

HB2021 Opponent Written Only Testimony

Chairman Proctor and Members of the Committee,

Thank you for the opportunity to provide testimony on HB2021. I am writing in strong opposition to this bill, which grants the Secretary of State (SOS) authority to adopt rules and regulations (R&R) for remote ballot boxes. While the intent may be to provide clarity, the bill raises significant concerns due to its vagueness, excessive authority granted to the SOS, and lack of legislative oversight.

1. Overly Broad Rule-Making Authority

HB2021 grants the Secretary of State the power to adopt rules and regulations with minimal legislative guidance. Section 1(a) of the bill directs the SOS to "shall adopt rules and regulations" concerning remote ballot boxes, with discretion to determine the dates, times, and locations for these boxes. This broad language presents several issues:

- **Lack of Clear Legislative Parameters:** The bill does not specify any boundaries or guidelines for the SOS in creating these regulations. While the Attorney General reviews regulations for statutory compliance, this does not guarantee that the legislative intent is fully adhered to, leaving critical decisions in the hands of a single office with limited legislative input.
- **Past Issues with Regulatory Compliance:** A previous example of regulatory issues was with KAR 7-47-1, which somehow made it past both the SOS and AG offices and allowed for bypassing the statutory requirement for paper ballots in post-election audits. This was identified and corrected only after significant public and legislative pushback. This example highlights the risks of granting unchecked regulatory authority without proper oversight.

2. Request for Clearer Legislative Guidance

The timing of Mr. Clay Barker's presentation before the Legislative Modernization Committee on January 27, 2025, is noteworthy. His testimony reinforced the need for clearer legislative guidance when granting regulatory authority. Mr. Barker emphasized that:

- Agencies, including the Secretary of State's office, often lack the necessary expertise or dedicated personnel to craft well-defined regulations.
- The legislature's language granting rule-making authority, such as "shall write regulations," is often too broad, leading to unintended overreach.
- To mitigate these issues, the legislature could provide specific buffers or guidelines that limit the discretion agencies have when drafting regulations. For example, the legislature could set boundaries on fees or clearly outline areas of regulation, preventing agencies from exercising unchecked authority.

His call for more legislative oversight aligns with my concern that HB2021 does not provide sufficient guidance for the Secretary of State in managing remote ballot boxes.

3. Need for Safeguards for Remote Ballot Boxes

While remote ballot boxes are essential for making voting more accessible, their use must be carefully monitored. As it stands, the bill lacks adequate oversight provisions, such as:

- **Continuous Monitoring:** There should be a requirement for 24/7 monitoring of these boxes to prevent tampering, yet surveillance footage is typically only reviewed after an issue arises. Clear guidelines should mandate active monitoring to ensure security at all times.
- **Equitable Distribution of Boxes:** The number of remote ballot boxes should be based on population and geography, ensuring that individual districts, such as those in Sedgwick County, are not over-supplied, creating potential for inequities.
- **Bipartisan Oversight:** A requirement for bipartisan oversight of ballot box placement and management would prevent undue influence or abuse.

Suggested Amendments (If the Bill Moves Forward)

Should HB2021 proceed, it is critical that the legislature include specific provisions to guide the Secretary of State in drafting regulations. These provisions might include:

- Clear definitions of acceptable security measures for remote ballot boxes, such as video surveillance and chain-of-custody protocols.
- Limits on the number of remote ballot boxes per county based on population or geographical needs.
- Mandates for bipartisan oversight in the placement and management of these boxes.
- A reporting requirement for the Secretary of State to update the legislature on the use and implementation of remote ballot boxes.

HB2021, in its current form, grants broad authority to the Secretary of State's office without sufficient legislative oversight or direction. As Mr. Barker's testimony from January 27, 2025, indicates, even within the regulatory field, there is recognition of the need for clearer legislative parameters. Without these safeguards, the potential for overreach and noncompliance is high, and the integrity of our elections could be compromised. I respectfully urge the Committee to oppose HB2021 or, at a minimum, amend it to include more detailed legislative guidance.

I've included the link for Mr. Barker's presentation if you would like to listen. The relevant comments begin at 20:50 time stamp.

<https://www.youtube.com/live/wAP0Td99W6A?si=hA2sVeda9YAqtUo5>

Respectfully submitted,

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