SCOTT SCHWAB
Secretary of State

STATE OF KANSAS

January 31, 2024

Testimony on HB2559 (Oral Proponent)
House Committee on Elections
Thursday, February 1, 2024

Chairman Proctor and members of the Committee:

Thank you for the opportunity to provide testimony on House Bill 2559.

It is the Secretary of State's position that legislation should be considered to limit the misuse of artificial intelligence (AI) in elections and that this bill is a solid step in that direction. Secretary Schwab has become a national leader seeking to raise public concern and encourage state and federal legislative action on the misuse of AI in elections. In 2023, misleading AI occurred in Argentina's and Slovakia's elections. In January 2024, misleading AI has already been used against President Biden and former President Donald Trump.

Kansas voters deserve to know when political content they're consuming is real, or whether it has been generated, manipulated, or "deepfaked" by AI.

Several states have enacted legislation to limit the harm of misleading AI and many others are in the process of enacting legislation. The bill sponsors and revisor have reviewed the different approaches adopted by different states, which all strive to balance punitive measures to prevent misuse of AI while not infringing on first amendment rights to political speech. It can sometimes be a fine line between an intent to fraudulently mislead and traditional political satire.

HB 2559 utilizes the balanced approach adopted by other states. First, it limits its application to only candidates, elected officials, or appointed state officials. Second, it defines the targeted conduct narrowly to be intentionally altering reality in a way that a reasonable person would not know has been altered _and_ that conveys to a reasonable person a fundamentally different meaning than the original. Third, an affirmative defense[1] is for the communication generator to simply use a prescribed disclaimer.

Generative AI is a type of software that uses statistical models that generalize the patterns and structures of existing data to either reorganize existing data or create new content. The focus of this bill is the capability of AI to synthesize audio in any person's voice and generate realistic images and videos of almost anyone doing anything.

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[1] Affirmative Defense: A defense in which the defendant introduces evidence, which, if found to be credible, will negate criminal liability or civil liability, even if it is proven that the defendant committed the alleged acts.

Content Type	Tactics
Video: Deepfake Videos, Text-to-Video	Generate videos using either altered real people or completely created images to falsely attribute statements and alter public perception.
Images: Text-to-Image; Altered Image	Generate altered real images or create fake yet realistic images to alter public perception of events. aka Deceptive Imagery Persuasion
Audio: Text-to-Speech, Video Cloning	Generate authentic sounding audio or alter real audio to impersonate real people speaking to alter public perception of events.
Text: AI generated text	Generate high volume of specifically targeted social media messaging

In addition to its ability generate audio, images or video AI can dramatically increase the message's effectiveness. The most effective way to deceive a member of the public is to reinforce a preconceived belief. AI's predictive ability can be used to tailor a communications' content and messaging method to precisely target individual voters. Different people would receive different individualized messages through different methods. That capability can be used by candidates and issue groups to better disseminate their legitimate public message, but it can also be used to effectively mislead or deceive the public.

A collateral negative effect of using AI to mislead is "Liar's Dividend." That is, a candidate faced with a real negative recording can believably claim it was AI generated and escape the consequences.

In conclusion, the Secretary urges the legislature to pass legislation to limit the misuse of AI in election campaigns, that this bill is a solid step in that direction, and that the legislature must continue to be vigilant to monitor the evolution of misleading AI tactics.

Sincerely,

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