

April 25, 2023

The Honorable Mike Thompson, Chairperson
Senate Committee on Federal and State Affairs
300 SW 10th Avenue, Room 144-S
Topeka, Kansas 66612

Dear Senator Thompson:

SUBJECT: Fiscal Note for SB 259 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 259 is respectfully submitted to your committee.

SB 259 would require advance voting ballots to be received by the county election officer by 7:00 pm on the date of the election. The bill would remove the deadline for advance voting ballots to be received by the county election office by the third day after election day. The bill would make election records available to the public at least 72 hours prior to the certification of any election. Election records would not include personal identifying information.

The bill would set requirements for the use of paper ballots, including requiring all paper ballots to have a serial number. The watermark and the serial numbering system would require approval of the Legislature. The bill would define “approval of the Legislature” as the Secretary of the State notifying the chairperson of the Legislative Coordinating Council (LCC) of a decision of the Secretary requiring legislative approval within one business day after the day the decision was made. The LCC would be authorized to review the Secretary’s decision. The Legislature would be authorized to approve or revoke the decision at any time by concurrent resolution or when the Legislature is not in session or is adjourned, the decision could be approved or revoked by the LCC. For a period of 30 calendar days before any election, a revocation must occur not later than three calendar days after the day the Secretary notifies the chairperson of LCC of the Secretary’s decision, otherwise the decision is deemed approved for such election. Rules and regulations regarding paper ballots adopted after July 1, 2024, would require the approval of the Legislature.

The bill also amends current law regarding audits of contested races. Currently, contested races within 1.0 percent of the total number of votes cast and tallied on election night are audited. SB 259 would increase the percentage to 2.5 percent as approved by the Legislature. In addition, copies or images of cast paper ballots could not be used for tabulation of votes or for the purpose of an audit. Currently, if a discrepancy is reported between the audit and the unofficial returns and

cannot be resolved, the county election officer or the Secretary of State would have the discretion to require audits of additional precincts. SB 259 would require the county election officer or the Secretary of State to audit all precincts. The bill would also require the Legislature to approve the rules and regulations adopted by the Secretary, governing the conduct and procedure of the audit.

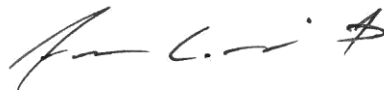
SB 259 would require a recount of ballots to be conducted by hand. Copies or images of cast ballots could not be used for the purposes of a recount. Currently, the party making the request for a recount must file a bond conditioned to pay all costs incurred by the county in making the recount. The bill would require the amount of the bond to be based on a calculation of the cost per ballot multiplied by the number of ballots to be recounted. The bond would cover costs for volunteers for hand counting or other necessary resources required to be procured by the county to accomplish the recount. The bond would not cover salaries or wages paid to the county election officers or staff for time spent recounting or costs for the use of available resources of the county. The amount of the bond would be subject to legislative approval.

Under SB 259, the Secretary of State would use existing resources to provide training and update manuals for county election officials; update the agency's website; update public documents and information; and work with media, political parties, candidates, and the public to ensure knowledge of the updated requirements concerning ballot printing, post-election audits, recounts, and public records. The agency also adds that SB 259 could increase costs to the county election offices for procuring paper ballots with the Secretary's watermark and serial number system and hire additional staff to conduct recounts without the use of ballot images, audit ballots, and ensure all records are made available to the public immediately after the election day and prior to the certification of election results. The agency is unable to estimate the fiscal effect SB 259 could have on the county election offices.

Legislative Administrative Services indicates that SB 259 would have a negligible fiscal effect on the Legislature which could be absorbed within existing resources. Any fiscal effect associated with SB 259 is not reflected in *The FY 2024 Governor's Budget Report*.

The Kansas Association of Counties indicates counties would have to post election records for public inspection within 72 hours prior to the certification of any election, including any audit or recount records, and after an election. Recounts would also be done with paper ballots and counted by hand that would result in increased election expenses for counties, including labor costs; however, the Association is not able to estimate the fiscal effect.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Karen Clowers, Legislative Services
Sandy Tompkins, Office of the Secretary of State
Jay Hall, Kansas Association of Counties