

**Testimony before the House Elections Committee on
House Bill No. 2543 – Manual Audit of Election Results
By Dr. Beth Clarkson, Certified Quality Engineer
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Mr. Chairman and Members of the Committee:

I want to thank Mr. Kobach for introducing HB 2543. Such an action makes clear his support of the right of the public to transparency in Kansas election results.

However, I cannot support this bill as it is written. My professional judgment is that – while the goals of the bill are laudable - it has flaws that, if not corrected, will lead to the solution imposed causing worse problems than it is attempting to cure.

While I would be glad to see public verification of computer tabulated results required by state law - my concerns are serious enough for me to recommend against passage of this bill as it is now written. I think the consequences would be detrimental to achieving the bill's stated goal.

Issues:

- **Section 1 Part a):** *“in a district or race designated by the secretary of state.”*

i. The units to be sampled; the bill needs to specify both a race and a precinct; and those units must be selected randomly after the election is over and the polls have closed. A random selection made prior to that time has the potential for leakage of information. A non-random sampling procedure – as suggested in HB 2543 - is an open invitation to skew the results.

Just such non-random sampling (which contravened the required protocol) allowed Michigan officials to maintain the drinking water in Flint was safe. If the bill has no requirement for a protocol to obtain a random sample, I request that you do not support the bill.

- ii. **Section 1 Part a:** *“1% of all precincts”*

The phrase is both too vague and too precise to allow optimization of the sampling plan. At a minimum, I recommend this be reworded to “at least 1% of all race and precinct combinations within a county.”

- **Section 1 Part b:** *“or paper ballot equivalent on any electronic voting device”*

Allowing this will destroy the validity of any audit. If a county does not have a Real Time Audit Log paper trail, its voting machines cannot be audited. **Either there is a physical paper trail created when the vote was cast or no audit can be done.** Election officials and voters alike must simply trust the output of the machines - as they do now – without further technical review, such as I have requested in Sedgwick County.

Exempting counties, such as Johnson, from this legislation until they are able to purchase appropriate election equipment seems a reasonable compromise. Allowing them to use *electronic ballot equivalents* for an “audit” is not. It would be nothing more than a sham, a pretense of transparency and accountable without any substance. Voters with concerns in those counties should request paper ballots until such time as they have an auditable machine system in place.

In conclusion, I credit Secretary Kobach for his efforts toward transparency. However, why delay transparency until 2017? My last recommendation – in addition to those stated above – would be to put it into effect immediately. I am certain that we could have manual audits of the Kansas 2016 August primary.