SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
OPPOSITION TESTIMONY – SB 209
February 14, 2023
WRITTEN TESTIMONY ONLY

Honorable Chairman Johnson and Committee:

Please accept my testimony in opposition to SB 209. This bill changes the deadline for receiving an advance ballot by mail from the last delivery of mail on the third day following an election to 7:00 p.m. on the date of the election. If passed, this bill would likely disenfranchise thousands of voters across the state of Kansas.

The deadline was changed in 2017 with the passage of HB 2158, sponsored by Rep. Vic Miller. The Kansas Legislature correctly changed the acceptable delivery date to three days following the election in recognition of several factors. First, most voters had already believed prior to HB 2158 that if they just got their ballot in the mail by election day it would be counted. They would have been surprised and disappointed to know that was not the case. Prior to HB 2158, thousands of Kansas voters' ballots were thrown out because of this misunderstanding and the voters didn't even know it.

Second, there was no reason not to allow voters' ballots to be counted if they were mailed by election day. It was a reasonable expectation on the voters' part and was easily accommodated. Three days following the election was a reasonable amount of time for receipt.

Third, the US Postal Service (USPS) had made adjustments to the delivery system such that delivery times were extended in Kansas. What used to make it to the election office in one day was taking routinely longer with the closure of sorting facilities, etc. Mail from Topeka now goes to Kansas City for sorting. Some Kansas mail goes to Nebraska and back. And things have only gotten worse since then. Who could forget the admonitions across the state advising voters not to use the US mail, but to deliver their ballots in person in November 2020? But personal delivery is not an option for many. To make matters worse, in 2021 the Kansas Legislature voted to suppress the opportunity for neighbors to help neighbors get their ballots to the election office by making that a crime in many cases. With the 2021 voter suppression law, more voters are now forced to trust the USPS to deliver their ballots. Changing the receive date back to 7 pm on election day puts voters into even more of a "postal roulette" challenge. They have no idea how many days ahead they need to mail a ballot to get it to the election office by election day.

I would also like to bring to your attention data I received from the Shawnee County election office regarding mail in ballots. The chart the office provided (see attached) shows that 217 ballots were received in the US mail in the three days following the 2020 election. 217 citizens

whose votes would be denied by this bill. But there would likely be more than that in a more "ordinary" situation. In 2020 the pressure was on to deliver your ballots to a drop box instead of using the unreliable US mail. In Shawnee County, mobile drop boxes were set up outside of the election office. You can see by the chart that 3235 ballots were dropped off at the election office. But another 8690 were dropped off at the mobile locations. If the drop boxes had not been available, even more ballots would have been received after election day. You can extrapolate these numbers across the state and the result of SB 209 is massive voter disenfranchisement. The same situation happened in 2022, when 291 ballots were received in the Shawnee County election office between election day and the final legal receipt date.

And let's not be coy, here. We all know what this is really about. It is not about voting security, voter fraud, or any other part of the "Big Lie". This is about pure partisan politics. In November 2022, Kansas Democrats cast 64,592 ballots by mail and Republicans 51,483, even though there are nearly twice as many registered Republicans than Democrats in the state. This is all about further suppressing the vote of the minority party.

The three-day delivery time was a good idea in 2017 and an even better idea in 2023. In fact, you might consider extending the time beyond three days, not shortening it, until the USPS delivery problems are resolved. FYI, HB 2158 passed 123 yeas to 1 nay in the House, and 40 yeas to 0 nays in the Senate. I have attached a copy of the voting record so you can see which senators and representatives supported HB 2158 before voter suppression became the norm in Kansas. I hope this 2023 Legislature has that same common-sense, bipartisan, and courageous approach to fair elections by defeating SB 209. Otherwise, we are looking at blatant voter suppression once again.

Submitted by:

Ann E. Mah
annmah@att.net
Former State Representative, District 53
Former Ranking Minority member House Elections Committee

2020 GENERAL ELECTION
ADVANCE TRAFFIC LOG

Days to Election	Date	Ballots Received USPS	Ballots Received Red Bag In Office	Ballots Received Election Office Trailer	Ballots Received Roving Trailer	Mail Ballot Total	Early Voter Foot Traffic
19	10/15/20	0	3	0	0	3	0
18	10/16/20	0	169	0	0	169	0
17	10/17/20	0	0	0	0	0	0
16	10/18/20	0	0	0	0	0	0
15	10/19/20	1263	702	1911	38	3914	1892
14	10/20/20	819	422	1155	216	2612	1821
13	10/21/20	3143	272	814	71	4300	1816
12	10/22/20	1096	339	454	180	2069	1652
11	10/23/20	1330	284	487	410	2511	1748
10	10/24/20	705	0	0	0	705	0
9	10/25/20	0	0	0	0	0	0
8	10/26/20	498	243	384	22	1147	1480
7	10/27/20	620	202	368	101	1291	1722
6	10/28/20	644	206	403	38	1291	1867
5	10/29/20	456	148	278	81	963	1809
4	10/30/20	282	157	345	180	964	2166
3	10/31/20	345	0	0	0	345	0
2	11/01/20	0	0	0	0	0	0
1	11/02/20	175	46	574	0	795	958
0	11/03/20	109	42	180	0	331	0
-1	11/04/20	195	0	0	0	195	0
-2	11/05/20	15	0	0	0	15	0
-3	11/06/20	7	0	0	0	7	0
Totals		11702	3235	7353	1337	23627	18931

HB 2158

AN ACT concerning elections; dealing with advance voting procedures; polling places; amending K.S.A. 25-1132, 25-1133, 25-1134, 25-1136 and 25-2701 and K.S.A. 2016 Supp. 25-1122 and 25-3107 and repealing the existing sections.

(printable version)

Senate - Final Action - Passed as amended; - 03/30/2017

On roll call the vote was:

Yea - (40):

Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, LaTurner, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn,

Nay - (0):

Present and Passing - (0):

Absent and Not Voting - (0):

Not Voting - (0):

HB 2158
AN ACT concerning elections; dealing with advance voting procedures; polling places; amending
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and 25-2701 and K.S.A. 2016 Supp. 25-1122 and 25-3107 and repealing the existing sections.

House - Conference Committee Report was adopted; - 04/06/2017
On roll call the vote was:
Yea - (123):
Alcala, Alford, Arnberger, Aurand, Awerkamp, Baker, Ballard, Barker, Becker, Bishop, Blex, Brim, Burroughs, Campbell, Carlin, Carpenter, Claeys,
Clark, Clayton, Concannon, Corbet, Cox, Crum, Curtis, Davis, DeGraaf, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch,
Finney, Francis, Frownfelter, Gallagher, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge,
Hoffman, Holscher, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether,
Lakin, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, Patton, Phelps,
Phillips, Powell, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, A. Smith, E.
Smith, Stogsdill, Sutton, Swanson, Tarwater, Terrell, Thimesch, Thompson, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Wheeler,
Whipple, Whitmer, Williams, Wilson, Winn, Wolfe Moore,

Nay - (1):
Carmichael,
Present but not Voting - (0):
Absent and Not Voting - (1):
Pittman,
Not Voting - (0):