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STATE OF KANSAS

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Chairman Bergquist and members of the House Elections Committee:

I write in response to testimony presented before this committee by Dr. Douglas Frank on March 15, 2022. This testimony sought to undermine confidence in our county election officers, election results, and the longstanding systems used to securely conduct elections in Kansas.

During his testimony, Dr. Frank made repeated claims that he has passwords and login information to county databases and the statewide voter registration system. This information is knowable only to county election officers who administer and update the system. If Dr. Frank has somehow obtained such confidential information, he is subject to federal and state investigation for such possession. To date, there has not been a single instance of an unauthorized user accessing the statewide voter registration system.

Dr. Frank also made claims of fraudulent activity and interference in his testimony. Dr. Frank was unable to provide a single instance of voter fraud in Kansas, a single piece of evidence proving Kansas election results are not valid, or our election systems work improperly. The failure to provide any evidence, despite repeated claims, has led many to conclude that these allegations are being made for political and monetary gain. To date, there has not been a single instance of reported and verifiable evidence of election fraud in the 2020 election.

These claims, without evidence, are based on supposition, conjecture, and misrepresentation of our state's election data to apply theories regarding election activities in other states to Kansas. This rhetoric has become destructive toward Kansas and the foundation of our republic. It has put our county election officers and volunteer poll workers in harm's way and encouraged mistrust in our elections.

We value the concerns of Kansans who are seeking assurance about our elections. As we approach the 2022 elections, it is imperative that we provide trusted information to ensure the confidence and trust of Kansas voters. Here are the facts.

VOTER IDENTIFICATION

Allegations were made that 45,000 Kansans voted in the 2020 general election without any identification.

FACT: Kansas has required voter identification in every election for the past eight years. The strict enforcement of voter ID eliminates the ability for "phantom voters" to vote in Kansas.

In 2011, the Kansas Legislature passed the Secure and Fair Elections (SAFE) Act, which has mandated voter identification in every election since 2014. The SAFE Act requires every voter to present a government-issued photo ID before casting a ballot. Failure to provide ID requires the voter to cast a provisional ballot that may be counted only if the voter submits a valid ID prior to the certification of the election. This applies to every advance by mail ballot request. The SAFE Act ensures that only legally registered voters may cast a ballot, and that each voter has appeared before a government official in Kansas to obtain an ID, which eliminates the ability of phantom voters to be added to the statewide voter registration database and to cast a ballot.

ADVANCE BY MAIL BALLOT

Allegations were made that advance by mail ballots can be printed at home and sent to the county election office.

FACT: Despite claims made before this committee, Kansas has robust checks and balances in place before a voter may receive an advance by mail ballot, which helps to ensure election integrity.

Every voter who chooses to vote via advance by mail ballot must first complete an application with their name, address, signature, and either a driver's license, non-driver's identification number, or a copy of their government-issued identification document. The following verification methods must be completed before an official ballot is transmitted to the voter:

- (1) Every driver's license number is verified that it belongs to the voter requesting the ballot.
- (2) The signature on the application is verified against signatures on file with the statewide voter registration system. If the signatures do not match, the county election office must contact the applicant to verify the signature before a ballot is issued.
- (3) The ballot is transmitted in a required security envelope. Every returned ballot envelope, whether it is returned by mail or deposited in a secure container, is reviewed by the county election office before it may be counted. The name, address, and signature on the security envelope must match the application submitted for that ballot. If the signature does not match, the county election office is required to contact the voter to provide an updated signature.

If these verification steps are not completed, if the name or address does not match the application, or if the ballot is received by the county election official without a security envelope, the ballot is marked provisional. Provisional ballots are presented to the county board of canvassers for a final determination on the validity of the ballot. No ballot transmitted by mail shall be submitted for counting unless every verification step has been completed and the ballot is matched to the registered voter in the statewide voter registration system.

VOTING MACHINE SECURITY

The allegation was made that Kansas voting equipment has been hacked and is connected to cellphone towers.

FACT: In 2005, at the urging of the Kansas Secretary of State's office, the Kansas County Clerks and Election Officials Association adopted a statewide policy prohibiting any piece of tabulating voting equipment from being connected to the internet. In addition, the following security measures are in place:

- (1) The computers that contain vote tabulating software are prohibited from being connected to the internet. Web browsers, email, and all other software, besides the operating software, are removed from those computers. HB2486 would codify this policy into law.
- (2) Election results must be uploaded manually from the voting devices onto the computer that tabulates results. Election results must then be transferred manually into a separate computer to report election results to the media, public, and public-facing websites.
- (3) When not in use, each piece of voting equipment is stored in a secure, monitored location with no access permitted, other than by election officials.
- (4) Within five days prior to each election, each county conducts public testing of the voting equipment. Any member of the public is allowed to be present and may be allowed to mark their own test ballots to ensure the testing is accurate.
- (5) Immediately following the certification of the election, another public test is conducted using the same ballots tested in the pre-election test to ensure the machines continue to work as programmed.

I encourage Kansans to attend and participate in the public testing of voting equipment as an additional layer of accountability and transparency in our election processes.

POST-ELECTION AUDITS

The testimony alleged that our election results cannot be verified.

FACT: Since 2019, over 300 post-election audits have been conducted across every county in Kansas. No county has failed its audit.

Following every election, each of the 105 counties conduct a post-election audit supervised by the Secretary of State's office. In national and state elections, the Secretary of State's office holds a public meeting to randomly select the contested elections to be audited in each of the 105 counties. Each county, in a public meeting, will then randomly select the precincts in each of those contested elections to be audited. A bipartisan team of election workers is appointed to conduct the audit and count, by hand, each ballot in the selected contested elections and precincts and compare those results to the results produced by the voting equipment. In each election, since this law went into effect in 2019, every ballot in every contested election was counted correctly. Earlier this year, I proposed legislation, HB2570 and SB438, to enhance post-election audits in Kansas.

STATEWIDE VOTER REGISTRATION DATABASE SECURITY

The allegation was made that the statewide voter registration database entries are manipulated from outside sources.

FACT: Robust, multi-layer security protects the statewide voter registration database, which has been used for well over a decade. Claims of access by persons other than authorized election officials or manipulation of the system are false.

The Secretary of State's office is responsible for the implementation, usage, and security of the statewide voter registration system, in conjunction with each of the 105 county election offices. During the 16 years the statewide voter registration system has been used, it has been protected by industry leading, multi-factor authentication and security protocols. Every end user is monitored, and every key stroke of every user is logged, maintained, and reviewed.

To date, there has not been a single instance of an unauthorized user accessing the system. The Secretary of State's office is in constant communication with state and national security partners, including the Kansas Fusion Center, Federal Bureau of Investigation, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, and private security partners to constantly review and update the security posture of our statewide voter registration system.

ELECTION SYSTEMS AND SOFTWARE

The allegation was made that Election Systems and Software machines were vulnerable prior to use in the 2020 elections.

FACT: In October 2020, the Secretary of State's office was alerted immediately that a copyright date on the home screen of several Election Systems and Software (ES&S) models was incorrect. Two independent laboratories verified the copyright date had no impact on the election system, and the Election Administration Commission (EAC) determined it was a de minimis issue. In other words, the copyright date did not impact the election system.

The security of election equipment is a high priority for our office, and any claim regarding the validity of the equipment is taken seriously and investigated properly. In coordination with the independent laboratories and the EAC, our office determined ES&S machines in Kansas were certified for use in the 2020 elections. In addition, voting equipment in Kansas must be certified by the EAC before it may be purchased or used in a Kansas county.

VOTER REGISTRATION LIST MAINTENANCE

The testimony of inflated voter rolls allowing "phantom voters" is unfounded and inconsistent with state election protections.

FACT: The accuracy of the statewide voter registration system is fundamental to the integrity of the election process. The system serves as the foundation for the entire administration of elections and is governed by state and federal law. Voter list maintenance occurs daily in every county in Kansas. This allows voters who no longer reside at their registered address to provide updated information to the county election officer or be removed from the statewide voter registration

database. State and federal law only permits county election officers to remove a registered voter for one of the following reasons: written request from the voter, conviction of a felony, a move to a different jurisdiction, or death. The state of Kansas participates in the following voter registration list maintenance methods.

NCOA - The National Voter Registration Act (NVRA) requires every state to conduct a systematic program for maintaining an accurate and updated voter registration list. This must be accomplished by either: (1) participation in the National Change of Address (NCOA) program; or (2) participation in a county-wide mass mailing. In Kansas, each county election officer chooses which method to use.

The following activities are conducted annually. The statewide voter registration database is compared to the U.S. Postal Service change of address file for the past three years. The result of the comparison is sent to each county to process and update voter registration records. This is accomplished by transmitting a forwardable confirmation notice requesting the voter confirm the information. If a voter moves out of the county and does not respond to the confirmation notice, county election officers must wait two federal general election cycles before removing the voter from the statewide voter registration database.

Duplicate Check – At least once a year, the Secretary of State’s office conducts an internal review of all registered voters to identify duplicate records. The results of the review are transmitted to each county election office for verification and combination of duplicate records.

Obituaries/death notices – Weekly, the Secretary of State’s office receives a list of persons from the Kansas Office of Vital Statistics of persons with a death certificate on file. These records are transmitted to each county for review and processing to remove the deceased persons from the statewide voter registration database. Separately, each county election office reviews obituary notices from area newspapers and funeral homes. In addition, the Secretary of State’s office completes an annual comparison of the statewide voter registration database with the national Social Security Administration master death file for potential records that should be cancelled.

Felon Notices – Weekly, the Secretary of State’s office receives a list of persons from the Kansas Department of Corrections who have received a felony sentence. These records are transmitted to each county election office for review and processing to remove the applicable persons from the statewide voter registration database.

Cancellation Notices – Daily, the Secretary of State’s office receives notice of cancellations from state and local jurisdictions across the country. These notices are of persons registered to vote in Kansas who have subsequently registered to vote in another state. Weekly, these notices are sent to each county election office for review and processing to remove the applicable persons from the statewide voter registration database.

Voter Notices – A registered voter may submit a written request to remove themselves from the statewide voter registration database. County election offices immediately process these requests.

Before any voter may be removed from the statewide voter registration database, one of the above requirements must be met. Personal knowledge by an election official that a voter should be removed from the rolls is not a sufficient or legal basis for removal. Earlier this year, I proposed legislation, HB2555, to provide county election officers additional tools to maintain voter rolls. I appreciate the work of this committee to advance this bill to the House Chamber for consideration.

ELECTRONIC POLL BOOK SECURITY

An allegation was made that the electronic poll books used by Kansas counties can be hacked by nefarious actors.

FACT: Electronic poll books enable Kansans to have confidence that any voter may only cast one ballot. Electronic poll books are used in the majority of Kansas counties, and reduce wait time for voters, greatly increase voter roll accuracy, reduce human error, and substantially increase the security of the voting system.

Currently, our office has no authority to regulate the certification and security of electronic poll books. However, the Secretary of State’s office routinely provides guidance on best practices and usage to county election officers. In the 2022 legislative session, I requested the Kansas Legislature pass legislation granting our office the authority to certify and regulate electronic poll books.

CONCLUSION

Kansas has some of the most robust election security laws in the country. To ensure Kansas continues to lead in election integrity, my office has taken the following actions:

- (1) Proposed legislation to certify and regulate electronic poll books.
- (2) Proposed legislation to increase post-election audits and implement procedural audits to provide additional transparency to our election process
- (3) Proposed legislation to provide counties an additional tool to clean up voter rolls.
- (4) Launched an election fraud reporting system on the Secretary of State's website.
- (5) Worked with county election officers to ensure security of their election equipment and systems.

If Dr. Frank, or a Kansas resident, suspects nefarious or suspicious activity in our elections, we encourage such evidence to be submitted to local law enforcement, the Office of the Attorney General, or the Secretary of State's office for proper review and investigation. To date, our office has no record of evidence being presented to any such agency.

Thank you for the opportunity to provide information to this committee. I look forward to working with the Kansas Legislature to continue our efforts to strengthen election security.

Respectfully,



Scott Schwab
Kansas Secretary of State