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MEMORANDUM

To: Chairperson Thompson
Members of the Senate Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: March 12, 2024

Subject: HB 2618 – Redefining the elements of the crime of false representation of an election official.

House Bill No. 2618 (HB 2618) would amend K.S.A. 25-2438 regarding the election crime of false representation of an election official. Currently, the statute makes it a severity level 7, nonperson felony for a person to knowingly do any of the following when that person is not an election official:

- Represent oneself as an election official;
- Engage in conduct that gives the appearance of being an election official; or
- Engage in conduct that would cause another person to believe that the person is an election official.

The statute has been challenged on constitutional grounds based on the text of the second and third elements that would constitute a violation of the statute.

HB 2618 would strike the second element entirely so that conduct that gives the appearance of being an election official would not longer constitute a violation of the statute. The bill also amends the third element to specify that such conduct must be done with the intent to cause another to believe that the person is an election official. The penalty for the offense remains the same.

HB 2618 passed in the House on a final action vote of 85-35.

If enacted, HB 2618 would become effective on July 1, 2024.