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

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

§ 2362. PRIMARY BALLOTS

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

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

OFFICIAL VERMONT PRIMARY ELECTION BALLOT

VOTE ON ONE PARTY BALLOT ONLY AND PLACE IN BALLOT BOX OR VOTE TABULATOR

ALL OTHER PARTY BALLOTS MUST BE PLACED IN UNVOTED BALLOT BOX

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

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

(2) Following the names of candidates printed on the ballot after the
name of each office to be filled shall be as many blank lines for write-in
candidates as there are persons to be elected to that office. If no primary
petition is filed for an office or for a candidate belonging to a party, the ballot
shall contain the name of the office and blank lines for write-in candidates.
(3) If feasible, the ballot shall allow voters to rank a number of candidates that is equal to the number of printed candidate names and blank write-in lines. If it is not feasible to allow voters to rank that number of candidates, the number of allowable rankings shall be limited to not fewer than six.

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

§ 2369. DETERMINING WINNER; TIE VOTES

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

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

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

(B) the senatorial district committee for State Senate;

(C) the county committee for county office; or
(D) the representative district committee for a Representative to the General Assembly.

(2) The committee chair shall certify the candidate nomination for the general election to the Secretary of State within 48 hours of the nomination.

The winner of the ranked choice primary election shall be determined as set forth in subchapter 2A of chapter 51 of this title.

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

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

CHAPTER 51. CONDUCT OF ELECTIONS

* * *

Subchapter 2. Ballots

§ 2471. GENERAL ELECTION BALLOT

(a)(1)(A) A consolidated ballot shall be used at a general election, which shall list the several candidates for the offices to be voted upon. The offices of President and Vice President of the United States, U.S. Senator, U.S. Representative, Governor, Lieutenant Governor, State Treasurer, Secretary of State, Auditor of Accounts, Attorney General, State Senator, Representative to the General Assembly, Judge of Probate, assistant judge, State’s Attorney, sheriff, and high bailiff shall be listed in that order. Any statewide public question shall also be listed on the ballot, before the listing of all offices to be filled.
(B) The offices of U.S. Senator and U.S. Representative shall be listed on a separate ranked choice ballot as set forth in subchapter 2A of this chapter.

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(b)(1) Each office to be voted upon shall be separately indicated and preceded by the word “For,” as: “For United States Senator Governor.”

Beneath the office to be voted upon shall appear the instructions: “Vote for not more than (the number of candidates to be elected).”

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Subchapter 2A. Ranked Choice Voting

§ 2485. DEFINITIONS

As used in this subchapter:

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

(2) “Continuing candidate” means a candidate who has not been defeated.

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

(4)(A) “Election threshold” means the number of votes sufficient for a candidate to be elected.
(B)(i) In a single-seat election district, the election threshold is a majority vote.

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

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

(A) does not rank any continuing candidate;

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

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

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

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

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

(A) cannot be elected because the candidate’s vote total in a round of the ranked choice voting tabulation plus all votes that could possibly be transferred to the candidate in future rounds from candidates with fewer votes or an equal number of votes would not be enough to surpass the candidate with the next-higher vote total in the round; or
(B) has a lower vote total than a candidate described in subdivision (A) of this subdivision (8).

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

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

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

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

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

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

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

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

(A) Each vote begins with a transfer value of one.
(B) If a vote transfers from an elected candidate with a surplus, it receives a new transfer value. The new transfer value of such a vote is calculated by multiplying the surplus fraction of the elected candidate by the vote’s current transfer value, calculated to four decimal places, ignoring any remainder.

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

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

§ 2487. TABULATION PROCEDURE

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

(b) First round.

(1) For each election, each vote for that election on a ballot shall initially be counted as one vote for its highest-ranked continuing candidate or as an exhausted ballot.
(2) If a candidate reaches the election threshold, that candidate is elected.

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

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

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

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

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

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

(B) Votes for such an elected candidate shall be added, at their new transfer values, to the totals of each ballot’s highest-ranked continuing candidate for the election or counted as exhausted votes.
(d) Ties. Unless a tied candidate withdraws from the election in order to resolve a tie, a tie under this section between candidates for the most votes in the final round, between last-place candidates in any round, or between candidates following any recount shall be decided by lot, and the candidate chosen by lot is defeated.

§ 2488. ELECTION MANAGEMENT SYSTEM; VOTE TABULATORS; TALLY SHEETS, SUMMARY SHEETS, AND RETURNS; RULES

(a) The Secretary of State shall ensure that:

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

and

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

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

(1) In towns that count ballots by hand, the town clerk shall report the unofficial results of voters’ ranked choices by electronically submitting those
choices on the Secretary’s Election Management System, which shall tabulate
the final result.

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

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

* * * Recount Ties * * *

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

§ 2602k. RECOUNT TIES

(a)(1) If a recount of a primary election or a ranked choice general election
results in a tie, the provisions of subsection 2369(b) 2487(d) of this title shall
apply.

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

(3) If a recount of a nonranked choice general election results in a tie,
the provisions of this section shall apply, and the court shall order a runoff
election to be held, within three weeks of the recount, on a date set by the
court.
(b) The only candidates who shall appear on the ballot at the runoff election shall be those who tied in the previous election.

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

(d) [Repealed.]

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

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

* * * Transitional Provisions; Effective Dates * * *

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

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

Sec. 7. APPROPRIATION; UPGRADE OF SECRETARY OF STATE ELECTION MANAGEMENT SYSTEM AND VOTE TABULATORS
There is appropriated to the Office of Secretary of State the amount of $1.00 for the upgrade of the Secretary’s Election Management System and all vote tabulators and their memory cards and related software so that they may perform ranked choice voting as described in this act.

Sec. 8. EFFECTIVE DATES

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

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

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