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STATE OF KANSAS

January 21, 2025

Testimony on HB2020 (Oral Support)

House Committee on Elections

Submitted: January 17, 2025

Chair Proctor and members of the Committee:

The Secretary of State supports House Bill 2020, which amends K.S.A. 8-240 to require the director of the division of motor vehicles to provide a quarterly list to the secretary of state of individuals with identification information issued a temporary driver's license (TDL). TDLs are issued to those individuals who have lawful presence in Kansas but are not U.S. Citizens.

The Secretary already receives the list under an agreement between the Department of Revenue and the Secretary of State. This bill would merely codify the current practice. The Secretary compares the TDL list to the voter registration list, looking for any individuals on both lists for follow-up investigation, as a person on the TDL list is not necessarily a non-citizen.

Only county election officers may modify the voter rolls for their county. The secretary, therefore, interprets the provision that the secretary shall delete names to mean the Secretary will notify the appropriate county elections officer that if a name on the rolls is ineligible the name will be removed.

Background: Since November 1918, only citizens are permitted to register and to vote in any election held in Kansas. Indeed, it is both a federal and state felony for a non-citizen to knowingly do so (18 USC 611; 18 USC 1015; KSA 25-2416; KSA 25-2411).

Current measures to prevent non-citizens from voting:

1. When a person applies to register to vote, the applicant must affirm under penalty of perjury, the person is a United States Citizen. Failure to provide the affirmation prevents the person from becoming a registered voter. This is the Kansas form:

Kansas Voter Registration Application

Warning: If you submit a false voter registration application, you may be convicted and sentenced to up to 17 months in prison.



Qualifications: If you mark "no" in response to either Question 1 or 2, DO NOT complete this form.

1. Are you a citizen of the United States of America? Yes No
2. Will you be 18 years of age on or before Election Day? Yes No

2. Every month, clerks of the district court provide the Secretary of State a list of any persons who have identified as non-citizens when completing jury questionnaires.

3. In 2024, The Secretary of State joined the federal Systematic Alien Verification for Entitlements (SAVE) Program which allows election staff to verify the immigration status of any individual who has ever been in the immigration system.

4. On a periodic basis, the Secretary of State obtains the list of persons who have been issued a TDL to legal resident alien and compares it to the list of registered voters.

5. If elections staff or law enforcement receive information that a registered voter is likely not a citizen, then they or the county/district attorney can investigate further.

A concise summary of the federal court case:

In 2011, Kansas passed the SAFE Act which, in part, required documentary proof of citizenship (DPOC) when registering to vote. A lawsuit was brought in 2013; in 2018 the district court, after a trial, ruled against Kansas; in 2021 the court of appeals concurred; and the U.S. Supreme Court declined to take up the case.

The court relied on these factual findings: Based on voluminous testimony and evidence, the court concluded about 3 non-citizens register to vote in Kansas each year and many, if not most, of those were the result of administrative “anomalies.” That in a 20-year period possibly 5 non-citizens had voted. That in a two-year period about 31,000 citizens had begun the voter registration process but did not complete provide DPOC and, therefore, were not registered.

The court determined (1) that a state could not supplement the requirements for a voter to register using the federal registration form with DPOC requirements and (2) implementing a procedure whose burden prevented 31,000 people from registering to vote so outweighed the benefit of preventing a scattering of illegal votes that it was unconstitutional.

Current TDL Analysis:

After an initial review, there were 171 potential matches of persons who appear on the most recent TDL list and who appear in the voter registration database in any registration status: Active, Inactive, Cancelled, Incomplete.

After further review, 118 of the 171 potential matches warranted additional review which the Secretary of State’s office is currently conducting. Based on extensive experience gained from the cross-check program, it is likely there will be far fewer matches of persons who have been issued a TDL and applied to register to vote. Finally, a person on the TDL list could have become a naturalized citizen since being issued a TDL.

Once the review is complete, the Secretary of State’s office will provide the committee its findings.

Respectfully,

Clayton Barker

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