

**HOUSE BILL No. 2659**

By Committee on Vision 2020

2-10

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

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

6 New Section 1. (a) After an election and prior to the meeting of the  
7 county board of canvassers to certify the official election results for any  
8 election in which the canvassers certify the results, the county election  
9 officer shall conduct a manual audit of each vote cast, regardless of the  
10 method of voting, in a 1% random sample of all precincts located within  
11 the county or in a district or race. The precincts contained in the random  
12 sample shall only be determined after the election.

13 (b) The audit shall be performed manually and shall review all paper  
14 ballots in the sample, or all paper proof of ballots in the sample. The audit  
15 shall be performed by a sworn election board consisting of bi-partisan  
16 trained board members. The county election officer will determine the  
17 members of the sworn election board who will conduct the audit.

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

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

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

34 New Sec. 2. Within five days prior to the date of an election, the  
35 county election officer shall have any electronic or electromechanical  
36 voting systems used in the county tested to ascertain that the system will

1 correctly record and count the votes cast for all offices and on all questions  
2 submitted. Public notice of the time and place of the test shall be given at  
3 least 48 hours prior thereto by publication once in a newspaper of general  
4 circulation in the county where such equipment is to be used. The test shall  
5 be open to representatives of the political parties, candidates, the press and  
6 the public. The test shall be conducted by taking a random selection of the  
7 electronic or electromechanical voting systems, casting test votes on the  
8 machines and matching the paper records of such machines to the vote  
9 totals contained in the machines. If any error is detected, the cause of the  
10 error shall be determined and corrected and an errorless count shall be  
11 made before the electronic or electromechanical voting system is  
12 approved. The test shall be repeated after the completion of the canvass.  
13 The programs and ballots shall be sealed, retained and disposed of in the  
14 same manner as paper ballots.

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

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

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

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

43 (1) *Provides a paper record of each vote cast, produced at the time*

1 *the vote is cast;*

2 (2) *uses open source software with the source code available to*  
3 *election officials to inspect before such voting system is used and after any*  
4 *election for the purposes of auditing the results of any election;*

5 (3) *provides a paper record of any poll book used at any polling*  
6 *place; and*

7 (4) *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;

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

43 (l) *shall use open source software with the source code available to*

1 *election officials to inspect before such voting systems are used and after*  
2 *any election for the purposes of auditing the results of any election;*

3 *(m) shall provide a paper record of poll books used at polling places;*

4 *(n) shall have the ability to be tested both before an election and*  
5 *prior to the date of canvass. Such test shall include the ability to match the*  
6 *paper records of such machines to the vote totals contained in the*  
7 *machines; and*

8 ~~(o)~~ *(o) shall meet the requirements of the help America vote act of*  
9 *2002 and other federal statutes and regulations governing voting*  
10 *equipment.*

11 Sec. 5. K.S.A. 2015 Supp. 25-4403 and 25-4406 are hereby repealed.

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