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STATE OF KANSAS

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

**Committee on Judiciary
Kansas House of Representatives**

Regarding SB 34

March 12, 2015

Chairman Barker 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.

<u>Election</u>	<u>Jurisdiction</u>	<u>Method</u>	<u>Action</u>	<u>Status</u>
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 Wyandotte 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.

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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.