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**Proponent Testimony on HB 2618  
House Committee on Elections  
February 13, 2024**

Chairman Proctor and Members of the Committee:

Thank you for this opportunity to testify in support of HB 2618. The proliferation of social media and the expansion of mail-in voting, especially due to COVID-19, have led to an increasing number of complaints from voters receiving communications they falsely believe are from state or county election officials. While some confusion may stem from innocent mistakes, certain conduct by private individuals and organizations may be deliberate and deceptive.

For instance, in 2020, some organizations sent correspondence to voters on letterhead resembling official county letterhead, giving the false impression of government endorsement. This led voters to feel obliged to act on these communications, such as submitting multiple duplicate advance ballot applications, resulting in frustration and disenfranchisement.

Social media exacerbates these problems, allowing individuals to disseminate false claims, such as changes to election dates or polling locations, often implying authority as election officials. This can confuse voters, disrupt the voting process, and erode confidence in elections.

In response, the legislature passed HB 2183 in 2021, making it a felony to engage in conduct giving the appearance of being an election official or causing others to believe so. However, the Kansas Supreme Court questioned the law's constitutionality, suggesting it may criminalize innocent conduct when an individual is mistakenly perceived as an election official.

To address these concerns, HB 2618 inserts an explicit "intent" element into the law, clarifying that only those intending to cause others to believe they are election officials violate Kansas law. It prohibits individuals from knowingly representing themselves as election officials or engaging in conduct with the intent to create that belief.

This amendment should alleviate concerns raised by the Court and ensure that only deceptive behavior is targeted. Subsection (a)(1) addresses overt misrepresentation, while subsection (a)(2) targets more subtle actions intended to create a false impression of authority, such as sending communications on official letterhead.

In conclusion, ongoing litigation poses a risk to the statute as currently enacted. And if the statute is overturned, it will hurt anti-fraud safeguards and public trust in elections. Passing HB 2618 would clarify the law's scope and protect against manipulative conduct by individuals posing as election officials. The Office of the Attorney General urges the Committee to support HB 2618 to ensure the integrity of the 2024 Election.

Thank you for your consideration of this testimony.

Respectfully submitted,

***Daniel Burrows***

Chief Deputy Attorney General

On behalf of the Office of the Attorney General