

HOUSE BILL No. 2659

By Representative Poetter Parshall

2-3

1 AN ACT concerning elections; relating to audits and recounts; requiring
2 that audits and recounts be conducted using a hand count of paper
3 ballots; amending K.S.A. 25-4413 and K.S.A. 2025 Supp. 25-2912, 25-
4 3009 and 25-3107 and repealing the existing sections.
5

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

7 Section 1. K.S.A. 2025 Supp. 25-2912 is hereby amended to read as
8 follows: 25-2912. (a) (1) (A) All voting systems used for elections in this
9 state held on or after January 1, 2024, shall require the use of an
10 individual, durable, voter-verified paper ballot with a distinctive
11 watermark established by the secretary of state. The voter's ballot shall be:

12 (i) Marked by the voter, or by a person assisting the voter as
13 otherwise permitted by law, either by hand or by use of a voting machine
14 that is a non-tabulating paper ballot marking or printing device or system
15 that may be electromechanical or electronic;

16 (ii) made available to the voter for inspection and verification by the
17 voter after the voter has marked the ballot but before the voter's vote is
18 cast and counted, that may be spoiled by the voter if it fails to reflect the
19 voter's choices and that permits the voter to cast a new paper ballot; and

20 (iii) canvassed by hand or read and tabulated by vote-tabulating
21 equipment consisting of optical scanning equipment or other counting
22 equipment that counts and tabulates paper ballots.

23 (B) The voting system shall provide the voter with an opportunity to
24 correct any error on the paper ballot before the paper ballot is secured and
25 preserved.

26 (2) The voting system shall not preserve the paper ballots in any
27 manner that makes it possible, at any time after the ballot has been cast, to
28 associate a voter with the record of the voter's vote without the voter's
29 consent.

30 (3) The paper ballot shall constitute the official ballot and shall be
31 preserved and used as the official ballot suitable for purposes of any audit
32 or recount conducted with respect to any election in which the voting
33 system is used. Each paper ballot shall be counted by hand in any recount
34 conducted with respect to any election, ~~unless the requestor of a recount~~
35 ~~pursuant to K.S.A. 25-3107, and amendments thereto, elects not to have~~
36 ~~the ballots counted by hand.~~

1 (4) In the event of any inconsistencies or irregularities between any
2 electronic vote tallies and the vote tallies determined by counting by hand
3 the paper ballots cast, the paper ballots as counted by hand shall be the true
4 and correct record of the votes cast.

5 (b) The use of poll books not requiring a hand-written signature shall
6 be prohibited.

7 (c) *Copies or images of cast paper ballots shall not be used for*
8 *purposes of any audit or recount.*

9 (d) On or before January 1, 2023, the secretary of state shall adopt
10 rules and regulations to implement the provisions of this section.

11 Sec. 2. K.S.A. 2025 Supp. 25-3009 is hereby amended to read as
12 follows: 25-3009. (a) After an election and prior to the meeting of the
13 county board of canvassers to certify the official election results for any
14 election in which the canvassers certify the results, the county election
15 officer shall conduct a manual audit or tally of each vote cast, regardless of
16 the method of voting, in 1% of all precincts, with a minimum of one
17 precinct located within the county. The precinct or precincts shall be
18 randomly selected and the selection shall take place after the election.

19 (b) (1) The audit shall be performed manually and shall review all
20 paper ballots selected pursuant to subsection (a). The audit shall be
21 performed by a sworn election board consisting of bipartisan trained board
22 members. The county election officer shall determine the members of the
23 sworn election board who will conduct the audit. *Copies or corresponding*
24 *ballot images of cast paper ballots shall not be considered the equivalent*
25 *to the cast paper ballot for purposes of the audit and shall not be used*
26 *when conducting the audit.*

27 (2) The audit shall review contested races as follows:

28 (A) In presidential election years:

29 (i) One federal race;
30 (ii) one state legislative race;
31 (iii) one county race; and
32 (iv) one constitutional amendment question, if any.

33 (B) In even-numbered, non-presidential election years:

34 (i) One federal race;
35 (ii) one statewide race;
36 (iii) one state legislative race;
37 (iv) one county race; and
38 (v) one constitutional amendment question, if any.

39 (C) In even-numbered election years, any federal, statewide or state
40 legislative race that is within 1% of the total number of votes cast tallied
41 on election night, as determined by the secretary of state, shall be audited.
42 The county election officer shall conduct the audit in the manner set forth
43 in subsection (a) in 10% of all county precincts in the specified race, with

1 a minimum of one precinct in the county. The precincts audited pursuant to
2 this subsection shall be in addition to the precincts audited under
3 subparagraphs (2)(A) and (B).

4 (D) In odd-numbered election years, two local races will be randomly
5 selected, and the selection shall take place after the election.

6 (E) Any presidential preference primary election held pursuant to
7 K.S.A. 25-4501a, and amendments thereto.

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

13 (d) The results of the audit shall be compared to the unofficial
14 election night returns and a report shall be submitted to the county election
15 office and to the secretary of state's office prior to the meeting of the
16 county board of canvassers. If a discrepancy is reported between the audit
17 and the unofficial returns and cannot be resolved, the county election
18 officer or the secretary of state may require audits of additional precincts.
19 Once the audit has been completed, the results of the audit shall be used by
20 the county board of canvassers when certifying the official election results.

21 (e) Upon publication of the notice of the audit pursuant to subsection
22 (c), the signed and certified official abstracts required by K.S.A. 25-3006,
23 and amendments thereto, shall be made available by the county election
24 office for review by any authorized poll agent. Such abstracts shall be
25 from all precincts and shall not be limited to those precincts that are
26 subject to the audit. The abstracts shall be available for review until
27 commencement of the original canvass.

28 (f) The secretary of state shall adopt rules and regulations governing
29 the conduct and procedure of the audit, including the random selection of
30 the precincts and offices involved in the audit.

31 Sec. 3. K.S.A. 2025 Supp. 25-3107 is hereby amended to read as
32 follows: 25-3107. (a) At the time of commencement of any canvass by the
33 county board of canvassers the county election officer shall present to the
34 county board of canvassers the preliminary abstracts of election returns,
35 together with the ballots and records returned by the election boards ~~and~~,
36 ~~as provided by rules and regulations adopted by the secretary of state as~~
37 ~~authorized by K.S.A. 25-1132(b), and amendments thereto, advance voting~~
38 ~~ballots received after the closing of the polls pursuant to K.S.A. 25-~~
39 ~~1132(b), and amendments thereto.~~ The county board of canvassers shall
40 inspect and check the records presented by the county election officer and
41 shall hear any questions ~~which that~~ the county election officer believes
42 appropriate for determination of the board. The county board of canvassers
43 shall do what is necessary to obtain an accurate and just canvass of the

1 election and shall finalize the preliminary abstract of election returns by
2 making any needed changes, and certifying its authenticity and accuracy.
3 The certification of the county board of canvassers shall be attested by the
4 county election officer. Neither the county board of canvassers nor the
5 county election officer shall open or unseal sacks or envelopes of ballots,
6 except as is required by K.S.A. 25-409; *and* 25-1136 ~~and~~ 25-1337, and
7 amendments thereto, or other specific provision of law ~~or~~, as is authorized
8 to carry out a recount under subsection (b); or as authorized under
9 subsection (e).

10 (b) If a majority of the members of the county board of canvassers
11 shall determine that there are manifest errors appearing on the face of the
12 poll books of any election board, ~~which~~ *that* might make a difference in
13 the result of any election, ~~or~~ if any candidate shall request the recount of
14 the ballots cast in all or in only specified voting areas for the office for
15 which the person is a candidate; or if any registered elector who cast a
16 ballot in a question submitted election requests a recount in all or only
17 specified voting areas to determine the result of the election, the county
18 board of canvassers shall cause a special election board appointed by the
19 county election officer to meet under the supervision of the county election
20 officer and recount the ballots with respect to any office or question
21 submitted specified by the county board of canvassers or requested by the
22 candidate or elector. If a ~~recount is required in a county that uses optical~~
23 ~~scanning systems as defined in K.S.A. 25-4601 et seq., and amendments~~
24 ~~thereto, or electronic or electromechanical voting systems, as defined in~~
25 ~~K.S.A. 25-4401, and amendments thereto,~~ The method of conducting the
26 recount shall be ~~at the discretion of the person requesting the recount by a~~
27 *hand count of the cast paper ballots*. The county election officer shall not
28 be a member of the special election board. Before the special election
29 board meets to recount the ballots upon a properly filed request, the party
30 who makes the request shall file with the county election officer a bond,
31 with security to be approved by the county or district attorney, conditioned
32 to pay all costs incurred by the county in making the recount. In the event
33 that the candidate requesting the recount is declared the winner of the
34 election as a result of the recount, or if as a result of the recount a question
35 submitted is overturned, no action shall be taken on the person's bond and
36 the county shall bear the costs incurred for the recount. Any recount ~~must~~
37 ~~shall~~ be requested in writing and filed with the county election officer not
38 later than 5:00 p.m. on the day following the last meeting of the county
39 board of canvassers. The request shall specify which voting areas are to be
40 recounted. The county election officer shall immediately notify any
41 candidate involved in the election for which the recount is requested, or
42 shall notify the county chairperson of each candidate's party. Any recount
43 shall be initiated not later than the following day and shall be completed

1 not later than 5:00 p.m. on the fifth day following the filing of the request
2 for a recount, including Saturdays, Sundays and holidays. Upon
3 completion of any recount under this subsection, the election board shall
4 package and reseal the ballots as provided by law and the county board of
5 canvassers shall complete its canvass. The members of the special election
6 board shall be paid as prescribed in K.S.A. 25-2811, and amendments
7 thereto, for time actually spent making the recount.

8 (c) (1) The provisions of this subsection shall apply to any election
9 for:

- 10 (A) Any state or national office elected on a statewide basis;
- 11 (B) the office of president or vice president of the United States;
- 12 (C) the office of members of the United States house of
13 representatives;
- 14 (D) the office of members of the state senate or house of
15 representatives whose district is located in two or more counties;
- 16 (E) the office of members of the state board of education; and
- 17 (F) a constitutional amendment.

18 (2) Any candidate may request a recount in one or more counties.
19 Any registered elector who cast a ballot in an election for a constitutional
20 amendment submitted may request a recount in one or more counties. Any
21 such recount shall be requested in writing and filed with the secretary of
22 state not later than 5:00 p.m. on the day following the last meeting of the
23 county board of canvassers canvassing votes in the election for which the
24 recount is requested. The request shall specify which counties or precincts
25 are to be recounted. ~~If a recount is required in a county that uses optical
26 scanning equipment, as defined in K.S.A. 25-4601, and amendments
27 thereto, or electronic or electromechanical voting systems, as defined in
28 K.S.A. 25-4401, and amendments thereto, The method of conducting the~~
29 recount shall be at the discretion of the person requesting the recount by a
30 hand count of the cast paper ballots. Except as provided by this subsection
31 and subsection (d), the person requesting the recount shall file,
32 contemporaneously with a request for a recount, a bond with the secretary
33 of state, with security to be approved by the secretary of state, conditioned
34 to pay all costs incurred by the counties and the secretary of state in
35 making the recount. The amount of the bond shall be determined by the
36 secretary of state. A candidate described in subsection (c)(1)(D) and (E)
37 may post a bond as provided by subsection (b) in lieu of the bond required
38 by this subsection. In the event that the candidate requesting the recount is
39 declared the winner of the election as a result of the recount, no action
40 shall be taken on the candidate's bond and the counties shall bear the costs
41 incurred for the recount.

42 (3) The secretary of state immediately shall notify each county
43 election officer affected by the recount and any candidate involved in the

1 election for which the recount is requested. If the candidate cannot be
2 reached, then the secretary of state shall notify the state chairperson of
3 such candidate's party. Any such recount shall be conducted under the
4 supervision of the county election officers at the direction of the secretary
5 of state, and shall be initiated not later than the following day and shall be
6 completed not later than 5:00 p.m. on the fifth day following the filing of
7 the request for a recount, including Saturdays, Sundays and holidays. Each
8 county election officer involved in the recount shall appoint a special
9 election board to recount the ballots. The members of the special election
10 board shall be paid as prescribed in K.S.A. 25-2811, and amendments
11 thereto, for time actually spent making the recount. Upon completion of
12 any recount under this subsection, the special election board in each
13 county shall package and reseal the ballots as provided by law and the
14 county board of canvassers shall complete its canvass. The county election
15 officer in each county immediately shall certify the results of the recount
16 to the secretary of state.

17 (d) (1) The provisions of this subsection shall apply to any general
18 elections for:

- 19 (A) Any state or national office elected on a statewide basis;
- 20 (B) the office of president or vice president of the United States;
- 21 (C) the office of members of the United States house of
representatives;
- 22 (D) the office of members of *the* state senate or house of
representatives; and
- 23 (E) the office of members of the state board of education.

24 (2) Whenever the election returns reflect that a candidate for office
25 was defeated by $\frac{1}{2}$ of 1% or less of the total number of votes cast and if
26 the candidate requests a recount in one or more counties, no bond shall be
27 required and the state shall bear the cost of any recount ~~performed using~~
28 ~~the method by which the ballots were counted originally.~~

29 (3) Not later than 60 days following a recount conducted pursuant to
30 this subsection, the board of county commissioners of each county in
31 which the recount occurred shall certify to the secretary of state the
32 amount of all necessary direct expenses incurred by the county. Payment
33 for such expenses shall be made to the county treasurer of the county upon
34 warrants of the director of accounts and reports pursuant to vouchers
35 approved by the secretary of state. Upon receipt of such payment and
36 reimbursements, the county treasurer shall deposit the entire amount
37 thereof in the county election fund, if there is one and if there is not then to
38 the county general fund.

39 (4) The secretary of state, with the advice of the director of accounts
40 and reports, shall determine the correctness of each amount certified under
41 this section and adjust any discrepancies discovered before approving

1 vouchers for payment to any county.

2 (e) ~~Procedures for canvassing and challenging advance voting ballots~~
3 ~~received by mail after the closing of the polls pursuant to K.S.A. 25-~~
4 ~~1132(b), and amendments thereto, shall be as set forth in rules and~~
5 ~~regulations adopted by the secretary of state as authorized by K.S.A. 25-~~
6 ~~1132(b), and amendments thereto~~
7 *Copies or corresponding ballot images*
8 *of cast paper ballots shall not be considered the equivalent to the cast*
9 *paper ballot for purposes of any recount and shall not be used when*
conducting any recount.

10 Sec. 4. K.S.A. 25-4413 is hereby amended to read as follows: 25-
11 4413. In the case of a recount, the ballots shall be recounted in the manner
12 provided by K.S.A. ~~25-4412~~ 25-3107, and amendments thereto.

13 Sec. 5. K.S.A. 25-4413 and K.S.A. 2025 Supp. 25-2912, 25-3009 and
14 25-3107 are hereby repealed.

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