

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 390**

As Amended by Senate Committee on Federal  
and State Affairs

**Brief\***

SB 390, as amended, would require the Secretary of State, in consultation with county election officers, to develop an affidavit system to be utilized for the handling of ballots. The bill would require each person who handles ballots to sign an affidavit listing, if applicable, the:

- Number of blank ballots;
- Number of spoiled ballots;
- Number of provisional ballots;
- Number of counted ballots;
- Name of the person from whom such ballots were received; and
- Location of where the ballots were received.

The affidavit system developed in the bill would apply to all ballots received, handled, and collected by county election offices prior to, on, and after the date of an election. The affidavit system would operate in conjunction with statutory provisions regarding transporting, preserving, and destroying ballots and election records.

Violations of the bill would include altering any information provided in an affidavit or providing false

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

information in an affidavit with the intent to hinder, prevent, or defeat a fair election. Such violations would constitute a severity level 9 nonperson felony.

## **Background**

The bill was introduced by Senator Hilderbrand.

### ***Senate Committee on Federal and State Affairs***

In the Senate Committee hearing, Senator Hilderbrand provided **proponent** testimony, stating the bill was a result of his experience as a county commissioner, and that the bill would address concerns about ballot chain of custody.

Written-only proponent testimony was provided by three private citizens.

A representative of the Office of the Secretary of State provided neutral testimony, stating the bill would give the agency the ability to harmonize chain of custody policies, and indicating concern with having the system in place by the effective date.

Written-only **opponent** testimony was provided by a private citizen.

The Senate Committee amended the bill to:

- Replace references to “local election officers” with “county election officers”;
- Specify that each person who handles ballots for a county election office would be required to sign the affidavit;
- Add the number of counted ballots to the list of items required on the affidavit;

- Specify the affidavit system would apply to all ballots received, handled, and collected by county election offices prior to, on, and after the date of an election;
- Provide the affidavit system would operate in conjunction with statutory provisions regarding transporting, preserving, and destroying ballots and election records;
- Define violations of the bill and penalty for violation; and
- Make technical changes.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Association of Counties (KAC) states enactment of the bill could slightly increase costs necessary for administering the affidavit signature requirements. The exact costs would vary depending on how many personnel are necessary to oversee the election process appropriate for each county's population size. The KAC cannot estimate the fiscal effect. Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Elections; ballots; affidavit; chain of custody