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## STATE OF KANSAS

February 5, 2024

### **Testimony on HB2603 (In Person / Neutral)**

House Committee on Elections  
Tuesday, February 6, 2024

Chairman Proctor and members of the Committee:

Thank you for the opportunity to provide testimony on House Bill 2603.

The issue of whether a Citizens' Election Oversight Board should be created, its membership, procedures, scope of jurisdiction, and authority is an issue for the legislature.

The current investigatory procedure, set forth in a Memorandum of Understanding between the Secretary of State (SoS) and Attorney General (AG) is for the SoS to review all election complaints by applying its decades of experience. The SoS will forward those complaints that reasonably assert an election crime to either the AG or the appropriate County or District Attorney for investigation. The SoS will address process issues with individual county election officers.

Complaints come from election staff, concerned voters, or poll agents employed by campaigns or political parties. During the election period, complaints are addressed immediately. Few complaints result in a criminal investigation because complainants may often rely on multiple levels of hearsay with no verifiable facts. Process issues are usually resolved by a call to the local county election official. Finally, some complaints merely assert a disagreement with the law, not any improper act.

It is our understanding that the Board would operate in parallel with the current reporting system, which would continue without change. In addressing issues at election time, speed is of the essence.

The Secretary of State has one general comment on the bill:

- In other states that have adopted similar boards, individuals abused the process and used the Board, whose proceedings are often covered by the media, as a platform from which to pronounce baseless allegations of widespread election fraud and to accuse election officials of criminal conduct. We assume the Board would adopt internal procedures to prevent this abuse of process.

The Secretary of State has the following specific comments on the bill:

- Section 1(a)(1): There are now four recognized political parties in Kansas and there is a current petition drive underway for a fifth. Consideration might be given to additional criteria before a political party gets a seat on the Board, such as having a candidate in at least one U.S. Senator/Representative or statewide race in the last even-year general election.
- Section 1(f): The criteria of meeting within 45 days after any primary or general election appears to require meeting twice every year, even if there are no filed complaints.

- Section 2(a): The potential subject of a complaint is broad, covering both specific incidents and general election policy.
- Section 2(c)(4): It would be virtually impossible to conduct additional ballot audits because all ballots must be secured after the county canvass and may only be opened by Court order in the event of an election challenge. Currently the SoS has the authority to order as many ballot audits as necessary to ensure an accurate vote count before the county canvass may meet.

Thank you for the opportunity to provide comments to the committee.

*/Clayton Barker*

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