

Section 1 Header

2022 SESSION

22-2195.0

11/10

HOUSE BILL            *[bill number]*

AN ACT                relative to ranked-choice voting.

SPONSORS:            [sponsors]

COMMITTEE:          [committee]

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ANALYSIS

This bill establishes procedures for ranked-choice voting for federal and state offices.

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Explanation:        Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~in brackets and struckthrough.~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to ranked-choice voting.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Section; Ranked-Choice Voting. Amend RSA 652 by inserting after section 16-h the  
2 following new section:

3 652:16-i Ranked-Choice Voting. "Ranked-choice voting" means the method of casting and  
4 tabulating votes in which voters rank candidates in order of choice and tabulation proceeds in  
5 rounds, as follows:

6 I. Pursuant to RSA 659:61-b to determine which candidate in a state primary or general  
7 election has a plurality of votes for the election to a single-seat office, including office in a single-  
8 member representative district.

9 II. Pursuant to RSA 659:61-c to determine which candidates in a state primary or general  
10 election have a plurality of votes for the election to an office in a multi-member representative  
11 district.

12 III. Pursuant to RSA 659:61-d to determine which candidates in a presidential primary  
13 election have received a certain minimum percentage of votes.

14 2 Voting Materials. Amend RSA 656:6 to read as follows:

15 656:6 Designation of Office. Immediately to the left of the set of party columns shall be an  
16 offices column which shall list the offices, each preceded by the word "For," for which the candidates  
17 whose names are listed in the party columns have been nominated, as in "For Governor[-]" **or, in the**  
18 **case of multi-representative districts, "For election of [here insert number to be elected]**  
19 **Representatives."** Below each such phrase shall be printed in small but easily legible letters ["Vote  
20 for not more than \_\_\_\_ (here insert a number designating how many persons are to be voted for)."]  
21 **"Rank candidates in order of preference."**

22 3 Ballot Counting Devices; Testing. Amend RSA 656:42, VIII(e)(4) to read as follows:

23 (4) The town or city clerk shall mark the test ballots in such a way as to demonstrate  
24 a vote for each candidate on at least one test ballot, as well as votes for less than and more than the  
25 number of candidates that may be voted for an office, write-ins, multiple votes for a candidate who  
26 appears in more than one party column for the same office on a general election ballot, and ballots on  
27 which there are no votes. The clerk shall mark [~~as many as possible of the combinations of choices~~  
28 ~~that a voter may indicate on the ballot.~~] **as many variations or rankings as are reasonably**  
29 **necessary to demonstrate the accuracy of the device.**

30 4 Marking the Ballot; Instructions to Voters. Amend RSA 659:17 to read as follows:

**Section 3 Header**  
**- Page 2 -**

1           659:17 Marking the Ballot; Instructions to Voters. The secretary of state shall provide on the  
2 top of the general election ballot the following voting instructions. The secretary of state is  
3 authorized to replace the phrase "Make the appropriate mark" with an appropriate description and  
4 example of [~~the mark to be made for the type of ballot in use, such as "Make a cross (X) in the box,"~~  
5 ~~"Completely fill in the oval," or "Complete the arrow":~~] ***how to "Rank candidates in order of***  
6 ***preference," such as "Completely fill in the oval":***

7           1) To Vote

8           Make the appropriate mark to the right of your choice. For each office [~~vote for not more than the~~  
9 ~~number of candidates stated in the sentence: "Vote for not more than \_\_\_\_."~~ If you vote for more than  
10 ~~the stated number of candidates, your vote for that office will not be counted.], ***rank the***  
11 ***candidates in the order of your preference. If you vote for more than the stated number of***  
12 ***candidates, your vote for that office will not be counted or, in the case of ranked-choice***  
13 ***voting, this means that each ranking may only be used once.***~~

14           2) To Vote by Write-In

15           To vote for a person whose name is not printed on the ballot, write in the name of the person in the  
16 "write-in" space. Make the appropriate mark to the right of your choice.

17           5 Optional Counting of Votes at Additional Polling Places. Amend RSA 659:59 to read as  
18 follows:

19           659:59 Optional Counting of Votes at Additional Polling Places. The moderator may order the  
20 assistant moderator in writing to process absentee ballots and to count the votes cast at the  
21 additional polling place in the presence of and with the assistance of the assistant town clerk and  
22 election officials in the manner prescribed by this chapter. ***The counting of votes in state***  
23 ***elections at an additional polling place shall be coordinated with the counting at the***  
24 ***central polling place in order to facilitate counting by the ranked-choice method described***  
25 ***in RSA 659:61-a.*** After the processing of absentee ballots and the counting are complete, the  
26 assistant moderator shall place the counted ballots in the ballot box and shall seal it, and the  
27 assistant town clerk shall certify the same. The assistant moderator shall also seal in a package the  
28 duplicate checklists used at the additional polling place together with the absentee envelopes and  
29 the spoiled and unused ballots; and he ***or she***, together with the assistant town clerk, shall  
30 immediately deliver the ballot box, checklists, absentee envelopes, unused and spoiled ballots, and a  
31 written report of [~~his~~] ***the*** count signed by [~~him~~] ***the assistant moderator*** and the assistant town  
32 clerk to the moderator of the town at the central polling place. If the moderator does not order the  
33 counting as provided herein, the assistant moderator shall comply with the provisions of RSA  
34 659:62.

35           6 New Sections; Determination of Winner in Election for an Office Elected by Ranked-Choice  
36 Voting. Amend RSA 659 by inserting after section 61 the following new sections:

37           659:61-a Definitions Applied to Ranked-Choice Voting.

**Section 3 Header**

**- Page 3 -**

1 I. As used in this section and in RSA 659:61-b through RSA 659:61-d, unless the context  
2 otherwise indicates, the following terms have the following meanings.

3 (a) "Active preference" means the highest continuing ranking on a continuing ballot.

4 (b) "Batch elimination" means the simultaneous defeat of multiple candidates because,  
5 with respect to such candidates, one of the following applies:

6 (i) The candidate cannot be elected because the candidate's active preference  
7 total in a round of the ranked-choice voting tabulation plus the total of all continuing ballots that  
8 could possibly be transferred to the candidate in future rounds from candidates with fewer active  
9 preferences or an equal number of active preferences would not be enough to surpass the candidate  
10 with the next higher active preference total in the round.

11 (ii) The candidate has a lower active preference total than a candidate  
12 described in subparagraph (i).

13 (c) "Continuing ballot" means a ballot that is not an exhausted ballot.

14 (d) "Continuing candidate" means a candidate who has not been defeated or, in a multi-  
15 member representative district, who is not an elected candidate.

16 (e) "Elected candidate" means a candidate determined to be a winner in a multi-member  
17 representative district.

18 (f) "Election threshold" means the number of active preferences sufficient for a candidate  
19 to be elected in a multi-member representative district, equal to the quotient of the number of  
20 continuing ballots in the first round of counting divided by the number of candidates to be elected in  
21 a particular multi-member representative district plus one, such quotient rounded down to the  
22 nearest whole number, plus one.

23 (g) "Excess preferences" means, for each candidate who becomes an elected candidate in  
24 a particular round, the positive difference between such elected candidate's total number of active  
25 preferences and the election threshold.

26 (h) "Exhausted ballot" means a ballot that does not rank any continuing candidate,  
27 contains an overvote at the highest continuing ranking, or contains 2 or more sequential skipped  
28 rankings before its highest continuing ranking.

29 (i) "Highest continuing ranking" means the highest ranking on a voter's ballot for a  
30 continuing candidate.

31 (j) "Last-place candidate" means the candidate with the lowest active preference total in  
32 a round of the ranked-choice voting tabulation or any other candidate subject to batch elimination.

33 (k) "Minimum percentage of votes" means a percentage threshold reported by a political  
34 party to the secretary of state not less than 60 days prior to a presidential primary election, above  
35 which all continuing candidates shall be apportioned delegates.

36 (l) "Overvote" means a circumstance in which a voter has ranked more than one  
37 candidate at the same ranking.

**Section 3 Header**

**- Page 4 -**

1 (m) "Ranking" means the number assigned on a ballot by a voter to a candidate to  
2 express the voter's preference for that candidate. Ranking number one is the highest ranking,  
3 ranking number 2 is the next-highest ranking and so on.

4 (n) "Round" means an instance of the sequence of voting tabulation steps established in  
5 RSA 659:61-b.

6 (o) "Skipped ranking" means a circumstance in which a voter has left a ranking blank  
7 and ranks a candidate at a subsequent ranking.

8 (p) "Transfer ratio" means for each elected candidate in a particular round, the quotient  
9 of the excess preferences for such elected candidate divided by the number of active preferences for  
10 such candidate.

11 (q) "Transfer value" means the proportion of an active preference that a ballot will  
12 contribute to its highest continuing ranking. Each ballot begins with a transfer value of 1 and is  
13 subsequently multiplied by the applicable transfer ratio.

14 659:61-b Determination of Winner in Elections for an Office Elected by Ranked Choice Voting;  
15 Single Seat Offices.

16 I. Except as provided in paragraphs II and III, the following procedures shall be used to  
17 determine which candidate has the plurality of votes for purposes of identifying the winner in an  
18 state primary election and a state general election for a single seat office by ranked-choice voting.  
19 Tabulation shall proceed in rounds. In each round, the number of active preferences for each  
20 continuing candidate shall be counted. Each continuing ballot counts as one active preference for its  
21 highest-ranked continuing candidate for that round. Exhausted ballots are not counted for any  
22 continuing candidate. The round then ends with one of the following 2 potential outcomes:

23 (a) If there are 2 or fewer continuing candidates, the candidate with the most active  
24 preferences is determined to be the person receiving the plurality of votes and is declared the winner  
25 of the election.

26 (b) If there are more than 2 continuing candidates, the last-place candidate, or  
27 candidates, is defeated and a new round begins.

28 II. If 2 or more last-place candidates are tied and batch elimination does not apply, the last-  
29 place candidate who was credited with the fewest active preferences in the prior round shall be  
30 declared defeated. If 2 or more of such tied candidates were tied in the prior round also, the second  
31 tie shall be decided by referring similarly to the standing of candidates, in terms of active  
32 preferences, in the second-prior round. This principle shall be applied successively as many times as  
33 may be necessary; a tie shown in any prior round being decided by referring to the standing of the  
34 tied candidates in the round immediately preceding the round in which the tie exists. Any tie not  
35 otherwise provided for shall be decided by lot.

36 III. Two or more candidates may be defeated simultaneously by batch elimination in any  
37 round of tabulation.

**Section 3 Header**  
**- Page 5 -**

1           IV. For purposes of determining the eligibility of and status as political parties, the number  
2 of votes cast for a party's or political organization's candidate in a state general election is the  
3 number of active preferences credited to that candidate after the initial counting in the first round  
4 described in paragraph I.

5           659:61-c Determination of Winners in Elections for Offices Elected by Ranked-Choice Voting;  
6 Multi-Member Representative Districts.

7           I. Except as provided in paragraphs II and III, the following procedures shall be used to  
8 determine which candidates have the plurality of votes for purposes of identifying the winners in a  
9 state primary election and a state general election in a multi-member representative district.  
10 Tabulation shall proceed in rounds. In each round, the number of active preferences for each  
11 continuing candidate shall be counted. Each continuing ballot counts as an active preference at its  
12 transfer value for its highest-ranked continuing candidate for that round. Exhausted ballots are not  
13 counted for any continuing candidate. The round then ends with one of the following 3 potential  
14 outcomes, to be tested sequentially:

15           (a) If one or more continuing candidates have a number of active preferences that are  
16 greater than or equal to the election threshold, such candidates are determined to be winners of the  
17 election by a plurality of votes. If the number of candidates determined to have been winners of the  
18 election, collectively and in any round, equals the number of members to be elected in a particular  
19 multi-member representative district, the tabulation shall then cease. If the number of candidates  
20 determined to have been winners of the election, collectively and in any round, is less than the  
21 number of members to be elected in a particular multi-member representative district, then the  
22 transfer values of the active preferences for the elected candidates in the current round are  
23 calculated and a new round begins.

24           (b) If the number of continuing candidates plus elected candidates equals the number of  
25 members to be elected in a particular multi-member representative district, then all remaining  
26 continuing candidates shall be determined to be winners of the election by a plurality of votes and  
27 the tabulation shall then cease.

28           (c) If no continuing candidate has received a number of active preferences that are  
29 greater than or equal to the election threshold, then the last-place candidate, or candidates, is  
30 defeated and a new round begins.

31           II. If 2 or more last-place candidates are tied and batch elimination does not apply, the last-  
32 place candidate who was credited with the fewest active preferences in the prior round shall be  
33 declared defeated. If 2 or more of such tied candidates were tied in the prior round also, the second  
34 tie shall be decided by referring similarly to the standing of candidates, in terms of active  
35 preferences, in the second-prior round. This principle shall be applied successively as many times as  
36 may be necessary, a tie shown in any prior round being decided by referring to the standing of the

**Section 3 Header**  
**- Page 6 -**

1 tied candidates in the round immediately preceding the round in which the tie exists. Any tie not  
2 otherwise provided for shall be decided by lot.

3 III. Two or more candidates may be defeated simultaneously by batch elimination in any  
4 round of tabulation.

5 659:61-d Presidential Primaries; Determining the Minimum Percentage of Votes.

6 I. Preferences for party candidates to national party conventions, as provided for in RSA  
7 653:5, shall be determined using ranked-choice voting pursuant to this section. Tabulation shall  
8 proceed in rounds. In each round, the number of active preferences for each continuing candidate  
9 shall be counted. Each continuing ballot counts as one active preference for its highest-ranked  
10 continuing candidate for that round. Exhausted ballots are not counted for any continuing  
11 candidate. The round then ends with one of the following 2 potential outcomes:

12 (a) All continuing candidates have received a sufficient number of active preferences  
13 such that the quotient of each candidate's active preferences, divided by the number of continuing  
14 ballots in the applicable round, is greater than or equal to the minimum percentage of votes, in  
15 which case the tabulation shall cease and the secretary of state shall report to the applicable  
16 political party the names of the continuing candidates and the number of active preferences received  
17 by them in the final round.

18 (b) At least one continuing candidate has received a number of active preferences such  
19 that the quotient of such candidate's active preferences, divided by the number of continuing ballots  
20 in the applicable round, is less than the minimum percentage of votes, in which case the last-place  
21 candidate is eliminated and a new round begins.

22 II. If 2 or more last-place candidates are tied, the last-place candidate who was credited with  
23 the fewest active preferences in the prior round shall be declared eliminated. If 2 or more of such  
24 tied candidates were tied in the prior round also, the second tie shall be decided by referring  
25 similarly to the standing of candidates, in terms of active preferences, in the second-prior round.  
26 This principle shall be applied successively as many times as may be necessary, a tie shown in any  
27 prior round being decided by referring to the standing of the tied candidates in the round  
28 immediately preceding the round in which the tie exists. Any tie not otherwise provided for shall be  
29 decided by lot.

30 7 Content of Return. Amend RSA 659:73, I(a) to read as follows:

31 (a) The name of each candidate printed on the ballot and the number of votes that  
32 candidate received for the listed office including any write-in votes for the same office on the same  
33 ballot where the voter did not mark the printed candidate name. ***In a state general election, the***  
34 ***vote count shall be the number of active preference votes for the candidate at the***  
35 ***conclusion of counting by the ranked-choice method described in RSA 659:61-a through***  
36 ***RSA 659:61-d.***

37 8 General Election; Canvas and Declaration. Amend RSA 659:81 to read as follows:

Section 3 Header

- Page 7 -

1           659:81 Canvass and Declaration Generally. Except as provided in RSA 659:82, when the  
2 secretary of state has received the returns for an office from all towns or wards comprising the  
3 elective district for that office, he ***or she*** shall examine, record and total such returns and shall  
4 declare elected to the office the same number of persons as the number of officers to which the  
5 district is entitled; provided that those persons declared officers-elect shall be those persons who  
6 received the highest number of [~~votes cast for said office.~~] ***active preferences at the conclusion of***  
7 ***counting by the ranked-choice method described in RSA 659:61-a through RSA 659:61-d.***

8           9 Primary Election; Canvas and Declaration. Amend RSA 659:86 to read as follows:

9           659:86 Canvass and Declaration Generally. Except as provided in RSA 659:87, when, for each  
10 political party having an official state primary election ballot, the secretary of state has received the  
11 returns for a nomination from all towns or wards comprising the elective district for that office, he ***or***  
12 ***she*** shall examine, record and total such returns and, for each political party, shall declare  
13 nominated for the office the same number of persons as the number of officers to which the district is  
14 entitled; provided that those persons declared nominated for the office shall be those persons who, on  
15 each party ballot, received the highest number of votes cast for the office, except as provided in RSA  
16 659:91. ***In a state primary election, the nominees shall be those persons with the highest***  
17 ***number of active preferences at the conclusion of counting by the ranked-choice method***  
18 ***described in RSA 659:61-a through RSA 659:61-d.***

19           10 Nominations. Amend RSA 659:88, II to read as follows:

20           II. If a person is disqualified from a nomination in accordance with the provisions of  
21 paragraph I, then the nomination shall be awarded to the qualified person who received the highest  
22 number of votes, provided that person received at least 25 votes or votes equaling 10 percent or more  
23 of the total votes cast for that party on the state primary election ballot, whichever is smaller. ***In a***  
24 ***state primary election, the nominee shall be the person with the highest number of active***  
25 ***preferences at the conclusion of counting by the ranked-choice method described in RSA***  
26 ***659:61-a through RSA 659:61-d.***

27           11 Applicability.

28           I. Sections 1-10 of this act shall take effect with respect to all elections on January 1, 2027.

29           II. Notwithstanding paragraph I, political parties and municipalities may elect to adopt  
30 ranked choice voting procedures outlined in sections 1-10 of this act effective January 1, 2023 with  
31 respect to state party primaries and municipal elections, respectively.

32           III. Notwithstanding paragraph I, sections 1-10 of this act shall take effect with respect to  
33 elections for federal offices on January 1, 2025.

34           12 Effective Date.

35           I. Sections 1-10 of this act shall take effect as provided in section 11 of this act.

36           II. The remainder shall take effect upon passage.