

118TH CONGRESS
2D SESSION

S. 5048

To establish the use of ranked choice voting in elections for the offices of Senator and Representative in Congress, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2024

Mr. WELCH introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To establish the use of ranked choice voting in elections for the offices of Senator and Representative in Congress, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDING OF CONSTITUTIONAL**
4 **AUTHORITY.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Ranked Choice Voting Act”.

7 (b) FINDING OF CONSTITUTIONAL AUTHORITY.—
8 Congress finds that it has the authority to establish the
9 terms and conditions States must follow in administering
10 elections for the offices of Senators and Representatives

1 in Congress because the authority granted to Congress
 2 under section 4 of article I of the Constitution of the
 3 United States gives Congress the power to enact laws gov-
 4 erning the time, place, and manner of elections for such
 5 offices.

6 **SEC. 2. REQUIRING RANKED CHOICE VOTING FOR ELEC-**
 7 **TION OF SENATORS AND REPRESENTATIVES.**

8 (a) IN GENERAL.—Title III of the Help America
 9 Vote Act of 2002 (52 U.S.C. 21081 et seq.) is amended
 10 by adding at the end the following new subtitle:

11 **“Subtitle C—Ranked Choice Voting**
 12 **“PART 1—REQUIRING RANKED CHOICE VOTING**
 13 **FOR ELECTION OF SENATORS AND REP-**
 14 **RESENTATIVES**

15 **“SEC. 321. REQUIRING RANKED CHOICE VOTING FOR ELEC-**
 16 **TION OF SENATORS AND REPRESENTATIVES.**

17 “(a) RANKED CHOICE VOTING.—Each State shall
 18 carry out elections for the office of Senator and the office
 19 of Representative in Congress, including primary, special,
 20 and general elections for such office, using ranked choice
 21 voting, a system under which each voter may rank the can-
 22 didates for the office in the order of the voter’s preference,
 23 and ballots are tabulated, in accordance with this title.

24 “(b) BALLOT DESIGN.—

1 “(1) IN GENERAL.—Each State shall ensure
2 that the ballot used in a ranked choice voting elec-
3 tion under this subtitle meets each of the following
4 requirements:

5 “(A) The ballot shall allow voters to rank
6 candidates in order of choice.

7 “(B) The number of candidates whom a
8 voter may rank in the election, as determined
9 under paragraph (2), shall be uniform for all
10 voters in the election within the State.

11 “(C) The ballot shall include all qualified
12 candidates for the election and (to the extent
13 permitted under State law) options for voters to
14 select write-in candidates.

15 “(D) The ballot shall include such instruc-
16 tions as necessary to accurately inform the
17 voter how to properly rank candidates and suc-
18 cessfully cast the ballot under the system.

19 “(2) DETERMINATION OF NUMBER OF CAN-
20 DIDATES VOTER MAY RANK.—The ballot shall permit
21 voters to rank at least five candidates or the number
22 of candidates in the election, including write-in can-
23 didates (to the extent permitted under State law),
24 whichever is fewer.

1 **“SEC. 322. PROHIBITING ADDITIONAL RUNOFF ELECTIONS.**

2 “(a) PRIMARY ELECTIONS.—No State may hold a
3 separate runoff primary election for the office of Senator
4 or the office of Representative in Congress after the date
5 established under State law for the primary election for
6 such office.

7 “(b) GENERAL ELECTIONS.—No State may hold a
8 separate runoff general election for the office of Senator
9 or the office of Representative in Congress after the date
10 established under section 25 of the Revised Statutes of
11 the United States (2 U.S.C. 7) for the regularly scheduled
12 general election for such office.

13 “(c) SPECIAL ELECTIONS.—No State may hold a
14 separate runoff special election for the office of Senator
15 or the office of Representative in Congress after the date
16 established under State law for such special election for
17 such office.

18 **“SEC. 323. TREATMENT OF PRIMARY ELECTIONS.**

19 “(a) CONDITIONS FOR HOLDING NONPARTISAN
20 BLANKET PRIMARY ELECTIONS.—A State may hold a
21 nonpartisan blanket primary election for the office of Sen-
22 ator or the office of Representative in Congress only if
23 State law provides that at least 3 candidates advance to
24 the subsequent general election.

25 “(b) RULE OF CONSTRUCTION.—Nothing in this title
26 shall be construed to require a State to hold a primary

1 election for the office of Senator or the office of Represent-
 2 ative in Congress prior to the date established under sec-
 3 tion 25 of the Revised Statutes of the United States (2
 4 U.S.C. 7) for the regularly scheduled general election for
 5 such office, so long as the determination of the candidates
 6 who are elected to such office is based solely on the votes
 7 cast with respect to the election held on such date, as de-
 8 termined in accordance with the system of ranked choice
 9 voting under this title.

10 **“SEC. 324. APPLICATION TO DISTRICT OF COLUMBIA AND**
 11 **TERRITORIES.**

12 “(a) ELECTION OF DELEGATES AND RESIDENT COM-
 13 MISSIONER.—In this subtitle, the term ‘Representative’ in-
 14 cludes a Delegate or Resident Commissioner to the Con-
 15 gress.

16 “(b) APPLICATION TO NORTHERN MARIANA IS-
 17 LANDS.—This subtitle shall apply with respect to the
 18 Commonwealth of the Northern Mariana Islands in the
 19 same manner as this subtitle applies to a State.

20 **“PART 2—TABULATION PROCESS**

21 **“SEC. 331. TABULATION PROCESS.**

22 “Except as provided in section 332, tabulation shall
 23 proceed in the following manner:

24 “(1) PROCESS FOR TABULATION.—Each ballot
 25 cast in the election shall count as one vote for the

1 highest-ranked active candidate on the ballot. Tab-
 2 ulation shall proceed in rounds as described in para-
 3 graphs (2) and (3).

4 “(2) ELIMINATION OF CANDIDATES DURING
 5 TABULATION.—If there are more than 2 active can-
 6 didates in a round of tabulation, the active candidate
 7 with the fewest votes is eliminated, each vote cast on
 8 a ballot for the eliminated candidate shall be count-
 9 ed for the next-ranked active candidate on the ballot,
 10 and a new round shall begin.

11 “(3) COMPLETION OF TABULATION; ELECTION
 12 OF CANDIDATE.—When there are two or fewer active
 13 candidates—

14 “(A) tabulation is complete; and

15 “(B) the candidate receiving the greatest
 16 number of votes shall be elected to the office of
 17 Senator or Representative in Congress (or, in
 18 the case of a primary election, shall advance to
 19 the general election for such office as provided
 20 under the law of the State involved).

21 “(4) TREATMENT OF CERTAIN BALLOTS.—

22 “(A) TREATMENT OF UNDERVOTES.—

23 “(i) IN GENERAL.—A ballot which is
 24 an undervote shall not be counted in any

1 round of tabulation of ballots in an election
2 under this section.

3 “(ii) UNDERVOTE DEFINED.—For
4 purposes of this subparagraph, an
5 ‘undervote’ is a ballot for which the voter
6 does not rank any of the candidates in the
7 election.

8 “(B) TREATMENT OF INACTIVE BAL-
9 LOTS.—

10 “(i) IN GENERAL.—A ballot which be-
11 comes an inactive ballot shall no longer
12 count for any candidate for the remainder
13 of the tabulation of ballots in an election
14 under this section after the ballot becomes
15 inactive.

16 “(ii) INACTIVE BALLOT DEFINED.—
17 For purposes of this paragraph, an ‘inac-
18 tive ballot’ is a ballot on which—

19 “(I) all of the ranked candidates
20 on the ballot have become inactive; or

21 “(II) the voter ranks more than
22 one candidate at the same ranking
23 and all candidates at a higher ranking
24 have become inactive.

1 “(C) TREATMENT OF SKIPPED OR RE-
2 PEATED RANKINGS.—

3 “(i) IN GENERAL.—A ballot which in-
4 cludes any skipped or repeated ranking
5 shall remain active and continue to be
6 counted for the highest ranked active can-
7 didate in an election under this section.

8 “(ii) SKIPPED AND REPEATED
9 RANKINGS DEFINED.—For purposes of this
10 paragraph—

11 “(I) a ‘skipped ranking’ is a
12 ranking a voter does not assign to any
13 candidate while assigning a subse-
14 quent ranking to a candidate; and

15 “(II) a ‘repeated ranking’ is a
16 ranking for which the voter has as-
17 signed the same candidate that the
18 voter assigned to another ranking.

19 **“SEC. 332. SPECIAL RULES FOR NONPARTISAN BLANKET**
20 **PRIMARY ELECTIONS.**

21 “In the case of a nonpartisan blanket primary elec-
22 tion, tabulation shall proceed in the following manner:

23 “(1) PROCESS FOR TABULATION.—In the case
24 of a nonpartisan primary election—

1 “(A) each ballot cast in the election shall
2 count as one vote for the highest ranked active
3 candidate on that ballot; and

4 “(B) tabulation shall proceed in rounds as
5 described in paragraphs (2) and (3).

6 “(2) ELIMINATION OF CANDIDATES DURING
7 TABULATION.—If the number of active candidates is
8 greater than the number of candidates to be ad-
9 vanced to the general election, as provided under the
10 law of the State involved, the active candidate with
11 the fewest votes is eliminated, and votes for the
12 eliminated candidate are counted for each ballot’s
13 next-ranked active candidate.

14 “(3) COMPLETION OF TABULATION; ADVANCING
15 OF CANDIDATES.—When the total number of active
16 candidates is equal to or less than the number of
17 candidates to be advanced to the general election, as
18 provided under the law of the State involved—

19 “(A) tabulation is complete; and

20 “(B) all active candidates shall advance to
21 the general election for such office.

22 **“SEC. 333. TREATMENT OF TIES BETWEEN CANDIDATES.**

23 “(a) RESOLUTION BY LOT.—If a tie occurs between
24 candidates with the greatest number of votes or the fewest
25 number of votes at any point in the tabulation of ballots

1 under this part and the tabulation cannot proceed until
 2 the tie is resolved, the tie shall be resolved by lot or by
 3 such other method as may be provided under State law,
 4 provided that any tie between candidates with the fewest
 5 number of votes shall be resolved on the same day as tab-
 6 ulation.

7 “(b) RESOLUTION PRIOR TO TABULATION.—Prior to
 8 tabulation, the chief election official of the State may re-
 9 solve prospective ties between candidates by lot or accord-
 10 ing to the method provided under State law, as described
 11 in subsection (a).

12 “(c) USE DURING RECOUNT.—The result of the reso-
 13 lution of any tie shall be recorded and reused for purposes
 14 of any recount under State law.

15 **“SEC. 334. DETERMINATION OF VOTES CAST FOR CAN-**
 16 **DIDATES OF POLITICAL PARTIES FOR PUR-**
 17 **POSES OF ACCESS TO BALLOT IN FEDERAL**
 18 **ELECTIONS.**

19 “To the extent that a State takes into account the
 20 number of votes cast in an election for candidates of a
 21 political party in determining the right of candidates of
 22 the party to appear on the ballot in subsequent elections
 23 for Federal office in the State, the State shall determine
 24 the number of votes cast for a candidate on the basis of
 25 whichever round of tabulation of ballots in the election

1 under section 331 or section 332 contained the highest
 2 number of votes for that candidate.

3 **“PART 3—PAYMENTS TO STATES TO IMPLEMENT**
 4 **RANKED CHOICE VOTING**

5 **“SEC. 341. PAYMENTS TO STATES TO IMPLEMENT RANKED**
 6 **CHOICE VOTING.**

7 “(a) PAYMENTS DESCRIBED.—

8 “(1) PAYMENTS.—Not later than June 1, 2025,
 9 the Commission shall make a payment to each State
 10 in the amount determined with respect to the State
 11 under paragraph (2).

12 “(2) AMOUNT DETERMINED ON BASIS OF NUM-
 13 BER OF REGISTERED VOTERS.—

14 “(A) IN GENERAL.—The amount deter-
 15 mined under this paragraph is the product of—

16 “(i) the number of individuals reg-
 17 istered to vote in elections for Federal of-
 18 fice in the State, based on the most re-
 19 cently available information on voter reg-
 20 istration in the State, as provided to the
 21 Commission by the State; and

22 “(ii) the per capita amount estab-
 23 lished by the Commission under subpara-
 24 graph (B).

1 “(B) PER CAPITA AMOUNT.—For purposes
 2 of this paragraph, the Commission shall estab-
 3 lish a separate, appropriate per capita payment
 4 amount for each State that may be not less
 5 than \$4 and not more than \$8, taking into ac-
 6 count any reasonable demonstrated or esti-
 7 mated costs associated with the use of ranked
 8 choice voting, including costs related to—

9 “(i) voting equipment updates;

10 “(ii) election software updates or li-
 11 censes;

12 “(iii) voting system programming;

13 “(iv) ballot design and printing;

14 “(v) election official and poll worker
 15 training;

16 “(vi) processing, canvassing, cen-
 17 tralization, and tabulation;

18 “(vii) reporting and displaying pre-
 19 liminary and final election results;

20 “(viii) post-election audits and re-
 21 counts; and

22 “(ix) voter information, education,
 23 and engagement.

24 “(b) USE OF FUNDS.—A State shall use the payment
 25 made under subsection (a) to implement ranked choice

1 voting under this subtitle, including educating voters
2 about ranked choice voting.

3 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary for payments under this section.

6 **“PART 4—CIVIL ENFORCEMENT**

7 **“SEC. 351. CIVIL ENFORCEMENT.**

8 “(a) CIVIL ENFORCEMENT.—

9 “(1) ACTIONS BY ATTORNEY GENERAL.—The
10 Attorney General may bring a civil action for such
11 relief as may be appropriate to carry out this sub-
12 title.

13 “(2) AVAILABILITY OF PRIVATE RIGHT OF AC-
14 TION.—

15 “(A) IN GENERAL.—Any person residing
16 or domiciled in a State who is aggrieved by the
17 failure of the State to meet the requirements of
18 this subtitle may bring a civil action in the
19 United States district court for the applicable
20 venue for such relief as may be appropriate to
21 remedy the failure.

22 “(B) NO AWARDING OF DAMAGES TO PRE-
23 VAILING PARTY.—Except for an award of attor-
24 ney’s fees under subsection (d), a court in a
25 civil action under this subtitle shall not award

1 the prevailing party any monetary damages,
2 compensatory, punitive, or otherwise.

3 “(3) DELIVERY OF COMPLAINT TO HOUSE AND
4 SENATE.—In any action brought under this subtitle,
5 a copy of the complaint shall be delivered promptly
6 to the Clerk of the House of Representatives and the
7 Secretary of the Senate.

8 “(4) EXCLUSIVE JURISDICTION AND APPLICA-
9 BLE VENUE.—The district courts of the United
10 States shall have exclusive jurisdiction to hear and
11 determine claims arising under this subtitle. The ap-
12 plicable venue for such an action shall be the United
13 States District Court for the District of Columbia or
14 the judicial district in which the capital of the State
15 is located, as selected by the person bringing the ac-
16 tion. In a civil action that includes a claim under
17 this subtitle, with respect to an election for the office
18 of Senator or the office of Representative in Con-
19 gress held in a State, the United States District
20 Court for the District of Columbia shall have juris-
21 diction over any defendant who has been served in
22 any United States judicial district in which the de-
23 fendant resides, is found, or has an agent, or in the
24 United States judicial district in which the capital of
25 the State is located. Process may be served in any

1 United States judicial district where a defendant re-
2 sides, is found, or has an agent, or in the United
3 States judicial district in which the capital of the
4 State is located.

5 “(5) USE OF 3-JUDGE COURT.—Any action
6 arising under this subtitle shall be heard by a 3-
7 judge district court convened pursuant to section
8 2284 of title 28, United States Code.

9 “(6) REVIEW OF FINAL DECISION.—A final de-
10 cision in an action brought under this section shall
11 be reviewable on appeal by the United States Court
12 of Appeals for the District of Columbia Circuit,
13 which shall hear the matter sitting en banc. There
14 shall be no right of appeal in such proceedings to
15 any other court of appeals. Such appeal shall be
16 taken by the filing of a notice of appeal within 10
17 days of the entry of the final decision. A final deci-
18 sion by the Court of Appeals may be reviewed by the
19 Supreme Court of the United States by writ of cer-
20 tiorari.

21 “(b) EXPEDITED CONSIDERATION.—In any action
22 brought under this section, it shall be the duty of the dis-
23 trict court, the United States Court of Appeals for the
24 District of Columbia Circuit, and the Supreme Court of
25 the United States (if it chooses to hear the action) to ad-

1 vance on the docket and to expedite to the greatest pos-
 2 sible extent the disposition of the action and appeal.

3 “(c) SPECIAL RULE IN CASE FINAL ADJUDICATION
 4 NOT EXPECTED WITHIN 3 MONTHS OF ELECTION.—

5 “(1) DUTY OF COURT.—If final adjudication of
 6 an action under this subtitle is not reasonably ex-
 7 pected to be completed at least 3 months prior to
 8 the next regularly scheduled primary election for the
 9 office of Senator or the office of Representative in
 10 Congress in the State, the district court shall order
 11 adjustments to the timing of the primary election
 12 and other related deadlines, as needed, to allow suf-
 13 ficient opportunity for adjudication of the matter in
 14 time for the next regularly scheduled general election
 15 for such office in the State.

16 “(2) PROHIBITING FAILURE TO ACT ON
 17 GROUNDS OF PENDENCY OF ELECTION.—The court
 18 may not refuse to take any action described in para-
 19 graph (1) on the grounds of the pendency of the
 20 next election held in the State or the potential for
 21 disruption, confusion, or additional burdens with re-
 22 spect to the administration of the election in the
 23 State.

24 “(d) ATTORNEY’S FEES.—In a civil action under this
 25 section, the court may allow the prevailing party (other

1 than the United States) reasonable attorney fees, includ-
2 ing litigation expenses, and costs.

3 “(e) RELATION TO OTHER LAWS.—

4 “(1) RIGHTS AND REMEDIES ADDITIONAL TO
5 OTHER RIGHTS AND REMEDIES.—The rights and
6 remedies established by this section are in addition
7 to all other rights and remedies provided by law, and
8 neither the rights and remedies established by this
9 section nor any other provision of this title shall su-
10 persede, restrict, or limit the application of the Vot-
11 ing Rights Act of 1965 (52 U.S.C. 10301 et seq.).

12 “(2) VOTING RIGHTS ACT OF 1965.—Nothing in
13 this title authorizes or requires conduct that is pro-
14 hibited by the Voting Rights Act of 1965 (52 U.S.C.
15 10301 et seq.).

16 “(f) LEGISLATIVE PRIVILEGE.—No person, legisla-
17 ture, or State may claim legislative privilege under either
18 State or Federal law in a civil action brought under this
19 section or in any other legal challenge, under either State
20 or Federal law, to laws and procedures enacted under this
21 subtitle.

22 “(g) REMOVAL.—

23 “(1) IN GENERAL.—At any time, a civil action
24 brought in a State court which asserts a claim for
25 which the district courts of the United States have

exclusive jurisdiction under this subtitle may be removed by any party in the case, including an intervenor, by filing, in the district court for an applicable venue under this section, a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure containing a short and plain statement of the grounds for removal. Consent of parties shall not be required for removal.

“(2) CLAIMS NOT WITHIN THE ORIGINAL OR SUPPLEMENTAL JURISDICTION.—If a civil action removed in accordance with paragraph (1) contains claims not within the original or supplemental jurisdiction of the district court, the district court shall sever all such claims and remand them to the State court from which the action was removed.

“PART 5—DEFINITIONS

“SEC. 361. DEFINITIONS.

“In this subtitle, the following definitions apply:

“(1) ACTIVE CANDIDATE.—The term ‘active candidate’ means, with respect to any round of tabulation under this subtitle, a candidate who has not been eliminated, and who is not a withdrawn candidate.

“(2) HIGHEST-RANKED ACTIVE CANDIDATE.—The term ‘highest-ranked active candidate’ means

1 the active candidate assigned to a higher ranking
 2 than any other active candidate.

3 “(3) NONPARTISAN BLANKET PRIMARY ELEC-
 4 TION.—The term ‘nonpartisan blanket primary elec-
 5 tion’ means a single, open primary election for the
 6 office of Senator or the office of Representative in
 7 Congress in which all candidates for the office are
 8 listed on the same primary election ballot, regardless
 9 of political party affiliation.

10 “(4) RANKING.—The term ‘ranking’ means the
 11 number available to be assigned by a voter to a can-
 12 didate to express the voter’s choice for that can-
 13 didate, with ‘1’ as the highest ranking and each suc-
 14 ceeding positive number as the next highest ranking.

15 “(5) WITHDRAWN CANDIDATE.—The term
 16 ‘withdrawn candidate’ means a candidate who, prior
 17 to the date of the election, files or has an authorized
 18 designee file a signed letter of withdrawal from the
 19 election, in accordance with such rules as the chief
 20 election official of the State may establish.”.

21 (b) CONFORMING AMENDMENT RELATING TO APPLI-
 22 CABILITY OF ENFORCEMENT PROVISIONS.—Section 401
 23 of the Help America Vote Act of 2002 (52 U.S.C. 21111)
 24 is amended by striking “sections 301, 302, and 303” and
 25 inserting “title III”.

1 (c) CLERICAL AMENDMENT.—The table of contents
 2 of such Act is amended by adding at the end of the item
 3 relating to title III the following:

“Subtitle C—Ranked Choice Voting

“PART 1—REQUIRING RANKED CHOICE VOTING FOR ELECTION OF
 SENATORS AND REPRESENTATIVES

“Sec. 321. Requiring ranked choice voting for election of Senators and Rep-
 resentatives.

“Sec. 322. Prohibiting additional runoff elections.

“Sec. 323. Treatment of primary elections.

“Sec. 324. Application to District of Columbia and territories.

“PART 2—TABULATION PROCESS

“Sec. 331. Tabulation process.

“Sec. 332. Special rules for nonpartisan blanket primary elections.

“Sec. 333. Treatment of ties between candidates.

“Sec. 334. Determination of votes cast for candidates of political parties for
 purposes of access to ballot in Federal elections.

“PART 3—PAYMENTS TO STATES TO IMPLEMENT RANKED CHOICE VOTING

“Sec. 341. Payments to States to implement ranked choice voting.

“PART 4—CIVIL ENFORCEMENT

“Sec. 351. Civil enforcement.

“PART 5—DEFINITIONS

“Sec. 361. Definitions.”.

4 **SEC. 3. NO EFFECT ON ELECTIONS FOR STATE AND LOCAL**
 5 **OFFICE.**

6 Nothing in this Act or in any amendment made by
 7 this Act may be construed to affect the manner in which
 8 a State carries out elections for State or local office.

9 **SEC. 4. SEVERABILITY.**

10 If any provision of this Act or any amendment made
 11 by this Act, or the application of a provision of this Act
 12 or an amendment made by this Act to any person or cir-

1 cumstance, is held to be unconstitutional, the remainder
2 of this Act, and the application of the provisions to any
3 person or circumstance, shall not be affected by the hold-
4 ing.

5 **SEC. 5. EFFECTIVE DATE.**

6 This Act and the amendments made by this Act shall
7 apply with respect to elections for Federal office held on
8 or after January 1, 2027.

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