



# Testimony in Support of SB 368

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**Kansas Legislature  
Senate Committee  
on Federal and State Affairs**

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Chair Thompson, Vice Chair Kloos, and honorable members of the committee, my name is Madeline Malisa, and I am a Visiting Fellow at the Opportunity Solutions Project. OSP is a non-partisan, non-profit organization dedicated to promoting policies that help more people achieve the American Dream. I appreciate the opportunity to testify in support of SB 368. Thank you to the sponsor, Senator Blasi, for making this important bill a priority.

SB 368 will prohibit ranked-choice voting for all federal, state, and local elections in Kansas. Ranked-choice voting is a complex and alternative voting system that discards ballots, delays results, and makes elections more confusing for voters. Currently, Kansas doesn't use ranked-choice voting and this bill will ensure that Kansas voters are protected from future implementation.

In 2023, a record-breaking 74 bills were filed by ranked-choice voting proponents.<sup>1</sup> But lawmakers across the country are wisely rejecting it. Since 2022, Florida, Tennessee, Idaho, Montana, and South Dakota have all banned it statewide and pre-empted local jurisdictions from adopting it.<sup>2</sup> Last week, the Georgia Senate advanced a similar bill with bipartisan support, and Louisiana, Missouri, South Carolina, Ohio, Oklahoma, Utah, and Wisconsin have all recently introduced bills to ban it.<sup>3</sup> In 2020, Massachusetts voters overwhelmingly went to the polls to vote down a referendum to adopt ranked-choice voting in their state, and back-to-back Democratic governors in California vetoed ranked-choice voting bills, citing the complexity of the process.<sup>4-5</sup>

Maine and Alaska are the only two states to use this system and it was passed by slim margins on ballot initiatives. Today, I'd like to provide you some examples from the ranked-choice voting track record. I am speaking to you as a policy expert and lawyer, but more importantly, as a voter. I live in Portland, Maine and have been voting in ranked-choice voting elections since 2018. I can tell you unequivocally that it's been a disaster for Maine voters.

### **Ranked-choice voting requires legitimate ballots to be discarded.**

Americans win when their votes count. But in every election that uses ranked-choice voting, ballots don't count and are literally thrown out. This is the way the system is designed to work—it's a feature, not a bug.

How does this happen? Under a ranked-choice system, voters must vote for **all** the candidates in a race by ranking them on one ballot. When no candidate receives more than 50 percent of the vote in the first round of tabulation, some voters' ballots must be tossed aside to get to a manufactured majority in subsequent rounds of tabulation. So, if a voter selects only one candidate on their ballot, either as their first choice or for all choices, and that candidate is no longer in contention, their ballot is discarded.

This is not a hypothetical. In jurisdictions that have implemented ranked-choice voting, thousands of votes have been cast aside. In Maine's 2018 Second Congressional District, over 8,000 Mainers had their ballots tossed out.<sup>6</sup> That's almost five percent of the total ballots cast. Alaska has experienced similar results. In their 2022 special election to fill the seat of the late Congressman Don Young, nearly 15,000 votes were thrown out.<sup>7</sup> In New York City's 2021 Democratic mayoral primary, 140,000 ballots were discarded, which was nearly 15 percent of the total ballots cast.<sup>8</sup>

### **Delayed results and counting errors also sow mistrust.**

Ranked-choice voting also guarantees multiple rounds of ballot counting if no candidate receives a majority of the vote. Since this process mandates the central counting of ballots, it frequently delays results, sometimes for days, weeks, or even months.

In a 2022 local race in Alameda County, California, a ranked-choice voting software error was discovered two months after the election was certified.<sup>9</sup> The third-place finisher had actually won.<sup>10</sup> The 2021 New York City Democratic mayoral primary was thrown into chaos because after a week of counting and 11 rounds of tabulations, it was discovered that 135,000 test ballots had been counted by mistake.<sup>11-12</sup> In the end it took an additional 8 rounds of counting and nearly a month to declare a winner in the race.<sup>13</sup>

### **Ranked-choice voting complicates the voting process.**

Voting should be simple, with an easily understandable ballot. However, ranked-choice voting is a complex process, with lengthy and confusing requirements. If you've never seen a ranked-choice voting ballot, I urge you to review the attached example.<sup>14</sup> In that Minneapolis mayoral race, there were 40,495 possible combinations of candidates.<sup>15</sup> Consider the voters in your district, vulnerable voters like the elderly, who would be forced to vote on ballots like that.

Voters are also given an ultimatum—either vote for people you dislike and who oppose your principles, or risk having your ballot tossed aside. To those of you who hold elective office, unless you want to risk your ballot being tossed, you would have to vote for your opponent under ranked-choice voting.

### **Winners lose, and losers win.**

Winners routinely lose because of ranked-choice voting. In Maine's 2018 Second Congressional District, the incumbent received the most first-place votes, beating his opponent by almost one percent of the vote.<sup>16</sup> He would have been the winner under a traditional election. However, the challenger candidate was declared the winner.<sup>17</sup> Where I live in Portland, we had a local race in 2021 where a candidate had had a mere **four percent** of the vote after the first round of tabulation but won because of ranked-choice voting.<sup>18</sup> Think about your own most recent election, or your colleagues'—was there a fringe candidate who received somewhere in the ballpark of four percentage points? That candidate could be sitting next to you in the Legislature. I can tell you as a voter, results like this do not inspire confidence.

Every election should be fair, prompt, and inspire voter confidence. And every vote should count. Any voting system that—by design—throws out valid votes should be banned. That's un-American and undemocratic. I urge you to protect the voters in Kansas by explicitly rejecting this voting system and supporting SB 368.

## References

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- <sup>1</sup> Samuel Wonacott, "Twice as many ranked-choice voting bills introduced in state legislatures this year than in 2022," Ballotpedia News (2023), <https://news.ballotpedia.org/2023/08/08/twice-as-many-ranked-choice-voting-bills-introduced-in-state-legislatures-this-year-than-in-2022/>.
- <sup>2</sup> FL S.B. 524 (2022), TN S.B. 1820 (2022), ID HB 178 (2023), SD SB 55 (2023), MT HB 598 (2023).
- <sup>3</sup> KS SB 368 (2024), LA SB 9 (2024), MO HJR 104 (2024), OH SB 137 (2023), OK SB 1991/HB 3592/HB3156 (2024), SC HB 4591 (2024), UT HB 290 (2024), WI AJR 109/SJR 94 (2024).
- <sup>4</sup> Simon Rios, "Voters Say 'No' to Ranked-Choice Voting in Mass," WBUR (2020), <https://www.wbur.org/news/2020/11/04/question-two-ranked-choice-voting-massachusetts-no>.
- <sup>5</sup> Jennifer Braceras, "Ranked-choice voting threatens to distort election outcomes," the Boston Globe (2019), <https://www.bostonglobe.com/2019/12/12/opinion/no-it-threatens-distort-election-outcomes/>.
- <sup>6</sup> State of Maine, Department of the Secretary of State, Tabulations for Elections held in 2018, <https://www.maine.gov/sos/cec/elec/results/results18.html>.
- <sup>7</sup> State of Alaska, 2022 Special General Election RCV Tabulation, August 16, 2022, Official Results, <https://www.elections.alaska.gov/results/22SSPG/RcvDetailedReport.pdf>.
- <sup>8</sup> Tarren Bragdon and Madeline Malisa, "NYC shows states why ranked-choice voting is a liberal disaster," New York Post (2023), <https://nypost.com/2023/02/16/nyc-shows-why-ranked-choice-voting-is-a-liberal-disaster/>.
- <sup>9</sup> Tarren Bragdon and Madeline Malisa, "Dear states: Don't give in to liberal election demand of ranked choice voting," The Washington Times (2023), <https://www.washingtontimes.com/news/2023/jan/31/dear-states-dont-give-in-to-liberal-election-deman/>.
- <sup>10</sup> Ibid.
- <sup>11</sup> Tom Shea, "NYC mayor race: Test ballots wreak havoc, lead to 135k vote 'discrepancy' in ranked-choice results," NBC New York (2021), <https://www.nbcnewyork.com/news/politics/more-results-expected-tuesday-in-nyc-mayoral-race/3129753/>.
- <sup>12</sup> Edmund DeMarche, "NYC mayoral primary in chaos after 135,000 pre-election test ballots counted," Fox News (2021), <https://www.foxnews.com/politics/nyc-mayoral-primary-in-chaos-after-adding-135000-pre-election-test-ballots>.
- <sup>13</sup> The City, "2021 NYC Democratic primary results," The City (2023), <https://projects.thecity.nyc/nyc-2021-primary-election-results/democratic.html>.
- <sup>14</sup> Attached hereto as Exhibit 1.
- <sup>15</sup> Curtis Gilbert, "Minneapolis mayoral candidates flip-flop on filing fees," MPR News, The Cities Blog (2013), <https://www.mprnews.org/story/2013/11/04/minneapolis-mayoral-candidates-flip-flop-on-filing-fees>.
- <sup>16</sup> Madeline Malisa, "How winners are losing in American elections," RealClear Policy (2022), <https://thefga.org/op-eds/how-winners-are-losing-in-american-elections/>.
- <sup>17</sup> Ibid.
- <sup>18</sup> Colin Ellis, "How did this happen?" (June 16, 2021), <https://portlandphoenix.me/how-did-this-happen-portland-charter-commission-election-raises-questions-about-ranked-choice-voting>.