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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Chairman Olson
Members of the Senate Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: February 21, 2022

Subject: SB 438 – Election audit requirements.

Senate Bill No. 438 (SB 438) would enact new audit requirements for elections. One new form of audits would be conducted by the Secretary of State and the other would be conducted by the county election officers.

New Section 1 of SB 438 would require the Secretary to conduct four audits during each odd-numbered year. Each audit would examine the election administration procedures and election records of a county for the two prior years. The counties to be audited would be selected randomly by the Secretary subject to the following:

- One county must have a voting age population that is more than 90,000.
- One county must have a voting age population that is more than 20,000 but less than 90,000.
- One county must have a voting age population that is less than 20,000.
- No county can be selected if it was selected in any of the three most recent audit years.

Section 2 of SB 438 amends K.S.A. 25-3009. The statute currently requires each county election officer to conduct a manual audit of the voting results prior to the certification of the election results by the Board of Canvassers. The audit must cover 1% of all precincts located in the county, with a minimum of at least one precinct. The audit currently reviews:

- One federal race, one state legislative race, and one county race in presidential election years.
- One federal race, one statewide office race, one state legislative race, and one county race in even-numbered non-presidential election years.

- Two local races in odd-numbered election years.

SB 438 would potentially add an additional required audit in even-numbered election years. If a federal, statewide office, or state legislative race is within 1% of the total vote tallied on election night, as determined by the Secretary of State, then the county election officer must conduct an audit in 10% of all precincts in the specified race, with a minimum of at least one precinct in the county.

The results of all audits under K.S.A. 25-3009 are used by the Board of Canvassers when certifying official election results.

If enacted, SB 438 would become effective on July 1, 2022.