

Testimony from:  
Josh Daniels<sup>1</sup>

**In OPPOSITION to H.B. 1273**

March 17, 2023

North Dakota Senate Committee on State and Local Government

**Considerations for administering Ranked Choice Voting elections**

Dear Chair & members of the committee,

I write in support of the use of forms of ranked choice voting (RCV) for applicable elections and oppose H.B. 1273, which would deny cities in North Dakota that opportunity. I would like to share my experience in implementing RCV in Utah and why the number of Utah cities choosing to use RCV increased from two in 2019 to 23 in 2021.

A few states are considering legislation to ban and prohibit all forms of ranked choice voting without any differentiation in how RCV can be used. I think this would be a mistake. RCV is a beneficial option for a variety of reasons and legislatures should avoid proactive prohibitions that would reduce future options.

**Utah Experience**

In 2019, I was brand new to election administration in my executive role in the Utah County Clerk's office. During that year, after a transition in elected leadership and due to staff vacancies, our election team turned over by about 50%. Additionally, we adopted an entirely new election system (migrating from high levels of in-person voting and polling place balloting using the Dominion system to a vote-by-mail system using ES&S equipment and software), which necessitated training and reworking of all our standard operating procedures. In the midst of all this change, we also agreed to be the first county in the state to administer ranked choice elections for various municipal elections. We were warned by various clerks and election officials that this was risky and that administering ranked choice elections was fraught with complexity that might confuse voters and create operational challenges.

Fortunately, these risks and challenges never materialized and our administration of these elections was as smooth as any other. Let me share some key considerations and lessons we learned after administering these elections:

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<sup>1</sup> Josh Daniels is the former Republican elected Clerk & Auditor for Utah County. Josh administered ranked choice elections for the first time in Utah on behalf of multiple cities in a pilot project for 2019 & 2021. His career has been in public policy and government relations at the local, state, and national levels. He is a former congressional staffer, political campaign director, and policy director at the conservative Libertas Institute think tank. He holds a J.D. from the University of Houston Texas Law Center and a B.A. from Brigham Young University.

### **Voters understand ranked choice ballots**

One concern we heard was that a ranked choice ballot was inherently more confusing for voters. We tested ballot use by various groups in the community, including some groups with our oldest voters. We learned that the ballot was inherently intuitive despite voters never being exposed to RCV before. We also logged all incoming phone calls from voters during the election period and categorized calls to track voter questions and concerns. What we found was that very few (less than 2%) of all phone calls with questions or concerns were related to RCV specifically.

Additionally, after the election, we surveyed voters who had voted using ranked choice to gather data about their experience. 84% of survey respondents reported that the ballot was “easy to use” and 83% reported that they wanted to continue using RCV or even expand its use to other elections. This was compelling feedback that ran counter to the criticisms and apprehension we had heard about administering RCV elections.

### **Ballot design was simple**

Another concern we heard was that the design of the ballots was more complex, leading to difficulty in administering an election. What we found was that the ballot design, while different, was not significantly more complex to design, program, or administer. We used our existing (ES&S) systems to design and program our ballots and election management system. We had mixed types of election races on a ballot (ranked choice races and plurality races) and scanned and tabulated ballots on existing equipment with no need for any type of segregation or differences in our processes.

### **Election Administration was smooth**

Some have expressed concern that administering an RCV election is more complex than traditional elections. In our experience, this was not true. Nearly every step and part of the process was identical or very similar for an RCV race. We used all our existing certified equipment and systems. The only differences were a slightly different ballot design, an increase in adjudication & ballot review to confirm undervotes (for ballots that did not rank all candidates), and two additional steps at the end related to exporting results, running the instant runoff (IRV) process, and reporting results in a visual chart.

### **2021 Expansion**

As a result of this positive experience, the number of Utah cities where the city council voted to use RCV rose from two in 2019 to 23 in 2021. The positive experience was repeated, which explains why the Sutherland Institute is among organizations supporting the use of RCV in Utah cities.

### **Recommendations**

Our use of RCV was successful and we received a lot of positive feedback from voters who used it. I would recommend states pilot the use of RCV, particularly in municipal elections and presidential primaries. One advantage is that overseas voters can be sure their vote for a particular candidate won't be lost or wasted in the event their chosen candidate drops out of a race prior to election day. Additionally, RCV helps avoid mere plurality victories in

multi-candidate races by ensuring a majority through an instant runoff. For these reasons, states should avoid prohibiting RCV prematurely.

Thank you for your consideration,

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