HB 1540-FN - AS INTRODUCED

2018 SESSION

18-2026
03/10

HOUSE BILL ***1540-FN***

AN ACT relative to ranked-choice voting.

SPONSORS: Rep. Read, Rock. 17; Rep. DiLorenzo, Rock. 17; Rep. Frost, Straf. 16; Rep. Bouldin, Hills. 12; Rep. Rand, Graf. 8; Rep. Ammon, Hills. 40

COMMITTEE: Election Law

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

18-2026
03/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to ranked-choice voting.

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

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

652:16-e Ranked-Choice Voting.

I. "Ranked-choice voting" means the method of casting and tabulating votes to determine plurality in which voters rank candidates in order of preference, tabulation proceeds in sequential rounds in which last-place candidates are defeated, and the candidate with the most votes in the final round is elected.

II. "Office elected by ranked-choice voting" means any of the following offices: United States senator, United States representative to Congress, governor, executive councilor, state senator, and state representative, and includes any nominations by primary election to such offices.

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

656:6 Designation of Office. Immediately to the left of the set of party columns shall be an offices column which shall list the offices, each preceded by the word "For," for which the candidates whose names are listed in the party columns have been nominated, as in "For Governor." Below each such phrase shall be printed in small but easily legible letters ***either "Rank candidates in order of preference" or*** "Vote for not more than ____ (here insert a number designating how many persons are to be voted for)."

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

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

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

659:17 Marking the Ballot; Instructions to Voters. The secretary of state shall provide on the top of the general election ballot the following voting instructions. The secretary of state is authorized to replace the phrase "Make the appropriate mark" with an appropriate description and example of the mark to be made for the type of ballot in use ***and whether the office is elected by***

ranked-choice voting, such as ***"Rank candidates in order of preference,"*** "Make a cross (X) in the box," "Completely fill in the oval," or "Complete the arrow":

1) To Vote

Make the appropriate mark to the right of your choice. For each office***,*** [~~vote~~] ***make the mark indicated for that office by either ranking the candidates in the order of your preference or by voting*** for not more than the number of candidates stated in the sentence: "Vote for not more than ___." If you vote for more than the stated number of candidates, your vote for that office will not be counted***, or, in the case ranked-choice voting, this means that each ranking may only be used once, except as explained in the case of multi-member districts***.

2) To Vote by Write-In

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

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

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

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

659:61-a Determination of Winner in Election for an Office Elected by Ranked-Choice Voting.

I. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Batch elimination" means the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected.

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

(c) "Continuing candidate" means a candidate who has not been defeated.

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

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

(f) "Last-place candidate" means the candidate with the fewest votes in a round of the ranked-choice voting tabulation.

(g) "Mathematically impossible to be elected," with respect to a candidate, means either:

(1) The candidate 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

(2) The candidate has a lower vote total than a candidate described in subparagraph (1).

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

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

(j) "Round" means an instance of the sequence of voting tabulation steps established in paragraph II.

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

II. Except as provided in paragraphs III and IV, the following procedures shall be used to determine which candidate has the highest number of votes for purposes of identifying the winner in an election for an office elected by ranked-choice voting. Tabulation must proceed in rounds. In each round, the number of votes for each continuing candidate must be counted. Each continuing ballot counts as one vote for its highest-ranked continuing candidate for that round. Exhausted ballots are not counted for any continuing candidate. The round then ends with one of the following 2 potential outcomes:

(a) If there are fewer continuing candidates than the number to be elected plus 2, the candidate with the most votes is declared the winner of the election.

(b) If there are more continuing candidates than the number to be elected plus 2, the last-place candidate is defeated and a new round begins.

III. A tie under this section between candidates for the most votes in the final round or a tie between last-place candidates in any round must be decided by lot, and the candidate chosen by lot is defeated. The result of the tie resolution must be recorded and reused in the event of a recount.

Election officials may resolve prospective ties between candidates before the election.

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

V. In a multi member district, the rankings for the number of persons to be elected shall equal the highest ranking for purposes of counting and eliminating ballots.

VI. For purposes of determining the eligibility of and status as parties, the number of votes cast for a party's or political organization's candidate for an office elected by ranked-choice voting is the number of votes credited to that candidate after the initial counting in the first round described in paragraph II.

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

(a) The name of each candidate printed on the ballot and the number of votes that candidate received for the listed office including any write-in votes for the same office on the same ballot where the voter did not mark the printed candidate name. ***For offices elected by ranked-choice voting, the vote count shall be the number of votes for the candidate at the conclusion of counting by the ranked-choice method described in RSA 659:61-a.***

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

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

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

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

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

II. If a person is disqualified from a nomination in accordance with the provisions of paragraph I, then the nomination shall be awarded to the qualified person who received the highest

number of votes. ***For an office elected by ranked-choice voting, the nominee shall be the person with the highest number of votes at the conclusion of counting by the ranked-choice method described in RSA 659:61-a.***

11 Effective Date. This act shall take effect January 1, 2019.

LBAO
18-2026
11/2/17

HB 1540-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to ranked-choice voting.

FISCAL IMPACT: [X] State [ ] County [X] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	$0	$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General	[ ] Education	[ ] Highway	[ ] Other

LOCAL:

Revenue	$0	$0	$0	$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This legislation establishes procedures for ranked choice voting for federal and state offices. The Secretary of State indicates it is unclear whether the existing optical scan counting devices currently used by cities and towns are capable of counting a ranked choice system. Multiple rounds of counting may be required, resulting in additional staff time needed for state and federal elections conducted at the local level. The New Hampshire Municipal Association states many local election workers are paid on an hourly basis, so the additional longer hours would likely lead to an increase in local expenditures which will vary by the municipality and the election. Canvassing and recounts at the state level would also become more time consuming. Expenditures at the state and local level would increase by an indeterminable amount.

AGENCIES CONTACTED:

Department of State and New Hampshire Municipal Association