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S.94

Introduced by Senator McCormack of Windsor County, Senator Snelling of
Chittenden County, Senator Campbell of Windsor County,
Senator Canns of Caledonia County, Senator Condos of
Chittenden County, Senator Gossens of Addison County,
Senator Leddy of Chittenden County, Senator Lyons of
Chittenden County and Senator Scott of Washington County

Referred to Committee on

Date:

Subject: Elections; statewide and national offices; instant runoff method

Statement of purpose: This bill proposes to require a majority vote for election
to all statewide offices, and to conduct general elections for these offices using
the instant runoff method of voting and tabulating votes. Elections for United
States president, United States senator, and United States representative would
also be conducted and tabulated by the instant runoff method. In the event that
no candidate for governor, lieutenant governor, or treasurer receives a majority
of the votes, the general assembly would elect the officer while having the
assistance of the results of the instant runoff method.

19 AN ACT RELATING TO ELECTION OF STATEWIDE AND
20 NATIONAL OFFICERS BY THE INSTANT RUNOFF VOTING
21 METHOD

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 * * * Instant Runoff Voting Method * * *

3 Sec. 1. FINDINGS

4 (a) The legislature finds that:

5 (1) The principle of majority rule is fundamental to the concept of
6 democracy. When possible, election laws should be structured to uphold and
7 facilitate this basic principle.

8 (2) In a multi-candidate race, when no candidate receives a majority, the
9 candidate with the most votes (the plurality) may actually be the candidate
10 most opposed by the majority of voters.

11 (3) 21 times in Vermont history, the governor was elected by the general
12 assembly, rather than by the voters.

13 (4) In 35 percent of all election years in Vermont, one or more federal or
14 statewide races had a result with no majority.

15 (5) In one election with no majority winner in the governor's race, the
16 general assembly deadlocked and elected no governor, forcing the lieutenant
17 governor to serve as acting governor.

18 (6) In another election, with no majority in the treasurer's race, the
19 general assembly elected the candidate who had come in third with just three
20 percent of the popular vote, and subsequently refused to serve, leaving the state
21 with no treasurer.

1 (b) The general assembly further finds that:

2 (1) The delay from November to the convening of the legislature in
3 January, in determining who will be governor, may be problematic in terms of
4 preparing a proposed budget, and finding qualified citizens able to leave their
5 private sector employment for an administration that may never come into
6 being.

7 (2) It would be desirable, and that there is a popular preference, to have
8 a direct popular election of the offices of governor, lieutenant governor, and
9 treasurer, while preserving the majority requirement.

10 (3) It would be desirable, and that there is a popular preference, to have
11 a direct popular election by majority vote in all statewide elections for the
12 offices of secretary of state, attorney general, auditor of accounts, U.S. senator,
13 U.S. representative, and elector for U.S. president and vice president.

14 (c) The legislature further finds that:

15 (1) A voting system known as “preferential voting” in Robert’s Rules of
16 Order Newly Revised, and popularly known as “instant runoff voting,” which
17 has been used for governmental elections for over 80 years in Australia, as
18 well as in the Republic of Ireland, and London, England, can fulfill these goals
19 of majority rule, with direct popular election.

20 (2) The legislative canvassing committee established in accordance with
21 Chapter II, § 47 of the Vermont Constitution would be assisted, in determining

1 which candidate had received “the major part of the votes” through an instant
2 runoff recount conducted by the court-appointed recount committee in cases
3 where the majority choice of the voters is not initially apparent from the count
4 of first choice votes.

5 (3) Even in cases where there is still no majority winner after the court’s
6 instant runoff vote tabulation, that the legislators could benefit from the court’s
7 instant runoff recount in carrying out its constitutional obligation to elect state
8 officers when there has been no election by the voters.

9 Sec. 2. 17 V.S.A. § 2103 is amended to read:

10 § 2103. DEFINITIONS

11 * * *

12 (43) “Instant runoff method” means a method of casting and tabulating
13 votes as set forth in sections 2473a and 2592a of this title, that simulates the
14 ballot counts that would occur if all voters participated in a series of runoff
15 elections, whereby the voters may rank candidates according to the order of
16 their choice and, if no candidate obtains a majority of first-choice votes, runoff
17 counts are conducted in rounds. If, in any round, no candidate has received a
18 majority of votes cast, then the candidate with the fewest number of votes is
19 eliminated and the remaining candidates advance to another counting round.
20 In every round, each ballot is counted as one vote for the highest-ranked
21 advancing candidate on that ballot.

1 Sec. 3. 17 V.S.A. § 2473a is added to read:

2 § 2473a. INSTANT RUNOFF METHOD; APPLICATION; BALLOTS;

3 RULES

4 (a) Notwithstanding the provisions of section 2472 of this title to the
5 contrary, the instant runoff method shall be used in all general election contests
6 for the following offices when three or more candidates have qualified to have
7 their names printed on the ballot for that office: governor, lieutenant governor,
8 treasurer, secretary of state, auditor of accounts, attorney general, U.S. senator,
9 U.S. representative, president and vice president.

10 (b) For purposes of subsection (a) of this section, the secretary of state
11 may, by rule:

12 (1) provide for the use of mechanical, electronic, or other devices for
13 marking, sorting, and counting the ballots, and tabulating the results;

14 (2) modify the form of the ballots and the directions to voters, including
15 limiting the number of choices each voter may indicate if the ballot design so
16 requires; and

17 (3) prescribe the details with respect to the method of marking, sorting,
18 counting, invalidating, and the tabulating of votes in sequential rounds,
19 provided that no change shall be made which will alter the intent or principles
20 embodied in this chapter.

1 (c) Ballots approved under this section shall be simple and easy to
2 understand, and shall allow a voter to rank candidates for an office in order of
3 choice. If practical, ballots shall be designed such that voters may mark their
4 first choices in the same manner as that for offices not elected by the instant
5 runoff method. If the secretary determines that the number of candidates for a
6 particular office exceeds the practical space requirements for ranking all
7 candidates on the ballot, the secretary may limit the number of choices the
8 voter may make. However, if there are three or more candidates for an office,
9 the secretary must provide for ranking at least three choices. Instructions on
10 the ballot shall include the following statement: “In addition to your
11 first-choice candidate, you may mark alternate runoff choices if you wish.
12 Marking a second choice cannot help defeat your first choice. Marking a
13 subsequent choice cannot help defeat your highest ranked choices.” Sample
14 ballots to illustrate voting procedures, using fictitious names, shall be posted in
15 or near the voting booth and included in the instruction materials for absentee
16 ballots.

17 Sec. 4. 17 V.S.A. § 2493(c) is added to read:

18 (c) In the case of elections conducted by the instant runoff method, the
19 secretary of state shall adopt rules to ensure that the arrangement of names,
20 offices, and choice on each type of machine conforms as nearly as practical to
21 the ballot design adopted by the secretary under section 2473a of this title.

1 Sec. 5. 17 V.S.A. § 2592 is amended to read:

2 § 2592. CANVASSING COMMITTEES; CANVASS OF VOTES IN
3 GENERAL OR SPECIAL ELECTIONS

4 * * *

5 (h) ~~The~~ In the case of candidates other than candidates for the offices of
6 governor, lieutenant governor, treasurer, secretary of state, auditor of accounts,
7 attorney general, U.S. senator, U.S. representative, president and vice
8 president, the canvassing committee shall declare the person receiving the
9 largest number of votes for each office to be elected, and it shall issue a
10 certificate of election, signed by a majority of the canvassing committee, in
11 substantially the following form:

12 State of Vermont)

13) s.s.

14 County)

15 At, on the day of ~~19....~~ 20...., a canvassing committee
16 appointed by law completed a canvass of the returns cast at a general election
17 held on the day of, ~~19....~~ 20.... for the office of The
18 committee hereby certifies that of was duly elected to
19 the office by the voters present and voting.

20

21

1 The committee shall send or deliver the certificate to the candidate elected. In
2 the case of representatives to the general assembly, the committee shall also
3 send or deliver a copy of each certificate to the secretary of state.

4 * * *

5 (k) In the case of the offices of governor, lieutenant governor, treasurer,
6 secretary of state, ~~and~~ auditor of accounts, and attorney general, the canvassing
7 committee shall prepare a certificate of election but shall not sign it. The
8 prepared certificate shall be presented to the official canvassing committee
9 appointed by the general assembly, pursuant to Chapter II, ~~section~~ § 47 of the
10 Vermont Constitution, for their use if they desire.

11 Sec. 6. 17 V.S.A. § 2592a is added to read:

12 § 2592a. INSTANT RUNOFF METHOD; INSTRUCTIONS FOR
13 TABULATING VOTES

14 (a) The provisions of section 2587 of this title shall apply to elections
15 conducted by the instant runoff method unless inconsistent with the provisions
16 of this section.

17 (b) The following procedures shall be used to determine the winners in
18 elections conducted by the instant runoff method:

19 (1) Ballots shall be counted initially by the election officials according
20 to the first choice marked on each ballot. If one candidate receives a majority
21 of the votes cast, the canvassing committee for state and national offices shall

1 issue a certificate of election in the manner provided in section 2592 of this
2 title. With respect to the presidential election, the certificates of election shall
3 be issued as provided in sections 2592 and 2731 of this title.

4 (2) If, at the end of the initial count, no candidate receives a majority of
5 first-choice votes cast, the canvassing committee shall forthwith petition the
6 Washington County superior court to determine the candidate who received the
7 major part of the votes by conducting instant runoff recounts in the manner
8 provided in this section. The petition shall be supported by a statement signed
9 by a majority of the committee stating that no candidate has received a
10 majority of first-choice votes. Upon receipt of the petition, the court shall
11 appoint an instant runoff count committee in the manner provided for
12 appointment of a recount committee under subsection 2602(a) of this title, and
13 follow substantially the same procedures provided for recounts under
14 subchapter 9 of chapter 51 of this title.

15 (3) The instant runoff count committee shall tabulate votes for
16 candidates by conducting runoff counts in rounds. If, in any round, no
17 candidate has received a majority of votes cast, then in the subsequent round
18 the candidate with the fewest votes and all candidate with no mathematical
19 possibility of winning shall be eliminated. Ballots which rank eliminated
20 candidates first shall be counted as votes for the highest-ranked advancing
21 candidate for that office on each ballot. Candidates with no mathematical

1 possibility of winning are any two or more candidates with the fewest first-
2 choice votes whose combined total of votes is less than the votes credited to
3 the candidate with the next greatest number of votes cast. In every round, each
4 ballot is counted as one vote for the highest ranked advancing candidate on that
5 ballot. This process shall continue until one candidate receives a majority of
6 votes cast, excluding blank and spoiled votes, or there is only one candidate
7 remaining.

8 (4) If, at any point a candidate receives a majority, the court shall issue a
9 certificate of election. In the case of the election of governor, lieutenant
10 governor, or treasurer, the court shall prepare the certificate of election, but
11 shall not sign it, and forward it to the official canvassing committee appointed
12 by the general assembly, pursuant to Chapter II, § 47 of the Vermont
13 Constitution, for its use if it desires. With respect to the presidential election,
14 the court shall prepare the certificate and forward it to the official canvassing
15 committee provided for in section 2592 of this title.

16 (5) If the last remaining candidate did not receive a majority of the votes
17 cast, excluding blank and spoiled votes, the court shall prepare a report of no
18 election. The report and the tabulations performed by the committee shall be
19 forwarded to the official canvassing committee appointed by the general
20 assembly, pursuant to Chapter II, § 47 of the Vermont Constitution, for its use
21 in the election of the governor, lieutenant governor, treasurer, secretary of

1 state, auditor of accounts, or attorney general, if it desires. The general
2 assembly shall proceed to elect one of the three candidates for whom the
3 greatest number of first-choice votes has been returned.

4 (6) Notwithstanding the provisions of subdivision (5) of this subsection:

5 (A) If the last remaining candidate in an election for the office of
6 U.S. senator or U.S. representative did not receive a majority, the report and
7 the tabulations performed by the instant runoff count committee shall be
8 forwarded to the canvassing committee provided for in section 2592 of this
9 title. The committee shall issue a certificate of election to the candidate to the
10 last remaining candidate.

11 (B) If the last remaining candidate in an election for the office of
12 president or vice president did not receive a majority, the report and the
13 tabulations performed by the instant runoff count committee shall be
14 forwarded to the canvassing committee provided for in section 2592 of this
15 title. The committee shall issue a certificate of election to the electors
16 nominated by the party whose candidate for president or vice president is the
17 last remaining.

18 (7) In the case of an instant runoff count for the offices of governor,
19 lieutenant governor, or treasurer, all candidates other than the three with the
20 greatest number of first-choice votes shall be eliminated at the same time.

1 (c) The following general provisions shall apply whenever the instant
2 runoff method is used:

3 (1) If a ballot has no more available choices ranked on it, the ballot is
4 exhausted.

5 (2) If a ballot skips a number, the ballot is exhausted when the skipped
6 ranking is reached. A ballot giving two or more candidates the same ranking is
7 exhausted when that ranking is reached, unless only one of the candidates so
8 ranked has advanced to the current round of counting.

9 (3) The fact that a voter gives more than one ranking to the same
10 candidate shall not invalidate the vote. The highest ranking given a particular
11 candidate shall count as long as the candidate is not eliminated.

12 (4) In the case of a tie between candidates for last place, and thus
13 elimination, occurring at any stage in the tabulation, the tie shall be resolved so
14 as to eliminate the candidate who received the least number votes at the
15 previous stage of the tabulation. In the case of a tie to which a previous stage
16 does not apply, or such previous stage was also a tie, the tie shall be resolved
17 by drawing lots. However, if the tie occurs when there are only two candidates
18 remaining, the tie shall be resolved as set forth in section 2602k of this title.

1 Sec. 7. 17 V.S.A. § 2731 is amended to read:

2 § 2731. CERTIFICATES OF ELECTION

3 When the canvassing board provided for in section 2592 of this title meets,
4 it shall issue its certificates of election, with respect to the presidential election,
5 to the electors nominated by the party whose candidate ~~for president has~~
6 ~~received the greatest number of votes~~ was declared the winner in accordance
7 with the provisions of section 2592a of this title.

8 Sec. 8. 17 V.S.A. § 2732 is amended to read:

9 § 2732. MEETING OF ELECTORS

10 The electors shall meet at the state house on the first Monday after the
11 second Wednesday in December next following their election, to vote for
12 president and ~~vice president~~ vice president of the United States, agreeably to
13 the laws of the United States. If there is a vacancy in the electoral college on
14 that day, occasioned by death, refusal to act, neglect to attend, failure of a
15 person elected to qualify, or for other cause, the other electors present shall at
16 once fill such vacancy viva voce and by a plurality of votes. When all the
17 electors appear or a vacancy therein is filled, the electors shall perform the
18 duties required of them by the constitution and laws of the United States. If a
19 vacancy occurs and is filled as aforesaid, the electors shall attach to the
20 certificate of their votes a statement showing how such a vacancy occurred and
21 their action thereon. The electors must vote for the candidates for president

1 and ~~vice president who received the greatest number of votes at the general~~
2 ~~election~~ vice president who were declared the winners in accordance with the
3 provisions of section 2592a of this title.

4 * * * Miscellaneous Provisions * * *

5 Sec. 9. 17 V.S.A. § 2473 is amended to read:

6 § 2473. PROVISIONS RELATIVE TO PRESIDENTIAL ELECTION

7 (a) When the president and ~~vice president~~ vice president are to be elected,
8 the ballot shall contain the names of all candidates for these offices, arranged
9 in alphabetical order according to the surname of the presidential candidate of
10 each party. The names of the electors shall not be printed on the ballot. A vote
11 for the presidential and ~~vice presidential~~ vice presidential nominees of a party
12 shall constitute a vote for the electors nominated by that party.

13 (b) The name and state of residence of the presidential and ~~vice presidential~~
14 vice presidential candidate of each party shall be listed on separate lines joined
15 together by a bracket, followed by the party designations and a single square
16 for that pair of candidates. ~~In lieu of the instructions: "Vote for not more than~~
17 ~~(the number of candidates to be elected)", the following instructions shall~~
18 ~~appear: "Mark ONE square only."~~

19 (c) If a candidate for president whose name is not printed on the ballot
20 ~~receives the greatest number of votes for president~~ is declared the winner as
21 provided in section 2592a of this title, the secretary of state shall notify ~~him~~

1 that candidate of that fact, and within two weeks thereafter, the candidate shall
2 file with the secretary of state, a list of ~~freemen~~ voters equal to the number of
3 electors which the state is entitled to elect. The list shall be signed by the
4 candidate personally. The persons so named shall be electors, having the
5 duties prescribed in this title.

6 Sec. 10. SECRETARY OF STATE; VOTER EDUCATION

7 The secretary of state shall conduct a voter education campaign to
8 familiarize voters with the new ballot design, method of voting, and
9 advantages of determining a majority winner in a single election. The
10 secretary shall use public service announcements, as well as seek other media
11 cooperation to the maximum extent practicable.

12 Sec. 11. EFFECTIVE DATE

13 This act shall take effect on January 1, 2002.