



**Testimony of
J. Christian Adams**

Before the

Kansas Senate Federal & State Affairs Committee

On S.B. 394

Proponent Testimony

February 2, 2026

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Dear Chairman Thompson and members of the Federal & State Affairs Committee:

Thank you for the opportunity to submit testimony in support of S.B. 394, which addresses an issue that goes to the very heart of election administration: how Kansas verifies the identity of a voter who casts a ballot outside the presence of election officials. (My biography is at the end of this testimony).

A ballot cast by mail and a ballot cast in person are not the same thing. One enjoys the direct oversight of election officials while being cast, the watchful eye of polling place observers, and a rigorous process at the voting site. A mail ballot does not.

Instead, mail ballots are cast and delivered far away from any safeguards. They are an entirely different species of ballot, and the Kansas Legislature is correct in treating them entirely differently. In my experience closely observing elections across the nation, I found mail ballots to be the single greatest vulnerability in our system. (See e.g., *United States v. Ike Brown*, 494 F.Supp.2d 440 (S.D. Miss. 2007)).

Kansas can bring a measure of confidence to mail voting with the use of signature verification.

Signature verification is the principal safeguard that allows citizens to vote by mail while maintaining confidence – for both the voter and the public – that the ballot was not intercepted, coerced, harvested, or fraudulently submitted.

The commonsense legislation now before the Committee provides that if courts eliminate signature verification as an available tool, then the State should not be forced to operate a mail-voting system with no meaningful identity verification. That approach is not extreme. It is prudent and eminently responsible. Indeed, no election system – no matter how well intentioned – can maintain public trust if it cannot answer the basic question: “How do we know this ballot was cast by the lawful voter?”

Mail voting is already the system with the greatest vulnerability. If courts eliminate the one safeguard – signature verification – then the legislature should eliminate mail voting.

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I. Signature Verification Is Essential to Election Integrity

Kansas is not alone in using signature verification. Signature comparison has long been recognized as the most practical, reasonable, and time-tested way to confirm that a ballot is being returned by the voter who requested it. The reason is straightforward:

- Mail ballots are cast outside public view.
- Mail ballots are subject to coercion by third parties. *See U.S. v. Brown*, at 459-462.
- They are handled through a chain of custody that is necessarily less controlled than in-person voting.

Signature verification does not eliminate every conceivable risk, not by a long shot. But it is the State's most direct and meaningful way to ensure that a ballot returned through the mail is legitimate. Without signature verification, Kansas would be left with an unacceptable gap: the State would be issuing official ballots to voters, receiving them back through the mail, and counting them without any effective confirmation that the ballot was completed and returned by the same person.

While other methodologies for verifying a voter's identity (e.g., fingerprints, DNA samples, etc.) may technically be possible, no state possesses such data for all its voters and the level of privacy invasion they would necessitate would render them unfeasible and counterproductive. Plus, it would cost a fortune.

II. Public Confidence Is a State Interest Every Bit as Important as Convenience

Kansas has a compelling interest not only in preventing fraud, but also in ensuring public confidence in the integrity of elections. Public confidence is not, or at least should not be, a partisan or ideological issue. It is instead the foundation of democratic legitimacy.

Consent of the governed is the glue that binds our disparate factions. Once faith is lost in the system, the system is threatened. Consent of the governed promotes domestic tranquility.

When voters believe elections are secure and administered fairly, they accept results even if their preferred candidate loses. On the other hand, when voters lose faith in the system, the result is predictable: increased suspicion, decreased turnout and civic engagement, and heightened pressure to litigate every close contest.

Mail voting failures can quickly erode confidence because the process is not visible. It is done behind closed doors.

Signature verification is one of the few safeguards that voters intuitively understand. Most Kansans recognize it as common sense. People sign checks, contracts, and legal documents precisely because a signature remains a widely accepted marker of identity and authorization.

Eliminating signature verification while continuing to count mail ballots would send a damaging message: "Kansas is willing to count ballots even when it cannot reasonably confirm who submitted them." That is not a message this Legislature should be forced to accept.

III. The Legislature – Not Litigants or Judges – Must Determine Election Rules

This bill reflects a crucial separation-of-powers principle: election rules are set by the people's elected representatives, not by judges. Over the last two decades, election administration has increasingly been shaped not through legislation but through lawsuits filed by hyper-funded advocacy organizations whose policy preferences did not prevail in the legislative process.

I have observed these lawsuits first hand. The Public Interest Legal Foundation has helped states defend against these attacks on our system, both by intervening but also lending our legal expertise to various states.

These lawsuits often share common features: they seek emergency relief close to elections; they demand courts impose new procedures not enacted by legislatures; they attempt to convert isolated administrative issues into sweeping constitutional claims; and they frequently frame any safeguard falsely as “voter suppression,” even when the safeguard exists to ensure ballots are lawful. This constant litigation undermines stability and public confidence.

Kansas voters deserve elections governed by clear, durable rules – not rules that change based on which advocacy organization files suit, which judge is assigned, or which novel legal theory academics push.

If a court invalidates signature verification, that is a major policy shift. This bill simply says that such a shift should not automatically result in Kansas running an identity-free mail voting system by default. The legislature is free to decide under such circumstances that the diminution of public confidence in the integrity of the electoral process, not to mention the heightened risk of fraud and chaos, render the utility of mail voting much less substantial.

IV. Removing Verification Requirements Invites More Litigation and More Chaos, Not Less

Another important policy reason to support this bill is that it discourages a harmful cycle that plagued our nation for at least a decade.

1. Advocacy groups sue to weaken election safeguards.
2. Courts impose changes, sometimes quickly or inconsistently.
3. Election officials scramble to implement new rules under time pressure.
4. The public becomes confused and distrustful.
5. New lawsuits follow, either to expand the change further or to challenge inconsistent enforcement.

This is not a recipe for confidence. It is a recipe for domestic instability. And instability benefits only one group: those who prefer elections administered by legal pressure campaigns rather than democratic lawmaking. Kansas should not reward that strategy.

This bill sends an appropriate message: if signature verification is struck down, the answer is not to remove safeguards entirely. The answer is for the Legislature to discontinue mail voting unless and until an equally effective deterrent can be adopted.

This bill, then, creates incentives for everyone involved to engage in responsible policymaking rather than perpetual courtroom conflict.

V. Kansas Has a Duty to Protect Vulnerable Voters from Coercion and Exploitation

Mail voting is marketed as being about convenience. But policymakers must also consider the realities of coercion and undue influence that can occur when voting takes place outside the supervision of election officials.

In-person voting protects voters in ways that are often overlooked. For example, it reduces the risk of intimidation at the moment of voting, helps ensure privacy and independence, provides trained election workers to assist lawfully and transparently, and ensures bipartisan observation and structured procedures.

Mail voting, by contrast, can expose certain voters – especially the elderly, disabled, or those dependent on caretakers – to increased risk of pressure, interference, or “help” that crosses the line into control.

Signature verification is not the only protection against those risks, but it is one of the few tools available to election officials to detect irregularities and prevent unlawful ballots from being counted. If signature verification is removed, the system becomes easier to exploit and harder to audit.

VI. This Bill Is a Reasonable Contingency Plan, Not a Radical Change

This legislation does not eliminate mail voting today. It does not prevent eligible Kansans from voting. It does not create new burdens. It does something far more responsible: it plans for what happens if the courts remove the only effective method Kansas has to verify mail ballots.

That is not an overreaction; it is a smart contingency plan.

Kansas has every right – and indeed, a duty – to ensure that if mail voting continues, it is conducted with safeguards that preserve election integrity. If those safeguards are judicially removed, Kansas should not be forced into an unworkable and untrustworthy system.

For all these reasons, I respectfully urge the Committee to pass S.B. 394.

Respectfully,

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President and General Counsel
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Biography:

J. Christian Adams is the President and General Counsel of the **Public Interest Legal Foundation**. He served from 2005 to 2010 United States Department of Justice Voting Section. President Trump appointed Adams as a Commissioner to the United States Commission on Civil Rights where he now serves with a term through 2031. Adams was previously appointed by the President to the Presidential Advisory Commission on Election Integrity in 2017. He has been involved in election law lawsuits in 36 states and the territory of Guam. He has represented multiple presidential campaigns in election litigation. He has a law degree from the University of South Carolina School of Law. He is a member of the South Carolina and Virginia Bars.