

1 H.444

2 Introduced by Representatives Sibia of Dover, Szott of Barnard, Chesnut-
3 Tangerman of Middletown Springs, Jickling of Randolph,
4 Nicoll of Ludlow, and Pajala of Londonderry

5 Referred to Committee on

6 Date:

7 Subject: Elections; primary elections; general elections; ranked choice voting

8 Statement of purpose of bill as introduced: This bill proposes to require the
9 use of ranked choice voting in all primary elections except for that of
10 President and in general elections for the offices of U.S. Senator and U.S.
11 Representative.

12 An act relating to ranked choice voting

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 * * * Primary Elections * * *

15 Sec. 1. 17 V.S.A. § 2351 is amended to read:

16 § 2351. PRIMARY ELECTION

17 (a) A primary election shall be held on the second Tuesday in August in
18 each even-numbered year for the nomination of candidates of major political
19 parties for all offices to be voted for at the succeeding general election, except

1 candidates for President and Vice President of the United States, their electors,
2 and justices of the peace.

3 (b) The primary shall be conducted by ranked choice voting, as described
4 in subchapter 2A of chapter 51 of this title.

5 Sec. 2. 17 V.S.A. § 2362 is amended to read:

6 § 2362. PRIMARY BALLOTS

7 (a)(1) A separate, ranked choice ballot for each major political party shall
8 be printed and furnished to the towns by the Secretary of State and shall
9 contain the names of all candidates for nomination by that party at the primary.
10 Ballots shall be printed on index stock and configured to be readable by vote
11 tabulators.

12 (2) Ballots shall be printed in substantially the following form:

13 **OFFICIAL VERMONT PRIMARY ELECTION BALLOT**

14 **VOTE ON ONE PARTY BALLOT ONLY AND PLACE IN**

15 **BALLOT BOX OR VOTE TABULATOR**

16 **ALL OTHER PARTY BALLOTS MUST BE PLACED IN**

17 **UNVOTED BALLOT BOX**

18 _____

19 **[MAJOR POLITICAL PARTY NAME]**

20 _____

1 Instructions to voters: Use black pen or pencil to fill in the ~~oval~~ ovals. Vote
2 by indicating your first choice candidate and ranking additional candidates in
3 order of choice. Indicate your first choice by marking the oval labeled
4 “1st choice” next to that candidate’s name; your second choice by marking the
5 oval labeled “2nd choice” next to that candidate’s name; your third choice by
6 marking the oval labeled “3rd choice” next to that candidate’s name; and so
7 on. Rank as many choices as you wish. Marking a second or later choice will
8 not count against your first choice. Do not skip numbers, and do not mark the
9 same ranked choice for more than one candidate. To vote for a person whose
10 name is printed on the ballot, fill in the oval with your chosen ranking for that
11 candidate to the right of the name of that person. To vote for a person whose
12 name is not printed on the ballot, write or stick his or her name in the blank
13 space provided and fill in the oval with your chosen ranking for that candidate
14 to the right of the write-in space. ~~Do not vote for more candidates than the~~
15 ~~“Vote for Not More Than” number for an office.~~ If you make a mistake, tear,
16 or deface the ballot, return it to an election official and obtain another ballot.
17 Do not erase.

18 (b)(1) The ballot shall indicate how many persons are to be elected for each
19 office.

20 (2) Following the names of candidates printed on the ballot after the
21 name of each office to be filled shall be as many blank lines for write-in

1 candidates as there are persons to be elected to that office. If no primary
2 petition is filed for an office or for a candidate belonging to a party, the ballot
3 shall contain the name of the office and blank lines for write-in candidates.

4 (3) If feasible, the ballot shall allow voters to rank a number of
5 candidates that is equal to the number of printed candidate names and blank
6 write-in lines. If it is not feasible to allow voters to rank that number of
7 candidates, the number of allowable rankings shall be limited to no fewer than
8 six.

9 Sec. 3. 17 V.S.A. § 2369 is amended to read:

10 § 2369. DETERMINING WINNER; ~~TIE VOTES~~

11 ~~(a) A person who receives a plurality of all the votes cast by a party in a~~
12 ~~primary shall be a candidate of that party for the office designated on the~~
13 ~~ballot.~~

14 ~~(b)(1) If, after the period for requesting a recount under section 2602 of this~~
15 ~~title has expired, no candidate has requested a recount and two or more~~
16 ~~candidates of the same party are tied for the same office, the choice among~~
17 ~~those tied shall be determined upon five days' notice and not later than 10 days~~
18 ~~following the primary election by the committee of that party, which shall meet~~
19 ~~to nominate a candidate from among the tied candidates. The committee that~~
20 ~~nominates a candidate shall be as follows:~~

21 ~~(A) the State committee of a party for a State or congressional office;~~

1 ~~(B) the senatorial district committee for State Senate;~~
2 ~~(C) the county committee for county office; or~~
3 ~~(D) the representative district committee for a Representative to the~~
4 ~~General Assembly.~~

5 ~~(2) The committee chair shall certify the candidate nomination for the~~
6 ~~general election to the Secretary of State within 48 hours of the nomination~~
7 The winner of the ranked choice primary election shall be determined as set
8 forth in subchapter 2A of chapter 51 of this title.

9 * * * General Elections; U.S. Senate and House * * *

10 Sec. 4. 17 V.S.A. chapter 51 is amended to read:

11 CHAPTER 51. CONDUCT OF ELECTIONS

12 * * *

13 Subchapter 2. Ballots

14 § 2471. GENERAL ELECTION BALLOT

15 (a)(1)~~(A)~~ A consolidated ballot shall be used at a general election, which
16 shall list the several candidates for the offices to be voted upon. The offices of
17 President and Vice President of the United States, ~~U.S. Senator, U.S.~~
18 ~~Representative~~, Governor, Lieutenant Governor, State Treasurer, Secretary of
19 State, Auditor of Accounts, Attorney General, State Senator, Representative to
20 the General Assembly, Judge of Probate, assistant judge, State's Attorney,
21 sheriff, and high bailiff shall be listed in that order. Any statewide public

1 question shall also be listed on the ballot, before the listing of all offices to be
2 filled.

3 (B) The offices of U.S. Senator and U.S. Representative shall be
4 listed on a separate ranked choice ballot as set forth in subchapter 2A of this
5 chapter.

6 * * *

7 § 2472. CONTENTS

8 * * *

9 (b)(1) Each office to be voted upon shall be separately indicated and
10 preceded by the word “For,” as: “For ~~United States Senator~~ Governor.”
11 Beneath the office to be voted upon shall appear the instructions: “Vote for not
12 more than (the number of candidates to be elected).”

13 * * *

14 Subchapter 2A. Ranked Choice Voting

15 § 2485. DEFINITIONS

16 As used in this subchapter:

17 (1) “Batch elimination” means the simultaneous defeat of one or more
18 candidates for whom it is mathematically impossible to be elected.

19 (2) “Continuing vote” means a vote that is not an exhausted vote.

20 (3) “Continuing candidate” means a candidate who has not been
21 defeated.

1 (4)(A) “Election threshold” means the number of votes sufficient for a
2 candidate to be elected.

3 (B)(i) In a single-seat election district, the election threshold is a
4 majority vote.

5 (ii) In a multiseat election district, the election threshold is
6 calculated by dividing the total number of votes cast for continuing candidates
7 in the first round by the sum of one plus the number of seats to be filled, then
8 rounding up four decimal places.

9 (5) “Exhausted vote” means a vote for an election on a ballot that:

10 (A) does not rank any continuing candidate;

11 (B) contains an overvote at the highest continuing ranking; or

12 (C) contains two or more sequential skipped rankings before its
13 highest continuing ranking.

14 (6) “Highest continuing ranking” means a voter’s highest ranking for a
15 continuing candidate.

16 (7) “Last place candidate” means the candidate with the fewest votes in
17 a round of the ranked choice voting tabulation.

18 (8) “Mathematically impossible to be elected” means that a candidate:

19 (A) cannot be elected because the candidate’s vote total in a round of
20 the ranked choice voting tabulation plus all votes that could possibly be
21 transferred to the candidate in future rounds from candidates with fewer votes

1 or an equal number of votes would not be enough to surpass the candidate with
2 the next-higher vote total in the round; or

3 (B) has a lower vote total than a candidate described in subdivision
4 (A) of this subdivision (8).

5 (9) “Overvote” means a circumstance in which a voter has ranked more
6 than one candidate at the same ranking in an election.

7 (10)(A) “Ranking” means the number assigned on a ballot by a voter to
8 a candidate to express the voter’s preference for that candidate.

9 (B) Ranking “1st choice” is the highest ranking; ranking
10 “2nd choice” is the second-highest ranking; and so on.

11 (11) “Round” means an instance of the sequence of voting tabulation
12 steps set forth in section 2487 of this subchapter.

13 (12) “Skipped ranking” means a circumstance in which a voter has left a
14 ranking blank and ranks a candidate at a subsequent ranking.

15 (13) “Surplus” means a positive difference between a candidate’s vote
16 total and the election threshold.

17 (14) “Surplus fraction” means the number equal to a candidate’s surplus
18 divided by that candidate’s vote total, calculated to four decimal places,
19 ignoring any remainder.

20 (15) “Transfer value” means the proportion of a vote that the vote will
21 contribute to its highest continuing ranking.

1 (A) Each vote begins with a transfer value of one.

2 (B) If a vote transfers from an elected candidate with a surplus, it
3 receives a new transfer value. The new transfer value of such a vote is
4 calculated by multiplying the surplus fraction of the elected candidate by the
5 vote's current transfer value, calculated to four decimal places, ignoring any
6 remainder.

7 § 2486. RANKED CHOICE BALLOT; OFFICES OF U.S. HOUSE AND
8 SENATE

9 A ranked choice ballot shall be used for the general election of the offices of
10 U.S. Senator and U.S. Representative. The ranked choice ballot shall conform
11 to the provisions of §§ 2471 and 2472 of this chapter regarding general
12 election ballots for other offices, but shall provide ranked choice voting
13 instructions to voters and allow voters to rank candidates for these offices as
14 prescribed for primary ballots in subdivisions 2362(a)(3) and (b) of this title.

15 § 2487. TABULATION PROCEDURE

16 (a) Election threshold. The election threshold shall be calculated for each
17 office.

18 (b) First round.

19 (1) For each election, each vote for that election on a ballot shall
20 initially be counted as one vote for its highest-ranked continuing candidate or
21 as an exhausted ballot.

1 (2) If a candidate reaches the election threshold, that candidate is
2 elected.

3 (c) Sequential rounds. If one candidate in a single-seat district or if one or
4 more candidates in a multiseat district fail to reach the election threshold,
5 tabulation continues as follows for that seat or those seats until the number of
6 candidates that reach the election threshold is equal to the number of seats in
7 the district:

8 (1)(A) The candidate with the fewest votes and any other candidate for
9 whom it is mathematically impossible to be elected are defeated.

10 (B) Votes for such defeated candidates shall cease to be counted for
11 those defeated candidates and shall be added, at their current transfer values, to
12 the totals of each ballot's highest-ranked continuing candidate for the election
13 or counted as exhausted votes.

14 (2) Votes for each continuing candidate shall be counted.

15 (3) Exhausted votes for continuing candidates shall not be counted.

16 (4)(A) The number of surplus votes for a candidate who has already
17 reached the election threshold shall be calculated, along with the surplus
18 fraction and new transfer value for those votes.

19 (B) Votes for such an elected candidate shall be added, at their new
20 transfer values, to the totals of each ballot's highest-ranked continuing
21 candidate for the election or counted as exhausted votes.

1 (d) Ties. Unless a tied candidate withdraws from the election in order to
2 resolve a tie, a tie under this section between candidates for the most votes in
3 the final round, between last-place candidates in any round, or between
4 candidates following any recount shall be decided by lot, and the candidate
5 chosen by lot is defeated.

6 § 2488. ELECTION MANAGEMENT SYSTEM; VOTE TABULATORS;

7 TALLY SHEETS, SUMMARY SHEETS, AND RETURNS; RULES

8 (a) The Secretary of State shall ensure that:

9 (1) the Secretary's Election Management System and all vote tabulators
10 and their memory cards and related software are programmed to tabulate
11 ranked choice voting in accordance with this subchapter, including
12 programming to perform batch elimination and to not count exhausted votes;
13 and

14 (2) all tally sheets, summary sheets, and returns described in section
15 2586 of this chapter are designed to record ranked choice voting results in
16 accordance with this subchapter.

17 (b) In filing returns in accordance with section 2588 of this chapter for a
18 ranked choice voting election:

19 (1) In towns that count ballots by hand, the town clerk shall report the
20 unofficial results of voters' ranked choices by electronically submitting those

1 choices on the Secretary's Election Management System, which shall tabulate
2 the final result.

3 (2) In towns that use vote tabulators, the vote tabulators shall be
4 programmed to tabulate voters' ranked choices and the town clerk shall report
5 the unofficial, final result of that tabulation by electronically submitting it on
6 the Secretary's Election Management System.

7 (c) The Secretary shall adopt rules to implement the provisions of this
8 subchapter.

9 * * * Recount Ties * * *

10 Sec. 5. 17 V.S.A. § 2602k is amended to read:

11 § 2602k. RECOUNT TIES

12 (a)(1) If ~~the~~ a recount of a primary election or a ranked choice general
13 election results in a tie, the provisions of subsection 2487(d) of this title shall
14 apply.

15 (2) If a recount of a nonranked choice general election results in a tie,
16 the provision of this section shall apply and the court shall order a runoff
17 election to be held, within three weeks of the recount, on a date set by the
18 court.

19 (b) The only candidates who shall appear on the ballot at the runoff
20 election shall be those who tied in the previous election.

1 (c) The runoff election shall be considered a separate election for the
2 purpose of voter registration under chapter 43 of this title.

3 (d) If the recount confirms a tie as to any public question, a runoff election
4 shall not be held, and the question shall be certified not to have passed.

5 (e) Warnings for a runoff election shall be posted as required by subchapter
6 5 of this chapter, except that the warnings shall be posted not less than 10 days
7 before the runoff election.

8 (f) The conduct of a runoff election shall be as provided in this chapter for
9 general elections.

10 * * * Transitional Provisions; Effective Dates * * *

11 Sec. 6. SECRETARY OF STATE; VOTER AND ELECTION OFFICIAL
12 EDUCATION

13 Prior to the effective date of this act, the Secretary of State shall make
14 available to voters information regarding the ranked choice process and
15 provide to election officials training in order to assist them in implementing
16 that process.

17 Sec. 7. APPROPRIATION; UPGRADE OF SECRETARY OF STATE
18 ELECTION MANAGEMENT SYSTEM AND VOTE
19 TABULATORS

20 There is appropriated to the Office of Secretary of State the amount of
21 \$1.00 for the upgrade of the Secretary's Election Management System and all

1 vote tabulators and their memory cards and related software so that they may
2 perform ranked choice voting as described in this act.

3 Sec. 8. EFFECTIVE DATES

4 This act shall take effect on January 1, 2024, except that:

5 (1) this section and Sec. 6 (Secretary of State; voter and election official
6 education) shall take effect on passage; and

7 (2) Sec. 7 (appropriation to Secretary of State) shall take effect on
8 July 1, 2020.