

SCOTT SCHWAB
Secretary of State



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STATE OF KANSAS

Testimony: HB2512 (OPPONENT)

House Elections Committee
Thursday, February 6, 2020

Chairman Sutton and members of the Committee:

Last session, the Kansas Legislature passed legislation allowing Kansas voters to vote anywhere within their county if authorized by their local governing body. The bill (SB129) received hearings in the Senate Elections Committee but was not debated or voted on as a standalone bill, by the full Senate or the full House. The bill became law after being amended into SB130, approved and signed by the Governor. Only three individuals, all associated with Sedgwick County, testified in support of the original bill (attachment one). As you will see, our office had no objections to the legislation as long as counties had the option to opt-in. That was true then and remains true today.

The bill required the Secretary of State to promulgate rules and regulations for the implementation of vote centers. After becoming the first Kansas Secretary of State to secure a national security clearance in late June, I had my first full briefing from the Department of Homeland Security on the threats (domestic and international) to elections and the critical infrastructure therein. Within a few weeks of that briefing, our team, in late July, announced the creation of a working group of local election officials, security specialists and election vendors to discuss the legal, security and election components for the rules and regulations (attachment two). The working group met over the next four months to discuss those issues, review implementation in other states and to make their recommendations. With their input, our legal, elections and IT staff are now finalizing the draft rules and regulations.

Compared to other states, we are on the fast track. Of the 16 states that allow jurisdictions to use vote centers on election day, many implemented vote centers on a tiered basis while others allowed vote centers for only municipal or special elections. California, for example, implemented vote centers over four years throughout its 58 counties. Tennessee launched their pilot project to include a few select municipalities in 2008 and added more in 2011. In 2017, Tennessee expanded their pilot to include a few of their 95 counties. The biggest difference between these states and Kansas is that the enacting legislation established clear legislative intent and standards for vote centers. SB130 did not (attachment three).

As Secretary of State, my obligation is to ensure the security and trustworthiness of elections throughout the State of Kansas. Sedgwick County believes they are ready to proceed with implementing vote centers from a technological standpoint. However, there are other factors that must be taken into consideration:

- Does an option exist to ensure voters can cast their full ballot, from top to bottom, in the event of an outage, regardless of where they vote in the county?
- Are there procedures in place to ensure bad actors do not take advantage of an outage or network delay and cast multiple ballots?
- Does the vote center implementation plan account for underserved or low-income communities that have limited means to access a polling location? Other states mandate county election officers conduct detailed multi-factor voting impact studies to ensure that switching to a vote center plan does not create disparate negative impact on the right to vote.
- Has there been communications with neighboring Butler, Harvey, Sumner, Cowley, Reno and Kingman Counties to account for unintended consequences to those voters who may commute into Sedgwick County or who mistakenly believe they too may cast a ballot anywhere?

- Does the plan include preparations to load test the technology prior to the primary and general elections with circumstances equivalent to what they should reasonably expect on election day?

We all know 2020 is a major election year. Not only is the President of the United States up for re-election but Kansas has an open Senate seat, competitive congressional races and both chambers of the legislature up for re-election. 2020 is also the first presidential election since election infrastructure was reclassified as critical national infrastructure in 2017. Listed below are the last six statewide general elections in Kansas and the turnout percentage for the state and Sedgwick County. It is not unreasonable to anticipate voter turnout in 2020 to be at or near 70 percent in 2020. Is 2020 really the year we want to beta test a major change to how we administer elections?

Year	Statewide Percentage	Ballots Cast	Sedgwick Co. Percentage	Ballots Cast
2018 (Governor)	56.4	1,841,776	55.2	302,631
2016 (President)	67.4	1,817,920	66.8	293,113
2014 (Governor)	50.8	1,744,866	52.7	275,439
2012 (President)	66.8	1,771,252	68.3	274,369
2010 (Governor)	49.7	1,725,012	52.6	259,888
2008 (President)	72.3	1,749,756	75.5	261,054

Essential to implementing vote centers are electronic pollbooks that communicate with each other in real time to ensure voters receive the appropriate ballot and do not vote multiple times. Sedgwick County claims they have been using technology for in-person advance voting similar to what will be used to implement vote centers. Currently, Sedgwick County has been using an encrypted Verizon Wireless network for their advance, in-person voting locations. Advance, in-person voting locations are required by law to be connected to a secure county network. By choice, Sedgwick County has used the Verizon network with the county network as its back-up for their advance, in-person voting locations. However, the number of advance, in-person voting locations in the county is significantly lower, 10 to 15, than the number of polling locations on election day.

On election day, the number of polling locations significantly increases to approximately 50 locations in Sedgwick County. Polling locations can be found in schools, libraries, churches, etc. To implement the vote center provisions, each of those locations must have electronic pollbooks that communicate with each other in real time to ensure voters receive the appropriate ballot and do not vote multiple times. In the event of a network outage, what is the back-up plan to ensure voters can still cast their ballot? Connecting to the church network is not a secure option and that location isn't connected to the county network. So how do you ensure voters can still cast their full ballot? What is the plan for ensuring pollbooks are not compromised by using the back-up? How do you keep multiple ballots from being cast by bad actors?

Given the influence of outside forces wishing to intervene, we must take a multidimensional approach – legal, electorate, security, elections – in proceeding with the rules and regulations. The rules and regulations will require counties to submit their vote center plan to the Kansas Secretary of State prior to implementation to ensure each county is prepared for all aspects of implementation. This has been an important aspect of successful implementation in other states. We too believe this is the best way to be successful. Vote centers are a substantial change to election administration, and we should not be eager to compromise security and trust in our elections.

Should the Legislature proceed in passing this bill, I respectfully ask that provisions be made in this bill to hold the Secretary of State and the taxpayers of Kansas harmless from any litigation or expenses resulting from the premature implementation of vote centers in Sedgwick County. Our office would be negligent in our responsibilities as the Chief Election Office for the State of Kansas, not just Sedgwick County, if we did not plan for and account for every scenario. Kansas Taxpayers should not be put on the hook for consequences resulting from the insistence of one county and our office should not be held legally responsible for their decision to proceed, despite our multiple requests to be patient.

As lawmakers, we respect you are the policy makers for the state of Kansas. In your wisdom, you directed our office to create rules and regulations to ensure successful implementation of vote centers in Kansas. As Secretary of State for Kansas, our obligation is to ensure the rules and regulation account for all 105 Kansas counties, not just one. We have been diligent in drafting those rules and regulations and are actively working toward 2021 implementation. Thank you for the opportunity to appear before you today to correct the record. Our team remains committed to working with state and local elected officials to achieve our shared goal of executing reliable, safe and transparent elections throughout the State of Kansas.

Respectfully submitted,

Scott Schwab
Kansas Secretary of State



February 22, 2019

Madame Chair and Members of the Committee,

On behalf of the Board of Sedgwick County Commissioners, thank you for this opportunity to provide testimony in support of S.B. 129, AN ACT concerning elections; relating to polling places; amending K.S.A. 2018 Supp. 25-2701 and repealing the existing section.

SB 129 would amend existing law concerning election polling places to give county election officers the authority to allow all voters within a county to vote at any polling place on Election Day, providing all rules and regulations as established by the Secretary of State are followed.

Current law allows for citizens to vote at advance polling locations throughout Sedgwick County. However, on Election Day, the law requires voters to vote at their assigned polling place. Voting machines and technology used for elections in Sedgwick County would allow for voters to vote at any polling location on Election Day. Sedgwick County believes this change would allow more citizens to vote.

By way of information I would point out that this allowance would be at the sole discretion of each county's election officer and no county would be required to offer this option for voting. In addition, I have spoken with Kansas Secretary of State Scott Schwab and he has stated that so long as the allowance is at the option of the county election commissioner or county clerk, then he has no opposition to the policy.

Thank you for your consideration and we ask that you report S.B. 129 favorable for passage.

Very truly yours,

Jason P. Watkins

STATE OF KANSAS



TOPEKA

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COMMITTEE ASSIGNMENTS
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MEMBER: RULES AND REGULATIONS
FOR STATE AGENCIES
CORRECTIONS AND JUVENILE
JUSTICE OVERSIGHT

February 22, 2019

The Senate on Ethics, Elections and Local Government:

Chair: Senator Elaine Bowers

Vice-Chair: Senator Randall Hardy

Ranking Minority Member: Senator David Haley

Senator Kevin Braun, Senator Jim Denning, Senator Carolyn McGinn, Senator John Skubal and
Senator Susan Wagel

Good Morning Mr. Chairman and other distinguished Members of the Committee, thank you for
the opportunity to testify in support of Senate Bill 129:

Many people don't vote because they can't get to their polling place to vote on time. They may
work, have appointments or children to pick up at the opposite side of town where their polling
place is located. You should be able to vote at your convenience. This bill would allow those
voters to vote at any location.

Thank you for your time and attention. I urge you to support SB129.

Sincerely,

Oletha Faust-Goudeau

Senator Oletha Faust-Goudeau

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Secretary of State



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STATE OF KANSAS

FOR IMMEDIATE RELEASE
August 1, 2019

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SCHWAB ANNOUNCES VOTE CENTER WORKING GROUP

TOPEKA – Kansas Secretary of State Scott Schwab announced the formation of a working group to draft rules and regulations for vote center provisions contained in Substitute for SB130. The working group will be chaired by Secretary Schwab and consist of Kansas election officers, county clerks, election experts and security specialists.

“Equally important to sound public policy are rules and regulations accompanying them,” said Schwab. “We look forward to working with these qualified professionals to establish fair, articulate and achievable rules and regulations for vote centers.”

Election technology is consistently a key target for third parties wishing to interfere in elections. To implement the vote center provisions, counties will need to use electronic pollbooks reliant on wireless networks to capture voter activity. According to Schwab, a significant portion of the rules and regulations will focus on ensuring wireless sources for electronic pollbooks exist at each vote center location. Priority, said Schwab, should be on establishing thorough and comprehensive oversight to make sure networks are protected and pollbooks are not subject to compromise.

In April, Schwab’s office wrote to each of the 105 election officials in Kansas to provide them with ample notice the vote center rules and regulations would not be complete in advance of the 2019 municipal elections. The letter included a reminder that counties have a choice to allow vote centers in their respective jurisdictions. The legislation states, “*At the discretion of the county election officer, all voters within a county may be allowed to vote at any polling location on election day, provided all rules and regulations are followed as established by the secretary of state for such purpose.*”

“We are not in a hurry to make a mistake. We will be diligent in our work to establish rules and regulations that provide clarity to Kansas election officials while ensuring Kansas elections remain safe and secure,” said Schwab.

The working group will meet several times this fall to promulgate the vote center rules and regulations. Additional information about working group participants and meetings will be provided at a later date.

Scott Schwab grew up in Great Bend and graduated from Fort Hays State University. In November 2018, he was elected to serve as Kansas Secretary of State. Schwab previously served in the Kansas House of Representatives as Chairman of the House Elections Committee, Chairman of the House Financial Institutions & Insurance Committee and as House Speaker Pro Tempore. He resides in Olathe with his wife, Michele, and their children.

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State Specific Information on Vote Centers

Source: <https://www.ncsl.org/research/elections-and-campaigns/vote-centers.aspx>

State	Year Enacted	Location within jurisdiction	Number Required	Method of Verifying Voter Identity
Arizona (ARS 16-411(B)(4))	2011 (HB2303) 2019 (SB1090)	The county board of supervisors and the county recorder establish voting centers at county offices or other locations in the county deemed appropriate.	Not specified	A voter must show acceptable identification
Arkansas (ASA 7-1-113, 7-5-101 (e)(1)(A))	2013 (HB1875)	Not specified, but locations must have a secure electronic connection that prevents unauthorized access to the computerized registration book.	A county board of election commissioners may establish 1 or more vote centers.	The vote center shall have a secure electronic connection to prevent an elector from voting more than once.
California (West's Ann. Cal. Elec. Code 4005)	2017 (SB1117)	Equitably distributed across the county so as to afford maximally convenient options for voters and at accessible locations near to public transportation routes. When locating vote centers election officials must also consider a variety of factors outlined in § 4005(10)(B)	1 vote center for every 50,000 registered voters from 10 days before until 4 days before the election. 1 vote center for every 10,000 registered voters in the three days before the election through election day.	Vote centers must have an electronic mechanism for county election officials to immediately access voter registration data and determine whether or not the voter has been issued a vote by mail ballot, and whether or not a ballot has been received by the election officials. The electronic mechanism shall not be connected in any way to the voting system
Colorado (CRA 1-5-102.9)	2004 (SB153)	Must consider proximity to public transportation and availability of parking; geographic features that affect access and convenience; equitable distribution across county; existence and location of population centers; access for voters with disabilities; use of existing voting locations that serve a significant number of electors; and use of public buildings.	Counties with 25,000+ active electors: 1 center per 30,000 active electors (at least 1) during early voting; 1 per 15,000 active electors on Election Day (at least 3). Each voter service and polling center must provide secure computer access and access to the centralized statewide voter registration system. Each voter service and polling center must provide secure computer access and access to the centralized statewide voter registration system.	Each voter service and polling center must provide secure computer access and access to the centralized statewide voter registration system.

<p>Indiana (IC 3-11-18.1)</p>	<p>2006 (HB1011) 2011 (SB32)</p>	<p>Among other things, the vote center plan must include the total number of centers to be established, the number of voters within the county, the number of precincts whose polls will be located at the vote center and a certification that the center complies with accessibility requirements</p>	<p>Counties with 25,000+ active voters: at least 1 center for each 10,000 active voters and a center for any fraction of 10,000 voters.</p>	<p>Vote centers must have electronic poll books that create a secure electronic connection between the county election board and precinct election officials administering a vote center.</p>
<p>Hawaii (HRS 11-109)</p>	<p>2019 (HB1248)</p>	<p>At the office of the clerk and may be established at additional locations within a county as designated by a clerk to service the particular needs of a county's voters</p>	<p>At least one at the office of the clerk, and others as designated by the clerk to service the particular needs of a county's voters. Beginning in 2020 all elections will be conducted by mail and voter service centers are established to receive ballots, provide return identification envelopes, machines for voters with disabilities, and other voting services.</p>	<p>Not specified.</p>
<p>Iowa (IC 49.11, 49.21 IAC 721-21.75(49))</p>	<p>2008 (HB2620) Note: Vote centers are authorized only for city, school and special elections in Iowa</p>	<p>Must be in a central location and accessible to persons with disabilities. At least 1 must be located within the boundaries of the political subdivision for which the election is being conducted</p>	<p>Not specified. Designated by the county commissioner of elections</p>	<p>Voting centers may have paper or electronic registers, but may not have interactive, direct access to the statewide voter registration database. It is a crime of election misconduct in the first degree if a person knowingly votes or attempts to vote at more than one voting center for the same election.</p>
<p>Kansas (KSA 25-2701(a)(1))</p>	<p>2019 (SB130)</p>	<p>Voting centers may have paper or electronic registers, but may not have interactive, direct access to the statewide voter registration database. It is a crime of election misconduct in the first degree if a person knowingly votes or attempts to vote at more than one voting center for the same election.</p>	<p>Not specified.</p>	<p>Not specified.</p>

<p>Nevada</p>	<p>2019 (AB345)</p>	<p>At the discretion of county clerks.</p>	<p>A county clerk may establish on or more locations</p>	<p>Voting centers may have paper or electronic registers, but may not have interactive, direct access to the statewide voter registration database. It is a crime of election misconduct in the first degree if a person knowingly votes or attempts to vote at more than one voting center for the same election.</p>
<p>New Mexico (NMSA 1-3-4)</p>	<p>2011 (SB337) 2019 (HB407)</p>	<p>Any voter of the county may vote on a regular ballot at any voter convenience center in the county, which must be accessible and centrally located within a consolidated precinct. The board of county commissioners shall give due consideration to input received from any local public body in the county regarding the location.</p>	<p>One voter convenience center within each consolidated precinct, which shall be a consolidated precinct made of no more than 10 precincts. The county clerk may maintain any alternate voting locations or mobile alternative voting locations previously used in the same election.</p>	<p>Each consolidated precinct polling location shall have a broadband internet connection and real-time access to the statewide voter registration electronic management system.</p>
<p>North Dakota (NDCC 16.1-04-02)</p>	<p>2007 (HB1378)</p>	<p>Accessible to the elderly and physically disabled. Must serve as a designated polling place for at least one precinct in the county in addition to serving as the site where any county voter may cast a ballot.</p>	<p>Not specified.</p>	<p>Not specified.</p>
<p>South Dakota (SDCL12-14-17)</p>	<p>2012 (SB58)</p>	<p>Not specified.</p>	<p>Not specified.</p>	<p>Secure, encrypted electronic poll books shall be used in lieu of paper registration books</p>
<p>Tennessee (TCA 2-3-301 to 2-3-308)</p>	<p>2008 (HB3687) 2011 (HB1268) 2017 (SB2101)</p>	<p>Locations must consider the density of the county population, the geographic dividers, and all other facts and circumstances that exist within the county</p>	<p>1 for every 10,000 registered voters, but at least 2 in the county</p>	<p>Each center must have a secure electronic connection to the computerized voter registration system permitting all voting information processed by any computer at a convenient voting center to be immediately accessible to all other computers at all convenient voting centers in the county. The secure electronic connection shall be sufficient to prevent any voter from voting more than once and to prevent unauthorized access to the computerized voter registration system</p>

<p>Texas (TEC 43.007)</p>	<p>2009 (HB719)</p>	<p>Counties must adopt a methodology for determining where each vote center (known in Texas as a countywide polling place) will be located and solicit input from organizations who represent minority voters during this process</p>	<p>The total number of countywide polling places may not be less than 50% the number of precinct polling places that would otherwise be located in that county; or 65% of the number of total precinct polling places in the first year in which the county participates in the program. The total number of permanent branch and temporary branch polling places open for voting in a county commissioners precinct does not exceed more than twice the number of permanent branch and temporary branch polling places in another county commissioners precinct.</p>	<p>Countywide polling places require a computerized voter registration list that allows an election officer at the polling place to verify that a voter has not previously voted in the election</p>
<p>Utah (UCA 20A-3-701 to 20A-3-703))</p>	<p>2011 (HB130)</p>	<p>Must be located in a government building or office (unless there is none available) that can be scheduled for use during election day voter hours, has the physical facilities necessary to accommodate election day voting requirements, has adequate space and has adequate security, public accessibility and parking.</p>	<p>Not specified.</p>	<p>A voting center ballot must be capable of being retrieved by the election official during the canvass if the voter cast a ballot at another location or before election day</p>
<p>Wyoming</p>	<p>2015 (SF52)</p>	<p>Not specified.</p>	<p>Not specified.</p>	<p>Vote centers must be connected through secure internet connections to provide voting information to and receive voting information from the electronic poll book maintained by the county clerk</p>