



Brian J. Feldman, Chair
Cheryl C. Kagan, Vice Chair
Senate Education, Energy, and the Environment Committee
Maryland Senate
March 1, 2024

Testimony of Campaign Legal Center in Support of Senate Bill 493

On behalf of Campaign Legal Center (“CLC”), we are pleased to offer this testimony in support of Senate Bill 493 (“SB 493”), which would adopt ranked choice voting for use in Maryland’s 2028 presidential primary election.

CLC is a nonpartisan, nonprofit organization dedicated to advancing democracy through law. Through its extensive work on redistricting and voting rights, CLC seeks to ensure that every United States resident receives fair representation at the federal, state, and local levels. As such, CLC has supported the adoption of reforms that promote equitable representation, including state-level voting rights acts and ranked choice voting.

CLC strongly supports SB 493 because it will give voters across the state access to a widely used and sensible election reform with documented benefits for electoral participation and engagement. The use of RCV in presidential primaries is particularly beneficial to ensure that every voter’s vote counts toward an active candidate on Election Day. SB 493 would protect Maryland voters and make sure their voices are heard in selecting candidates for the highest office in our democracy.

I. The Civic Benefits of Ranked Choice Voting

Ranked choice voting (“RCV”) makes a simple yet powerful change to how voters vote. Instead of selecting just one candidate in each race, RCV gives voters the power to rank candidates in order of preference: first choice, second choice, and so on.

In an election to select a single winner, the candidate with the majority of first-choice votes wins. If no candidate wins a majority of first-choice votes, the candidate who received the fewest first-choice votes is eliminated, and votes for that candidate are redistributed to the voter's next choice candidate. This process repeats until one candidate receives a majority of the votes and is declared the winner.¹

Studies show that RCV has a number of beneficial effects.² For example, RCV's tabulation process ensures that no vote is wasted and every ballot counts: in any election requiring multiple rounds of tabulation, if a voter's first choice cannot win, then their vote still counts for their next choice among viable candidates. In this way, RCV frees voters to fully express their electoral preferences without the pressure to vote strategically or worry that their vote won't matter.

RCV also reduces negative campaigning and rewards candidates who run civil campaigns.³ Traditional plurality voting, in contrast, incentivizes candidates to use negative tactics to ensure that they are the voters' only choice and that other candidate(s) are not. RCV rewards candidates who take a more positive approach, who balance their efforts to get first-choice votes without alienating other candidates' supporters who might list them as second or third choice.⁴ RCV's ability to encourage more civil campaigns⁵ can, in turn, reduce political polarization.⁶

¹ Importantly, the steps required for RCV tabulation are carried out by election administrators, using voting systems and equipment specifically designed to run RCV elections—for voters, the process is as simple as ranking their preferred candidates.

² See generally, e.g., Alexandra Copper & Ruth Greenwood, *The Civic Benefits of Ranked Choice Voting: Eight Ways Adopting Ranked Choice Voting Can Improve Voting and Elections*, Campaign Legal Center (Aug. 17, 2018), <https://campaignlegal.org/sites/default/files/2018-08/CLC%20Issue%20Brief%20RCV%20PDF.pdf>.

³ See *id.* at 1-3 (collecting sources).

⁴ *Id.* at 2.

⁵ The capacity of RCV to foster civility is well documented. See *id.*; see also, e.g., Sarah John & Andrew Douglas, *Candidate Civility and Voter Engagement in Seven Cities with Ranked Choice Voting*, NATIONAL CIVIL REVIEW 25, 26 (2017); Todd Donovan, Caroline Tolbert & Kellen Gracey, *Campaign Civility Under Preferential and Plurality Voting*, 42 ELECTORAL STUDIES 157, 159-60 (2016); Caroline Tolbert, *Experiments in Election Reform: Voter Perceptions of Campaigns Under Preferential and Plurality Voting*, Presented at Conference on Electoral Systems Reform, Stanford University, at 11-13 (Mar. 15-16, 2014); Todd Donovan, *Candidate Perceptions of Campaigns under Preferential and Plurality Voting*, Paper prepared for the workshop on Electoral Systems, Electoral Reform, and Implications for Democratic Performance, Stanford University, at 10 (Mar. 14-15, 2014); Robert Richie, *Instant Runoff Voting: What Mexico (and Others) Could Learn*, 3.3 ELECTION LAW JOURNAL 501, 504 (2004); Steven Hill & Robert Richie, *Success for Instant Runoff Voting in San Francisco*, NATIONAL CIVIC REVIEW 65, 66 (Spring 2005); Haley Smith, *Ranked Choice Voting and Participation: Impacts on Deliberative Engagement*, FairVote Civility Report #7, at 4 (Jun. 2016).

⁶ Copper & Greenwood, *supra* note 2 at 6-7.

RCV likewise promotes majoritarian outcomes and ensures fair minority representation. In races for single-winner offices, RCV requires that the winning candidate get support from a majority of the electorate, ensuring the winner has broad community approval. At the same time, RCV encourages a greater number of candidates with more diverse views and backgrounds to run and have a chance to be elected.⁷ Because RCV mitigates the so-called “spoiler effect,” more candidates can run without fear of splitting votes with another likeminded candidate. Candidates from historically underrepresented communities with similar platforms, for example, need not worry about competing for voters and may, instead, all run for office and work together to ensure representation for the group. In this way, RCV’s structure benefits minority candidates, including candidates of color and women, as numerous studies have confirmed.⁸

Recognizing these many benefits, more than fifty jurisdictions across the country—including 2 states, 3 counties, and 45 cities—have adopted RCV for use in some or all elections.⁹ In total, approximately 13 million Americans across 24 states¹⁰—including presidential primary voters in at least 4 states¹¹—rely on RCV to cast their ballot and express their voice in American democracy.

Moreover, experience proves that voters who use RCV both understand it and have confidence in its results. Surveys conducted in jurisdictions that use RCV consistently show that the vast majority of voters find RCV ballots easy to understand,¹² and are satisfied with RCV and want to continue using it.¹³

⁷ *Id.* at 5-6 (citing studies).

⁸ See, e.g., Cynthia R. Terrell, Courtney Lamendola & Maura Reilly, *Election Reform and Women’s Representation: Ranked Choice Voting in the US*, 9 *POLITICS AND GOVERNANCE* 332-34, <https://www.cogitatiopress.com/politicsandgovernance/article/view/3924/2154> (2021); Deb Otis & Nora Dell, *Ranked Choice Voting Elections Benefit Candidates and Voters of Color*, FairVote (2021), https://fairvote.org/report/report_rcv_benefits_candidates_and_voters_of_color/; Cynthia R. Terrell et al., *In Ranked Choice Elections, Women WIN: RCV in the United States: A Decade in Review*, RepresentWomen (July 2020), <https://representwomen.app.box.com/s/9m839giwkro4wuhej2ponaytk98xqzn>.

⁹ See *Ranked Choice Voting Information: Where Is Ranked Choice Voting Used?*, FairVote, <https://fairvote.org/our-reforms/ranked-choice-voting-information/> (last visited Feb. 29, 2024).

¹⁰ *Id.*

¹¹ See *Ranked Choice Voting in the 2024 Presidential Primaries*, FairVote, <https://fairvote.org/ranked-choice-voting-in-2024-presidential-primaries/> (last visited Feb. 29, 2024).

¹² See, e.g., Copper & Greenwood, *supra* note 2, at 10-11 (collecting sources); see also, e.g., Deb Otis, *Exit Surveys: Voters Love Ranked Choice Voting*, FairVote (Nov. 16, 2023), <https://fairvote.org/report/exit-surveys-report-2023/>.

¹³ See, e.g., Copper & Greenwood, *supra* note 2, at 10-11 (collecting sources); Otis, *Exit Surveys*, *supra* note 12.

Evidence even shows that use of RCV can increase voter participation,¹⁴ with increased turnout particularly pronounced among young voters.¹⁵

In short, the benefits of RCV to democracy are numerous.

II. SB 493 Brings the Benefits of RCV to Maryland's 2028 Presidential Primaries, and Beyond

SB 493 would expand the availability of RCV to Maryland voters, bringing its representational benefits to bear on Maryland's 2028 presidential primary election.

The benefits of RCV would be particularly pronounced in the context of Maryland's presidential primary elections. Maryland holds its presidential primaries well after Super Tuesday, which increases the risk that candidates withdraw from the race while Maryland voters are casting their ballots. In the 2020 Democratic primary, for example, 6% of Maryland voters cast their ballots early for candidates who subsequently dropped out before the State's primary;¹⁶ nationally, more than 3 million votes—impacting roughly 9% of all voters—in the Democratic primary were wasted in this way.¹⁷ Voters are effectively penalized for voting early.¹⁸ By allowing voters to rank multiple candidates, however, RCV ensures that every voter can cast a ballot that will count for an active candidate on Election Day.¹⁹

In addition to adopting RCV for the 2028 presidential primary election, SB 493 would implement an education campaign to inform Maryland voters about RCV and a survey after the 2028 primary to gauge voters' satisfaction with RCV. The bill likewise requires the State Board of Elections to provide recommendations by January 2029 regarding the use of RCV in future elections, including reporting on any administrative or implementation challenges. These provisions will ensure that Maryland voters are fully informed about RCV and dispel any confusion to help voters cast their ballots

¹⁴ See, e.g., Copper & Greenwood, *supra* note 2, at 9-10 (collecting sources).

¹⁵ See, e.g., Courtney L. Juelich & Joseph A. Coll, *Ranked Choice Voting and Youth Voter Turnout: The Roles of Campaign Civility and Candidate Contact*, 9 *POLITICS AND GOVERNANCE* 319, 329 (2021).

¹⁶ See *Ranked Choice Voting in the 2024 Presidential Primaries*, FairVote, *supra* note 11.

¹⁷ See Deb Otis, *Ranked Choice Voting in 2020 Presidential Primary Elections*, FairVote, at 3 (July 21, 2020), <https://fairvote.app.box.com/s/nio79ymdmpiqjpqen241fbs07akk5smx>. In 2016, almost 6% of Republican primary voters experienced the same issue. *Id.*

¹⁸ See *Ranked Choice Voting: The Solution to the Presidential Primary Predicament*, Unite America Institute, at 3 (June 2020), <https://docsend.com/view/jnu3d442irjgaagb>.

¹⁹ See generally, e.g., Drew Johnson & Matthew Germer, *Ranking Presidents: How Ranked-Choice Voting Can Improve Presidential Primaries*, R Street Policy Study No. 271 (Dec. 2022), https://www.rstreet.org/wp-content/uploads/2022/12/FINAL_policy-study-no-271-R3.pdf (discussing the positive impact of RCV on Democratic and Republican primaries).

effectively.²⁰ The survey and recommendation provisions will further ensure that any future use of RCV in Maryland elections is deliberative and includes the input of voters and election administrators.

SB 493 thus would not only bring the benefits of RCV to Maryland's 2028 presidential primaries but would also empower voters to cast their RCV ballots effectively and provide key insights on the use of RCV in the Free State. For these reasons, we strongly support SB 493 and urge you to enact it.

Respectfully submitted,

/s/ Alexandra Copper

Alexandra Copper, Legal Counsel
Michael Ortega, Legal Fellow
Aseem Mulji, Legal Counsel
CAMPAIGN LEGAL CENTER
1101 14th St. NW, Suite 400
Washington, DC 20005

²⁰ See, e.g., Cheryl Boudreau, Jonathan Colner & Scott MacKenzie, *Ranked-Choice Voting and Political Expression: Voter Guides Narrow the Gap between Informed and Uninformed Citizens*, New America (Mar. 1, 2021), <https://www.newamerica.org/political-reform/reports/ranked-choice-voting-and-political-expression/>; Victoria Shineman, *Ranking for the First Time: Evidence that Voting in a Ranked Choice Vote (RCV) Election Causes People to Increase their Positive Evaluations of RCV* (working paper; Jan. 12, 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3764853.