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STATE OF KANSAS

**Testimony of
Kris W. Kobach
Kansas Secretary of State**

**Committee on the Judiciary
Kansas Senate**

Regarding SB 34

January 29, 2015

Chairman King and members of the Committee, thank you for the opportunity to testify on behalf of SB 34 or as my office calls the bill, the "SECURE Act". The acronym "SECURE" stands for Stopping Election Crime by Uniting Regulation and Enforcement. The SECURE Act is a companion bill to the successful SAFE Act passed into law in 2011. While the SAFE Act focused on photo identification and proof of citizenship, the SECURE Act focuses on penalties for election crimes and enforcement. These two acts in tandem will ensure that Kansas remains the number one state in the nation when it comes to conducting secure and fair elections.

This is the same bill that passed both houses of the Kansas Legislature, with minor variations, in 2013. The SECURE Act passed out of the Senate on February 28, 2013 by a vote of 31-9. It passed out of the House on March 26, 2013 by a vote of 69-53. However, due to slight differences in the versions of the bill, it went to conference committee and was subsequently combined with an unrelated bill that drew significant opposition in the House.

There are two main components to the SECURE Act. One component of the Act increases penalties for certain election crimes, a change that is necessary to reflect the serious nature of election fraud. The second component grants prosecutorial authority over election crimes to the Kansas Secretary of State and the Kansas Attorney General, in addition to the authority already possessed by the District and County Attorneys.

Election crime is a legitimate problem in Kansas and one that unfortunately has not been sufficiently addressed. The best way to illustrate this issue is by examining the cases of "double voting" that my office learned had occurred during the 2010 and 2012 election cycles. Double voting refers to an individual illegally voting more than once in the same election. My office discovered 18 total cases of double voting that occurred in the 2010 or 2012 election cycle and then delivered this information to the relevant county and district attorneys. The results may surprise you. As the attached chart illustrates, only seven of the 18 cases have resulted in any action being taken. And in one of those cases, the prosecution is occurring because it is the Texas Attorney General who is acting, not a county attorney in Kansas. And in two of those seven cases, the prosecuting attorney consented to a diversion, resulting in no penalty whatsoever.

I would also like to draw your attention to two instances that occurred before 2010. In 2008 the spouse of a Kansas law school professor engaged in double voting. Despite having full knowledge of the crime committed, the individual in question received an almost unheard of "pre-filed" diversion. In another case, a "serial double voter" double voted in the 2006 primary and general elections as well as the 2008 general election. Secretary of State Ron Thornburgh reported these incidents to both counties in which the crime occurred and my administration later followed up with both county attorneys. Despite this serial double voting, the final result was only a diversion.

I do not intend my remarks to cast aspersions on the performance of the county and district attorneys of Kansas. County and district attorneys are hard working public

servants with an extremely full plate. There are a number of reasons why county and district attorneys are not prosecuting election crimes. These reasons include potential conflicts, lack of resources, and the burden of more pressing crimes. It only makes sense that county and district attorneys would focus their limited resources on violent crimes, murders, rapes, drug crimes, and property crimes.

That is why the Secretary of State's Office and the Attorney General should be granted the authority to prosecute election crimes. It is not uncommon for a state agency to have the ability to prosecute crimes in its area of expertise. Examples of this include the Kansas Insurance Commissioner and the Office of the Kansas Securities Commissioner. My office has expertise in the area of elections as well as the resources to pursue these cases. In addition, my office can do this at minimal fiscal impact. This would ensure that election crimes receive the attention they deserve while also giving county and district attorneys the option to direct their resources to other matters.

Finally, it should be noted that the opportunities for double voting are plentiful. Because over 100,000 Kansas voters are registered both in Kansas and another state, any one of those voters could commit the crime easily. The attached chart showing the results of the 2014 interstate cross check program, which is hosted by my office, illustrates how large this problem is. The only way to stop the crime of double voting is to deter it by imposing substantial penalties on those who commit the crime. That is not occurring now.

Voter fraud is a serious issue and I strongly believe that the majority of Kansans agree. If voter fraud is to be taken seriously, we must change how we approach the enforcement of election crimes. Diversions are not a deterrent. There must be significant fines and there must be convictions. Passage of SB 34, the SECURE Act, is the best way to accomplish this and ensure that Kansas continues to have the most secure and fair elections in the nation.

Election	Jurisdiction	Method	Action	Status
2012 General Election	Shawnee County, Kansas & Texas	Voted in advance by mail in Shawnee County, Kansas & at the poll in Texas.	Referred to Texas Attorney General's office.	Texas Attorney General's office prosecuting this case.
2012 General Election	Ellis County, Kansas & Colorado	Voted early in person in Ellis County, Kansas & in advance by mail in Colorado.	Referred to Ellis County for prosecution.	No action taken.
2012 General Election	Clark County, Kansas & Oklahoma	Voted early in person in Clark County, Kansas & at the poll in Oklahoma.	Referred to Clark County for prosecution.	Plead "No Contest" to voting without being qualified. Sentence was 12 months unsupervised probation, \$1000 fine plus court costs and a 30 day suspended sentence.
2012 General Election	Elk County, Kansas & Oklahoma	Voted at the poll in Elk County, Kansas & in advance by mail in Oklahoma.	Individual passed away between the time of offense and discovery.	No action possible.
2012 General Election	Phillips County, Kansas & Virginia	Voted early in person in Phillips County, Kansas & in advance by mail in Virginia.	Referred to Phillips County for prosecution.	No action taken.
2012 General Election	Wyandotte County, Kansas & Louisiana	Voted at the poll in Wyandotte County, Kansas & at the poll in Louisiana.	Referred to Wyandotted County for prosecution.	No action taken.
2012 General Election	Johnson County, Kansas & Nebraska	Voted early in person in Johnson County, Kansas & early in person in Nebraska.	Referred to Johnson County for prosecution.	Johnson County district attorney referred to Nebraska Attorney General as Nebraska is where the second vote occurred.
2010 General Election	Johnson County, Kansas & Iowa	Voted at the poll in Johnson County, Kansas & at the poll in Iowa.	Referred to Johnson County for prosecution.	Resulted in a diversion.
2010 General Election	Hamilton County, Kansas & Colorado	Voted in advance by mail in Hamilton County, Kansas & in advance by mail in Colorado.	Referred to Hamilton County for prosecution.	Case referred to the attorney general. Misdemeanor conviction, unsupervised probation, and \$500 fine. Sentence was stayed.
2010 General Election	Finney County, Kansas & Oklahoma	Voted at the poll in Finney County, Kansas & in advance by mail in Oklahoma.	Referred to Finney County for prosecution.	Diversion completed.
2010 General Election	Marshall County, Kansas & Nebraska	Voted at the poll in Marshall County, Kansas & at the poll in Nebraska.	Referred to Marshall County for prosecution.	Case filed. Court records sealed.
2010 General Election	Sedgewick County, Kansas & Louisiana	Voted at the poll in Sedgewick County, Kansas & in advance by mail in Louisiana.	Referred to Sedgewick County for prosecution.	No action taken.

<u>Election</u>	<u>Jurisdiction</u>	<u>Method</u>	<u>Action</u>	<u>Status</u>
2010 General Election	Sherman County, Kansas & Colorado	Per an agreement with the state of Colorado in 2010 no documents were retained after the case was referred.	Referred to the FBI	No action taken.
2010 General Election	Johnson County, Kansas & Arkansas	Voted in advance by mail in Johnson County, Kansas & at the poll in Arkansas.	Referred to Johnson County for prosecution.	Declined to prosecute.
2010 General Election	Johnson County, Kansas & Arkansas	Voted in advance by mail in Johnson County, Kansas & at the poll in Arkansas.	Referred to Johnson County for prosecution.	Declined to prosecute.
2010 General Election	Riley County, Kansas & Colorado	Per an agreement with the state of Colorado in 2010 no documents were retained after the case was referred.	Referred by Riley County to Attorney General's office for prosecution.	Declined to prosecute.
2010 General Election	Riley County, Kansas & Colorado	Per an agreement with the state of Colorado in 2010 no documents were retained after the case was referred.	Referred by Riley County to Attorney General's office for prosecution.	Declined to prosecute.
2010 General Election	Barton County, Kansas & Colorado	Per an agreement with the state of Colorado in 2010 no documents were retained after the case was referred.	Referred by Barton County to Attorney General's office for prosecution.	Declined to prosecute.

2014

Grid of Potential Duplicate Registrants Within States by DOB Lastname Firstname

State	Invalid or Null Dates of Birth	Number of rows	Duplicate Voter IDs	Voters with more than 1 Voter	AK	AZ	AR	CO	GA	ID	IL	IN	IA	KS	KY	LA	MA	MI	MS	MO	NE	NV	NC	OH	OK	PA	SC	SD	TN	VA	WA	WV	COMPARED WITH OTHER 27
1 ALASKA	487,154	516	0	24		2222	527	3,819	2,486	646	1,084	1,269	562	484	1,024	333	707	2,224	500	1,107	264	1,106	2,323	1,358	613	1,588	1,004	280	690	866	6,518	342	35,936
2 ARIZONA	3,720,070	12	0	2,243	2,222	3,313	29,883	13,619	13,619	3,234	16,740	17,284	7,449	4,264	7,048	1,931	6,160	33,607	2,668	8,461	3,788	13,682	13,065	15,951	4,573	14,746	5,780	3,054	4,453	6,598	25,382	1,869	270,824
3 ARKANSAS	1,620,170	37	17,951	18,922	527	3,313	5,007	7,862	7,862	3,951	6,083	5,119	2,315	3,156	4,118	5,309	1,160	5,675	6,752	11,778	9,999	1,365	5,797	4,629	8,602	3,503	3,310	464	6,047	2,907	2,769	808	109,769
4 COLORADO	3,574,109	0	10	729	3,819	29,883	5,007	18,954	18,954	3,513	14,726	10,084	11,354	11,354	7,562	4,718	8,660	18,893	3,653	12,581	9,302	8,465	17,552	15,454	9,099	16,312	8,292	4,237	6,307	11,460	20,124	2,217	300,842
5 GEORGIA	6,243,316	54	0	8,629	2,486	13,619	7,862	18,954	18,954	1,339	30,007	25,353	5,656	6,268	24,641	23,209	12,574	35,581	19,872	15,250	2,761	5,609	79,195	34,086	6,414	30,753	70,568	1,196	39,600	41,082	12,994	5,639	572,558
6 IDAHO	742,109	0	0	108	646	3,234	3,951	3,513	1,339	1,266	1,167	566	566	566	785	389	462	1,220	344	891	324	1,684	1,295	1,212	459	1,143	748	262	631	1,174	7,866	230	33,823
7 ILLINOIS	8,184,612	129,437	0	49,507	1,084	16,740	6,083	18,609	30,007	1,266	83,592	28,342	5,488	7,595	7,595	4,366	9,617	48,310	9,200	35,554	3,338	7,077	23,120	26,934	4,333	20,081	10,356	4,534	10,130	11,117	13,038	2,853	451,982
8 INDIANA	4,554,697	4,574	22,765	24,632	1,269	17,284	5,119	14,726	25,353	1,167	83,592	7,595	5,015	6,168	6,168	5,663	5,639	51,464	6,542	15,659	2,434	4,026	21,772	48,561	4,375	16,523	13,484	1,259	14,438	12,327	9,494	3,681	460,030
9 IOWA	2,122,802	9	0	579	562	7,449	2,315	10,084	5,656	566	28,342	7,595	4,411	4,411	3,256	1,260	1,842	7,117	10,789	9,914	1,553	5,785	5,785	5,270	1,955	4,343	2,660	4,389	2,330	3,104	4,302	744	138,333
#### KANSAS	1,723,063	6	0	811	484	4,264	3,156	11,354	6,268	566	5,488	5,015	4,411	2,899	1,263	1,469	1,469	19,235	5,414	3,209	4,192	1,502	5,241	4,583	7,285	3,818	2,651	1,075	2,072	2,771	4,199	722	125,031
#### KENTUCKY	3,172,732	15	0	3,619	1,024	7,048	4,118	7,562	24,641	785	6,083	6,168	3,256	2,899	3,640	3,694	3,694	19,235	5,414	9,987	1,245	2,034	20,410	55,301	2,327	10,914	11,175	646	20,741	9,930	5,464	8,649	320,930
#### LOUISIANA	2,916,117	0	55,458	876	333	1,931	5,309	4,718	23,209	399	4,366	5,663	1,260	1,263	3,640	2,570	2,570	6,092	17,726	5,003	6,977	2,034	9,766	4,849	2,366	5,882	3,987	296	3,963	3,423	4,085	1,172	126,002
#### MASSACHUSETTS	4,273,106	70	2	1,530	707	6,160	1,160	8,660	12,574	462	9,617	5,539	1,842	1,469	3,694	2,570	2,570	10,219	1,446	4,025	823	2,047	15,727	9,201	1,353	19,696	6,863	409	3,162	13,206	5,988	1,167	148,806
#### MICHIGAN	7,450,861	6	0	58,283	2,224	33,607	5,675	18,893	35,581	1,220	48,310	51,464	7,117	4,799	19,235	5,082	10,219	8,306	12,541	2,591	6,298	31,243	53,303	4,467	20,449	15,654	1,413	16,449	16,365	12,561	3,846	449,924	
#### MISSISSIPPI	2,040,280	210	0	8,637	500	2,668	6,752	3,653	19,872	344	9,200	6,542	1,730	1,391	5,414	17,726	1,446	8,306	17,726	5,003	6,977	2,034	9,766	4,849	2,366	5,882	3,987	327	16,952	4,652	2,652	1,135	146,054
#### MISSOURI	4,055,790	6	0	3,305	1,107	8,461	11,778	12,581	15,250	891	35,554	15,659	10,789	32,093	9,367	5,003	4,025	12,541	5,501	4,516	3,072	11,956	11,788	7,731	9,133	6,054	1,290	6,765	8,231	7,476	1,772	260,384	
#### NEBRASKA	1,149,727	1	0	278	284	3,788	999	9,302	2,761	324	3,338	2,434	9,914	4,192	1,245	697	823	2,591	808	4,516	1,047	2,547	1,047	2,195	1,163	2,030	1,257	2,576	1,037	1,698	2,377	419	66,343
#### NEVADA	1,412,934	12	0	312	1,106	13,682	1,365	8,465	5,609	1,684	7,077	4,026	1,553	1,502	2,064	2,034	2,047	6,298	1,530	3,072	1,047	4,250	5,036	1,512	4,257	2,497	584	1,844	3,230	7,980	574	95,925	
#### NORTH CAROLINA	6,489,808	0	788,957	5,011	2,323	13,065	5,797	17,557	79,195	1,295	23,120	21,772	5,241	5,241	20,410	9,766	15,727	31,243	8,885	11,956	2,547	4,250	35,237	35,237	5,285	43,387	103,359	1,103	20,509	75,762	12,072	12,735	599,393
#### OHIO	7,709,806	0	0	10,557	1,358	15,951	4,629	15,454	34,086	1,212	26,934	48,561	5,270	4,583	55,301	4,849	9,201	53,303	6,155	11,788	2,195	5,036	35,237	4,586	40,604	20,317	1,303	14,536	16,674	10,268	19,989	469,201	
#### OKLAHOMA	1,978,834	12,164	0	2,051	613	4,573	8,602	9,099	6,414	459	4,333	4,375	1,955	7,285	2,366	2,366	1,353	4,467	2,453	7,731	1,163	1,512	5,285	4,586	4,008	2,911	454	2,765	2,903	3,631	1,003	59,556	
#### PENNSYLVANIA	8,224,219	49	0	18,926	1,588	14,746	3,503	16,312	30,753	1,431	20,081	16,523	4,343	3,818	10,914	5,882	19,696	20,449	4,327	9,133	2,030	4,257	43,387	40,604	4,008	22,906	981	735	12,834	19,296	6,159	6,677	366,666
#### SOUTH CAROLINA	3,206,034	31	379	33,468	1,004	5,760	3,310	8,292	70,568	748	10,356	13,484	2,660	2,651	11,175	3,987	6,863	15,654	5,132	6,054	1,257	2,497	103,359	20,317	2,911	22,906	735	564	897	1,686	182	36,208	
#### SOUTH DAKOTA	551,690	14,263	0	385	280	3,054	464	4,237	1,196	262	4,534	1,259	4,399	1,075	646	296	409	1,413	327	1,290	2,576	584	1,103	1,303	454	981	735	564	897	1,686	182	36,208	
#### TENNESSEE	3,368,622	548	0	3,281	690	4,453	6,047	6,307	39,600	631	10,130	14,439	2,330	2,072	20,741	3,963	3,182	16,449	16,952	6,765	1,037	1,844	20,509	14,356	2,785	8,555	12,834	564	9,057	4,427	2,864	233,583	
#### VIRGINIA	5,246,408	0	257	3,362	866	6,598	2,907	11,460	41,092	1,174	11,117	12,327	3,104	2,771	9,930	3,423	13,206	16,365	4,652	8,231	1,698	3,230	75,762	16,674	2,903	38,301	19,296	697	9,057	11,267	14,247	342,555	
#### WASHINGTON	4,282,446	0	0	916	6,518	25,382	2,769	20,124	12,994	7,868	13,038	9,494	4,302	4,199	5,464	4,085	5,988	12,561	2,652	7,476	2,377	7,980	12,072	10,269	3,631	11,007	6,159	1,688	4,427	11,267	1,456	217,247	
#### WEST VIRGINIA	1,219,645	0	0	3,957	342	1,869	808	2,217	5,639	230	2,853	3,681	744	722	8,649	1,172	1,167	3,846	1,135	1,772	419	574	12,735	19,989	1,003	12,666	6,677	182	2,864	14,247	1,456	109,658	
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