

Eric L. Davis
Professor Emeritus of Political Science
Middlebury College
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Thank you for asking me to submit my views on the election of statewide officers to the Senate Government Operations Committee.

In an ideal world, the governor and other statewide officers would be elected by the people, without the involvement of the legislature. Such a system would provide the greatest opportunity for officers to be both responsible and accountable to public opinion.

However, I recognize the difficulty of amending the Vermont Constitution, in particular the challenge of obtaining a two-thirds majority in the Senate to start the process of replacing the current system.

In these circumstances, I believe it is important that the final outcome of the gubernatorial elections of 2002, 2010, and 2014 becomes "standard operating procedure" following future elections in which a statewide candidate fails to receive 50 percent of the vote on election day: that the legislature elects the candidate who finished first in the statewide voting totals.

The governor represents the entire population of the state of Vermont, not cities, towns, and legislative districts. The person who finishes with more votes than anyone else in the statewide tally is the person who should serve as governor. If the voters are dissatisfied with the performance of the governor, they will have an opportunity to replace him or her in only two years.

I also believe it is appropriate for voters, and the press, to ask candidates for governor and other statewide offices during the campaign what they would do if no one receives 50 percent on election day. The voters should know, when they cast their ballots, whether a candidate will follow what, until recently, was part of Vermont's "unwritten constitutional tradition" and concede the election if the canvassing committee report, and any subsequent recount, shows that they did not receive the most votes on election day.

That said, there are three alternatives to the current system, all of which have advantages and disadvantages. I would encourage members of the committee to discuss these alternatives and try to determine whether there is any consensus on moving forward with a constitutional

amendment to establish a new system for the election of statewide officers.

Alternative one - plurality election. The candidate with the most votes is elected, regardless of vote percentage.

Advantages: (1) simplicity, (2) ease of understanding by the voters, (3) the practice is used in all elections in Vermont other than for governor, lieutenant governor, and treasurer, and (4) the practice is used in the great majority of states for the election of all statewide officers.

Disadvantages: (1) in elections in which there are third-party or independent candidates who receive a substantial share of the vote, the winner may have well under 50 percent of the vote, (2) plurality voting may encourage some voters to cast "tactical votes": voting for their second choice candidate to prevent their least desired candidate from finishing first.

Alternative two: runoff election between top two finishers in early December if no candidate clears a specified voting threshold, usually 40 or 50 percent.

Advantages: (1) if 50-percent threshold is used, ensures that the candidate elected will always have more than 50 percent of the vote, (2) keeps choice of statewide officers in the hands of the voters.

Disadvantages: (1) experience in states with runoff elections is that voter turnout is considerably less in runoffs than in general elections, (2) need for candidates to continue raising money to pay for costs of runoff election; (3) complications regarding distribution of runoff ballots to overseas and military absentee voters without violating 45-day period required by federal law; (4) does not allow much time for transition in cases in which the incumbent is leaving office, (5) if runoff threshold is 40 percent (or any number less than 50 percent) has the same disadvantages as plurality election system.

Alternative three: ranked-choice (instant-runoff) voting.

Advantages: (1) ensures candidate elected has support from 50 percent of voters without many of the complications associated with December runoff elections, (2) has been used successfully for municipal elections in San Francisco and other large jurisdictions in California, in part because voters are not allowed to vote for more than three candidates, regardless of the number of candidates on the ballot.

Disadvantages: (1) not easily explained to or understood by many voters; requires extensive voter education in advance of election; (2) unsuccessful experience in Burlington when it was used in 2006 and 2009; was subsequently repealed in 2010; (3) may encourage larger number of candidates to seek office, and thus disadvantage candidates of larger, often more moderate, parties; (4) in San Francisco and elsewhere, has been used primarily in non-partisan municipal elections rather than in statewide elections where major-party candidates are nominated through primary elections.

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For the reasons stated above, I would urge caution before adopting any of the proposed constitutional amendments that would provide for runoff elections if no candidate received 50 percent of the vote at the general election. The experience in other states with runoff elections is that there is a substantial drop off in turnout from the general to the runoff. New campaign finance rules will be needed to govern the amount of money that can be raised and spent for the runoff.

Finally, I am not sure that an early-December runoff would be compatible with the federal requirement that ballots be made available to

overseas absentee and military voters at least 45 days before the date of the election. The Secretary of State's and Attorney General's offices could provide the committee more information on this issue.