

**As Amended by House Committee**

*Session of 2016*

**Substitute for HOUSE BILL No. 2543**

By Committee on Elections

2-19

1 AN ACT concerning elections; relating to audits; timing for canvassing;  
2 concerning requirements for voting machines; amending K.S.A. 2015  
3 Supp. 25-3104, 25-4403 and 25-4406 and repealing the existing  
4 sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) After an election and prior to the meeting of the  
8 county board of canvassers to certify the official election results for any  
9 election in which the canvassers certify the results, the county election  
10 officer shall conduct a manual audit or tally of each vote cast, regardless of  
11 the method of voting, in 1% of all precincts or 1 precinct, whichever is  
12 greater, located within the county. Such precinct or precincts shall be  
13 randomly selected and such selection shall take place after the election.

14 (b) The audit shall be performed manually and shall review all paper  
15 ballots selected pursuant to subsection (a). The audit shall be performed by  
16 a sworn election board consisting of bi-partisan trained board members.  
17 The county election officer will determine the members of the sworn  
18 election board who will conduct the audit.

19 (c) At least five days prior to the audit, notice of the time and location  
20 of the audit shall be provided to the public on the official county website.  
21 The audit shall be conducted in a public setting. Any candidate or entity  
22 who is authorized to appoint a poll agent may appoint a poll agent for the  
23 audit.

24 (d) The results of the audit shall be compared to the unofficial  
25 election night returns and a report shall be submitted to the county election  
26 office and to the secretary of state's office prior to the meeting of the  
27 county board of canvassers. If a discrepancy is reported between the audit  
28 and the unofficial returns and cannot be resolved, the county election  
29 officer or the secretary of state may require audits of additional precincts.  
30 Once the audit has been completed, the results of the audit shall be used by  
31 the county board of canvassers when certifying the official election results.

32 (e) The secretary of state shall adopt rules and regulations governing  
33 the conduct and procedure of the audit, including the random selection of  
34 the precinct districts.

35 ~~(f) Sedgewick county may conduct audits pursuant to this section for~~  
36 ~~elections which take place after July 1, 2016.~~

1       ~~(g)~~ (f) The provisions of this section shall apply to all counties for  
2 elections which take place after July 1, 2017.

3       Sec. 2. K.S.A. 2015 Supp. 25-3104 is hereby amended to read as  
4 follows: 25-3104. The original canvass of every election shall be  
5 performed by the election boards at the voting places. The county election  
6 officer shall present the original returns, together with the ballots, books  
7 and any other records of the election, for the purpose of canvass, to the  
8 county board of canvassers at any time between 8 a.m. and 10 a.m. ~~on the~~  
9 ~~Monday next following any election held on a Tuesday, except that the~~  
10 ~~county election officer may move the canvass to the second Thursday~~  
11 ~~following the election if notice is published prior to the canvass in a~~  
12 ~~newspaper with general circulation in the county a business day not later~~  
13 ~~than 13 days following any election, except that a county election official~~  
14 ~~may move the canvass up to four business days later. Notice of the time~~  
15 ~~and place of the canvass shall be published in a newspaper of general~~  
16 ~~circulation in the county prior to the canvass. For elections not held on a~~  
17 ~~Tuesday, the canvass by the county board of canvassers shall be held on a~~  
18 ~~day and hour designated by it, and not later than the fifth 13<sup>th</sup> business day~~  
19 ~~following the day of such election.~~

20       Sec. 3. K.S.A. 2015 Supp. 25-4403 is hereby amended to read as  
21 follows: 25-4403. (a) The board of county commissioners and the county  
22 election officer of any county may provide an electronic or  
23 electromechanical voting system to be used at voting places, or for  
24 advance voting in the county at national, state, county, township, city and  
25 school primary and general elections and in question submitted elections.

26       (b) The board of county commissioners of any county in which the  
27 board of county commissioners and county election officer have  
28 determined that an electronic or electromechanical voting system shall be  
29 used may issue bonds to finance and pay for purchase, lease or rental of  
30 such a system.

31       (c) The board of county commissioners and the county election  
32 officer of any county may adopt, experiment with or abandon any  
33 electronic or electromechanical system herein authorized and approved for  
34 use in the state and may use such a system in all or any part of the voting  
35 areas within the county or in combination with an optical scanning voting  
36 system or with regular paper ballots. Whenever the secretary of state  
37 rescinds approval of any voting system, the board of county  
38 commissioners and the county election officer shall abandon such system  
39 until changes therein required by the secretary of state have been made, or  
40 if the secretary of state advises that acceptable changes cannot be made  
41 therein, such abandonment shall be permanent.

42       (d) *On and after the effective date of this act, no board of county*  
43 *commissioners in any county may purchase, lease or rent any direct*

1 *recording electronic system, as defined in K.S.A. 25-4401(d), and*  
2 *amendments thereto. On and after the effective date of this act, no board*  
3 *of county commissioners in any county may purchase, lease or rent any*  
4 *electronic or electromechanical voting system unless such system:*

5 *(1) Provides a paper record of each vote cast, produced at the time*  
6 *the vote is cast; and*

7 *(2) has the ability to be tested both before an election and prior to the*  
8 *date of canvass. Such test shall include the ability to match the paper*  
9 *record of such machine to the vote total contained in the machine.*

10 Sec. 4. K.S.A. 2015 Supp. 25-4406 is hereby amended to read as  
11 follows: 25-4406. Electronic or electromechanical voting systems  
12 approved by the secretary of state:

13 (a) Shall provide for voting for the candidates for nomination or  
14 election of all political parties officially recognized pursuant to K.S.A. 25-  
15 302a, and amendments thereto;

16 (b) shall permit a voter to vote for any independent candidate for any  
17 office;

18 (c) shall provide for voting on constitutional amendments or other  
19 questions submitted;

20 (d) shall be so constructed that, as to primaries where candidates are  
21 nominated by political parties, the voter can vote only for the candidates  
22 for whom the voter is qualified to vote according to articles 2 and 33 of  
23 chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

24 (e) shall afford the voter an opportunity to vote for any or all  
25 candidates for an office for whom the voter is by law entitled to vote and  
26 no more, and at the same time shall prevent the voter from voting for the  
27 same candidate twice for the same office;

28 (f) shall be so constructed that in presidential elections the  
29 presidential electors of any political party may be voted for by one action;

30 (g) shall provide for "write-in" votes;

31 (h) shall provide for voting in absolute secrecy, except as to persons  
32 who request assistance due to temporary illness or disability or a lack of  
33 proficiency in reading the English language;

34 (i) shall reject all votes for an office or upon a question submitted  
35 when the voter has cast more votes for such office or upon such question  
36 than the voter is entitled to cast;

37 (j) shall provide for instruction of voters on the operation of voting  
38 machines, illustrating the manner of voting by the use of such systems.  
39 The instruction may include printed materials or demonstration by election  
40 board workers; ~~and~~

41 *(k) shall provide a paper record of each vote cast, produced at the*  
42 *time the vote is cast;*

43 *(l) shall have the ability to be tested both before an election and prior*

1 *to the date of canvass. Such test shall include the ability to match the*  
2 *paper records of such machines to the vote totals contained in the*  
3 *machines; and*

4 ~~(k)~~ *(m)* shall meet the requirements of the help America vote act of  
5 2002 and other federal statutes and regulations governing voting  
6 equipment.

7 Sec. 5. K.S.A. 2015 Supp. 25-3104, 25-4403 and 25-4406 are hereby  
8 repealed.

9 Sec. 6. This act shall take effect and be in force from and after its  
10 publication in the statute book.