

Date: February 14, 2023  
To: Chairman Thompson & the Senate Committee on Federal and State Affairs  
From: City of Overland Park  
Re: Written Testimony in Opposition to SB 210

Thank you for allowing the City of Overland Park to submit testimony in opposition to SB 210. The City of Overland Park opposes this bill because it would allow individual candidates to convert nonpartisan elections into partisan elections. This would limit high-quality candidates from running for our City Council, increase divisiveness in local elections, and interfere with local control.

The federal Hatch Act and DoD Directive 1344.10 prohibit federal employees and active duty military from participating in partisan elections. An election is partisan unless, “**none** of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected.” 5 U.S.C.S. § 1503.<sup>1</sup> If SB 210 is adopted, then any candidate running against another candidate who is a federal employee or active duty military could eliminate their opposition by simply listing their political party on the ballot. The candidate who is a federal employee or active duty military would then have to choose between dropping out of the race or losing their job and violating federal law. Our City Council currently includes two federal employees, and we think potentially forcing them and future candidates to have to make this choice is extremely bad public policy.

Additionally, most Kansans do not want to see party politics inserted into our local governments. Kansas municipalities reflect their residents’ will, and creating additional divisions amongst governing bodies will not serve the interest of our communities.

SB 210 also says, “Any ordinance... adopted by a city... on or before July 1, 2023, that is in direct conflict with the provisions of this subsection shall be null and void.” The City’s charter ordinance establishing nonpartisan elections also includes the rules for our form of government, voting rules, etc. Therefore, SB 210 arguably would invalidate the entirety of this ordinance, potentially causing severe disruption for the City and repealing our constituent’s desired form of government.

Finally, our Governing Body and residents are fully authorized to handle local issues, and Overland Park voters have decided that their City Council elections should be nonpartisan. If the Governing Body and the residents they represent desire the framework contemplated by SB 210 and are willing to assume the consequences of that framework, they should be able to make that decision.

Thank you for allowing the City to testify on this legislation. We respectfully request that the Committee not advance SB 210 to the full Senate.

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<sup>1</sup> See *Brandon v. Southwest Mississippi Senior Services, Inc.*, 834 F.2d 536 (5th Cir. 1987)(“Unfortunately for Mrs. Brandon, § 1503 plainly allows participation in an election only if *none* of the candidates could be considered partisan... While Mrs. Brandon may have been a nonpartisan candidate herself, she did participate in a partisan election as defined by 5 C.F.R. § 151.101(f)-(h).”).