HOUSE BILL No. 2251

By Representative Ousley

AN ACT concerning elections; relating to audits; timing for canvassing; concerning requirements for voting machines; amending K.S.A. 2016 Supp. 25-3104, 25-4403 and 25-4406 and repealing the existing sections.

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

New Section 1. (a) After an election and prior to the meeting of the county board of canvassers to certify the official election results for any election in which the canvassers certify the results, the county election officer shall conduct a manual audit or tally of each vote cast, regardless of the method of voting, in 1% of all precincts or 1 precinct, whichever is greater, located within the county. The precinct or precincts shall be randomly selected and the selection shall be made immediately prior to the audit.

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

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

(d) The results of the audit shall be compared to the unofficial election night returns and a report shall be submitted to the county election office and to the secretary of state's office prior to the meeting of the county board of canvassers. 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 may require audits of additional precincts. Once the audit has been completed, the results of the audit shall be used by the county board of canvassers when certifying the official election results.

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

(f) The provisions of this section shall apply to all counties for
Sec. 2. K.S.A. 2016 Supp. 25-3104 is hereby amended to read as follows: 25-3104. The original canvass of every election shall be performed by the election boards at the voting places. The county election officer shall present the original returns, together with the ballots, books and any other records of the election, for the purpose of canvass, to the county board of canvassers at any time between 8 a.m. and 10 a.m. on the Monday next following any election held on a Tuesday, except that the county election officer may move the canvass to the second Thursday following the election if notice is published prior to the canvass in a newspaper with general circulation in the county a business day not later than 13 days following any election, except that a county election official may move the canvass up to four business days later. Notice of the time and place of the canvass shall be published in a newspaper of general circulation in the county prior to the canvass. For elections not held on a Tuesday, the canvass by the county board of canvassers shall be held on a day and hour designated by it, and not later than the fifth 13th business day following the day of such the election.

Sec. 3. K.S.A. 2016 Supp. 25-4403 is hereby amended to read as follows: 25-4403. (a) The board of county commissioners and the county election officer of any county may provide an electronic or electromechanical voting system to be used at voting places, or for advance voting in the county at national, state, county, township, city and school primary and general elections and in question submitted elections.

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

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

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

(1) Provides a paper record of each vote cast, produced at the time the vote is cast; and
(2) has the ability to be tested both before an election and prior to the date of canvass. The test shall include the ability to match the paper record of such machine to the vote total contained in the machine.

Sec. 4. K.S.A. 2016 Supp. 25-4406 is hereby amended to read as follows: 25-4406. Electronic or electromechanical voting systems approved by the secretary of state:

(a) Shall provide for voting for the candidates for nomination or election of all political parties officially recognized pursuant to K.S.A. 25-302a, and amendments thereto;
(b) shall permit a voter to vote for any independent candidate for any office;
(c) shall provide for voting on constitutional amendments or other questions submitted;
(d) shall be so constructed that, as to primaries where candidates are nominated by political parties, the voter can vote only for the candidates for whom the voter is qualified to vote according to articles 2 and 33 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
(e) shall afford the voter an opportunity to vote for any or all candidates for an office for whom the voter is by law entitled to vote and no more, and at the same time shall prevent the voter from voting for the same candidate twice for the same office;
(f) shall be so constructed that in presidential elections the presidential electors of any political party may be voted for by one action;
(g) shall provide for "write-in" votes;
(h) shall provide for voting in absolute secrecy, except as to persons who request assistance due to temporary illness or disability or a lack of proficiency in reading the English language;
(i) shall reject all votes for an office or upon a question submitted when the voter has cast more votes for such the office or upon such the question than the voter is entitled to cast;
(j) shall provide for instruction of voters on the operation of voting machines, illustrating the manner of voting by the use of such systems. The instruction may include printed materials or demonstration by election board workers; and
(k) shall provide a paper record of each vote cast, produced at the time the vote is cast;
(l) shall have the ability to be tested both before an election and prior to the date of canvass. The test shall include the ability to match the paper record of such machine to the vote total contained in the machine.
records of the machines to the vote totals contained in the machines; and
shall meet the requirements of the help America vote act of
2002 and other federal statutes and regulations governing voting
equipment.
Sec. 5. K.S.A. 2016 Supp. 25-3104, 25-4403 and 25-4406 are hereby
repealed.
Sec. 6. This act shall take effect and be in force from and after its
publication in the statute book.