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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 13, 2025

Subject: SB 258 – Requiring specific intent as an element of the crime of false representation of an election official.

Senate Bill No. 258 (SB 258) amends K.S.A. 25-2438, which makes it a crime to falsely represent oneself as an election official. Currently, it is a severity level 7, nonperson felony to: (1) Represent oneself as an election official; (2) engage in conduct that gives the appearance of being an election official; or (3) engage in conduct that would cause another person to believe such person is an election official. Elements (2) and (3) have been enjoined and are not enforceable due to court rulings that these elements are unconstitutional. SB 258 strikes element (2) and amends elements (1) and (3) to address constitutional concerns.

SB 258 amends K.S.A 25-2438(a)(1) to include the use of an official seal or other insignia of the Secretary of State or any county election office as a false representation of an election official. The bill also amends K.S.A. 25-2438(a)(3) to specify that such conduct must be done with the intent to cause a person believe that the person engaging in such conduct is an election official.

The criminal penalty remains at a level 7, nonperson felony.

If enacted, SB 258 would become effective on July 1, 2025.