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Written Testimony in Opposition to SB 394
House Committee on Elections

Chair Proctor, Ranking Member Haskins, and Members of the House Committee on Elections,

Thank you for the opportunity to provide testimony on behalf of Kansas Appleseed in opposition to SB 394. This bill attempts to undermine the ongoing case of *League of Women Voters, et al. of Kansas v. Schwab, et al.* by threatening to eliminate all mail-in voting in Kansas if the state loses in court. Rather than improving Kansas election law to ensure fairness and consistency for voters, SB 394 creates a drastic and unnecessary contingency that would strip thousands of Kansans of a safe and widely used method of voting.

The litigation that prompted this proposal challenges a flawed signature-matching requirement enacted in 2021. Under current law, the signature on a voter's advance ballot envelope must "match" the signature on file from the voter's registration record.¹ However, the statute provides no meaningful definition of what constitutes a match, no clear standard for how election officials should determine whether signatures match, and no consistent statewide procedure for resolving discrepancies. Because of this lack of guidance, each of Kansas's 105 counties may interpret and apply the law differently. As a result, whether a person's vote is counted may depend on the county in which they reside.

SB 394 does not attempt to fix these problems. Instead, it proposes a sweeping penalty: if a court ultimately determines that the current signature-matching law is invalid, the bill would repeal nearly all statutory authority for mail-in voting, except the limited voting required under federal law. This approach does nothing to strengthen election administration. Instead, it attempts to circumvent judicial review by threatening to dismantle a voting method that Kansans have relied on for decades.

Such a drastic response is not justified by evidence. Kansas has a long history of secure and reliable mail-in voting. In the 2020 election, more than 500,000 Kansans voted by mail—the highest number in state history—and a statewide post-election audit across all 105 counties found no evidence of fraud or wrongdoing.² Secretary of State Scott Schwab has repeatedly noted that the state's voting systems are secure and functioning effectively, remarking in 2021 that he doesn't "know how Kansas could do it better," and that Kansas doesn't "need a drastic

¹ K.S.A. 25-1124(h).

² Schwab, S. (2022, November 4). *SECRETARY OF STATE ANNOUNCES GENERAL ELECTION VOTER TURNOUT PREDICTION*. Kansas Secretary of State. Retrieved March 6, 2022, from <https://www.sos.ks.gov/media/press-releases/2022/11-04-22-secretary-of-state-announces-general-election-voter-turnout-prediction.html>; Schwab, S. (2020, November 16). Dominion Voting Systems. https://kslegislature.gov/li_2022/b2021_22/committees/ctte_h_electns_1/documents/testimony/20210112_04.pdf

change in our election law[s].”³ For more than 25 years prior to the adoption of the 2021 signature-matching requirement, Kansas voters successfully used mail ballots with the safeguard that voters sign an oath affirming, under penalty of perjury, that they are the individual casting the ballot.

The real issue highlighted by the current litigation is not the existence of signature verification, but the lack of uniform standards and training in how it is applied. Without statewide guidance, election officials are left to rely on subjective judgment when comparing signatures. This creates a patchwork system where ballots may be accepted in one county but rejected in another under similar circumstances. Kansas election administrators have previously identified the need for uniform training and statewide standards to ensure consistency in election administration. Those improvements would strengthen voter confidence while protecting the integrity of the ballot.

Importantly, the lawsuit SB 394 seeks to preempt does not ask the courts to prohibit signature verification requirements altogether. Rather, it challenges the current version of the law because it lacks clear standards and equal application. If the courts ultimately determine that the existing statute is flawed, the appropriate response would be for the legislature to adopt a better law—one that provides uniform standards for signature comparison, clear procedures for resolving mismatches, and proper training for election workers across all 105 counties.⁴

Instead of pursuing those practical solutions, SB 394 threatens to eliminate mail-in voting for thousands of Kansans, including seniors, rural voters, voters with disabilities, and working families who rely on advance ballots to participate in elections. Removing a long-standing and secure voting option would make Kansas elections less accessible without improving their integrity.

For these reasons, I respectfully urge the committee to oppose SB 394 and instead focus on policies that strengthen election administration, promote uniform standards across counties, and protect Kansans’ ability to participate fully in the democratic process.

Thank you for your time,

Mike Fonkert

³ Bernard, K. (2021, May 3). *If you vote in Kansas, here’s what you need to know about two proposed election laws*. The Kansas City Star.

<https://www.kansascity.com/news/politics-government/article251063929.html>; 2020 Overview: Hearing before the Senate Transparency and Ethics Committee, 2021 Session. (Jan. 13, 2021) (testimony of Kansas Secretary of State Scott Schwab).

https://images.johnsoncountypost.com/wp-content/uploads/2021/01/ctte_s_transparency_and_ethics_1_20210113_01_testimony.pdf

⁴ Kansas Legislative Division of Post Audit. (2023) *Reviewing Kansas’s Procedures for Election Security, Part 1* at 23–24 (Report Number R-23-003).

<https://www.kslpa.gov/wp-content/uploads/2023/02/R-23-003-Election-Security-Part-1.pdf>