



TESTIMONY OF VPIRG EXECUTIVE DIRECTOR PAUL BURNS  
AND DEMOCRACY ADVOCATE SAM MCGINTY  
IN SUPPORT OF S.32, RANKED CHOICE VOTING  
FOR PRESIDENTIAL PRIMARIES  
VERMONT HOUSE COMMITTEE ON GOVERNMENT OPERATIONS  
MARCH 31, 2023

For the record, my name is Paul Burns and I am the executive director of the Vermont Public Interest Research Group (VPIRG). I'll also be joined in this testimony by VPIRG's Democracy Advocate, Sam McGinty.

In my earlier testimony before this committee, I noted that VPIRG has long been involved with policy matters related to democratic reform, including campaign finance, lobbying, and various measures that have helped to make voting easier in the state.

My focus today is S.32, legislation that would give voters the opportunity to rank candidates in order of preference in Vermont presidential primary in 2028. VPIRG strongly supports this legislation as the next logical step in pro-voter, democratic reform in Vermont.

It was our hope that this legislation could apply to the presidential primary taking place next year. But we have heard and understand the concerns raised by the Secretary of State's office and from some Vermont clerks who felt they, and voters, would benefit from an extended timeline. We don't disagree with the idea that more time would be better for a statewide rollout, so I'm happy to say we are fully in support of the thoughtful compromise bill that passed the Senate with 23 votes and tri-partisan support.

In addition to putting ranked choice voting in place for the **2028** presidential primary, the bill would create a summer study committee consisting of lawmakers, clerks, the Secretary of State, and organizations with elections expertise to consider and develop recommendations on issues such as voter and election worker education, and the most effective elections procedures to carry out a ranked choice voting election.

Additionally, the bill would grant authority for municipalities to adopt RCV in local elections beginning next year. As this committee is aware, Burlington is already using RCV in elections for

city councilors and recently voted to expand the use of the system to all city races. We'll discuss that a bit more later.

For the bulk of our testimony, I hope to provide some useful context for this discussion, and will do so by focusing on three questions: 1) Why ranked choice voting? 2) Why use RCV in the presidential primary? 3) Why now?

## **Why Ranked Choice Voting?**

Journalist Thom Hartmann recently wrote an [essay](#) explaining the history behind why some very rich and powerful people are funding efforts to weaken our democracy. I thought taking a look back was informative, so I'd like to begin by reminding us that not so very long ago – just over 100 years – not all of us around this table would even have been allowed to vote for president, or pretty much anything else.

Let's also remember that though the Fifteenth Amendment to the U.S. Constitution was ratified in 1870, extending the right to vote to male African Americans, the end of Reconstruction was followed by the adoption of numerous state and local policies aimed at preventing access to the ballot, including poll taxes, literacy tests, grandfather clauses, and whites-only primaries. It wasn't until the passage of the federal Voting Rights Act in 1965 that racial discrimination in voting was finally prohibited.

But the roots of the problem go back even further. Consider the influential British philosopher Edmund Burke, who is today considered by some to be the father of conservatism. In his time, in the 1700s, he was a Member of Parliament, and strong opponent of the French Revolution. American revolutionary Thomas Paine visited Burke for two weeks in 1793 on his way to get arrested in the French Revolution.

Paine supported the revolution of course, and was so outraged by Burke's arguments that he wrote a book rebutting them, called *The Rights of Man*.

Thom Hartmann explains it this way:

Burke was defending, among other things, Britain's restrictions on democracy, including limits on who could vote or run for office, and the British maximum wage. That's right, *maximum wage*.

Burke and his contemporaries in the late 1700s believed that if working-class people made too much money, they'd have enough spare time to use democratic processes to challenge the social order and collapse the British kingdom.

Too much democracy, Burke believed, was a dangerous thing: deadly to nations and a violation of evolution and nature itself.

Summarizing his debate with Paine about the French Revolution, Burke wrote:

***"The occupation of a hair-dresser, or of a working tallow-chandler (candle maker), cannot be a matter of honour to any person—to say nothing of a number of other more servile employments. Such descriptions of men ought not to suffer oppression from the state; but the state suffers oppression, if such as they, either individually or collectively are permitted to rule (by voting). In this you think you are combating prejudice, but you are at war with nature."***

That was why Parliament passed a law making it illegal for employers to pay people *over* a certain amount, so as to keep wage-earners right at the edge of poverty throughout their lives. It was explicitly to avoid too much democracy and preserve the stability of the kingdom.

What does any of this have to do with ranked choice voting in Vermont? Well, democracy is not one fixed thing that we can simply count on for the rest of our lives. It is not to be taken for granted. As many have noted, democracy is not a spectator sport. It's a participatory event, and if we fail to participate, it's no longer a democracy.

In the past two years, we've seen hundreds of proposals aimed at making it harder to participate in our democracy, particularly for Black, brown, or economically disadvantaged Americans. Too many of these policies have been passed into law. The U.S. Supreme Court has struck down important elements of the Voting Rights Act. And you are all familiar with what happened on January 6, 2021.

My point is, our nation has not yet achieved its great promise. We have to keep working to improve our policies so that all voices are heard. And in this effort, we will encounter opposition from some who would prefer not to make it easier for everyone to participate.

But I believe that Vermont is one of the places in this country where a strong majority of our citizens favor a healthy and robust democracy. Thanks to you and your predecessors, Vermont is one of, if not the most voter friendly state in the nation.

With much effort, we have removed barriers to voting by adopting automatic and same-day voter registration. We've made voting itself more convenient with early voting, vote by mail, ballot curing, drop boxes, and more. It must be noted that our local election officials and volunteers go to great lengths to assist voters in the process.

And yet, more can and must be done. Too often, voters or potential voters are turned off by races that are dominated by candidates who don't seem to look or sound like them, waged in a highly partisan or negative way, and won by someone who didn't even have majority support.

These are some of the reasons why our voting participation rates – while high by national standards – remain far lower than we would like them to be. In the 2022 midterm election, we saw a record-breaking turnout with about 292,000 Vermonters casting ballots, approximately 60 percent of eligible voters.

In the 2020 general election that featured Joe Biden vs. Donald Trump, more than 367,000 Vermonters voters cast ballots. This was the first COVID general election, and the first to have ballots automatically mailed to all active voters. It was another record-breaking year with eligible voter turnout of 72 percent, up from just about 58 percent in 2016.

But even in a record-breaking year, we still had at least 100,000 Vermonters who were eligible to vote, choosing not to. That may be acceptable to some. It may be the goal for others. But we would still like to see rates of participation much, much higher.

Ranked choice voting can help by giving voters more choices, and a stronger voice in elections.

By giving voters the option of ranking candidates in order of preference, you are empowering the voters. No longer do they have to worry that by casting a vote for their favorite candidate they are unintentionally helping to elect their least favorite candidate. The so-called "spoiler effect" that comes with voting for a candidate thought to be out of the running is gone. That's because if your favorite candidate is eliminated from the race, then your vote goes to your next choice.

By freeing up citizens to vote for their favorite candidates, RCV provides more meaningful choices to voters while also encouraging more diverse candidates to run and win. Fewer elections may end up as contests between two candidates that many potential voters find to be undesirable.

In winner take all elections – like races for Congress or governor, for instance, RCV can reduce the aggressively partisan and highly negative campaigning. When used in primaries, it can contribute to political party cohesion as candidates who are appealing for first and second choice votes are less likely to personally vilify opponents. Across the board, voters say they prefer less negative campaigning, and again, a less combative process may draw more candidates in.

For instance, extensive research conducted by the organizations FairVote and RepresentWomen indicates that ranked choice voting can help give women and candidates of color a better chance to both run and win in elections.

RCV can also strengthen public faith in the political process by producing majority winners. After all, it's a basic tenet of democracy that the person who wins the election should have the support of the majority of voters. But of course, that's often not the case in elections where the plurality winner prevails.

So, in general, we see RCV as a highly effective next step for Vermont to take to further improve our democratic process. And in the only place where Vermont voters have recently weighed in on RCV, it's been very popular. In 2021, 64 percent of Burlington voters favored a proposed charter change to use RCV for city council races. And earlier this month, 64 percent

avored expanding the use of RCV to races for mayor, schoolboard commissioner and ward election officers.

### **Why the Presidential Primary?**

I spoke of RCV addressing the “spoiler” problem in elections above. But in the case of the presidential primaries, we’re concerned not only about the spoiler effect, but also the problem of “wasted” votes and lost opportunities.

Consider for instance, the 2016 Republican presidential primary in Vermont. This was a fairly wide-open primary at the start. Recall that in the GOP primary, all candidates who win at least 20 percent of the vote receive a proportional share of the delegates. If one candidate wins over 50 percent of the votes cast, however, that person gets all of the Republican delegates.

In Vermont’s primary, Donald Trump won 32.5 percent of the vote and second place finisher John Kasich won 30.2 percent. They were the only two who cleared the 20 percent bar for delegates and they each got 8 delegates.

But 2,266 Vermonters voted for candidates like Jeb Bush, Rand Paul, Chris Christie, and Carly Fiorina, who ultimately dropped out before the Vermont primary even took place. These votes were essentially wasted on candidates who not only finished out of the running, they had literally left the race already.

Approximately 20,000 more voters in the GOP primary cast their ballots for Ben Carson (5<sup>th</sup> place with 4.2%), Ted Cruz (4<sup>th</sup> place with 9.7%), and the third-place finisher in the race, Marco Rubio, who carried 19.2 percent of the vote.

If RCV had been in place and it was used by the Republican party in 2016, then the votes of more than 2,000 Vermonters would not have been lost to candidates who had already dropped out. And, as the second choices of voters were identified when candidates with the fewest votes were eliminated (including the 390 write-ins), it’s quite possible, even likely, that Rubio would have reached the 20 percent threshold and qualified for delegates.

Turning to the most recent Democratic presidential primary in 2020, we can also see how voters would have benefited from ranked choice voting. Remember, delegates in the Democratic primary are distributed proportionally to all candidates receiving at least 15 percent of the vote.

In 2020, Bernie Sanders was by far the top voter getter with almost 51 percent of the vote. Joe Biden was the only other candidate to receive delegates as he won about 22 percent of the vote. But in this contest, nearly 7,000 Vermonters (6,867) voted for candidates who ended up withdrawing from the race before the state primary took place.

Candidates who had withdrawn but still received over 500 votes included Pete Buttigieg, Amy Klobuchar, and Andrew Yang. An additional 36,000 votes were cast for Democratic candidates

who failed to meet the 15 percent threshold, including Elizabeth Warren at 12.5 percent, and Michael Bloomberg at 9.4 percent.

If RCV had been available to voters in this race, 7,000 votes would not have been wasted and thousands more would have been redistributed as second choice ballots were counted when low-ranking candidates were eliminated. Elizabeth Warren at least would have had a good shot at receiving some delegates.

Most importantly, RCV would empower voters and encourage greater participation. And those who cast a ballot early would not have to fear throwing it away if their top choice dropped out. With RCV, every vote matters.

### **Why Now?**

In August of 2022, the Brennan Center for Justice at NYU Law School wrote that:

"Over the past 18 months, there has been an unprecedented wave of anti-voter legislation introduced and passed across the country. In 2021, [at least one bill](#) with a provision restricting access to voting was introduced in the legislature of **every state except Vermont**. By early May of this year, [nearly 400](#) restrictive bills had been introduced in legislatures nationwide."

The situation has not improved since then. States like Ohio, Pennsylvania, Texas, and others are considering additional laws or constitutional changes this year that could further suppress voting.

The Supreme Court is [seriously considering](#) the merits of a South Carolina law challenging the very foundation of the way we run federal elections in this country. The so-called "independent state legislatures" theory would "enable these bodies to gerrymander districts and even rig electoral rules for partisan advantage, with no check by the courts, governors, or redistricting commissions."

A national [survey](#) released in January found that eight out of ten Americans believe the U.S. faces a threat to its democracy. At the federal level, we saw legislation fail last year that would have reined in partisan gerrymandering, reduced the influence of money, expanded voting rights, and enhanced the security of elections. A divided Congress now all but ensures no further progress this year.

And, recent events suggest that the partisan divide could get even worse.

Why do we need reform now? First, because we can do better by our own citizens. If history is a guide, thousands of Vermonters will vote next year for presidential candidates who drop out before our primary is held. Thousands more will see their chosen candidates founder with no chance of winning delegates here. **Let's make sure that 2024 is the last presidential primary where Vermont voters are disenfranchised in this way.**

But it's also true that our democracy is fragile. It is not safe. We need to promote thoughtful civil discourse and bring more voices in. This is not a spectator sport. We must look for ways to invigorate our democracy now.

If you're looking for a better place to start, you will not find it. Clearly, the states must lead, and no state is better positioned than Vermont.

You will hear from people and organizations in the days ahead who have hands on expertise on how RCV works elsewhere. Remember, millions of people around the world have used RCV for many years. Scores of municipalities use it in the U.S. and a handful of states – blue and red – have used it successfully in the presidential primary process.

And now for I'd like to ask my colleague Sam McGinty to conclude our testimony by reviewing some of the non-partisan public education work VPIRG has done to help voters get comfortable with ranked choice voting. Some of this has been statewide and much of it has been focused on Burlington where RCV is now being used. He will also share some very positive exit survey information from Burlington voters.

We appreciate the opportunity to present this testimony today.