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**Testimony in Support of House Bill 2080
Transferring the charitable organization registration program
from the Secretary of State to the Attorney General**

**Presented to the House Committee on the Judiciary
By Kansas Attorney General Derek Schmidt**

January 25, 2021

Chairman Patton and Members of the Committee:

Thank you for the opportunity to offer this testimony in support of House Bill 2080, which was requested by my office and Secretary of State Scott Schwab. This bill proposes to consolidate responsibility for administering and enforcing the Charitable Organization and Solicitations Act (COSA) in the Office of the Attorney General.

The COSA is the principal Kansas statute that protects charitable donors, promotes transparency in charitable giving, and prevents scam charities from operating in Kansas. It is the primary statute regulating charitable fundraising in Kansas.

While the statute has many specific components, in broad terms it does two things:

1. It requires certain charitable organizations, professional fund-raisers, and professional solicitors to register with the state and, as part of that registration, to provide certain information, such as financial information disclosing the uses of charitable contributions. The state, in turn, is to make available to the public certain information about these registrants so that Kansans who wish to make charitable donations may conduct research and inform themselves about the charities they may wish to support. Law enforcement organizations, primarily the Office of the Attorney General, also rely on these filings to help identify charity fraud and other violations of the COSA.
2. When a charity or other entity subject to the law violates the statute, the COSA authorizes various enforcement actions that may involve lawsuits, civil penalties, cost recovery, and/or injunctive relief.

Under current law, the Office of the Secretary of State manages the registration component; it receives and processes registrations and maintains the online database of filings. The Office of the Attorney General is responsible for the enforcement component; we receive and investigate complaints alleging violations of the COSA and, when appropriate, litigate violations.

When the COSA first was enacted in 1988, this division of labor probably made sense. At that time, the Office of Attorney General managed no registration programs and, thus, placing a charities registration program there would have been unusual. But today, our office does effectively manage several registration programs: roofing contractor registration, concealed carry licensing, private detective licensing, and bail enforcement agent licensing.

Thus, the rationale for dividing responsibility for this relatively small COSA program between two state agencies no longer is obvious. To the contrary, we think there likely are opportunities for efficiencies – perhaps not financial savings, but efficiencies in operations and effectiveness – by consolidating responsibility for the COSA program within a single agency. And placing that consolidated responsibility in the Office of the Attorney General makes sense because of our experience and expertise in enforcing the statute, which in many ways is a type of consumer protection statute.

Forty states, including Kansas, currently require some form of charitable registration and every state has some sort of authority to enforce laws against charities fraud, according to the National Association of Attorneys General. In 18 of those 40 states, the attorney general is responsible for both registration and enforcement – as proposed in House Bill 2080. In the other 22 states, the attorney general is responsible for enforcement while another agency handles registration. Among those 22, there are a variety of other agencies handling registration, with secretary of state offices being the most common but others include the Florida Department of Agriculture and Consumer Services, the Maine Department of Professional and Financial Regulation, the New Jersey Division of Consumer Affairs, the Rhode Island Department of Business Regulation, the Utah Division of Consumer Protection, the Virginia Department of Agriculture and Consumer Services and the Wisconsin Department of Financial Institutions.

We think the time is right to consolidate the Kansas program for several reasons. First, our office has made consumer protection a priority and we would be dedicated to strengthening and improving our overall system of charitable organization regulation. If this change is made, we will work diligently to review the current status of the program, compare the program to national best practices, and if necessary make recommendations in future years to strengthen and improve the Kansas COSA program – this is work we want to do. Second, the current registration system needs technological upgrades to make it more user-friendly for both regulated filers and potential charitable donors; if the program is to be moved, doing so now can help ensure any upgrades are tailored to the operations of the attorney general’s office. Fourth, there is an ongoing national discussion about a so-called “single portal,” which would allow charities operating in multiple states to make their annual filings through a single location; again, making the transition now so the attorney general’s office can represent Kansas in the single-portal discussions seems sensible.

This bill is the result of conversations over the past two years with Secretary Schwab and his staff. We believe the changes outlined in this bill will lead to a more efficient use of resources reflect the common-sense good-government approach the people of Kansas expect from their elected officials.

Thank you again for your consideration of House Bill 2080.