

**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. His proposal makes clear his support for transparency in Kansas election results.

However, I cannot support the 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 a result worse than the problems it attempts 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. HB 2543 has no teeth without a random- sampling requirement. Just such non-random sampling allowed Michigan officials to maintain that the drinking water in Flint was safe.

The units to be sampled need 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. If the bill has no requirement for a protocol to obtain a random sample, I request that you do not support it.

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

The phrase is at once 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"*

If a county does not have a Real Time Audit Log paper trail, its voting machines cannot be audited. Allowing this would destroy the validity of an audit. Either there is a physical paper trail created when the vote was cast, or no audit can be done. Election officials and voters alike have no choice but to trust the output of the machines - as they do now in the counties that use them. Without further technical review - as I have requested in Sedgwick County – these audits become meaningless.

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 a pretense of transparency and accountability without 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 effort toward transparency. However, why delay implementation until 2017? My last recommendation would be immediately to put it into effect. I am certain that we could have manual audits of the Kansas 2016 August primary.

Thank you for your attention. Committee members who have further questions about my testimony can contact me at beth@bethclarkson.com.