

From: Secretary Adam C. Proffitt, Department of Administration
To: The Honorable Renee Erickson
Chair, Senate Committee on Government Efficiency
Date: March 6, 2025
Subject: Neutral Testimony SB 256

Madam Chair and Members of the Committee,

I appreciate the opportunity to provide neutral testimony on behalf of the Governor's Administration on SB 256. My primary goal is to provide information to the committee about the how the Executive Branch operates as it relates to telework and remote work. Additionally, I would like to speak to the benefits of providing the flexibility for select telework opportunities, as well as the safeguards that the State of Kansas (SOK) employs today to ensure work is being completed as required.

Remote Work Vs. Telework

There is a distinction between these two terms, and the two issues are often conflated.

Remote work describes a work arrangement where an employee has a permanent official workstation that is not in a state office. Employees who have a remote work arrangement are rarely, if ever, required to work at a state-owned facility. These employees generally work from home on a permanent basis. With exceedingly rare exceptions, the State of Kansas does not offer fully remote work opportunities.

Telework, on the other hand, describes an arrangement whereby an employee's official workstation is at a state office, but they are provided an opportunity to work at an alternate work location on occasion. Many agencies do offer limited telework opportunities for some employees, provided they follow established policies. These are hybrid positions, where often the employee spends more days in the office than they do teleworking. I will provide the details of such arrangements later in this testimony.

Remote Work During the Pandemic and Return to Normal Operations

Many state agencies adapted to social distancing standards during the pandemic and transitioned to remote work environments. This shift to nearly full remote work status was following best practices that were widely adopted across the world during a once in a century pandemic. The intent was never to remain fully remote, but only to remain fully remote until such time that it was safe to return to normal operations. In May 2021, Governor Kelly determined that state offices were to return to normal operations, including requiring employees to physically return to work, beginning June 13, 2021. While another dangerous wave of COVID necessitated a delay of the return to work, SOK officially returned to normal operations permanently on January 2, 2022.

The guidance to ensure state agencies were informed of the return to normal operations policy were sent via a series of memos by then-Secretary of Administration, Dr. DeAngela Burns-Wallace. In these memos, Secretary

Burns-Wallace outlined that SOK is not a traditional remote work environment, and that all future telework arrangements must follow an established policy, using the Department of Administration policy as the standard. A key excerpt from one such memo is as follows:

“While many employees have been required to work remotely to varying degrees over the course of this pandemic, this was due to public health and safety issues, not for the convenience of employees. The State of Kansas is not a traditional remote work environment, and while we will capitalize on what we have learned and how it can benefit future state operations – we should start from the stance of having state employees working in our offices still is a preferred norm.”

Safeguards Around Telework Options

While limited telework opportunities are available to select agency staff, each agency is required to closely follow the Department of Administration policy on telework, and agencies are required to have a telework agreement in place with employees prior to allowing this arrangement. Key considerations from this policy are below:

“Telework is not an employee right or benefit but a discretionary management tool. The agency may terminate the telework agreement at its discretion and advance notice is not required.”

“Telework is not appropriate for every job, employee, supervisor or situation... (F)or these reasons, it is critical that agencies carefully assess when and how they may utilize telework in meeting their business needs.”

It is this combination of principles upon which a hybrid telework arrangement can be set. Not every job function will lend itself to a telework arrangement, and the needs of our citizens must be met. And, while the Governor prefers employees perform their job duties in the traditional office setting, she also recognizes that many functions can be performed perfectly capably in a hybrid environment. However, she and her administration are fully committed to ensuring that the state has the appropriate safeguards in place to deliver upon our commitment to ensuring services are available to citizens across the state at the time that they need them, and that work is being completed as efficiently and effectively as possible.

Recruiting for a Modern Workforce

As the state competes with the private sector for highly skilled workers, particularly in professional services, one of the main factors that impact a candidate's decision to accept a job offer from the state is the ability to telework.

Offering telework options also allows SOK to compete with the private sector, since many of these employers still offer remote work and show no signs to do otherwise. Additionally, offering a hybrid work environment can widen an agency's recruiting radius, thus expanding the pool of qualified candidates from which the agency can choose from to staff difficult to fill positions.

This hypothesis was previously raised, and the Legislature requested the Legislative Division of Post Audit (LPA) to conduct an audit on this subject. In August 2023, LPA issued their performance audit titled “[Assessing the Impact of Permanent Work from Home Options](#).” Over the course of this audit, LPA interviewed a multitude of state agencies and noted that not every agency and/or job function is suitable for telework, but many functions can be handled in this manner. In the conclusion of this audit, they wrote in part:

“Overall, we found that working from home had some positive impacts on the state’s ability to hire and retain staff. Working from home’s impact on staff productivity is difficult to assess due to a lack of universal productivity measures. However, at a high-level, working from home didn’t appear to negatively impact productivity.”

This audit recognizes two key principles, which are fully supported by the administration’s approach to evaluating potential telework options: 1) Not every job can or should be performed via telework, and 2) When implemented correctly and with appropriate safeguards, offering telework/hybrid work options can be a useful recruiting tool for the state.

Separation of Powers Concerns

While I will defer to the Governor’s Office for the specific legal construction, I must raise the issue and potential complications related to the separation of powers. The Kansas Constitution states that “The supreme executive power of this state shall be vested in a governor, who shall be responsible for the enforcement of the laws of this state.” Just as it would appear improper for the Governor to determine how and where legislative staff should complete their work, the same could be argued for the Legislature determining how and where executive branch and judicial branch staff should complete their work. While there are a number of examples of governmental entities returning to a fully in-office environment, most of these decisions are being made by the executive of each entity.

Summary

In summary, the Administration agrees that the State is not a remote work environment, and the Governor’s preference is to start from a place of state employees working in office. However, we must recognize that, while telework/hybrid work is not appropriate for every function, when applied appropriately it can be a powerful recruiting tool. Appropriate safeguards must be in place to ensure that, in the limited circumstances telework is allowed, the level of work and service to our citizens cannot and will not be compromised. The Governor is committed to partnering with the Legislature to ensure that meeting the needs of our citizens and delivering excellent customer service will not suffer, no matter the environment in which work is completed.