



Testimony in Support of House Bill 2570

**Kansas House of Representatives
House Committee on Federal
and State Affairs**

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Chairman Barker and members of the committee,

My name is Stewart Whitson, and I am a visiting fellow at Opportunity Solutions Project (OSP). OSP is a non-profit, non-partisan advocacy organization dedicated to advancing policies that reduce barriers to work and that promote free and fair elections by making it easy to vote, but hard to cheat.

Thank you for hearing this legislation before your committee. I am submitting this testimony in support of House Bill 2570.

For voters to have faith in the voting process, it's critical that states have in place and implement rigorous audits after every election. Post-election audits not only help to identify and deter fraud, but they also help election officials to identify and correct weaknesses or vulnerabilities in the system and address them before a problem occurs. As a result, audits help increase voter confidence in the results of an election.

There is obviously more than one right way to perform an election audit depending on the unique circumstances and resources of each individual state, but an effective post-election audit will generally include certain key characteristics regardless of the state where it is employed. Namely, it will be mandatory, transparent to the public, performed by a reliable third party trusted by voters, and will include aspects of both a traditional procedural audit, where the results from a fixed percentage of voting districts are compared against a manual count of the paper record after every election no matter how close the results are, and a risk-limiting audit, where the percentage of voting districts and ballots audited increases or decreases based on the margin of victory in a given race.¹ In a contest where a candidate receives an overwhelming majority of the votes, a smaller percentage of the total votes will be checked through a manual hand count, whereas in a very close race, a much larger percentage of ballots will be audited to ensure the sample is statistically significant enough for the auditor to confirm the outcome of the election with confidence.²

With House Bill 2570, Kansas has two important opportunities to improve its post-election audit process.

First, House Bill 2570 would add an aspect of a risk-limiting audit that is missing under the current law. More specifically, this bill would add require that, in the case of any federal, statewide, or state legislative race held in an even-numbered election year, where the results are within one percent of the total number of votes cast tallied on election night, the race must be audited. Moreover, the mandatory audit of such a close race, under this bill, would include 10 times the number of county precincts to be audited as required under the current law. This reform appropriately recognizes the mathematical significance of such a close race from an auditing standpoint and responds by increasing, tenfold, the sample size of ballots to be manually hand-counted. The result is a much more reliable audit for contests decided by narrow margins.

Notably, this bill also includes language that makes it clear that the additional precincts audited under the circumstances where the race is within one percent of the total number of votes cast tallied on election night must be in addition to the mandatory procedural audits already required under the law. Those audits must still occur. Moreover, the audits are performed, as they were under the old law, by a sworn bipartisan election board selected by the county election officer, creating a bipartisan third party to check the work of the county election official.

Second, House Bill 2570 also includes another important measure that would significantly improve the post-election audit process in Kansas: It adds a requirement that in the calendar year following the general election of an even-numbered year, the Secretary of State conduct an audit of the election procedures and election records for the elections held during the previous two years for four randomly selected counties. Under this bill, the four counties would have to include one medium county and one large county, as well as two small counties, based on their voting-age population. Adding this requirement helps create another layer of checks and balances with the audits conducted by the Secretary of State serving to confirm, in the eyes of voters, the quality and veracity of the audits performed by the bipartisan county election boards. In the end, this will surely help to boost voter confidence in the outcome of elections in Kansas.

This bill takes a big step forward in improving Kansas election auditing practices, while doing so in a manner that promotes responsible resource allocation, recognizing that races with a narrow margin of victory require special attention, focus, and more resources, and must be done on a larger scale than the traditional procedural audits it runs every year. And, by adding a biannual procedural audit requirement for the Secretary of State, this bill helps to improve not only the thoroughness of the state's audits, but their trustworthiness, as well.

For all these reasons, I strongly urge you to support House Bill 2570.

Thank you for your time.

Stewart Whitson

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¹ Election Security in All 50 States, Center for American Progress (February 12, 2018), <https://www.americanprogress.org/article/election-security-50-states/>.

² Risk-Limiting Audits, National Conference of State Legislatures (September 16, 2021), <https://www.ncsl.org/research/elections-and-campaigns/risk-limiting-audits.aspx>.