increase partisanship.

They also felt that campaign tactics claiming “spoiler candidate” arguments would shift from just being a general election ploy to becoming a factor in the primary or “first general election.” In the “all comers meet” atmosphere of the “first general election,” the “spoiler candidate” issue doesn’t disappear, rather it just moves up in time. Voters could be urged to cast “strategic” votes for major party candidates and not a third-party or NAV candidate who could be a spoiler. Roberts and Kerans also believed that minor party and NAV candidates would be shut out of the general election. Indeed, in legislative districts where one major party dominates, it is likely that the “top two” winners in the “second general election” will be from the same party.<sup>63</sup>

The Public Commission on the Legislature was persuaded by the proponent’s arguments and urged legislative consideration of an open/top two primary bill in 2007. PCOL

members clarified that they were supportive of the concept but not necessarily all aspects of 2006’s Initiative #86.<sup>64</sup>

During the 2007 legislative session, the Senate failed to pass SB 630, the open/top two primary bill suggested by the PCOL, by a thirteen “ayes” to seventeen “nays” vote. Opposition was bipartisan in nature with “no” votes coming from nine Democrats and eight Republicans. Supporters were also bipartisan, three Republicans and nine Democrats, and were joined by the one nonaffiliated Senator, who is identified as an independent in legislative records.<sup>65</sup> The Pacific Green and Libertarian Parties testified in opposition to SB 630.<sup>66</sup>

## Pros of Open/Top Two Primary

- Candidates reflecting the views of a broader range of the electorate may be more successful, resulting in decreased partisanship.
- Oregon’s growing numbers of nonaffiliated voters (NAV) will now have a voice in nominating general election partisan candidates.
- General election competition may be increased because two candidates from the same party could face each other in November. Currently, there are many legislative districts where one party doesn’t field a candidate. For example, in Portland “the race” is typically in Democratic primaries, while this pattern is reversed in parts of the state with high Republican voter registration. In these districts the top two vote recipients in the primary would compete in the general election regardless of party status.
- More contested general elections, including between members of the same party, could enable more discussion of issues. Increased campaign spending could result to the benefit of voters.
- Spoiler candidates will be eliminated during the general election since there can be only two candidates on the November ballot. Races cannot be won with less than 50 percent of the vote, unless write-in votes affect the results of a close election.
- The major political parties will not control the primary election process.
- Minor parties and nonaffiliated candidates will be treated the same as major parties and can compete in the primary.
- Voters will have more choices during the primary.
- Primary election voter turnout may increase.
- The open/top two primary is straightforward reform that is easier to understand than other election reform options.

## Cons of Open/Top Two Primary

- Extreme candidates could win or crowd out moderates in open/top two primary systems since a large number of candidates could split votes to the extent that top vote getters could advance with relatively few votes from partisan voters on either the right or the left.
- Costs of campaigns and fundraising demands on candidates may increase because the primary will effectively become another general election with outreach required to all potential voters. Now primary candidates can focus their outreach only on voters eligible to vote in partisan primaries.
- In those districts dominated by one party, “the race” is typically in the primary. The general elections in these districts are then less expensive pro forma races. Under open/top two primary reform the top two winners of a primary in such a “one party dominated” district will face each other again in a general election. Such a November election will essentially be a repeat of the primary in terms of likely result and campaign cost.
- Other reforms such as public funding campaign finance reform and alternative voting systems may be better options to address partisanship, gerrymandering, and problems “solved” by the open/top two primary.
- An incentive for major party registration is removed which might reduce the effectiveness of political parties.
- Political party endorsement processes, such as caucuses or conventions, may decrease transparency and access to all but party activists and give too much clout to party leaders.
- Voters in many legislative districts may actually see less choice because the top two vote recipients in the general election could be from the same party.
- Voters may have fewer choices during the general election with less chance for independents or minor party candidates to succeed in a “top two” general election.
- Minor parties will lose their guarantee to a spot on the general election ballot and reduce their opportunity to educate voters about their particular issues.
- General election turnout is greater than in primaries so it is more important to ensure greater choice in the general election.
- General election voter turnout may decrease because voters will have less choice since only the “top two” candidates appear on the November ballot.



# Section 6 – Instant Runoff Voting and Oregon History

## What is Instant Runoff Voting?

Instant Runoff Voting can be used in partisan and nonpartisan elections and will elect a majority winner in just one election. It is used when electing one person. Instant runoff voting is also known as "IRV" and "majority preferential voting." In Australia, where this system is used to elect its lower house of parliament, it is called the "alternative vote." IRV was first invented in the 1870s by a professor at the Massachusetts Institute of Technology.

Proponents of IRV claim that IRV has the advantages of the two-round system while avoiding many of its disadvantages.

## Instant Runoff Voting - How It Works

All candidates are listed on the ballot. But instead of voting for only one candidate, voters rank the candidates in the order of their preference. This ranking process is illustrated on the following ballots. Voters simply write a "1" next to their first choice, a "2" next to their second choice, and so on.

Voters can also rank candidates on an AccuVote ballot, a computer-readable ballot that is used in the Cambridge, Massachusetts's municipal elections. It is similar to marking answers on the standardized tests used in schools. On this ballot voters fill in numbered boxes to indicate their ranking of the candidates.

The counting of the ballots is also different from plurality voting. First, all the number one preferences of the voters are counted. If a candidate receives over 50 percent of the first choice votes, he or she is declared elected.

If no candidate receives a majority, then the candidate with the fewest votes is eliminated. The ballots of supporters of this defeated candidate are then transferred to whichever of the remaining candidates they marked as their number two choice. It is as if you told the supporters of the last place candidate, "Your candidate cannot possibly win, so who among the other remaining candidates would you like

## -- Instant Runoff Voting --

<ul style="list-style-type: none"> <li>• Do not use X marks.</li> <li>• Mark your choices with NUMBERS only.</li> <li>• Put the figure 1 opposite your first choice, the figure 2 opposite your second choice, the figure three opposite your third choice, and so on. You may make as many choices as you please.</li> <li>• Do not put the same figure opposite more than one name.</li> </ul>	Candidates for State Senate	
	Ellery Queen (Democrat)	
	Agatha Christie (Republican)	
	Rex Stout (Independent)	
	Ruth Rendell (Libertarian)	
	Write-In	
	To Vote for a Write-In Candidate: next to the name you have written in, put a number that represents your choice for that candidate.	

your vote to go to?"

After this transfer, the votes are then recounted to see if any candidate now receives a majority of the vote. The process of eliminating the lowest candidate and transferring his/her votes continues until one candidate receives a majority of the continuing votes and wins the election.

This transfer process is illustrated below. In this hypothetical election, no candidate receives over 50 percent of the vote in the first round. So the lowest candidate, Ruth Rendell, is eliminated and her ballots are transferred to her supporter's second choices. 1,000 of Rendell's supporters gave Rex Stout as their second choice, and 6,000 indicated Agatha Christie as their second choice.

The new totals show that no one yet has a majority, so Rex Stout is eliminated. 4,000 of Stout's votes are transferred to Agatha Christie and 5,000 are given to Ellery Queen. If some of Stout's ballots had listed Rendell as the second choice, they would have been transferred to their third choice, since Rendell had been eliminated. After this latest transfer it is clear that Agatha Christie now has over 50 percent of the vote and she is declared the winner.

As this example illustrates, this system essentially operates as a series of runoff elections, with progressively fewer candidates each round, until one candidate gets a majority of the vote.

## -- Transfer Process in Instant Runoff Voting --

CANDIDATES & PARTIES	First Count	Second Count		Third Count	
	Original First Choice Votes	Transfer of Rendell's Votes	New Totals	Transfer of Stout's Votes	New Totals
Ellery Queen (Democrat)	43,000	+0	43,000	+5,000	48,000
*Agatha Christie (Republican)	42,000	+6,000	48,000	+4,000	<b>52,000</b>
Rex Stout (Independent)	8,000	+1000	9,000	--	--
Ruth Rendell (Libertarian)	7,000	--	--	--	--
* Winning Candidate					

- LWV of California

## Instant Runoff Voting in Oregon

In 1908 Oregon voters approved a ballot measure authorizing proportional representation laws. This was one of a number of populist initiatives adopted in Oregon early in the last century. The measure amended the Oregon Constitution and is in Article II, Section 16.

However, Oregon law (ORS 254.065) states, “the person receiving the highest number of votes shall be nominated or elected.” Legislation was introduced to amend Oregon statutes to enable use of instant runoff voting (IRV) but received no hearings during the 1999, 2001, and 2005 legislative sessions. During the 2007 Legislature, a bill to allow local governments to adopt instant runoff voting, House Bill 2761, passed the House Elections, Ethics and Rules committee, but did not receive a floor vote.<sup>67</sup>

In 2005, the Ashland City Council requested a legal opinion from its city attorney on whether or not a city level instant runoff provision could be put on the ballot to amend its city charter to allow instant runoff voting. This opinion cited a 1913 Oregon Supreme Court finding that a city could adopt preference voting by charter. The Ashland city attorney also reviewed the reasoning in a 2001 letter the Secretary of State sent to legal counsel for the City of Eugene that took the position that preference voting, such as IRV, is not a local option without state enabling legislation. The Ashland city attorney disagreed because of that city’s home rule status and the understanding that the city would need to pay for the costs of IRV voting so as to avoid legal difficulties linked to “conscripting” the county to incur any costs or other burdens related to IRV.<sup>68</sup>

Though the Ashland city attorney came to a different conclusion than the Secretary of State, no action has been taken in that city. Ashland IRV proponents, however, had requested their member of the Oregon House of Representatives, Peter Buckley, to introduce IRV legislation. Buckley’s 2007 legislative attempt would have allowed local governments to adopt IRV, and though it passed out of committee, it never reached the floor.

In 2001, the City of Eugene’s legal counsel made the same recommendation as its Ashland counterpart finding that, as a home rule city, Eugene had the authority to enact this change in its charter. However, state and county election officials indicated that, if adopted, it would be up to the City of Eugene to run its elections under IRV rules. This was understood by city officials who indicated that those details would get figured out upon passage of the referred charter amendment.<sup>69</sup> That step never occurred because Measure 20-51, on the September 2001 ballot to allow preference voting for Mayor and City Councilor elections, failed decisively in a 66 percent “no” vote.<sup>70</sup>

One reason local governments might be interested in instant runoff voting is that their city council members are more likely to be elected on a nonpartisan basis. This means that primary elections serve as the means to identify the top two vote recipients to go on to a general election that serves as a runoff. Instant runoff voting in a nonpartisan race setting would enable these two elections to be collapsed into one with the runoff phase occurring as part of the vote counting, providing cost savings.

Instant runoff voting is used for student elections at Reed College, Lewis and Clark College, and Portland State



University. Reportedly Portland State is the first public institution in Oregon to use this election system.<sup>71</sup>

## Instant Runoff Voting Elsewhere

In 2006 North Carolina enacted legislation (H-1024) establishing a pilot project allowing a limited number of cities and counties to use instant runoff voting.<sup>72</sup> Instant runoff voting has been adopted in Takoma Park, Maryland; San Francisco, California; Minneapolis, Minnesota; Burlington, Vermont; and Sarasota, Florida. Washington State has enacted enabling legislation for local governments, and Pierce County has adopted IRV. Arkansas and several other states use IRV for overseas voting. The Voter Choice Task Force in Colorado released a March 2008 report in response to legislative discussion of this topic in that state. Two cities in Colorado, Aspen and Basalt, have adopted IRV.<sup>73</sup> Instant runoff voting is also used in other countries, including Ireland and Australia.

Implementation of IRV does take time. For example, the

Minneapolis City Council began consideration of IRV when its Intergovernmental Relations Committee recommended the formation of an IRV Task Force in March 2006. The Task Force recommended enactment of an IRV ordinance, but the City Council decided to refer to the voters a charter amendment that essentially asked, “Should IRV be adopted for city elections?” In November 2006 Minneapolis voters responded with a 65 percent “yes” vote. In April 2008 the City Council passed an IRV ordinance that reflected extensive work on program details. Implementation is now underway with the goal of having IRV in place for the 2009 elections.<sup>74</sup>

A legal challenge on the constitutionality under Minnesota law has been filed by the Minnesota Voter Alliance.<sup>75</sup> Such a challenge seems unlikely in Oregon given our constitutional language on this topic. A challenge on whether or not Minneapolis has the statutory authority to have IRV voting is also anticipated.<sup>76</sup> In Oregon the potential for this type of legal challenge would be minimized by enactment of enabling legislation as has been considered in Salem.

### IRV in San Francisco

San Francisco voters enacted IRV (or as it is called there ranked choice voting or RCV) in 2002. A survey of voters using the new system for the first time in 2004 elections was conducted by the Public Research Institute at San Francisco State University. Key findings included:

- A wide majority of voters said they understood RCV fairly well or perfectly well (polling place = 86%, absentee = 89%).
- Levels of understanding were lowest among voters with little education and low income.
- Most polling place (59%) and absentee (60%) voters reported ranking three candidates; about one-fourth said they voted for only one (23% polling place, 24% absentee).
- Nearly two-thirds (64%) of those who knew of RCV prior to coming to the polls ranked three candidates versus 47% of those who were unaware of the new voting system.
- Forty-six percent (46%) of polling place respondents felt that they were more likely to vote for their most preferred candidate under the new system, 3% felt that they were less likely to vote for their most preferred candidate, and the majority (51%) said there was no difference.
- Among absentee voters, 42% said they were more likely to vote for their most preferred candidate, 3% said less likely, and 56% reported no difference.
- Among polling place voters, 29% said they felt less like their vote was “wasted,” 7% said they felt more like it was “wasted,” and 64% noted no difference.
- Evaluation of “wasted” vote perception by absentee voters was that 20% said “less,” 7% said “more,” and 74% said “no difference.”
- A majority of polling place voters (61%) preferred the new RCV system. Absentee voter preference was higher at 77%.<sup>77</sup>

The San Francisco Department of Elections spent \$850,000 for a voter education project before the 2004 elections and has indicated to the Oregon Secretary of State that more should have been spent.<sup>78</sup>

## Pros of Instant Runoff Voting

- Promotes majority rule since winning with only a plurality of voters cannot occur
- Addresses the spoiler effect of a third party or nonaffiliated candidate helping a major party candidate win with only a plurality of votes cast
- May provide more choices and may increase the likelihood of third party or nonaffiliated candidates because of a reduced opportunity for the spoiler affect
- May encourage voter turnout by those who don't bother to vote if the ballot doesn't provide enough choices or their top choice could be a spoiler candidate
- Reduces cost of election administration and of campaigning because a second election is not required to determine the winner of a two-round runoff election
- May reduce negative campaigning because candidates can benefit if they are a voter's second choice, so candidates may refrain from viciously attacking opponents and alienating supporters of those other candidates

## Cons of Instant Runoff Voting

- May create confusion because it is unfamiliar to most American voters
- Reduces cost savings because of the need for educational outreach to address voter confusion
- Increases costs and election administration difficulties due to the need for changes in vote tally equipment
- May create large candidate fields and turn elections into name recognition contests, with minimal opportunities for meaningful debate
- May still result in the election of a candidate without a majority of voter support if voters do not rank all possible candidate choices
- May result in the election of a candidate not preferred by a majority of the voters as their first or second choice<sup>79</sup>



# Section 7 – Fusion Voting and an Oregon Proposal

## Purpose of Fusion Voting

Fusion voting is the practice of nominating the same candidate for an office by multiple political parties. The votes for all lines where the candidate's name appears are added together to arrive at a grand total of votes for the candidate.<sup>80</sup> The various parties choose their candidates in a primary election or at a convention dependent upon state laws. Fusion voting usually occurs in the general election; however, if an open/top two primary or other alternative election system is adopted in Oregon, then fusion voting could occur in primary elections as well.

Fusion voting allows third parties to have a voice in an election, without necessarily running a candidate. It gives the voters the opportunity to express their support for a minor party's agenda while also participating in the actual choice between the major party candidates who have a substantial chance of winning. Other terms sometimes used for fusion voting are open ballot voting and cross-endorsement.

An example of a fusion voting ballot is:

<input type="checkbox"/>	John Grisham – Democrat
<input type="checkbox"/>	Stephen King – Republican
<input type="checkbox"/>	Anne Rice – Socialist
<input type="checkbox"/>	Sue Grafton – Libertarian
<input type="checkbox"/>	John Grisham – Green Party

Both the Green Party and the Democratic Party have nominated John Grisham. The voters indicate which party they support by voting for John Grisham with the appropriate party designation. When the votes are tallied, John Grisham receives a count totaled by candidate and subtotaled by party.

## Fusion Voting History in the United States

Fusion voting was legal in the United States until the end of the nineteenth century. There literally was a ballot box, where citizens dropped in a ballot listing the candidates they had chosen. Political parties, in hopes that the voter would vote the “straight party line,” typically printed these ballots and distributed them directly to voters. The states

were not involved in determining what was a political party or who they could nominate. This resulted in different parties listing the same candidates on their ballots and allowing third parties to become more involved in the voting process. However, this also allowed various corrupt practices including the buying of votes and the coercion of voters.

Beginning in 1888 the various states rapidly switched to the “Australian Ballot,” a government printed secret ballot listing all eligible candidates and designed to eliminate the corrupt practices. However, the major political parties used this government control to strengthen their positions at the expense of minority parties.<sup>81</sup> Without the ability to have a candidate nominated by a second party, fusion voting was virtually eliminated. In 1896, “Republicans swept to power and that spelled doom for fusion voting.”<sup>82</sup> In most states, fusion voting was eliminated as an option.

Currently, only seven states allow fusion voting: New York, Connecticut, Delaware, South Carolina, Mississippi, South Dakota, and Vermont. “Although in some of those states, the major parties have adopted rules prohibiting their candidates from accepting fusion nominations. In addition, some of those states have ballot access rules that make it difficult to organize a statewide third party. New York is the only state in which fusion has played a consistently important role, although there have been occasional fusion tickets in other states.”<sup>83</sup>

The Working Families Party (WFP) has embraced the fusion voting concept and is joined in Oregon by the Libertarian Party. New York's Working Families Party's examples illustrate the beneficial use of fusion voting by minor parties.

In 2001 Bill Lindsay ran for office and appeared as the candidate for the Democratic Party and the Working Families Party. His winning total was 50.6 percent; which included a 3 percent voting bloc from the Working Families Party. The WFP votes made the difference, giving it leverage to advocate its issues with this elected official.<sup>84</sup> The Working Families Party has also worked with Republican candidates in New York. For example, it cross-endorsed Republican candidate, Nick Spano, who agreed to support an increase in the minimum wage. Spano beat the progressive Democratic legislator by eighteen votes, receiving 1,800 votes as the WFP candidate. Usually the WFP aligns itself with Democratic candidates, but in this election, it looked to the best candidate on an issue important for that group.<sup>85</sup>

In general, these examples point to the opportunity fusion voting creates to increase discussion of issues important to a third party. The option of a third party to run a candidate remains, but a minor party can also influence subsequent legislative debates on “their issue” by helping provide votes to another party’s candidate on their party line on the ballot.

## Fusion Voting in Oregon

Oregon is one of the states where fusion was once legal, and it facilitated the viability of a populist third party early in the last century. Fusion voting legislation moved through the House Elections, Ethics and Rules Committee in 2007 (HB 3040) and through the Senate Elections and Ethics Committee in 2008 (SB 1102), but in both cases the legislation died without a floor vote, primarily due to the fiscal impact of changing vote tally machines.

## Pros of Fusion Voting

- Fusion voting might help promote effective third parties. Third parties can bring a different angle to the voting process with new ideas. When allowed to show the candidate how their vote is based, voters feel empowerment.
- Fusion voting allows third party voters to “have the option to support a party that reflects their values without ‘spoiling’ a race.”<sup>86</sup>
- Fusion voting might mobilize voters and as a result may increase the turnout. Voters might be encouraged to vote for a major candidate since the candidate will be able to evaluate where the support comes from. When fusion voting was eliminated, statistics have shown a drop in voter turnout. When the laws ending fusion voting were first enacted, members of the Oregon Populist Party ceased voting, and eventually the party ceased to exist.

In New York, there is evidence that some citizens refused to vote without the fusion option.<sup>87</sup>

- Fusion voting may allow the major parties to create different choices for the voters. The major parties might need to pay attention to the specific issues of the voters.
- Fusion voting may allow voters to influence important issues. When a third party chooses a candidate that is also a major party candidate, they are creating an issue-driven election.<sup>88</sup>

## Cons of Fusion Voting

- Fusion voting might encourage patronage. The concept is that the politicians may make concessions just to bring in support from special interest groups. The third party may end up existing only to get special privileges.
- Fusion voting might promote and empower fringe groups. Fusion voting could give too much power or influence to groups with a single agenda or extreme groups with certain agendas.
- Fusion voting might threaten the identity of political parties. If numerous third parties nominate the same candidate there is worry that the major political party may not have a strong identity.
- Fusion voting might threaten the two-party system. This is based on the thought that the two-party system is essential to the American government. The revival of third parties would create an unruly multiparty system.<sup>89</sup>
- Fusion voting can create the illusion that the so-called spoiler effect of the third party or independent candidates is eliminated. However, this effect is eliminated only if that third party or independent candidate is also endorsed and has a ballot line for one of the two major parties. Therefore, fusion voting is only a partial solution to the “spoiler effect.”

# Section 8 – Multiple Seat Election Methods

## Introduction

Multiple seat election methods are best suited for simultaneously electing multiple candidates for multiple seats. At-large city council elections, where candidates don't run for a specific seat but rather the top vote recipients fill the number of open seats, exemplify a current election system that could be changed with an alternative election method.

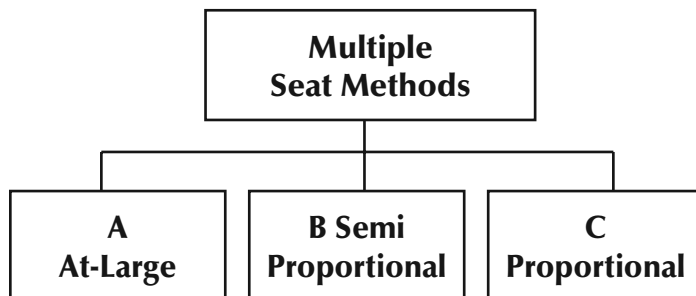


Figure 2 – Multiple Seat Election Methods

Figure 2 summarizes the three major categories of multiple seat methods: at-large, semi-proportional, and proportional representation. These categories include different options. A full discussion of these options is available online at <http://www.lwvor.org/studyreport.htm>. These details are not included in the main part of this report because relatively few governmental elections in Oregon involve simultaneously electing multiple candidates for multiple seats. However, multiple seat elections do occur in some Oregon political jurisdictions. For example, Lake Oswego city council members are elected at large with three positions up for election every two years. The three candidates who receive the highest number of voters are elected to fill those three positions. A change to multiple seat elections might be considered by other Oregon political jurisdiction in conjunction with adoption of an alternative election system.

Brief discussions of cumulative voting and single-transferable or choice voting are provided because they have been the subject in the United States of most discussions of a proportional representative method used to elect legislatures or legislative bodies.

## Cumulative Voting

Each voter gets a fixed number of votes to allocate among the candidates as desired. The number of votes cast must add up to the correct total. The candidates with the highest number of votes are elected to the available seats in the legislative body. For instance, in an election for a five-seat body, voters could choose to give one vote each to five candidates, two votes to one candidate and three to another, or all five votes to a single candidate. If members of a minority group or environmentalists or neighborhood activists work together and get behind a single candidate, they can hope to get someone elected, even if they make up only a small share of the population.<sup>90</sup>

Cumulative voting received inaccurate media attention when a proponent, Lani Guinier was nominated by President Bill Clinton to lead the Civil Rights Division of the Department of Justice. A noted law professor at Harvard University, Guinier's advocacy for cumulative voting was mischaracterized as support for quotas, resulting in Clinton's withdrawing her nomination.

One reason for Guinier's interest in cumulative voting was that drawing district lines to form what are called majority minority districts to comply with Voting Rights Act mandates to increase representation from communities of color aren't always effective. This is especially true when minority residents are not concentrated in certain neighborhoods. Instead, "Guinier prefers cumulative voting to majority black districts because it doesn't shunt blacks into one district, instead encouraging whites and blacks to campaign together and build coalitions."<sup>91</sup>

For example, in 1995 then-governor George W. Bush signed enabling legislation to allow Texas school districts to adopt cumulative voting. Prior to the adoption of cumulative voting, many districts had never had a non-Anglo elected to the school board, even though African Americans, Hispanics, and other minorities were a substantial part of the population. This changed when more than 57 jurisdictions in Texas switched to cumulative voting between 1991 and 2000, primarily to remedy Voting Rights Act lawsuits. For example, in 2004 the Amarillo Independent School District elected its school board for the third time with cumulative voting. The result is that the seven-member board now has both African American and Latino representatives after having had only white representatives for some two decades under the winner-take-all system.<sup>92</sup>

## Single Transferable Vote or Choice Voting

Used across the globe, the single transferable vote or STV, is the most popular system for proportional representation.

Voters rank the candidates in order of preference. Unpopular candidates are eliminated in succession and their supporters' votes are transferred to other candidates. The goal is for no vote to be "wasted." When STV is used to elect a single candidate, it is called instant runoff voting.<sup>93</sup>

### The Forgotten History of Proportional Representation in the United States

Though the current growth in use of proportional representation methods has an international flavor, most Americans are not aware of the use of these election methods in the early 1900s in over twenty cities ranging from Sacramento to Boulder to Cleveland to Cambridge. Of the original cities, only the Cambridge program remains. More recently, other locales have adopted cumulative voting or other proportional election methods.

The success of proportional methods in facilitating diverse representation is illustrated in an editorial after the first election in Ashtabula, Ohio in 1915. "The drys and wets are represented; the Protestants and Catholics; the business, professional, and laboring men; the Republicans, Democrats, and Socialists; the English, Swedes, and Italians are represented. It would be hard to select a more representative council in any other way."<sup>94</sup>

The abandonment of proportional representation in Ashtabula and other American cities is considered by most political scientists as being due to the threat this election method posed to those who had held political power and not due to any inherent defects in the reform programs.<sup>95</sup>



# Section 9 – Election Administration Considerations

## Overview of Administrative Concerns

Any change in election systems has implications for elections administration that could affect cost and implementation timelines for adopting reforms. Of particular concern are probable needs for:

- Software upgrades or patches
- State and/or federal certification of new vote tally software
- Voter education
- Increased attention to clear ballot design
- Consideration of ballot length

## Oregon-Specific Review Is Essential

Review of these concerns must be Oregon-specific because the vote-by-mail system means that it is difficult to make exact comparisons to elections administration in other states. Vote-by-mail also means that reviewing the need for voter education is especially important in Oregon because voters are filling out their ballots at home and can't ask questions of precinct poll workers as in other states, though election hot-lines are available and "how to" information can be added to the Voters' Pamphlet. It should be noted, however, that there are similarities between Oregon's vote-by-mail and absentee voting ballots and procedures in other states. In other words, election reforms adopted in other locales face concerns similar to Oregon regarding use of absentee ballots in those states.

Due to Oregon's all-mail balloting, vote tally machines are typically high-speed optical scanners operating at centralized county elections offices. This means that drawing conclusions from comparisons to lower-speed precinct level optical scanners found in other states may not be feasible, even when machines and software are purchased from the same vendor. However, if a vendor has developed a pertinent software patch for one of its machines, subsequent software updates may be less costly.

It is also important to recognize that elections in Oregon are administered at the county level in compliance with state

law and with oversight by the Secretary of State Elections Division. Most county elections officers perform multiple tasks, and their capacity to add education or other functions to their operations may be limited. In addition, county budgets pay for elections administration rather than state dollars.

## Concerns about Implementing Alternative Election Systems in Oregon

Election administrators have legitimate concerns about alternative election systems, especially due to Oregon's vote-by-mail balloting system. The election administrators are the most knowledgeable officials to ask the appropriate questions of Oregon-specific vendors about each county's voting equipment. The survey used to create the Oregon County Vote Tally Equipment Summary (available online at <http://www.lwvor.org/studyreport.htm>) is very helpful, and regular updates would be informative to the Legislature.

Any possible alternative election systems, if enacted, should be implemented with reasonable start dates and timelines. It would be helpful for county and/or state elections officials to provide legislators with background information on federal Election Assistance Commission certification procedures and on any certification requirements imposed by the Secretary of State.

The design and possible increased length of any new ballot could confuse the public. However, many Oregonians are familiar with long lists of candidates and initiative questions. Nevertheless, enactment of alternative election systems could mean that counties would benefit from design expertise to help create the new ballots

Enactment of an alternative election system will likely create some level of new financial obligations for the state. Many Oregon counties were required to purchase new vote tally equipment or upgrade existing equipment because of the 2002 Help America Vote Act (HAVA) funded by the federal government. As costs are always a concern to election administrators, HAVA federal funds should be used when possible. If HAVA funds are not available and costs to counties are more than just incidental expenses, then the Oregon Legislature should consider providing state dollars to avoid any unfunded mandate to the counties.

Voter education, outreach and related costs should be a consideration if the Legislature enacts an alternative election system. For example, in the spring of 2002 the

Secretary of State led a voter awareness campaign related to signature gathering fraud that included a statewide tour and public service announcements.<sup>96</sup> Lessons learned from that experience could be useful in designing a voter education effort to prepare voters for a different-looking ballot and a change in election systems, though such an effort would

likely cost more than that 2002 project. Voter outreach on possible new ballot styles and new election systems could be viewed as one component of an ongoing effort to educate voters about issues ranging from updating their addresses, voter registration deadlines, and locations of vote drop boxes.

### **Comments from County Election Officials**

At the core of Oregon's election system are the 36 county election officials. All elections, from the smallest special districts to the statewide offices, are conducted by the county. The election overseers are no strangers to change, having pioneered the implementation of vote by mail (starting locally a dozen years before going statewide) as well as transforming election technology. As new election methods are discussed at both the local and state legislative level, these election administrators have some specific concerns to add to the conversation.

- Cities and the state should pay their share of election costs (not currently required) and assist with costs of longer ballots, multiple ballots, and new designs caused by alternative election systems. HAVA funds are not expected to be available for software upgrades, and county budgets are decreasing.
- There will be a significant increase in the need for educating voters about any new ballot system. It must be done by cooperative efforts among the state, the cities, and the counties with adequate state financing.
- A statewide vote should be held on any new election method proposals.
- No election system change is simple, and any change will require critical review and revisions.



# Section 10 – National Popular Vote

## History

According to the U.S Supreme Court in the 2000 Bush v. Gore decision, “The individual citizen has no federal constitutional right to vote for electors for the President of the United States unless and until the state legislature chooses a statewide election as the means to implement its power to appoint members of the Electoral College.”

In 1787, the Constitutional Convention of the newly created United States of America considered a variety of methods for electing the President and Vice-President, including election by state governors, Congress, state legislatures, national popular vote, and electors. Delegates debated the issue on 22 separate days, with 30 votes taken. The Convention opted for presidential selection by electors but never did agree on a method for choosing the presidential electors. While the Constitution gives oversight by Congress of the states’ manner of conducting elections for congressional senators and representatives, there is no comparable oversight power concerning a state’s choice of manner in appointing its presidential electors.

The Founding Fathers’ expectations that the Electoral College would be a deliberative body were not realized beginning with the nation’s first competitive election in 1796. Both political parties nominated candidates for president and vice-president from the party’s caucus in Congress. The electors associated with each party were expected to cast their votes in the Electoral College for the party nominees and not exercise independence. The expectation that presidential electors should “act” and not “think” has remained strong. Of the 21,915 electoral votes cast for president in the 55 presidential elections between 1789 and 2004, only 11 were cast in an unexpected way.

Since 1876, the norm has been that a state’s voters directly elect presidential electors in a statewide popular election under the winner-take-all system with only two exceptions. In 1969, Maine adopted a system by which the state’s two senatorial presidential electors are awarded to the presidential slate winning the statewide vote and one additional elector awarded to the presidential slate carrying each of the two congressional districts. In 1992, Nebraska

adopted the Maine system of district and statewide electors, though the change has never resulted in a division of the state’s electors due to the political homogeneity of that state.

## Concerns about the Electoral College

Discussion of reforming the Electoral College began almost from its inception as presidential candidates and voters were dissatisfied with results of elections. For example, in 1824, there was a four-way race for President, and the election was thrown into the House for resolution. John Q. Adams became president, and though he won the most electoral votes, he did not receive the most popular votes.

The contested Tilden-Hayes election in 1876 led to the passage of federal legislation governing the handling of controversies involving presidential elections. Rutherford Hayes became president with an electoral vote advantage while Samuel Tilden received a greater number of popular votes. In 1888 Benjamin Harrison beat incumbent Grover Cleveland because though Cleveland had more popular votes, Harrison won the electoral vote count. In the 2000 election George Bush received the most electoral votes while Al Gore received a greater number of popular votes.

There also are problems with the statewide winner-take-all system in allocating electoral votes. Five presidential elections in the past six decades (1948, 1960, 1968, 1976, and 2004) illustrated that a relatively small difference in votes cast in one or two states would have resulted in the Electoral College selection of a president who had not received the most popular votes nationwide.

Public support for a change in the Electoral College system has ranged from 58 to 81 percent as indicated by responses to a Gallup poll question asked initially in 1944 and then periodically during the 1960s, and in 1977, 1980, 2000, and 2004.

## Attempted Reforms

There have been hundreds of proposals to change the Electoral College system over the years. For example, federal legislation to require direct allocation of electoral votes by two electors selected by statewide voters and one presidential elector per congressional district was introduced in 1969. During that year another federal bill called for the Fractional Proportional Allocation of electoral votes according to the percentage of votes received in the

state by each presidential slate. Legislation requiring a national popular vote has been introduced several times. None of these federal attempts to change the operations of the Electoral College has been successful.

Proposals have also been made that can be unilaterally enacted at the state level without either congressional action or a federal constitutional amendment. Neither approach involves abolition of the office of presidential elector or of the Electoral College. Both involve dividing a state's electoral votes in a manner that is different from the statewide winner-take-all system currently in use in all states except Maine and Nebraska. However, these proposals have not garnered political support.

## **National Popular Vote through Interstate Compact**

An idea that is gaining support is to establish a national popular vote (NPV) system by state adoption of an interstate compact to pledge the electoral votes of all compact member states to the winner of the national popular vote. The chief elections official in each state would determine the number of votes cast, and these would be totaled across the country. It is the national vote total – not each state's separate vote total in the Electoral College – that would prevail. The interstate compact would only go into effect when enough states have passed the compact to comprise a majority of the Electoral College. This presidential selection process essentially sidesteps the Electoral College.

Legislation for states to adopt the national popular vote via an interstate compact is supported by 807 state legislators. This figure includes 370 bill sponsors and an additional 437 legislators who have cast “yes” votes in their respective states. Maryland became the first state to enact the bill in April 2007. New Jersey and Illinois joined Maryland in 2008. Bills have been introduced in 42 other states, and legislation has advanced through committee and/or one or more legislative body in 16 states.

Underlying the National Popular Vote are the three criteria for analyzing presidential election reform.

Accuracy – would it ensure the election to the presidency of the candidate with the most popular votes nationwide?

Competitiveness – would it improve upon the current situation in which voters in two-thirds of the states are ignored because they live in states that are typically non-competitive in terms of presidential elections?

Equality – would every vote be equal?

It is the contention of the proponents of a nationwide popular vote that it presents the best approach for meeting the will of the people in presidential elections. Political scientist Stanley Chang concurs in an article that concludes that National Popular Vote is a laudable proposal whose “benefits outweigh its costs.” However, several law review articles disagree citing both constitutional barriers and concern about undermining the Electoral College's balance between state and federal authority. Proponents of NPV, however, indicate that the U.S. Constitution does allow interstate compacts and describes the range of topics addressed in such agreements between states.

## **Pros of National Popular Vote**

- The winner-take-all inequities in Electoral College are eliminated.
- Presidential campaigns would involve all 50 states rather than the current practice, facilitated by the Electoral College, that narrows the election to relatively few battleground states.
- The ability of relatively small groups of voters in a swing state to skew policy discussions would be reduced. This trend is illustrated by the current tendency in the battleground state of Florida for presidential candidates to woo Cuban-American votes by supporting the Cuban trade embargo. Under NPV this tendency would be reined in, improving policy debates during the campaign.
- The role of the President as representing all of the United States and not just being a representative of swing states is strengthened, indicating that NPV does not undermine federalism.
- Voter turnout may increase as indicated by analysis that battleground states have increased voter participation compared to “safe” states. Since NPV essentially makes all states more competitive, the argument is that more Americans would vote because all votes will be treated equally.

## **Cons of National Popular Vote**

- National Popular Vote undermines federalism, a critical motivation of the Founding Fathers in creating the Electoral College to ensure a balance between state and national interests.
- The Electoral College contributes to candidates focusing

on the unique interests of different states instead of topics of interest to single-subject interest groups.

- National Popular Vote would cause candidates to focus on large states to the detriment of small states.
- National Popular Vote would increase campaign costs.

An Oregon-specific political concern is that our state may get less attention from presidential candidates under NPV because Oregon would not be perceived as a general-election swing state.

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## References

- <sup>1</sup> United States Senate, Direct Election of Senators. Retrieved June 25, 2008 from [http://www.senate.gov/artandhistory/history/common/briefing/Direct\\_Election\\_Senators.htm](http://www.senate.gov/artandhistory/history/common/briefing/Direct_Election_Senators.htm)
- <sup>2</sup> The Public Commission on the Oregon Legislature, Minutes. (2006, September 6). Salem, Oregon. Retrieved October 27, 2007 from [http://www.leg.state.or.us/pcol/full\\_commission/minutes/pcol\\_09062005.pdf](http://www.leg.state.or.us/pcol/full_commission/minutes/pcol_09062005.pdf)
- <sup>3</sup> Oregon Secretary of State, Election Voter Registration and Turnout History Statistics. Retrieved June 20, 2008 from <http://www.sos.state.or.us/elections/votereg/regpart.htm>
- <sup>4</sup> Oregon Secretary of State, May 2008 Turnout. Retrieved June 20, 2008 from <https://secure.sos.state.or.us/eim/goToElectionResults.do?actionId=viewLoad&mode=view>
- <sup>5</sup> League of Women Voters of California. (2000). *Introduction to the election systems study*. League of Women Voters of California Education Fund.
- <sup>6</sup> League of Women Voters of Minnesota. (2004, September). *Alternative voting systems: facts and issues*. League of Women Voters of Minnesota Education Fund.
- <sup>7</sup> Poundstone, W. (2008). *Gaming the vote; why elections aren't fair (and what we can do about it)*. p. 287. New York: Hill and Wang.
- <sup>8</sup> League of Women Voters of Oregon. (2007, January). *Redistricting in Oregon*. League of Women Voters of Oregon Education Fund.
- <sup>9</sup> John Lindback, Director of Elections, State of Oregon. (2008, April 24). Interview with Jane Gigler, Janet Calvert, and Kappy Eaton.
- <sup>10</sup> Political lexicon. (n.d.) Retrieved May 6, 2008, from <http://usinfo.org/oap/NA2.htm>
- <sup>11</sup> Glossary of election terms. (n.d.) Retrieved May 14, 2008, from [http://www.mtholyoke.edu/acad/polit/damy/BeginnningReading/glossary\\_of\\_terms.htm](http://www.mtholyoke.edu/acad/polit/damy/BeginnningReading/glossary_of_terms.htm)
- <sup>12</sup> Poundstone, W. p. 288.
- <sup>13</sup> Why are sitting members of Congress almost always reelected? (n.d.) *thisnation.com*. Retrieved May 6, 2008 from <http://www.thisnation.com/question/016.html>
- <sup>14</sup> Poundstone, W. p. 289.
- <sup>15</sup> Poundstone, W. p. 289.
- <sup>16</sup> Poundstone, W. p. 91.
- <sup>17</sup> Poundstone, W. p. 125.
- <sup>18</sup> Adrian, C. R. (1952, September). Some general characteristics of nonpartisan elections. *The American Political Science Review*. 46 (3). pp. 766-776. Retrieved October 27, 2007 from <http://links.jstor.org/sici?sici=0003-0554%28195209%2946%3A3%3C766%3ASGCONE%3E2.0.CO%3B2-N>
- <sup>19</sup> League of Women Voters of Washington. (2000, Fall). *An evaluation of major election methods and selected state election laws*. League of Women Voters of Washington Education Fund. p. 9. Retrieved September 5, 2007 from [http://www.lwvwa.org/election\\_study/emstudy.pdf](http://www.lwvwa.org/election_study/emstudy.pdf)
- <sup>20</sup> League of Women Voters of Washington. p. 9.
- <sup>21</sup> Schaffner, B. F., Streb, M., & Wright, G. (2001). Teams without uniforms: The nonpartisan ballot in state and local elections. *Political Research Quarterly*, 54 (1). pp. 7-30. Retrieved October 27, 2007 from <http://links.jstor.org/sici?sici=1065-9129%28200103%2954%3A1%3C7%3ATWUTNB%3E2.0.CO%3B2-W>
- <sup>22</sup> Adrian, C. R. pp. 766-776.
- <sup>23</sup> Association of Oregon Counties, *Guide to Oregon Counties*. (2007-2008)
- <sup>24</sup> Deschutes County Home Rule Charter Committee Meeting, Minutes. (2006, May 16). Retrieved September 19, 2007 from <http://www.co.deschutes.or.us/download.cfm?DownloadFile=8B1BAFB0-BDBD-57C1-942227A07A8EBCAA>
- <sup>25</sup> Adrian, C. R. pp. 766-776.
- <sup>26</sup> Gartner, A. (2003, September/October). Race, poverty, & nonpartisan elections. *Poverty & Race*. Retrieved Sept 16, 2007 from [http://www.prrac.org/full\\_text.php?text\\_id=933&item\\_id=8338&newsletter\\_id=70&header=Community+Organizing](http://www.prrac.org/full_text.php?text_id=933&item_id=8338&newsletter_id=70&header=Community+Organizing)
- <sup>27</sup> Ringo, Senator. (2006). Proposal: Nonpartisan Legislature, Exhibit: D, Public Commission on the Oregon Legislature, April 11, 2006.
- <sup>28</sup> Bartels, L. (2002). Beyond the running tally: partisan bias in political perceptions. In Special issue : parties and partisanship. part one. *Political Behavior*, 24, (2). pp. 117-150. Retrieved October 28, 2007 from <http://links.jstor.org/sici?sici=0190-9320%28200206%2924%3A2%3C117%3ABTRTPB%3E2.0.CO%3B2-W>
- <sup>29</sup> Adrian, C. R. pp. 766-776.
- <sup>30</sup> This assumes there is no caucusing along party lines to elect leadership as in Nebraska. When Minnesota's legislature was nonpartisan, leadership was chosen using caucuses with liberal and conservative labels.



- <sup>31</sup> Schaffner, B. F. pp. 7-30.
- <sup>32</sup> Alford, R. R. & Lee, E. C. (1968). Voting turnout in American cities. *The American Political Science Review*, 62 (3), pp. 796-813. Retrieved October 27, 2007 from <http://links.jstor.org/sici?sici=0003-0554%28196809%2962%3A3%3C796%3AVTIAC%3E2.0.CO%3B2-M>
- <sup>33</sup> Wright, G. C., & Schaffner, B. F. (2002). The influence of party: evidence from the state legislatures. *The American Political Science Review*, 96 (2). pp. 367-379. Retrieved October 28, 2007 from <http://links.jstor.org/sici?sici=0003-0554%28200206%2996%3A2%3C367%3ATIOPEF%3E2.0.CO%3B2-%23>
- <sup>34</sup> Wright, G. C., & Schaffner, B. F. pp. 367-379.
- <sup>35</sup> Adrian, C. R. pp. 766-776.
- <sup>36</sup> Adrian, C. R. pp. 766-776.
- <sup>37</sup> Cain, B. C., (2001, Jan). Party autonomy and two-party electoral competition. *University of Pennsylvania Law Review*, Vol. 149, No. 3, pp. 793-814. Retrieved June 30, 2008 from URL: <http://0-www.jstor.org.catalog.multicolib.org:80/stable/3312869>
- <sup>38</sup> Diver, E.D, (2005) *Parties and Elections*, Chapter 4, *Oregon Politics and Government*, Clucas, Richard, Henkels, Mark, and Steel, Brent S., editors. University of Nebraska Press.
- <sup>39</sup> Oregon Election Results for 2002 Retrieved April 8, 2008 from <http://www.sos.state.or.us/elections/nov52002/abstract/gov.pdf>
- <sup>40</sup> Ferrara, P. & Buchanan, D. (1994) *The Almanac of Oregon Politics*, 1994 for 1990 data. Oregon Election Results for 2002 data retrieved April 8, 2008 from <http://www.sos.state.or.us/elections/nov52002/abstract/gov.pdf>
- <sup>41</sup> *Center for Range Voting*. (n.d.) Retrieved May 12, 2008 from <http://rangevoting.org>
- <sup>42</sup> Poundstone, W. p. 231.
- <sup>43</sup> Poundstone, W. pp. 233 and 248.
- <sup>44</sup> Poundstone, W. p. 236.
- <sup>45</sup> Poundstone, W. p. 285.
- <sup>46</sup> Poundstone, W. p. 145.
- <sup>47</sup> Poundstone, W. p. 186.
- <sup>48</sup> Aldrich, J., & Gomez, B.T. (2008) Primary election. *Encarta Encyclopedia*. Retrieved May 14, 2008 from [http://www.encyclopedia.com.au/encyclopedia\\_1741500942/article.html](http://www.encyclopedia.com.au/encyclopedia_1741500942/article.html)
- <sup>49</sup> Lindback, John, Elections Division Director Oregon Secretary of State Office, (June 18, 2008) presentation to House Rules, Elections, and Ethics Committee
- <sup>50</sup> Richard Winger, Executive Director of the Ballot Access Project, (2008, April 30) personal communication via email.
- <sup>51</sup> Mike McCabe, Executive Director of Wisconsin Democracy Campaign, (2008, May 1) personal communication via telephone.
- <sup>52</sup> Marchisio, J. (2001). Open primary: private declaration best choice. *Municipal League of King County Newsletter*. 91 (1). Retrieved September 19, 2007 from <http://www.munileague.org/about-us/muni-news-1/MuniNews%20January%20202001.pdf>
- <sup>53</sup> Initiative petition #109. Retrieved September 24, 2008 from <http://www.sos.state.or.us/elections/irr/2008/109text.pdf>
- <sup>54</sup> Municipal League of King County does not take a position but provides analysis of I-872 - preserving people's choice ("top two" primary). (2004, November). Retrieved September 19, 2007 from <http://www.munileague.org/ballotissues/2004/I872.htm>
- <sup>55</sup> Washington State Grange v. Washington State Republican Party et al. 06-713 U.S. Sup. Ct. (2008). Retrieved May 12, 2008 from <http://www.scotusblog.com/wp/wp-content/uploads/2008/03/06-713.pdf>
- <sup>56</sup> Reed, S., & Keisling, P. (2004, October 20). Taking back the vote. *New York Times*.
- <sup>57</sup> Poundstone, W. p. 10.
- <sup>58</sup> Hill, S. (2004, October 27). Deception season. *Tompaine.com*. Retrieved on September 19, 2007 from [http://www.tompaine.com/Archive/others/deception\\_season.php](http://www.tompaine.com/Archive/others/deception_season.php)
- <sup>59</sup> Steineger, M. (2005, May 2) Party down: As Oregon looks at open primary will party loyalty become a thing of the past? *PSU Magazine*. Retrieved September 19, 2007 from <http://www.pdx.edu/magazine/news/5435/>
- <sup>60</sup> Paulus, N. & Kiesling, P. Summary of the Oregon open primary. Exhibit A. April 11, 2006 Subcommittee Meeting of the Public Commission of the Legislature. Retrieved December 23, 2007 from [http://www.leg.state.or.us/pcol/comm\\_process/minutes/pcolpc\\_04112006.pdf](http://www.leg.state.or.us/pcol/comm_process/minutes/pcolpc_04112006.pdf)
- <sup>61</sup> Oregon Department of Secretary of State. (2006). Comparative voter registration and comparative voter participation. *Statistical Summary 2006 General Election*. p. 7 & 8. Retrieved September 19, 2007, from <http://www.sos.state.or.us/elections/nov72006/g06stats.pdf>
- <sup>62</sup> Roberts, B. & Kerans, G. Testimony before the Commission on the Legislature, Exhibit B. April 11, 2006 Subcommittee Meeting of the Public Commission of the Legislature. Retrieved December 23, 2007 from [http://www.leg.state.or.us/pcol/comm\\_process/minutes/pcolpc\\_04112006.pdf](http://www.leg.state.or.us/pcol/comm_process/minutes/pcolpc_04112006.pdf)
- <sup>63</sup> Roberts, B. & Kerans, G.

- <sup>64</sup> This recommendation by the Process Subcommittee was made at its May 9, 2006 meeting. Retrieved December 23, 2007 from minutes at [http://www.leg.state.or.us/pcol/comm\\_process/minutes/pcolpc\\_05092006.pdf](http://www.leg.state.or.us/pcol/comm_process/minutes/pcolpc_05092006.pdf). It was adopted by the full Public Commission on the Legislature on May 22, 2006. Retrieved December 23, 2007 from minutes at [http://www.leg.state.or.us/pcol/full\\_commission/minutes/pcol\\_05222006.pdf](http://www.leg.state.or.us/pcol/full_commission/minutes/pcol_05222006.pdf)
- <sup>65</sup> SB 630 bill history. Retrieved January 24, 2008 from <http://www.leg.state.or.us/searchmeas.html>
- <sup>66</sup> *Oregonian*, Two Parties Denounce “Open Primary” Idea, April 4, 2007. Retrieved June 19, 2008 from [http://blog.oregonlive.com/politics/2007/04/two\\_parties\\_denounce\\_open\\_prim.html](http://blog.oregonlive.com/politics/2007/04/two_parties_denounce_open_prim.html)
- <sup>67</sup> HB 2761 bill history, retrieved April 8, 2008 from <http://www.leg.state.or.us/searchmeas.html>
- <sup>68</sup> Franell, M. (2005, April 21). Ashland City Attorney. Memo to Ashland City Council, retrieved on April 9, 2008 <http://www.ashland.or.us/Page.asp?NavID=8467>
- <sup>69</sup> Walston, M. City of Eugene City Manager staff. (2008, May 6). Personal communication by telephone.
- <sup>70</sup> City of Eugene election results. (n.d.) Retrieved April 9, 2008 from [http://www.eugene-or.gov/portal/server.pt/gateway/PTARGS\\_0\\_2\\_201120\\_0\\_0\\_18/City%20of%20Eugene%20Election%20History.pdf](http://www.eugene-or.gov/portal/server.pt/gateway/PTARGS_0_2_201120_0_0_18/City%20of%20Eugene%20Election%20History.pdf)
- <sup>71</sup> Petrie, M. (2002, February 22). Election method will be first for Oregon. *The Daily Vanguard*. Retrieved on April 9, 2008 from <http://media.www.dailyvanguard.com/media/storage/paper941/news/2006/02/22/News/Election.Method.Will.Be.First.For.Oregon-2607580.shtml>
- <sup>72</sup> Democracy North Carolina. (n.d.). Instant runoff voting pilot in N.C. – easy as 1, 2, 3. Retrieved May 7, 2008 from <http://www.democracy-nc.org/improving/IRV.pdf>
- <sup>73</sup> Final report of the 2007 Voter Choice Task Force to the Sixty-Sixth General Assembly State of Colorado. (2008, March). Retrieved on May 7, 2008 from <http://www.fairvote.org/irv/voterchoicereport.pdf>
- <sup>74</sup> Minneapolis, Minnesota. (n.d.) *IRV update on planning and implementation*. City of Minneapolis Elections. (2007-2008). Retrieved May 7, 2008 from <http://www.ci.minneapolis.mn.us/elections/irv.asp>
- <sup>75</sup> Minnesota Voters Alliance. (n.d.) Retrieved June 11, 2008 from <http://www.mnvoters.org/>
- <sup>76</sup> City of Minneapolis elections staff. (2008, May 7). Personal communication via telephone.
- <sup>77</sup> Neeley, Francis, Blash, Lisel, and Cook, Corey. (May 2005). An Assessment of Ranked-Choice Voting in the San Francisco 2004 Election. Public Research Institute, San Francisco State University. Retrieved June 21, 2008 from [http://www.sfgov.org/site/uploadedfiles/election/Elections\\_Pages/SFSU-PRI\\_RCV\\_final\\_report\\_June\\_30.pdf](http://www.sfgov.org/site/uploadedfiles/election/Elections_Pages/SFSU-PRI_RCV_final_report_June_30.pdf)
- <sup>78</sup> Bill Bradbury, Oregon Secretary of State, (2008, June 23). Written comment on draft report.
- <sup>79</sup> Instant runoff voting is non-monotonic. As discussed by Helmer Aslaksen and Gary McGuire in *Mathematical Aspects of Irish Elections*, this means that getting more votes may prevent a candidate from being elected. They indicate that IRV proponents say that such an occurrence would be highly unlikely. Their review of Irish elections indicates some close calls and they express caution, but none of the potential non-monotonic results they discuss occurred. Retrieved July 15, 2008 from <http://www.math.nus.edu.sg/aslaksen/papers/voting.pdf>
- <sup>80</sup> Morse, A. & Gass, J. J. (2006, October). More choices, more voices: a primer on fusion. *Voting Rights and Elections Series*. Retrieved November 14, 2007 from [http://www.brennancenter.org/dynamic/subpages/download\\_file\\_39345.pdf](http://www.brennancenter.org/dynamic/subpages/download_file_39345.pdf)
- <sup>81</sup> Morse, A. & Gass, J. J. pp. 2-3.
- <sup>82</sup> Alliance for Democracy. (2006, March). *Fusion voting: voting issues instead of personalities*. Retrieved November 14, 2007 from [http://www.afd-pdx.org/Fusion\\_Voting/Fusion\\_Voting.htm](http://www.afd-pdx.org/Fusion_Voting/Fusion_Voting.htm)
- <sup>83</sup> Morse, A. & Gass, J. J. p. 3.
- <sup>84</sup> Working Families Party. (n.d.) *Open Ballot Voting – Our (not so) secret weapon*. Retrieved November 14, 2007 from <http://workingfamiliesparty.org/fusion.html>
- <sup>85</sup> Katz, A. (2005, September 12). The power of fusion politics. *The Nation*. Retrieved November 14, 2007 from [http://www.afd-pdx.org/Fusion\\_Voting/Fusion\\_Nation.htm](http://www.afd-pdx.org/Fusion_Voting/Fusion_Nation.htm)
- <sup>86</sup> Alliance for Democracy. (2006, March).
- <sup>87</sup> Michelson, M. R. & Susin, S. J. (2004, January). What’s in a name: The power of fusion politics in a local election. *Polity*, 36, p. 301-33.
- <sup>88</sup> Morse, A. & Gass, J. J. pp. 5-6.
- <sup>89</sup> Morse, A. & Gass, J. J. p. 8.
- <sup>90</sup> Fair Vote. (n.d.) Cumulative voting, a commonly used proportional voting method. Retrieved May 30, 2008 from <http://www.fairvote.org/?page=563>
- <sup>91</sup> Hirsch, A. (n.d.) The Tyranny of the Majority. In *Review of book: The Tyranny of the Majority by Lani Guinier*. Retrieved May 27, 2008 from [http://www.banned-books.com/truth-seeker/1994archive/121\\_3/ts213e.html](http://www.banned-books.com/truth-seeker/1994archive/121_3/ts213e.html)
- <sup>92</sup> Fair Vote. (n.d.)

- <sup>93</sup> Poundstone, W. p. 288.
- <sup>94</sup> Amy, Douglas J. (1993). *Real Choices New Voices: The Case for Proportional Representation Elections in the United States*. p. 11. New York: Columbia University Press.
- <sup>95</sup> Amy, D. p. 11.
- <sup>96</sup> Officials warn of petition fraud. (2002, June 4). *Salem Statesman Journal*.
- <sup>97</sup> Bush v. Gore. 531. 98. U.S. Sup Cr. ( 2000).
- <sup>98</sup> Edwards, III, G. C. (2004). *Why the electoral college is bad for America*. (pp. 79-80). New Haven, Connecticut: Yale University Press.
- <sup>99</sup> Koza, J. R., Fadem, B., Grueskin, M., Mandell, M. S, Richie, R. & Zimmerman, J. F. (2006). *Every vote equal: a state-based plan for electing the president by national popular vote*. Los Altos, CA: Popular Vote Press.
- <sup>100</sup> *McPherson v. Blacker*: 146 U.S. 1 at 36. (1892).
- <sup>101</sup> Abbott, D. W. & Levine, J. P. (1991). *Wrong winner: The coming debacle in the electoral college*. Westport, Connecticut: Praeger.
- <sup>102</sup> Fair Vote. (n.d.) Gallup direct election polls since 1944. Retrieved May 7, 2008 from <http://www.fairvote.org/?page=1823>
- <sup>103</sup> National Popular Vote. (n.d.) Retrieved April 14, 2008 from <http://www.nationalpopularvote.com/index.php>
- <sup>104</sup> Koza, J. R., Fadem, B., Grueskin, M., Mandell, M. S, Richie, R. & Zimmerman, J. F. p. 245.
- <sup>105</sup> Chang, S. (2007, Winter). Updating the Electoral College: The national popular vote legislation. *Harvard Journal on Legislation*, 44(1), p. 205. Retrieved May 7, 2008 from [http://www.law.harvard.edu/students/orgs/jol/vol44\\_1/chang.pdf](http://www.law.harvard.edu/students/orgs/jol/vol44_1/chang.pdf)
- <sup>106</sup> Rathbun, D. P. (2008). Ideological endowment: The staying power of the electoral college and the weaknesses of the National Popular Vote Interstate Compact. *First Impressions: An online companion to Michigan Law Review*. Retrieved May 7, 2008 from <http://www.michiganlawreview.org/firstimpressions/vol106/rathbun.htm>
- <sup>107</sup> Muller, D. T. (2007). Compact clause and the National Popular Vote Interstate Compact. 6. *Election Law Journal*. p. 372.
- <sup>108</sup> National Popular Vote. (n.d.) What is an interstate compact? Retrieved May 7, 2008 from <http://www.nationalpopularvote.com/pages/faqitem.php?f=10>

