

2023 Kansas Statutes

25-3009. Postelection audit of votes cast; procedure; bipartisan board; selection of board members and of races for audit; notice; reports; use of results; additional audits; official abstracts made available, when; rules and regulations. (a) After an election and prior to the meeting of the county board of canvassers to certify the official election results for any election in which the canvassers certify the results, the county election officer shall conduct a manual audit or tally of each vote cast, regardless of the method of voting, in 1% of all precincts, with a minimum of one precinct located within the county. The precinct or precincts shall be randomly selected and the selection shall take place after the election.

(b) (1) The audit shall be performed manually and shall review all paper ballots selected pursuant to subsection (a). The audit shall be performed by a sworn election board consisting of bipartisan trained board members. The county election officer shall determine the members of the sworn election board who will conduct the audit.

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

(A) In presidential election years:

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

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

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

(C) In even-numbered election years, any federal, statewide or state legislative race that is within 1% of the total number of votes cast tallied on election night, as determined by the secretary of state, shall be audited. The county election officer shall conduct the audit in the manner set forth in subsection (a) in 10% of all county precincts in the specified race, with a minimum of one precinct in the county. The precincts audited pursuant to this subsection shall be in addition to the precincts audited under subparagraphs (2)(A) and (B).

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

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

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

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

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

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

History: L. 2018, ch. 116, § 7; L. 2022, ch. 87, § 8; L. 2023, ch. 79, § 48; L. 2023, ch.

91, § 4; July 1.

Section was also amended by L. 2023, ch. 67, § 3, but that version was repealed by L. 2023, ch. 91, § 9.