Testimony before the
House Elections Committee
**Supporting Election Audits**

By

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Mr. Chair, Members of the Committee:

I come here today concerned about the accuracy and efficacy of our election auditing process.

Lyndon Johnson said that "the vote is the most powerful instrument ever devised by man for breaking down injustice, and for tearing down the walls that imprison men because they are different from other men."

Our votes are the crucial element of our democracy; the method via which we chart our course, build our lives, and the foundation upon which we agree to govern ourselves.

Last spring, the League of Women Voters held a forum featuring Dr. Beth Clarkson[1], an ASQ-Certified Quality Engineer, with a PhD in Statistics. Having read of her lawsuit to obtain the paper records of the vote counts in Wichita[2] so that she could conduct an audit of the 2014 election, I was curious to learn more about the election audit process, how election audits occur here in Kansas, and to see if there was anything the legislature could do to assist her. I was deeply concerned after hearing her presentation that the audit process in Kansas is neither reliable nor effective. Kansas uses Electronic Voting Machines, but does not provide a receipt of the vote to the voter. This means there is no way for the voter to verify that their vote is counted as it was cast. Due to the nature of our electronic voting machines, like most technology, it is possible for the data they record (our votes) to contain errors due to software malfunctions, programming errors, or potentially, intentional alterations. Post-election audits of voter-verifiable paper records are a critical tool for detecting ballot-counting errors, improving reliability, and discouraging fraud.

Dr. Clarkson has written on the subject[3], and so has the Brennan Center for Justice[4], and Princeton University[5]. Dr. Clarkson has noted repeatedly that her statistical analysis of the recorded votes in Kansas, without an audit, is not evidence of fraud, but that it does indicate that there are voting abnormalities. Unfortunately, if the only record of the vote is contained in a copy of the electronic data, the inconsistency is simply repeated from the machine to the audit. For example, if a software glitch were to cause every 100th vote to be lost to the machine, and the audit conducted of that machine consists of comparing the data on the machine to the data recorded from the machine on a CD, the audit would not reveal the glitch, it would simply repeat it. However, if a voter received a receipt from the machine with a copy of their vote (absent voter identification information), and the polling location also kept a copy of this receipt, a true audit of the election could be undertaken. In states where the production of such receipts are required, statistical abnormalities, like the ones found by Dr. Clarkson are less likely to occur, and election results more closely resemble polling conducted prior to the election.

Dr. Clarkson was gracious enough to meet with me last fall, to further explain steps that are important to

[1] http://bethclarkson.com/
[2] http://cjonline.com/news/2015-08-23/mathematician-not-optimistic-about-suit-seeking-ballot-audit
[3] https://www.statslife.org.uk/significance/politics/2288-how-trustworthy-are-electronic-voting-systems-in-the-us
[4] http://www.brennancenter.org/publication/post-election-audits-restoring-trust-elections
[5] http://citpsite.s3-website-us-east-1.amazonaws.com/oldsite-htdocs/voting/videos.html

ensuring accurate elections. She highlighted the following: (1) machines must be tested prior to an election, to make certain they are operating properly; (2) open source software[6], that is software that is not proprietary to the private company selling the machine, must be utilized; (3) a paper receipt must be provided; and (4) election audits must be random.

Our respected Secretary of State Kris Kobach has presented a one page bill that minimally expands auditing requirements. We would like to take this opportunity to insert the safeguards that auditing experts say are vital to make audits accurate and to deter fraud. At the Protect Your Vote Symposium and town hall discussion recently held at the Hall Center for the Humanities at KU, the Secretary of state spoke about his support for the audit process, as a way to deter fraud. In light of his stated concerns to prevent fraud, I take his vocal support of effective audits at face value, and hope his support extends to the recommendations provided by Dr. Clarkson.

In light of this, we have drafted prepared amendments that contain the safeguards. As the election machines in Kansas are due to be replaced, it is best to have legislation in place outlining the features of the machine that are necessary to permit the right audits.

I believe it is vital to the health of our democracy for citizens to have trust in our voting system, especially when the appearance of partisan bias can lead to a lack of confidence in the neutrality[7] of election officials. Such trust can be built by providing accurate, effective, and transparent audits. We must ensure that every Kansan's vote is counted as it was cast.

Respectfully submitted,

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Kansas House District 24

[6] http://techonomy.com/2015/02/can-open-source-voting-tech-fix-u-s-elections-system/
[7] http://www.kwch.com/news/local-news/exkansas-house-member-named-johnson-county-elections-chief/37717036