

Senate Testimony in Support of KS HCR5004 Citizen Only Voting Amendment

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There is a movement across the country to allow non-citizens to vote in municipal and school board elections. There are municipalities in Vermont, Maryland, California allowing non-citizen voting. Recently Washington DC voted to allow anyone that had been in the city for over 30 days the ability to vote in their elections. Yes that means that members of foreign embassies are able to vote in Washington DC elections.

Notice I didn't include New York City in that list. While the New York City council voted to allow non-citizens the right to vote in municipal elections it was immediately challenged and thus far has been deemed unconstitutional in at least 2 courts and is currently being challenged in the highest court in New York state. An interesting side note that when the New York City council was voting on allowing non-citizen voting we did a poll asking the residents of New York City how they felt. Overwhelmingly, across demographics, they said they did not want non-citizens to vote in New York City elections.

The Kansas Constitution states that "Qualifications of electors. Every citizen of the United States who has attained the age of eighteen years and who resides in the voting area in which he or she seeks to vote shall be deemed a qualified elector". That on the surface would make you think that it limits voting to only citizens. Except it doesn't. The Kansas Constitution protects the rights of every citizen of the United States who has attained the age of eighteen years and who resides in the voting area. It does not prohibit a municipality from allowing a non-citizen to vote legally. It is granting the right to vote to citizens of the United States but not reserving the right to vote to only citizens of the United States.

As a reference Maryland's constitution, which has 21 municipalities that allow non-citizen voting, states " **Every citizen of the United States**, of the age of 18 years or upwards ". Vermont's constitution, which also has 3 municipalities that allow non-citizen voting, states " **Every person** who will attain the full age of eighteen years by the date of the general election who is a **citizen of the United States**". The language of both constitutions is strikingly similar to the Kansas constitution. Clearly that language alone has not prevented municipalities from allowing non-citizens to vote in those states.

The courts have also ruled on this question. The law in San Francisco, which allows non-citizen parents to vote in school board elections, was challenged in *James V. Lacy, et al., v.*

City and County of San Francisco, et al., . The appellate court ruled “First, neither the plain language of the Constitution nor its history prohibits legislation expanding the electorate to noncitizens”. As a point of reference the California constitution states that “**A United States citizen 18 years of age and resident in this State may vote.**”

One could argue that Kansas State Statute reserves the right to vote to only US citizens. Kansas Statute states:

Article 23 – Registration of Voters

25-2301. Proof of right of suffrage. Citizens who are entitled to the right of suffrage shall be ascertained as provided in this act, except as is otherwise provided in K.S.A. 25-1215 et seq. and 25-1801 et seq. The provisions of this act are of statewide importance and concern.

25-1215. Federal services absentee voting; who may vote. Every person in federal services who is eligible to register for and is qualified to vote at any general election under the laws of this state and who is absent from his place of residence in this state shall be entitled, as provided in this act, to vote by federal services absentee ballot at any election held in such person's election district or precinct, notwithstanding any provision of law relating to the registration of qualified voters.

25-1801. Eligibility to vote for presidential and vice-presidential electors; definitions. (a) Each citizen of the United States, who, at the time of any general election at which presidential electors or candidates for the offices of president or vice-president of the United States are to be voted for, is a "new resident," "former resident" or a "relocated resident" of this state, as hereinafter defined, shall be entitled to vote for presidential and vice-presidential electors at that election, but for no other officers, if (1) such person otherwise possesses the substantive qualifications to vote in this state, except the requirement of residence, and (2) such person complies with the provisions of this act.

(b) (1) "New resident" means one who, immediately prior to such person's removal to this state, was a resident of another state and who shall have resided in this state for less than 45 days next preceding such general election.

(2) "Former resident" means one who has removed such person's place of residence from this state less than 45 days next preceding such general election but who was a registered voter at the time of removal.

(3) "Relocated resident" means one who has relocated such person's place of residence from one precinct in this state to another precinct in this state 20 days or less next preceding such general election but who was a registered voter in such person's former precinct of residence.

25-2309. Application for registration; registration agencies; limitations on public inspection of registrations; registration citizenship requirements; election board citizenship hearings; unsatisfactory evidence of citizenship; sworn affidavits; rules and regulations. (a) Any person may apply in person, by mail, through a voter registration agency, or by other delivery to a county election officer to be registered. Such application shall be made on: (1) A form approved by the secretary of state, and such form shall be provided by a county election officer or chief state election official upon request in person, by telephone or in writing; or (2) the national mail voter registration form issued pursuant to federal law.

(l) The county election officer or secretary of state's office shall accept any completed application for registration, but an applicant shall not be registered until the applicant has provided satisfactory evidence of United States citizenship. Evidence of United States citizenship as required in this section will be satisfied by presenting one of the documents listed in subsection (l)(1) through (l)(13) in person at the time of filing the application for registration or

by including a photocopy of one of the following documents with a mailed registration application. After a person has submitted satisfactory evidence of citizenship, the county election officer shall indicate this information in the person's permanent voter file. Evidence of United States citizenship shall be satisfied by providing one of the following, or a legible photocopy of one of the following documents:

The state statute only addresses citizenship as part of the application for registration or regarding a federal election. This does not prohibit a municipality from maintaining their own voter roll that contains non-citizens. The courts have also ruled that the Kansas law mandating documentary proof of registration to vote is illegal and not in effect.

Kansas municipalities have broad home rule authority.

Article 12 Section 5 (b) Cities are hereby empowered to determine their local affairs and government including the levying of taxes, excises, fees, charges and other exactions except when and as the levying of any tax, excise, fee, charge or other exaction is limited or prohibited by enactment of the legislature applicable uniformly to all cities of the same class

That isn't going to prohibit a municipality from allowing non-citizens to vote in school board and municipal elections.

Proponents of non-citizen voting in school board elections will argue that the parents should be able to influence their children's education. One of my dearest friends is from England. She is not a US Citizen. She is so involved in her children's education that every teacher and principal her children have know her by name. She attends school board meetings to find out what is going on and is even on a curriculum committee. She has a greater impact on her children's education than I do and I can vote for the school board and she can't.

People will argue that non-citizens pay taxes to the municipality and should have a voice in how their money is spent. Any person that visits this great state pays taxes while in it. While they are in the state they have a vested interest in what is happening. If someone wants to be able to vote on an issue then become a citizen. If you can't become a citizen because you are part of the DACA program then let's fix that problem instead of extending the right to vote to people who have not been willing to make a commitment to this country. There are very few churches or civic organizations that would let someone who is not a member vote on the budget. That is because they want people who have a vested interest in the future of their organization. Why would our country be any different?

This bill is also not about whether or not President Trump won the 2020 election. In 2018 North Dakota amended their constitution to state only citizens could vote. In 2020 Alabama, Colorado and Florida followed. In 2022 Louisiana and Ohio joined the ranks. In

2024 Iowa, Idaho, Kentucky, Missouri, North Carolina, Oklahoma, South Carolina and Wisconsin all overwhelmingly passed amendments to clarify that Only US Citizens can vote in US elections in their states. In each state ultimately it was a vote of the people. There was also no violence leading up to the elections on this issue nor has there been any violence associated with voting since this issue passed overwhelmingly in each of these states.

This is about giving the people of Kansas the opportunity to clarify that only US citizens can vote in Kansas elections. I ask that you vote to approve HCR 5004 to let the people of Kansas vote on whether they want the Kansas Constitution to state that No person shall be deemed a qualified elector unless such person is a citizen of the United States.