

Date: 02/17/2023

Bill number: SB208

Indicate Disposition: Opponent

Name of conferee Self, or Organization/Company and title: Thad Snider

Chairman Thompson and Members of the Committee,

Thank you for taking my testimony. I'm sorry I could not appear in person. I am a Opponent of SB208 in current form and here's why:

- 1) Drop boxes have never been approved for use in statute by the legislature. Their use, regardless of length of time in use and/or ubiquity, has been done under an obscure rationale authorized by the Secretary of State under KSA 25-1124(a): "the ballot envelope shall be mailed or otherwise transmitted by the voter to the county election officer." The ambiguity of that statute ("otherwise transmitted") has allowed for unmanned and unrecorded drop boxes with no laws governing valid chain-of-custody to be used to collect our votes. It also allows for other means of vote collection to be invented or implemented in the future. Plain and precise language is needed to stop this practice from happening again.
- 2) Speaking of chain-of-custody, this bill does nothing to address this crucial part to any election—who, how, where, when and why was a ballot moved. We do know who put the vote in the box or how they go it. In the 2021 election in Johnson County there were 6,694 votes with no valid chain-of-custody. I brought this to the attention of every statutory authority over elections including the Secretary of State and the County Board of Canvassers and none of them cared and certified the election anyways. The simple reason was because there are no good laws governing election practices, almost across the board, but certainly regarding chain-of-custody of the ballots. This was evidenced by testimony given by the Legislative Post-Audit Committee yesterday in their investigation into Kansas Elections.
- 3) The practice of "ballot harvesting" is not a new practice but has ramped up since Covid and now there are entire organizations gearing up to collect ballots and vote them for other people. Kansas statute now limits that to 10 ballots person, but how do you know how many ballots each person actually voted? The answer—you don't. And do we *really* want well-funded non-government organizations with partisan agendas going out and collecting ballots from unsuspecting people (like the elderly) to be cast on their behalf? Where is the chain-of-custody for the ballots collected by individuals or organizations? There is any number of things that could be done with or to that ballot from the time it taken from the voter and supposedly transported to a drop box unmolested or altered.
- 4) In section (d) the bill says: "The secretary of state shall adopt rules and regulations necessary to implement and enforce the provisions of this section...", so my question is, at what point does the Kansas Legislature reassert its Constitutional and plenary power over elections? The role of the legislature is to administer elections and the role of the Secretary of State should be to enforce the statutes that govern them. As is, the legislature has abdicated its role and responsibilities by adding that language regarding

the SOS adopting “rules and regulations” to almost every election bill. The lack of “guard rails” and oversight is how we got to the current point of the convoluted quagmire that are Kansas elections. Not even one of the legislators with whom I have met can explain to me or fully understand how our elections are run or the rules that govern them. This is a gross constitutional crisis that need to be addressed separate from this bill but makes my point-- it is the role of the 1st branch of government, Congress, to make law— not the Executive branch. By inserting this “rules & reg” language into every election statute, the legislature is punting on their responsibilities.

Therefore, I am an opponent of this bill barring amendments to either a) eradicate drop boxes entirely or b) add plain language that they must be recorded at all times, there must be legal chain-of-custody for every ballot and both the recordings and chain-of-custody must be made immediately available to inspect by the voting public prior to the canvass and/or certification of the election in which they were cast.

Thank you,

Thad Snider