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STATE OF KANSAS

Testimony: HB2183 (NEUTRAL)

House Elections Committee
Tuesday, February 2, 2021

Chairman Carpenter and members of the Committee:

HB2183 would clarify, delineate, and establish limits on the power of the executive, legislative, and judicial branches to alter Kansas laws governing elections. The bill makes three operative changes to existing state law:

1. Eliminates the discretionary and unlimited authority of the Secretary of State under K.S.A. 25-622 to impose alternative methods for distributing ballots if circumstances make it impossible for voters to otherwise obtain ballots;
2. Requires the Secretary to get approval from the Legislative Coordinating Council before entering into a consent decree with a state or federal court, altering election laws; and
3. Provides that neither the Governor, acting under K.S.A. 48-925(c)(1), nor the judicial branch have the power to alter state election laws. This does not limit judicial power to interpret laws and impose injunctions.

Unless there are extenuating circumstances, the policy of our office is that we remain neutral on legislation introduced by third parties. Instead, we prefer to work with you, the policy makers, to answer questions and provide background information on how policies under consideration could impact our office and/or Kansas elections.

The Federal Voting Assistance Program (FVAP) was established by the United States Department of Defense (DoD) to oversee the provisions of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The DoD strongly recommends each state have a designated point of contact with authority to address emergency situations involving overseas and deployed military ballots. The Secretary, pursuant to K.S.A. 25-1223(a) is the designated office responsible for providing information regarding voter registration procedures and absentee ballot procedures for absent uniformed services and overseas voters, a requirement of 52 USC § 20302(b).

In its current form, HB2183 would strike the Secretary of State as the designated point of contact. To remedy this serious issue, we respectfully ask for consideration of the amendment below:

Amending Chapter 25, Article 12: *In the event of circumstances that disrupt the normal distribution or receipt of ballots governed by the Uniformed and Overseas Citizens Absentee Voting Act 52 U.S.C. §§ 20301–20311, as amended, the chief state election official, as defined in K.S.A. 25-2504, and amendments thereto,*

- (a) Shall, in the event of a disruption, serve as the point of contact with the appropriate federal agencies to ensure timely distribution and receipt of these ballots, and*
- (b) May issue directives to county election officers implementing temporary alternative methods to those already established by law, to distribute and receive these ballots.*

(more)

Without this amendment, the State of Kansas could run afoul of federal UOCAVA laws and be subject to intervention by the Department of Defense and Department of Justice. Although we believe this legislation is well intended to clarify emergency powers of the executive and judicial branches, it creates a serious void as to who is responsible for ensuring overseas and military voters get their ballots in emergency situations. We implore you to adopt this amendment to retain the Secretary of State as the designated point of contact with authority to address emergency situations involving overseas and deployed military ballots.

Thank you for your consideration of this testimony.

Respectfully submitted,

Katie Koupal
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Communications & Policy