



Senate

General Assembly

File No. 480

February Session, 2022

Substitute Senate Bill No. 472

Senate, April 14, 2022

The Committee on Government Administration and Elections reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE RECOMMENDATIONS OF THE RISK-LIMITING AUDITS WORKING GROUP.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2024*) (a) Not earlier than the
2 fifteenth day after any state election and not later than two business
3 days before the canvass of votes by the Secretary of the State, Treasurer
4 and Comptroller, commencing on a day designated by the Secretary, the
5 registrars of voters shall conduct a risk-limiting audit of such election.
6 Each such audit shall be noticed in advance and be open to public
7 observation. Any election official who participates in the administration
8 and conduct of an audit pursuant to this section shall be compensated
9 by the municipality at the standard rate of pay established by such
10 municipality for elections.

11 (b) (1) Except as provided in subdivision (2) of this subsection, the
12 offices subject to a risk-limiting audit pursuant to this section shall be
13 (A) the office of presidential elector, if applicable, (B) all applicable state

14 offices, as defined in section 9-372 of the general statutes, (C) at least one
15 representative in Congress, selected in a random drawing by the
16 Secretary of the State, (D) at least five per cent, in the aggregate, of the
17 offices of state senator and state representative, selected in a random
18 drawing by the Secretary, and (E) any other office required to be audited
19 by federal law. Whenever an office is randomly selected by the Secretary
20 under this subsection, the selection process shall be open to the public.

21 (2) (A) If an office of representative in Congress is subject to recanvass
22 or an election contest pursuant to the general statutes, the Secretary of
23 the State shall ensure such office is included in the office or offices
24 selected under subparagraph (C) of subdivision (1) of this subsection.

25 (B) If an office of state senator or state representative is subject to
26 recanvass or an election contest pursuant to the general statutes, the
27 Secretary of the State shall ensure such office is included in the offices
28 selected under subparagraph (D) of subdivision (1) of this subsection.

29 (c) Prior to the day designated by the Secretary of the State for the
30 commencement of the risk-limiting audit described in subsection (a) of
31 this section, the registrars of voters shall submit to the Secretary the
32 ballot manifests created under section 3 of this act.

33 (d) The risk-limiting audit described in subsection (a) of this section
34 shall be conducted in accordance with instructions and procedures
35 prescribed by the Secretary of the State, which instructions and
36 procedures shall be consistent across all offices. The risk limit for each
37 such audit shall be not more than five per cent. The results of each audit
38 conducted pursuant to this section, including any such audit that
39 produces an outcome of "INCONCLUSIVE" as described in subsection
40 (e) of this section, shall be reported on a form and in a manner
41 prescribed by the Secretary. Such reported results shall be filed with the
42 Secretary, who shall immediately forward such reported results to The
43 University of Connecticut for analysis. The University of Connecticut
44 shall submit to the Secretary a written report regarding such analysis
45 that describes any concerns identified. After receipt of such written
46 report, the Secretary shall transmit to the State Elections Enforcement

47 Commission a copy of such written report.

48 (e) In the event a risk-limiting audit conducted pursuant to this
49 section for a particular office produces an outcome of
50 "INCONCLUSIVE", the Secretary of the State shall order a manual
51 recount of all ballots cast for such office.

52 (f) If the written report submitted by The University of Connecticut
53 under subsection (d) of this section indicates that a voting tabulator
54 failed to record votes accurately and in the manner provided by the
55 general statutes, the Secretary of the State shall require that the voting
56 tabulator be examined and recertified by the Secretary, or the Secretary's
57 designee. Nothing in this subsection shall be construed to prohibit the
58 Secretary from requiring that a voting tabulator be examined and
59 recertified.

60 (g) The audit results reported to the Secretary of the State pursuant to
61 subsection (d) of this section shall be open to public inspection and may
62 be used as prima facie evidence of an irregularity in any contest arising
63 pursuant to chapter 149 of the general statutes or for any other cause of
64 action arising from such election.

65 (h) If the audit officials are unable to reconcile the results from an
66 audit described in subsection (a) of this section with the outcome of the
67 person declared elected by virtue of having received the greatest
68 number of votes, as determined by the paper ballots, the Secretary of the
69 State shall conduct such further investigation of the voting tabulator as
70 may be necessary for the purpose of reviewing whether or not to
71 decertify the voting tabulator or tabulators in question or to order the
72 voting tabulator to be examined and recertified pursuant to subsection
73 (f) of this section. Any report produced by the Secretary as a result of
74 such investigation shall be filed with the State Elections Enforcement
75 Commission, and the commission may initiate such further
76 investigation in accordance with subdivision (1) of subsection (a) of
77 section 9-7b of the general statutes as may be required to determine if
78 any violations of the general statutes concerning election law have been
79 committed.

80 (i) The individual paper ballots used at an election shall be carefully
81 preserved and returned in their designated receptacle in accordance
82 with the requirements of section 9-266 or 9-310 of the general statutes,
83 whichever is applicable.

84 (j) Nothing in this section shall be construed to preclude any
85 candidate or elector from seeking additional remedies pursuant to
86 chapter 149 of the general statutes.

87 (k) After an election, any voting tabulator may be kept locked for a
88 period longer than that prescribed by sections 9-266, 9-310 and 9-447 of
89 the general statutes, if such an extended period is ordered by either a
90 court of competent jurisdiction, the Secretary of the State or the State
91 Elections Enforcement Commission. Either the court or the Secretary of
92 the State may order an audit of such voting tabulator to be conducted
93 by such persons as the court or the Secretary may designate, provided
94 the State Elections Enforcement Commission may order such an audit
95 under the circumstances described in subsection (e) of this section. If the
96 machine utilized in such election is an optical scan voting system, such
97 order to lock such machine shall include the tabulator, memory card and
98 all other components and processes utilized in the programming of such
99 machine.

100 (l) The Secretary of the State may adopt regulations, in accordance
101 with the provisions of chapter 54 of the general statutes, as may be
102 necessary for the conduct of risk-limiting audits described in subsection
103 (a) of this section and to establish guidelines for expanded audits when
104 the results from such an audit cannot be reconciled with the outcome of
105 the person declared elected by virtue of having received the greatest
106 number of votes, as determined by the paper ballots.

107 (m) Notwithstanding any provision of the general statutes, the
108 Secretary of the State shall have access to the code in any voting machine
109 whenever any problem is discovered as a result of an audit described in
110 subsection (a) of this section.

111 (n) As used in this section:

112 (1) "Risk-limiting audit" means a publicly verifiable auditing
113 procedure that (A) manually examines a statistical sample of paper
114 ballots which reflect the intents of the voters having cast such ballots,
115 (B) produces an outcome of either "ACCEPTABLE" or
116 "INCONCLUSIVE", and (C) guarantees a specified risk limit;

117 (2) "Risk limit" means the maximum probability that an audit would
118 produce an outcome of "ACCEPTABLE" when there is a disagreement
119 between the person declared elected and the person who received the
120 greatest number of votes as determined by the paper ballots; and

121 (3) "State election" has the same meaning as provided in section 9-1
122 of the general statutes.

123 Sec. 2. Section 9-320f of the 2022 supplement to the general statutes is
124 repealed and the following is substituted in lieu thereof (*Effective January*
125 *1, 2024*):

126 (a) (1) Not earlier than the fifteenth day after any [election or] federal
127 or state primary and not later than two business days before the canvass
128 of votes by the Secretary of the State, Treasurer and Comptroller, [for
129 any federal or state election or primary,] or (2) not earlier than the
130 fifteenth day after any municipal election or primary and not later than
131 two business days before the canvass of votes by the town clerk, [for any
132 municipal election or primary,] the registrars of voters shall conduct a
133 manual audit, or [, for an election or primary held on or after January 1,
134 2016,] an electronic audit authorized under section 9-320g, as amended
135 by this act, of the votes recorded in not less than five per cent of the
136 voting districts in the state, district or municipality, whichever is
137 applicable. For the purposes of this section, any central location used in
138 a municipality for the counting of absentee ballots shall be deemed a
139 voting district. Such manual or electronic audit shall be noticed in
140 advance and be open to public observation. Any election official who
141 participates in the administration and conduct of an audit pursuant to
142 this section shall be compensated by the municipality at the standard
143 rate of pay established by such municipality for elections or primaries,
144 as the case may be.

145 (b) The voting districts subject to an audit described in subsection (a)
146 of this section shall be selected in a random drawing by the Secretary of
147 the State and such selection process shall be open to the public. The
148 offices subject to an audit pursuant to this section shall be, (1) [in the
149 case of an election where the office of presidential elector is on the ballot,
150 all offices required to be audited by federal law, plus one additional
151 office selected in a random drawing by the Secretary of the State, but in
152 no case less than three offices, (2) in the case of an election where the
153 office of Governor is on the ballot, all offices required to be audited by
154 federal law, plus one additional office selected in a random drawing by
155 the Secretary of the State, but in no case less than three offices, (3)] in the
156 case of a municipal election, three offices or twenty per cent of the
157 number of offices on the ballot, whichever is greater, selected at random
158 by the municipal clerk, and [(4)] (2) in the case of a primary, [election,]
159 all offices required to be audited by federal law, plus one additional
160 office, if any, but in no event less than twenty per cent of the offices on
161 the ballot, selected in a random drawing by the municipal clerk.

162 (c) If a selected voting district has an office that is subject to recanvass
163 or an election or primary contest pursuant to the general statutes, the
164 Secretary of the State shall select an alternative district, pursuant to the
165 process described in subsection (b) of this section.

166 (d) The manual or electronic audit described in subsection (a) of this
167 section shall consist of the manual or electronic tabulation of the paper
168 ballots cast and counted by each voting tabulator subject to such audit.
169 Once complete, the vote totals established pursuant to such manual or
170 electronic tabulation shall be compared to the results reported by the
171 voting tabulator on the day of the election or primary. The results of
172 such manual or electronic tabulation shall be reported on a form
173 prescribed by the Secretary of the State which shall include the total
174 number of ballots counted, the total votes received by each candidate in
175 question, the total votes received by each candidate in question on
176 ballots that were properly completed by each voter and the total votes
177 received by each candidate in question on ballots that were not properly
178 completed by each voter. Such [report] reported results shall be filed

179 with the Secretary, [of the State] who shall immediately forward such
180 [report] reported results to The University of Connecticut for analysis.
181 The University of Connecticut shall [file] submit to the Secretary a
182 written report [with the Secretary of the State] regarding such analysis
183 that describes any discrepancies identified. After receipt of such written
184 report, the Secretary [of the State shall file such report with] shall
185 transmit to the State Elections Enforcement Commission a copy of such
186 written report.

187 (e) For the purposes of this section, a ballot that has not been properly
188 completed will be deemed to be a ballot on which (1) votes have been
189 marked by the voter outside the vote targets, (2) votes have been marked
190 by the voter using a manual marking device that cannot be read by the
191 voting tabulator, or (3) in the judgment of the registrars of voters, the
192 voter marked the ballot in such a manner that the voting tabulator may
193 not have read the marks as votes cast.

194 (f) Notwithstanding the provisions of section 9-311, the Secretary of
195 the State shall order a discrepancy recanvass of the returns of an election
196 or primary for any office if a discrepancy, as defined in subsection (o) of
197 this section, exists where the margin of victory in the race for such office
198 is less than the amount of the discrepancy multiplied by the total
199 number of voting districts where such race appeared on the ballot,
200 provided in a year in which the Secretary of the State is a candidate for
201 an office on the ballot and that office is subject to an audit as provided
202 by this section, the State Elections Enforcement Commission shall order
203 a discrepancy recanvass if a discrepancy, as defined by subsection (o) of
204 this section, has occurred that could affect the outcome of the election or
205 primary for such office.

206 (g) If the written report submitted by The University of Connecticut
207 [report described in] under subsection (d) of this section indicates that a
208 voting tabulator failed to record votes accurately and in the manner
209 provided by the general statutes, the Secretary of the State shall require
210 that the voting tabulator be examined and recertified by the Secretary
211 [of the State,] or the Secretary's designee. Nothing in this subsection

212 shall be construed to prohibit the Secretary [of the State] from requiring
213 that a voting tabulator be examined and recertified.

214 (h) The audit [report filed] results reported to the Secretary of the
215 State pursuant to subsection (d) of this section shall be open to public
216 inspection and may be used as prima facie evidence of a discrepancy in
217 any contest arising pursuant to chapter 149 or for any other cause of
218 action arising from such election or primary.

219 (i) If the audit officials are unable to reconcile the manual or electronic
220 count from an audit described in subsection (a) of this section with the
221 electronic vote tabulation and discrepancies from the election or
222 primary, the Secretary of the State shall conduct such further
223 investigation of the voting tabulator malfunction as may be necessary
224 for the purpose of reviewing whether or not to decertify the voting
225 tabulator or tabulators in question or to order the voting tabulator to be
226 examined and recertified pursuant to subsection (g) of this section. Any
227 report produced by the Secretary [of the State] as a result of such
228 investigation shall be filed with the State Elections Enforcement
229 Commission, and the commission may initiate such further
230 investigation in accordance with subdivision (1) of subsection (a) of
231 section 9-7b as may be required to determine if any violations of the
232 general statutes concerning election law have been committed.

233 (j) The individual paper ballots used at an election or primary shall
234 be carefully preserved and returned in their designated receptacle in
235 accordance with the requirements of section 9-266 or 9-310, whichever
236 is applicable.

237 (k) Nothing in this section shall be construed to preclude any
238 candidate or elector from seeking additional remedies pursuant to
239 chapter 149.

240 (l) After an election or primary, any voting tabulator may be kept
241 locked for a period longer than that prescribed by sections 9-266, 9-310
242 and 9-447, if such an extended period is ordered by either a court of
243 competent jurisdiction, the Secretary of the State or the State Elections

244 Enforcement Commission. Either the court or the Secretary of the State
245 may order an audit of such voting tabulator to be conducted by such
246 persons as the court or the Secretary [of the State] may designate,
247 provided the State Elections Enforcement Commission may order such
248 an audit under the circumstances prescribed in subsection (f) of this
249 section. If the machine utilized in such election or primary is an optical
250 scan voting system, such order to lock such machine shall include the
251 tabulator, memory card and all other components and processes utilized
252 in the programming of such machine.

253 (m) The Secretary of the State may adopt regulations, in accordance
254 with the provisions of chapter 54, as may be necessary for the conduct
255 of the manual or electronic tabulation of the paper ballots described in
256 subsection (a) of this section and to establish guidelines for expanded
257 audits when there are differences between the manual or electronic
258 counts from the audit described in subsection (a) of this section and
259 tabulator counts from the election or primary.

260 (n) Notwithstanding any provision of the general statutes, the
261 Secretary of the State shall have access to the code in any voting machine
262 whenever any problem is discovered as a result of an audit described in
263 subsection (a) of this section.

264 (o) As used in this section: [, "discrepancy"]

265 (1) "Discrepancy" means any difference in vote totals between
266 tabulator counts from an election or primary and manual or electronic
267 counts from an audit described in subsection (a) of this section in a
268 voting district that exceeds one-half of one per cent of the lesser amount
269 of the vote totals between such tabulator counts and such manual or
270 electronic counts where such differences cannot be resolved through an
271 accounting of ballots that were not marked properly in accordance with
272 subsection (e) of this section; [, "state election" means "state election", as
273 defined in section 9-1, "municipal election"]

274 (2) "Municipal election" means a municipal election held pursuant to
275 section 9-164; [, "manual"]

276 (3) "Manual" means by hand and without the assistance of electronic
277 equipment; and ["electronic"]

278 (4) "Electronic" means through the use of equipment described in
279 section 9-320g, as amended by this act.

280 Sec. 3. (NEW) (*Effective January 1, 2024*) (a) Except as provided in
281 subsection (b) of this section, not later than seventy-two hours after the
282 close of the polls at each state election:

283 (1) The election officials in each polling place shall create a ballot
284 manifest for such polling place by manually verifying the number of
285 ballots cast that comprise the result publicly announced by the
286 moderator under subsection (a) of section 9-309 of the general statutes
287 and recording such number on such ballot manifest, in accordance with
288 procedures prescribed by the Secretary of the State; and

289 (2) The absentee ballot counters in each central counting location shall
290 create a ballot manifest for such central counting location by manually
291 verifying the number of ballots cast that comprise the result publicly
292 declared by the moderator under subsection (b) of section 9-150b of the
293 general statutes and recording such number on such ballot manifest, in
294 accordance with procedures prescribed by the Secretary of the State.

295 (b) Not later than twenty-four hours after the completion of any
296 recanvass conducted at a state election in a voting district, the recanvass
297 officials shall create a ballot manifest for such district by manually
298 verifying the number of ballots cast that comprise the vote announced
299 by the moderator under subdivision (1) of subsection (c) of section 9-311
300 of the general statutes and recording such number on such ballot
301 manifest, in accordance with procedures prescribed by the Secretary of
302 the State.

303 (c) All ballot manifest creation procedures shall be open to public
304 observation.

305 (d) Immediately after a ballot manifest has been created pursuant to
306 this section, the moderator shall submit such ballot manifest to the

307 registrars of voters.

308 Sec. 4. Section 9-323 of the general statutes is repealed and the
309 following is substituted in lieu thereof (*Effective January 1, 2024*):

310 Any elector or candidate who claims that he is aggrieved by any
311 ruling of any election official in connection with any election for
312 presidential electors and for a senator in Congress and for
313 representative in Congress or any of them, held in his town, or that there
314 was a mistake in the count of the votes cast at such election for
315 candidates for such electors, senator in Congress and representative in
316 Congress, or any of them, at any voting district in his town, or any
317 candidate for such an office who claims that he is aggrieved by a
318 violation of any provision of section 9-355, 9-357 to 9-361, inclusive, 9-
319 364, 9-364a or 9-365 in the casting of absentee ballots at such election,
320 may bring his complaint to any judge of the Supreme Court, in which
321 he shall set out the claimed errors of such election official, the claimed
322 errors in the count or the claimed violations of said sections. In any
323 action brought pursuant to the provisions of this section, the
324 complainant shall file a certification attached to the complaint indicating
325 that a copy of the complaint has been sent by first-class mail or delivered
326 to the State Elections Enforcement Commission. If such complaint is
327 made prior to such election, such judge shall proceed expeditiously to
328 render judgment on the complaint and shall cause notice of the hearing
329 to be given to the Secretary of the State and the State Elections
330 Enforcement Commission. If such complaint is made subsequent to the
331 election, it shall be brought not later than fourteen days after the election
332 or, if such complaint is brought in response to [the manual tabulation of
333 paper ballots authorized] an audit conducted pursuant to section 9-320f,
334 as amended by this act, or section 1 of this act, such complaint shall be
335 brought not later than seven days after the close of any such [manual
336 tabulation] audit, and in either such circumstance, the judge shall
337 forthwith order a hearing to be had upon such complaint, upon a day
338 not more than five or less than three days from the making of such order,
339 and shall cause notice of not less than three or more than five days to be
340 given to any candidate or candidates whose election may be affected by

341 the decision upon such hearing, to such election official, to the Secretary
342 of the State, to the State Elections Enforcement Commission and to any
343 other party or parties whom such judge deems proper parties thereto,
344 of the time and place for the hearing upon such complaint. Such judge,
345 with two other judges of the Supreme Court to be designated by the
346 Chief Court Administrator, shall, on the day fixed for such hearing and
347 without unnecessary delay, proceed to hear the parties. If sufficient
348 reason is shown, such judges may order any voting tabulators to be
349 unlocked or any ballot boxes to be opened and a recount of the votes
350 cast, including absentee ballots, to be made. Such judges shall
351 thereupon, in the case they, or any two of them, find any error in the
352 rulings of the election official, any mistake in the count of such votes or
353 any violation of said sections, certify the result of their finding or
354 decision, or the finding or decision of a majority of them, to the Secretary
355 of the State before the first Monday after the second Wednesday in
356 December. Such judges may order a new election or a change in the
357 existing election schedule, provided such order complies with Section
358 302 of the Help America Vote Act, P.L. 107-252, as amended from time
359 to time. Such certificate of such judges, or a majority of them, shall be
360 final upon all questions relating to the rulings of such election officials,
361 to the correctness of such count and, for the purposes of this section
362 only, such claimed violations, and shall operate to correct the returns of
363 the moderators or presiding officers so as to conform to such finding or
364 decision.

365 Sec. 5. Section 9-324 of the general statutes is repealed and the
366 following is substituted in lieu thereof (*Effective January 1, 2024*):

367 Any elector or candidate who claims that such elector or candidate is
368 aggrieved by any ruling of any election official in connection with any
369 election for Governor, Lieutenant Governor, Secretary of the State, State
370 Treasurer, Attorney General, State Comptroller or judge of probate, held
371 in such elector's or candidate's town, or that there has been a mistake in
372 the count of the votes cast at such election for candidates for said offices
373 or any of them, at any voting district in such elector's or candidate's
374 town, or any candidate for such an office who claims that such candidate

375 is aggrieved by a violation of any provision of section 9-355, 9-357 to 9-
376 361, inclusive, 9-364, 9-364a or 9-365 in the casting of absentee ballots at
377 such election or any candidate for the office of Governor, Lieutenant
378 Governor, Secretary of the State, State Treasurer, Attorney General or
379 State Comptroller, who claims that such candidate is aggrieved by a
380 violation of any provision of sections 9-700 to 9-716, inclusive, may bring
381 such elector's or candidate's complaint to any judge of the Superior
382 Court, in which such elector or candidate shall set out the claimed errors
383 of such election official, the claimed errors in the count or the claimed
384 violations of said sections. In any action brought pursuant to the
385 provisions of this section, the complainant shall send a copy of the
386 complaint by first-class mail, or deliver a copy of the complaint by hand,
387 to the State Elections Enforcement Commission. If such complaint is
388 made prior to such election, such judge shall proceed expeditiously to
389 render judgment on the complaint and shall cause notice of the hearing
390 to be given to the Secretary of the State and the State Elections
391 Enforcement Commission. If such complaint is made subsequent to the
392 election, it shall be brought not later than fourteen days after the election
393 or, if such complaint is brought in response to [the manual tabulation of
394 paper ballots authorized] an audit conducted pursuant to section 9-320f,
395 as amended by this act, or section 1 of this act, such complaint shall be
396 brought not later than seven days after the close of any such [manual
397 tabulation] audit and, in either such circumstance, such judge shall
398 forthwith order a hearing to be had upon such complaint, upon a day
399 not more than five nor less than three days from the making of such
400 order, and shall cause notice of not less than three nor more than five
401 days to be given to any candidate or candidates whose election may be
402 affected by the decision upon such hearing, to such election official, the
403 Secretary of the State, the State Elections Enforcement Commission and
404 to any other party or parties whom such judge deems proper parties
405 thereto, of the time and place for the hearing upon such complaint. Such
406 judge shall, on the day fixed for such hearing and without unnecessary
407 delay, proceed to hear the parties. If sufficient reason is shown, such
408 judge may order any voting tabulators to be unlocked or any ballot
409 boxes to be opened and a recount of the votes cast, including absentee

410 ballots, to be made. Such judge shall thereupon, in case such judge finds
411 any error in the rulings of the election official, any mistake in the count
412 of the votes or any violation of said sections, certify the result of such
413 judge's finding or decision to the Secretary of the State before the
414 fifteenth day of the next succeeding December. Such judge may order a
415 new election or a change in the existing election schedule. Such
416 certificate of such judge of such judge's finding or decision shall be final
417 and conclusive upon all questions relating to errors in the rulings of
418 such election officials, to the correctness of such count, and, for the
419 purposes of this section only, such claimed violations, and shall operate
420 to correct the returns of the moderators or presiding officers, so as to
421 conform to such finding or decision, unless the same is appealed from
422 as provided in section 9-325.

423 Sec. 6. Section 9-328 of the general statutes is repealed and the
424 following is substituted in lieu thereof (*Effective January 1, 2024*):

425 Any elector or candidate claiming to have been aggrieved by any
426 ruling of any election official in connection with an election for any
427 municipal office or a primary for justice of the peace, or any elector or
428 candidate claiming that there has been a mistake in the count of votes
429 cast for any such office at such election or primary, or any candidate in
430 such an election or primary claiming that he is aggrieved by a violation
431 of any provision of sections 9-355, 9-357 to 9-361, inclusive, 9-364, 9-364a
432 or 9-365 in the casting of absentee ballots at such election or primary,
433 may bring a complaint to any judge of the Superior Court for relief
434 therefrom. In any action brought pursuant to the provisions of this
435 section, the complainant shall send a copy of the complaint by first-class
436 mail, or deliver a copy of the complaint by hand, to the State Elections
437 Enforcement Commission. If such complaint is made prior to such
438 election or primary, such judge shall proceed expeditiously to render
439 judgment on the complaint and shall cause notice of the hearing to be
440 given to the Secretary of the State and the State Elections Enforcement
441 Commission. If such complaint is made subsequent to such election or
442 primary, it shall be brought not later than fourteen days after such
443 election or primary, except that if such complaint is brought in response

444 to [the manual tabulation of paper ballots, authorized] an audit
445 conducted pursuant to section 9-320f, as amended by this act, or section
446 1 of this act, such complaint shall be brought not later than seven days
447 after the close of any such [manual tabulation] audit, to any judge of the
448 Superior Court, in which he shall set out the claimed errors of the
449 election official, the claimed errors in the count or the claimed violations
450 of said sections. Such judge shall forthwith order a hearing to be had
451 upon such complaint, upon a day not more than five nor less than three
452 days from the making of such order, and shall cause notice of not less
453 than three nor more than five days to be given to any candidate or
454 candidates whose election or nomination may be affected by the
455 decision upon such hearing, to such election official, the Secretary of the
456 State, the State Elections Enforcement Commission and to any other
457 party or parties whom such judge deems proper parties thereto, of the
458 time and place for the hearing upon such complaint. Such judge shall,
459 on the day fixed for such hearing and without unnecessary delay,
460 proceed to hear the parties. If sufficient reason is shown, he may order
461 any voting tabulators to be unlocked or any ballot boxes to be opened
462 and a recount of the votes cast, including absentee ballots, to be made.
463 Such judge shall thereupon, if he finds any error in the rulings of the
464 election official or any mistake in the count of the votes, certify the result
465 of his finding or decision to the Secretary of the State before the tenth
466 day succeeding the conclusion of the hearing. Such judge may order a
467 new election or primary or a change in the existing election schedule.
468 Such certificate of such judge of his finding or decision shall be final and
469 conclusive upon all questions relating to errors in the ruling of such
470 election officials, to the correctness of such count, and, for the purposes
471 of this section only, such claimed violations, and shall operate to correct
472 the returns of the moderators or presiding officers, so as to conform to
473 such finding or decision, except that this section shall not affect the right
474 of appeal to the Supreme Court and it shall not prevent such judge from
475 reserving such questions of law for the advice of the Supreme Court as
476 provided in section 9-325. Such judge may, if necessary, issue his writ of
477 mandamus, requiring the adverse party and those under him to deliver
478 to the complainant the appurtenances of such office, and shall cause his

479 finding and decree to be entered on the records of the Superior Court in
480 the proper judicial district.

481 Sec. 7. Subsection (a) of section 9-329a of the general statutes is
482 repealed and the following is substituted in lieu thereof (*Effective January*
483 *1, 2024*):

484 (a) Any (1) elector or candidate aggrieved by a ruling of an election
485 official in connection with any primary held pursuant to (A) section 9-
486 423, 9-425 or 9-464, or (B) a special act, (2) elector or candidate who
487 alleges that there has been a mistake in the count of the votes cast at such
488 primary, or (3) candidate in such a primary who alleges that he is
489 aggrieved by a violation of any provision of sections 9-355, 9-357 to 9-
490 361, inclusive, 9-364, 9-364a or 9-365 in the casting of absentee ballots at
491 such primary, may bring his complaint to any judge of the Superior
492 Court for appropriate action. In any action brought pursuant to the
493 provisions of this section, the complainant shall file a certification
494 attached to the complaint indicating that a copy of the complaint has
495 been sent by first-class mail or delivered to the State Elections
496 Enforcement Commission. If such complaint is made prior to such
497 primary such judge shall proceed expeditiously to render judgment on
498 the complaint and shall cause notice of the hearing to be given to the
499 Secretary of the State and the State Elections Enforcement Commission.
500 If such complaint is made subsequent to such primary it shall be
501 brought, not later than fourteen days after such primary, or if such
502 complaint is brought in response to [the manual tabulation of paper
503 ballots, described in] an audit conducted pursuant to section 9-320f, as
504 amended by this act, or section 1 of this act, such complaint shall be
505 brought, not later than seven days after the close of any such [manual
506 tabulation] audit, to any judge of the Superior Court.

507 Sec. 8. Subsection (b) of section 9-3 of the general statutes is repealed
508 and the following is substituted in lieu thereof (*Effective January 1, 2024*):

509 (b) During any municipal, state or federal election, primary or
510 recanvass, or any audit conducted pursuant to section 9-320f, as
511 amended by this act, or section 1 of this act, the Secretary of the State

512 may issue an order, whether orally or in writing, to any registrar of
513 voters or moderator to correct any irregularity or impropriety in the
514 conduct of such election, primary or recanvass or audit. Any such order
515 shall be effective upon issuance. As soon as practicable after issuance of
516 an oral order pursuant to this subsection, the Secretary shall reduce such
517 order to writing, cite within such order any applicable provision of law
518 authorizing such order and cause a copy of such written order to be
519 delivered to the individual who is the subject of such order or, in the
520 case that such order was originally issued in writing, issue a subsequent
521 written order that conforms to such requirements. The Superior Court,
522 on application of the Secretary or the Attorney General, may enforce by
523 appropriate decree or process any such order issued pursuant to this
524 subsection.

525 Sec. 9. Subdivision (3) of subsection (b) of section 9-229 of the general
526 statutes is repealed and the following is substituted in lieu thereof
527 (*Effective January 1, 2024*):

528 (3) The duties of each regional election monitor shall include, but not
529 be limited to: (A) Holding the regional instructional sessions described
530 in subdivision (2) of this subsection; (B) communicating with registrars
531 of voters to assist, to the extent permitted under law, in preparations for
532 and operations of any election, primary or recanvass, or any audit
533 conducted pursuant to section 9-320f, as amended by this act, or section
534 1 of this act; and (C) transmitting any order issued by the Secretary of
535 the State, pursuant to subsection (b) of section 9-3, as amended by this
536 act.

537 Sec. 10. Subsection (a) of section 9-229b of the general statutes is
538 repealed and the following is substituted in lieu thereof (*Effective January*
539 *1, 2024*):

540 (a) There shall be a regional election monitor within each planning
541 region, as defined in section 4-124i, who shall represent, consult with
542 and act on behalf of the Secretary of the State in preparations for and
543 operations of any election, primary or recanvass, or any audit conducted
544 pursuant to section 9-320f, as amended by this act, or section 1 of this

545 act.

546 Sec. 11. Section 9-320g of the general statutes is repealed and the
547 following is substituted in lieu thereof (*Effective January 1, 2024*):

548 Notwithstanding any provision of this title, the Secretary of the State,
549 in consultation and coordination with The University of Connecticut,
550 may authorize the use of electronic equipment for the purpose of
551 conducting any audit required pursuant to section 9-320f, [for any
552 primary or general election held on or after January 1, 2016] as amended
553 by this act, or section 1 of this act, provided (1) the Secretary of the State
554 prescribes specifications for (A) the testing, set-up and operation of such
555 equipment, and (B) the training of election officials in the use of such
556 equipment; and (2) the Secretary of the State and The University of
557 Connecticut agree that such equipment is sufficient in quantity to
558 accommodate the total number of audits to be conducted. Nothing in
559 this section shall preclude any candidate or elector from seeking
560 additional remedies pursuant to chapter 149 as a result of any
561 information revealed by such process.

562 Sec. 12. (*Effective October 1, 2022*) The Secretary of the State shall
563 establish a pilot program for the conduct of risk-limiting audits at
564 municipal elections in 2023. The Secretary shall randomly select three
565 municipalities for participation in such pilot program, in accordance
566 with the following: (1) One municipality with a population of less than
567 twenty thousand; (2) one municipality with a population of twenty
568 thousand or greater, but less than ninety thousand; and (3) one
569 municipality with a population of ninety thousand or greater. For the
570 purposes of this section, "population" means the estimated number of
571 people according to the most recent version of the State Register and
572 Manual prepared pursuant to section 3-90 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2024	New section
Sec. 2	January 1, 2024	9-320f

Sec. 3	January 1, 2024	New section
Sec. 4	January 1, 2024	9-323
Sec. 5	January 1, 2024	9-324
Sec. 6	January 1, 2024	9-328
Sec. 7	January 1, 2024	9-329a(a)
Sec. 8	January 1, 2024	9-3(b)
Sec. 9	January 1, 2024	9-229(b)(3)
Sec. 10	January 1, 2024	9-229b(a)
Sec. 11	January 1, 2024	9-320g
Sec. 12	October 1, 2022	New section

Statement of Legislative Commissioners:

In Section 1, "or primary" was deleted throughout, "in accordance with" was changed to "as described in" in Subsec. (d), "subsection (g)" was changed to "subsection (f)" in Subsec. (h) and "prescribed" was changed to "described" in Subsec. (k) for accuracy.

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Secretary of the State	GF - Potential Cost	See Below	See Below
UConn	Various - Cost	625,000	400,000

Note: GF=General Fund; Various=Various

Municipal Impact:

Municipalities	Effect	FY 23 \$	FY 24 \$
Various Municipalities	Cost	See Below	See Below

Explanation

This bill implements risk-limiting audits by January 1, 2024 for state elections but maintains the existing post-election audit process for federal and state primaries and municipal elections. The bill is anticipated to result in costs to municipalities and the University of Connecticut, and potential costs to the Secretary of the State (SOTS), as described below.

The bill allows the (SOTS) to prescribe instructions for the registrars of voters to conduct the risk-limiting audits. Under this bill, election officials who participate in administering and conducting risk-limiting audits must be compensated at the municipality's standard rate of pay for electors. These requirements will result in various costs to municipalities beginning in FY 24. The extent of the cost will depend on the requirements of the risk-limiting audit and the level of compensation for the election officials.

The bill expands the University of Connecticut's post-election responsibilities to include risk-limiting audits, which is estimated to result in costs of at least \$625,000 in FY 23 and \$400,000 in FY 24, as well as additional costs in the out years. It is anticipated that the FY 23 costs will consist of an estimated \$600,000 in personnel costs (including fringe benefits), for two new personnel (a Principal Investigator and an Engineer) and supplementary time from existing staff. Additionally, \$25,000 in equipment and travel expenses are expected. After the year of start-up, costs will decline to approximately \$400,000 in FY 24 and FY 25, then remain at approximately \$225,000 annually thereafter. These costs may be borne by either the General Fund or the university's other revenues (e.g., tuition). If wage costs are funded through the General Fund, then the fringe benefits costs will be incurred within the Office of the State Comptroller.

The bill also expands the SOTS's responsibility to include risk-limiting audits. The SOTS may incur costs for additional staff and technology depending on the extent of these responsibilities.

Additionally, the bill establishes a pilot program to conduct risk-limiting audits at municipal elections in 2023. The pilot program will consist of three municipalities, randomly selected by the SOTS. This may result in various costs in FY 23 to each municipality selected.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 472*****AN ACT CONCERNING THE RECOMMENDATIONS OF THE RISK-LIMITING AUDITS WORKING GROUP.*****SUMMARY**

This bill implements risk-limiting audits (RLAs) for state elections but generally maintains the existing post-election audit process for federal and state primaries and municipal elections. RLAs are publicly verifiable auditing procedures that manually examine a statistical sample of paper ballots and guaranty a specified risk limit, which the bill caps at 5%.

To accomplish this, the bill establishes the general scope and procedures for RLAs, such as (1) outlining election officials' duties and the affected public offices, (2) creating ballot manifests, and (3) applying existing provisions for post-election audits to RLAs (e.g., provisions on using electronic equipment and voting tabulators and how to address election contests). The bill requires the secretary of the state (SOTS) to prescribe instructions and procedures for conducting the audits. It also allows her to adopt associated regulations.

The bill also establishes a pilot program to conduct RLAs at municipal elections in 2023. It requires SOTS to randomly select three municipalities for the program, with one municipality for each of the following population ranges (i.e., the estimated number from the most recent State Register and Manual): (1) less than 20,000; (2) 20,000-89,999; and (3) 90,000 or greater (§ 12).

Lastly, the bill makes minor, technical, and conforming changes.

EFFECTIVE DATE: January 1, 2024, except the provision establishing the pilot program for the 2023 municipal election is effective October 1, 2022.

RISK-LIMITING AUDIT SCOPE

Definitions

The bill requires registrars of voters to conduct RLAs for state elections, instead of the current post-election audit process. Federal and state primaries, as well as municipal elections, remain subject to existing auditing requirements (see BACKGROUND). Under the bill, an RLA is a publicly verifiable auditing procedure that (1) manually examines a statistical sample of paper ballots, which reflect the intents of the voters who cast the ballots; (2) produces an outcome of either “ACCEPTABLE” or “INCONCLUSIVE”; and (3) guaranties a specified risk limit.

The “risk limit” is the maximum probability that an audit would produce an outcome of “ACCEPTABLE” when there is a disagreement between the person declared elected and the person who received the most votes as determined by the paper ballots (i.e., the percentage chance an RLA will fail to catch that the reported results are incorrect). Under the bill, the risk limit for RLAs is capped at 5% (presumably, the secretary will set the specific limit in her prescribed procedures or in regulation, see below).

Covered Offices

Under the bill, an RLA must be conducted on the election outcomes for the following offices:

1. presidential elector;
2. all applicable state offices (i.e., those for which all electors of the state may vote, including Governor, Lieutenant Governor, Secretary, Treasurer, Comptroller, Attorney General, and senator in Congress);
3. at least one representative in Congress, selected by random draw;
4. at least 5% of the General Assembly, selected by random draw; and
5. any other office federal law requires to be audited.

If an office of a representative in Congress or state legislator is subject to recanvass or an election contest, the secretary must ensure that office is selected for an RLA. The bill requires the random draws to be open to the public.

RISK-LIMITING AUDIT PROCEDURES

Pre-Audit Ballot Manifests

The bill requires election officials to create ballot manifests for subsequent use at RLAs following procedures established by SOTS and open to public observation. Although not defined by the bill, a “ballot manifest” is generally a detailed description of how the ballots are stored and organized, listing at minimum the physical location of every ballot cast in the election so that individual ballots or batches of ballot cards can be found, retrieved, and examined manually.

Under the bill, a ballot manifest must be created by manually verifying and recording the number of ballots cast that comprise the result publicly announced by the moderator. The manifests must be created by:

1. election officials in each polling place within 72 hours after the polls close,
2. absentee ballot counters in each central counting location within 72 hours after the polls close, and
3. recanvass officials within 24 hours after completing any recanvass in a voting district for a state election.

Under the bill, the moderator must submit a ballot manifest to the registrars of voters immediately after creating it. The registrars must then submit it to SOTS before the designated day to begin an RLA.

Designated Day

Similar to post-election audits, the bill requires the secretary to designate a day for an RLA to begin, which must be at least (1) 15 days after the state election but (2) two business days before the canvass of votes. Each audit must have advance notice and be open to the public.

Conducting an Audit

Under the bill, registrars of voters must conduct the RLAs and SOTS must prescribe instructions and procedures for conducting them, consistent for all offices. The bill also allows her to adopt necessary regulations for the audits and to establish guidelines for expanded audits when audit results cannot be reconciled with the outcome of the person declared elected by having the greatest number of votes, as determined by the paper ballots (i.e., the “reported results”).

If an RLA for a particular office is “INCONCLUSIVE,” the secretary must order a manual recount of all ballots cast for that office. She may also issue an order, as under current law, to correct any irregularity or impropriety from an RLA.

Reporting Results

As under current law, all audit results, including RLAs, must be filed with the secretary on a form she prescribes. The secretary must immediately forward the results to UConn, which must analyze the results and submit a written report describing any identified concerns to the secretary. Instead of the secretary forwarding the original report to the State Elections Enforcement Commission (SEEC), as currently required, the bill requires her to transmit to SEEC a copy of UConn’s written report, whether for RLAs or post-election audits.

Electronic Equipment and Voting Tabulators

The bill extends several of existing law’s provisions on using electronic equipment and voting tabulators in post-election audits to also cover RLAs (CGS §§ 9-320f & 9-320g). Principally, it:

1. allows the secretary, after consulting with UConn, to authorize the use of electronic equipment;
2. requires her to have access to the code in any voting machine if a problem is discovered due to an RLA;
3. directs her or her designee to examine and recertify a tabulator if

UConn's written report indicates that it failed to record votes accurately and in accordance with state law;

4. requires preserving and returning paper ballots used in an RLA to their designated receptacle (e.g., ballots must be returned to the ballot box, securely sealed, and locked);
5. requires the secretary, if audit officials cannot reconcile the audit results with the reported results, to investigate voting tabulators as needed to determine if they must be (a) decertified or (b) examined and recertified; and
6. authorizes the secretary or a court with competent jurisdiction to issue an order to (a) keep a voting tabulator locked for a longer period than prescribed by law and (b) have a tabulator audited by a person they designate.

By law, if the secretary produces a report on the investigation it must be filed with SEEC, which may investigate further to determine if there was an election law violation. SEEC may also issue orders (see 6, above) if they receive this report. If the machine in question is an optical scan voting system, an order to lock it must include the tabulator, memory card, and all other components and processes used in its programming.

ELECTION OFFICIALS

Compensation

Under the bill, municipalities must compensate election officials who participate in administering and conducting an RLA at the municipality's standard rate of pay for elections.

Regional Election Monitors

As with post-election audits, the bill requires regional election monitors to (1) represent, consult with, and act on the secretary's behalf for RLA preparation and operation and (2) communicate with and help registrars of voters to prepare and implement the audits.

ELECTION COMPLAINTS AND EVIDENCE

Like post-election audits, the bill requires RLA reported results to be

open to public inspection and allows them to be used as prima facie evidence of an irregularity for a contested election or other cause of action from an election. It also specifies that an action or complaint may be brought in response to any state election audit, not just manual tabulations of paper ballots.

The bill specifies that its RLA provisions do not preclude a candidate or elector from seeking other existing remedies for contested elections.

BACKGROUND

Post-Election Audit Procedure

Under current law, the secretary must audit at least 5% of the state's voting districts (i.e., polling locations), selected at random after a federal, state, or municipal regular election or primary. Audits must be noticed in advance and open for public observation. Registrars of voters must conduct the audits by hand unless the secretary, in consultation with UConn, authorizes them to be conducted electronically (CGS § 9-320f, as amended by PA 21-2, June Special Session).

During the post-election audit, registrars tally the paper ballots cast by voters and counted by each optical scan voting tabulator subject to the audit. Once complete, they compare their results with the reported results. Registrars must report the audit results on a secretary-prescribed form with the total number of ballots counted and the total votes for each audited candidate, broken down by whether the ballot was properly or improperly completed.

After a post-election audit, the secretary must order a recount (i.e., recanvass) for an office if there is a discrepancy that could affect its outcome. (If the secretary is a candidate on the ballot that is subject to an audit, SEEC orders the recount.) For this purpose, a "discrepancy" is a difference between the voting tabulator and audit vote counts that exceeds 0.5% of the lower total, where the difference cannot be resolved through an accounting of ballots that were improperly marked (CGS § 9-320f(f) & (o)).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/29/2022)