

SCOTT SCHWAB
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564
sos.ks.gov

STATE OF KANSAS

January 23, 2024

Testimony on SB366 (Oral Neutral)

Senate Committee on Federal and State Affairs
Wednesday, January 24, 2024

Chairman Thompson and members of the Committee:

Thank you for the opportunity to provide comments on Senate Bill 366. Our office is neutral on this legislation but wish to provide comment.

Whether county election offices should be prohibited from sending unsolicited mail ballot applications to voters is a policy decision best left to the legislature. We do, however, encourage the committee listen to the concerns of the county election officers as they are the only public officials tasked with the responsibility to conduct the elections in Kansas and can identify unintended consequences. Moreover, counties in Kansas routinely mail ballot applications to all voters as part of their standard procedures.

Our interpretation of the bill is that (1) it would not prohibit a county from sending an election information notice that includes a website or other method for a voter to request a mail ballot application; (2) it would not affect current permanent advance voter procedures; and (3) it would not affect UOCAVA (military or overseas citizen) procedures.

SB 366 aligns with the direction that Secretary Schwab has given the four election commissioners for the 2024 elections, to not send out mail ballot applications unless requested by the voter.

Regarding concerns with individual privacy that a pre-populated application could be delivered to someone other than the voter. Information on the form such as name, address, political party, and date of birth is public record and available at no or little cost to anyone. Currently, pre-printed applications should never list the Kansas Driver's License number or last four social security number.

Regarding concerns about the legality of sending pre-populated advance mail ballot applications, although the prohibition on sending pre-populated applications is under court injunction and on appeal, the law specifically exempted county election officers from the prohibition. KSA 25-1122(k)(4)(A).

The prohibition would remove a cost reduction option used by counties to reduce the number of voters that would otherwise vote on election day. The 2024 general election is currently predicted to have record turnout and counties will seek the most cost-efficient means to reduce polling place wait times.

Sincerely,

Clayton L. Barker
Deputy Secretary of State, General Counsel
Office of the Kansas Secretary of State
clay.barker2@ks.gov