



General Assembly

February Session, 2022

Raised Bill No. 472

LCO No. 3424



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***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. Section 9-320f of the 2022 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2022*):

4 (a) (1) (A) [Not] Except as provided in subparagraph (B) of this
5 subdivision, (i) not earlier than the fifteenth day after any state election
6 or primary and not later than two business days before the canvass of
7 votes by the Secretary of the State, Treasurer and Comptroller, [for any
8 federal or state election or primary, or by the town clerk for] or (ii) not
9 earlier than the fifteenth day after any municipal election or primary
10 and not later than two business days before the canvass of votes by the
11 town clerk, the registrars of voters shall conduct a manual audit, or [, for
12 an election or primary held on or after January 1, 2016,] an electronic
13 audit authorized under section 9-320g, of the votes recorded at such
14 election or primary in not less than five per cent of the voting districts

15 in the state, district or municipality, whichever is applicable.

16 (B) Not earlier than the fifteenth day after any federal election and
17 not later than two business days before the canvass of votes by the
18 Secretary of the State, Treasurer and Comptroller, the registrars of
19 voters shall conduct a comparison risk-limiting audit of the votes
20 recorded at such election in not less than five per cent of the voting
21 districts in the state.

22 (C) For the purposes of this section, any central location used in a
23 municipality for the counting of absentee ballots shall be deemed a
24 voting district.

25 (2) [Such manual or electronic] Each such audit shall be noticed in
26 advance and be open to public observation. Any election official who
27 participates in the administration and conduct of an audit pursuant to
28 this section shall be compensated by the municipality at the standard
29 rate of pay established by such municipality for elections or primaries,
30 as the case may be.

31 (b) (1) The voting districts subject to an audit described in subsection
32 (a) of this section shall be selected in a random drawing by the Secretary
33 of the State and such selection process shall be open to the public.

34 (2) (A) [The] Except as provided in subparagraph (B) of this
35 subdivision, the offices subject to [an] a manual or electronic audit
36 pursuant to this section shall be, [(1) in the case of an election where the
37 office of presidential elector is on the ballot, all offices required to be
38 audited by federal law, plus one additional office selected in a random
39 drawing by the Secretary of the State, but in no case less than three
40 offices, (2)] (i) in the case of an election where the office of Governor is
41 on the ballot, all offices required to be audited by federal law, plus one
42 additional office selected in a random drawing by the Secretary, [of the
43 State,] but in no case less than three offices, [(3)] (ii) in the case of a
44 municipal election, three offices or twenty per cent of the number of
45 offices on the ballot, whichever is greater, selected at random by the
46 municipal clerk, and [(4)] (iii) in the case of a primary, [election,] all

47 offices required to be audited by federal law, plus one additional office,
48 if any, but in no event less than twenty per cent of the offices on the
49 ballot, selected in a random drawing by the municipal clerk.

50 (B) In the case of a federal election, the offices subject to a comparison
51 risk-limiting audit pursuant to this section shall be (i) the office of
52 presidential elector, if applicable, (ii) all applicable state offices, as
53 defined in section 9-372, (iii) at least one office of representative in
54 Congress, if applicable, (iv) at least five per cent, in the aggregate, of the
55 offices of state senator and state representative, if applicable, and (v) any
56 other office required to be audited by federal law.

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

61 (d) (1) Prior to commencing an audit described in subsection (a) of
62 this section, the registrars of voters shall manually batch the paper
63 ballots to be audited in groups of not greater than fifty per batch and
64 create a ballot manifest to account for the size and location of each such
65 batch.

66 (2) [The] In the case of a manual or electronic audit described in
67 subsection (a) of this section, such audit shall consist of the manual or
68 electronic tabulation of the paper ballots cast and counted by each
69 voting tabulator subject to such audit. Once complete, the vote totals
70 established pursuant to such manual or electronic tabulation shall be
71 compared to the results reported by the voting tabulator on the day of
72 the election or primary. The results of such manual or electronic
73 tabulation shall be reported on a form prescribed by the Secretary of the
74 State which shall include the total number of ballots counted, the total
75 votes received by each candidate in question, the total votes received by
76 each candidate in question on ballots that were properly completed by
77 each voter and the total votes received by each candidate in question on
78 ballots that were not properly completed by each voter.

79 (3) In the case of a comparison risk-limiting audit described in
80 subsection (a) of this section, such audit shall be conducted in
81 accordance with instructions and procedures prescribed by the
82 Secretary of the State. Prior to commencing any such audit, the Secretary
83 shall set the risk limit for such audit based on the margin of victory in
84 the race for the office subject to such audit, provided such risk limit shall
85 not be greater than five per cent. The results of such audit shall be
86 reported on a form and in a manner prescribed by the Secretary.

87 (4) ~~[Such report]~~ The results reported under subdivision (2) or (3), as
88 applicable, of this subsection shall be filed with the Secretary of the State
89 who shall immediately forward such [report] reported results to The
90 University of Connecticut for analysis. The University of Connecticut
91 shall [file] submit to the Secretary a written report [with the Secretary of
92 the State] regarding such analysis that describes any discrepancies
93 identified. After receipt of such written report, the Secretary [of the
94 State] shall [file such report with] transmit to the State Elections
95 Enforcement Commission a copy of such written report.

96 (e) For the purposes of this section, a ballot that has not been properly
97 completed will be deemed to be a ballot on which (1) votes have been
98 marked by the voter outside the vote targets, (2) votes have been marked
99 by the voter using a manual marking device that cannot be read by the
100 voting tabulator, or (3) in the judgment of the registrars of voters, the
101 voter marked the ballot in such a manner that the voting tabulator may
102 not have read the marks as votes cast.

103 (f) ~~(1) Notwithstanding the provisions of section 9-311 and subject to~~
104 the provisions of subdivision (3) of this subsection, in the case of a
105 manual or electronic audit, the Secretary of the State shall order a
106 discrepancy recanvass of the returns of an election or primary for any
107 office if a discrepancy [, as defined in subsection (o) of this section,]
108 exists where the margin of victory in the race for such office is less than
109 the amount of the discrepancy multiplied by the total number of voting
110 districts where such race appeared on the ballot, [, provided in]

111 (2) Notwithstanding the provisions of section 9-311 and subject to the

112 provisions of subdivision (3) of this subsection, in the case of a
113 comparison risk-limiting audit, the Secretary of the State shall order a
114 discrepancy recanvass of the returns of an election or primary for any
115 office if a discrepancy exists where the risk limit set by the Secretary
116 prior to the commencement of such audit is exceeded.

117 (3) In a year in which the Secretary of the State is a candidate for an
118 office on the ballot and that office is subject to an audit as provided by
119 this section, the State Elections Enforcement Commission shall order a
120 discrepancy recanvass if a discrepancy [, as defined by subsection (o) of
121 this section,] has occurred that could affect the outcome of the election
122 or primary for such office.

123 (g) If the written report submitted by The University of Connecticut
124 [report described in] under subsection (d) of this section indicates that a
125 voting tabulator failed to record votes accurately and in the manner
126 provided by the general statutes, the Secretary of the State shall require
127 that the voting tabulator be examined and recertified by the Secretary
128 [of the State,] or the Secretary's designee. Nothing in this subsection
129 shall be construed to prohibit the Secretary [of the State] from requiring
130 that a voting tabulator be examined and recertified.

131 (h) The audit [report filed] results reported to the Secretary of the
132 State pursuant to subdivision (4) of subsection (d) of this section shall be
133 open to public inspection and may be used as prima facie evidence of a
134 discrepancy in any contest arising pursuant to chapter 149 or for any
135 other cause of action arising from such election or primary.

136 (i) If the audit officials are unable to reconcile the [manual or
137 electronic] count from an audit described in subsection (a) of this section
138 with the electronic vote tabulation and discrepancies from the election
139 or primary, the Secretary of the State shall conduct such further
140 investigation of the voting tabulator malfunction as may be necessary
141 for the purpose of reviewing whether or not to decertify the voting
142 tabulator or tabulators in question or to order the voting tabulator to be
143 examined and recertified pursuant to subsection (g) of this section. Any
144 report produced by the Secretary [of the State] as a result of such

145 investigation shall be filed with the State Elections Enforcement
146 Commission, and the commission may initiate such further
147 investigation in accordance with subdivision (1) of subsection (a) of
148 section 9-7b as may be required to determine if any violations of the
149 general statutes concerning election law have been committed.

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

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

157 (l) After an election or primary, any voting tabulator may be kept
158 locked for a period longer than that prescribed by sections 9-266, 9-310
159 and 9-447, if such an extended period is ordered by either a court of
160 competent jurisdiction, the Secretary of the State or the State Elections
161 Enforcement Commission. Either the court or the Secretary of the State
162 may order an audit of such voting tabulator to be conducted by such
163 persons as the court or the Secretary [of the State] may designate,
164 provided the State Elections Enforcement Commission may order such
165 an audit under the circumstances prescribed in subsection (f) of this
166 section. If the machine utilized in such election or primary is an optical
167 scan voting system, such order to lock such machine shall include the
168 tabulator, memory card and all other components and processes utilized
169 in the programming of such machine.

170 (m) The Secretary of the State may adopt regulations, in accordance
171 with the provisions of chapter 54, as may be necessary for the conduct
172 of the manual or electronic tabulation of the paper ballots described in
173 subsection (a) of this section and to establish guidelines for expanded
174 audits when there are differences between the manual or electronic
175 counts from the audit described in subsection (a) of this section and
176 tabulator counts from the election or primary. On or after July 1, 2022,
177 the Secretary may amend such regulations as may be necessary for the

178 conduct of comparison risk-limiting audits described in subsection (a)
179 of this section and to update such guidelines for expanded audits to
180 account for the conduct of comparison risk-limiting audits.

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

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

186 (1) "Discrepancy" means any difference in vote totals between
187 tabulator counts from an election or primary and [manual or electronic]
188 counts from an audit described in subsection (a) of this section in a
189 voting district that (A) in the case of a manual or electronic audit,
190 exceeds one-half of one per cent of the lesser amount of the vote totals
191 between such tabulator counts and [such] the manual or electronic
192 counts where such differences cannot be resolved through an
193 accounting of ballots that were not marked properly in accordance with
194 subsection (e) of this section, ["state election" means "state election", as
195 defined in section 9-1, "municipal election"] and (B) in the case of a
196 comparison risk-limiting audit, exceeds the risk limit set by the
197 Secretary of the State prior to the commencement of such audit;

198 (2) "State election" has the same meaning as provided in section 9-1;

199 (3) "Municipal election" means a municipal election held pursuant to
200 section 9-164; ["manual"]

201 (4) "Federal election" has the same meaning as provided in section 9-
202 158a;

203 (5) "Manual" means by hand and without the assistance of electronic
204 equipment; [and "electronic"]

205 (6) "Electronic" means through the use of equipment described in
206 section 9-320g; and

207 (7) "Risk limit" means the maximum allowable likelihood that an
208 audit described in subparagraph (B) of subdivision (1) of subsection (a)
209 of this section fails to detect a difference in vote totals between tabulator
210 counts from an election or primary and counts from such audit in a
211 voting district.

212 Sec. 2. Section 9-323 of the general statutes is repealed and the
213 following is substituted in lieu thereof (*Effective July 1, 2022*):

214 Any elector or candidate who claims that he is aggrieved by any
215 ruling of any election official in connection with any election for
216 presidential electors and for a senator in Congress and for
217 representative in Congress or any of them, held in his town, or that there
218 was a mistake in the count of the votes cast at such election for
219 candidates for such electors, senator in Congress and representative in
220 Congress, or any of them, at any voting district in his town, or any
221 candidate for such an office who claims that he is aggrieved by a
222 violation of any provision of section 9-355, 9-357 to 9-361, inclusive, 9-
223 364, 9-364a or 9-365 in the casting of absentee ballots at such election,
224 may bring his complaint to any judge of the Supreme Court, in which
225 he shall set out the claimed errors of such election official, the claimed
226 errors in the count or the claimed violations of said sections. In any
227 action brought pursuant to the provisions of this section, the
228 complainant shall file a certification attached to the complaint indicating
229 that a copy of the complaint has been sent by first-class mail or delivered
230 to the State Elections Enforcement Commission. If such complaint is
231 made prior to such election, such judge shall proceed expeditiously to
232 render judgment on the complaint and shall cause notice of the hearing
233 to be given to the Secretary of the State and the State Elections
234 Enforcement Commission. If such complaint is made subsequent to the
235 election, it shall be brought not later than fourteen days after the election
236 or, if such complaint is brought in response to [the manual tabulation of
237 paper ballots authorized] an audit conducted pursuant to section 9-320f,
238 as amended by this act, such complaint shall be brought not later than
239 seven days after the close of any such [manual tabulation] audit, and in
240 either such circumstance, the judge shall forthwith order a hearing to be

241 had upon such complaint, upon a day not more than five or less than
242 three days from the making of such order, and shall cause notice of not
243 less than three or more than five days to be given to any candidate or
244 candidates whose election may be affected by the decision upon such
245 hearing, to such election official, to the Secretary of the State, to the State
246 Elections Enforcement Commission and to any other party or parties
247 whom such judge deems proper parties thereto, of the time and place
248 for the hearing upon such complaint. Such judge, with two other judges
249 of the Supreme Court to be designated by the Chief Court
250 Administrator, shall, on the day fixed for such hearing and without
251 unnecessary delay, proceed to hear the parties. If sufficient reason is
252 shown, such judges may order any voting tabulators to be unlocked or
253 any ballot boxes to be opened and a recount of the votes cast, including
254 absentee ballots, to be made. Such judges shall thereupon, in the case
255 they, or any two of them, find any error in the rulings of the election
256 official, any mistake in the count of such votes or any violation of said
257 sections, certify the result of their finding or decision, or the finding or
258 decision of a majority of them, to the Secretary of the State before the
259 first Monday after the second Wednesday in December. Such judges
260 may order a new election or a change in the existing election schedule,
261 provided such order complies with Section 302 of the Help America
262 Vote Act, P.L. 107-252, as amended from time to time. Such certificate of
263 such judges, or a majority of them, shall be final upon all questions
264 relating to the rulings of such election officials, to the correctness of such
265 count and, for the purposes of this section only, such claimed violations,
266 and shall operate to correct the returns of the moderators or presiding
267 officers so as to conform to such finding or decision.

268 Sec. 3. Section 9-324 of the general statutes is repealed and the
269 following is substituted in lieu thereof (*Effective July 1, 2022*):

270 Any elector or candidate who claims that such elector or candidate is
271 aggrieved by any ruling of any election official in connection with any
272 election for Governor, Lieutenant Governor, Secretary of the State, State
273 Treasurer, Attorney General, State Comptroller or judge of probate, held
274 in such elector's or candidate's town, or that there has been a mistake in

275 the count of the votes cast at such election for candidates for said offices
276 or any of them, at any voting district in such elector's or candidate's
277 town, or any candidate for such an office who claims that such candidate
278 is aggrieved by a violation of any provision of section 9-355, 9-357 to 9-
279 361, inclusive, 9-364, 9-364a or 9-365 in the casting of absentee ballots at
280 such election or any candidate for the office of Governor, Lieutenant
281 Governor, Secretary of the State, State Treasurer, Attorney General or
282 State Comptroller, who claims that such candidate is aggrieved by a
283 violation of any provision of sections 9-700 to 9-716, inclusive, may bring
284 such elector's or candidate's complaint to any judge of the Superior
285 Court, in which such elector or candidate shall set out the claimed errors
286 of such election official, the claimed errors in the count or the claimed
287 violations of said sections. In any action brought pursuant to the
288 provisions of this section, the complainant shall send a copy of the
289 complaint by first-class mail, or deliver a copy of the complaint by hand,
290 to the State Elections Enforcement Commission. If such complaint is
291 made prior to such election, such judge shall proceed expeditiously to
292 render judgment on the complaint and shall cause notice of the hearing
293 to be given to the Secretary of the State and the State Elections
294 Enforcement Commission. If such complaint is made subsequent to the
295 election, it shall be brought not later than fourteen days after the election
296 or, if such complaint is brought in response to [the manual tabulation of
297 paper ballots authorized] an audit conducted pursuant to section 9-320f,
298 as amended by this act, such complaint shall be brought not later than
299 seven days after the close of any such [manual tabulation] audit and, in
300 either such circumstance, such judge shall forthwith order a hearing to
301 be had upon such complaint, upon a day not more than five nor less
302 than three days from the making of such order, and shall cause notice of
303 not less than three nor more than five days to be given to any candidate
304 or candidates whose election may be affected by the decision upon such
305 hearing, to such election official, the Secretary of the State, the State
306 Elections Enforcement Commission and to any other party or parties
307 whom such judge deems proper parties thereto, of the time and place
308 for the hearing upon such complaint. Such judge shall, on the day fixed
309 for such hearing and without unnecessary delay, proceed to hear the

310 parties. If sufficient reason is shown, such judge may order any voting
311 tabulators to be unlocked or any ballot boxes to be opened and a recount
312 of the votes cast, including absentee ballots, to be made. Such judge shall
313 thereupon, in case such judge finds any error in the rulings of the
314 election official, any mistake in the count of the votes or any violation of
315 said sections, certify the result of such judge's finding or decision to the
316 Secretary of the State before the fifteenth day of the next succeeding
317 December. Such judge may order a new election or a change in the
318 existing election schedule. Such certificate of such judge of such judge's
319 finding or decision shall be final and conclusive upon all questions
320 relating to errors in the rulings of such election officials, to the
321 correctness of such count, and, for the purposes of this section only, such
322 claimed violations, and shall operate to correct the returns of the
323 moderators or presiding officers, so as to conform to such finding or
324 decision, unless the same is appealed from as provided in section 9-325.

325 Sec. 4. Section 9-328 of the general statutes is repealed and the
326 following is substituted in lieu thereof (*Effective July 1, 2022*):

327 Any elector or candidate claiming to have been aggrieved by any
328 ruling of any election official in connection with an election for any
329 municipal office or a primary for justice of the peace, or any elector or
330 candidate claiming that there has been a mistake in the count of votes
331 cast for any such office at such election or primary, or any candidate in
332 such an election or primary claiming that he is aggrieved by a violation
333 of any provision of sections 9-355, 9-357 to 9-361, inclusive, 9-364, 9-364a
334 or 9-365 in the casting of absentee ballots at such election or primary,
335 may bring a complaint to any judge of the Superior Court for relief
336 therefrom. In any action brought pursuant to the provisions of this
337 section, the complainant shall send a copy of the complaint by first-class
338 mail, or deliver a copy of the complaint by hand, to the State Elections
339 Enforcement Commission. If such complaint is made prior to such
340 election or primary, such judge shall proceed expeditiously to render
341 judgment on the complaint and shall cause notice of the hearing to be
342 given to the Secretary of the State and the State Elections Enforcement
343 Commission. If such complaint is made subsequent to such election or

344 primary, it shall be brought not later than fourteen days after such
345 election or primary, except that if such complaint is brought in response
346 to [the manual tabulation of paper ballots, authorized] an audit
347 conducted pursuant to section 9-320f, as amended by this act, such
348 complaint shall be brought not later than seven days after the close of
349 any such [manual tabulation] audit, to any judge of the Superior Court,
350 in which he shall set out the claimed errors of the election official, the
351 claimed errors in the count or the claimed violations of said sections.
352 Such judge shall forthwith order a hearing to be had upon such
353 complaint, upon a day not more than five nor less than three days from
354 the making of such order, and shall cause notice of not less than three
355 nor more than five days to be given to any candidate or candidates
356 whose election or nomination may be affected by the decision upon such
357 hearing, to such election official, the Secretary of the State, the State
358 Elections Enforcement Commission and to any other party or parties
359 whom such judge deems proper parties thereto, of the time and place
360 for the hearing upon such complaint. Such judge shall, on the day fixed
361 for such hearing and without unnecessary delay, proceed to hear the
362 parties. If sufficient reason is shown, he may order any voting tabulators
363 to be unlocked or any ballot boxes to be opened and a recount of the
364 votes cast, including absentee ballots, to be made. Such judge shall
365 thereupon, if he finds any error in the rulings of the election official or
366 any mistake in the count of the votes, certify the result of his finding or
367 decision to the Secretary of the State before the tenth day succeeding the
368 conclusion of the hearing. Such judge may order a new election or
369 primary or a change in the existing election schedule. Such certificate of
370 such judge of his finding or decision shall be final and conclusive upon
371 all questions relating to errors in the ruling of such election officials, to
372 the correctness of such count, and, for the purposes of this section only,
373 such claimed violations, and shall operate to correct the returns of the
374 moderators or presiding officers, so as to conform to such finding or
375 decision, except that this section shall not affect the right of appeal to the
376 Supreme Court and it shall not prevent such judge from reserving such
377 questions of law for the advice of the Supreme Court as provided in
378 section 9-325. Such judge may, if necessary, issue his writ of mandamus,

379 requiring the adverse party and those under him to deliver to the
380 complainant the appurtenances of such office, and shall cause his
381 finding and decree to be entered on the records of the Superior Court in
382 the proper judicial district.

383 Sec. 5. Subsection (a) of section 9-329a of the general statutes is
384 repealed and the following is substituted in lieu thereof (*Effective July 1,*
385 *2022*):

386 (a) Any (1) elector or candidate aggrieved by a ruling of an election
387 official in connection with any primary held pursuant to (A) section 9-
388 423, 9-425 or 9-464, or (B) a special act, (2) elector or candidate who
389 alleges that there has been a mistake in the count of the votes cast at such
390 primary, or (3) candidate in such a primary who alleges that he is
391 aggrieved by a violation of any provision of sections 9-355, 9-357 to 9-
392 361, inclusive, 9-364, 9-364a or 9-365 in the casting of absentee ballots at
393 such primary, may bring his complaint to any judge of the Superior
394 Court for appropriate action. In any action brought pursuant to the
395 provisions of this section, the complainant shall file a certification
396 attached to the complaint indicating that a copy of the complaint has
397 been sent by first-class mail or delivered to the State Elections
398 Enforcement Commission. If such complaint is made prior to such
399 primary such judge shall proceed expeditiously to render judgment on
400 the complaint and shall cause notice of the hearing to be given to the
401 Secretary of the State and the State Elections Enforcement Commission.
402 If such complaint is made subsequent to such primary it shall be
403 brought, not later than fourteen days after such primary, or if such
404 complaint is brought in response to [the manual tabulation of paper
405 ballots, described in] an audit conducted pursuant to section 9-320f, as
406 amended by this act, such complaint shall be brought, not later than
407 seven days after the close of any such [manual tabulation] audit, to any
408 judge of the Superior Court.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>July 1, 2022</i>	9-320f
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Sec. 2	<i>July 1, 2022</i>	9-323
Sec. 3	<i>July 1, 2022</i>	9-324
Sec. 4	<i>July 1, 2022</i>	9-328
Sec. 5	<i>July 1, 2022</i>	9-329a(a)

Statement of Purpose:

To implement the recommendations of the risk-limiting audits working group.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]