

1 S.229

2 Introduced by Senators Ram Hinsdale, Balint, Baruth, Hooker, McCormack,
3 Pearson, Perchlik and Pollina

4 Referred to Committee on

5 Date:

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

7 Statement of purpose of bill as introduced: This bill proposes to require the
8 use of ranked-choice voting for the primary and general elections for U.S.
9 Senator and U.S. Representative, and general elections for president and vice
10 president. This bill also proposes to require the use of ranked-choice voting
11 for the presidential primary election for each major political party.

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 for U.S. Senator and U.S. Representative shall be
4 conducted by ranked-choice voting, as described in chapter 51, subchapter 2A
5 of this title.

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

7 § 2362. PRIMARY BALLOTS

8 (a)(1) A separate ballot packet for each major political party shall be
9 printed and furnished to the towns by the Secretary of State and shall contain
10 the names of all candidates for nomination by that party at the primary. Ballots
11 shall be printed on index stock and configured to be readable by vote
12 tabulators. A separate ranked-choice ballot may be printed for the primary
13 election of the offices of U.S. Senator and U.S. Representative at the Secretary
14 of State's discretion if the Secretary finds the use of nonranked-choice and
15 ranked-choice voting on one ballot presents vote tabulation challenges or voter
16 confusion. Each ballot shall provide voting instructions to voters as prescribed
17 in subdivision (2) of this subsection.

18 (2) Ballots shall be printed in substantially the following form include
19 the following instructions:

1 ~~OFFICIAL VERMONT PRIMARY ELECTION BALLOT~~
2 ~~VOTE ON ONE PARTY BALLOT ONLY AND PLACE IN BALLOT~~
3 ~~BOX OR VOTE TABULATOR~~
4 ~~ALL OTHER PARTY BALLOTS MUST BE PLACED IN UNVOTED~~
5 ~~BALLOT BOX~~

6 _____
7 ~~[MAJOR POLITICAL PARTY NAME]~~
8 _____

9 (A) Instructions to voters for the offices other than U.S. Senator and
10 U.S. Representative: Use black pen or pencil to fill in the oval. To vote for a
11 person whose name is printed on the ballot, fill in the oval to the right of the
12 name of that person. To vote for a person whose name is not printed on the
13 ballot, write or stick ~~his or her~~ the person's name in the blank space provided
14 and fill in the oval to the right of the write-in space. Do not vote for more
15 candidates than the "Vote for Not More Than" number for an office. If you
16 make a mistake, tear, or deface the ballot, return it to an election official and
17 obtain another ballot. Do not erase.

18 (B) Instructions to voters for the offices of U.S. Senator and U.S.
19 Representative: Use black pen or pencil to fill in the ovals. Vote by indicating
20 your first-choice candidate and ranking additional candidates in order of
21 choice. Indicate your first choice by marking the oval labeled "1st choice"

1 next to that candidate's name; your second choice by marking the oval labeled
2 "2nd choice" next to that candidate's name; your third choice by marking the
3 oval labeled "3rd choice" next to that candidate's name; and so on. Rank as
4 many choices as you wish. Marking a second or later choice will not count
5 against your first choice. Do not skip numbers, and do not mark the same
6 ranked choice for more than one candidate. To vote for a person whose name
7 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 the person's 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. If you make a mistake, tear, or deface the
12 ballot, return it to an election official and obtain another ballot. Do not erase.

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

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

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

2 § 2369. DETERMINING WINNER; RANKED-CHOICE VOTES; TIE
3 VOTES

4 (a) The winner of a ranked-choice primary election office shall be
5 determined as set forth in chapter 51, subchapter 2A of this title. The winner
6 of any other primary election office shall be determined as set forth in
7 subsections (b) and (c) of this section.

8 (b) 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)~~(c)(1) If, after the period for requesting a recount under section 2602 of
12 this 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 (D) the representative district committee for a Representative to the
2 General Assembly.

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

5 * * * General Elections * * *

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

7 CHAPTER 51. CONDUCT OF ELECTIONS

8 * * *

9 Subchapter 2. Ballots

10 § 2471. GENERAL ELECTION BALLOT

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

20 (B) The Secretary of State shall determine whether the offices of
21 President and Vice President of the United States, U.S. Senator, and U.S.

1 Representative shall be listed using ranked-choice voting on the consolidated
2 ballot with those offices listed in subdivision (A) of this subsection (a) or if
3 they shall be listed on a separate ranked-choice ballot.

4 (2) The ballot shall be prepared at State expense under the direction of
5 the Secretary of State. The color of the ballot shall be determined by the
6 Secretary of State. The printing shall be black. Ballots shall be printed on
7 index stock and configured to be readable by vote tabulators. The font shall be
8 at least 10 points for candidate names unless a name exceeds 24 characters, in
9 which case the candidate may change ~~his or her~~ the candidate's consent form
10 name to 24 characters or less, or the font may be reduced as needed to fit the
11 candidate name space.

12 * * *

13 § 2472. CONTENTS

14 * * *

15 (b)(1) Each office to be voted upon shall be separately indicated and
16 preceded by the word "For," as: "For ~~United States Senator~~ Governor."
17 Beneath the office to be voted upon shall appear the instructions: "Vote for not
18 more than (the number of candidates to be elected)."

19 * * *

1 * * * Ranked-Choice Voting Requirements * * *

2 Subchapter 2A. Ranked-Choice Voting

3 § 2485. DEFINITIONS

4 As used in this subchapter:

5 (1) “Active candidate” means a candidate who has not been eliminated
6 and who is not a withdrawn candidate within the meaning of subdivision (11)
7 of this section.

8 (2) “Highest-ranked active candidate” means the active candidate
9 assigned to a higher ranking than any other active candidate.

10 (3) “Inactive ballots” are ballots that do not count as votes for any
11 candidate for any of the reasons listed in subsection 2485e(b) of this title.

12 (4) “Major part of the votes” means a majority of the active votes.

13 (5) “Overvote” means an instance in which a voter has ranked more than
14 one candidate at the same ranking. A ballot has reached an overvote if an
15 overvote occurs at a higher ranking than the ballot’s highest-ranked active
16 candidate.

17 (6) “Ranking” means the number available to be assigned by a voter to a
18 candidate to express the voter’s choice for that candidate. The number “1” is
19 the highest ranking, followed by “2” and then “3” and so on.

20 (7) “Round” means an instance of the sequence of voting tabulation
21 beginning with subsection 2485c(b) of this title for ranked-choice voting

1 elections other than presidential primary elections or with subsection 2485d(b)
2 or (c) of this title for presidential primary elections.

3 (8) “Skipped ranking” means a voter has left a ranking unassigned but
4 ranks a candidate at a subsequent ranking.

5 (9) “Threshold for election” means the number of votes necessary for a
6 candidate to receive delegates in presidential primary elections conducted in
7 accordance with subsection 2485d(c) of this title.

8 (10) “Undervote” means a ballot that does contain any candidates at any
9 ranking in a particular contest.

10 (11) “Withdrawn candidate” means any candidate who:

11 (A) has submitted a signed letter of withdrawal to the national and
12 State party chairs in compliance with any applicable party rules governing the
13 timing, procedures, or substance of candidate withdrawals or suspensions; and

14 (B) has had the candidate’s withdrawn status confirmed in writing by
15 the national and State party chairs prior to election day with the election
16 official responsible for conducting the tabulation process described in section
17 2485d of this title.

18 § 2485a. OFFICES ELECTED BY RANKED-CHOICE VOTING

19 The primary and general elections for U.S. Senator and U.S. Representative,
20 and general elections for president and vice president, shall be conducted by
21 ranked-choice voting as described in section 2485c of this title. The

1 presidential primary election for each major political party shall be conducted
2 by ranked-choice voting as described in section 2485d of this title.

3 § 2485b. RANKED-CHOICE VOTING BALLOT

4 (a) In any contest conducted by ranked-choice voting, the ballot shall allow
5 voters to rank candidates in order of choice.

6 (b) The ballot shall allow voters to rank a number of candidates that is
7 equal to the number of printed candidate names and blank write-in lines. In the
8 event that the voting equipment cannot accommodate a number of rankings on
9 the ballot equal to that number, the presiding officer may limit the number of
10 choices a voter may rank on a ballot to the maximum number allowed by the
11 equipment. In the event that multiple types of voting equipment are used in an
12 election for the same office, the presiding officer shall ensure that every ballot
13 allows voters to rank the same number of candidates.

14 § 2485c. RANKED-CHOICE VOTING TABULATION; GENERAL

15 (a) In any primary or general election conducted by ranked-choice voting,
16 votes shall be tabulated according to this section, with the exception of
17 presidential primary elections conducted by ranked-choice voting.

18 (b) Votes shall be counted in rounds, and in each round, every ballot shall
19 count as one vote for its highest-ranked active candidate. Each round shall
20 proceed sequentially as follows:

1 (1) If two or fewer active candidates remain, the candidate with the
2 major part of the votes is elected, and tabulation is complete. Otherwise,
3 tabulation proceeds to subdivision (2) of this subsection.

4 (2) If more than two active candidates remain, the candidate with the
5 fewest votes is eliminated, votes for the eliminated candidate are transferred to
6 each ballot's next-ranked active candidate, and a new round begins with
7 subdivision (1) of this subsection.

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

13 § 2485d. RANKED-CHOICE VOTING TABULATION; PRESIDENTIAL
14 PRIMARY ELECTIONS

15 (a) In any primary election for the office of President of the United States,
16 each ballot shall count as one vote for the highest-ranked active candidate on
17 that ballot. If a party opts to use ranked-choice voting, tabulation proceeds in
18 rounds. Each round proceeds sequentially as described in subsection (b) or (c)
19 of this section, as applicable. Consistent with subdivisions 2485(1) and (11) of
20 this title, ranking orders containing withdrawn candidates shall be treated the

1 same as ranking orders containing candidates who have been eliminated from
2 tabulation.

3 (b) If a party awards all of the State's delegates to a single candidate on a
4 winner-take-all basis using ranked-choice voting, tabulation shall proceed as
5 follows:

6 (1) If two or fewer active candidates remain, then tabulation is complete.
7 Otherwise, tabulation proceeds to subdivision (2) of this subsection.

8 (2) The active candidate with the fewest votes is eliminated, votes for
9 the eliminated candidate are transferred to each ballot's next-ranked active
10 candidate, and a new round begins with subdivision (1) of this subsection.

11 (c) If a party awards the State's delegates to multiple candidates on a
12 proportional basis using ranked-choice voting, tabulation shall proceed as
13 follows:

14 (1) If the vote total of every active candidate is above the threshold for
15 election, then tabulation is complete. Otherwise, tabulation proceeds to
16 subdivision (2) of this subsection.

17 (2) The active candidate with the fewest votes is eliminated, votes for
18 the eliminated candidate are transferred to each ballot's next-ranked active
19 candidate, and a new round begins with subdivision (1) of this subsection.

20 (d) If a party declines to use ranked-choice voting, the party may award the
21 State's delegates by relying solely upon each vote's highest-ranking order or it

1 may opt for votes for withdrawn candidates to be transferred to each ballot's
2 next-ranked active candidate, under the procedures set out in subdivision
3 2485(11) of this title.

4 (e) The Secretary of State shall certify the results of each round tabulated
5 pursuant to subsection (b), (c), or (d) of this section, as applicable, along with
6 any other information required under section 2485g of this title, to the State
7 chairperson and the national committee of each political party that had at least
8 one candidate on the State-administered presidential primary election ballot to
9 allocate national delegate votes in accordance with the party's State and
10 national rules.

11 (f) Nothing in this act shall be construed to preclude a political party from
12 assigning delegates according to its own rules for assigning such delegates.

13 § 2485e. INACTIVE BALLOTS AND UNDERVOTES

14 (a) In any round of tabulation in a contest conducted by ranked-choice
15 voting, an inactive ballot does not count for any candidate and is not
16 considered a vote for the purposes of determining which candidate has the
17 major part of the votes in the final round of tabulation.

18 (b) A ballot is an inactive ballot if any of the following is true:

19 (1) It does not rank any active candidates and is not an undervote.

20 (2) It has reached an overvote.

21 (3) It has reached two consecutive skipped rankings.

1 (c) An undervote does not count as either an active or inactive ballot in any
2 round of tabulation.

3 § 2485f. TYPE OF RANKED-CHOICE VOTING; PRESIDENTIAL
4 PRIMARY ELECTION

5 (a) At least 150 days before the date of the presidential primary election,
6 the State committee of each political party that intends to use the State-
7 administered presidential primary in its nomination process shall inform the
8 Secretary of State in writing of its intention; how the party prefers for the State
9 to treat withdrawn candidates; and whether the party will award delegates
10 using ranked-choice voting on a winner-take-all basis in accordance with
11 subsection 2485d(b) of this title, using ranked-choice voting on a proportional
12 basis in accordance with subsection 2485d(c) of this title, or using single-
13 choice voting in accordance with subsection 2485d(d) of this title. If the party
14 chooses to award delegates on a proportional basis, the party shall indicate
15 what the applicable threshold of election will be. If a party fails to provide
16 notice, or its notice does not specify how to award its delegates, the State-
17 administered presidential primary election for that party shall be tabulated
18 using ranked-choice voting on a winner-take-all basis in accordance with
19 subsection 2485d(b) of this title.

20 (b) At least 120 days before the date of the presidential primary election,
21 the Secretary of State shall confirm with the State committee of each political

1 party that the State is capable of implementing the party's preferences as
2 declared under subsection (a) of this section or shall notify the State committee
3 of any feasibility constraints that could prevent the State from implementing
4 the party's preferences.

5 § 2485g. RANKED-CHOICE VOTING RESULTS REPORTING

6 (a) In addition to any other information required by law to be reported with
7 final results, the Secretary of State shall make public:

8 (1) the total number of votes each candidate received in each round,
9 including votes for withdrawn candidates;

10 (2) the total number of ballots that became inactive in each round
11 because they did not contain any active candidates, reached an overvote, and
12 reached two consecutive skipped rankings, reported as separate figures; and

13 (3) final results data and cast vote records by precinct, whenever
14 feasible and in a manner consistent with the need to maintain voter privacy.

15 (b) The Secretary of State shall also provide the following as part of any
16 results reporting for a presidential primary election conducted by ranked-
17 choice voting:

18 (1) If the Secretary of State, national party chair, and State party chair
19 all agree to the release of such information, what the total round-by-round
20 results required under subdivision (a)(1) of this section would have been if an

1 election conducted in accordance with subsection 2485d(c) or (d) of this title
2 had been conducted in accordance with subsection 2485d(b) of this title.

3 (2) If a party allocates delegates by congressional districts, the results by
4 congressional district as well as statewide.

5 § 2485h. CANVASSING COMMITTEE CERTIFICATES

6 When the canvassing board provided for in section 2592 of this title
7 prepares its certificate of election for any contest conducted by ranked-choice
8 voting, the canvass shall state the number of final round votes received by each
9 candidate who has votes in the final round of tabulation.

10 * * * Conforming Statutory Changes * * *

11 Sec. 5. 17 V.S.A. chapter 57, subchapter 1 is amended to read:

12 Subchapter 1. Presidential Primary

13 § 2701. PRESIDENTIAL PRIMARY; TIME OF HOLDING; FORM OF
14 BALLOT

15 In presidential election years, a presidential primary for each major political
16 party shall be held in all municipalities on the first Tuesday in March. The
17 Secretary of State shall prepare and distribute for use at the primary an official
18 ranked-choice ballot for each party for which one or more candidates qualify
19 for the placing of their names on the ballot under section 2702 of this title.

20 Ballots shall be printed on index stock and configured to be readable by vote
21 tabulators.

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§ 2704. BALLOTS

A person voting at the primary shall be required to ask for the ranked-choice ballot of the party in which the voter wishes to vote, and an election official shall record the voter's choice of ballot by marking the entrance checklist with a letter code, as designated by the Secretary of State, to indicate the voter's party choice. The names of all candidates on the ballot shall be listed in alphabetical order. Each voter may vote ~~for one candidate for the presidential nomination of one party, either by placing a mark opposite the printed name of a candidate as in other primaries, or by writing in the name of the candidate of the voter's choice~~ by ranking a number of candidates that is less than or equal to the number of printed candidate names and blank write-in lines.

* * *

Sec. 6. 17 V.S.A. chapter 57, subchapter 4 is amended to read:

Subchapter 4. Meeting of Electors

§ 2731. CERTIFICATES OF ELECTION

When the canvassing board provided for in section 2592 of this title meets, it shall issue its certificates of election, with respect to the presidential election, to the electors nominated by the party whose candidate for president has received the greatest number of votes in the final round of tabulation.

1 § 2732. MEETING OF ELECTORS

2 The electors shall meet at the State House on the first Monday after the
3 second Wednesday in December next following their election, to vote for
4 President and Vice President of the United States, agreeably to the laws of the
5 United States. If there is a vacancy in the electoral college on that day,
6 occasioned by death, refusal to act, neglect to attend, failure of a person elected
7 to qualify, or for other cause, the other electors present shall at once fill such
8 vacancy viva voce and by a plurality of votes. When all the electors appear or
9 a vacancy therein is filled, the electors shall perform the duties required of
10 them by the Constitution and laws of the United States. If a vacancy occurs
11 and is filled as aforesaid, the electors shall attach to the certificate of their
12 votes a statement showing how such a vacancy occurred and their action
13 thereon. The electors ~~must~~ shall vote for the candidates for President and Vice
14 President who received the greatest number of votes ~~at the general election in~~
15 the final round of tabulation.

16 Sec. 7. 17 V.S.A. § 2602k is amended to read:

17 § 2602k. RECOUNT TIES

18 (a)(1) If a recount of a primary election results in a tie, the provisions of
19 section 2369~~(b)~~ of this title shall apply.

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

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

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

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

9 (d) [Repealed.]

10 (e) Warnings for a runoff election shall be posted as required by subchapter
11 5 of this chapter, except that the warnings shall be posted not less than 10 days
12 before the runoff election.

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

15 * * * Election System; Vote Tabulators; Returns * * *

16 Sec. 8. ELECTION MANAGEMENT SYSTEM; VOTE TABULATORS;
17 TALLY SHEETS, SUMMARY SHEETS, AND RETURNS

18 The Secretary of State shall ensure that:

19 (1) The Secretary's election management system and all vote tabulators
20 and their memory cards and related software are programmed to tabulate
21 ranked-choice voting in accordance with provisions of this act.

1 (2) All tally sheets, summary sheets, and returns described in 17 V.S.A.
2 § 2586 are designed to record ranked-choice voting results in accordance with
3 this act.

4 * * * Voter and Election Official Education * * *

5 Sec. 9. VOTER AND ELECTION OFFICIAL EDUCATION; SECRETARY
6 OF STATE'S OFFICE

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

11 * * * Rulemaking * * *

12 Sec. 10. RULEMAKING AUTHORITY; SECRETARY OF STATE'S
13 OFFICE

14 Prior to the effective date of this act, the Secretary of State shall adopt rules
15 for the proper and efficient administration of elections determined by ranked-
16 choice voting. At a minimum, rules required under this section shall include
17 procedures, as determined appropriate by the Secretary of State, for requesting
18 and conducting recounts of the results as determined in the rounds of counting
19 described in 17 V.S.A. §§ 2485c and 2485d, including rules for the filing of
20 returns in accordance with 17 V.S.A. § 2588 for a ranked-choice voting
21 election.

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* * * Appropriation * * *

Sec. 11. 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.

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on January 1, 2024, except that Secs. 8–11 shall take effect on July 1, 2022.