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STATE OF KANSAS

Testimony on SB394 (Oral Neutral)

Senate Committee on Federal and State Affairs
Tuesday, February 15, 2022

Chairman Olson and members of the Committee:

Thank you for the opportunity to provide testimony on SB394. Our office is neutral on this legislation but wishes to provide comments on this proposal.

In 2017, the Kansas Legislature acted in response to an advisory from the United States Postal Service (USPS) that U.S. Mail would no longer strive to deliver first class mail within three business days, and instead lengthened the timeline to within five business days. At that time, the legislature received testimony of delivery times exceeding five days, resulting in advance by mail ballots, which were otherwise proper, being rejected for missing the statutory deadline. In response, the legislature passed two statutory changes:

1. K.S.A. 25-1122(f) was amended to change the last day to request an advance by mail ballot from the Friday before the election to the Tuesday before the election. This change was intended to encourage voters to request their advance by mail ballot earlier in the process.
2. K.S.A. 25-1132(b) was amended to allow advance by mail ballots postmarked on or before election day to be accepted if they arrive in the "last delivery of the mail by the United States postal service" on the Friday after the election – often Friday morning.

SB394 repeals the 2017 amendment to K.S.A. 25-1132(f) and sets a new standard that advance by mail ballots transmitted by the USPS must arrive to the county election office on, or before, 7:00 p.m. on election day to be counted.

SB394 would reduce the administrative burden on county election offices to receive and count advance by mail ballots received after election day and would see unofficial election night results closer to the official results determined by the county board of canvassers.

However, as the timeliness of USPS delivery is of perpetual concern, significant changes to this policy may result in voter confusion and result in ballots, which are otherwise valid, being discarded. In the 2020 general election, about 2 percent of all votes cast were via advance by mail ballots postmarked on or before election day but received in the local election office between the Wednesday and Friday after election day.

Thank you for your consideration. We appreciate the opportunity to provide comments on this issue.

Respectfully submitted,

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