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**Senate Committee on Government Efficiency
Proponent Testimony on Senate Bill 428
Kris W. Kobach, Kansas Attorney General
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Chairwoman Erickson and Members of the Committee:

Every month, the Supplemental Nutrition Assistance Program, known as SNAP, helps thousands of Kansans buy food for their families. It's one of the state's most important forms of direct assistance and its monthly benefits are an essential way for many of Kansas' neediest families to get food on the table.

SNAP is administered by the Kansas Department of Children and Families (DCF), but it is largely federally-funded. To maintain that funding, DCF must comply with the SNAP program requirements. That means complying with federal law and regulations, and cooperating with the U.S. Department of Agriculture, which oversees SNAP at the federal level.

Because SNAP is such an important state benefit program, the Legislature made program compliance mandatory for the Secretary of DCF: she is required by law to keep Kansas compliant¹ and to cooperate² with USDA. And when DCF participates in a federally-funded assistance program such as SNAP, the secretary "*shall* make any reports required by federal agencies." K.S.A. § 39-708c(f) (emphasis added).³

¹ See K.S.A. § 39-708c(h) (requiring the Secretary "to do and perform all things and acts that may be required by the federal laws or rules and regulations not inconsistent with the [SNAP] act."). Further, the secretary is authorized to "assist other departments, agencies and institutions of the state and federal government." K.S.A. § 39-708c(i).

² See K.S.A. § 39-708c(a) (requiring that the Secretary of DCF "*shall undertake to cooperate* with the federal government on any... federal program providing federal financial assistance and services in the field of social welfare. (emphasis added).

³ Kansas law explicitly authorizes data sharing. It allows "information concerning applicants for and recipients of assistance" to be disclosed to an "outside source" when the disclosure is "directly connected to the administration of the secretary's program"

In addition to cooperating with USDA and making all required reports, compliance with program requirements primarily means ensuring that eligible individuals and families get the benefits they deserve, and ensuring that ineligible people don't receive benefits. Household eligibility is limited, with some exceptions, to those with a net income below the federal poverty line. 7 U.S.C. § 2014(c). Individuals, with some exceptions, must meet certain work requirements. *Id.* at § 2015(d). And no individual is eligible unless he or she is a United States citizen or lawfully-admitted permanent resident alien ("green card" holder). *Id.* at § 2015(f).

Unfortunately, the state SNAP programs are rife with fraud, waste, abuse. USDA records the error rate for each state's SNAP program—the percentage of SNAP benefits that are distributed in error, the vast majority of which are paid to people who are not actually eligible for benefits. In 2023 and 2024, states had an average error rate of about 11%.⁴

Kansas is no exception. The state's error rate has risen sharply under Governor Kelly. Starting at 4.8% in 2018, the year before she took office, it rose to about 6.5% in 2019, and continued rising each year to a high of 11.3% in 2023, down slightly to 10% in 2024.⁵

This is entirely unacceptable. And starting this year, thanks to the One Big Beautiful Bill Act, states will face serious consequences for continuing to tolerate fraud, waste, and abuse in their SNAP programs. Going forward, federal reimbursements for state SNAP benefits will be reduced as a state's error rate increases. Only a state with an error rate of less than six percent will receive 100% federal reimbursement. 7 U.S.C. § 2025(a)(2)(b)(i). As the error rate increases, reimbursement rates decrease to as low as 85% for states with error rates greater than 10%. *See, generally, id.* Since Kansas gets about \$400 million annually in federal SNAP benefits, tens of millions of dollars are on the line if DCF fails to reduce the state's error rate.

or when it is "directly connected to an investigation... in connection with the administration of the secretary's program." K.S.A. § 39-709b(a)(3)(B) & (C).

⁴ Data for years 2003-2024 (excluding 2020 and 2021) available at [FNS.USDA.gov/snap/qc/per](https://www.fns.usda.gov/snap/qc/per).

⁵ 2025 Error rates are expected in June, 2026.

Kansas is not alone here. Many other states have high error rates. The federal government has therefore taken action to reduce fraud, waste and abuse in this state-administered, federally-funded benefit program. Last year, on May 6, 2025, USDA sent every state a letter demanding—as a condition of remaining compliant with SNAP program requirements—all recipient, benefit, and transaction data maintained by the state as part of their administration of SNAP. USDA planned to cross-check state data with other federal databases⁶ to find ineligible and fraudulent beneficiaries who have no right to receive SNAP benefits under the law.⁷ And to further reduce waste, fraud, and abuse, USDA planned to share the state data it received with other federal agencies that oversee state-administered benefit programs, including federal law enforcement agencies.

State submission of recipient data to USDA was not optional. It was a requirement for continuing eligibility to receive federal funds. States that failed to comply would lose funds: USDA promised to withhold from each noncompliant state’s federal SNAP reimbursements an amount equivalent to the state error rate applied to total reimbursements. In Kansas, which, in 2025, was due to receive more than \$400 million in federal reimbursements, that meant Kansas’s noncompliance with USDA’s data request would cost the state more than \$40 million a year (or \$10.4 million per quarterly reimbursement).

Faced with a choice between giving up \$10.4 million in federal funding every three months or sending SNAP data to USDA, Governor Kelly and DCF made a shocking choice: they chose not to comply. While the Governor initially tried out a variety of excuses to justify her failure to comply with USDA’s request, the real reason was that she did not want to Kansas’s SNAP data listing Kansas SNAP recipients to be shared with federal law enforcement.⁸

⁶ See Executive Order 14243, “Stopping Waste, Fraud, and Abuse by Eliminating Information Silos.” 90 Fed. Reg. 13681, March 20, 2025. EO 14243 requested federal agency heads to take all necessary steps, to the maximum extent consistent with law, to ensure the Federal Government has unfettered access to comprehensive data from all State programs that receive Federal funding, including, as appropriate, data generated by those programs but maintained in third-party databases. *Id.*, sec. 3(c).

⁷ Specifically, USDA intended “to ensure the integrity of Government programs, including by verifying SNAP recipient eligibility against federally maintained databases, identifying and eliminating duplicate enrollments, and performing additional eligibility and program integrity checks specified herein.” 90 Fed. Reg. 26,521 (June 23, 2025).

⁸ See Respondents’ Notice of an Update, Sep. 22, 2025, SN-2025-CV-000695, Index #19. Governor Kelly and Secretary Howard informed Judge Watson that “Respondents [Kelly and Howard] represented they would be willing to work with USDA on data production, provided USDA agreed not to use the data for routine use 8, which permits USDA to disclose PII to another agency or government entity in the United States for purposes of civil or criminal law enforcement activity.” USDA’s Statement of

As a result of Governor Kelly’s refusal to share SNAP data with USDA, Kansas became noncompliant on September 19, 2025. Consequently, USDA formally moved to withhold \$10.4 million in federal funds. Governor Kelly appealed that decision, which will be reviewed by a USDA appeals board in February, with a decision expected in March. I fully expect that Kansas will lose that appeal, and, at that point, the \$10.4 million will be lost for good. And this will keep happening every three months until Kansas returns to compliance by submitting the requested data. By the time Governor Kelly’s term of office ends in 2027, her continued noncompliance could cost the state more than \$50 million—all so that the Governor can protect ineligible SNAP recipients from federal law enforcement.

I attempted to stop this from happening. In August, I filed a mandamus petition in state court to obtain a court order forcing Governor Kelly to submit the SNAP data and avoid wasting \$10.4 million. I pointed out that Kansas law already required her to provide any reports sought by USDA. I think the law was clear enough to force the Governor to comply, but the Court said I couldn’t sue until *after* the money was lost—which, obviously, would be too late—and said that the state laws which require DCF to submit *all* reports, to cooperate with USDA, and to remain compliant with the SNAP program requirements, were not worded in a specific-enough way to mandate compliance. The court’s holding rendered those provisions of Kansas law essentially meaningless.

That’s why we need SB 428. The bill makes it explicit that the Secretary of DCF *must* comply with written requests for records from federal agencies that oversee state benefit programs. With this simple change, there will be no question what DCF is required to do—which is to do what the Legislature always intended—to keep Kansas compliant with these federally-funded benefit programs so the neediest families in Kansas don’t lose their benefits.

Records Notice, 90 Fed. Reg. 26,521 (June 23, 2025), listed the ways in which state SNAP data would be used, including routine use 8:

“When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, USDA/ FNS may disclose the record to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity.”

By complying with the USDA demand for SNAP data, Kansas will avoid losing any more federal funds through deliberate noncompliance. And we will be able to take advantage of federal assistance to cut down on the SNAP program's waste, fraud and abuse, and reduce the state's error rate. This will save the state even more money in the long term; and it will restore public faith in these programs by letting people know that their tax dollars are not going to criminals, illegal aliens, and fraudulent applicants, but to those Kansans who need help the most.