



## STATE OF KANSAS

March 3, 2025

### **Testimony on SB231 (Oral Proponent)**

Senate Committee on Federal and State Affairs

Submitted: Thursday, February 27, 2025

Chairman Thompson and members of the Committee:

The Secretary of State supports the overall goal and the component provisions of SB231. The bill would improve the process of soliciting applications for advance mail ballots by candidates, political organizations, and other third-party organizations.

### **Background:**

KSA 25-1122(k) was adopted in 2021 as part of HB2332 and addressed the surge of advanced mail ballot applications solicitations sent by third parties to Kansas voters during the 2020 election cycle. In 2020, many voters received multiple solicitations and, believing they came from the government, many voters completed multiple applications. Pre-populated mail ballot applications sometimes contained errors. This created substantial administrative burden for elections officials who had to process each application. The multiple solicitations also confused the voting public.

The 2021 bill required certain disclosures in the advanced mail ballot solicitation to reduce public confusion and banned the use of pre-populated applications to reduce errors in the applications. These restrictions did not apply to government entities. The pre-population provision is the subject of ongoing litigation.

In September 2024, 43,000 voters in Johnson County received pre-populated advance mail ballot applications that contained the wrong return address for the county election office.

### **Provisions of SB 231:**

SB 231 is based on the experience and recommendations of candidates and political parties to improve the provisions governing the solicitation of registered voters to submit applications for an advance mail ballot. SB 231 retains the mandatory disclosures but makes several incremental changes that reduces the burden when soliciting voters to apply for an advanced mail ballot.

- 1) SB 231 reduces the font size of the disclaimer from 14 to 10 pt.
- 2) SB 231 requires the disclaimer to be on one page in the application solicitation instead of on each page and the envelope exterior.
- 3) The name of the organization conducting the mailing must be in the disclaimer, but the name of the organization's chief officer no longer needs to be on the disclaimer.

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- 4) The solicitation mailing no longer must contain a response envelope pre-addressed to a county election office. Instead, SB 231 requires the solicitation to contain information on how to transmit the application to the appropriate county election officer.
- 5) The date of the election for which the ballot is being requested can be pre-populated on the applications since the chance for error is virtually non-existent.

### **SB 231 Does Not Affect Ongoing Litigation:**

In June 2021, after the 2021 law went into effect, the third-party groups responsible for multiple mass solicitation mailings sued to stop only the pre-population ban. In May 2023, the district court found the pre-population ban violated the first amendment and enjoined its enforcement. In November 2024, the court of appeals found the district court used the wrong analytical framework and voided the injunction and sent it back for another analysis. The district court is currently taking the briefing. The ban on the pre-population of applications, therefore, appears to be enforceable at this time. The changes proposed by SB 231 would not affect the litigation.

Respectfully,

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