

HOUSE COMMITTEE ON ELECTIONS
HCR 5021 – OPPOSITION TESTIMONY - IN PERSON
THURSDAY, JANUARY 29, 2026

Mr. Chair and Committee Members:

Thank you for allowing my opposition testimony today on HCR 5021. I served as the Ranking Minority Member of the House Elections Committee when the SAFE (Secure and Fair Elections) Act became law. The SAFE Act implemented a voter ID requirement to vote and proof of citizenship to register to vote. It was sold as a way to supposedly make it easier to vote and harder to cheat. However, the people of Kansas were sold a bill of goods. The SAFE Act has suppressed voting in Kansas without making an already safe and fair voting system any more safe and fair. It has harmed the franchise in a number of ways and is likely unconstitutional. The courts recognized the unconstitutional nature of the proof of citizenship provision and it is no longer Kansas law. They should do the same with voter ID.

My goal today is to provide a wealth of information for the committee to consider that will provide the background on voter ID, its impact, and why it should not be put into the state constitution.

HCR 5021 suppresses the vote by making the voter ID requirement even more strict than it is currently in state law. Currently one must provide a government-issued photo ID. This could be anything from a drivers license to a passport to a student ID to a city bus pass. Under HCR 5021, that photo ID is restricted to one issued by the state of Kansas or the US government. That eliminates many IDs currently used and adds an undue burden to Kansas citizens. The current law is restrictive enough (which I discuss below), but this change is unconscionable.

I believe it is important for the Committee Members to understand how we got here, the problems with the current law, and why the law needs to be corrected, not set in the constitution. I will cover:

1. What court rulings at the time of the SAFE Act passage said needed to be included in a voter ID law vs. what is in the SAFE Act and how it fell short
2. Challenge to the law
3. The 2017 Kansas Advisory Committee to the U.S. Commission on Civil Rights report and recommendations on Voting Rights and the Kansas Secure and Fair Elections Act
4. Conclusions and next steps

HOW THE SAFE ACT FELL SHORT

In 2011, HB 2067 was passed to require a government-issued photo ID to vote. The Indiana voter ID law had been approved by the US Supreme Court in 2008. We were told in

Committee that the proposed Kansas law was like Indiana's and would be found to be constitutional. That was not true. We were told there was widespread voter fraud that needed to be fixed and voter ID was the answer. That was not true.

In fact there was a wealth of information about what the courts would require to uphold a voter ID law that was not followed in Kansas. Here are the key basic principles courts said must be satisfied under the Constitution (from the Brennan Center for Justice report "The Cost of Voter ID Laws: What the Courts Say"):

- First, photo IDs sufficient for voting must be available free of charge for all those who do not have them. States cannot limit free IDs to those who swear they are indigent.
- Second, photo IDs must be readily accessible to all voters, without undue burden. At a minimum, most states will likely have to expand the number of ID-issuing offices and extend their operating hours to meet this requirement.
- Third, states must undertake substantial voter outreach and public education efforts to ensure that voters are apprised of the law's requirements and the procedures for obtaining the IDs they will need to vote.

Let's look at each of these:

1. Free photo IDs: Kansas pretends to have "free" photo IDs, but it does not. If you do not have a drivers license, you can get a "free" identification card, but that presupposes you can get to a place where you can get that ID (see more in #2). To get that ID you need a birth certificate. If you were born in Kansas, you can get a free birth certificate for this purpose, but most folks don't know that, and they don't know the process. If you were born out of state, there is a cost to get that birth certificate. That is a poll tax. In fact, the US Supreme Court noted that elderly persons born out of state, people who because of economic conditions would find it difficult to get a birth certificate, the homeless, and those with religious objections to being photographed could have a legitimate challenge to the law. In some states, the states were made to pay for these secondary documents. Kansas does not. In *Weinschenk v. Missouri*, the Missouri Supreme Court said that the cost of getting secondary documents (i.e., birth certificates) was a poll tax. The "free" ID must really be free in terms of cost. In Kansas, it is not.
2. Kansas at the time did not have full-service locations in each county to get a photo ID. At that time, only 33 counties had full-time DMVs. The state did nothing to correct that. People in some parts of the state would have to drive to the next county. That is a burden. In some states implementing photo ID, the states were made to open up additional and even mobile locations to get IDs. Kansas did none of this. Georgia's photo ID law went through several rounds of court cases making sure they had places available to those using public transportation and more. Kansas did none of this. The Supreme Court's decision indicated that some states may need to make exemptions for those for whom getting an ID is particularly difficult. Kansas has not.

3. Indiana spent \$3.4 million doing outreach and rewarded “Super Responsible Counties” for their efforts. Missouri spent \$10 million in outreach the first two years of implementation. Tennessee distributed more than a million handouts. Kansas was implementing both a photo ID and a birth certificate to register to vote requirement. Kansas budgeted \$260,000 over two years. There was also an education issue with poll workers. If you read my comments to the USCCR, you will see how unevenly the law was implemented and the real impact on Kansas voters.

CHALLENGE TO THE LAW

I think it is important to understand that Kansas has safe and secure elections. The notion that we needed to have photo ID to secure our elections is and was hooey. I asked our then Secretary of State in 2011 how many of the 41 cases of fraud he cited from 2010 would have been prevented by photo ID. He said none of them. And if you look at the prosecutions since then, many have been cases of folks voting in two places. A photo ID does not prevent that. The law is a waste of time and money and does nothing except suppress the vote.

I worked with attorney Jim Lawing to challenge the photo ID law. In 2012 there were two elderly gentlemen whose votes had been tossed because they had no photo ID. They voted provisional ballots. At the county canvass, the county clerk said she had tried to help them get IDs to make their votes count, but she could not get it done. Those two gentlemen agreed to be the plaintiffs in the case. However, when their families found out that they would be deposed by the Secretary of State, they were concerned that their elderly family members would be harassed and they backed out of the case.

One interesting note is that I worked with a director of a residential home to get her 50+ residents photo IDs so they could vote. Several were born out of state and did not have the funds to pay for a birth certificate. The director tried to help her folks, but kept running into roadblocks. The Secretary of State sent his deputy to the area to help, but even he could not get IDs for all the residents. They lost their right to vote. When asked what all the other homes were to do, he said that was the job of legislators (see my comments to the USCCR for details).

It is estimated that 3-11% of US citizens have no government-issued photo ID. About 9% (nearly 21 million) have no current driver’s license. About 34 million Americans have an ID that does not reflect their current legal name or address. Black and Hispanic citizens are 3 to 4 times more likely to lack a photo ID than white citizens. During the SAFE Act hearings, we learned was that while voters in both major parties would be impacted, more Democrat registered voters would be impacted than Republican. When we have so many close elections, even a swing of a percent or two can make a difference. So now we know the real reason for this law and it has nothing to do with making voting secure or fair.

My hope is that while there are so many civil rights violations going on today in our country, and folks may have given up on challenging voter ID laws, that some civil rights attorney will once again take up this case.

THE USCCR REPORT

In 2015, the Kansas Advisory Committee to the U.S. Commission on Civil Rights began a study into what had happened to voting rights in Kansas with the passage of the SAFE Act. I submitted comments on the impact of the SAFE Act on voting in Kansas, along with others. The Committee held public hearings in January 2016. This bipartisan committee submitted its report in March 2017.

The key findings of the Committee included:

1. Even though there are provisions for free IDs, in practice a number of eligible citizens may have to pay for documents, which is a poll tax. They cited insufficient training for state workers and no provision for those born out of state to get needed documents free of charge.
2. Improper training of poll workers resulted in eligible voters being turned away.
3. Kansas requirements are the strictest in the nation and may impose a “substantially higher burden than that which has been previously challenged in the U.S. Supreme Court”.
4. Analysis showed that voter turnout in Kansas declined following implementation of the SAFE Act.
5. The SAFE Act may have been implemented with improper, discriminatory intent.
6. The SAFE Act may disproportionately impact voters on the basis of age, sex, disability, race, income level, and political affiliation.

The Committee sent letters to then Governor Sam Brownback, Senate President Susan Wagle, House Speaker Ron Ryckman, the Congress, the U.S. Department of Justice, and the U.S. Election Assistance Commission to review the report’s recommendations. As far as I know, no action was taken.

CONCLUSION AND NEXT STEPS

Even though legislative leaders were aware of the faults in the law, nothing has changed. Until the issues presented in the USCCR report are addressed, it would be a travesty to try and make the voter ID law even more restrictive and put it into the state constitution. If this Resolution should somehow become law, I am hoping what I presented here will provide the impetus for an immediate court challenge. Someone has to stand up for the people of Kansas and their right to vote against the false claims of widespread voter fraud and non-citizen voting.

SOURCES

I have made as attachments to my testimony the 2017 findings and recommendations of the Kansas Advisory Committee of the USCCR, along with my comments to the committee which were cited in the report, and the letters to our then Governor and legislative leaders.

Also, here are links to resources cited in my testimony:

Brennan Center for Justice report: "The Cost of Voter ID Laws: What the Courts Say"
[Ten Things You](#)

Full report from the Kansas Advisory Committee to the USCCR: [KS-Voting-Rights-Report.pdf](#)

ATTACHMENTS:

1. Findings and recommendations of the Kansas Advisory Committee of the USCCR on the Kansas SAFE Act and my comments
2. Letters to Governor Brownback and Legislative leaders

Submitted by:

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Former Ranking Minority Member House Elections Committee

Attachment 1

Voting Rights *and the* Kansas Secure and Fair Elections Act



A Briefing Report of the
Kansas Advisory Committee to the
U.S. Commission on Civil Rights

March 2017

IV. FINDINGS AND RECOMMENDATIONS

Among their duties, advisory committees of the U.S. Commission on Civil Rights are authorized to advise the Commission (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.²²⁰ The Kansas Advisory Committee heard testimony that the State's 2011 Secure and Fair Elections Act may disproportionately disenfranchise voters on the basis of race, color, sex, age, disability, and national origin. In addition, the Committee heard concerns regarding the need to find reasonable ways to prevent voter fraud and maintain the integrity of all elections at the local, state, and federal levels.

Below, the Committee offers to the Commission a summary of concerns identified throughout the Committee's inquiry. Following these findings, the Committee proposes for the Commission's consideration several recommendations that apply both to the State of Kansas and to the nation as a whole.

A. Findings

1. Provisions within the SAFE Act allow citizens seeking identification documents for the purposes of voting to receive such documents from the appropriate state agency for free. However, in practice, a number of eligible citizens may be required to pay for their documents. Any such instances may effectively be compared to a poll tax, which is unconstitutional under both the 14th and 24th Amendments:
 - a. Insufficient training for state workers may result in confusion regarding who is eligible for free documentation and how to process the free applications; and
 - b. Voters requiring identity documents from states other than Kansas must pay the applicable fees from the relevant state agency; there are no provisions to allow Kansas voters to obtain required out-of-state documents free of charge.
2. Improper or insufficient training of poll workers has resulted in eligible voters being turned away because the poll workers were unaware that the identification provided is in fact considered "acceptable" under the SAFE Act requirements. Such examples include military ID, tribal ID, current but suspended drivers' licenses, and state university photo IDs, among others.

²²⁰ 45 C.F.R. § 703.2.

3. Inefficient transfer of registration information between state agencies such as the department of motor vehicles and county elections officials, has resulted in data loss. Such data loss has resulted in citizens facing requests to submit the same identification documents multiple times, creating confusion and deterring eventual voter participation.
4. The level of voter education implemented in Kansas to inform citizens about new identification requirements under the SAFE Act was significantly less than similar efforts in other states, and may have resulted in eligible citizen's failure to comply with the new law.
5. Kansas' proof of citizenship and voter ID requirements under the SAFE Act are the strictest in the nation, and may impose a substantially higher burden than that which has been previously challenged in the U.S. Supreme Court. Community groups, local elections officials, and individual citizens all reported struggling to comply with the requirements.
6. The current consensus in political science research is that stricter voting requirements result in lower voting participation. Preliminary analysis of voter turnout data in Kansas indeed suggests that voter participation declined following the implementation of the SAFE Act.
7. Preliminary analysis of suspense voter lists and those required to vote using provisional ballots due to a lack of required documentation suggest as many as two percent of registered voters may not have their votes counted. The purging of suspense voter rolls after 90 days makes it difficult to follow up with suspense voters and to accurately identify the populations affected.
8. A number of panelists suggested the Kansas SAFE Act may have been written and implemented with improper, discriminatory intent. Evidence of such intent included:
 - a. Procedural irregularities – Secretary Kobach is the only Secretary of State in the country with prosecutorial authority over alleged cases of voter fraud;
 - b. The Act's proof of citizenship requirement only applies to voters who registered to vote in Kansas after July 2013, disproportionately affecting young voters (all who turned 18 after this date), and perhaps having a disproportionate impact on the basis of political affiliation; and
 - c. All current, documented cases of voter fraud in Kansas involve individuals illegally voting in multiple jurisdictions; yet no provisions of the SAFE Act address this particular type of fraud.
9. Testimony indicated the SAFE Act may disparately impact voters on the basis of age, sex, disability, race, income level, and political affiliation.

10. Balancing the need to ensure voting integrity with all eligible citizens' democratic right to participate free and fair elections is a topic of critical national importance. The U.S. is currently the only major democracy without a standard voter registration system at the national level. Differences in voting requirements between states, as well as an analysis of international standards of best practices, may provide positive solutions for properly addressing both election integrity and voter access concerns moving forward.

B. Recommendations

1. The U.S. Commission on Civil Rights should conduct a national study on voting rights in the U.S. Such a study should include:
 - a. An analysis of changes in state voting laws and related changes in voter participation following the 2013 U.S. Supreme Court *Shelby County v. Holder* decision;
 - b. An analysis of the feasibility and potential impact of establishing a uniform, national voter registration system for all elections; and
 - c. An analysis of current allegations of voter fraud and its related evidence; such a review should include a cost/benefit analysis comparing evidence of voter fraud with evidence of voter suppression, including concerns regarding potential fees associated with required identity documents, poll worker training, and public education efforts.
2. The U.S. Commission on Civil Rights should issue the following formal recommendations to the U.S. Congress:
 - a. The U.S. Congress should establish a working committee to study the impact of the 2013 U.S. Supreme Court decision *Shelby County v. Holder* including a review of any changes in state voting laws and related changes in voter participation since the ruling;
 - b. According to the results of this study, the Congress should develop an updated formula to identify which states require continued review under the Voting Rights Act, and introduce appropriate legislation to implement the new formula; and
 - c. The working committee should then conduct an analysis of the feasibility and potential impact of establishing a uniform, national voter registration system.
3. The U.S. Commission on Civil Rights should issue the following, formal recommendations to the U.S. Department of Justice, Civil Rights Division, Voting Section:

- a. The Division should conduct a thorough review of the requirements imposed under the Kansas SAFE Act to assess their compliance with applicable federal law including but not limited to: the Voting Rights Act, the Help America Vote Act, and the National Voter Registration Act; and
 - b. If such a review reveals areas of noncompliance or conflict with federal law, then the Division should take appropriate enforcement action to correct them.
4. The U.S. Commission on Civil Rights should issue a letter to the U.S. Election Assistance Commission, to the Kansas Governor, and the Kansas Legislature urging them to:
 - a. Review the findings and recommendations contained within this report; and
 - b. Further investigate identified areas of concern within their jurisdiction and take appropriate action to address them.

Comments on Kansas Voting Laws for the Kansas Committee
of the
U.S. Commission on Civil Rights

These comments on Kansas voting laws are being provided to the Kansas Committee of the USCCR in preparation for the hearing on the Kansas voter ID law. I understand that data shows that voting in Kansas took a larger than expected dip following implementation of the law in 2012. I was in the Kansas House of Representatives during the passage and implementation of that law and served as the ranking Democrat on the House Elections Committee. I am writing to provide information you may find helpful in your deliberations and better understand the impact of the Voter ID law on Kansas voters and elections.

This document is a compilation of issues raised in HB 2067 (the S.A.F.E. Act), passed in 2011, that might be violations of federal law, the Constitution, or simply raise barriers to voting. They are divided into the categories of voter identification, advance voting, and the impact of the law on voters and procedures.

I have already submitted to the Committee comments presented September 2, 2015, to the Kansas Secretary of State's office regarding proposed regulation changes to the Kansas proof of citizenship law. In Kansas we have more than 32,000 voter registrations being held in suspense because registrants did not provide proof of citizenship. I would suggest the committee consider investigating that law as well.

VOTER IDENTIFICATION:

All voters have to provide a government-issued photo ID at the polls. The poll workers verify that the person is the one on the ID. If there is no photo ID or the poll workers believe it is not a valid ID, a provisional ballot may be cast and a valid ID provided prior to canvass. Some voters are exempted from the ID requirement, such as those on permanent disability, military out of the area on duty, or those with religious objections.

1. At first, I thought there might not be much of a case to appeal our voter ID law, since several states already have a photo ID requirement. But in reviewing what the Supreme Court said were the key requirements for an acceptable photo ID law in the Indiana case and what the courts required in Georgia, it appears we do not meet requirements.
2. In Georgia, there were concerns about how far a person had to travel or how much time it took or how much planning was needed to get the free ID they might to vote. Georgia had to set up a location in every county to provide free IDs. Distance to travel to obtain that ID was also considered, but not in Kansas. Being a rural state, people can live quite a distance from the one city in the county where an ID may be obtained. Not every county has an office providing IDs that is open full time.
3. People trying to get a free photo ID to vote after 1/1/2012 were told they had to have a birth certificate to get the ID. This can be an extra burden, especially for the elderly, poor, or those born out of state.

4. Voter education was also a big issue in states implementing voter ID requirements. Indiana, Georgia, and Missouri spent millions educating voters on the voter ID law. Missouri, for example, spent \$13 million over the first few years of the law. The Supreme Court noted that voter education was a critical issue in approving the voter ID law in Indiana. Kobach budgeted \$60,000 in 2012 and only \$200,000 in 2013. I asked for a copy of the Secretary's voter education plan for voter ID. During the hearings he said that they would rely primarily on free media and legislators to inform individuals of the changes. Other states have had to use broader media and not just low-volume radio stations. This was a real weak spot in the plan. It took Georgia years to meet the court's concerns. Kansas' education plan was minimal.
5. A case in point. Wichita had a ballot initiative in early 2012. The Secretary of State started the public ads just two weeks prior to the vote. There is no way someone born out of state or without an ID could comply in time to vote. Later I learned that 45 ballots were rejected for no ID.
6. I asked the Division of Motor Vehicles (DMV) how many counties had locations where you could get an ID to vote. At that time there were only 33. That means that over 70 counties have no full-time DMV and those wanting a voter ID could have to travel to another county to get one.
7. To document some of the problems people are having with voter ID compliance I talked with a nursing home supervisor in Peabody who worked hard to get her residents the IDs they need to vote. She has 51 residents. About 75% of them voted. But only 9 had IDs and only 2 had the birth certificates needed to get a voter ID. The residents came from Kansas, six other states and Korea. Many had no family contact and she didn't know where to start to find the birth certificates. They only get \$62 a month stipend, so paying for an out-of-state birth certificate would be a burden at best and poll tax at worst. Then even if they can get the documents, they have to travel 15 miles to the next town to the DMV. She hated to see them lose their right to vote, but she couldn't spend all the hours necessary to get them their photo IDs. I mentioned this situation in an elections committee hearing. In response, Secretary Kobach sent Eric Rucker to Peabody to fix the situation. Even after that attempt, not every resident was able to get a photo ID. Several just gave up trying – and their right to vote. I visited with another nursing home in Paola with similar concerns. That's just the tip of the iceberg.
8. Here is the Peabody nursing home director's story about how it went when Eric Rucker came from Secretary Kobach's office to fix the situation in 2012:
"Okay, after 2 of the 3 days of ID processing with Marion County, here is an update. It took 2 ½ hours yesterday with 3 of our staff to process 6 clients ID's plus 1 hour of driving time with a driver. We were not told they needed SS#'s on any of the forms and they were necessary. Every time there was a typo upon entering the info the system said they had performed an illegal operation and shut down. They had to call Topeka each time to reset.
Today, Marion County came out to process the out-of-state births. They took pics and took the information with them to send to the SOS's office. There they will process (investigate for authentication). The County office was not sure how long this would

take or if the client's would have an ID in time to vote at the August 7 election. In the 6 months that we have been working on the persons without ID, a dozen and a half with ID's have expired. Secretary Kobach was on KFDI Monday as saying Kansas had avoided the glitches other States have had by being proactive. Ha! I am exhausted with this entire process as I am sure you are. Each year, with new admissions and expired ID's, this is going to be a mess."

When the director asked Mr. Rucker what would happen with all the other nursing homes in the state that he would not be going to, he said that it was their legislators' job to get them the information they needed.

9. It is clear that what information voters get at the polling place if they have to vote a provisional ballot for no photo ID is inconsistent place to place. Some report they received a note saying they had to bring in a photo ID prior to the canvass. Others did not.
10. In a situation in the 2014 primary, a local senior residence (Brewster Place in Topeka) reported that seniors without IDs were not allowed to vote a provisional ballot. Two years after implementation, this kind of lapse in training of poll workers is not acceptable.
11. In the Supreme Court's decision on the Indiana voter ID law, it noted that there may be a case brought forward by seniors born out of state, who would have particular difficulty obtaining IDs. That is still the case in Kansas.

VOTER ID AND ADVANCE VOTING:

To advance vote in person, it is the same as voting on election day at the polls in terms of showing ID. If you have no ID, you may cast a provisional ballot and provide an ID prior to the canvass date. To request an advance ballot by mail, you have to provide a driver's license number, non-drivers ID number, or a photocopy of any of the IDs identified in KSA 25-2908. If you send the request in without proper ID, you have to provide it prior to the canvass date. If you need to make a photocopy, you can get one made for free at any state office.

1. Other court cases have noted that requiring voters to get an ID to the election office by the canvass date can be an issue. We extended the canvass date three days (from the Friday following the Tuesday election to the Monday following a Tuesday election), but it still may be short in a court's mind, especially when the voter is located in another city than the county election office. I think Indiana is the state where the court said 10 days should be allowed to get IDs to the election office.
2. Requiring photo ID to get an advance ballot adds a new burden for those who cannot get out to vote. You are only excused from the photo ID requirement if you have a permanent disability ballot (or meet one of the exclusions in KSA 25-2908).
3. The law will not allow you to put a social security number (SSN) on the advance ballot request as proof of identity. County clerks tell me that they can get everything they need to know about you from your name, address, and the last four digits of your SSN.

SSN is the easiest thing for voters to come up with and most have one. If we just kept the last four digits of the SSN as an identifying feature, it would eliminate the cost and burden of folks who don't have an ID getting one to get an advance ballot.

4. Indiana does not require a photo ID and that was the state Kobach cited as his model. During testimony, Kobach said many times our voter ID law would be like Indiana's and easily meet a court challenge. That was not true and the difference in advance ballot handling is just one example.
5. There are now extra burdens to returning a mail ballot to the election office. If you have someone return it for you, you both have to sign an affidavit designating who is to return it. That was not required prior to the S.A.F.E. Act. There are penalties if everything is not done correctly, trying to use intimidation to keep people from returning ballots for someone else.

IMPACT OF THE VOTER ID LAW:

Once the voter ID law started in 2012, it did not take long to feel the impact.

1. I made a point in the House Elections Committee about the burden of getting a birth certificate for a photo ID for those born out-of-state. To cover up this issue, Kobach said that those born out-of-state, or those for whom the state of Kansas had no birth certificate, could get a free photo ID at the county election office. The election office is supposed to have a camera there, take your picture, and Kobach's office will make an ID. The interesting thing is that all you have to do to get this ID is sign an affidavit. The same accommodation is not made to the rest of those born in Kansas. Further, there was no education/information made public about this opportunity, so no one really knows about it. And the counties are all across the board about how they implement it. In Douglas county they will actually go to your house to take your photo and make the ID themselves. My point is help from county to county in any aspect of the law varies widely.
2. As you can imagine, the first year of the voter ID law saw its issues due to lack of education and lack of training of poll workers. Here are just a few of the reports sent to me regarding what was happening at the polls in the 2012 and 2014 elections.
 - A voter said she had her temporary (paper) driver's license along with her old driver's license when she went to vote. The poll workers would not accept the paper ID and made her vote a provisional ballot. Since her permanent license did not arrive before the canvass date, her vote was thrown out. There are tens of thousands of Kansans in this situation at any given time. The truth is, they are supposed to accept this document at the polls. So, again, there is no consistent enforcement of the law across the state.
 - In 2012, IDs were rejected at multiple polling locations in Wichita because the address on the ID did not match the voting address. That is not a requirement of the law. You can, in fact, even use an out-of-state driver's license. The only thing the photo is to be used for is to match name and face.
 - An elderly woman's only ID was a photo of herself in her military uniform taped to her walker. She had no other ID so her provisional vote was eventually thrown out.

- Two elderly residents at an Osage county nursing home had no valid ID. At the polls on election day they were made to vote provisional ballots and their ballots were thrown out at the county canvass. The county clerk contacted relatives to help, but the gentlemen had no photo IDs and no way to get one on time.
- A voter refused to show his ID as a protest, and was told that when he filled out his provisional ballot that was all he had to do and that his vote would count. He didn't know he had to provide an ID prior to the canvass in order for his vote to count. What voters are told when they vote a provisional ballot varies widely across the state.
- In Marion County they told voters of provisional ballots that they had to have their IDs in by the Friday after the election. They should have given them until Monday, the canvass date. So not all county election officials knew what the law said.
- Three residents of the same facility took expired drivers licenses to vote. All were under the age of 65, so an expired license would not have been a valid ID for any of them. The white resident was allowed to vote a regular ballot, but the Hawaiian and the Mexican-American voters were made to vote provisional ballots. The two provisional ballots would have ultimately been thrown out since they had no other IDs.
- A voter told me he had to vote a provisional ballot because his license was suspended and he had no other valid photo ID. There are thousands of Kansans with suspended licenses at any time. The truth is, if you were allowed to keep your suspended license, they are to accept it. But many times it is confiscated. You can get a free photo ID from the DMV in this situation, but, again, you need a birth certificate, and no one tells these suspended drivers what is available to them.
- A veteran presented his Department of Veterans Affairs service card but it was rejected by poll workers because it had no address on it. He was told they wouldn't take anything but a driver's license. In another instance they rejected a Wichita State University ID, which was also a legal photo ID. There has been a dispute about taking high school IDs. It is hard to tell how many poll officials across the state have a different understanding of what constitutes a valid photo ID.
- A nursing home in Wichita reported that they took a resident to the DMV three times to get an ID, but could not provide enough proof she was a citizen.
- A voter in Carbondale did not have his driver's license current at the time he voted. He voted a provisional ballot, but figured his ballot would be thrown out because he worked in Topeka and could not get the documents needed in time to get a valid ID. I asked him to go through his wallet and we found a Topeka city bus pass with a photo. I faxed it to the Osage county election office and they took the ID. Had I not intervened on his behalf, his vote would have been thrown out. Neither he nor the poll workers were aware the bus pass would be valid for voting. Even the county election official had to check with the Secretary's office to verify that it would.
- The Topeka Rescue Mission reported that 50% of the women staying there have no ID and 15% of men. They would have a difficult time getting the underlying documents to get a birth certificate and then a photo ID. And they have no

transportation to get to the DMV. The Lawrence shelter said that 20% of their residents have no IDs. The Kansas City Rescue Mission said that 40% of their residents have no ID. The Saline Rescue Mission reported that they help get the birth certificates, but they have to get to the DMV by bus and they don't give them bus tokens.

- In Shawnee county, a student who did not provide a driver's license number on his absentee ballot request was told he had to have the information back by 7 pm on election day. He actually had until the canvass date. I heard this same story from two other students who had mistakenly put their school address on the outside of the envelope instead of their home voting address.
 - For non-drivers, a trip to the DMV to get a state ID can be a burden. One disabled Kansan told me a harrowing story of waiting hours (not unusual) to get his ID. With his health issues, he almost gave up. He had resources to help him get through it, but not everyone does.
3. Prior to the 2012 general election, I contacted the Shawnee County election commissioner about getting the names of those who were made to vote a provisional ballot for lack of photo ID. I wanted to be able to contact them and advise them they needed to take action to make their votes count. The county election commissioner said it would be no problem. They routinely gave out those lists. After the 2012 general election I requested the list. When Kobach found out, he made me go to the district court to get the list. When the district court ordered him to give me the list, he went to federal court to try and stop me. When the federal judge ordered him to give me the list, Kobach got a law passed to stop any future requests of the names of those who voted provisional ballots. Now no one can help those who vote provisional ballots understand what has happened and how to make their votes count.
 4. In the 2012 primary and general elections, there were 787 ballots thrown out for no voter ID. In the 2014 primary and general elections there were 427 ballots thrown out. I did some calculations of the votes thrown out in Kansas for no photo ID compared to Georgia in 2012. Kansas had several times more votes thrown out than Georgia, based on numbers voting and votes thrown out. I credit lack of education and disparate implementation of the law across the state for so many votes being thrown out.

WHAT COULD BE DONE?

There are a number of measures that could be taken to alleviate the problems created by the Kansas S.A.F.E. Act voter ID requirements. Here are just a couple:

1. Do not require those voting a provisional ballot for lack of photo ID at the polls to provide an ID prior to the canvass date. In order to vote a provisional ballot the voter must fill out a voter registration form. That means they have to provide a driver's license number or a social security number, their address, their birth date, and a signature swearing they are who they say they are. If the election office finds all that information valid and the signature matching the one on file, they should have their vote counted without additional effort.

2. Expand the types of valid IDs accepted. In other states, like our neighboring state, Missouri, there are a number of IDs that are accepted that are not government-issued photo IDs.

On a final note, Secretary Kobach has been given prosecutorial powers over election crimes. He has stated that in October he will announce some cases he is filing. He says they are cases where people voted in two places. Interestingly, these are cases that would not be prevented under the S.A.F.E. Act.

I hope this has been helpful in understanding the situation with voter ID in Kansas. If you have questions, please contact me.

Ann Mah
annmah@att.net
785-231-0823

Attachment 2



UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 Pennsylvania Avenue, NW • Suite 1150 • Washington, DC 20425 www.usccr.gov

April 14, 2017

The Honorable Sam Brownback
Governor of Kansas
300 SW 10th St.
Topeka, KS 66612

Dear Governor Brownback:

The U.S. Commission on Civil Rights is pleased to transmit to your office our Kansas State Advisory Committee's report *Voting Rights and the Kansas Secure and Fair Elections (SAFE) Act*, which can be found at:

<http://www.usccr.gov/pubs/KS-Voting-Rights-Report.pdf>

The Commission maintains 51 Advisory Committees - one for each state and the District of Columbia. The role of the Committees is to study civil rights issues in their communities and report findings and recommendations to the Commission. The Commission appreciates the Kansas Advisory Committee's focused attention on the civil rights impact of the state's 2011 Secure and Fair Elections (SAFE) Act, and its requirements that (1) individuals provide documentary proof of citizenship when registering to vote; and (2) voters present photographic identification in order to cast their ballot at the polls.

The Commission requests that your office review the recommendations that can be found in the report, and advises that you further investigate identified areas of concern within your jurisdiction, and take appropriate action to address them.

We have similarly asked state legislature leadership, the Congress, the U.S. Department of Justice, and the U.S. Election Assistance Commission to review the report's recommendations (copies attached).

The Commission appreciates your consideration of the report's recommendations, in the hope of improving civil rights. We look forward to hearing from you after you have reviewed the recommendations in the report on what actions you will take in response. You may contact Brian Walch at 202-376-8371, or bwalch@usccr.gov, with any questions or concerns.

Thank you for your consideration.

Sincerely,



Catherine E. Lhamon, Chair

cc: Adam Nordstrom
Washington Representative
State of Kansas
500 New Jersey Ave. NW, Ste. 400
Washington, DC 20001

Encl. Kansas Advisory Committee Report
Letter to Kansas legislature leadership
Letter to U.S. Congress
Letter to U.S. Department of Justice
Letter to U.S. Election Assistance Commission



UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 Pennsylvania Avenue, NW • Suite 1150 • Washington, DC 20425 www.usccr.gov

April 14, 2017

Senator Susan Wagle
President, Kansas State Senate
300 SW 10th St.
Topeka, KS 66612

Representative Ron Ryckman
Speaker, Kansas House of Representatives
300 SW 10th St.
Topeka, KS 66612

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Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Lhamon".

Catherine E. Lhamon, Chair

cc: Susan Kannarr, Clerk of the House (via email)
Cory Carnahan, Secretary of the Senate (via email)

Encl. Kansas Advisory Committee Report
Letter to Governor Brownback
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