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STATE OF KANSAS

January 22, 2024

Testimony on HB2504 (Oral Neutral)

House Committee on Elections
Tuesday, January 23, 2024

Chairman Proctor and members of the Committee:

Thank you for the opportunity to provide comments on House Bill 2504. Our office is neutral on this legislation but wishes to provide background to address how HB 2504 could affect larger counties when conducting the post-election audit process.

The original requirement for a post-election audit, KSA 25-3009, was enacted in 2018 and was first conducted in 2019. The audit's purpose is to verify the vote count accuracy by comparing the count from the ballot counting scanner to a hand count of certain races in randomly selected precincts. In 2019, pursuant to statutory directive, a regulation, KAR 7-47-1, was adopted providing specific audit procedures for county election staff.

The audit regulation contained a provision giving counties the option of physically inspecting a ballot image, usually printed off, instead of the original paper ballot. This is analogous to using a check image to make a remote bank deposit. The use of images was at the request of the counties to save time, reduce costs, and because, at that time, some counties employed equipment that did not produce a paper ballot.

In 2022, at the request of the Secretary of State, a "close election" audit, KSA 25-3009(b)(2)(C), was added to require audits of substantially more ballots, if, on election night, the vote count was within one percent. This was first used in the 2022 Republican state treasurer primary.

Most counties currently use original paper ballots for the audit. Several counties, including Johnson, Wyandotte, Sedgwick, Douglas, and Harvey use or have used ballot images. To use paper ballots for the audit, counties must hand-sort the ballots by precinct, because ballots sent by mail, cast early in person, and cast on election day do not arrive at the county election office organized by precinct. Using ballot images allows ballots from a designated precinct to be segregated with de minimis effort. Counties range from having between three and 600 precincts.

During the November 2023 election, Secretary Schwab directed the four county commissioners to conduct the audit without images to develop procedures and to estimate increased staff needs and corresponding costs. The counties, therefore, should be ready to implement this change to the audit law.

A tangential issue is that UOCAVA (military or overseas citizens) voters are allowed in certain circumstances to vote without a paper ballot. To audit their votes, using an image is the only option.

