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H.236

Introduced by Representatives Sibia of Dover, Kornheiser of Brattleboro,
McCormack of Burlington, Nicoll of Ludlow, Pajala of
Londonderry, Seymour of Sutton, and Vyhovsky of Essex

Referred to Committee on

Date:

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

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

An act relating to ranked choice voting

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

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

§ 2351. PRIMARY ELECTION

(a) A primary election shall be held on the second Tuesday in August in
each even-numbered year for the nomination of candidates of major political
parties for all offices to be voted for at the succeeding general election, except
candidates for President and Vice President of the United States, their electors,
and justices of the peace.

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

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

4 § 2362. PRIMARY BALLOTS

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

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

11 **OFFICIAL VERMONT PRIMARY ELECTION BALLOT**
12 **VOTE ON ONE PARTY BALLOT ONLY AND PLACE IN**
13 **BALLOT BOX OR VOTE TABULATOR**
14 **ALL OTHER PARTY BALLOTS MUST BE PLACED IN**
15 **UNVOTED BALLOT BOX**

16 _____

17 **[MAJOR POLITICAL PARTY NAME]**

18 _____

19 Instructions to voters: Use black pen or pencil to fill in the ~~oval~~ ovals. Vote
20 by indicating your first choice candidate and ranking additional candidates in
21 order of choice. Indicate your first choice by marking the oval labeled

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

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

17 (2) Following the names of candidates printed on the ballot after the
18 name of each office to be filled shall be as many blank lines for write-in
19 candidates as there are persons to be elected to that office. If no primary
20 petition is filed for an office or for a candidate belonging to a party, the ballot
21 shall contain the name of the office and blank lines for write-in candidates.

1 (3) If feasible, the ballot shall allow voters to rank a number of
2 candidates that is equal to the number of printed candidate names and blank
3 write-in lines. If it is not feasible to allow voters to rank that number of
4 candidates, the number of allowable rankings shall be limited to not fewer than
5 six.

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

7 § 2369. DETERMINING WINNER;~~TIE VOTES~~

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

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

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

20 ~~(B) the senatorial district committee for State Senate;~~

21 ~~(C) the county committee for county office; or~~

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

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

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

8 (A) does not rank any continuing candidate;

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

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

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

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

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

17 (A) cannot be elected because the candidate’s vote total in a round of
18 the ranked choice voting tabulation plus all votes that could possibly be
19 transferred to the candidate in future rounds from candidates with fewer votes
20 or an equal number of votes would not be enough to surpass the candidate with
21 the next-higher vote total in the round; or

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

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

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

7 (B) Ranking “1st choice” is the highest ranking; ranking
8 “2nd choice” is the second-highest ranking; and so on.

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

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

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

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

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

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

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

6 § 2486. RANKED CHOICE BALLOT; OFFICES OF U.S. HOUSE AND

7 SENATE

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

14 § 2487. TABULATION PROCEDURE

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

17 (b) First round.

18 (1) For each election, each vote for that election on a ballot shall
19 initially be counted as one vote for its highest-ranked continuing candidate or
20 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 a recount of a primary election or a ranked choice general election
13 results in a tie, the provisions of subsection ~~2369(b)~~ 2487(d) of this title shall
14 apply.

15 (2) If a recount of a public question results in a tie, a runoff election
16 shall not be held, and the question shall be certified not to have passed.

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

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

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

5 (d) [Repealed.]

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

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

11 * * * Transitional Provisions; Effective Dates * * *

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

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

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

1 There is appropriated to the Office of Secretary of State the amount of
2 \$1.00 for the upgrade of the Secretary's Election Management System and all
3 vote tabulators and their memory cards and related software so that they may
4 perform ranked choice voting as described in this act.

5 Sec. 8. EFFECTIVE DATES

6 This act shall take effect on January 1, 2026, except that:

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

9 (2) Sec. 7 (appropriation to Secretary of State) shall take effect on
10 July 1, 2022.