

HB 345-FN - AS INTRODUCED

2023 SESSION

23-0012

08/05

HOUSE BILL            **345-FN**

AN ACT                enabling ranked-choice voting for state party primary elections and municipal elections.

SPONSORS:            Rep. Read, Rock. 10; Rep. Hamblet, Rock. 26; Rep. Wilhelm, Hills. 40; Rep. Veilleux, Hills. 34; Rep. Wolf, Merr. 7; Rep. Newell, Ches. 4; Rep. Phinney, Straf. 9; Rep. Cam. Kenney, Straf. 10; Rep. Meuse, Rock. 37; Sen. Fenton, Dist 10

COMMITTEE:          Election Law

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ANALYSIS

This bill establishes procedures for ranked-choice voting and allows state parties and municipalities to opt into such procedures.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT enabling ranked-choice voting for state party primary elections and municipal elections.

*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 in an election using ranked-choice voting, "For**  
19 **election of [here insert number to be elected] Representatives."** Below each such phrase shall  
20 be printed in small but easily legible letters "Vote for not more than \_\_\_\_ (here insert a number  
21 designating how many persons are to be voted for)[-]," **or in the case of an election using ranked-**  
22 **choice voting, "Rank candidates in order of preference."**

23 3 Ballot Counting Devices; Testing. Amend RSA 656:42, VIII(e)(4) to read as follows:

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

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1 4 Marking the Ballot; Instructions to Voters. Amend RSA 659:17 to read as follows:

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

9 1) To Vote

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

16 2) To Vote by Write-In

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

19 5 Optional Counting of Votes at Additional Polling Places. Amend RSA 659:59 to read as  
20 follows:

21 659:59 Optional Counting of Votes at Additional Polling Places. The moderator may order the  
22 assistant moderator in writing to process absentee ballots and to count the votes cast at the  
23 additional polling place in the presence of and with the assistance of the assistant town clerk and  
24 election officials in the manner prescribed by this chapter. **The counting of votes in elections**  
25 **using ranked-choice voting at an additional polling place shall be coordinated with the**  
26 **counting at the central polling place in order to facilitate counting by the ranked-choice**  
27 **method described in RSA 659:61-a.** After the processing of absentee ballots and the counting are  
28 complete, the assistant moderator shall place the counted ballots in the ballot box and shall seal it,  
29 and the assistant town clerk shall certify the same. The assistant moderator shall also seal in a  
30 package the duplicate checklists used at the additional polling place together with the absentee  
31 envelopes and the spoiled and unused ballots; and he **or she**, together with the assistant town clerk,  
32 shall immediately deliver the ballot box, checklists, absentee envelopes, unused and spoiled ballots,  
33 and a written report of [his] **the** count signed by [him] **the assistant moderator** and the assistant  
34 town clerk to the moderator of the town at the central polling place. If the moderator does not order  
35 the counting as provided herein, the assistant moderator shall comply with the provisions of RSA  
36 659:62.

1           6 New Sections; Determination of Winner in Election for an Office Elected by Ranked-Choice  
2 Voting. Amend RSA 659 by inserting after section 61 the following new sections:

3           659:61-a Definitions Applied to Ranked-Choice Voting.

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

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

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

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

14           (2) The candidate has a lower active preference total than a candidate described in  
15 subparagraph (1).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 659:61-b Determination of Winner in Elections for an Office Elected by Ranked Choice Voting;  
20 Single Seat Offices.

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

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

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

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

1 may be necessary; a tie shown in any prior round being decided by referring to the standing of the  
2 tied candidates in the round immediately preceding the round in which the tie exists. Any tie not  
3 otherwise provided for shall be decided by lot.

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

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

10 659:61-c Determination of Winners in Elections for Offices Elected by Ranked-Choice Voting;  
11 Multi-Member Representative Districts.

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

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

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

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

36 II. If 2 or more last-place candidates are tied and batch elimination does not apply, the last-  
37 place candidate who was credited with the fewest active preferences in the prior round shall be

1 declared defeated. If 2 or more of such tied candidates were tied in the prior round also, the second  
2 tie shall be decided by referring similarly to the standing of candidates, in terms of active  
3 preferences, in the second-prior round. This principle shall be applied successively as many times as  
4 may be necessary, a tie shown in any prior round being decided by referring to the standing of the  
5 tied candidates in the round immediately preceding the round in which the tie exists. Any tie not  
6 otherwise provided for shall be decided by lot.

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

9 659:61-d Presidential Primaries; Determining the Minimum Percentage of Votes.

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

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

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

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

34 7 Content of Return. Amend RSA 659:73, I(a) to read as follows:

35 (a) The name of each candidate printed on the ballot and the number of votes that  
36 candidate received for the listed office including any write-in votes for the same office on the same  
37 ballot where the voter did not mark the printed candidate name. *In an election using ranked-*

1 *choice voting, the vote count shall be the number of active preference votes for the*  
2 *candidate at the conclusion of counting by the ranked-choice method described in RSA*  
3 *659:61-a through RSA 659:61-d.*

4 8 General Election; Canvas and Declaration. Amend RSA 659:81 to read as follows:

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

13 9 Primary Election; Canvas and Declaration. Amend RSA 659:86 to read as follows:

14 659:86 Canvass and Declaration Generally. Except as provided in RSA 659:87, when, for each  
15 political party having an official state primary election ballot, the secretary of state has received the  
16 returns for a nomination from all towns or wards comprising the elective district for that office, he *or*  
17 *she* shall examine, record and total such returns and, for each political party, shall declare  
18 nominated for the office the same number of persons as the number of officers to which the district is  
19 entitled; provided that those persons declared nominated for the office shall be those persons who, on  
20 each party ballot, received the highest number of votes cast for the office, except as provided in RSA  
21 659:91. *In a state primary election, the nominees shall be those persons with the highest*  
22 *number of active preferences at the conclusion of counting by the ranked-choice method*  
23 *described in RSA 659:61-a through RSA 659:61-d.*

24 10 Nominations. Amend RSA 659:88, II to read as follows:

25 II. If a person is disqualified from a nomination in accordance with the provisions of  
26 paragraph I, then the nomination shall be awarded to the qualified person who received the highest  
27 number of votes, provided that person received at least 25 votes or votes equaling 10 percent or more  
28 of the total votes cast for that party on the state primary election ballot, whichever is smaller. *In a*  
29 *state primary election, the nominee shall be the person with the highest number of active*  
30 *preferences at the conclusion of counting by the ranked-choice method described in RSA*  
31 *659:61-a through RSA 659:61-d.*

32 11 Applicability; Implementation.

33 I. Any state party or municipality may opt-in to the provisions for ranked choice voting  
34 without regard for whether any other state party or municipality also opts in. Any state party or  
35 municipality that seeks to opt-in to the provisions for ranked-choice voting shall do so at least 90  
36 days before the first election in which such party or municipality seeks to utilize ranked choice  
37 voting by providing written notice to the New Hampshire secretary of state. Any state party or



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1 municipality that seeks to opt-in to the provisions for ranked choice voting may do so for any or all  
2 offices. Parties and municipalities shall specify which offices they seek to use ranked-choice voting  
3 at the time they seek to opt-in to the provisions for ranked-choice voting.

4 II. In the case of a state party, after official approval through appropriate party procedures,  
5 the party chair or designee shall provide such notice to the secretary of state. A state party may  
6 consider rescinding its action in the same manner, and if so rescinded, the party chair or designee  
7 shall notify the secretary of state at least 90 days before the next primary election, of the decision to  
8 rescind their opt-in.

9 III. Any town or city may implement ranked choice voting in the following manner:

10 (a) In a town, the question shall be placed on the warrant of an annual town meeting  
11 under the procedures set out in RSA 39:3, or by initiative petition or referendum petition if a town  
12 charter provides for such, and shall be voted on a ballot.

13 (b) In a city, the legislative body may vote to place the question on the official ballot for  
14 any special or regular municipal election, or, in the alternative, shall place the question on the  
15 official ballot for any municipal election upon submission to the legislative body of a petition signed  
16 by 5 percent of the registered voters.

17 (c) The selectmen or city council shall hold a public hearing on the question at least 15  
18 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be  
19 posted in at least 2 public places in the municipality and published either in a newspaper of general  
20 circulation or the municipality's Internet website at least 7 days before the hearing.

21 (d) If one or more amendments to a municipal charter are necessary in order to  
22 implement ranked choice voting, the charter shall be amended as provided for in RSA 49-B:5.

23 IV. Once passed according to the applicable procedures outlined in subparagraphs III(a) –  
24 (d), ranked choice voting shall apply within the town or city beginning with the next municipal  
25 election, provided that a town or city designee notifies the New Hampshire secretary of state of their  
26 opt-in at least 90 days before said election.

27 V. A town or city may consider rescinding its action in the same manner, and if so rescinded,  
28 the city or town clerk shall notify the secretary of state at least 90 days before the next election, of  
29 the decision to rescind their opt-in.

30 12 Effective Date. This act shall take effect August 1, 2023.

**HB 345-FN- FISCAL NOTE**  
AS INTRODUCED

AN ACT enabling ranked-choice voting for state party primary elections and municipal elections.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$4,000,000	\$1,500,000	\$500,000
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**LOCAL:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**METHODOLOGY:**

This bill will enable ranked-choice voting for any state party primary election or municipal election. If a state party opts-in to a ranked-choice voting system, municipalities conducting the elections must use the ranked-choice system for state primaries for said party. The local legislative body would determine whether to adopt a ranked-choice system for voting in municipal elections.

The Department of State indicates their current vendor, who maintains the current optical scan ballot counting devices used by cities and towns in New Hampshire State elections, indicates the ballot counting devices would need to be updated to newer versions to accommodate the level of programming required to count ranked choice ballots. The Department states currently three new ballot counting devices have been granted approval by the NH Ballot Law Commission for limited test use, although no official approval has been issued. The Department assumes the State would be obligated to purchase the counting device under Article 28-A of the New Hampshire Constitution due to the State mandating a new counting system. The Department indicates the costs would be as follows for FY 2024 through FY 2026 if all municipalities opted in to rank choice voting:

Below is the estimate fiscal impact by year.

<b>FY 2024</b>	
500 digital scan ballot counting device @ \$ 6,000	\$ 3,000,000
500 maintenance @ \$1,000	\$ 500,000
500 programming @ \$1,000	\$ 500,000
<b>Total FY 2024</b>	<b>\$ 4,000,000</b>

<b>FY 2025</b>	
500 maintenance @ \$1,000	\$ 500,000
500 programming @ \$1,000 x 2 elections	\$ 1,000,000
<b>Total FY 2025</b>	<b>\$ 1,500,000</b>

<b>FY 2026</b>	
500 maintenance @ \$1,000	\$ 500,000
<b>Total FY 2026</b>	<b>\$ 500,000</b>

In addition to the purchasing of new counting machines, maintenance costs, and programming costs, the Department anticipates there will be a need for extensive training for local election officials as well as changes to ballot configuration to accommodate a ranked choice format. The expenditures associated with training and ballot configuration are indeterminable.

The New Municipal Association states there may be additional costs for resources needed to tabulate votes and train election officials and voters on the system if either a state party or local legislative body opts-in to a ranked-choice system resulting in an indeterminable increase to local expenditures starting in FY 2024.

**AGENCIES CONTACTED:**

Department of State and New Hampshire Municipal Association