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STATE OF KANSAS

Testimony on SB221 (Oral Proponent)

Senate Committee on Federal and State Affairs
Thursday, February 16, 2023

Chairman Thompson and members of the Committee:

Thank you for the opportunity to provide comments on Senate Bill 221. This legislation mirrors provisions in HB2086 – a bill introduced by our office and unanimously passed out of the House Elections Committee.

SB221 seeks to reduce the workload on county election staff by expanding the offices that require an affidavit of write-in candidacy before write-in votes will be recorded to include state legislative office, state board of education, judicial office, district attorneys, county offices, and city of the first-class offices. These provisions would not affect elections for second and third-class cities, school boards, townships, precinct committee, and other special districts.

Under current state law, county election officials are required to count and record every write-in vote for nearly all candidates. This time-consuming process does not affect the outcome of the election for larger districts but places a burden on county election officials and their staff. The offices of the President of the United States, Governor, U.S. Senator, Secretary of State, Attorney General, State Treasurer, and Insurance Commissioner currently require an affidavit of write-in candidacy, and a small fee before write-in votes will be counted for that candidate. The Secretary of State must send a list of certified write-in candidate names to every county, which must then search through all write-in votes to record those cast for those who filed an affidavit.

HB2086 adds the office of U.S. Representative to the offices requiring an affidavit – which SB221 does not address – and moves the filing deadline from the second to the fourth Monday before the election. HB2086 also requires the person filing the affidavit to pay the full filing fee for the office.

Further, Section 2 of SB221 amends K.S.A. 25-2116 to create an exemption by adding the ability to enter write-in votes on a primary ballot for a first-class city office. Our office is unclear on the intent of this amendment, as this would become the only primary ballot which allows write-in votes if a filed candidate is also listed on the ballot.

Lastly, the effect of Section 3 in SB221 is unclear. Current statute states that failing to check the box for a write-in candidate does not invalidate the write-in vote, but Section 3 removes this provision. Our office requests clarification on this requirement – specifically if the failure to check the box will now invalidate those write-in votes.

Thank you for the opportunity to provide comments to the Committee. Should the Committee choose to move forward with SB221, we respectfully request the provisions be added to HB2086.

Respectfully submitted,

Clay Barker
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General Counsel