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Testimony of Rep. David Boyer introducing

**L.D. 656, An Act to Save Tax Dollars in Maine's Elections by Amending the Laws
Governing When a Ranked-choice Voting Count Must Be Conducted**

Before the Joint Standing Committee on Veterans and Legal Affairs

March 3, 2025

Senator Hickman, Representative Supica, and esteemed colleagues of the Veterans and Legal Affairs Committee, my name is David Boyer, and I am proud to present L.D. 656, An Act to Save Tax Dollars in Maine's Elections by Amending the Laws Governing When a Ranked-Choice Voting Count Must Be Conducted.

This bill seeks to save time and resources by allowing for batch eliminations in ranked-choice voting. Batch elimination simplifies the tabulation process while preserving the benefits of ranked-choice voting. It does not affect the way voters cast their ballots or the way candidates run their campaigns; rather, it offers a more concise method of counting ballots.

I understand that prior to last year's presidential election, the legislature repealed batch eliminations in Department Bill L.D. 1980. After the 2024 election in Congressional District 2, this provision needs revisiting. Additional language has been added to this bill to allow for presidential primaries to be excluded from batch eliminations for the purposes of delegate allocation.

The other component of this bill addresses how ballots containing a skipped ranking are handled. For the purposes of determining a majority, these ballots should not be included in the total number of voters counted in that round. If a candidate wins a majority of the votes cast in a round, they should be declared the victor.

A vote should not be moved from one ranking to another in the absence of a clear choice. The voter's intent may have been to leave their first choice blank. This change would not affect vote reallocation in subsequent rounds of ranked-choice voting. Our message to voters should be: rank your top choice as number one. On the back of this testimony are the current rules regarding how the state handles different ballot scenarios.

I appreciate your consideration and would be happy to answer any questions.

Chapter 535: RULES GOVERNING THE ADMINISTRATION OF ELECTIONS DETERMINED BY RANKED-CHOICE VOTING

- A. **Handling of certain ballot rankings.** As provided in 21-A M.R.S.A §723-A, sub-§1, and these rules, the following ballot ranking situations will be counted as follows:
- (1) **Overvote.** An overvote occurs when a voter marks more than one candidate for the same ranking (i.e., in the same ranking column). An overvote invalidates the overvoted rankings and all subsequent rankings marked for that contest on the ballot.
 - (2) **Single skipped ranking.** A single skipped ranking occurs when a voter does not mark (i.e., skips or leaves blank) a ranking but marks the subsequent ranking for a candidate. The single skipped ranking is ignored, and the subsequent ranking is counted in the current round, as long as that ranking is for a continuing candidate. For example, if the voter did not mark any candidate for the first ranking, but marked a continuing candidate for the second ranking, then the second ranked choice is counted in the first round of the RCV count.
 - (3) **Two consecutive skipped rankings.** When a voter does not mark (i.e., skips or leaves blank) two or more consecutive rankings, then the ballot is deemed exhausted for that contest, and no subsequent candidate rankings marked on that ballot are counted.
 - (4) **Duplicate ranking for the same candidate.** A duplicate ranking occurs when a voter marks more than one ranking column for the same candidate. If a voter marks a duplicate ranking for one candidate and ranks no other candidates, then the ballot will be counted for the highest ranking of that candidate. If the candidate with the duplicate ranking is defeated, the ballot is deemed exhausted for that contest and no subsequent candidate rankings marked on that ballot are counted. If a voter marks a duplicate ranking for one candidate but also ranks other candidates, and if the candidate with the duplicate ranking is defeated, then the vote for the next continuing candidate ranked by that voter will be counted in the next round.
 - (5) **No ranking for a continuing candidate.** In any round, if a voter has not ranked any continuing candidate, the ballot is deemed exhausted for that contest, and no subsequent candidate rankings marked on that ballot are counted.
 - (6) **Ties.** A tie between candidates for the most votes in the final round must be decided by lot and the candidate chosen by lot is defeated. A tie between last-place candidates in any other round must be decided by lot and the candidate chosen by lot is defeated, except that tied candidates who are mathematically impossible to be elected as defined in 21-A M.R.S.A. §723-A, sub-§1, paragraph G, may be defeated by batch elimination, as defined in 21-A M.R.S.A. §723-A, sub-§1, paragraph A. The result of the tie resolution must be recorded and relied upon in the event of a recount.
 - (7) **Batch elimination.** Batch elimination means the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected, as defined in 21-A M.R.S.A. §723-A, sub-§1, paragraph G.

Committee: VLA

Date: 2/28/2025

PROPOSED AMENDMENT to LD 656

Amend the bill by striking out everything after the title and inserting the following:

Sec. 1. 21-A MRSA §723-A, sub-§1, ¶A-1 and ¶G-1 are enacted to read:

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

A.

A-1. "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 removed from consideration.

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 count.

G.

G-1. "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 count 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.

H-1. "Ranked-choice voting count" means the ranked-choice counting process described in this section and in rules adopted by the Secretary of State.

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 vote counting steps established in subsection 2 and in rules adopted by the Secretary of State.

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

Sec. 2. 21-A MRSA §723-A, sub-§2 is amended to read:

2. Procedures. Except as provided in subsections 3, 4 and 7, the following procedures are used to determine the winner of an election determined by ranked-choice voting. The ranked-choice voting count 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. If a continuing ballot contains a skipped ranking in that round, the ballot is not counted in that round in the total number of votes cast used to determine the winner of the election. 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 2 or fewer continuing candidates, the candidate with the most votes is declared the winner of the election.

B. If there are more than 2 continuing candidates, the last-place candidate is removed from consideration and a new round begins.

Sec. 3. 21-A MRSA §723-A, sub-§4, ¶C is enacted to read:

4. Modification of ranked-choice voting ballot and ranked-choice voting count. Modification of a ranked-choice voting ballot and ranked-choice voting count is permitted in accordance with the following.

A. The number of allowable rankings may be limited to no fewer than 5.

B.

C. Two or more candidates may be defeated simultaneously by batch elimination in any ranked-choice voting count round.

Sec. 4. 21-A MRSA §723-A, sub-§5-B is amended to read:

5-B. Presidential primary elections; selection of delegates. Notwithstanding any provision of this section to the contrary, for presidential primary elections, batch elimination may not be used for any candidates with more than 100 votes. tabulation must continue until only 2 continuing candidates remain, separate tabulations must be conducted statewide and for each congressional district and selection and allocation of delegates to a party's national presidential nominating convention must be in accordance with any reasonable procedures established at the state party convention, except that unenrolled voters who participate in the party's primary election must be considered members of the party for purposes of allocating delegates.

SUMMARY

This proposed amendment replaces the bill. The proposed amendment would reestablish batch elimination, which is defined as the simultaneous defeat of multiple candidates who cannot be elected because the candidate's vote total in round of the ranked-choice voting count 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 and any candidates with a lower vote total than the one described. The ranked-choice voting count is permitted to be modified to allow for batch elimination of two or more candidates in any round of tabulation, except that in presidential primary elections, batch elimination may not be used for any candidates with more than 100 votes.

The proposed amendment also amends the procedures for ranked-choice voting count to include that if a continuing ballot contains a skipped ranking in that round, the ballot is not counted in that round in the total number of votes cast used to determine the winner of the election.